

Response to Resistance Report

Key West Police Department

Case No: 21-003267

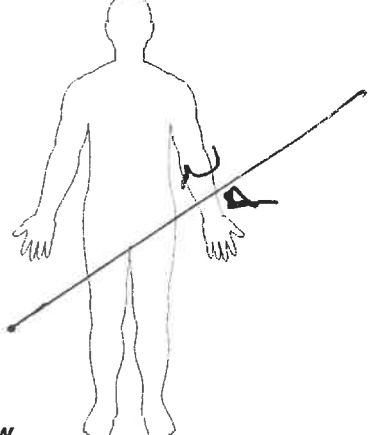
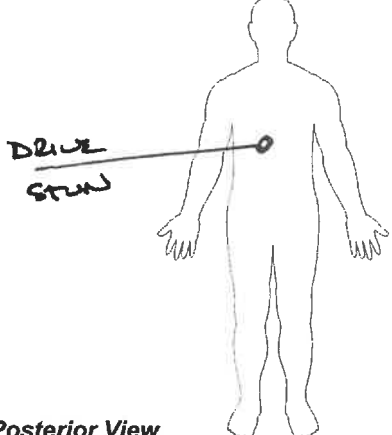
1. A Response to Resistance Report will be completed by the supervisor for: (Check all that apply)

- ☒ 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)

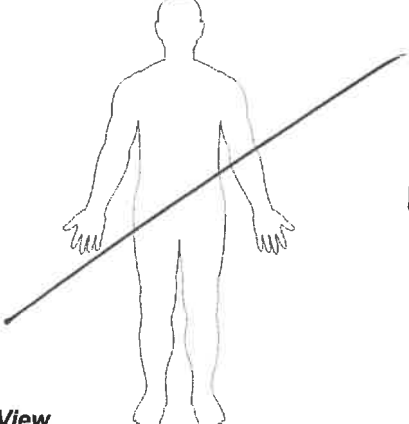
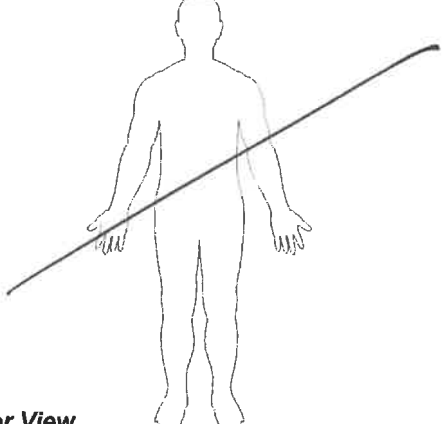
2. Date: 06/21/21 3. Time: 0727 Hrs 4. Location: 3022 No. Roosevelt 5. Incident type: Open Container

INCIDENT	6. Resistance Level	7. Explanation	8. Response Option	9. Explanation
INCIDENT	<input checked="" type="checkbox"/> Passive:	<u>Tensed up</u>	<input checked="" type="checkbox"/> Physical Control	<u>Take-down</u>
	<input checked="" type="checkbox"/> Active:	<u>Pulled Away</u>	<input checked="" type="checkbox"/> Non-lethal Weapon	<u>Taser</u>
	<input type="checkbox"/> Aggressive:		<input type="checkbox"/> Deadly Force	
	<input type="checkbox"/> Deadly Force:			

10. Last Name: Bernstein 11. First: Daniel 12. Race: W 13. Sex: M
14. DOB: 1/25/1980 15. Height: 5'08' 16. Weight: 180
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

SUBJECT	22. Anterior View	Posterior View
SUBJECT		

23. Officer: Thomas Clark 24. Race: W 25. Sex: M 26. Age: 32 27. Height: 5'11" 28. Weight: 230
29. Duty Status: ☒ On-duty ☐ Off-duty ☐ Extra duty employment ☒ Uniformed ☐ Plain clothes 30. Yrs Exp: 8
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: Take-down, Drive Stun

OFFICER	35. Anterior View	Posterior View
OFFICER		

Response to Resistance Report (continued)

Key West Police Department

Case No: 21-003267

TASER USE ONLY	36. TASER® device serial # X1200CRW6		37. TASER® device serial # _____	
	TASER®Cam serial # V21002AMW		TASER®Cam serial # _____	
	Cartridge 1 serial # _____		Cartridge 1 serial # _____	
	Cartridge 2 serial # _____		Cartridge 2 serial # _____	
	Number of cycles: 1		Number of cycles: _____	
	Type of contact: <input type="checkbox"/> Probe <input type="checkbox"/> CODS <input checked="" 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 type="checkbox"/> Yes <input type="checkbox"/> No		Did probes penetrate skin: <input type="checkbox"/> Yes <input 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: 06/21/21		41. Time: 0732 Hrs	
	42. Did you respond to the scene: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why)			
	43. Did you watch all relevant videos associated with the use of force? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why)			
	44. Did you meet with the Officer(s): <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why)			
	45. During your review did you find any potential policy violations or training issues associated with the incident? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If "Yes," list below)			
	46. 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			
INT. AFF.	47. Is further review recommended: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		Pablo Rodriguez 2298	
	FORWARD COMPLETED ORIGINAL REPORT TO INTERNAL AFFAIRS		06/21/21	
	50. 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		48. Preparing Supervisor's Signature / ID	
	51. Signature of Internal Affairs Inspector		49. Date	
53. If section 48 is "No" record the Professional Standards Control Number:		54. Date Entered:		

INCIDENT/INVESTIGATION REPORT

I N C I D E N T D A T A	Agency Name <i>Key West Police Department</i>		INCIDENT/INVESTIGATION REPORT		Case# <i>21-003267</i>		
	ORI <i>FL0440100</i>				Date / Time Reported <i>06/21/2021 07:27 Mon</i>		
	Location of Incident <i>3022 NORTH ROOSEVELT BLVD, Key West FL</i>				Last Known Secure <i>06/21/2021 07:27 Mon</i>		
	Premise Type <i>Financial Institution</i>				Beat/GP <i>06/21/2021 07:27 Mon</i>		
V I C T I M	#1	Crime Incident(s) <i>Resist Arrest / Escape</i> <i>XOM</i>	(Com)	Weapon / Tools <i>HANDS, FIST, FEET</i>	Activity		
				Entry	Exit	Security	
	#2	Crime Incident <i>Ordinance Violation</i> <i>XOP</i>	(Com)	Weapon / Tools	Activity		
				Entry	Exit	Security	
	#3	Crime Incident	()	Weapon / Tools	Activity		
				Entry	Exit	Security	
MO							
O T H E R I N V O L V E D	# of Victims <i>2</i>		Type: SOCIETY/PUBLIC/STATE		Injury: None		
	Victim/Business Name (Last, First, Middle) <i>STATE OF FLORIDA</i>		Victim of Crime # <i>1,</i>	DOB <i>/ / : :</i> Age	Race	Sex	
	Home Address		Home Phone				
	Employer Name/Address		Business Phone		Mobile Phone		
	VYR	Make	Model	Style	Color	Lic/Lis	
	VIN						
P R O P E R T Y	CODES: V- Victim (Denote V2, V3) O = Owner (if other than victim) R = Reporting Person (if other than victim)						
	Type: GOVERNMENT		Injury: None				
	Code <i>V2</i>	Name (Last, First, Middle) <i>CITY OF KEY WEST</i>	Victim of Crime # <i>2,</i>	DOB <i>/ / : :</i> Age	Race	Sex	
	Home Address <i>BV</i>		Home Phone				
	Employer Name/Address		Business Phone		Mobile Phone		
	Type:		Injury:				
Code	Name (Last, First, Middle)	Victim of Crime #	DOB	Race	Sex		
Home Address		Home Phone					
Employer Name/Address		Business Phone		Mobile Phone			
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	
	35	EVID	\$0.00		2	RECORDINGS: BWC 3484	
	35	EVID	\$0.00		1	RECORDINGS: BWC 3138	
	35	EVID	\$0.00		1	RECORDINGS: TASER VIDEO	
	99	EVID	\$0.00		8	PHOTOS	
Officer/ID# <i>CLARK, THOMAS E (3484)</i>							
Invest ID# <i>(0)</i>				Supervisor <i>(0)</i>			
Status	Complainant Signature		Case Status <i>Cleared By Arrest</i>		Case Disposition: <i>Cleared By Arrest</i>		
			<i>06/21/2021</i>		<i>06/21/2021</i>		

INCIDENT/INVESTIGATION REPORT

Key West Police Department

Case # 21-003267

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

HAYNIE, T. (3836), STUTZ, T. (3138)

Suspect Hate / Bias Motivated:

NARRATIVE

REPORTING OFFICER NARRATIVE*Key West Police Department*

OCA

21-003267

Victim

STATE OF FLORIDA

Offense

RESIST ARREST / ESCAPE

Date / Time Reported

Mon 06/21/2021 07:27

On Monday, 06/21/21, at approximately 0727hrs, Ofc. T. Stutz (Field Training Officer) and I (Ofc. T. Clark), while on routine patrol of 3022 N. Roosevelt Blvd (Keys Federal Credit Union), observed a trespasser in the posted rear of the property.

Body worn camera activated*

On approach, I saw a seated, shirtless white male, later identified by FL ID as, Daniel Bernstein 01/25/80. Daniel had a clearly marked open alcoholic beverage (Smirnoff Ice Smash, 8% ALC/VOL, 1 pint, half consumed).

Daniel exhibited slurred speech, glassy/watery bloodshot eyes and the overwhelming odor of an alcoholic beverage on his breath.

Upon informing Daniel of the posted trespassing signs (KWPD has permissions to trespass subjects) and giving a verbal warning for open container and trespassing, Daniel decided to drink from the open alcoholic beverage in my presence, in clear defiance.

I informed Daniel he was under arrest for drinking from an open alcoholic beverage in my presence after being warned.

Daniel appeared tense after this, I had Daniel stand, so that I may place him under arrest. I grabbed Daniel's left wrist and Ofc. Stutz grabbed Daniel's right arm so that I may place him in handcuffs.

Daniel tensed his muscles in defiance and pulled from our grasps, in an attempt to keep me from performing my lawful arrest. Daniel pulled his arms to the front of his body, disobeying lawful orders to place his hands behind his back and actively resisting our efforts.

Daniel placed his hands/arms to his front and was pulling away from me as if to flee. I performed a controlled takedown to the ground of Daniel from his left side. Once on the ground Daniel received lawful commands to place his arms behind his back and continued to pull them from our grasps underneath him. I warned Daniel he would be tasered if he failed to do so.

I issued a drive stun from my department issued taser (cartridge removed) to the left small of Daniel's back (photo later uploaded into evidence).

The drive stun was effective, Daniel then complied and was placed under arrest. EMS responded to my location at my request, to treat the small laceration to the forehead that Daniel suffered from the takedown. Daniel declined transport to LKMC.

I picked up the clearly marked alcoholic beverage. It was cold to the touch and contained an orange liquid, that when poured out foamed. The beverage exhibited an overwhelming, distinct sweet odor of an alcoholic beverage.

Sgt. P. Rodriguez responded to the scene to complete a Response to Resistance Incident at my request. BWC and Taser later uploaded into evidence.

I transported Daniel to Monroe County Jail, without incident.

REPORTING OFFICER NARRATIVE*Key West Police Department*

Victim <i>STATE OF FLORIDA</i>	Offense <i>RESIST ARREST / ESCAPE</i>	OCA <i>21-003267</i>
		Date / Time Reported <i>Mon 06/21/2021 07:27</i>

At this time, due to the totality of the circumstances I find probable cause to charge Daniel with open container in violation of municipal ordinance, after clearly drinking from alcoholic beverage, in my presence after warning.

I also find probable cause to charge Daniel with resisting arrest without violence, in violation of Florida State Statutes, after willfully disobeying lawful commands and actively resisting my efforts to place him under arrest (twisting and pulling away from our grasps).

This case is cleared by arrest***

Incident Report Suspect List

Key West Police Department

OCA: 21-003267

1	Name (Last, First, Middle) <i>BERNSTEIN, DANIEL JOSEPH</i>					Also Known As					Home Address <i>5031 5TH AVE. LOT 75 KEY WEST, FL 33040</i>																																													
	Business Address <i>NONE, NONE</i>																																																							
	DOB <i>01/25/1980</i>	Age <i>41</i>	Race <i>W</i>	Sex <i>M</i>	Eth <i>N</i>	Hgt <i>508</i>	Wgt <i>150</i>	Hair <i>BRO</i>	Eye <i>BRO</i>	Skin <i>FAR</i>	Driver's License / State. <i>B652170800250 FL</i>																																													
	Scars, Marks, Tattoos, or other distinguishing features																																																							
<table border="1"> <tr> <td colspan="2"><i>Reported Suspect Detail</i></td> <td colspan="2">Suspect Age</td> <td>Race</td> <td>Sex</td> <td>Eth</td> <td colspan="2">Height</td> <td colspan="2">Weight</td> <td colspan="3">SSN</td> </tr> <tr> <td colspan="2">Weapon, Type</td> <td colspan="2">Feature</td> <td colspan="2">Make</td> <td colspan="2">Model</td> <td colspan="2">Color</td> <td>Caliber</td> <td colspan="3">Dir of Travel Mode of Travel</td> </tr> <tr> <td colspan="4">VehYr/Make/Model</td> <td>Drs</td> <td colspan="2">Style</td> <td colspan="2">Color</td> <td colspan="2">Lic/St</td> <td colspan="3">VIN</td> </tr> </table>															<i>Reported Suspect Detail</i>		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		
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Notes										Physical Char																																														

Incident Report Related Property List

Key West Police Department

OCA: 21-003267

1 Property Description RECORDINGS:BWC 3484		Make		Model		Caliber	
Color	Serial No.	Value	Qty	Unit	Jurisdiction		
		\$0.00	2.000		Locally		
Status Evidence	Date 06/21/2021	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) City Of Key West,			DOB / /	Age	Race	Sex	

Notes

2 Property Description RECORDINGS: BWC 3138		Make		Model		Caliber	
Color	Serial No.	Value	Qty	Unit	Jurisdiction		
		\$0.00	1.000		Locally		
Status Evidence	Date 06/21/2021	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) City Of Key West,			DOB / /	Age	Race	Sex	

Notes

3 Property Description RECORDINGS:TASER VIDEO		Make		Model		Caliber	
Color	Serial No.	Value	Qty	Unit	Jurisdiction		
	V21002AMW	\$0.00	1.000		Locally		
Status Evidence	Date 06/21/2021	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) City Of Key West,			DOB / /	Age	Race	Sex	

Notes

4 Property Description PHOTOS		Make		Model		Caliber	
Color	Serial No.	Value	Qty	Unit	Jurisdiction		
		\$0.00	8.000		Locally		
Status Evidence	Date 06/21/2021	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) City Of Key West,			DOB / /	Age	Race	Sex	

Notes