

# Response to Resistance Report

Key West Police Department

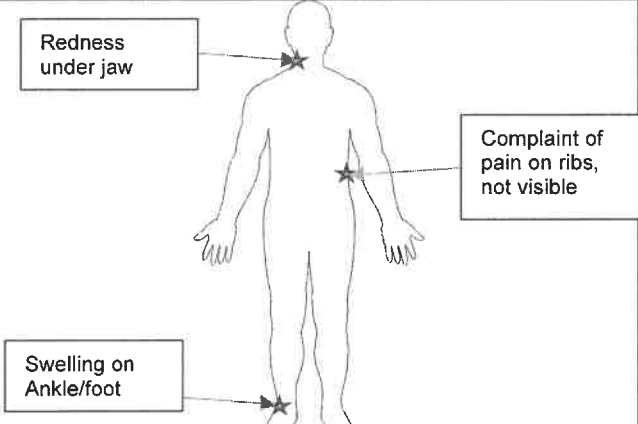
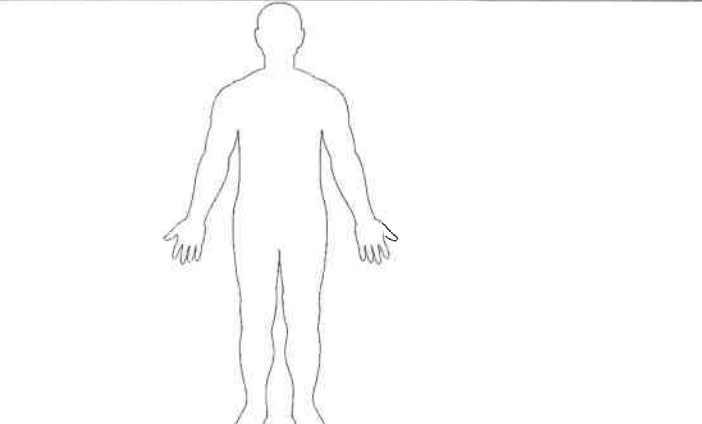
Case No: 23-4920

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

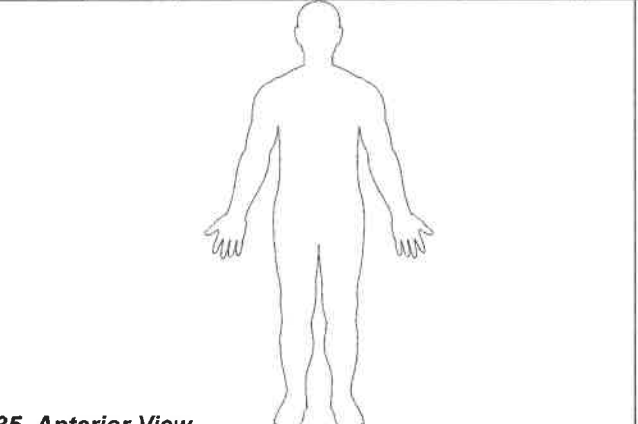
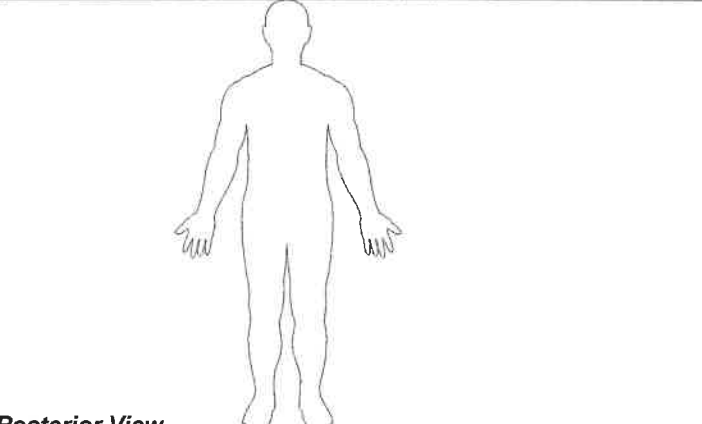
- ☐ A response through the use of non-lethal weapons,  
☐ Applies weaponless physical force of strikes, kicks, or "take-downs"  
☐ When any person sustains an apparent substantial or fatal injury as a result of the application of force  
☒ When any person complains of injury as a result of the application 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: 08/31/2023	3. Time: 2345	4. Location: 5900 College Road	5. Incident type: S34
	6. Resistance Level	7. Explanation	8. Response Option	9. Explanation
	<input checked="" type="checkbox"/> Passive:	Going limp, lying on ground	<input checked="" type="checkbox"/> Physical Control	Pressure points
	<input type="checkbox"/> Active:		<input type="checkbox"/> Non-lethal Weapon	
	<input type="checkbox"/> Aggressive:		<input type="checkbox"/> Deadly Force	
	<input type="checkbox"/> Deadly Force:			

10. Last Name: Van Buskirk	11. First: Eric	12. Race: W	13. Sex: M
14. DOB: 07/01/1961	15. Height: 5'07"	16. Weight: 154	
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 checked="" 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 type="checkbox"/> EMT/Paramedic on scene <input checked="" type="checkbox"/> Hospital <input type="checkbox"/> Detention			

SUBJECT	22. Anterior View	Posterior View
		

23. Officer: Josue Ramos Martinez	24. Race: W	25. Sex: M	26. Age: 31	27. Height: 5'08"	28. Weight: 222
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: 10m					
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: Pressure points (hollow behind the ear and under the jaw)					

OFFICER	35. Anterior View	Posterior View
		



# Response to Resistance Report (continued)

Key West Police Department

Case No: 23-4920

TASER USE ONLY	<b>36. TASER® device serial #</b>		<b>37. TASER® device serial #</b>	
	Battery serial #		Battery serial #	
	Cartridge 1 serial #1	serial #2	Cartridge 1 serial #1	serial #2
	Cartridge 2 serial #3	serial # 4	Cartridge 2 serial # 3	serial #4
	Number of cycles:		Number of cycles:	
	Type of contact: <input 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 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	<b>39. Offense/Incident Report and/or Warrant Affidavit must include:</b> <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: 08/31/2023		41. Time: 2345 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 checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If "Yes," list below)			
Name		Address		Phone Number
Sgt. Malsheimer		KIM 3388		08/31/2023
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		51. Signature of Internal Affairs Inspector	
			3317	
				52. Date
				9/6/23



# INCIDENT/INVESTIGATION REPORT

I N C I D E N T  D A T A	Agency Name <b>Key West Police Department</b>				INCIDENT/INVESTIGATION REPORT				Case# <b>23-004920</b>				
	ORI <b>FL0440100</b>								Date / Time Reported <b>09/01/2023 02:18 Fri</b>				
	Location of Incident <b>1075 DUVAL ST, Key West FL 33040</b>				Gang Relat <b>NO</b>	Premise Type <b>Convenience Store</b>		Beat/GP <b>B2, GPB2</b>		Last Known Secure <b>09/01/2023 02:18 Fri</b>			
									At Found <b>09/01/2023 02:18 Fri</b>				

D E T A I L S	#1	Crime Incident(s) <b>Trespass Of Real Property TRE</b>	(Com )	Weapon / Tools <b>Personal Weapons</b>					Activity <b>N</b>
				Entry	Exit		Security		
	#2	Crime Incident <b>Resist Arrest / Escape XOM</b>	(Com )	Weapon / Tools <b>Personal Weapons</b>					Activity <b>N</b>
				Entry	Exit		Security		
	#3	Crime Incident	( )	Weapon / Tools					Activity
				Entry	Exit		Security		

MO											
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V I C T I M	# of Victims <b>I</b>		Type: SOCIETY/PUBLIC/STATE				Injury:				Domestic: N	
	V1	Victim/Business Name (Last, First, Middle) <b>Society</b>				Victim of Crime # <b>I</b>	DOB <b>Age</b>	Race	Sex	Relationship To Offender	Resident Status <b>N/A</b>	Military Branch/Status
	Home Address						Email				Home Phone	
	Employer Name/Address						Business Phone				Mobile Phone	
	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: _____ Injury: _____											

O T H E R  I N V O L V E D	Code	Name (Last, First, Middle)				Victim of Crime #	DOB <b>Age</b>	Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status
	Home Address						Email				Home Phone	
	Employer Name/Address						Business Phone				Mobile Phone	
	Type: _____ Injury: _____											
	Code	Name (Last, First, Middle)				Victim of Crime #	DOB <b>Age</b>	Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status
	Home Address						Email				Home Phone	
Employer Name/Address						Business Phone				Mobile Phone		

P R O P E R T Y	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 Fm/To	Value	OJ	QTY	Property Description	Make/Model	Serial Number			
	1	27	EVID	\$1.00		1	4263 AXON BWC					
	1	27	EVID	\$1.00		1	4263 AXON INCAR FOOTAGE					
		04	8	\$20.00		1	BICYCLES					

Officer/ID# <b>RAMOS MARTINEZ, JOSUE (4263)</b>			
Invest ID# <b>(0)</b>		Supervisor <b>(0)</b>	
Complainant Signature		Case Status <i>Cleared By Arrest</i> <b>09/01/2023</b>	
Status		Case Disposition:	

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# INCIDENT/INVESTIGATION REPORT

Key West Police Department

Case # 23-004920

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  
*MALSHEIMER, K.E. (3388), HANSELL, M. (3648), BERNATOVA, A. (4193)*

Suspect Hate / Bias Motivated:

NARRATIVE





## REPORTING OFFICER NARRATIVE

Key West Police Department

		OCA 23-004920
Victim Society	Offense TRESPASS OF REAL PROPERTY	Date / Time Reported Fri 09/01/2023 02:18

-- Eric John Van Buskirk Arrest Narrative:

On 08/31/2023, at approximately 22:58 hours, I (Officer Josue Ramos) was on routine patrol in the 1000 Block of Duval St, and I parked my marked Key West Police Department Patrol Vehicle across the street from 1075 Duval (Circle K) facing south.

I parked my KWPd patrol vehicle to get a drink of water and observed a man (later identified by his Florida Driver's License as Eric John Van Buskirk D.O.B 07/01/1961) exit the Circle K and then re-enter. I observed Buskirk exit the store again, look at me from the top of the stairs, leading into the store, and say something I did not fully understand. Since I did not understand what Buskirk said I did not react to the statement. I continued to remain parked in the area. I observed Buskirk sit down at the top of the stairs mumbling to himself and eating what I observed to be Lays chips. I observed Buskirk make remarks to pedestrians as they walked by the steps of the Circle K. I observed Buskirk make some remarks at a couple that walked by with a stroller causing the couple to stop and engage with Buskirk for a few seconds and then continue heading south along Duval St.

When I initially arrived and observed Buskirk exit and re-enter the store I did not recognize him. After Buskirk had the engagement with the couple walking the stroller I observed Buskirk and recognized him from previous incidents and arrest. I entered Buskirk's information into FCIC/NCIC and confirmed he had received prior trespass warnings from Circle K. (On 05/30/2023 He had received a trespass warning by me from 1075 Duval.)

After the couple departed, I decided to go and speak to Buskirk since the owners of Circle K have posted KWPd No-Trespassing signs in various locations around their property and along the steps leading into the entrance of the store. The owners of Circle K have authorized the Key West Police department to act on their behalf because they do not want people to loiter on the steps of the store harassing possible customers.

I crossed the street and approached Buskirk, who was still seated at the top of the stairs and verified his information. While I spoke to Buskirk I observed the smell of alcohol emanating from his breath. Buskirk reluctantly confirmed his information. Since I recognized Buskirk and had given him a prior trespass warning from that location, which he remained on when I approached him, I placed Buskirk under arrest.

Officer Andrea Bernatova arrived to assist.

Officer A. Bernatova and I searched Buskirk incident to arrest. I found nothing of note on Buskirk. Officer A. Bernatova and I escorted Buskirk across the street to my marked KWPd patrol vehicle. As we walked Buskirk to my patrol vehicle, Buskirk began to state his right foot was hurt. When we reached my patrol vehicle, Officer A. Bernatova and I allowed Buskirk to take his time getting into my patrol vehicle due to his injured foot. Officer A. Bernatova and I placed Buskirk in the back of my patrol vehicle.

I transported Buskirk to the Monroe County Detention Center. While enroute to the MCSO detention center Buskirk became irate and began to hurl insults and use vulgar language. On one instance Buskirk stated he couldn't wait to find me out of my Key West Police Department Uniform so he could "get me" and "kick my ass". Buskirk hurled insults and used vulgar language the entire duration of his escort to the MCSO detention center.

Upon arrival at MCSO detention center Buskirk continued to hurl insults and use vulgar language. While in the custody of the Monroe County Detention Deputies, Buskirk started to make gestures towards me grabbing at his genitalia telling me to "suck his dick". Buskirk also began to state that I had harmed and broken his foot during his



**REPORTING OFFICER NARRATIVE**

Key West Police Department

OCA

23-004920

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TRESPASS OF REAL PROPERTY

Date / Time Reported

Fri 09/01/2023 02:18

arrest. Buskirk stated to the medical staff that I had thrown him into the car and stomped on his foot. The medical staff at MCSO detention center evaluated Buskirk and determined that his prior injury needed to be evaluated at Lower Keys Medical Center.

I transported Buskirk to Lower Keys Medical Center for evaluation.

I arrived at Lower Keys Medical Center and attempted to get Buskirk out of my KWPd patrol vehicle. Buskirk refused and he stated he would not exit the vehicle without a wheelchair. I ordered Buskirk out of my patrol vehicle multiple times and Buskirk refused to exit the vehicle. I assisted Buskirk in exiting my KWPd patrol vehicle, and Buskirk dramatically threw himself on the floor and stated I had thrown him down and he would not get up. I ordered Buskirk to get off the ground and he stated he would not because I threw him down. I applied agency approved defensive tactics techniques to gain compliance of Buskirk. I used the hollow behind the ear pressure point to get Buskirk to comply with my orders to get off the ground. When Buskirk was on his feet all force ceased and he complied with my orders. I notified dispatch and asked for my on duty supervisor to come to my location. I escorted Buskirk inside to be evaluated by medical staff.

When I entered Buskirk he became irate and began to yell in the Lower Keys Medical Center Emergency room. Buskirk began to be disruptive as patients of the ER were being treated by staff. I attempted to gain compliance of Buskirk, but he continued to be unruly. I lifted and escorted Buskirk to a waiting area away from patients who were being treated by staff. Buskirk continued to yell obscenities in the area I had been advised to place him.

Officer Mathew Hansel arrived to assist.

While waiting to be evaluated Buskirk continued to yell and hurl obscenities at Officer. M Hansel and I. As Officer M. Hansel and I waited with Buskirk, he again stated he couldn't wait to find me out of Uniform so that he could "get me". Officer M. Hansel advised Buskirk that making threats towards a LEO was a crime.

Sergeant Karl Malsheimer arrived to assist and document the incident.

While Sergeant K. Malsheimer investigated the incident Buskirk continued to be unruly. Buskirk continued to hurl insults and stated multiple times that I had hurt him and slammed him around. Buskirk stated multiple times that he was going to have my job. Buskirk also stated Monroe County, and the Key West Police Department were going to pay for all his injuries and medical bills. Buskirk continued to disrupt the ER staff at Lower Keys Medical Center the entire time he was being evaluated and treated.

Buskirk was treated and provided with a cast for his right foot.

Buskirk was cleared at the Lower Keys Medical Center, and I transported him to the MCSO detention center without incident.

Since I have had previous incidents with Eric John Van Buskirk and have issued him trespass warnings from the location in which I observed him, and since I have previously arrested Eric John Van Buskirk from that same location which I observed him, I find Eric John Van Buskirk to be in violation of FSS 810.08- TRESPASS IN STRUCTURE OR CONVEYANCE



## REPORTING OFFICER NARRATIVE

Key West Police Department

OCA

23-004920

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TRESPASS OF REAL PROPERTY

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Since Eric John Van Buskirk refused my orders to exit my marked KYPD patrol vehicle and instead threw himself on the ground and refused my orders to get off the ground to enter the Lower Keys Medical Center for evaluation, and then after he entered the Lower Keys Medical Emergency Room refused to comply with my orders to control his behavior, I find Eric John Van Buskirk to be in violation of FSS 843.02- RESIST / OBSTRUCT OFFICER W/O VIOLENCE

My Axon BWC was activated for the incident and later uploaded to Evidence.com.

My Axon In-car camera was activated for the incident and later uploaded.

I had no further involvement with this incident.

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# Incident Report Suspect List

Key West Police Department

OCA: 23-004920

1	Name (Last, First, Middle) <i>VAN BUSKIRK, ERIC JOHN</i>					Also Known As					Home Address <i>6003 PENINSULAR AVE STE 3 KEY WEST, FL 33040 305-394-3901</i>																																													
	Business Address <i>NONE, CARPENTRY</i>																																																							
	DOB <i>07/01/1961</i>	Age <i>62</i>	Race <i>W</i>	Sex <i>M</i>	Eth <i>N</i>	Hgt <i>507</i>	Wgt <i>185</i>	Hair <i>BRO</i>	Eye <i>BLU</i>	Skin <i>LBR</i>	Driver's License / State <i>V512210612410 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">Veh Yr / Make / Model</td> <td>Drs</td> <td colspan="2">Style</td> <td colspan="2">Color</td> <td colspan="3">Lic Plate / State</td> <td colspan="2">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			Veh Yr / Make / Model				Drs	Style		Color		Lic Plate / State			VIN	
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# Incident Report Related Property List

Key West Police Department

OCA: 23-004920

1 Property Description <b>4263 AXON BWC</b>				Make		Model		Caliber	
Color		Serial No.		Value <b>\$1.00</b>		Qty <b>1.000</b>		Unit	
Status <b>Evidence</b>		Date <b>09/01/2023</b>		NIC #		State #		Local #	
Name (Last, First, Middle) <b>* No name *</b>		DOB		Age		Race		Sex	

Notes

2 Property Description <b>4263 AXON INCAR FOOTAGE</b>				Make		Model		Caliber	
Color		Serial No.		Value <b>\$1.00</b>		Qty <b>1.000</b>		Unit	
Status <b>Evidence</b>		Date <b>09/01/2023</b>		NIC #		State #		Local #	
Name (Last, First, Middle) <b>* No name *</b>		DOB		Age		Race		Sex	

Notes

3 Property Description <b>BICYCLES</b>				Make		Model		Caliber	
Color <b>Red</b>		Serial No.		Value <b>\$20.00</b>		Qty <b>1.000</b>		Unit	
Status <b>Safekeeping</b>		Date <b>09/01/2023</b>		NIC #		State #		Local #	
Name (Last, First, Middle) <b>Van Buskirk, Eric John</b>		DOB <b>07/01/1961</b>		Age <b>62</b>		Race <b>W</b>		Sex <b>M</b>	

Notes

