

# City of Virginia Beach Police Department

## Alcohol Licensed Establishments Field Guide



### A Guide for Department Members

*This Field Guide is Prepared and Updated by the VBPD Operations Division  
Command Duty Office*

*Under the Approval of the Police Chief:* \_\_\_\_\_

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# Alcohol Licensed Establishments Field Guide

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## **Purpose:**

This manual will establish operational and administrative strategies to address public safety problems linked to establishments licensed to serve alcohol. This guide will outline measures the department may take to effectively evaluate applications for licensing, monitoring compliance with laws and administrative rules, response to criminal events in and around these establishments and address the community's concerns. This manual describes best practices in an effort to standardize procedures for all personnel when managing incidents at, near, or involving an establishment licensed by the Virginia Alcohol Beverage Control Board (VA ABC).

## **Policy:**

In keeping with the mission of the City of Virginia Beach and the Virginia Beach Police Department, to promote a safe community, reduce crime and the fear of crime, the VBPD employs a multi-discipline approach to address and resolve issues with businesses licensed to serve alcohol. In our efforts to contribute to a safe and vibrant night life community, we focus on the licensing, inspection, and regulation of these establishments within our statutory authority.

At the outset, the proper investigation of, and response to applications for licensure can prevent problem establishments from taking root in the community. The application process affords opportunities for the Department to liaison with the prospective owners and to develop a recommendation to the VA ABC regarding whether or not a license should be issued.

If a license is issued, the Police should be vigilant in determining if the new owners are compliant with the law and adhering to safe and reasonable management practices. Detailed field investigations, diligent follow up, data collection, and analysis are key components to this vigilance.

In those instances where criminal activity can be linked to actions or failures to act on the part of staff or the management of a particular bar, it will likely be necessary to design and execute enforcement strategies narrowly focused on abating the unsafe conditions. Police enforcement strategies can be effective in dealing with individual criminal events. Having an impact on the conditions that tolerate or encourage criminal behavior will often require a sustained effort, a variety of tactics, and a multi disciplinary approach. Police efforts to address systemic criminal problems often face considerable challenges and impediments, thus will require a significant expenditure in time and resources. Strategies focusing on voluntary compliance should always be attempted before and/or in conjunction with strategies focused primarily on enforcement.

In keeping with the community policing philosophy, we will seek input from all stakeholders, share information with all appropriate agencies, and consistently measure our progress towards the common goals of enhancing the public's safety and reducing the fear of crime. We will look to various partners, in government, in the community, and

amongst private industry to develop appropriate responses to those businesses that tolerate or promote unsafe conditions.

## **General Protocols**

The Virginia ABC is responsible for the enforcement of administrative regulations dealing with the licensure of establishments to serve alcohol. ABC will routinely request input from local agencies regarding pending alcohol licenses. The Virginia Beach Police Department will work with ABC officials to provide timely responses to license inquiries.

The Virginia department of ABC has the sole authority to refuse to grant applications under Virginia Code § 4.1-222.

When the ABC requests feedback on pending applications, the precinct where the establishment requesting a license is located will conduct an investigation and prepare a report for ABC describing the findings of the investigation if a negative response is reported.

The conditions which can be considered by ABC for denying a license are outlined in 4.1-222.

Services will track any negative responses of ABC applications and the coordinator should be made aware of any pending objections or concerns at the time the Public Safety City Attorney is notified.

Precinct commanders or their designee will complete a PD-5 to document their “Objections” based on the criteria detailed in 4.1-222 and concerns based on any aspect of their investigation they feel would help ABC make their decision on approving or denying a license. Any situation that would result in an official “objection” will be forwarded to the Public Safety City Attorney to determine if it arises to the level of an official objection letter being issued by the Police Chief.

If there are strictly “concerns” by the command conducting the investigation, no objection letter will be generated, but the concerns should be drafted in an official memo from the precinct commander to the ABC licensing technician and returned to the Services ABC coordinator with the PD-5 and application investigation paperwork, who will forward it to the central ABC office in Richmond for review by the licensing board.

License application investigations must be returned to ABC within 30 days of the date of receipt located on the cover sheet that is sent to the department by ABC. If an extension is required for additional time to complete a license investigation, the command will need to contact the ABC Licensing Supervisor in Richmond at 804-213-4659 or the License Technician who is on the original cover sheet provided by Services.

Where there exists evidence suggesting that the staff or management of an establishment already licensed by the VA ABC to serve alcohol are promoting or tolerating unsafe

conditions or criminal acts, it is the responsibility of the VBPD to enforce the criminal laws and to assist the VA ABC, ensuring the rules and regulations regarding bar licensure are adhered to.

Virginia Code §4.1-225 describes the grounds for which the VA ABC Board may suspend or revoke licenses. Section “Q” of this code states that a license may be suspended or revoked if:

[The owner] failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of (*relevant code sections removed for brevity*) and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety.

While the VBPD does not enforce sections of the Code of Virginia contained in section §4.1-225, grounds for which the VA ABC Board may suspend or revoke licenses, officers assigned to these investigations should be familiar with the provisions of this code and able to share relevant information with their liaison VA ABC Special Agent.

In §48-1 through §48-8 the Code of Virginia describes the mechanism by which a special grand jury can be convened to examine the question of public nuisance as it may be associated with behaviors tied to the bar. The evidence does not need to establish that the owner caused or created the nuisance but that he merely tolerated it and did not take effective steps to abate the harm it was causing:

*§ 48-3. Permitting continuation of nuisance; presentment against premises.*

If any such nuisance be upon premises the owner of which did not create or cause such nuisance, but permitted its continuation, such owner shall, for the purposes of this chapter, be deemed responsible for such nuisance, and if such owner be not a resident or citizen of this Commonwealth, or one whose residence is not known, such presentment shall be against the premises upon which such nuisance is.

If an investigation produces evidence suggesting a nuisance abatement strategy is in order that action needs to be coordinated with the Virginia Beach City Attorney’s Office. Documents associated with a nuisance finding here in Virginia Beach can be found in the Appendix “A”.

*§48-17.1 Temporary injunctions against alcoholic beverage sales:*

The state code also provides a method by which the Court can issue an injunction to prevent the further sale of alcohol in the event conditions at the bar constitute an immediate and significant threat to public safety. This action needs to be coordinated with the VA Beach City Attorney’s Office. Documents associated with a filing under

§48-17.1 can be found in the Appendix “B”-an affidavit and “C” – a court ordered injunction.

The VBPD intends to be vigilant in seeking out and identifying unsafe conditions or behaviors in and around bars/nightclubs. We will share information with owners and others so that all stakeholders can play a role in fostering a safe and vibrant nightlife community. When necessary, we will employ criminal enforcement and seek civil remedies to ensure the staff, patrons and neighbors of VA ABC licensed establishments have a safe environment.

This Field Guide will employ a modification of the SARA (Scanning, Analysis, Response and Assessment) problem solving model when framing the discussion of response to and remediation of dangerous conditions or criminal events in and around bars/nightclubs. When developing responses to these matters we will consider:

### **Scan the Environment to Determine Who is Affected**

**Society:** Look for a history or pattern of calls for service.

**Individuals:** Victim(s) of assault or other type violations, parent(s) of injured party.

**Neighbors:** Citizens, businesses and corporate neighbors should be canvassed to determine the scope and severity of the impact suffered from bad behavior at the bar/nightclub. Canvass asking generalized open ended questions about crime and disorder problems as opposed to specific and targeted questions about the bar/nightclub. This approach does not restrict, limit or otherwise reduce the collected information. Open ended questioning does not convey the impression that any particular business is being targeted.

### **Acquire and Analyze Relevant Data**

Data collection is critical in crediting or discrediting the contention the bar/nightclub is linked to criminal events. Data collection and timely analysis of the information helps facilitate the design action to the best plan for the unique problems observed. The data collection helps drive the Department’s formal response as proportional to the known problem.

Data can be located in CADS (Computer Aided Dispatch System) in the Police, Fire and Rescue modules, the Department’s PISTOL Records Management System, neighborhood canvass statements, plainclothes operations and ERTF (Establishment Review Task Force) field reports. Officers collecting data need to go beyond the elements of the crime at hand and must delve into the link between the bar/nightclub, the subsequent crime and the offender.

For example, officers should inquire:

- How is the offender linked to the bar/nightclub
- What actions did staff take or fail to take and what investigative steps were taken to determine the credibility of these assertions
- How does the bar/nightclub in question present a more significant challenge or threat to public safety than similarly surrounding or situated establishments

Data showing activity of establishments will be maintained in a database accessible to all members on the network drive. This data should be reviewed when designing a response plan.

Source credibility should be detailed in notes (i.e. officer witnessed, there are multiple witnesses, video, sobriety of source, motive etc.).

### **Partners**

Depending on the type of problems identified, there will be a variety of potential partners that your plan should incorporate. Fire Marshalls are critical when dealing with a problem of crowd size. The Investigative Division is an important partner when dealing with felony crimes and or the need to conduct plainclothes investigations. The Health Department, U.S. Military, ABC, professional associations, the owners, the City and Commonwealth's Attorney can and should participate in the plan based on the unique circumstances observed.

### **Response**

Owners should be offered every opportunity to make their businesses safer. Response plans should include enforcement strategies and compliance enhancement strategies. Response plans should address specific crime problems, traffic concerns and quality of life issues.

### **Assessment**

As responses are implemented, results should be closely monitored. Plans should be adjusted when not effective and terminated once the problem abates. Outputs (arrests and summonses) are not the end goal. The outcome of a safer site with decreased or no public safety violations is the benchmark of success.

### **Documentation of Efforts**

#### **ERTF PD-5B Form:**

An ERTF PD-5B form (see Appendix "D") should be used in two broad categories of circumstances. The first being when an officer is assigned to conduct an inspection of a licensed establishment, and the second is when the officer determines there is a link between a criminal act and a particular bar/nightclub.

## Inspections

The following Virginia State Code sections describe our authority to conduct these inspections:

- *§§4.1-103, 4.1-111, 4.1-204, 4.1-222 and 4.1-325 of the Code of Virginia.*

Inspections (Bar Checks) are designed to:

- Communicate our expectations to owners, operators and patrons
- Establishes baseline data to monitor compliance, improvement or deterioration in conditions at a particular establishment
- Facilitates cooperation, collaboration and open communication providing transparency of operations
- Demonstrate our commitment to fair, impartial monitoring and enforcement activities

Inspections should be pre-planned, systematic, well documented, and produce value for the Police, the staff, the owner/operator, and the patrons. Each precinct is expected to conduct regular field inspections of VA ABC on-premise consumption license holders each month. Each precinct shall assign one supervisor to insure these inspections are properly conducted, documented, and evenly distributed throughout the geographic boundaries of the precinct. Inspections should be considered a distinct and separate action from follow up reporting conducted in response to an identified or suspected criminal problem. Inspections shall encompass the broad spectrum of license holders throughout the precinct. The intrusion created by the pre-planned inspection should be limited and balanced against a public safety need. Formal pre-planned inspections shall not be conducted in a manner that singles out any one licensed establishment.

Officers assigned to conduct a formal inspection should arrive unannounced to the establishment during normal business hours. The scope of the inspection shall not go beyond those areas where customers are allowed to go within the business. Officers should introduce themselves to a member of management and present that person with a letter describing their purpose and inspection guidelines. A letter from the City manager can be provided to management at the beginning of an inspection (see Appendix "E"). The inspection should be focused on criminal violations such as drunk in public, the consumption of alcohol by patrons under the age of 21, narcotics violations, indications of criminal gang activity, assaults, or other crimes directly affecting the safety of patrons and staff. Violations of fire codes, including overcrowding or the blocking of fire exits, may require an immediate consultation with a member of the Fire Marshall's staff. Even if the noted safety violation can be corrected quickly, careful notes should be taken and the Fire Marshall's Office should be notified as soon as possible. The proper display of permits, including the Building Occupancy, Virginia Department of Health and VA ABC permits should be documented.

The results of every inspection should be carefully documented on an ERTF PD-5B form.

The box indicating Bar Check should be marked “Yes”. The box indicating Criminal Investigation should be marked “No” indicating this form is associated with a pre-planned inspection as opposed to a follow up investigative action. The narrative section should indicate whether or not a letter was left with the establishment and what violations, if any, were observed. Any instance of criminal violation(s) detected during an inspection should be pursued in the normal fashion and shared with the appropriate VA ABC representative. The inspection form will not replace or change any of the Department’s procedures, reporting requirements, or protocols while addressing these criminal violations.

### Link to a Criminal Act

The second broad category of circumstances wherein an ERTF PD-5B form should be filled out occurs when an officer determines there is a link between a criminal act and a particular bar/nightclub. In these circumstances, the ERTF PD-5B form would indicate Criminal Investigation as opposed to Bar Check. When an officer determines a victim or offender in a criminal act was a patron or staff member of a particular bar/nightclub and is able to link the related behavior to a subsequent crime, the officer should share with the bar/nightclub information detailing the event. For example, was the patron grossly and visibly intoxicated before engaging in an assault, DUI, being robbed, etc? If there is no evidence of a link between behavior in the bar/nightclub and the criminal act the officer is investigating, an ERTF PD-5B form should not be completed. Criminal investigation follow up reports can occur immediately following an incident or later during the investigative process.

It should be a priority to share linked assessment information with the bar/nightclub in question as soon as practicable. This information helps the establishment’s management team cooperate with us towards the goal of protecting staff and patrons. The ERTF PD-5B form narrative explanation should clearly detail how the offender came to the officer’s attention, whether the offender was **visibly and grossly intoxicated**, what the offender said, and what evidence links the offender to the bar/nightclub. Examples of the ability to link these actions to the bar/nightclub include: officer witnessed, witnesses reported, offender statement alone, offender wearing bracelet for entry to bar, receipts in pocket, video indicates, etc. It is important to remember this is the primary form for documenting the relationship between a bar/nightclub and a crime whether or not the crime occurs inside the bar/nightclub.

Officers should take these notes as if they were preparing documents for a criminal prosecution. Often times, these notes will be used to refresh an officer’s memory for a VA ABC administrative hearing. Information required to contact all parties involved in the event should be included in the ERTF PD-5B form or easily found in other Department documents such as an IBR. This information will be utilized to help determine a viable course of action towards a problem solving solution.

## **SUSPECT**

Suspect information (name and DOB) should be recorded where indicated on the form. Officers shall refrain from recording Social Security numbers on the PD-5B. A suspect address is not required on the PD-5B but may be shared in different documents with the management of a licensed establishment to facilitate legitimate goals such as exchanging information for warrants.

The officer writing the report is responsible for checking criminal records relevant to the suspect in the PD-5B to determine if the suspect should be referred to the Office of the Commonwealth's Attorney (OCA) as an interdicted habitual drunkard. Under the Code of Virginia, §4.1-322, an interdicted drunkard cannot possess an alcoholic beverage after having been interdicted pursuant to §4.1-33 or §4.1-334, or appear in public in a drunken condition in violation of §18.2-388 after having been interdicted pursuant to §4.1-333 or §4.1-334. Each precinct will have a subject matter expert (SME) who reviews and processes these matters, acting as the liaison between the precinct and the OCA. When the reporting officer determines that there is a sufficient criminal history to warrant an evaluation for the interdiction program, the officer will forward all relevant information to the precinct SME.

## **NARRATIVE: Describing the Link**

In the narrative section of the PD-5B, the officer should take special care to describe what dangerous condition or criminal activity was evident, the bad acts/dangerous conditions, and what actions or failures to act on the part of staff played a role. Additionally, Officers are encouraged to note positive actions and steps taken by the Owner, Manager or staff. Officers should attempt to establish a link between the offender and the bar/nightclub location. Factors indicating a link may include; officer or witness observation, the offender's own admission and independent evidence (i.e. bar/nightclub alcohol purchase receipt). Officers should note all observations of visible levels of intoxication in the involved persons. When the evidence indicates that a subject has consumed alcohol at various establishments, officers are directed to ascertain and report on where the last drink was consumed.

One of the goals of this report is to provide owners with the information they will need to react to bad outcomes and dangerous conditions by intervening as early as possible. That intervention can take the form of commending staff for good actions, offering training, discipline or termination of employees for bad actions, banning criminal patrons from returning, or changing conditions of operation at their establishment to enhance the safety and comfort of staff, patrons and neighbors. The narrative must communicate information relevant to these considerations so the owners can take appropriate action.

Each ERTF PD-5B form should have an "Action Taken" noted below the narrative.

Officers filling out an ERTF PD-5B form should record the email address of the owner and the name of the manager or most responsible employee on duty during the event.

These individuals may of course be the same person. If a particular employee (doorman, server, etc) played a role in the event by acting or failing to act in a manner consistent with our understanding of best practices, that employee's information should also be collected.

Data entry for the ERTF PD-5B form should be processed in a timely manner. An important part of the ERTF PD-5B form documentation is to provide information to other officers, detectives and crime analysts within the Department. The ERTF PD-5B form will be forwarded to the officer's supervisor for review. The supervisor will forward the PD-5B to the assigned command person for completion of the data entry into the appropriate folders. The person authorized by the command will email the bar owner including a copy of the PD-5B document. The message sent to the owner should include language communicating our desire to work together to lessen or eliminate criminal activity and dangerous conditions in or around the establishment. The message should include a copy to the appropriate command representatives and the appropriate VA ABC agent(s). This message should follow or mimic a format substantially similar to:

*Mr. (establishment owner/club name)*

*Attached, please find a report detailing the arrest of NAME OF SUSPECT(S) for CHARGE (S). Our investigation reveals the following staff actions (failures to act) that we think contributed to this outcome (include staff names if available)*

*List of relevant staff actions/failures to act...*

*If you have any questions or concerns about the information contained in the attached report, you are always welcome to call me or email me (contact information below). We are hopeful that this information will be of assistance to you in your efforts to reduce harm and decrease risks to your staff, patrons and neighbors. We would appreciate any feedback you can share regarding actions you take subsequent to this notice. We look forward to the opportunity to collaborate with and support you in these efforts.*

*Sincerely,*

*Captain or Designate Name  
Precinct/Command  
Telephone Number  
Email*

All emails transmitted with ERTF documents attached and the responses to those emails should be stored in the ERTF folders for the precinct on the designated drive. These items should be hyperlinked in the appropriate cell in the command's ERTF spreadsheet.

The ERTF PD-5B form will be retained in accordance with General Order 4.01, (Records Management).

### **Challenges to ERTF PD 5B Form Documentation:**

Within 10-days of receipt of the ERTF PD-5B form, the establishment owner/operator should provide written notice of a formal challenge. The owner/operator can note their challenge via direct written correspondence with the respective Commanding Officer or by submitting a challenge notice to the department's web site.

- <https://www.vbgov.com/government/departments/police/Pages/default.aspx>

Documentation and communication are the vehicles by which we can identify problems and encourage owners to address unsafe conditions. Where unsafe conditions persist, the VBPD has a responsibility to develop and employ enforcement tactics designed to mitigate the scope and severity of criminal behavior.

### **Suggested Tactics to address various unsafe conditions in and around bars:**

#### **Under Aged Drinking:**

If an officer is able to establish where the under aged offender consumed alcohol or was allowed to remain on premise after drinking alcohol, an ERTF PD-5B form should be submitted and shared with VA ABC. Notes should indicate the efforts taken to establish the visible level of intoxication and any other compelling facts. For example officers should consider the use of a PBT (Preliminary Breath Test) and determine if the under aged offender possessed a false identification or not. The physical appearance of the under aged offender should be documented with a photograph taken at the time of the offense. This photograph should reflect the individual's clothing and personal appearance at the incident time.

#### **Assaults:**

Every instance of a forcible ejection from a bar/nightclub should be investigated as a criminal offense. Every instance of assaultive behavior amongst patrons should also be investigated with rigor and diligence, even if it is not immediately apparent that any one party wants to pursue the matter.

Questions personnel should ask include:

- If staff ejected forcibly, was the force staff used reasonable?
- Was the patron assaultive?
- Were the involved parties grossly intoxicated?
- Was the patron trespassing after being properly told to leave the bar/nightclub?
- Did staff commit any criminal violations against the patron i.e. assault?

- What steps did staff take to summon help (Police/EMS)?
- What steps did staff take to render aid to victims or assist Police in the investigation?
- Does staff wish to ban the offender(s) from returning?

Officers should conduct an immediate investigation and document each incident of assault with an IBR and an ERTF PD-5B form (share information with bar/nightclub management). Officers should manage their inquiry to ensure "a best evidence investigative effort" is completed. Best evidence includes: the proper recovery of any incriminating item of evidence helping establish the criminal offense, photographs, witnesses and victim statements, and field notes documenting these efforts. Personnel should note all observations of visible levels of intoxication of the involved person(s). Personnel are encouraged to place suitable criminal charges on individuals engaged in mutual combat. The VBPD takes an aggressive stance on the enforcement with regards to assaultive crime. Fights in bars/nightclubs represent a significant threat to officers, staff, and innocent patrons. Where a primary aggressor can be identified and probable cause for arrest exists, it is the position of the VBPD that criminal charges should be levied against the primary aggressor and any known victims and witnesses should be issued a subpoena.

When interviewing the parties involved in an assault investigation it is important to document all facts relevant to legal action that can be reasonably anticipated. In an effort to provide as much assistance as possible to victims, officers will not refuse to interview or take information from witnesses or victims merely because they are intoxicated. The level of intoxication will be noted along with all factors that contribute to or injure a statement's credibility. In misdemeanor assault cases, the assigned officer will discuss with victims and offer guidance regarding the steps they can anticipate in any upcoming prosecution whether they are the person taking out the charge or they are being subpoenaed. The lead officer will ensure that the victim is provided with the officer's name, contact information, report number, and any other information they will need if at a later date they decide to pursue additional criminal or civil remedies. While it is the policy of the VBPD to not provide legal advice to anyone encouraging or discouraging civil remedies, it also remains the policy of the VBPD to provide assistance to victims of crime.

### **Gross Intoxication:**

Instances of intoxicated patrons (on scene, nearby, or DUI) should be documented with a PD-5B only when there is a clear established link to a bar/nightclub. The VBPD uses a "last drink standard" to determine which bar should be listed on the PD-5B. If an investigation reveals the offender drank at several establishments while becoming grossly intoxicated, it is the "last bar" that served the intoxicated subject that gets listed on the PD-5B. Some of the various factors that can establish a link between the offender and the particular bar may include: officer or witness observation, the offender's own admission, and independent evidence (i.e. bar/nightclub alcohol purchase receipt). Personnel should note all observations of visible levels of intoxication of the involved persons. Personnel are encouraged to place suitable criminal charges on staff serving

grossly intoxicated patrons; however, officers should support any bar/nightclub staff's practice that appropriately manages and mitigates the risks posed by an intoxicated patron once they have been identified. These "best practices" are discussed in great depth during training offered by the VA ABC and by the VBPD upon request. In summary, any PD-5B should reflect whether staff took or failed to take reasonable precautions to protect the intoxicated person and to mitigate the risk that person posed to those around him/her.

## **NOISE**

One of the most common quality of life issues associated with problem bars is noise. The City of Virginia Beach has a noise ordinance and detailed instructions for how to investigate noise related complaints. Convictions for noise created by the actions or with the tacit support of the owner/staff may be relevant in the question of an ABC violation under §4.1-225, or a nuisance finding under §48-1.

## **Weapons Offenses:**

Planned patrols designed to interdict weapons violations in and around a bar/nightclub have their own set of special tactical and legal considerations. Operational plans designed to address these concerns must take these factors into account.

## **Issues involving members of the U.S. Military:**

When data shows members of the military are committing or becoming victims of crimes linked with a particular bar/nightclub, the VBPD's military liaison should be consulted for assistance. The department's military liaison can provide unique assistance with on-going criminal investigations and contact with military commands. In extreme cases, the military liaison can help coordinate an administrative hearing before the Armed Services Discipline Review Board to determine the bar/nightclub's continued suitability for military member patronage.

## **Plainclothes Investigations:**

The deployment of plainclothes personnel can be considered to pursue and expose allegations of under aged alcohol consumption, under reporting of door receipts, open use of narcotics, overcrowding, gang activity, and a variety of other offenses. Plainclothes investigations are complex and the initiation of these operations requires consultation with the Precinct Commander and the respective Division Commander before implementation. Where appropriate, precinct personnel may conduct such operations with the approval of the Operations Division Commander.

## **Analysis of Data:**

Collected data should be utilized to determine patterns of activity in and around the bar/nightclub locations. Each command shall designate at least one supervisor to be

primarily responsible for the analysis of this data and the development of operational plans addressing criminal activity, dangerous conditions, or quality of life issues linked to VA ABC licensed establishments. The timely review and evaluation of AARs associated with these operations is a critical component of performance.

### **Enforcement Options:**

The analysis of bar/nightclub data can prompt an effort to prosecute the bar/nightclub staff and management for a variety of criminal offenses and/or administrative violations. It is preferable to achieve and maintain collaborative relationships with business owners. We reflect this focus on cooperation and shared responsibility by providing bar/nightclub staff and management with information and assistance necessary for them to remediate any unsafe conditions or repair a harm caused to their neighbors. If it becomes clear that management is unable or unwilling to abate the behaviors that created the original concern, it may be productive to share this information with and seek the assistance of the building owner. While the owner may not have direct, day-to-day control over the premises, they have a vested interest in the situation and a great deal of influence in the matter. Communications seeking the assistance of property owners will be channeled through the Precinct Commander who will be responsible for all written communications in these matters. When efforts for voluntary compliance fail, enforcement becomes a necessity. While officers commonly arrest and prosecute individuals for various offenses in and around bars, the prosecution of offenses related to a pattern of behavior or specifically to the codes listed below will require collaboration with a prosecuting attorney. It is preferable to establish a relationship with a particular attorney who will provide guidance and assistance to the effort at the outset of the investigation and long before the decision is made to petition for a warrant under the Disorderly House, Nuisance or Injunction statutes.

### **Fire Code Violations:**

#### **Overcrowding**

Overcrowding is a clear threat to public safety and a violation of the law. A violation can occur when there are more people in a structure than allowed by the occupancy permit or due to the lack of free passage or access to the fire exits. Fire exits need to be clear, visible and without obstruction. Should an officer observe a potential violation, the Fire Marshall's Office (FMO) should be notified. The FMO is responsible for conducting the investigation and any enforcement action. The VBPD will work closely with the VBFD to ensure that overcrowding is quickly identified and dealt with. The FMO will be the lead on any criminal charge and we will support their efforts.

Any decision impacting the bar/nightclubs operation to include an ordered FMO evacuation must be carefully calculated and deliberated before any action is taken. Personnel are reminded that evacuation will create a crowd management challenge. Supervisors shall be consulted and on-scene for this action. Planning should include arrangements to manage each bar/nightclub exit to ensure the accurate counting of exiting

patrons. Personnel must document, record and be prepared to testify as to the facts during the investigation. Information specific to customer counts and cover charges can be shared with the Commissioner of Revenue Office for the investigation of under reporting door tax.

Every violation of the law committed by staff (overcrowding) should be reported to VA ABC and documented on an ERTF PD-5B form.

The following is a list of identified areas that FMO Inspectors look for in establishments when they review establishments for life safety concerns:

### **Means of Egress**

- The *means of egress* from each part of the structure, including exits, stairways, egress doors and any panic hardware installed thereon, aisles, corridors, passageways, and similar elements of the means of egress, shall at all times be maintained in a safe condition and available for immediate utilization and free of all obstructions. Security devices affecting means of egress shall be subject to approval.

### **Exceeding Occupancy**

- A *person* shall not permit overcrowding or admittance of any *person* beyond the approved occupant load. The code official, upon finding overcrowded conditions or obstructions in aisles, passageways or other *means of egress*, or upon finding any conditions which constitutes a hazard to life and safety, shall cause the occupancy, performance, presentation, spectacle or entertainment to be stopped until such a condition or obstruction is corrected and the addition of any further occupants prohibited until the approved occupant load is reestablished.

### **Exit Signs & Illumination**

All “Exit” signs shall be maintained visible, and all illuminated exit signs shall be illuminated at all times that the structure is occupied.

### **Electrical Hazards**

All identified electrical hazards shall be abated. All identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the electrical code official.

### **Ceiling Clearance**

Storage shall be maintained 2 feet or more below the ceiling in non-sprinklered areas of buildings or a minimum of 18 inches below sprinkler head deflectors in sprinklered areas of buildings.

Questions, concerns or notice of observations about Life Safety Inspection issues may be addressed by the Virginia Beach Fire Marshal's Office at 385-4228.

**Virginia Department of Health (VDH) Concerns:**

Should personnel witness the below listed circumstance, they should seek to notify the on-call VDH official as soon as possible. VDH has the authority to immediately suspend the health permit, prompting the temporary closure of the establishment for these remarkable conditions:

- No water
- No electrical power
- No refrigeration
- Sewage back-ups
- Severe pest infestations

The lawful authority to enforce these statutes falls under VDH control to wit: 12 VAC 5-421-3770. This authority is exclusive to VDH personnel only.

Virginia Beach Police Department  
Information Report for ABC Establishments (ERTF)

Establishment: \_\_\_\_\_ Time: \_\_\_\_\_ Date: \_\_\_\_\_  
Address: \_\_\_\_\_ Email: \_\_\_\_\_  
Establishment Phone: \_\_\_\_\_ Precinct: \_\_\_\_\_ Phone: \_\_\_\_\_  
Incident/IBR #: \_\_\_\_\_ Zone: \_\_\_\_\_  
Reporting Officer: \_\_\_\_\_ Code: \_\_\_\_\_  
Bar Check:  Yes  No  
Criminal Investigation:  Yes  No  
ABC License #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
Manager on Duty (Print & Initial): \_\_\_\_\_

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**Officer Comments (include notable staff actions/inaction, level of intoxication, statements and other links to establishment, etc):**

Action Taken:  No Violation Observed

Ban Letter:  Yes  No

Assistance Rendered/Information Provided

Warning Issued

Summons/Arrest

Violation(s) Cited \_\_\_\_\_

DUI(s)

Suspect Name 1: \_\_\_\_\_ DOB: \_\_\_\_\_

Suspect Name 2: \_\_\_\_\_ DOB: \_\_\_\_\_

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**If you have questions about this information report or desire to challenge the validity of the information herein, go to ERTF Home Page or ERTF Complaint Form. If you want to discuss this matter with the reporting officer or an on-duty supervisor, call the number listed on page 1 to set an appointment.**

**Dispute Resolution:**