

Response to Resistance Report

Key West Police Department

Case No: 20 - 00221

1. A Response to Resistance Report will be completed by the supervisor for: (Check all that apply)		
<input checked="" type="checkbox"/> A response through the use of non-lethal weapons, <input type="checkbox"/> Applies weaponless physical force of strikes, kicks, or "take-downs" <input type="checkbox"/> When any person sustains an apparent substantial or fatal injury as a result of the application of force <input type="checkbox"/> When any person complains of injury as a result of the application of force <input type="checkbox"/> Discharge of firearm in the line of duty off-duty or on-duty (other than for training, maintenance or ballistics testing)		
INCIDENT	2. Date: 1/10/2020 3. Time: 1608 Hrs 4. Location: Mallory Sq. (PH Zone) 5. Incident type: Agg. Battery	
	6. Resistance Level 7. Explanation 8. Response Option 9. Explanation	
	<input checked="" type="checkbox"/> Passive: Ignored verbal commands <input type="checkbox"/> Physical Control	
	<input checked="" type="checkbox"/> Active: Continued battering subject <input checked="" type="checkbox"/> Non-lethal Weapon: TASER	
<input checked="" type="checkbox"/> Aggressive: Aggressive advance to Ofc. <input type="checkbox"/> Deadly Force		
<input type="checkbox"/> Deadly Force:		
SUBJECT	10. Last Name: Gassett 11. First: Kyle 12. Race: W 13. Sex: M	
	14. DOB: 03/14/1994 15. Height: 5'09 16. Weight: 230	
	17. Did you observe the subject: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes If NO, explain why in Section 42. If "YES", complete sections 18-22	
	18. Appeared to be: <input checked="" type="checkbox"/> Intoxicated <input type="checkbox"/> Under the influence of controlled substance <input type="checkbox"/> Emotionally / mentally disturbed	
	19. Injuries: <input type="checkbox"/> No <input checked="" type="checkbox"/> Evident <input type="checkbox"/> Alleged (If Evident or Alleged, describe and indicate areas on charts in Section 22)	
	20. Photographed: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes 21. Treated: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes By: <input checked="" type="checkbox"/> EMT/Paramedic on scene <input checked="" type="checkbox"/> Hospital <input type="checkbox"/> Detention	
		
	22. Anterior View	Posterior View
	23. Officer: Billy Vazquez 24. Race: W 25. Sex: M 26. Age: 30 27. Height: 5' 09 28. Weight: 165	
	29. Duty Status: <input checked="" type="checkbox"/> On-duty <input type="checkbox"/> Off-duty <input type="checkbox"/> Extra duty employment <input checked="" type="checkbox"/> Uniformed <input type="checkbox"/> Plain clothes 30. Yrs Exp: 7.5	
31. Injuries: <input checked="" type="checkbox"/> No <input type="checkbox"/> Evident <input type="checkbox"/> Alleged (If Evident or Alleged, describe and indicate areas on charts in Section 35)		
32. Photographed: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes 33. Treated: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes By: <input type="checkbox"/> EMT/Paramedic on scene <input type="checkbox"/> Hospital		
34. Response option used by this officer: (If TASER®, also reference line number from TASER® section) Takdown		
OFFICER		
	35. Anterior View	Posterior View

Response to Resistance Report (continued)

Key West Police Department

Case No:

TASER USE ONLY	36. TASER® device serial # X12002KXF		37. TASER® device serial #	
	TASER®Cam serial # AXON Batt. Pack (no cam)		TASER®Cam serial #	
	Cartridge 1 serial # C41078PAN		Cartridge 1 serial #	
	Cartridge 2 serial #		Cartridge 2 serial #	
	Number of cycles: 2		Number of cycles:	
	Type of contact: <input checked="" type="checkbox"/> Probe <input type="checkbox"/> CODS <input type="checkbox"/> Drive Stun		Type of contact: <input type="checkbox"/> Probe <input type="checkbox"/> CODS <input type="checkbox"/> Drive Stun	
	Did probes penetrate skin: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Did probes penetrate skin: <input type="checkbox"/> Yes <input type="checkbox"/> No	
	Target distance at probe: 6-8 feet		Target distance at probe launch:	
	Distance between probes: 16"		Distance between probes:	
	Probes removed by (name): Ofc. T. Haynie		Probes removed by (name):	
Device downloaded by: No Cam. to download		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.			
INQUIRY	40. Notified Date: 01/10/2020		41. Time: 1618 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)			
INT. AFF.	44. Were you able to locate any independent witnesses: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If "Yes," list below)			
	Name	Address	Phone Number	
	Mark Sifers	400 Whitehead St, KW FL, 33040	305-570-7461	
	Amie Brown	General Delivery	N/A	
45. Is further review recommended: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		Sgt. F. Duponty 1951/PD, 951		
FORWARD COMPLETED ORIGINAL REPORT TO INTERNAL AFFAIRS		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/INVESTIGATION REPORT

I N C I D E N T D A T A	Agency Name Key West Police Department		INCIDENT/INVESTIGATION REPORT										Case# 20-000221	
	ORI FL0440100												Date / Time Reported 01/10/2020 16:08 Fri	
	Location of Incident 410 Wall St, Key West FL 33040-					Premise Type Parking Lot / Area Other			Beat/GP B1, GPB1		Last Known Secure 01/10/2020 16:08 Fri			
											At Found 01/10/2020 16:08 Fri			
D E T A I L S	#1	Crime Incident(s) Battery Aggravated AGD				(Att)	Weapon / Tools BLUNT OBJECT					Activity		
							Entry		Exit		Security			
	#2	Crime Incident Resist Arrest / Escape XOM				(Com)	Weapon / Tools					Activity		
							Entry		Exit		Security			
	#3	Crime Incident				()	Weapon / Tools					Activity		
							Entry		Exit		Security			
MO														
V I C T I M	# of Victims 2		Type: INDIVIDUAL				Injury: Unconsciousness				Domestic: N			
	V1	Victim/Business Name (Last, First, Middle) TONER, MARK				Victim of Crime # 1	DOB 05/30/1959 Age 60	Race W	Sex M	Relationship To Offender AQ	Resident Status Non-Resident	Military Branch/Status		
	Home Address 671 SLOAN CIR, Pensacola, FL 32505-										Home Phone			
	Employer Name/Address								Business Phone		Mobile Phone			
	VYR	Make	Model	Style	Color	Lic/Lis	VIN							
	CODES: V- Victim (Denote V2, V3) O = Owner (if other than victim) R = Reporting Person (if other than victim) Type: SOCIETY/PUBLIC/STATE Injury:													
O T H E R I N V O L V E D	Code V2	Name (Last, First, Middle) SOCIETY				Victim of Crime # 2	DOB / / Age	Race	Sex	Relationship To Offender	Resident Status N/A	Military Branch/Status		
	Home Address										Home Phone			
	Employer Name/Address								Business Phone		Mobile Phone			
	Type: Injury:													
	Code	Name (Last, First, Middle)				Victim of Crime #	DOB Age	Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status		
	Home Address										Home Phone			
Employer Name/Address								Business Phone		Mobile Phone				
P R O P E R T Y	L = Lost S = Stolen R = Recovered D = Damaged Z = Seized B = Burned C = Counterfeit / Forged F = Found ("OJ" = Recovered for Other Jurisdiction)													
	VI #	Code	Status Frm/To	Value	OJ	QTY	Property Description				Make/Model		Serial Number	
	99	EVID		\$0.00		25	DIGITAL PICTURES 2865							
	35	EVID		\$0.00		1	AXON BWC 3820							
	99	EVID		\$0.00		19	PHOTOGRAPHS							
	35	EVID		\$0.00		2	AXON BWC, 3836							
	35	EVID		\$0.00		2	AXON BWC 3467							
	35	EVID		\$0.00		1	AXON BWC 3967							
	99	EVID		\$0.00		1	TASER CARTRIDGE WITH AFIDS							
	35	EVID		\$0.00		1	BWC 3834				AXON			
Officer/ID# VAZQUEZ, BILLY (3467)														
Invest ID# (0)										Supervisor SIRACUSE, MARK W (3366)				
Status	Complainant Signature				Case Status Cleared By Arrest 01/11/2020				Case Disposition: Cleared By Arrest 01/11/2020				Page 1	

Incident Report Additional Name List

Key West Police Department

OCA: 20-000221

Additional Name List

Name Code/#	Name (Last, First, Middle)	Victim of Crime #	DOB	Age	Race	Sex
1) WI 1	SITERS, MARK RICHARD		05/04/1976	43	W	M
	Address 400 Whitehead St , Key West, FL 33040-		H: 305-570-7461			
	Empl/Addr Unemployed		B: - -			
			Mobile #: - -			
2) WI 2	BROWN, AMIE LYNN		03/04/1975	44	W	F
	Address 100 N Main St , Chattahoochee, FL 32324-		H: - -			
	Empl/Addr None		B: - -			
			Mobile #: - -			

INCIDENT/INVESTIGATION REPORT

Key West Police Department

Case # 20-000221

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
 DUPONTY, F.T. (1951), CALVERT, T.P. (3222), MEDINA, G.A. (3437), DEL VALLE, M. (1176), DEL VALLE, M. (1176),
 VAZQUEZ, A. (1672), RODRIGUEZ, A. (3465), VALDES-MARRERO, A. (3820), HAYNIE, T.G. (3836), HAYNIE, T.G. (3836),

Suspect Hate / Bias Motivated:

NARRATIVE

REPORTING OFFICER NARRATIVE*Key West Police Department*

OCA

20-000221

Victim

TONER, MARK

Offense

BATTERY AGGRAVATED

Date / Time Reported

Fri 01/10/2020 16:08

On January 10th, 2020, Ofc. Purcell, Ofc. Haynie and I, Sgt. Vazquez, were conducting a surveillance operation of the Mallory Square panhandling Zone. KWPD had received numerous complaints of narcotics transactions, fighting, and other violations within the panhandling zone. The surveillance operation was initiated to help combat these problems. Ofc. Purcell and I, were in an undercover car parked about 30 feet from the panhandling zone. We had a good field of vision of the panhandling zone. Ofc. Haynie was on a nearby rooftop also conducting surveillance of the panhandling zone.

All three officers were wearing KWPD class B uniforms.

At about 1608 hours, Ofc. Purcell and I watched as two males later identified as Kyle Gassett and Mark Toner, began to argue. The argument appeared to be escalating, however other unidentified subjects appeared to separate the two. A few moments later, I observed Toner grab a glass fish figurine. Toner then walked to the rear east corner of the panhandling zone and squared his body, as if he was ready to fight Gassett. Gassett pushed an unidentified subject out of his way. The unidentified subject was attempting to stop Gassett from fighting Toner. Gassett had an open area to walk away and remove himself from the altercation, however he did not, and began to approach Toner. It should be noted, Toner was cornered in the rear of the pan handling zone, with nowhere to go. Gassett then proceeded to approach Toner with his fists balled at his side. Gassett also squared his body as if he was ready to fight. I watched as Gassett lowered his face, as if he wanted Toner to strike him in the face with the glass fish figurine. We watched as Toner, using two hands, struck Gassett in the left side of his face with the glass figurine. Both subjects went out of our field of vision (far rear east side of the pan handling zone).Ofc. Purcell and I immediately exited our unmarked car and ran over to the panhandling zone.

While running to the area of attack, I attempted to activate my BWC. However, I did not look down at it to see if it was activated.

As I ran into the panhandling zone, I observed Toner on his back unconscious and lying motionless, with Gassett, violently striking him multiple times in his face. Gassett's fists were closed and he was delivering punch after punch. Gassett appeared to be in a state of rage. I removed my department issued TASER and pointed it at Gassett's back. I gave loud verbal commands, "Police, Down!" While pointing at the ground. Gassett suddenly stopped striking Toner and turned his rage and aggression toward me. Gassett, with his fists still balled at his side, ignored my commands and suddenly began to walk aggressively toward me. It was apparent and imminent, Gassett had the ability and was about to physically attack me. I deployed my TASER, striking Gassett center mass. Gassett appeared to drop to his knees. Once on his knees, Gassett attempted to stand up, I continued saying "Down!", while pointing toward the ground. Once the first 5 second cycle was complete, Gassett attempted to stand up. I delivered another cycle, this one achieved NMI. Gassett fell on his side and was handcuffed by Ofc. Purcell, without further incident. Gassett appeared to be bleeding heavily from the left side of his face. Once Gassett was in custody, I looked down at my BWC and found that it was not activated, I immediately activated it. I then turned my attention to Toner.

Toner's face was bleeding profusely, his left eye was swollen shut and his face appeared to be deformed with numerous bruises and facial Trauma. The rear of Toner's head also appeared to be soft with an unusual cavity forming to the lower rear part of his head. Toner was still unconscious, and barely breathing. I immediately held c-spine, and called for rescue to expedite, due to the seriousness of Toner's injuries. While tending to Toner, I observed Gassett, becoming combative with Ofc. Purcell. Ofc. Haynie arrived and assisted Ofc. Purcell.

Other officers arrived to assist.

REPORTING OFFICER NARRATIVE*Key West Police Department*

Victim <i>TONER, MARK</i>	Offense <i>BATTERY AGGRAVATED</i>	OCA <i>20-000221</i>
		Date / Time Reported <i>Fri 01/10/2020 16:08</i>

Rescue arrived and began to treat Toner. Another ambulance arrived and began to treat Gassett. I took photographs of Gassett's injuries, and will upload them to AXON.

I requested officers on scene to tape off the crime scene using crime scene tape.

Ofc. Purcell took custody of the used taser cartridge and AFIDs.

Ofc. Purcell responded to the hospital to conduct interviews, I stayed on scene. Below is an account of the interviews conducted by Ofc. Purcell.

"I met with Detective Del Valle and Detective Medina at the Lower Keys Medical center. I read Gassett his Miranda Rights and asked if he wished to speak with me. Gassett stated he did. Gassett told me he told Toner to put down the bottle and he didn't. Gassett told me Toner hit him in the head with the bottle. I asked Gassett to start from the beginning and tell us how the altercation started. Gassett started by informing me he had been drinking beer and Toner said something to him he couldn't remember. Gassett said he told Toner he was too old to be talking like that and Toner picked up a glass fish about two or three feet long and the thickness of a liquor bottle. Gassett stated he told Toner to put the bottle down and Toner said he was going to hit him across the head with it. Detective Medina asked Gassett why Toner wanted to hit him with the bottle. Gassett said Toner was upset about him not sharing food with him. Gassett told us he gave food to everyone, but Toner didn't get any. Gassett stated he told Toner to calm down and he would get more food. Gassett told us Toner picked up the bottle and threatened to hit him with it. Gassett said he told Toner to put the bottle down because he was too old to be doing things like that. Gassett stated Toner swung the bottle into the back of his head and he blacked out. Gassett told us the next thing he remembered was seeing the sun and then an officer that had tased him.

I asked Gassett if he remembered anything between being struck with the bottle and being tased. Gassett stated he just remembered an EMT putting him on a stretcher. Detective Medina asked Gassett how many times he was struck with the bottle. Gassett responded he did not remember. I asked Gassett if he remembered being tased. Gassett stated he remembered getting hit with the bottle, saw the sun then turned around and was tased. I asked Gassett if he remembered what happened to Toner. Gassett stated he did not. I asked Gassett if he remembered doing anything to Toner such as pushing him. Gassett responded immediately he had not touched Toner. I informed Gassett I was trying to figure out what happened after he was struck with the bottle. Gassett stated "okay maybe I pushed him after he hit me".

Officer Morris informed me a visitor in the hospital lobby was requesting to see Gassett. Detective Medina, Detective Del Valle, and I met with Amie Brown who stated she witnessed the incident. Brown stated there was normally a box at the pan handling zone where they kept donations. Brown told us today she had come to the pan handling zone with Gassett and there was a nice glass fish being used to store the donations. Brown stated Toner picked up the glass fish full of money and Gassett told him to put it down the money was for everyone. Brown said the next thing she knew Gassett had been hit over the head with the fish and was bleeding. Brown stated Gassett began "whaling on the dude". Detective Medina asked brown what she meant by saying the money was for everyone. Brown stated the money donated at the pan handling zone is divided between everyone and Toner was trying to take off with the money. Brown said Gassett told Toner the money was for everyone. Detective Medina asked Brown if the altercation had anything to do with food. Brown stated it did not. Brown told us a lot of people had the incident on video. She told us she tried to record it, but her phone was dead. Brown stated after Gassett was

REPORTING OFFICER NARRATIVE*Key West Police Department*

Victim <i>TONER, MARK</i>	Offense <i>BATTERY AGGRAVATED</i>	OCA <i>20-000221</i>
		Date / Time Reported <i>Fri 01/10/2020 16:08</i>

struck with the fish he jumped on Toner and "bam bam" Brown mimicked punching toward the ground.

Gassett was cleared from the hospital with a laceration on the left side of his head and a cut on his right arm. Ofc. Purcell transported Gassett to the Monroe County Detention Center without further incident.

As a result of his serious injuries, Toner was medevaced as a Trauma Alert to Ryder Trauma Center in Miami. Toner sustained severe head trauma, multiple facial fractures, and a skull fracture.

Contact was made with hospital staff at Ryder Trauma center. Hospital staff stated Toner was alert and in stable condition, at this time. They also stated Toner would need reconstructive surgery to his face.

Based on the facts, evidence, and my direct observation, I believe there is probable cause, that on 1/10/2020, Kyle Wade Gassett did knowingly and intentionally committed an act (Aggravated Battery) which would have resulted in the death of Mark Toner. Without my intervention, Gassett demonstrated his intent by contentiously punching Toner in the face while Toner was unconscious and barely breathing. Gassett's actions caused Toner to suffer severe facial and skull fractures. Through my training and experience, one or more strikes would have likely killed Toner. This act was imminently dangerous to another and demonstrated a depraved mind without regard for human life, thus contrary to F.S.S 782.051 (3), Attempted Second Degree Murder.

Based on the facts and my direct observation, I also believe there is probable cause, that on 1/10/2020, Kyle Wade Gassett did Knowingly resist myself, while failing to comply with my lawful commands to stop, and taking an aggressive stance toward me, thus contrary to FSS 843.02 Resist Officer Without Violence.

This case is cleared by arrest.

Incident Report Suspect List

Key West Police Department

OCA: 20-000221

1	Name (Last, First, Middle) <i>GASSETT, KYLE WADE</i>						Also Known As				Home Address <i>3055 NE 28TH DR GAINESVILLE, FL 32609</i>			
	Business Address <i>UNK, NONE</i>													
	DOB <i>03/14/1994</i>	Age <i>25</i>	Race <i>W</i>	Sex <i>M</i>	Eth <i>N</i>	Hgt <i>509</i>	Wgt <i>230</i>	Hair <i>BRO</i>	Eye <i>BRO</i>	Skin <i>MED</i>	Driver's License / State. <i>G230519940940 FL</i>			
	Scars, Marks, Tattoos, or other distinguishing features <i>TAT OTHR ARM / BOOTH; TAT FRO CHEST / FULL COVER</i>													
Reported Suspect Detail		Suspect Age		Race	Sex	Eth	Height		Weight		SSN			
Weapon, Type		Feature		Make		Model		Color		Caliber	Dir of Travel Mode of Travel			
VehYr/Make/Model				Drs	Style		Color		Lic/St		VIN			
Notes								Physical Char						

Incident Report Related Property List

Key West Police Department

OCA: 20-000221

1		Property Description DIGITAL PICTURES 2865			Make		Model		Caliber		
Color		Serial No.		Value \$0.00		Qty 25.000		Unit		Jurisdiction Locally	
Status Evidence		Date 01/10/2020		NIC #		State #		Local #		OAN	
Name (Last, First, Middle) * No name *						DOB		Age		Race	
										Sex	

Notes

2		Property Description AXON BWC 3820			Make		Model		Caliber		
Color		Serial No.		Value \$0.00		Qty 1.000		Unit		Jurisdiction Locally	
Status Evidence		Date 01/10/2020		NIC #		State #		Local #		OAN	
Name (Last, First, Middle) * No name *						DOB		Age		Race	
										Sex	

Notes

3		Property Description PHOTOGRAPHS			Make		Model		Caliber		
Color		Serial No.		Value \$0.00		Qty 19.000		Unit EA		Jurisdiction Locally	
Status Evidence		Date 01/10/2020		NIC #		State #		Local #		OAN	
Name (Last, First, Middle) * No name *						DOB		Age		Race	
										Sex	

Notes

4		Property Description AXON BWC, 3836			Make		Model		Caliber		
Color		Serial No.		Value \$0.00		Qty 2.000		Unit EA		Jurisdiction Locally	
Status Evidence		Date 01/10/2020		NIC #		State #		Local #		OAN	
Name (Last, First, Middle) * No name *						DOB		Age		Race	
										Sex	

Notes

Incident Report Related Property List

Key West Police Department

OCA: 20-000221

5 Property Description AXON BWC 3467		Make		Model		Caliber	
Color	Serial No.	Value \$0.00		Qty 2.000	Unit	Jurisdiction Locally	
Status Evidence	Date 01/10/2020	NIC #	State #	Local #		OAN	
Name (Last, First, Middle) * No name *			DOB		Age	Race	Sex

Notes

6 Property Description AXON BWC 3967		Make		Model		Caliber	
Color	Serial No.	Value \$0.00		Qty 1.000	Unit	Jurisdiction Locally	
Status Evidence	Date 01/10/2020	NIC #	State #	Local #		OAN	
Name (Last, First, Middle) * No name *			DOB		Age	Race	Sex

Notes

7 Property Description TASER CARTRIDGE WITH AFIDS		Make		Model		Caliber	
Color	Serial No.	Value \$0.00		Qty 1.000	Unit	Jurisdiction Locally	
Status Evidence	Date 01/10/2020	NIC #	State #	Local #		OAN	
Name (Last, First, Middle) * No name *			DOB		Age	Race	Sex

Notes

8 Property Description BWC 3834		Make AXON		Model		Caliber	
Color	Serial No.	Value \$0.00		Qty 1.000	Unit	Jurisdiction Locally	
Status Evidence	Date 01/10/2020	NIC #	State #	Local #		OAN	
Name (Last, First, Middle) * No name *			DOB		Age	Race	Sex

Notes

CASE SUPPLEMENTAL REPORT

Printed: 02/04/2020 10:10

Key West Police Department

OCA: **20000221**

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

Case Status: *CLEARED BY ARREST*Case Mng Status: *NA*Occurred: *01/10/2020*Offense: *BATTERY AGGRAVATED*Investigator: *ANGLIN, ANNA J (2865)*Date / Time: *01/10/2020 18:15:26, Friday*Supervisor: *VAZQUEZ, BILLY (3467)*Supervisor Review Date / Time: *01/10/2020 19:46:05, Friday*

Contact:

Reference: *Csifet Scene Processing*

On Friday, January 10, 2020, at 1615 hours I (Ofc. A. Anglin) and my trainee, Ofc. R. Perez, responded to Mallory Square where we heard other officers request back up for a fight. While enroute, we heard Sgt. B. Vazquez ask for more officers as a subject was still being combative.

Officers S. Perez, R. Ham, A. Marrero-Valdes, K. O'Connell, C. Purcell, and T. Haynie were already on scene. One male was sitting on the ground inside the "panhandling" zone, handcuffed and being treated by KWFD Rescue. I saw the male had blood on his head and on his arms.

Once the male was transported to the emergency room by rescue, Sgt. Vazquez asked me to start taking pictures of the scene for crime scene processing.

In the panhandling zone, which is the size of one parking space, cordoned off, for the purposes of designated panhandling. Inside I saw a lone backpack against a fence, and some blankets piled to one side. Near the blankets was a great deal of broken glass. The glass was thick, and it had broken in large chunks. Near the broken glass I observed what appeared to be blood spatter on the ground. There was a large pool of blood. I took pictures of the panhandling zone, the broken glass (with ruler for scale), and the blood spatter areas.

I then responded to the emergency room where the male I had seen earlier was located. The man identified himself as "Kyle" to me. I explained I needed to take pictures of his injuries, at which time he lifted his shirt to show me puncture wounds from where he had been "tazed." I took pictures of these injuries, along with a cut on his right arm, and a gash on the back of the left side of his head.

I submitted a total of 25 digital pictures to KWPD Property and Evidence Section via Axon.

For further information, see Ofc. Purcell's original report.

Investigator Signature

Supervisor Signature

CASE SUPPLEMENTAL REPORT

Printed: 02/04/2020 10:10

*Key West Police Department*OCA: **20000221**

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Case Status: *CLEARED BY ARREST***Case Mng Status:** *NA***Occurred:** *01/10/2020***Offense:** *BATTERY AGGRAVATED***Investigator:** *VALDES-MARRERO, ALIOHT***Date / Time:** *01/10/2020 18:45:48, Friday***Supervisor:** *VAZQUEZ, BILLY (3467)***Supervisor Review Date / Time:** *01/10/2020 19:47:14, Friday***Contact:****Reference:** *General Supplemental Report*

On January 10, 2020, at approximately 1608 hours, I (Ofc Valdes Marrero), responded to Mallory Square Panhandling Zone (1 Mallory Square) in reference to a physical fight. Sgt Vazquez advised over the radio someone got hit with a bottle and where unconscious and someone got tased. Sgt Vazquez requested back up because one of the subjects was being combative.

Upon arrival, there were several officers on scene along with fire and rescue personal. I assisted the other officers as needed and secured the scene. I was instructed by Sgt Duponty to respond to the hospital and collect both subject's information and document their injuries.

I arrived at the hospital and I was able to photograph the injuries of both subjects. One of the subjects (later identified as Mark Toner) was being airlifted by Trauma Star to Jackson South Hospital. Toner had trauma to his face and the back of his head.

The other subject (later identified as Kyle Gassett) was admitted to the ER. Gassett had a laceration to the back of his head and a small laceration to his right upper arm.

I placed all the photographs into the Axon server as evidence. My body worn camera was activated throughout the investigation and the video was also uploaded to the server as evidence.

This concludes my involvement in this case.

Investigator Signature

Supervisor Signature

CASE SUPPLEMENTAL REPORT

Printed: 02/04/2020 10:10

Key West Police Department

OCA: **20000221**

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

Case Status: *CLEARED BY ARREST*Case Mng Status: *NA*Occurred: *01/10/2020*Offense: *BATTERY AGGRAVATED*Investigator: *HAYNIE, THOMAS G (3836)*Date / Time: *01/10/2020 22:39:36, Friday*Supervisor: *VAZQUEZ, BILLY (3467)*Supervisor Review Date / Time: *01/10/2020 22:44:58, Friday*

Contact:

Reference: *General Supplemental Report*

On Friday, January 10, 2020 around 4:00 PM, Officer Purcell, Sergeant Vazquez, and I were conducting a surveillance operation at the Mallory Square Panhandling Zone at 1 Mallory Square. Sergeant Vazquez and Officer Purcell were in a surveillance van. I was on the rooftop of the Ocean Key Resort & Spa at 0 Duval Street.

From the rooftop I had a view of approximately the first third of the panhandling zone. I observed a male subject, later identified as Kyle Gassett approach the panhandling zone. Kyle immediately began antagonizing subjects in the panhandling zone. I observed Kyle arguing with a male subject, later identified as Mark Toner. I watched while another local subject got in between Kyle and Mark. He appeared to be attempting to keep them from fighting each other. The argument moved to the back of the panhandling zone where I could not see. Shortly after Mark and Kyle left my view, I heard a large crashing sound which sounded like glass breaking.

Around the beginning of the argument I took my bodycam from my chest and held it pointing toward the panhandling zone. I activated my bodycam once Mark and Kyle went out of view. After the glass breaking sound, I observed Sergeant Vazquez and Officer Purcell exit the surveillance van. I observed Sergeant Vazquez pull his Taser and heard him give loud verbal commands and subsequently heard his Taser deploy. I took the hotel stairs to the bottom floor and responded to the scene on foot.

On scene, I observed Mark and Kyle laying on the ground. Sergeant Vazquez was holding c-spine on Mark. Officer Purcell was with Kyle, who was handcuffed. I observed large amounts of blood around both subjects' heads. I also observed broken glass in the area. Key West Rescue responded and transported both subjects. I stood by, for scene security, while officers finished the investigation.

I activated my KWPd issued bodycam during this call.

Investigator Signature

Supervisor Signature

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Case Status: *CLEARED BY ARREST*Case Mng Status: *NA*Occurred: *01/10/2020*Offense: *BATTERY AGGRAVATED*Investigator: *PURCELL, CHASE (3967)*Date / Time: *01/11/2020 02:14:12, Saturday*Supervisor: *VAZQUEZ, BILLY (3467)*Supervisor Review Date / Time: *01/13/2020 02:21:40, Monday*

Contact:

Reference: *General Supplemental Report*

On 1/10/2020 at approximately 1608 hours Sgt Vazquez, Officer Haynie, and I, Officer Purcell, were conducting a surveillance operation at Mallory Square.

We observed two white males, identified as Kyle Gassett and Mark Toner, begin arguing in the pan handling zone. Toner picked up a large glass object holding it like a club. Other individuals in the pan handling zone got between Gassett and Toner in an apparent attempt to defuse the situation. Toner turned his back to Gassett and began to walk away to the back corner of the pan handling zone. Gassett grabbed the individual standing between him and Toner pushing him to the side. Gassett started walking in an aggressive manor towards Toner who was standing in the corner with nowhere to go. Gassett lowered his stance and bladed his body with his right arm back as he advanced on Toner. Toner held the glass object in both hands and lifted it over his right shoulder then brought it down on the left side of Gassett's head. I observed Gassett moving towards Toner then my view became obstructed by a parked car.

Sgt Vazquez and I immediately exited our surveillance location and moved to stop the fight. Sgt Vazquez stepped around the vehicle obstructing our view before me, giving loud verbal commands to stop. I stepped around the vehicle and observed Gassett turn from standing over Toner's bloody, unconscious body. Gassett was standing in a wide stance with his arms flared out from his sides in an aggressive posture. Gassett advanced towards Sgt Vazquez as if he was going to physically attack him. Sgt Vazquez deployed his Taser striking Gassett in the chest and stomach with the barbs. Gassett went to the ground and I placed him in handcuffs while Sgt Vazquez checked on Toner's injuries.

Gassett had blood coming from the left side of his head where he was struck by the glass object. Gassett appeared to lose consciousness for a short period of time. I supported Gassett's head and neck until Key West Fire Department Rescue arrived on scene.

Rescue immediately placed Toner on a back board, loaded him into the ambulance, and transported him to Lower Keys Medical Center where he was air lifted to Ryder Trauma Center Jackson Memorial Hospital due to his traumatic head injury. A second ambulance arrived on scene and transported Gassett to Lower Keys Medical Center for further evaluation.

The scene was secured, taped of with crime scene tape, and photographed.

I met with Mark Siters who witnessed the incident. Siters stated Toner caught a pigeon and then began to argue with Gassett over who could catch pigeons better. Siters told me Gassett began to threaten Toner. Siters said Toner stood up and grabbed a large glass fish from the ground. Siters stated they continued to threaten each other. Siters told me the other people in the pan handling zone convinced Toner to put the glass fish down but Gassett would not let Toner out

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Contact:

Reference: *General Supplemental Report*

of the corner of the pan handling zone. Sifers stated Toner hit Gassett over the head with the fish and Gassett jumped on Toner knocking him to the ground. Sifers said Gassett struck Toner over twenty times in the face and head with closed fists before we got him to stop.

I spoke with Sgt Vazquez who stated, when he stepped around the car in front of me, Toner was unconscious and Gassett was violently striking him the face repeatedly. Sgt Vazquez stated when he checked on Toner he was still unconscious, his face was bleeding profusely, his left eye was swollen shut, and his face appeared to be disformed from the trauma. Sgt Vazquez also told me the rear of Toner's head appeared to be soft with an unusual cavity forming on the back of it and he was barely breathing.

I met with Detective Del Valle and Detective Medina at the Lower Keys Medical center. I read Gassett his Miranda Rights and asked if he wished to speak with me. Gassett stated he did. Gassett told me he told Toner to put down the bottle and he didn't. Gassett told me Toner hit him in the head with the bottle. I asked Gassett to start from the beginning and tell us how the altercation started. Gassett started by informing me he had been drinking beer and Toner said something to him he couldn't remember. Gassett said he told Toner he was too old to be talking like that and Toner picked up a glass fish about two or three feet long and the thickness of a liquor bottle. Gassett stated he told Toner to put the bottle down and Toner said he was going to hit him across the head with it. Detective Medina asked Gassett why Toner wanted to hit him with the bottle. Gassett said Toner was upset about him not sharing food with him. Gassett told us he gave food to everyone, but Toner didn't get any. Gassett stated he told Toner to calm down and he would get more food. Gassett told us Toner picked up the bottle and threatened to hit him with it. Gassett said he told Toner to put the bottle down because he was too old to be doing things like that. Gassett stated Toner swung the bottle into the back of his head and he blacked out. Gassett told us the next thing he remembered was seeing the sun and then an officer that had tased him.

I asked Gassett if he remembered anything between being struck with the bottle and being tased. Gassett stated he just remembered an EMT putting him on a stretcher. Detective Medina asked Gassett how many times he was struck with the bottle. Gassett responded he did not remember. I asked Gassett if he remembered being tased. Gassett stated he remembered getting hit with the bottle, saw the sun then turned around and was tased. I asked Gassett if he remembered what happened to Toner. Gassett stated he did not. I asked Gassett if he remembered doing anything to Toner such as pushing him. Gassett responded immediately he had not touched Toner. I informed Gassett I was trying to figure out what happened after he was struck with the bottle. Gassett stated "okay maybe I pushed him after he hit me".

Officer Morris informed me a visitor in the hospital lobby was requesting to see Gassett. Detective Medina, Detective

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Contact:

Reference: *General Supplemental Report*

Del Valle, and I met with Amie Brown who stated she witnessed the incident. Brown stated there was normally a box at the pan handling zone where they kept donations. Brown told us today she had come to the pan handling zone with Gassett and there was a nice glass fish being used to store the donations. Brown stated Toner picked up the glass fish full of money and Gassett told him to put it down the money was for everyone. Brown said the next thing she knew Gassett had been hit over the head with the fish and was bleeding. Brown stated Gassett began "whaling on the dude". Detective Medina asked brown what she meant by saying the money was for everyone. Brown stated the money donated at the pan handling zone is divided between everyone and Toner was trying to take off with the money. Brown said Gassett told Toner the money was for everyone. Detective Medina asked Brown if the altercation had anything to do with food. Brown stated it did not. Brown told us a lot of people had the incident on video. She told us she tried to record it, but her phone was dead. Brown stated after Gassett was struck with the fish he jumped on Toner and "bam bam" Brown mimicked punching toward the ground.

Gassett was cleared from the hospital with a laceration on the left side of his head and a cut on his right arm. I transported Gassett to the Monroe County Detention Center without further incident.

As a result of his serious injuries, Toner was medevaced as a Trauma Alert to Ryder Trauma Center in Miami. Toner sustained severe head trauma, multiple facial fractures, and a skull fracture.

Contact was made with hospital staff at Ryder Trauma center. Hospital staff stated Toner was alert and in stable condition, at this time. They also stated Toner would need reconstructive surgery to his face.

Gassett and Toner's injuries were photographed and uploaded to Evidence.com. I recorded video of the first portion of this incident and uploaded it to Evidence.com. Due to how quickly this incident took place I was unable to activate my Axon BWC. My Axon BWC was activated for all the interviews that took place after the initial incident with exception of Siters' statement. Siters provided a written statement which I submitted to the Key West Police Department Records.

Investigator Signature

Supervisor Signature

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Case Status: *CLEARED BY ARREST***Case Mng Status:** *NA***Occurred:** *01/10/2020***Offense:** *BATTERY AGGRAVATED***Investigator:** *PEREZ, SANTIAGO (3834)***Date / Time:** *01/11/2020 06:54:34, Saturday***Supervisor:** *DUPONTY, FRANK T (1951)***Supervisor Review Date / Time:** *01/11/2020 16:50:06, Saturday***Contact:****Reference:** *General Supplemental Report*

On Friday, January 10, 2020, at approximately 1612 hours, I, Officer Perez while on patrol heard a call on the Key West Communications channel 1 (Comm 1), about a fight at Mallory Square. Sgt. Vazquez was on scene and requesting additional units.

On arrival, the units on scene had two individuals detained and requesting medical treatment. One of the individuals had been Tased by Sgt. Vazquez as a response to resistance. They were both visibly bleeding from the head area.

I was later approached by an individual, later identified as Mark Richard Sifers, (DOB 05/04/1976). Sifers told me he was a witness to the incident. Sifers said the two individuals were arguing about who can catch more pigeons (birds).

Sifers said the two individuals then keep arguing and one grab a bottle and hit the other one who was been confrontational to the other. I had Sifers write a witness statement. The witness statement was later turned over to Officer Purcell for evidence. I had no further involvement on this case.

My BWC was activated during my time on scene.

Investigator Signature

Supervisor Signature

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Contact:

Reference: **General Supplemental Report**

On Friday, January 10, 2020 at approximately 1615 hours, I (Ofc. A. Rodriguez) arrived to the Mallory Square panhandling zone in reference to Sgt. B. Vazquez requesting emergency backup for a violent fight that involved two subjects and the use of a blunt object as a weapon.

Prior to my arrival, I could hear Sgt. B. Vazquez over Key West Dispatch Channel One stating that one subject was unconscious and snoring, and another subject had been given two cycles of his TASER.

Upon arrival, I could see one seated male handcuffed in the panhandling zone with TASER probes to his torso and another male on a stretcher being loaded into a KWFD ambulance. The handcuffed male was bleeding from his head and Ofc. C. Purcell was holding C-Spine while KWFD medics tended to him. I asked Sgt. B. Vazquez what assistance he needed and he asked that I gather information for a male and a female in the area.

After obtaining the information for the two witnesses, I gathered AFIDs and a blast door from Sgt. B. Vazquez's TASER cartridge that was deployed. I asked Ofc. A. Valdes-Marrero to obtain an evidence bag for me.

I stood by with Ofc. T. Haynie while he removed the TASER probes from the handcuffed subject. Ofc. T. Haynie placed the cartridge and probes into the evidence bag.

Sgt. B. Vazquez asked if the male in the ambulance (this male was deemed a trauma alert by KWFD Rescue) was identified yet. I turned the evidence bag containing the TASER cartridge, AFIDs, and blast door over to Ofc. S. Ham temporarily while I obtained the information for the male who was in the KWFD ambulance. The male had swelling to his face and was bleeding profusely. The male also stated he felt that the back of his head had been struck.

After returning with the male's information, I took possession of the evidence bag from Ofc. S. Ham and turned it and the three subjects' information I obtained over to Ofc. C. Purcell.

I left the scene to handle other holding calls within the City at approximately 1633 hours.

My AXON BWC was activated for this incident. I did not have a COBAN for this incident.

I had no further involvement in this case. See additional supplemental and original report(s) using this case number for further information.

Investigator Signature

Supervisor Signature