


2003 - 00155

CHEROKEE COUNTY SHERIFF'S OFFICE

DATE: June 6, 2003

ALLEGATION / INQUIRY / COMMENDATION - REPORT FORM

I. Information Source:

Name: Jimmy Woodard Race: white Sex: male Age: 45
Address: 1237 Orchid Way City: Canton Zip: 30115
Home Phone: _____ Business Phone: 

II. Deputy / Civilian Employee Information:

Name: Wells, Michael Rank: Deputy Sheriff I.D.#: 6058
Division: UPD / Hickory Flat / Morn Wtch Unit Number: A-36
Name: _____ Rank: _____ I.D.#: _____
Division: _____ Unit Number: _____

III. Location of Incident:

11240 Cumming Hwy and 1237 Orchid Way

Date: 06/05/2003 Time: 2330 Case Number: 03-51799

IV. Description of Incident: Allegation Inquiry Commendation

Woodard telephoned the Hickory Flat Pct in an almost enraged state. Woodard explained that he was followed, harassed, frightened, and intimidated during an incident that occurred last night to the extent that he called 9-1-1 for assistance and was then arrested himself. Woodard initially demanded that charges be file against the other party(ies) in this incident for stalking, and aggressive driving. I was able to explain to Woodard that under GA law, a peace officer can not make traffic charges against a person unless they see the violation. Woodard accepted the explanation I offered. See continuation sheet----->

V. Witness Information:

Name: _____ Address: _____ City: _____
Home Phone: _____ Business Phone: _____

Woodard was incensed that he could be the one to call 9-1-1 and then be the one who was arrested. He said he would pursue the matter as far as it could go. He said he had been stalked and demanded that something be done regarding the stalking incident.

I told Woodard that the store clerk who believed Woodard had stolen gas from him was not "stalking" him. I explained that because the clerk had what he / she believed was a "legitimate" purpose the offense of Stalking under O.C.G.A. 16-5-90 did not apply. Woodard indicated that he understood the explanation.

Woodard remained perplexed at how he could have been arrested in regards to the incident that occurred last night. I asked Woodard for the case number or deputy's name so I could look the incident up and try to explain it to him. Woodard could not provide the information. I told Woodard that he was not guilty of anything until guilt had been proven beyond a reasonable doubt in a court of law. I told him that apparently, during the course the investigation that was conducted last night the deputy developed probable cause to believe that an offense had been committed and had made an arrest. I told Woodard that if a mistake had been made it was an issue for the judicial branch of government to now decide.

Woodard calmed down considerably with my explanations. He indicated that he understood the court system was the place to demonstrate that was not guilty. Woodard then complained that the arresting officer, whose name Woodard did not know, had treated him badly and unprofessionally. Woodard said he did not appreciate being "yanked around like a common criminal" by the arresting deputy. Woodard said he was especially upset that the deputy put Woodard's hat on his head sideways and crammed it down on the top of his head. Woodard said he felt as though the deputy was acting like a "thug" and allowing the badge and gun to go to his head. Woodard also said he was upset that the deputy had lied to his wife. Woodard said the deputy told his wife that Woodard had given law enforcement officer(s) a false name and had false tags displayed on his vehicle. Woodard said he doesn't understand why the deputy would lie to his wife about the charge(s) as he was only charged with failing to pay for gasoline.

I had resolved the other issues for Woodard but could not resolve the issue of the alleged unprofessional conduct on the part of the arresting deputy. I advised Woodard that the matter would be investigated and he would be contacted in a week or so regarding the outcome of the investigation. Woodard wanted to know the deputy's name. After I looked the incident up I called Woodard back and provided him the name of the deputy, D/S Wells, and the case number so that he could obtain a copy of the incident report from Central Records.

Woodard had calmed completely down by this time and was grateful for my assistance. He said he would wait to hear further from the Sheriff's Office regarding this matter.

Witness Information (continued):

Name: _____ Address: _____ City: _____
Home Phone: _____ Business Phone: _____

VI. Person Taking Report:

Name: Charles McMahan Rank Sergeant Badge Number: 237
Division: UPD / Hickory Flat Pet Shift: Day Watch

VII. Supervisor's Comments/Recommendations:

SEE ATTACHED

VIII. Allegation / Inquiry / Commendation Information:

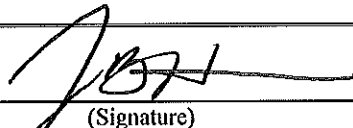
How A / I / C Received: Telephone Written Form Personal Contact

A/I/C Referred to: Lt. Hunton

A / I / C Resolved on Initial Contact Allegation / Inquiry Withdrawn

IX. Documentation Attached: Incident Report Written Statement Other

X. Division Commanders Review:




06/9/03
(Date)

- No further Action Required.
- Refer to _____ for further investigation.
- Recommend Formal Commendation.

Additional Comments:

- Sustained:** The evidence is sufficient to prove the allegation.
- Not Sustained:** The evidence is insufficient to either prove or disprove the allegation.
- Exonerated:** The evidence shows that the incident occurred and was lawful or proper.
- Unfounded:** The evidence shows that the allegation is false or not factual.
- Policy Failure:** The evidence is sufficient to show that the incident occurred, but was a result of flawed policy or procedure.

CHEROKEE COUNTY SHERIFF'S OFFICE
MEMORANDUM

To: Capt. Hill
From: Lt. Ron Hunton 
Date: June 18, 2003
Subject: A.I.C. D/S Wells

On June 6, 2003 I received an A.I.C. with the complaining party being a Jimmy Woodard. In the A.I.C. , completed by Sgt. McMahan, Woodard complains that the people harassing him were not arrested and D/S Wells acted in a unprofessional manner toward him. Woodard, who was arrested for the theft of gas from the Chevron on Hwy. 20, complained that D/S Wells "yanked" him "around like a common criminal" – acted like a "thug" allowing the gun and badge to go to his head. Woodard further complained that D/S Wells put Woodard's hat on his head sideways and "crammed" it down on his head.

On June 6th I called Mr. Woodard and listened to his complaints and answered his questions regarding his arrest. Woodard said he paid at the pump at the Chevron – saying he inserted his bank card – the pump rejected the card – he then reinserted the card and the purchase was approved. Mr. Woodard said he pumped his gas – leaving not getting a receipt for the purchase. Mr. Woodard said two vehicles began following him and he called 911. Mr. Woodard complained he was given the runaround by 911-having to tell his story a number of times. I explained to Mr. Woodard the complaint against 911 was not within my realm of responsibility and directed him to 911 supervision. I asked Mr. Woodard if he had checked his bank statement to determine if the card transaction had went through. Mr. Woodard said he had not. Mr. Woodard said a female was with him at the time of the incident – a female he was showing a horse to. I told Mr. Woodard I would investigate his complaints against D/S Wells and asked that he check his bank statement.

Mr. Woodard said that D/S Wells told Woodard's wife that Woodard had provided a false name and had false registration on his vehicle. I determined that D/S Wells had received information from Cpl. Peluso and 911 that Woodard had identified himself as "Shane West". Apparently, the clerk at Chevron provided 911 with an incorrect tag number for Woodard's truck resulting in 911 running the wrong tag number. Mr. Woodard was not charged with an offense related to false information/registration. I provided this information to Mr. Woodard who denied telling anyone his name was "Shane West".

I reviewed the incident report completed by D/S Wells and had both D/S Wells and D/S Kapanowski complete written statements as to the event. D/S Kapanowski was present when Mr. Woodard was arrested. I also obtained a copy of D/S Wells' patrol video for review. Furthermore, I ordered and received a copy of the 911 phone call tapes for the incident involving Mr. Woodard.

I also determined that Cpl. Peluso had a phone conversation with Mr. Woodard while Mr. Woodard was on the phone with 911. Cpl. Peluso told me that Woodard was evasive and identified himself as "Shane West" during the conversation. Cpl. Peluso had called 911 in an effort to determine where Mr. Woodard was located and the circumstances of his request for assistance reference the harassment (Woodard was being followed by two of the clerks from the Chevron). Cpl. Peluso completed a written report as to his conversation with Mr. Woodard.

I viewed the patrol video tape and found that D/S Wells was courteous and acted in a professional manner. I did hear Mr. Woodard tell D/S Wells to put Woodard's hat on straight (only audio was available at this point). There was no response heard from D/S Wells. Woodard's wife was at the scene and allowed to take Mr. Woodard's truck. Mr. Woodard could be heard referring to his wife as "shithead" and she asking who was with him (female passenger of Woodard's who was not present at the time of the stop). Woodard did not respond to his wife's question.

Finally, I listened to the audio recording(s) of the phone conversations related to the incident. The clerk from Chevron called 911 reporting the gas theft – telling 911 someone is following the suspect. Woodard then calls 911 saying he is being harassed by someone following him. Woodard correctly identifies himself and provides his cell phone number. Woodard calls 911 again asking if a patrol car has been dispatched. Woodard tells 911 he has a friend with him in the truck.

In another conversation with 911 Woodard denied having anyone with him even though a female's voice can be heard in the background. Cpl. Peluso then speaks with Woodard. Cpl. Peluso asked Woodard for his name and Woodard could not be heard providing a response. Woodard provides his location and he is told he allegedly left without paying for the gas. Woodard can be heard saying he paid at the pump.

At no time do I hear Woodard identify himself as "Shane West". However, I do hear the 911 operator call Woodard "Shane". In addition, Cpl. Peluso said he had two conversations with Woodard and Woodard did identify himself as "Shane West" in the second conversation. This conversation is not on the recording provided by 911.

On June 10th I called Woodard and asked if he had checked his bank statement reference his purchase of the fuel. Woodard said he had not – saying he had returned on June 7th and paid for the gas. I asked Mr. Woodard to provide to me the name of the female passenger so I can speak with her to complete the investigation. Mr. Woodard told me he no longer wants to pursue the matter – he just wants to "forget it". I explain that I will continue the investigation into the allegation of misconduct by D/S Wells and Mr. Woodard again refuses to provide the name of the female passenger saying he wants to forget the matter.

In conclusion, I find that Mr. Woodard's complaint that he was treated unprofessionally is without merit. D/S Wells is exonerated. However, while the clerk at Chevron completed a citizen's arrest form for the arrest of Mr. Woodard, the arrest was performed at a location away from the clerk. A better course of action would have been to either bring the clerk to the location of Woodard or escort Woodard back to the store in an attempt to resolve the matter. In fact, Woodard asked to be taken back to the store. Reference the complaint of Woodard about 911 – after listening to the phone recordings I can certainly understand Mr. Woodard's frustration. Woodard had to tell his story a number of times to different operators and again to Cpl. Peluso. Complicating the matter was Woodard being a suspect in the theft-contributing to the confusion. While D/S Wells is exonerated in the complaint of unprofessional conduct – this memoranda is to serve as a form of counseling to D/S Wells reference the misdemeanor arrest without a warrant. D/S Wells was instructed on the laws governing the arrest without a warrant for misdemeanor as well as techniques to resolve similar issues in the future. Copies of audio/video tapes reference this investigation will be retained for a period of 30 days then destroyed.

Page 3 of 3

C: Lt. Easterwood I.A.
Sgt. Burdett
D/S Wells
File

TO: Lt. Hunton

FROM: Cpl. Peluso



Date: June 7, 2003

Subject: Gas Drive Off (Case # I03-51799)

On 06-05-2003 at approximately between 2215 and 2230 hours, dispatched advised the zone unit that they had a gas drive off at the Chevron First Stop on Cumming Highway. I told the zone unit to stay 10-8 and I advised dispatch that I would handle the call via landline. Dispatch advised me with the telephone number to the Chevron and case number.

I called the Chevron and spoke with an employee of the store, Ellen Lee. Ms. Lee stated a white truck, Tag # 7947 AHV, with yellow running lights on top of the cab just pulled away without paying for the diesel fuel, valued at \$49.65. She could not be sure if the "V" in the tag # was correct. She also stated it appeared to be approximately three occupants.

Ms. Lee stated another employee; Justin Oh was following the vehicle, but could not tell me at the time which direction they were traveling. I provided Ms. Lee with a case number and advised her how to obtain a copy of the report.

After hanging up with Ms. Lee, dispatch advised me that a driver of the truck just called in and stated something to the effect of some type of Road Rage or someone was following his truck. They also advised that this caller is possible involved in the gas drive off that occurred on Cumming Highway a few moments ago. I asked dispatch to attempt to get the caller back landline.

Shortly thereafter, dispatch advised me they had the male driver landline. I called dispatch and they patched me through to this male. I asked the male what could I do for him. He was evasive and stated someone was following him. I asked him if he had anything to do with getting fuel at the Chevron on Cumming Highway. He stated is all he wanted to do was to get this person to stop following him. I then asked the male what his name was. He asked me what I needed that for. He began to get very sarcastic and stated is all he wanted was to make a report and that we were taking to long to respond. He stated he had been trying to report this for a half hour and he was not getting any cooperation. He could not have been waiting a half hour since I was on the phone with him within five minutes of speaking with dispatch. He finally stated his name was Shane West. I attempted to get more information from this male to see if this call was related to the gas drive off. He continued to be evasive and sarcastic. He then handed the phone to a female. I asked the female for her name, and she refused to give me her name. I told her that I was attempting to assist them, but with the male and her not cooperating, I did not know what I could do to help. I asked her if they needed someone enroute to

their location and she stated yes. I told her that I would have a deputy enroute. She then hung the phone up.

I had dispatch, dispatch D/S Wells (A-36) to the Shell Station on Lower Union Hill Road and Sugar Pike. Upon his arrival, the male and female were not present. Mr. Justin Oh was present. He was an employee of the Chevron on Cumming Highway that reported the gas drive off. According to D/S Wells, the truck that was at the Shell Station was the truck matching the description of the truck that drove off without paying for the fuel.

I then spoke with D/S Wells on the phone. He told me he ran the tag of the truck and the returns came back to a Woodard or Woodward subject off of Orchard Drive. I asked him if he was going to write the report for the gas drive off or did he want me to handle the report. He stated since the employee who witnessed the drive off was present, he would handle the drive off. I provided him with the information that I had already obtained.

After hanging up the phone with D/S Wells, shortly thereafter, I heard over the radio D/S Wells go to the address on Orchard Drive. Apparently the owner of the trucks residence. The truck was not there. A few minutes later, I heard him go 10-35 with the truck somewhere in the vicinity of the residence. A couple minutes later, I heard him go 10-15 with a male subject.

Sgt. Burdett and D/S Kapanowski came into the precinct. Sgt Burdett asked me to find him a Citizen Arrest form. I then provided him with the form and he instructed D/S Kaponowski to get it signed by the storekeeper and to make sure they understood that they would have to get a warrant first thing in the morning at the county magistrates office. They would have to prosecute and that the Sheriff's office was not.

Sgt. Burdette and I discussed the incident. We both agreed what should have probably taken place. The report should have been taken and that the storekeeper should have been told the process of obtaining a warrant.

After further discussion with D/S Kapanowski, he stated the truck that D/S Wells stopped had to many things in common with the truck that drove off without paying for fuel. The truck was a white truck with yellow lights on the cab. It was also a diesel fuel vehicle and the Tag number matched the tag that Mr. Justin Oh had given them.

I then completed any assistance that was requested of me by morning watch. Nothing further to report.

Incident Report

CHEROKEE COUNTY SHERIFF'S OFFICE

03-51799

Supplement No
ORIG

498 CHATTIN DRIVE

Reported Date
06/05/2003
Nature of Call
THEFT
Officer
WELLS, MIKE

(678) 493-4200

Administrative Information

Agency CHEROKEE COUNTY SHERIFF'S OFFICE				Report No 03-51799	Supplement No ORIG	Reported Date 06/05/2003	Reported Time 22:30
CAD Call No A-36	Status INCIDENT REPORT	Nature of Call THEFT					
Location 11240 CUMMING HW				City CH	ZIP Code CANTON	Rep Dist 5101	
Beat 51	From Date 06/05/2003	From Time 22:30	To Date 06/05/2003	To Time 23:59			
Officer 000431/WELLS, MIKE				2nd Officer PELUSO, GENE			
Assignment UNIFORM PATROL HICKORY FLAT PCT				Assignment UNIFORM PATROL HICKORY FLAT PCT		Entered by 000431	
Assignment UNIFORM PATROL HICKORY FLAT PCT				RMS Transfer Successful	Approving Officer 000435		
Approval Date 06/06/2003		Approval Time 06:36:25					

Person Summary

Invt	Invt No	Type	Name	MNI	Race	Sex	Date of Birth
ARR	3	I	WOODARD, JIMMY RAY	45319	W	M	███/███/1958
REP	2	I	OH, JUN TAEK	169521	A	M	███/███/1983
VIC	1	B	CHEVRON	169520			███/███/███

Vehicle Summary

Invt	Type	License No	State	Lic Year	Year	Make	Model	Style	Color
PRI	2	7947 AHZ	GA	2003	2000	FORD	F35	PK	WHI

Summary Narrative

On 060503, I was dispatched to a gas drive off at 11240 Cumming Highway.

Incident Report

CHEROKEE COUNTY SHERIFF'S OFFICE

03-51799

Supplement No
ORIG

ARRESTEE 3: WOODARD, JIMMY RAY

Involvement	Invl No	Type	Name	MNI	Race	Sex	
ARRESTEE	3	Individual	WOODARD, JIMMY RAY	45319	WHITE	MALE	
Date of Birth	Age	Ethnicity	Juvenile?	Height	Weight	Hair Color	Eye Color
1958	45	NOT OF HISPANIC ORIGIN	No	5'07"	175#	BROWN	GREEN
Type	Address			City	State		
HOME	1237 ORCHID WAY			CANTON	GEORGIA		
ZIP Code							
CANTON							
Type	ID No			OLS			
STATE OPERATOR LICENSE	028518221			GEORGIA			
Type	ID No						
SOCIAL SECURITY NUMBER							
Involvement	Arrest Type	Arrest Date	Arrest Time	Book Date	Book Time		
ARRESTED	ON VIEW ARREST (NIBRS)	06/05/2003	23:30:00	06/06/2003	00:30:00		
Status	Arrest Location			City	Beat		
ARRESTED	ORCHID WAY			CANTON	33		
Charge	Level	Charge Literal		Warrant No			
40-6-255	X	GAS DRIVE OFF		TBT			

REPORTING PARTY 2: OH, JUN TAEK

Involvement	Invl No	Type	Name	MNI	
REPORTING PARTY	2	Individual	OH, JUN TAEK	169521	
Race	Sex	Date of Birth	Age	Juvenile?	
OTHER ASIAN	MALE	/1983	20	No	
Type	Address			City	State
HOME	940 WORLEY DRIVER			MARIETTA	GEORGIA
ZIP Code					
MARIETTA					
Type	Address			City	
WORK/BUSINESS	11240 CUMMING HIGHWAY			CANTON	
State	ZIP Code				
GEORGIA	CANTON				
Phone Type	Phone No				
HOME					

VICTIM (Person) 1: CHEVRON

Involvement	Invl No	Type	Name	MNI
VICTIM (Person)	1	Business	CHEVRON	169520
Type	Address			City
WORK/BUSINESS	11240 CUMMING HIGHWAY			CANTON
State	ZIP Code			
GEORGIA	CANTON			
Phone Type	Phone No			
WORK				

Vehicle: 7947 AHZ

Involvement	Type	License No	State	Lic Year	Lic Type	Year	Make
PRIVATELY OWNED	TRUCK/VAN	7947 AHZ	GEORGIA	2003	PASSENGER CAR	2000	FORD
Model	Style	Color					
F35	PICKUP - TRUCK	WHITE					

Narrative

****CITIZEN ARREST REPORT - ARREST MADE****

****GASOLINE DRIVE OFF****

On 060503, Cpl. Peluso attempted to handle a gas drive off from 11240 Cumming Highway (Chevron) by land line. Dispatch then advised us that the clerk from the store was following the vehicle. Cpl. Peluso had me drive towards the store in the attempt to catch the subject. Dispatch advised me it was a white truck. While enroute to the Chevron station, dispatch

Report Officer	Printed At	Page
000431/WELLS, MIKE	06/06/2003 09:47	2 of 5

Incident Report

CHEROKEE COUNTY SHERIFF'S OFFICE

03-51799

Supplement No
ORIG

Narrative

advised Cpl. Peluso that they had received a call from a Shane West and he was being followed down Arbor Hill Road by someone. Dispatch then advised us that he was driving a white Ford F-350 with Georgia registration 7947 AHV. I then proceeded towards Arbor Hill Road. A short time after that dispatch advised Cpl. Peluso that Shane West wanted a unit to meet him at the Shell station on Sugar Pike Road at Lower Union Hill Road. Cpl. Peluso told dispatch that he would give Shane West a call. A short time after that Cpl. Peluso told me to meet with Shane West at the Shell Gas Station.

Upon my arrival at the Shell station, there were only two vehicles in the parking lot. Neither of these vehicles was a white Ford F-350. I then observed a green Toyota passenger car pull up next to my vehicle. When the male exited the vehicle I noticed the male was wearing a blue Chevron vest. Assuming that this male (Mr. Oh) was the gas station attendant, I asked him what was going on. He stated that around 2230 hours a white truck had pulled up to pump 1 at the gas station. He stated there were two people in the vehicle. He stated one was a male (the driver), and the second looked like a female, because of the long hair. He stated the male then drove out of the Chevron parking lot with out paying for the \$49.65 in diesel fuel.

He stated he called 911, and took off after the male. He stated he attempted to get the vehicle to stop many times. He stated he did this by flashing his head lights, and by honking his horn. He stated the vehicle still continued to travel down Arbor Hill Road. He stated the vehicle then pulled into the sandwich shop at Sugar Pike Road and Lower Union Hill Road. He stated he parked across the street at the day care center. He stated the male then drove into the Shell parking lot. He stated he then pulled into the parking lot and attempted to confront the male. He stated the male and the female exited the vehicle and the male began to throw things at him. He stated he returned to his vehicle and went to the next parking lot to the south. He stated the male and female jumped back into the truck and the male began to drive towards him. He stated the male almost hit his vehicle with his truck. He stated he had to accelerate really fast in order to avoid the collision. He stated the male then took off down Lower Union Hill Road towards East Cherokee Drive.

I asked Mr. Oh to describe the truck. He stated it was a large white truck. He stated it had ladders on it. I then asked him to describe the driver of the vehicle. He stated it was a white male and was wearing a ball cap, white shirt and dark colored blue jeans. I asked Mr. Oh if he wanted to prosecute the male for the theft of the diesel fuel, and he stated he did. He was able to give me a tag number for the vehicle (7947 AHZ). I ran the tag number through G.C.I.C. The tag returned to a 2000 white Ford F-350 to a Jimmy Woodard at 1237 Orchid Way Canton, GA 30115. I ran the tag number (7947 AHV) that was given to me by dispatch from Shane West. This tag returned not on file, meaning that there was not a tag bearing those numbers. I gave Mr. Oh his case number and advised him that I would be in contact with him if I could find the driver of the vehicle. I explained to him that if I could not, I would forward this report to CID.

Knowing that Orchid Way was just down Lower Union Hill Road (in the direction the vehicle fled), I attempted to find the address. When I arrived at the residence, I observed there was not a white Ford F-350 in the driveway. I approached the residence and attempted to make contact with the home owner to find out who was driving the truck. A juvenile white female (approx. 16 years of age) answered the door. I asked her if they owned a white Ford truck, and she stated they did. I then asked her if she knew who was driving that truck, and she stated her father should be. At this point I noticed a mini van pull into the driveway. The adult female driver (Mr.

Incident Report

CHEROKEE COUNTY SHERIFF'S OFFICE

03-51799

Supplement No
ORIG

Narrative

Woodard's wife) approached me and asked what was going on. I asked her if she had spoken to her husband recently, and she stated no. I told her that he had called 911 and told us that someone was following him. I explained to her that I also needed to speak with him in reference to the gas drive off. At this point the juvenile female called Mr. Woodard, and I spoke with him. I advised him that I needed to talk to him, and asked him if we could meet somewhere. He stated he was down the street at his barn on Arbor Hill Road. He stated he would be at his house shortly.

At this point D/S Kapanowski arrived and I told him what was going on. We decided to wait down the street and stop the vehicle away from his residence. We did this so Mr. Woodard would be free to talk without worrying about his children and wife hearing what was going on. I also decided to do this because one of his neighbors had approached me several times asking what was going on. When I observed the vehicle turn onto Orchid Way I initiated a traffic stop on the vehicle.

I approached the driver (Mr. Woodard) and asked him what was going on. He stated he called 911 because he was being harassed on the road. I asked him if he had stopped at the Chevron station on Highway 20 at Arbor Hill Road. He stated he did. I explained to him that the gas station attendant told me he did not pay for his gas. He stated he had paid with his credit card. He stated we could go to the Chevron and look at the video cameras. I asked him if he had any receipts, and he stated he never keeps his receipts.

He stated he called 911 three times because a vehicle was following him down Arbor Hill Road flashing it's lights and honking it's horn. He stated he pulled into the Shell station because it was lighted and waited for my arrival. He stated the driver of the car that was following him then got out of his vehicle and approached him. He stated he got out of his truck and ran towards the rear of the vehicle. He then stated this was ridiculous and that he was pissed off. I asked Mr. Woodard if he had thrown anything at the gas station attendant, and he stated he had nothing to throw at him. He stated he had thought about throwing his ladder at Mr. Oh, but he did not. He then stated "if I catch this son of a bitch, I'm going to beat the fuck out of him".

I asked Mr. Woodard for his drivers license. Mr. Woodard continued to state that this was ridiculous. I had Mr. Woodard exit his vehicle. I then explained to him that the gas station wanted him prosecuted for the gas drive off. I explained to him that he was under arrest, and to place his hands behind his back. He was placed in handcuffs, and the handcuffs were checked for fit and double locked. I placed Mr. Woodard in the rear of my patrol car, and his wife spoke with him. During their conversation Mr. Woodard made several remarks like "oriental bastards", and "gook sons of bitches".

When I first made contact with Mr. Woodard my intention was to have him return to the gas station and to pay for the gas. Given Mr. Woodard's frame of mind and the comments that were made, I quickly decided against returning to the Chevron. I asked Mr. Woodard if he would consider paying for the gas, and he stated he had already paid for it once. I explained to his wife how to bond him out of jail, and I transported him to the Adult Detention Center. I explained to Mr. Woodard that the gas station attendant was taking the warrant for the gas drive off.

I returned to the Chevron on Highway 20 and spoke with Mr. Oh. I had Mr. Oh write a statement and he signed the citizen arrest form. The citizen arrest form was returned to the

Incident Report

CHEROKEE COUNTY SHERIFF'S OFFICE

03-51799

Supplement No
ORIG

Narrative

Adult Detention Center. Mr. Oh's statement was placed in evidence bag AAA 391043. The statement was placed into evidence using evidence control form 33585. I explained to Mr. Oh that he had forty eight hours to secure the warrant on Mr. Woodard and he needed to get it done as quickly as possible. I advised him that if he did not secure the warrant in the appropriate time frame, that Mr. Woodard could sue him for false arrest. Mr. Oh stated he understood and I explained to him the process for securing the warrant.

Nothing Further
A-36

On 060503, Cpl. Peluso attempted to handle a gas drive off report by land line. Dispatch then advised Cpl. Peluso that they had received a call from a person driving a white Ford F-350 that was being followed down Arbor Hill Road. Cpl. Peluso asked dispatch for the name and phone number. Dispatch then advised Cpl. Peluso that the male wanted to meet with an officer at the Shell Station at Sugar Pike Road and Lower Union Hill Road. Cpl. Peluso told me to go to the gas station and meet the individual, since it was the end of the shift and I was the early car.

Upon my arrival at the gas station, I did not see a white Ford F-350. Cpl. Peluso had told me that I needed to meet with a West subject. I then waited in the parking lot of the shell station for his arrival. I then noticed a green Toyota pull up next to my driver door. The driver (Mr. Oh) got out of his vehicle and waved me to him. I exited my patrol car and asked him what was going on. It was at this point I noticed he was wearing a blue Chevron vest (the gas drive off happened at the Chevron on Highway 20 at Arbor Hill).

Mr. Oh stated a male had pulled up to pump one and had pumped diesel fuel into his truck. He described the vehicle as a large white truck. He stated there was a passenger in the vehicle as well, and the passenger had long hair. He stated he thought it was a female. He stated the male driver (described as wearing a ball cap, white shirt, and dark pants) then got into his vehicle and drove off without paying for the gas. He stated he jumped into his car and pursued the male subject.

He stated they went down Arbor Hill Road. He stated he tried to get the vehicle to stop by flashing his lights and honking his horn. He stated the truck then pulled into the sandwich shop at the corner of Sugar Pike Road and Lower Union Hill Road. He stated he pulled across the street to the day care parking lot. He stated the truck then left the parking lot of the sandwich shop and went across the street to the shell station. He stated he followed the male to the Shell station and attempted to confront the male. He stated the male and passenger jumped out of the truck and began throwing things at him. He stated he jumped into his car and proceeded to the parking lot next to the Shell station.

He stated when he arrived at the parking lot, the male had gotten back into his truck and proceeded towards him. He stated the male nearly hit his vehicle with his truck. He stated he had to accelerate quickly to avoid being hit. I asked Mr. Oh if anyone was in the parking lot when this incident happened, and he stated no. I asked him if anyone else might have seen the male throw things at him and nearly hit him. He stated the store clerk might have. I asked him if he had the plate number for the vehicle. He called the store and advised me that it was 7947 AHZ. I gave Mr. Oh the case number for the gas drive off thinking that I was suppose to take the report on it. At that time I did not know that Cpl. Peluso had taken the report over the telephone from one of the other gas station attendants. I entered the Shell station and asked the two clerks behind the counter if they saw anything happen in their parking lot. They stated that a female had ran inside the store and stated that they were being followed. He stated that that was all that they saw.

I then returned outside and asked Mr. Oh if he was going to prosecute the driver of the truck. He stated yes and then left. I ran the vehicle tag that Mr. Oh had given me. It returned to a 200 white Ford F-350. The registered owner is Jimmy Ray Woodard of 1237 Orchid Way Canton, GA 30115. At this point Cpl. Peluso told me to call him at the precinct. When I spoke to Cpl. Peluso he asked me if I made contact with Shane West. I told him that there was not a white truck here when I arrived. I further advised him that the clerk from the Chevron was here and that I had retrieved the information for the gas drive off report. Cpl. Peluso stated that he had spoken with Shane West, and he had told him he was being chased by a guy in a green car. I told Cpl. Peluso that that was the gas station attendant. Cpl. Peluso stated that Mr. West had given him a tag number of 7947 AHV. I told Cpl. Peluso that the tag number given to him was very similar to the tag number given to me by the gas station attendant. Cpl. Peluso also advised me that Mr. West stated he did drive a Ford F-350. I had dispatch run the tag number given to him from Mr. West. The tag returned not on file.

Knowing that Orchid Way was just down Lower Union Hill, I decided to go to the address on Orchid Way and see if Mr. Woodard was there. My intention at that time was to ask him what was going on. If he admitted to not paying for the gas, I was going to have him return to the gas station and pay for it. I also kept in the back of my mind that there was a possibility that Mr. Woodard might have taken the gas and would not admit to taking it. I knew that Mr. Woodard had already spoken to both dispatch and Cpl. Peluso and given them false information.

When I arrived at the residence I noticed that the truck was not in the driveway. I approached the residence and knocked on the door. A young white female answered the door and I asked her if they owned a white Ford truck. She stated they did. I asked her who drove the truck, and she stated her father did. At this point I noticed a mini van pull into the driveway. The driver of the mini van (Mr. Woodard's wife) approached me and asked what was going on. I explained to her that her husband had called 911 stating that he was being followed down Arbor Hill Road. I told her that I also needed to speak with him in reference to a gas drive off on Highway 20. She stated she did not know where her husband was, and the female who answered the door had called Mr. Woodard.

I spoke to Mr. Woodard on the phone and asked him what was going on. He stated someone was following him down Arbor Hill Road, and he did not know who it was. He stated he called 911, but left before I could arrive. I told him that I needed to speak with him, and asked him if he could meet me somewhere. He stated he was at his barn at the corner of Arbor Hill Road. I asked him if he could meet me at the Shell station as we were to do earlier. He stated that was fine, but changed his mind shortly after. He stated he would just head home. I hung up the phone, and told his wife what he was going to meet me here (at their residence). She made a comment about Mr. Woodard not sounding right on the phone. She stated that he sounded like there was something wrong. I told her that I was going to wait for him by my car.

At this point D/S Kapanowski arrived. I advised him of what was going on, and the statements that were made by the store clerk. We came to the agreement that we

would wait down the street for him. We decided to do this for several reasons. The first was because Mr. Woodard had children at home. I felt that if we removed Mr. Woodard from his home environment that he would be more cooperative, and be able to talk more freely. Mr. Woodard's neighbor had also approached me several times and asked what was going on. I felt that his neighbor did not need to know what was going on, and I told him several times that alright. I felt this neighbor proposed potential officer safety issues. I also felt that since the store clerk wanted to press charges against Mr. Woodard for stealing the gas, if I were to arrest him I did not want it to be in front of his children.

D/S Kapanowski and myself waited down the street for the arrival of Mr. Woodard. When Mr. Woodard's truck pulled up I initiated a traffic stop on his vehicle. I immediately noticed that the truck fitted the description given to me by the gas station attendant and Cpl. Peluso. I approached the driver, and when I arrived at his window he stated "all of this because I called 911". I asked him if he had stopped at the Chevron on Highway 20 at Arbor Hill Road and had gotten gasoline. He stated he did. I explained to him that the gas station attendant told me that he did not pay for his gasoline before he left. He stated he paid with his credit card like he always does. He then stated that we could go back to the Chevron and look at the camera and it would show him paying for his gas. I asked him if he had a receipt for his gasoline purchase. He stated he did not. He further explained that he does not keep his receipts because they are worthless, and he only writes the mileage off.

I asked Mr. Woodard what happened at the Shell station down the street. He stated he was followed by a car and he had called 911 three times. He stated he had pulled into the Shell station because it was lighted. He stated he was then approached by the driver of the car. He stated he got out of his truck and ran towards the back. He then stated that this was ridiculous and that he was pissed off. I asked him if he threw anything at the gas station attendant, and he stated he did not have anything inside of his truck to throw at the gas station attendant. He stated he thought about throwing his ladder at him, but he didn't. Mr. Woodard then stated "if I catch that son of a bitch, I'm going to beat the fuck out of him".

I advised him that he did not want to make statements like that, and then I asked him for his driver's license. He then continued to state that this was ridiculous. While Mr. Woodard got his driver's license, I realized that with his frame of mind and the statements that he had been making, we would not be able to return to the Chevron like I had expected. At this point I was not only in fear of the gas station attendant receiving bodily harm, but I was also in fear that Mr. Woodard would attempt to fight us (the sheriff's office) as well if we returned to the gas station. Given that Mr. Oh wanted the driver of the pickup truck, Mr. Woodard, arrested for stealing gas, and that Mr. Woodard admitted to being the driver, I further realized that if Mr. Woodard could not provide me with any evidence that he had paid for the gas that I would have no choice but to arrest him. I asked Mr. Woodard to step out of the truck.

I asked Mr. Woodard again if he had any receipts that would show he had paid for the gas. Once again he stated no, he does not save his receipts. I advised Mr. Woodard

that I need him to turn around and place his hands behind his back. I further explained to Mr. Woodard that he was being placed under arrest for gasoline drive off. At this point Mr. Woodard took a big breath and looked right at me. I thought that Mr. Woodard was going to fight myself and D/S Kapanowski. I took a hold of his right arm and swung in behind him. I placed his hands in handcuffs. The handcuffs were checked for fit and double locked. I escorted Mr. Woodard to the front of my vehicle where I conducted that search incident to arrest. During the search I removed Mr. Woodard's ball cap from his head and checked it for any weapons. When I went to place it on his head one of us moved, because Mr. Woodard stated that I needed to place it (the ball cap) on his head right. When I looked at the ball cap the cap was slanted to the right. I removed the ball cap from his head and placed it back on his head correctly. I then placed Mr. Woodard in the rear of my patrol car.

Mr. Woodard's wife stated that she wanted to speak with her husband, and I rolled the back window down so she could. During their conversation Mr. Woodard called his wife a "shit head", and made several other remarks like "oriental bastards" and "gook sons of bitches". I then released the vehicle to Mrs. Woodard and I got into my patrol car. I then began to drive out of the sub-division. I then asked Mr. Woodard that if I were to take him up to the gas station would he pay for his gas, and he stated no because he had already paid for it once. While on our way to the Adult Detention Center, I explained to Mr. Woodard that Mr. Oh would be taking the warrant for the gas drive off, since he was the one who was pressing charged against him. Mr. Woodard took a big breath and stated "whatever". I released Mr. Woodard to the Adult Detention Center, and I went to the Chevron gas station to meet with D/S Kapanowski and Mr. Oh.

D/S Kapanowski had Mr. Oh write out a statement and sign the citizen arrest form since he would be securing the arrest warrant. I explained to Mr. Oh that he had forty eight hours to take the arrest warrant, but he needed to do it but tomorrow. I explained to Mr. Oh that failure to take the arrest warrant in the appropriate amount of time, could result in both civil and criminal charges for him. Mr. Oh stated he understood. D/S Kapanowski and I explained the process to Mr. Oh on how to secure the arrest warrant.

To: Sgt. Burdett

From: D/S M. Kapanowski #161



Re: D/S Well's arrest

Date: 06-07-03

During roll call on 06-05-03, a call came in regarding a gas drive off. I heard Cpl. Peluso talking to a person on the phone in his office regarding a road rage incident.

Cpl. Peluso had some trouble getting information from the person on the phone because he kept asking the person if he wanted to report a crime. I heard Cpl. Peluso refer to the person as Shane West.

I spoke with Cpl. Peluso about the call. Cpl. Peluso indicated the male "Shane West" did not want to give him any information and was real evasive regarding the reason for his call. Cpl. Peluso stated West at first said he wanted to talk with a Brandon with the Fire Department. Cpl. Peluso advised the male finally stated he wanted to meet with a Deputy to report a road rage incident and Deputy Wells was going to respond.

I met with Deputy Wells on Orchid Way and he advised me of the situation. Deputy Wells stated a male driving a white Ford F-350 filled up his gas tank with \$49.00 of diesel gas at the Chevron on Hwy 20 near Arbor Hill Rd but did not pay for it. Deputy Wells said he met with the male at Lower Union Hill and Sugar Pike Rd, identified as Jimmy Woodard. Deputy Wells indicated he ran the tag for an address and it came back on Orchid Way.

Deputy Wells stated he spoke with the clerk at the Chevron and he wanted to prosecute the male for the gas drive off.

Deputy Wells and I sat on Orchid Way waiting for Woodard to come home. After approximately 10 minutes, Woodard pulled onto Orchid Way from Aster Trace and Deputy Wells conducted a traffic stop.

I walked to the passenger side of Woodard's vehicle. Due to Woodard's vehicle still running and being a diesel, I could not hear the conversation between the two. Woodard's wife walked down to our vehicles and started to argue with Woodard and I asked her to step back to my patrol vehicle until we were finished. Woodard's wife walked back to her residence.

After a few minutes, Deputy Wells asked Woodard to turn off his vehicle and step out. I walked to the driver's side of Woodard's vehicle.

Deputy Wells spoke with Woodard about the incident. Deputy Wells asked Woodard if he had a receipt for the gas and Woodard stated he used a check card to pay for it and he doesn't get a receipt because it is not tax deductible.

Deputy Wells advised Woodard he was under arrest for the gas drive off. Deputy Wells placed handcuffs on Woodard, checked for proper fit and double locked the cuffs. Deputy Wells conducted an in-custody search of Woodard for weapons/contraband. Deputy Wells secured Woodard in the back of his patrol vehicle.

Woodard's wife walked back down to our location. Deputy Wells advised her of the situation and asked if she would drive her husband's vehicle to the house to avoid having it impounded. Woodard's wife drove the vehicle to her residence.

I met with the clerk at the Chevron on Hwy 20. The clerk stated he would prosecute and I had him fill out a citizen's arrest form and a written statement of the situation. I advised the clerk the procedure to take the warrant and gave him a case card.

I gave Deputy Wells the citizen's arrest form and the written statement.

I do not have a video/audio tape of the traffic stop due to vehicle #372's VCR has not worked for approximately 2 months. End of report.