

PRESS RELEASE

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FOR IMMEDIATE RELEASE

The City of Hazard, Kentucky announced today that its Police Department has completed an investigation of a citizen complaint made by Ms. Parmalee Mullins against one of its police officers, Officer Steve Everidge, stemming from a careless driving and DUI charge back on December 21, 2015. Ms. Mullins and others in the community had protested her arrest for DUI and called for the City's termination of the officer, and the results of blood testing taken at the time of her arrest showed no presence of alcohol or other intoxicating drugs or medications for which sampling is made. After completing its departmental investigation, Police Chief Minor Allen made the determination that no disciplinary action should be taken against the officer arising from the arrest. The Hazard Police Department investigation of Ms. Mullins's complaint has had a final disposition, and the results of that investigation are now public.

According to Chief Allen, "It is unfortunate that Ms. Mullins was forced to undergo the arrest, and the City Police Department is very sorry any time that any citizen is arrested when the end result of the prosecution is dismissal of the charge or a not guilty verdict, but a favorable outcome for Ms. Mullins does not automatically mean there has been a 'false arrest' by the police officer." Chief Allen went on to say that the investigating officer has offered to meet personally with Ms. Mullins and to present her with the full results of the investigation and the reasons he believes the police officer was justified in making the arrest.

According to Chief Allen, there may be a general misunderstanding of the standards under which a police officer must function. "A police officer's role is not to be the 'judge and jury,' and the law does not require a police officer to have 'proof beyond a reasonable doubt' before making an arrest. Instead, a police officer should make an arrest whenever from the totality of facts and circumstances known to him he believes that probable cause exists to believe that a person has committed, is committing, or is about to commit an offense. Probable cause is a much different and lower standard of proof than evidence beyond a reasonable doubt."

In this instance, the investigation found that Officer Everidge and a police recruit riding with him at the time observed erratic driving by Ms. Mullins on a stretch of Highway 15 between the end of the Hazard Bypass and the entrance to Perry Park Road. According to the Officer, he observed Ms. Mullins cross a median from the northbound lanes through a fifth turn lane and enter and travel a considerable distance in the wrong lanes of Highway 15 where she nearly collided with a southbound vehicle approaching from the other direction. After she was stopped by the Officer, Ms. Mullins explained that she could not see clearly through her windshield because of rain and fog, and Ms. Mullins conceded during the course of the investigation that she could not make out the dividing lines on the highway that night. She also complained that her windshield defroster was malfunctioning.

The investigation revealed that Officer Everidge conducted an initial field sobriety test known as an HGN test by examining Ms. Mullins while she was in the car to avoid having to ask her to exit her vehicle in the rain. When that test showed positive results for some kind of intoxicant, Officer Everidge then asked Ms. Mullins to exit her vehicle where he repeated the HGN test and conducted two additional standard field sobriety tests. Based upon his training and Ms. Mullins' showing of abnormal responses to each of three separate tests, he found that Ms. Mullins showed signs of some kind of alcohol, drug or other intoxicating substance. He made the arrest based upon evidence of her erratic driving coupled with her responses to him and her inability to respond normally during either of three separate standard field sobriety tests.

As Chief Allen further explained, all police officers within the Commonwealth of Kentucky receive mandatory training in law enforcement at the Kentucky Department for Criminal Justice Training (DOCJT). This training includes coursework in legal standards of probable cause and procedures for effecting arrests and includes specific training in the conduct of arrests involving possible DUI's. Officer Everidge attended the DOCJT training following his initial hire in January 9, 2001. He successfully completed all of the required coursework, including training in the conduct of DUI arrests.

As the investigation indicates, field sobriety tests are simply tools to assist the officer in seeing and interpreting visible signs of impairment. The individual tests result in accurate assessment of intoxication in a majority of cases when considered independently, and the percentage of accuracy only increases when positive results in two or three of the tests are found. When applied properly, the results of positive findings in all three tests can accurately predict impaired driving up to 90% of the time. However, as the percentages of accuracy also indicate, the results of field sobriety testing are never a conclusive indicator of impairment. In fact, if a police officer conducts each of the tests perfectly, there will still remain a statistical probability that some percentage of drivers will be determined to be impaired but later found not to have intoxicating influences based upon accepted testing methodologies. In other words, drivers will be arrested who are later determined to be "not guilty." Of 112 DUI charges made by the Hazard Police Department in 2015, seven individuals were later found to have negative or clean drug or alcohol blood test results. Some of these negative test results may be explained by the fact that the state laboratory does not test for all illegal and legal drugs and medications. Until testing becomes instantaneous and 100% accurate, the most a police officer can do is to rely upon his training, accepted standards of testing, and make good faith judgments based on the totality of the circumstances in determining whether probable cause exists for an arrest. Exoneration of a defendant, whether by dismissal or by a jury verdict following a trial, does not automatically mean that a police officer acting in good faith made a "false arrest."

Chief Allen concluded, "Even though the historical results of field sobriety testing by our department have not been substandard, the Hazard Police Department is committed to a process of continuous improvement in its professional performance. As a result of this arrest, I have directed that each Hazard police officer who received a "clean" or negative blood test result

following a DUI arrest in 2015 will return to DOCJT for retraining in the administration of field sobriety tests. Officer Everidge successfully completed his retraining on June 10, 2016. The remaining officers have either completed retraining or are scheduled to receive such retraining at this time.”

The Hazard Police Department has also posted the full investigation on its website which can be located at www.hazardpd.org/stats/html for those members of the public who wish to review the results.