

Response to Resistance Report

Key West Police Department

Case No: 23-6661

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: 12/08/2023 **3. Time:** 0035 **4. Location:** 900 blk Duval Street **5. Incident type:** Felony Battery

INCIDENT	6. Resistance Level	7. Explanation	8. Response Option	9. Explanation
	<input checked="" type="checkbox"/> Passive:	<u>Disobeying/ignoring commands</u>	<input type="checkbox"/> Physical Control	
	<input checked="" type="checkbox"/> Active:	<u>Walking 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: Cortez **11. First:** Alexander **12. Race:** W **13. Sex:** M

14. DOB: 04/16/1992 **15. Height:** 5'11" **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

23. Officer: Jack Gruba **24. Race:** W **25. Sex:** M **26. Age:** 28 **27. Height:** 6'00" **28. Weight:** 200

29. Duty Status: On-duty Off-duty Extra duty employment Uniformed Plain clothes **30. Yrs Exp:** 2

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: TASER

OFFICER	35. Anterior View	Posterior View

Response to Resistance Report (continued)

Key West Police Department

Case No: 23-6661

TASER USE ONLY	36. TASER® device serial # X40018072		37. TASER® device serial #		
	Battery serial # X44624405		Battery serial #		
	Cartridge 1 serial #1 X493K7DY0 serial #2		Cartridge 1 serial #1 serial #2		
	Cartridge 2 serial #3 X483K4K94 serial # 4		Cartridge 2 serial # 3 serial #4		
	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 launch: 6 feet		Target distance at probe launch:		
	Distance between probes: 5 inches		Distance between probes:		
	Probes removed by (name): Ofc Clark/Ofc Gruba		Probes removed by (name):		
Device downloaded by: Ofc Gruba		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: 12/08/2023		41. Time: 0035 hours		
	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 type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "Yes," list below)				
	Name		Address		Phone Number
	Nicolas Zanovello		3694 SE Honeysuckle PL, Hillsboro, OR 97123		503-270-0633
	Renita Kavallieros		2501 Fogarty Avenue, Key West, FL 33040		319-372-4554
<u>Sgt. Malsheimer</u>		<u>KML 3388</u>		12/08/2023	
47. Preparing Supervisor / Printed Name		48. Preparing Supervisor / Signature / ID		49. Date	
INT. AFF.	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		<u>[Signature]</u>		
			51. Signature of Internal Affairs Inspector		
				52. Date <u>12/26/23</u>	

INCIDENT/INVESTIGATION REPORT

Agency Name
Key West Police Department

ORI
FL0440100

Case#
23-006661

Date / Time Reported
12/07/2023 23:57 Thu

Last Known Secure
12/07/2023 23:57 Thu

At Found
12/07/2023 23:57 Thu

Location of Incident
903 DUVAL ST, Key West FL 33040

Gang Relat
NO

Premise Type
Parking/drop

Beat/GP
B2, GPB2

#	Crime Incident(s)	(Com)	Weapon / Tools	Activity
#1	<i>Battery Domestic By Strangulation BDS</i>		<i>Personal Weapons</i>	<i>N</i>
#2	<i>Resist Arrest / Escape XOM</i>			
#3	<i>Crime Incident</i>			

MO

of Victims *2* Type: *INDIVIDUAL* Injury: *Possible Internal Injury* Domestic: *Y*

V1	Victim/Business Name (Last, First, Middle)	Victim of Crime #	DOB	Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status
	<i>ARIZA SAENZ, DANIELA</i>	<i>1</i>	<i>01/19/1994</i> Age <i>29</i>	<i>W</i>	<i>F</i>	<i>1BG</i>	<i>Non-Resident</i>	

Home Address
1420 NE MIAMI PL - 3513, Miami, FL 33132-

Employer Name/Address

VYR Make Model Style Color Lic/Lis VIN

CODES: V- Victim (Denote V2, V3) WI = Witness IO = Involved Other RP = Reporting Person (if other than victim)

Type: *SOCIETY/PUBLIC/STATE* Injury:

Code	Name (Last, First, Middle)	Victim of Crime #	DOB	Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status
<i>V2</i>	<i>SOCIETY</i>	<i>2</i>	<i>/ /</i> Age				<i>N/A</i>	

Home Address

Employer Name/Address

Type: *INDIVIDUAL* Injury:

Code	Name (Last, First, Middle)	Victim of Crime #	DOB	Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status
<i>RP</i>	<i>KAVALLIEROS, RENITA ELIZABETH</i>		<i>05/16/1985</i> Age <i>38</i>	<i>W</i>	<i>F</i>		<i>Resident</i>	

Home Address
2501 FOGARTY AVE KEY WEST, FL 33040

Employer Name/Address

1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown
("OJ" = Recovered for Other Jurisdiction)

VI #	Code	Status Frm/To	Value	OJ	QTY	Property Description	Make/Model	Serial Number
	<i>27</i>	<i>EVID</i>	<i>\$0.00</i>		<i>1</i>	<i>BWC 4156</i>		
	<i>27</i>	<i>EVID</i>	<i>\$0.00</i>		<i>5</i>	<i>AXON CAPTURE</i>		
	<i>59</i>	<i>EVID</i>	<i>\$0.00</i>		<i>2</i>	<i>SPENT TASER CARTRIDGES</i>	<i>TASER/7</i>	<i>X493K7DY0/X483K4K94</i>

Officer/ID# *GRUBA, JACK Z (4156)*

Invest ID# *(0)* Supervisor *(0)*

Status Complainant Signature Case Status *Cleared By Arrest* 12/08/2023 Case Disposition: Page 1

INCIDENT/INVESTIGATION REPORT

Key West Police Department

Case # 23-006661

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

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

Assisting Officers
MALSHEIMER, K.E. (3388), CLARK, T.E. (3484)

Suspect Hate / Bias Motivated:

NARRATIVE

REPORTING OFFICER NARRATIVE

Key West Police Department

OCA 23-006661
Date / Time Reported Thu 12/07/2023 23:57

Victim ARIZA SAENZ, DANIELA	Offense BATTERY DOMESTIC BY STRANGULATION	
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-- Alexander Jhovani Cortez Arrest Narrative:

On 12/07/2023, at approximately 2357 hours, Ofc. Clark and I, Ofc. Gruba, were dispatched to Viva Saloon, 903 Duval St, in reference to a battery.

Upon arrival, I met with the reporting party, identified as Renita Kavallieros, and a female, identified as Daniela Ariza Saenz (victim), who was in tears and shaking. Kavallieros told me a few minutes prior, she had heard some yelling and screaming coming from the parking lot of the adjacent property, 913 Duval St. At one point Kavallieros said she heard gurgling sounds, which she recognized as someone getting choked. Kavallieros said she looked over and saw Ariza was the one being choked. Kavallieros brought Ariza over to Viva Saloon to make sure Ariza was alright and comfort her. Kavallieros said she saw the man that was with Ariza, later identified as Alexander Jhovani Cortez (offender), walking away. Kavallieros walked after Cortez to confront him about what had just occurred. Kavallieros said Cortez would not answer her questions and kept trying to divert the conversation. Kavallieros said Cortez then walked away North on Duval St.

I spoke to Ariza, who told me her boyfriend (Cortez), that she has been dating on and off for over the past year, had gotten into a fight with her. Ariza did not remember how the fight started, but said Cortez usually becomes physically abusive when he drinks. Ariza said Cortez did put his hand around her throat, restricting her from breathing for a few seconds. Ariza had slight redness on her throat and upper chest area. I took pictures of Ariza's injuries. Ariza said she did not want Cortez to get in trouble, she just wanted to be away from him for the night. Ariza also stated that they do not live together, but she stays at his place often and a lot of her belongings are at his residence. Ariza was able to provide a video that she took from earlier in the night, showing Cortez hitting her with an open hand, after she had been following Cortez asking why he treated a waitress poorly. Ariza was also able to provide text messages that Cortez was sending her as I was standing next to her. These continuous went as follows: "Daniela this is not gonna work," "Every time I get this drunk I don't like how I feel I don't like who I am I can't be who I am I will pay for you to leave," "I will leave your stuff at the front desk," "Come get your shit and leave. You're not for me. It all revolves around drinking You're not for me." "Btw you died in Gabbie's eyes. You are temporary. FUCK. Your fake love."

As I was trying to gather more information from Ariza about Cortez, Ariza said, "Oh he's right here," as Cortez walked by, heading South on Duval St. I yelled "Jhovani" three times. Cortez was on the phone with someone and walked onto the property of 915 Duval St, then turned around, acknowledging me. I told Cortez to stop or he would get tased. I told Cortez to put his phone down and to get his hand out of the pocket of his sweatshirt. Cortez momentarily complied. I told Cortez to turn around. Cortez replied, "I don't have time for this." Then proceeded to walk away from me, into the street. I told Cortez several times to stop, turn around and place his hands behind his back or else he would get tased. Cortez continued to argue with me saying he was not going to comply. I told Cortez one last time to comply or else he was going to get tased. Cortez said, "No. I'm going to record you." As he continued to walk backwards away from me. I deployed one set of Taser cartridges at Cortez's stomach area. One of the probes failed to make contact. Cortez began to turn and run away. I deployed the second set of Taser cartridges around the same area. I made positive contact with both probes, completing the electrical circuit, causing immediate neuromuscular incapacitation (NMI). Cortez fell in the middle of the road. After the single cycle of NMI from the Taser, I told Cortez to place his hands behind his back or he would be tased again. Cortez continued to argue with me. After going back and fourth, and almost tasing Cortez a second time, Cortez complied. I placed Cortez in handcuffs. Ofc. Clark and myself removed the Taser probes from Cortez's clothing. Cortez was placed into the back of Ofc. Clark's patrol vehicle. I asked Cortez if he wanted rescue to come and check him out. Cortez said that he did not need rescue.

REPORTING OFFICER NARRATIVE

Key West Police Department

OCA 23-006661
Date / Time Reported Thu 12/07/2023 23:57

Victim ARIZA SAENZ, DANIELA	Offense BATTERY DOMESTIC BY STRANGULATION
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I read Cortez his Miranda Warnings. Cortez told me that he was willing to speak to us. I asked Cortez what happened between him and his girlfriend. Cortez replied that he did not want to speak with us any further and wanted his attorney.

I issued Ariza a victim`s rights brochure, with my name and the case number on it. Ariza said that she was going to stay the night with Kavallieros, who she had just befriended from the incident, and grab her belongings from the hotel room as soon as possible.

I placed Cortez into the back of my patrol vehicle and transported him to Monroe County Detention Center, where he was handed over to detention deputies.

Alexander Jhovani Cortez violated Florida State Statute 784.041-2A, domestic battery by strangulation. Cortez knowingly and intentionally impeded the normal [breathing] [circulation of the blood] of Daniela Ariza Saenz against her will by applying pressure on the throat or neck of Ariza. In so doing, Cortez created a risk of great bodily harm to Ariza. Defendant was in a dating relationship with the victim.

Alexander Jhovani Cortez violated Florida State Statute 843.02, resist without violence. Cortez resisted, obstructed, opposed my lawful orders. At the time, I was engaged in the lawful execution of a legal duty. At the time of this arrest, I was an officer, employed by Key West Police. At the time Cortez knew I was an officer due to my marked patrol vehicle, class "B" uniform, also asking me to turn on my body worn camera during course of Cortez resisting, indicated that Cortez fully was aware of me being an officer.

My BWC was activated during this incident.

End of report.

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Incident Report Suspect List

Key West Police Department

OCA: 23-006661

1	Name (Last, First, Middle) <i>CORTEZ, ALEXANDER JHOVANI</i>					Also Known As					Home Address <i>650 NE 2ND AVE - 1805 MIAMI, FL 33132 305-703-6066</i>				
	Business Address														
	DOB <i>04/16/1992</i>	Age <i>31</i>	Race <i>W</i>	Sex <i>M</i>	Eth <i>H</i>	Hgt <i>511</i>	Wgt <i>180</i>	Hair <i>BLK</i>	Eye <i>BRO</i>	Skin <i>LBR</i>	Driver's License / State <i>C632010921360 FL</i>				
	Scars, Marks, Tattoos, or other distinguishing features														
Reported Suspect Detail															
Suspect Age		Race	Sex	Eth	Height		Weight		SSN						
Weapon, Type	Feature	Make	Model			Color	Caliber	Dir of Travel Mode of Travel							
Veh Yr / Make / Model		Drs	Style		Color	Lic Plate / State		VIN							
Notes										Physical Char					

Incident Report Related Property List

Key West Police Department

OCA: 23-006661

1	Property Description BWC 4156			Make		Model		Caliber	
Color		Serial No.		Value \$0.00		Qty 1.000		Unit	Jurisdiction Locally
Status Evidence		Date 12/08/2023	NIC #		State #		Local #		OAN
Name (Last, First, Middle) * No name *					DOB		Age	Race	Sex

Notes

2	Property Description AXON CAPTURE			Make		Model		Caliber	
Color		Serial No.		Value \$0.00		Qty 5.000		Unit EA	Jurisdiction Locally
Status Evidence		Date 12/07/2023	NIC #		State #		Local #		OAN
Name (Last, First, Middle) * No name *					DOB		Age	Race	Sex

Notes

3	Property Description SPENT TASER CARTRIDGES			Make TASER		Model 7		Caliber	
Color		Serial No. X493K7DY0/X483K4K94		Value \$0.00		Qty 2.000		Unit EA	Jurisdiction Locally
Status Evidence		Date 12/07/2023	NIC #		State #		Local #		OAN
Name (Last, First, Middle) * No name *					DOB		Age	Race	Sex

Notes

CASE SUPPLEMENTAL REPORT
NOT SUPERVISOR APPROVED

Printed: 12/08/2023 02:54

OCA: **23006661**

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

Investigator: *CLARK, THOMAS E (3484)*

Date / Time: *12/08/2023 02:23:16, Friday*

Supervisor: *(0)*

Supervisor Review Date / Time: *NOT REVIEWED*

Contact:

Reference: *General Supplemental Report*

On Friday, 12/08/23, at approximately 0004hrs, I (Ofc. Clark), responded to 903 Duval St, Viva Saloon, in reference to a Domestic Battery.

Ofc. J. Gruba arrived on scene prior to my arrival.

****BWC and In-car later activated****

On arrival, I saw Ofc. Gruba speaking with a white female, later identified by name and DOB as Daniela Ariza-Saenz (victim). Daniela appeared to be crying.

I stood at a distance at first. Ofc. Gruba then walked Daniela out onto the sidewalk. Daniela appeared scared and was crying. I could see visible redness on her chest and neck area. Daniela said prior to our arrival, her boyfriend of a year, later identified by FL DL as, Alexander Cortez 04/16/92, had choked her (consistent with visible injury). Daniela said Alexander grabbed her by the throat blocking her airway and she could not breathe. Daniela said she was very scared. Daniela said this was not the first incident like this with Alexander.

Daniela said Alexander was intoxicated and gets angry. Alexander left the scene prior to our arrival. Daniela refused EMS. Daniela was cooperative but seemed unwilling to pursue charges. Daniela provided Alexanders identifying information and a recent photo.

Daniela showed me a brief video of an altercation with Alexander prior to being choked on the 900 block of Duval St. I briefly watched the altercation. It seemed Daniela was recording Alexander at Parrot Key, in the parking lot. As they walked they seemed to be arguing. It then appeared that Alexander became aggravated and turned around and struck Daniela. Daniela made statements about being hit in the recording. I advised Ofc. Gruba of the video.

Daniela was unsure if Alexander returned to Parrot Key where they were staying or was still on Duval St. I had officers respond to Parrot Key.

I then left to canvass Duval St for Alexander.

Minutes later, Ofc. Gruba advised over the radio that Alexander had returned to the scene. I began to drive back to the incident location. While enroute, Ofc. Gruba advised he had deployed his Taser. Ofc. Gruba sounded as if he was in an active altercation over the radio.

On arrival, I saw Ofc. Gruba detaining Alexander in the middle of the roadway. Alexander was on his stomach. I could

Investigator Signature: _____

CASE SUPPLEMENTAL REPORT
NOT SUPERVISOR APPROVED

Printed: 12/08/2023 02:54

OCA: **23006661**

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

Investigator: *CLARK, THOMAS E (3484)*

Date / Time: *12/08/2023 02:23:16, Friday*

Supervisor: *(0)*

Supervisor Review Date / Time: *NOT REVIEWED*

Contact:

Reference: *General Supplemental Report*

see Taser wires coming from his person. I had Alexander stand. Alexander exhibited the overwhelming odor of an alcoholic beverage on his breath as he spoke.

Alexander had a small abrasion to his forehead. I saw two Taser prongs in right upper torso. I removed the prongs. Alexander complained of his head being hurt and of pain in the Taser impact locations. I later learned Alexander had another Taser prong in his right thigh (removed by Ofc. Gruba).

I later submitted the two Taser cartridges to KWPD Evidence (S/N X493K7DYO & S/N X483K4K94).

I placed Alexander in the rear of my patrol vehicle.

I was present when Ofc. Gruba returned and read Alexander his Miranda Rights. Alexander wished for an attorney and did not provide a statement.

All officers on scene were wearing KWPD uniforms with badge displayed.

Ofc. Gruba transported Alexander to jail.

Cleared by arrest.//

Investigator Signature: _____

Incident Report Related Property List

Key West Police Department

OCA: 23-006661

1	Property Description TASER CARTRIDGES			Make TASER		Model T7 CARTRIDGES		Caliber	
	Color Black/Gray	Serial No. X493K7DYO/X483K4K94		Value \$50.00		Qty 2.000		Unit D	Jurisdiction Locally
	Status Evidence	Date 12/08/2023	NIC #		State #		Local #		OAN
	Name (Last, First, Middle) * No name *				DOB		Age	Race	Sex

Notes

2	Property Description BWC 3484			Make BWC		Model		Caliber	
	Color	Serial No.		Value \$0.00		Qty 3.000		Unit D	Jurisdiction Locally
	Status Evidence	Date 12/08/2023	NIC #		State #		Local #		OAN
	Name (Last, First, Middle) * No name *				DOB		Age	Race	Sex

Notes

3	Property Description FLEET 3484			Make		Model		Caliber	
	Color	Serial No.		Value \$0.00		Qty 2.000		Unit	Jurisdiction Locally
	Status Evidence	Date 12/08/2023	NIC #		State #		Local #		OAN
	Name (Last, First, Middle) * No name *				DOB		Age	Race	Sex

Notes