

THE RUTHERFORD INSTITUTE

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July 9, 2013

Via Email, Facsimile, and U.S. Mail

Mr. Shawn Walker, Director of Enforcement
Alcoholic Beverage Control
2901 Hermitage Road
Richmond, VA 23220

Re: *Virginia State Police Review of the April 11th ABC Incident*

Dear Mr. Walker:

While we echo the call for an impartial, third-party review of the events leading to Elizabeth Daly's arrest on the night of April 11, 2013,¹ we have grave concerns about your agency's request that the Virginia State Police conduct such an administrative review. Frankly, we remain skeptical that any objectivity can be possible when police "police" fellow officers, whether or not they belong to the same agency. As we have seen time and again, the "Blue Wall" of silence often compels police officers to protect each other from the kind of oversight that is really necessary to guard against police abuse and overreach.

Moreover, no information has been forthcoming by your office as to whether the results of that review will be made public. Indeed, your office has been largely unresponsive to requests by The Rutherford Institute², the Charlottesville City Council³ and concerned members of the public for an open and independent review of ABC agents' actions.

¹ "Virginia State Police to review Charlottesville ABC incident," *Daily Progress* (July 8, 2013), http://www.dailyprogress.com/news/virginia-state-police-to-review-charlottesville-abc-incident/article_b96adbbe-e847-11e2-b9b0-0019bb30f31a.html.

² "Decrying ABC Policy Change as No Change at All, Rutherford Institute Calls on General Assembly to Investigate ABC Sting Over Sparkling Water," *The Rutherford Institute* (July 8, 2013), https://www.rutherford.org/files_images/general/07-08-2013_General_Assembly_ABC-Letter.pdf.

³ In a letter addressed to Governor McDonnell on behalf of the Charlottesville City Council, the Mayor is quoted as saying, "[i]n light of these concerns, Council respectfully requests your administration to conduct an independent review of the incident and provide the results of the investigation to the public upon its completion." *Charlottesville City Council Letter to Governor Robert McDonnell* (July 8, 2013),

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Anything short of an open and transparent review process subject to public scrutiny will merely reinforce an entrenched system of internal validation.⁴ Furthermore, by dismissing this incident as an anomaly⁵ and failing to launch an independent investigation beyond the purview of law enforcement, you have made it quite clear that you are more interested in maintaining the status quo than in holding your employees accountable to abiding by the rule of law and respecting the rights of American citizens.

What the citizens of this state require from all government officials, elected or not, are accountability, transparency, efficiency, honesty and the assurance that they will abide by the dictates of the Constitution, especially as it relates to respecting our First and Fourth Amendment rights. Anything short of this is unacceptable.

Therefore, we call on you to specifically request that Governor McDonnell and the Virginia General Assembly institute a third-party, impartial review of the April 11th incident. Further, I would request that the full and complete results of this review be made available to the public, along with the details of any disciplinary actions taken and any policy changes that have been made to prevent a reoccurrence of this kind of incident.

If I can be of assistance to you in this matter, please do not hesitate to contact me. In fact, I would urge you to take me up on my offer to educate your agents about the Constitution and train them in how to properly respect Virginians' Fourth Amendment rights.

Sincerely yours,


John W. Whitehead
President

cc: Governor Robert McDonnell
The House Police, Militia and Public Safety Committee, the Virginia General Assembly
Delegate David J. Toscano
Senator R. Creigh Deeds
Charlottesville City Council

<http://bloximages.newyork1.vip.townnews.com/dailyprogress.com/content/tncms/assets/v3/editorial/0/5d/05de1318-e81f-11e2-a0de-001a4bcf6878/51db40459948f.pdf.pdf>

⁴ "Outcry over ABC bust of UVa student grows," *Daily Progress* (July 1, 2013),

http://www.dailyprogress.com/news/local/outcry-over-abc-bust-of-uva-student-grows/article_4eccc878-e2b7-11e2-a2b2-001a4bcf6878.html.

⁵ "Procedure change statement from ABC," *Daily Progress* (July 5, 2013),

http://www.dailyprogress.com/news/procedure-change-statement-from-abc/article_abdd16bc-e5e8-11e2-8b06-0019bb30f31a.html.