

Response to Resistance Report

Key West Police Department

Case No: 19-964

1. A Response to Resistance Report will be completed by the supervisor for: (Check all that apply)

- ☐ A response through the use of non-lethal weapons,
☒ Applies weaponless physical force of strikes, kicks, or "take-downs"
☐ When any person sustains an apparent substantial or fatal injury as a result of the application of force
☐ When any person complains of injury as a result of the application of force
☐ Discharge of firearm in the line of duty off-duty or on-duty (other than for training, maintenance or ballistics testing)

INCIDENT

2. Date: 02/13/2019 3. Time: 5:10 AM 4. Location: 3700 N. Roosevelt 5. Incident type: S-20

6. Resistance Level 7. Explanation 8. Response Option 9. Explanation

- ☒ Passive: Would not comply ☒ Physical Control Leg Sweep
☐ Active: ☐ Non-lethal Weapon
☐ Aggressive: ☐ Deadly Force
☐ Deadly Force:

SUBJECT

10. Last Name: Moyer Jr 11. First: David 12. Race: W 13. Sex: M

14. DOB: 05/13/1990 15. Height: 5'9" 16. Weight: 210

17. Did you observe the subject: ☐ No ☒ Yes If NO, explain why in Section 42. If "YES", complete sections 18-22

18. Appeared to be: ☐ Intoxicated ☐ Under the influence of controlled substance ☒ Emotionally / mentally disturbed

19. Injuries: ☒ No ☐ Evident ☐ Alleged (If Evident or Alleged, describe and indicate areas on charts in Section 22)

20. Photographed: ☐ No ☒ Yes 21. Treated: ☒ No ☐ Yes By: ☐ EMT/Paramedic on scene ☐ Hospital ☐ Detention

22. Anterior View

Posterior View

OFFICER

23. Officer: Kevin O'Connell 24. Race: W 25. Sex: M 26. Age: 47 27. Height: 5'08" 28. Weight: 295

29. Duty Status: ☒ On-duty ☐ Off-duty ☐ Extra duty employment ☒ Uniformed ☐ Plain clothes 30. Yrs Exp: 23 yr

31. Injuries: ☐ No ☒ Evident ☐ Alleged (If Evident or Alleged, describe and indicate areas on charts in Section 35)

32. Photographed: ☐ No ☒ Yes 33. Treated: ☒ No ☐ Yes By: ☐ EMT/Paramedic on scene ☐ Hospital

34. Response option used by this officer: (If TASER®, also reference line number from TASER® section) 36

35. Anterior View

Posterior View

Response to Resistance Report (continued)

Key West Police Department

Case No: 19-964

TASER USE ONLY	36. TASER® device serial #	37. TASER® device serial #												
	TASER®Cam serial #	TASER®Cam serial #												
	Cartridge 1 serial #	Cartridge 1 serial #												
	Cartridge 2 serial #	Cartridge 2 serial #												
	Number of cycles:	Number of cycles:												
	Type of contact: <input type="checkbox"/> Probe <input checked="" type="checkbox"/> COPS <input type="checkbox"/> Drive Stun	Type of contact: <input type="checkbox"/> Probe <input checked="" type="checkbox"/> COPS <input type="checkbox"/> Drive Stun												
	Did probes penetrate skin: <input type="checkbox"/> Yes <input type="checkbox"/> No	Did probes penetrate skin: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No												
	Target distance at probe launch:	Target distance at probe launch:												
	Distance between probes:	Distance between probes:												
	Probes removed by (name):	Probes removed by (name):												
Device downloaded by:	Device downloaded by:													
<input type="checkbox"/> 38. Check and list any additional TASER® devices, cartridges or details in the incident description section.														
REPORT	39. Offense/Incident Report and/or Warrant Affidavit must include:													
	<input checked="" type="checkbox"/> All necessary criminal elements. <input checked="" type="checkbox"/> All details of the arrest <input checked="" type="checkbox"/> Details articulating the subject's words, mannerisms and actions that justify the use of force. <input checked="" type="checkbox"/> Details outlining the response to resistance utilized by each officer. <input checked="" type="checkbox"/> Detailed description of injury complaints and/or observed injuries <input checked="" type="checkbox"/> Details outlining the decontamination, first aid or medical treatment provided to the officer and/or subject.													
SUPERVISOR'S INQUIRY	40. Notified Date: 02/13/2019													
	41. Time: 0530 hours													
	42. Did you respond to the scene: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why)													
	43. Did you meet with the Officer: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why)													
44. Were you able to locate any independent witnesses: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "Yes," list below)														
<table border="1"><thead><tr><th>Name</th><th>Address</th><th>Phone Number</th></tr></thead><tbody><tr><td>Officer Sims</td><td>KWPD</td><td>305-809-1000</td></tr><tr><td>Officer Litton</td><td>KWPD</td><td>305-809-1000</td></tr><tr><td></td><td></td><td></td></tr></tbody></table>			Name	Address	Phone Number	Officer Sims	KWPD	305-809-1000	Officer Litton	KWPD	305-809-1000			
Name	Address	Phone Number												
Officer Sims	KWPD	305-809-1000												
Officer Litton	KWPD	305-809-1000												
45. Is further review recommended: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes														
FORWARD COMPLETED ORIGINAL REPORT TO INTERNAL AFFAIRS														
INT. AFF.	46. Preparing Supervisor's Signature / ID													
	47. Date													
	48. Did the review of this incident conclude that use of force was in compliance with Departmental policy? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", complete section 51)													
49. Signature of Internal Affairs Inspector		50. Date												
51. If section 48 is "No" record the Professional Standards Control Number:		52. Date Entered:												

INCIDENT DATA

MOV
I
C
T
I
M

OTHERS INVOLVED

PROPERTYStatus02/13/2019 09:53

INCIDENT/INVESTIGATION REPORT

Key West Police Department

Case # 19-000964

Status Codes L = Lost S = Stolen R = Recovered D = Damaged Z = Seized B = Burned C = Counterfeit / Forged F = Found

D R U G S	UCR	Status	Quantity	Type Measure	Suspected Type	Up to 3 types of activity

Assisting Officers

OCONELL, K. (2015), BARRIOS, D.J. (1850), SIMS, F.C. (2301)

Suspect Hate / Bias Motivated:

NARRATIVE

REPORTING OFFICER NARRATIVE

Key West Police Department

OCA

19-000964

Victim

Offense

BAKER / MARCHMAN ACT

Date / Time Reported

Wed 02/13/2019 05:12

On 02/13/2019 at approximately 0530 hours, Ofc. C. Sims and I (Ofc. A. Litton) were driving outbound on N Roosevelt when I noticed a man at Uppy's pointing toward McDonalds.

We turned around and parked our vehicle near the fuel pumps. We got out of the vehicle and contacted the subject (later identified as David Moyer by his PA driver's license). The vehicle looked like someone was living in it, with a propane tank on the roof next to a luggage rack, another luggage rack on the rear, and solar panels on the hood. Most of the windows were covered by fabric from the inside. Moyer was standing partially concealed near the rear, passenger side door. The door was open and stayed open as Moyer started to walk towards us. Moyer began to tell us that Hitler was wearing a mask, with red lights on it, and just walked into McDonalds. We did not see anyone that matched the description at the McDonalds, so we continued to talk to Moyer in the parking lot.

We then tried to identify Moyer by asking him if he had any identification. Moyer shook his head no and stated that he was the King of the Universe and he did not have any identification. As we continued to ask him for his identification, he stated that he only answered to a higher power. Moyer began to blink very rapidly and chatter his teeth as he went silent. Ofc. O'Connell arrived on scene and tried to obtain identification with no prevail. I then went to the patrol vehicle to run the license plate (JLZ4930) on the car to try and obtain some information on who he was.

While running the license plate, I glanced up to see Ofc. O'Connell walking up to Moyer with his handcuffs out. I immediately got out of the vehicle and went to Ofc. O'Connell. I could see Ofc. Sims on the other side of the vehicle, near the open rear passenger door. Ofc. Sims said he spotted a gun inside of the vehicle, and Moyer was being placed in handcuffs for officer safety. Moyer was resisting Ofc. O'Connell, who had a handcuff on one hand, but Moyer was not allowing him to place the other on. I grabbed Moyer's hand to try and place it behind his back to be cuffed, but he was still fighting both of us. I could hear Ofc. O'Connell telling Moyer to stop resisting, who still would not allow us to place the other handcuff on him. Ofc. O'Connell took Moyer to the ground and I grabbed Moyer's leg so we can roll him to his stomach and place the handcuffs on him.

After Moyer was sat down on his luggage rack at the rear of the vehicle in handcuffs, he began to comply and answer our questions. He then told us that he had a wallet with his driver's license in his vehicle. I found the wallet and driver's license next to the full-sized black pistol. I ran Moyer through FCIC/NCIC and found no warrants. Moyer explained that he was living in his car for the past 3 months, of which a week was spent in Key West. We asked Moyer if he had any prior medical history and he said no, he was not taking any medications. Moyer did state that he was previously diagnosed with PTSD, having spent time in the military. When asked about the gun in the vehicle, he said it was a pepper gun that he kept for self-defense.

Sgt. D. Barrios was contacted and arrived on scene to document and complete an RRI report. We explained to Moyer that him stating that it was Hitler in the mask, how he spoke only to a higher power, and claimed to be the King of the Universe was a concern to us. These are not the everyday thoughts that we think and asked if he spoke with any kind of counseling recently. Moyer said no and stated that he thought he did not need any medical attention. We decided that the best course of action would be a Baker Act. Moyer was searched, placed into the patrol vehicle and Ofc. Sims and I transported Moyer to Lower Keys Medical to be Baker Acted. Moyer was living in deplorable conditions in his vehicle. There was a make-shift bed in the back seat covered in clothes and trash scattered around the entire interior of the car. There was also dirt overflowing the door jambs and cigarette butts scattered throughout.

REPORTING OFFICER NARRATIVE

Key West Police Department

Victim	Offense <i>BAKER / MARCHMAN ACT</i>	OCA <i>19-000964</i>
		Date / Time Reported <i>Wed 02/13/2019 05:12</i>

The pistol was taken and placed into Key West Police property for safe-keeping.

This report is for information only.

Axon BWC was activated during this incident.

Incident Report Related Property List

Key West Police Department

OCA: 19-000964

1 Property Description PEPPER SPRAY GUN		Make SALT		Model S1		Caliber	
Color Black	Serial No. 1005866	Value \$350.00		Qty 1.000	Unit	Jurisdiction Locally	
Status Safekeeping	Date 02/13/2019	NIC #	State #	Local #		OAN	
Name (Last, First, Middle) Moyer, David Lee				DOB 05/13/1990	Age 28	Race	Sex M

Notes

2 Property Description AXON BWC 3958		Make		Model		Caliber	
Color	Serial No.	Value \$0.00		Qty 1.000	Unit	Jurisdiction Locally	
Status Evidence	Date 02/13/2019	NIC #	State #	Local #		OAN	
Name (Last, First, Middle)				DOB	Age	Race	Sex

Notes

3 Property Description PEPPER SPRAY GUN MAGAZINE		Make SALT		Model S1 MAGAZINE		Caliber	
Color Black	Serial No.	Value \$20.00		Qty 1.000	Unit	Jurisdiction Locally	
Status Safekeeping	Date 02/13/2019	NIC #	State #	Local #		OAN	
Name (Last, First, Middle)				DOB	Age	Race	Sex

Notes

4 Property Description AXON BWC 2301		Make		Model		Caliber	
Color	Serial No.	Value \$0.00		Qty 1.000	Unit	Jurisdiction Locally	
Status Evidence	Date 02/13/2019	NIC #	State #	Local #		OAN	
Name (Last, First, Middle)				DOB	Age	Race	Sex

Notes

Draft Only

CASE SUPPLEMENTAL REPORT
NOT SUPERVISOR APPROVED

Printed: 02/13/2019 12:21

OCA: **19000964**

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Investigator: *SIMS, FRED CARTER (2301)*

Date / Time: *02/13/2019 06:49:41, Wednesday*

Supervisor: *(0)*

Supervisor Review Date / Time: *NOT REVIEWED*

Contact:

Reference: *General Supplemental Report*

On 02.13.19 at approximately 0510 hours, I, Ofc. Carter Sims and Ofc. Drew Litton were on patrol in the 3700 block of N Roosevelt Blvd. This is the location of the Uppys (Dions) gas station. As we passed Uppys, I could see a white male standing next to a silver SUV on the right-hand side of the parking lot. Ofc. Litton told me he could see the male making gestures and pointing one of his hands towards McDonalds. When it was safe to do so, I made a U-turn, so we could go see if the male was in distress or needed assistance with some other matter.

When I pulled into the parking lot of Uppys, I parked in between the sidewalk and the first set of gas pumps. This put me at a slight angle to the rear of the silver SUV. The male was partially concealed on the rear passenger side of the SUV and was still pointing towards McDonalds. I could see he was wearing a medium colored t-shirt and shorts. The rear passenger door was open.

As Ofc. Litton and I got out of our car, the male began to walk toward us. He began telling us he was, "King Universe," and "Adolph Hitler" was in McDonalds and was wearing a mask with blinking red lights. Ofc. Litton and I looked at one another, perplexed by what this man had just told us. I asked him again what his name was, and he replied, "King Universe!" He started to put his hands in his pockets and was told to remove them, which he did, but he was slow to do so. I asked him for some form of identification, such as a driver's license. He just stood in front of Ofc. Litton and I with a blank or vacant look in his eyes; he would blink his eyes multiple times; and would chatter his teeth. About this time, Ofc. Kevin O'Connell arrived on scene.

Again, we asked for a driver's license or some form of identification. Again, we got the same blank stare as noted above. So, I turned and walked towards Ofc. Litton, and whispered for him to go run the vehicles tag on the in-car computer. The attached tag #JLZ4930 was out of Pennsylvania. Ofc. O'Connell and I attempted to get this man to speak with us and he just stared, as if he was staring through our bodies.

No one had gotten a close look at the car. I walked wide of 'King Universe' so I could see what was on the passenger side of the car. As a reminder, the passenger rear door was open. When I looked into the car, I saw a large black semi-automatic pistol lying on what appeared to be a makeshift bed. I stepped back and turned toward Ofc. O'Connell, calling out, "GUN!" When I said this, the male began walking toward me and looked as if he was going to try and walk around behind me.

Ofc. O'Connell quickly and without hesitation pulled out a pair of handcuffs, grabbed the man by the left arm, and began to handcuff him. The man immediately jerked his right hand to the front of his body and began to pull away from Ofc. O'Connell. I could clearly hear Ofc. O'Connell tell the male not to resist and to put his hands behind his back. The male continued to resist by pulling away toward his left. About this time, Ofc. Litton had come back from the car because he saw Ofc. O'Connell begin to handcuff the subject. Ofc. Litton did not hesitate to grab the man's right arm.

Investigator Signature: _____

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NOT SUPERVISOR APPROVED

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Investigator: *SIMS, FRED CARTER (2301)*

Date / Time: *02/13/2019 06:49:41, Wednesday*

Supervisor: *(0)*

Supervisor Review Date / Time: *NOT REVIEWED*

Contact:

Reference: *General Supplemental Report*

However, Ofc. O'Connell had reached up and was grabbing the man on his right shoulder. I could see he was going to re-direct this man to the ground in a controlled manner. Ofc. O'Connell ended up re-directing the man using a leg sweep. The man went to the ground without issue, but he still tried to pull away. I was able to reach down, grab his flailing right arm/wrist and bring his hand to his back. Ofc. O'Connell was able to place the second cuff on without further incident. Once handcuffed, the man stopped rolling around and resisting our efforts to take him into custody.

We left the man lying on the ground, on his left side so he could maintain his airway, while Ofc. O'Connell checked himself for injuries. While the man was lying on the ground, he began talking again, clearly, and eventually said his name was David. He was put on his feet and allowed to lean against the rear of the car. I looked him over and did not see any visible injuries. He did not complain of any injuries either.

I asked David if he had any form of identification, again. Now, he told me his driver's license was in his wallet, somewhere in the car. Ofc. Litton found the wallet on the makeshift bed, near the gun I had seen earlier. Ofc. Litton found a Pennsylvania driver's license for, David Lee Moyer DOB 05.13.90. Ofc. Litton went to the car to do a wants/warrants and status check. While he was in the car, I asked David what his full name and date of birth was? He provided the same information that was on his license.

During this time, Ofc. O'Connell had contacted Sgt. Barrios, and asked for him to respond to the scene reference an RRI. Ofc. O'Connell and I continued talking with David to assess his mental health. David eventually said he was prior military and had been diagnosed with PTSD. He said it was not an issue anymore and that he did not need to take any medications. He did say he had taken medications in the past.

We determined the best course of action was for David to be Baker Act based on his statements about being 'King Universe' and 'Adolph Hitler was in McDonalds wearing a mask'. David also said he spoke to a higher power. David's car was left in the Uppys parking lot at his request. We were not able to secure it, because we could not find the keys, and David was unsure where they were. Ofc. O'Connell spoke with an employee of Uppys and told them David's car would be left in the parking lot until he got out of the hospital.

Ofc. Litton took the following items out of David's car: a black cell phone; his wallet; and the gun. The gun ended up being a pepper ball self defense gun. It looked like a Desert Eagle 50 caliber handgun. David said he kept it for self defense purposes. Ofc. Litton and I transported David to the Emergency Room for evaluation. This was done without incident. At the Emergency Room, Ofc. Litton completed the Baker Act form with minimal help and turned David's property over to the security staff. We left David at the hospital in the care and custody of the staff and returned to the station to complete the report.

Investigator Signature: _____

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NOT SUPERVISOR APPROVED

Printed: 02/13/2019 12:21

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Investigator: *SIMS, FRED CARTER (2301)*

Date / Time: *02/13/2019 06:49:41, Wednesday*

Supervisor: *(0)*

Supervisor Review Date / Time: *NOT REVIEWED*

Contact:

Reference: *General Supplemental Report*

My AXON BWC was activated during this incident and will be downloaded accordingly.

Investigator Signature: _____

OCA: **19000964**

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Investigator: *OCONELL, KEVIN (2015)*Date / Time: *02/13/2019 10:01:06, Wednesday*Supervisor: *BARRIOS, DONALD J (1850)*Supervisor Review Date / Time: *02/13/2019 13:54:52, Wednesday*

Contact:

Reference: *General Supplemental Report*

On 02/13/2019, I, Officer K.M. O'Connell was dispatched to 3700 North Roosevelt Boulevard (Uppys Gas Station), to back up Officer Sims and Litton who were out with a suspicious male later identified as (David Moyer).

Upon my arrival I observed Officer Sims and Litton talking to Moyer. Officer Sims advised me that he Moyer was not responding to their questions. I asked Moyer for his name and date of birth, and he was non responsive to my questions. Moyer would not answer any questions and as Officer Sims was looking into Moyer's vehicle he noticed a gun on a bed and stated "Gun".

Upon Moyer hearing Officer Sims state there was a gun he started to walk towards Officer Sims, at which point I stopped Moyer and started to secure him in hand restraints. I got one handcuff on Moyers left hand at which point he tensed up and pulled his right hand towards his chest. Moyer continued to tense up and was non compliant to my verbal commands. I took Moyer to the ground using a leg sweep in order to effectively secure Moyer in handcuffs.

Once secured Moyer immediately began to answer questions. He advised his identification was in his wallet located inside his vehicle. Moyer stated the gun was not real but he had it for security purposes. Moyer also stated that he is a military veteran and suffers from PTSD. Moyer stated he has been treated in the past for mental health issues and at one point was on an unknown medication.

Based on the totality of circumstances it was determined the best course of action would be to Baker Act Moyer. Moyer was transported to LKHS for evaluation.

Sgt. D. Barrios responded to the scene and spoke to Moyer. Moyer denied having any injuries nor was he injured when he was taken to the ground. During the take down I sustained an abrasion to my left elbow, and left shin, which did not need medical treatment at that time.

My AXON BWC was in my patrol vehicle charging during my encounter with Moyer.

Investigator Signature: _____