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# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
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2003-0031

Report

In Committee

Police Department Report involving Stingrays, 5826 W. Burnham St. (2002-2003 Class B Tavern License no. 34 and Cigarette License no. 151 of Keith A. Emmrich and Dawn M. McNamara, partners, incident date: December 24, 2002).

Introduced: 1/21/2003

Controlling Body: License & Health Committee

### COMMITTEE RECOMMENDATION

Place on file

MOVER: Vitale

AYES 3

NOES 2

Ald. Murphy  
Ald. Barczak

SECONDER: Trudell

EXCUSED \_\_\_\_\_

COMMITTEE ACTION DATE 1-28-03

### SIGNATURES OF COMMITTEE MEMBERS

[Signature]  
Chair

\_\_\_\_\_  
Vice-Chair

### COMMON COUNCIL ACTION

place on file

FINAL ACTION DATE 2-4-03

MOVER:

Barczak

SECONDER:

Sengstock

	AYE	NO
1. Barczak	_____	<input checked="" type="checkbox"/>
2. Czaplewski	_____	<input checked="" type="checkbox"/>
3. Kopplin	<input checked="" type="checkbox"/>	_____
4. Lajsic	<input checked="" type="checkbox"/>	_____
5. Murphy	_____	<input checked="" type="checkbox"/>
6. Narlock	<input checked="" type="checkbox"/>	_____
7. Reinke	<input checked="" type="checkbox"/>	_____
8. Sengstock	<input checked="" type="checkbox"/>	_____
9. Trudell	<input checked="" type="checkbox"/>	_____
10. Vitale	<input checked="" type="checkbox"/>	_____
TOTAL	<u>7</u>	<u>3</u>





West Allis Police Department  
Incident Report

RECEIVED

JAN 07 2003

I0212449

CITY OF WEST ALLIS  
CLERK/TREASURER

2002-2003 Cl B Inv Lic. # 34  
Cig. Lic. # 151  
BATTERY

DISORDERLY CONDUCT  
CRIMINAL DAMAGE TO PROPERTY

Date: 12/24/02  
Time: 0202HRS

*Keith A. Emmrich &  
Dawn M. McNamara,  
Partners*

Location: 5826 W. BURNHAM ST.  
53214

Investigating Officer: 310-PTM JEFFREY ZIENTEK  
Incident Review: 305-LT WILLIAM KREUSER  
Report Review: 304-CAPT GERALD PONZI  
Road Supervisor: 305-LT WILLIAM KREUSER  
Assisting Squads: 315-PTM CLINT CORWIN, 511-PTM PHIL LASPISA, 510-PTM  
JAMES SCHUMITSCH, 512-PTM DAVID MADDEN, 513-PTM  
TODD CLEMENTI

*dba Stingray*

Victim: THOMAS D. WIRSBINSKY...M/W...04/11/60...2174 #11 S. 102<sup>ND</sup>  
ST...WEST ALLIS, WI. 53214...CELL# 550-2556

GARY LABONTE...M/W...1200 S. 106<sup>TH</sup> ST...WEST ALLIS, WI.  
53214...HP# 774-0162 (OWNER OF VEHICLE)

Offender(s): *& Owners*  
*Home Address:*  
THOMAS D. WIRSBINSKY...M/W...04/11/60...2174 #11 S. 102<sup>ND</sup>  
ST...WEST ALLIS, WI. 53214...CELL #550-2556...CITATION #'S  
M79586 (DC) & #M79587 (CDTP)

*Keith A. Emmrich*  
*7220 W. Kindlake*  
*Rd.*  
BEAU J. LABONTE...M/W...10/11/80...1200 S. 106<sup>TH</sup> ST...WEST  
ALLIS, WI. 53214...HP# 774-0162...WK# 688-8552...WAPD ID#  
29193...CITATION #M78587 (BATTERY)

*Kindlake*  
*53185*

RYAN A. FULA...M/W...11/15/79...3526 S. 26<sup>TH</sup>  
ST...MILWAUKEE, WI. 53221...HP# 841-7051...WK# 327-  
6066...WAPD ID# 34582...CITATION #M78586 (BATTERY)

*Dawn M. McNamara*  
*(Same)*

AMY L. HANSEN...F/W...12/23/80...4824 W. HOWARD  
AVE...MILWAUKEE, WI. 53220...CELL #688-1875...CITATION  
#M78589 (DC)

MELISSA A. HANSEN...F/W...07/11/79...9024 W. MORGAN  
AVE...MILWAUKEE, WI. 53228...HP# 546-4831...WK# 262-312-  
0038...CITATION #M78588 (DC)

Contact(s): KIMBERLY D. LABONTE...F/W...12/11/77...1200 S. 106<sup>TH</sup>  
ST...WEST ALLIS, WI. 53214...HP# 774-0162





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BRIAN R. LEWITZKE...M/W...03/03/79...3500 #6 S. RIVERGLEN  
LA...GREENFIELD, WI. 53228...HP# 727-0399...WK# 303-8028

BROOKE A. BOBBER...F/W...03/29/80...4640 S. KANAS...ST  
FRANCIS, WI. 53235...HP# 304-1599...CELL# 745-6648

JOSEPH (NMN) ANDRE...M/W...02/25/77...2202 S. 57<sup>TH</sup>  
ST...WEST ALLIS, WI. 53214...HP# 507-0502

JERIN M. DOWD...M/W...03/31/76...7130 W.  
VOLGEL...GREENFIELD, WI. 53220...HP# 282-2361

DENISE M. WIRSBINSKY...F/W...07/23/73...3500 #6 S. RIVER  
GLEN LA...GREENFIELD, WI. 53228...HP# 727-0399...WK# 545-  
3544

Evidence:

BLACK HANDLE 3" BLADE KNIFE...WAPD PROPERTY #25116

Property (Damaged):

SIDE WINDOW ON A CHEV/MINI-VAN  
SMASHED...ESTIMATED VALUE OF DAMAGE \$300.00

### CASE SYNOPSIS

Ptm Zientek Reports...

On Tuesday, 12/24/02 at 0202hrs, the station received a call of a fight in the street in the 5800 block of W. Burnham St. Upon arrival, officers spoke to several parties who were involved. The parties got into a verbal argument while leaving Stingray's tavern and continued outside. The argument became heated and escalated to a physical confrontation.

Arrested for Battery were Ryan Fula and Beau Labonte. Arrested for DC was Amy L Hansen, Melissa A. Hansen and Thomas D. Wirsbinsky. Wirsbinsky was also issued for C.D.T.P. All parties were cited and released.

### STATEMENT FROM DENISE WIRSBINSKY

I spoke to the bartender who was identified as Denise Wirsbinsky. Wirsbinsky stated a group of people came into the tavern about 1:40am and asked if she was still open. Wirsbinsky told them they would be able to get one drink before bar time. The parties ordered a drink and began talking. It became bar time and Wirsbinsky told them they had to leave.







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The parties were not moving so Wirsbinsky began yelling and swearing at them that they needed to leave. Wirsbinsky said the females in the group began mimicking her and calling her names. Wirsbinsky got madder and told them to, "Get the fuck out". The parties began leaving and Wirsbinsky's boyfriend; Lewitzke was closing the door, when one of the females (Amy Hansen) started pulling the door open. Lewitzke said to her there was nothing for her inside and to leave.

Lewitzke attempted to close the door, but she continued to pull on the door yelling and swearing at Wirsbinsky. Amy Hansen's boyfriend, Beau Labonte, walked up by the door and began pushing on Lewitzke. Wirsbinsky tried to get between Lewitzke, Labonte and Hansen, because she was the one responsible for the tavern. While trying to get between them, Wirsbinsky's brother, Thomas Wirsbinsky came running out and pushed Labonte out of the door way. Wirsbinsky said Thomas and Labonte began fighting and Thomas was knocked to the ground on the side of the building where Labonte and his friend, Fula were kicking and hitting him.

Lewitzke was able to get the parties separated and Fula, Labonte and the girls walked across the street to their van. Wirsbinsky said she did not observe anything else because she ran back into the tavern to call the police.

### STATEMENT BY BRIAN LEWITZKE

Ptm. Corwin reports...

At the scene I spoke to a male subject who identified himself as Brian R. Lewitzke, M/W, 03/03/79. Lewitzke was at Sting Ray's Tavern visiting his girlfriend, Denise Wirsbinsky, and her brother, Thomas Wirsbinsky.

Inside the bar a group of female subjects, (three to four), and two male subjects became upset after Denise told them that they would have to leave because the bar was closing. The female subjects were swearing at Denise as they left. After they walked out, Lewitzke attempted to close and lock the door. As he was doing this, one of the female subjects, (later identified as Amy Hansen), attempted to get back into the bar and prevented Lewitzke from closing the door. One of the male subjects later identified as Beau Labonte assisted Hansen and began pushing Lewitzke.

Lewitzke stated that Thomas Wirsbinsky pushed past him and went outside. Thomas and Labonte began fighting outside on the sidewalk. Lewitzke went outside in an attempt to separate them. Lewitzke observed Labonte punching Thomas and stated Labonte pushed Thomas up against the wall and then threw him down on the ground. The second male subject, identified as Ryan Fula, assisted Labonte and began punching Thomas. Lewitzke told me that he was able to separate the subjects.







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The subjects walked back to their vehicle, (blue mini-van), which was parked in the 5800 block of W. Burnham St. As they were entering their vehicle, Thomas got up from the ground and went over to their vehicle and punched the left passenger window causing it to shatter. The two male subjects then began to fight with Thomas in the street behind the vehicle. Lewitzke stated that he again attempted to break up the fight.

I told Lewitzke that we had found Thomas's knife lying in the street. Lewitzke stated that Thomas did not arm himself with the knife, display the knife or threaten anyone with the knife during the altercation.

Lewitzke did not appear intoxicated.

### STATEMENT BY THOMAS WIRSBINSKY

Ptm. Corwin reports...

Thomas Wirsbinsky was transported to the West Allis Memorial Hospital for medical treatment. I subsequently responded to the hospital to speak with him about the incident.

Hospital staff informed me that Thomas had a fractured right Fibula, (lower leg bone). I also observed scrapes/abrasions and small cuts on his forehead, face, right elbow and on the knuckles for his right hand.

Thomas stated that he had been visiting his sister, Denise, and her boyfriend, Brian Lewitzke at Sting Ray's Tavern. Thomas told me that he works at the tavern and that his sister, Denise, was bartending at the time of incident.

At bar time, Denise told a group of three to four females and two males to finish their drinks and leave. The females became upset at this and began arguing with Denise. The group left the bar and Denise's boyfriend, Lewitzke, attempted to close and lock the door. One of the female subjects attempted to get back into the tavern and prevented Lewitzke from closing the door.

Thomas stated that the two male subjects, (Labonte and Fula), also approached the door and began to push, pull and punch Lewitzke. Thomas stated that Lewitzke was pulled out of the bar and that he went outside to help him. Once outside, he was "jumped" by the two male subjects. Thomas's statement became vague at this point. He continuously changed his story and told me that he couldn't remember what happened. He stated that the short guy, (Labonte), punched him in the face, pushed him up against the wall and then "threw" him down on the ground. He changed this several times, stating that he was thrown down first, then punched or that he was punched and thrown down by both subjects.

Once on the ground, Thomas stated that both male subjects were punching him. I asked him if anyone had been kicking him. Thomas stated that the girls were jumping up and down on his legs. I asked Thomas how he thought the injury to his leg occurred. Thomas again stated that he thought it was a result of the girls "jumping" on him. Thomas couldn't remember exactly who jumped on him, how many times he was punched or kicked and by whom.





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Thomas stated that the subjects stopped punching him and that they walked to their vehicle to leave. Thomas told me that he got up off the ground and followed the subjects to their vehicle. I asked him why he did this and he replied that he was trying to get the license plate.

I told Thomas that other people involved in the incident claimed that he had walked up to the vehicle and smashed out the window. Thomas initially admitted to striking the vehicle's window and smashing it out by hitting it once with his right elbow/forearm. Thomas then recanted this and stated that the short guy, (Labonte), was standing by the vehicle and that he attempted to strike him, missed and hit the window causing it to break. I asked Thomas why he did this and he told me that he trying to stop them.

Thomas then told me that after the window broke, the two male subjects "jumped him" and began to punch him. He then changed his statement and told me that nothing happened after the window broke.

I asked him why his knife was lying on the ground. He stated that during the fight, the male subjects took the knife out of the sheath, which had been attached to his waist and threw it on the ground. The subjects also took his cell phone and threw it. Thomas denied arming himself with the knife and denied threatening anyone or implying that he had a knife.

While speaking with Thomas, I noticed that he appeared intoxicated. He had a strong odor of intoxicants emitting from his breath, his speech was slurred and his eyes were red and glassy. Thomas admitted to drinking alcoholic beverages throughout the evening, but denied being intoxicated.

### STATEMENT BY BEAU LABONTE

Ptm Madden Reports...

I interviewed LaBonte in a WAPD interview room adjacent to the booking area. At 0307 hrs., I read him his Miranda Warning. He stated that he understood his rights and wanted to answer questions. In response to my questions, he stated that they were in Stingray's Bar immediately prior to this incident. LaBonte was drinking beer and playing pool. He heard the females he was with arguing with the bartender. He heard Melissa yell "you owe me fucking fifty cents." As they were leaving the bar, Melissa said she heard the bartender call Amy a "fucking cunt."

When they were at the exit, Amy went back inside the bar. Tommy pushed Amy out of the bar and came outside with her. Tommy "went nuts" when he was outside and began pushing and hitting LaBonte and Fula. LaBonte and Fula went across the street and Tommy followed, yelling that he would get the Outlaws after them. Tommy kicked out the side window on a van parked in the street and pulled a knife on LaBonte and Fula. LaBonte and Fula both "grabbed" Tommy after he pulled the knife, threw him down, and started punching him to avoid being stabbed. Tommy dropped the knife at some point and the police arrived on scene.







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### STATEMENT BY RYAN FULA

Ptm Madden Reports...

I interviewed Fula in a WAPD interview room adjacent to the booking area. At 0254 hrs., I read him his Miranda Warning. He stated that he understood his rights and wanted to answer questions. In response to my questions, he stated that they were in Stingray's Bar immediately prior to this incident. Fula was drinking beer and talking to other people in the bar. He did not hear any argument in the bar.

When he was outside, he saw LaBonte and Tommy arguing at the exit of the bar. Tommy pushed LaBonte and Fula ran over and pushed Tommy off LaBonte. LaBonte and Fula went across the street and Tommy followed, yelling that he would get the Outlaws after them. Tommy kicked out the side window on a van parked in the street and pulled a knife on LaBonte and Fula. LaBonte and Fula both "grabbed" Tommy after he pulled the knife, Fula slapped the knife from his hands, and they threw him down, and started punching him to avoid being stabbed.

### STATEMENT BY AMY HANSEN

Ptm Clementi Reports...

I met Amy Hansen at the station in a detective interview room. I obtained her basic information and then asked her for a statement as to what had occurred. Amy stated she had been in the bar with several parties celebrating her birthday. As it approached bar time, the bartender started to yell that they had to leave the bar. The bartender was very obscene towards them as she told them they had to "get the fuck out." As they walked out of the bar Amy said she did yell back obscenities to the bartender.

Amy stated that just after she exited the bar she was behind her boyfriend Beau Labonte. As they began to get out of the entrance he held the door and she walked past. Amy walked across the street and heard arguing behind her. She turned around and saw two parties fighting with Beau. These parties would later be identified as Thomas Wirsbinsky and Brian Lewitzke. As she neared the mini-van they came in she observed Ryan Fula run over and try to break up the fight.

Amy stated she got into the car and never saw the rest of the incident.

### STATEMENT MELISSA HANSEN

Ptm Zientek Reports...

Once in the station, I met with Melissa Hansen in the Det. holding room. I read Melissa her Miranda Warnings as they are written on my department issued card. Melissa stated she understood her rights and wished to speak to me. Melissa stated she was out with her sister and some other friends. While at the Stingrays Tavern, Melissa said they were having one drink when the bartender started yelling at them "to get the fuck out". Melissa said an argument started between her sister Amy, and the bartender, about how she, the bartender, was treating them.







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Melissa and her group began walking out, when the bartender (Denise) walked outside and began yelling, "You bitches get the fuck out of here". Melissa's sister (Amy) walked back over to the business and began arguing with the bartender (Denise). Melissa said Beau Labonte also walked back to the business with Amy. Amy and Denise were arguing, so Melissa walked back to the business to get her sister to leave.

While trying to get her sister and Labonte to leave, a fight broke out between Labonte and Thomas Wirsbinsky. Wirsbinsky and another male, Lewitzke, both began hitting Labonte. Melissa said another friend; Ryan Fula went over and helped Labonte. The fight was broken up and Melissa and her friends walked back to their vehicle.

Once at the vehicle, Melissa said she heard a loud crash and noticed the side window to the van broken out with Thomas Wirsbinsky standing and yelling at Labonte and Fula. Both Labonte and Fula got out of the vehicle and the fight started again. Melissa said that is when the police showed up.

### STATEMENT BY KIMBERLY LABONTE

Ptm Zientek Reports...

I spoke to a female whom I identified as Kimberly Labonte. Kimberly said she was with her brother and a group of other friends at the tavern. Kimberly said she was not drinking because she was the designated driver. While in the tavern, the bartender whom she pointed out to be Denise Wirsbinsky, was being very rude and make comments to some guy at the bar about them. Kimberly said words were exchanged and then Wirsbinsky kicked everyone out of the bar. While leaving, Wirsbinsky yelled out, "Get those bitches out of the bar". Words were exchanged in the tavern and Denise Wirsbinsky walked outside and continued to exchange words with them.

Kimberly got into the van and was waiting for everyone, when someone yelled to her that her brother was fighting. Kimberly got out of the van and helped break up the fight. Kimberly was able to get her group back to the van. While walking behind her brother to make sure he got into the van, Kimberly said she heard someone running up behind her. Kimberly turned and noticed a male party, whom she identified to me as Thomas Wirsbinsky, running towards her van leaping and kicking the side window causing it to smash. Kimberly's brother, Beau and their cousin, Ryan Fula, jumped out of the van and began punching Thomas. Kimberly said she did not notice a knife until it was lying on the ground.

Kimberly advised the van was her father's vehicle and that she did not give anyone permission to damage it.





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### STATEMENT BY BROOKE BOBBER

Ptm Zientek Reports...

While on the way into the station, Bobber gave me the following statement as to what had happened. Bobber said they were inside the tavern and were having one drink before bar time, when the bartender, Wirbsinsky, began making comments about them and they over heard it. Bobber said two sisters' that were in their group (Hansen sisters) began making comments back. Words were exchanged between the two groups, and Wirbsinsky told them everyone had to leave. While they were leaving, Wirbsinsky walked out of the tavern and began yelling and calling them "Bitches". Amy walked back across the street and started yelling back at Wirbsinsky.

Amy's sister (Melissa) walked across the street and joined in the arguing. Amy, Melissa and Wirbsinsky started pushing each other. Wirbsinsky's boyfriend stepped between them to try to stop the fight. Amy's boyfriend, Labonte, ran across the street and started pushing Lewitzke. Thomas Wirbsinsky then came out and started fighting with Labonte.

Bobber said her boyfriend, Fula, ran across the street to stop the fight. Bobber said the sister's (Hansen's) pushed the issue, which caused Beau to go and get involved. Bobber said after the fight by the building she got into the van and was trying to pull Melissa into the van, who was still yelling and swearing at Wirbsinsky. Bobber said the next thing she remembers is getting hit with glass from the broken window.

### STATEMENT BY JOSEPH ANDRE

Ptm LaSpisa Reports:

Andre approached officers while still on scene investigating this incident. Andre stated he was in Stingrays this evening, and observed most everyone involved at the tavern.

Andre went on to say that he was leaving the tavern because the tavern was closing, nearing "bar-time". He said the bartender, whom he did not know by name, was being very boisterous while encouraging the patrons to leave. He said she even used profanity, and vulgar language, calling several girls "bitches" and "cunts".

While he was outside the bar, he heard a commotion near the entrance to the tavern. He observed several girls engaged in an argument with the person he believed was the bartender, and another very intoxicated patron. He referred to the intoxicated patron as "the bald guy", and said he was the one that damaged the car window (Thomas Wirbsinsky).

Andre said he saw two other males, later identified as Fula and Beau LaBonte, who he believed were boyfriends to one or more of the females, Kimberly Labonte, Bobber, Amy and/or Melissa Hansen. These were the females initially arguing with the bartender Denise Wirbsinsky, and then Thomas Wirbsinsky and the bouncer Brian Lewitzke outside the tavern.







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When Thomas Wirsbinsky and Brian Lewitzke began to argue more intensely with these females, Fula and Beua LaBonte then began to step in. At first everyone was just yelling, but it soon turned into a physical fight.

Andre stated the fight appeared to end quickly, as all the females and the two males left the area, walking across the street to their vehicle.

Suddenly, Thomas Wirsbinsky ran across the street, seemingly to attack one, or both of the males. Thomas Wirsbinsky swung wildly at one of them, and his hand possibly hit the van, but certainly missed the intended target. The second male ran to assist the other male with Thomas Wirsbinsky. The police arrived on scene at about that time.

Andre did not see anyone brandishing a knife.

### STATEMENT BY JERIN DOWD

Pto Schumitsch Reports:

Dowd approached Officers, along with Andre. I spoke with Dowd. He was in the bar and observed a verbal argument between the bartender and several females. He left because it was closing time and the bartender was telling people to go. He was outside and saw a fight start at the bar door. He pointed to the 2 actors on scene, they were ID as Tommy Wirsbinsky and Beau Labonte. He says Wirsbinsky and Labonte were punching each other just outside the door.

The fight broke up and a group of people walked to a van across the street. Most of them were inside, when Tommy Wirsbinsky ran across the street at the van. He heard Tommy yelling, "You're fucking with the outlaws". Tommy ran up to the van and he saw and heard the window break. He did not see who hit the window or how, but says Tommy was the only person outside the van by the window.

Two males got out of the van and attacked Tommy. They were ID as Labonte and Fula. He saw Labonte and Fula beating Tommy, knocking him to the ground and continuing to hit Tommy when he was down. He did not see anyone kicking Tommy. He did not see any of the females physically fighting. And he pointed out that the bartender, Denise Wirsbinsky, and Lewitzke were trying to break up the fight.

When asked if he saw anyone with a knife, he stated he never saw anyone with a weapon.





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### BOOKING PROCESS

Beau Labonte was mugged and printed under WAPD ID #29193. He was issued citation #M78587 for Battery.

Ryan Fula was mugged and printed under WAPD ID #34582. He was issued citation #M78586 for Battery.

Amy Hansen was issued citation #M78589 for DC.

Melissa Hansen was issued citation #M78588 for DC.

Thomas Wirsbinsky was issued citations #M79586 (DC) and #M79587 (CDTP) for the damage to the car window. Wirsbinsky was issued at West Allis Memorial Hospital due to him breaking his lower leg bone. (Cause of the break could not be determined, due to conflicting stories)

### CASE DISPOSITION

All parties who were the main instigators were issued and released.

2003-0031