

Response to Resistance Report

Key West Police Department

Case No: 19-584

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: 1/27/2019	3. Time: 0254 AM	4. Location: 300 Whitehead St	5. Incident type: DUI
	6. Resistance Level	7. Explanation	8. Response Option	9. Explanation
	<input checked="" type="checkbox"/> Passive:	Non-Compliant	<input checked="" type="checkbox"/> Physical Control	Straight Arm Take-Down
	<input checked="" type="checkbox"/> Active:	Pushing Pulling	<input type="checkbox"/> Non-lethal Weapon	
	<input type="checkbox"/> Aggressive:		<input type="checkbox"/> Deadly Force	
	<input type="checkbox"/> Deadly Force:			

SUBJECT	10. Last Name: Holt	11. First: Justin	12. Race: White	13. Sex: M
	14. DOB: 04/13/1984	15. Height: 5'-11"	16. Weight: 190	
	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 checked="" type="checkbox"/> Under the influence of controlled substance <input type="checkbox"/> Emotionally / mentally disturbed			
	19. 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 22)			
	20. Photographed: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes 21. Treated: <input type="checkbox"/> No <input type="checkbox"/> Yes By: <input type="checkbox"/> EMT/Paramedic on scene <input type="checkbox"/> Hospital <input checked="" type="checkbox"/> Detention			
	22. Anterior View		Posterior View	

OFFICER	23. Officer: Neil Mogerley	24. Race: W	25. Sex: M	26. Age: 32	27. Height: 6'1	28. Weight: 250
	29. Duty Status: <input checked="" type="checkbox"/> On-duty <input type="checkbox"/> Off-duty <input type="checkbox"/> Extra duty employment <input type="checkbox"/> Uniformed <input type="checkbox"/> Plain clothes 30. Yrs Exp: 9.5					
	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) 36					
35. Anterior View		Posterior View				

Response to Resistance Report (continued)

Key West Police Department

Case No: 19-584

TASER USE ONLY	36. TASER® device serial #		37. TASER® device serial #	
	TASER®Cam serial #		TASER®Cam serial #	
	Cartridge 1 serial #		Cartridge 1 serial #	
	Cartridge 2 serial #		Cartridge 2 serial #	
	Number of cycles:		Number of cycles:	
	Type of contact: <input type="checkbox"/> Probe <input 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	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.			
	40. Notified Date: 1/27/2019		41. Time: 0315 AM	
	42. Did you respond to the scene: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why)			
SUPERVISOR'S INQUIRY	43. Did you meet with the Officer: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why)			
	44. Were you able to locate any independent witnesses: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If "Yes," list below)			
	Name	Address	Phone Number	
45. Is further review recommended: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes FORWARD COMPLETED ORIGINAL REPORT TO INTERNAL AFFAIRS		Sergeant Pablo Rodriguez 2298 1/27/2019		
		46. Preparing Supervisor's Signature / ID 47. Date		
INT. AFF.	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										Case# 19-000584								
I N C I D E N T D A T A	Agency Name Key West Police Department												Date / Time Reported 01/27/2019 02:54 Sun							
	ORI FL0440100												Last Known Secure 01/27/2019 02:54 Sun							
	Location of Incident 401 Eaton St/whitehead St, Key West FL 33040-				Premise Type Highway / Street / Road/				Beat/GP B1, GPB1		At Found 01/27/2019 02:54 Sun									
	#1 Crime Incident(s) Driving Under The Influence DUI		(Com)		Weapon / Tools NOT APPLICABLE/NONE						Activity									
V I C T I M	#2 Crime Incident Resist Arrest / Escape XOM		(Com)		Weapon / Tools						Activity									
					Entry						Exit		Security							
					Entry						Exit		Security							
M O	#3 Crime Incident		()		Weapon / Tools						Activity									
					Entry						Exit		Security							
					Entry						Exit		Security							
O T H E R I N V O L V E D	# of Victims 1		Type: SOCIETY/PUBLIC/STATE				Injury:				Domestic: N									
	V1		Victim/Business Name (Last, First, Middle) Society				Victim of Crime # 1,2		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					
	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: 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					
	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					
	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 Fm/To	Value	OJ	QTY	Property Description				Make/Model				Serial Number					
	35	EVID		\$0.00		1	AXON BWC 3914													
	07	TOWE		\$0.00		1	2013 BLK.BLK MGTV41 FL				HCHE Scooter				RFLDT0517DA008234					
Officer/ID# TYLER, BRYAN (3914)																				
Invest ID# (0)																				
Supervisor SIRACUSE, MARK W (3366)																				
Status	Complainant Signature				Case Status Cleared By Arrest				01/27/2019				Case Disposition: Cleared By Arrest				01/27/2019			
Page 1																				

INCIDENT/INVESTIGATION REPORT

Key West Police Department

Case # 19-000584

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

RODRIGUEZ, P.D. (2298), TORRECILLAS, J. (3759), MOGERLEY, N. (3819)

Suspect Hate / Bias Motivated:

NARRATIVE

REPORTING OFFICER NARRATIVE*Key West Police Department*

Victim <i>Society</i>	Offense <i>DRIVING UNDER THE INFLUENCE</i>	OCA <i>19-000584</i> Date / Time Reported <i>Sun 01/27/2019 02:54</i>
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On January 27, 2019 at 0302 hrs. I (Officer Tyler) was dispatched to Eaton and Whitehead St. in reference to a possible drunk driver.

Officer Mogerly was working an off-duty detail when he observed a moped bearing FL license plate MGVV41, being driven by a white male who was later identified by his Florida drivers license number H430438841330 as Justin Holt. Holt went around the road closure sign on Caroline street and continued onto the sidewalk. After going around the barricades Holt drove onto Caroline Street. Holt then drove on the wrong side of the road on Whitehead Street.

Officer Mogerly stopped Holt on Whitehead Street and Eaton Street. Officer Mogerly noticed a strong odor of an alcoholic beverage emitting from Holt's breath, red glassy eyes, and very slurred speech. When Holt got off the scooter he was driving, he could not maintain his balance. Officer Mogerly said he asked Holt for his registration and Holt could not comprehend what his registration was.

Officer Mogerly said Holt would not follow directions and was acting irate. Officer Mogerly told Holt to take his hands out of his pockets. When holt removed his hands out of his pockets Holt aggressively moved his right hand toward Officer Mogerly's face. Because Holt threw his hands in his face and because of Holts, aggressiveness Officer Mogerly had to take Holt down and handcuff him.

When I arrived at Eaton and Whitehead Street Holt was in the back of Officer Torrecillas's patrol car. I rolled the window down in the back, so I could talk to Holt. Holt had a very strong odor of an alcoholic beverage emitting from his breath, red glassy eyes, very slurred speech and a flush face. I introduced myself to Holt and asked him if he would submit to Field Sobriety Exercises. Holt said he would but then started incoherently screaming about the FBI and how he is from Texas. Holt said he wanted to see a supervisor. While we were waiting for Sgt. Rodriguez to respond to the scene, I got Holt out of the patrol car to try and get him to perform Field Sobriety Exercises. Holt got very irate and started screaming. I made the determination to take him to the detention center to perform the Field Sobriety Exercises because it was a more controlled environment and was safer for him and the officers on scene. I tried getting Holt back into the patrol car and he wanted to argue and push back and would not get into the car. Holt eventually got into the car.

When Sgt. Rodriguez arrived on scene and tried to talk to Holt he just started screaming incoherent words and would not have a conversation with Sgt. Rodriguez. Officer Torrecillas transported Holt to the Monroe County Detention Center for me.

Once at the detention center Holt continued talking about the FBI and how I did not have probable cause to arrest him. Holt said he is my boss. Holt stated he pays me, the city, the chief and that he is a millionaire. Once inside the DUI room at the detention center Holt said he would perform Field Sobriety Exercises.

The first field sobriety exercise I started with was Horizontal Gaze and Nystagmus. Holt had equal tracking. There was lack of smooth pursuit in the left and right eye, but I had to pause the exercise because Holt could not follow directions, he would not follow the stimulus with just his eyes and he started to close his eyes. After explaining the exercise again to Holt, I continued the exercise. I observed distinct and sustained nystagmus at maximum deviation in the left and right eye. I observed the onset of nystagmus prior to 45-degree angle in the left and right eye. I also observed vertical nystagmus.

REPORTING OFFICER NARRATIVE*Key West Police Department*

Victim <i>Society</i>	Offense <i>DRIVING UNDER THE INFLUENCE</i>	OCA <i>19-000584</i> Date / Time Reported <i>Sun 01/27/2019 02:54</i>
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I tried to continue the exercises with the one leg stand but Holt would not follow directions and continued to yell, telling me how he is my boss. Based on Holt's lack of cooperation and him continually talking and yelling, I took this to mean he did not want to participate with the remaining exercises. I put Holt into handcuffs and advised him he was under arrest for DUI.

It was my opinion that Holt's mental and physical faculties were impaired. After placing Holt under arrest for driving while impaired, I asked Holt if he would submit to a breath test. Holt said no and started talking about the FBI again and how he is my boss. Even though Holt continually yelled and screamed, I read him his implied consent warnings.

I started my 20-minute observation period at 0350 hours, the time of the observation period was taken directly from the Intoxilyzer 8000. Holt was advised not to regurgitate, burp, or put anything in his mouth. At 0418 hours I started the Intoxilyzer and asked Holt again if he would submit to the breath test, Holt again said no because I had no probable cause and was talking about the FBI. At 0420 hours I refused Holt on the Intoxilizer. The breath test was performed at the MCDC DUI room on the Intoxilyzer 8000 serial number 80-006471.

In the Intoxilizer room Holt said, "make this quick and do I pay you or do you pay me". Holt said I was trying to incriminate him, and I have no "procification" and what is my probable cause. Holt finally said I am intoxicated but there is no breathalyzer and that I needed a hug. Holt also told me I am committing treason because he pays me.

I issued Holt citation number AAMZ76E for F.S. 316.193-1 (6276) (T) DUI Alcohol or Drugs, with a 9:00 am court date on February 5th, 2019 in front of Judge Wilson. Holt refused to sign his citation and was issued a second citation, number AAMZ77E for F.S. 318.14-3 (392) (T) Refusal to accept and sign citation with a 9:00 am court date on February 5th, 2019 in front of Judge Wilson. I also charged Holt with F.S. 843.02 Resist / Obstruct Officer W/O Violence.

Officer Torrecillas tried to Mirandize Holt at 0430 hrs. but he would not listen and continually asked are you an officer or an attorney. I turned Holt over to the Monroe County Detention Deputies for processing where he continued to yell and scream at everybody. Holt eventually started fighting the detention center deputies and the Sergeant that was on duty had to complete a use of force report.

During the whole investigation Holt had a strong odor of an alcoholic beverage emitting from his breath, slurred speech and could not maintain his balance. Holt was very aggressive during the whole investigation. Holt continually yelled and screamed and made incoherent statements while acting aggressive toward officers and detention center staff. My BWC was activated during the investigation.

Incident Report Suspect List

Key West Police Department

OCA: 19-000584

1	Name (Last, First, Middle) <i>HOLT, JUSTIN TYME</i>					Also Known As					Home Address <i>24 KEY HAVEN RD KEY WEST, FL 33040 305-414-3477</i>																																													
	Business Address <i>BUSINESS OWNER, UNK, KEY WEST</i>																																																							
	DOB <i>04/13/1984</i>	Age <i>34</i>	Race <i>W</i>	Sex <i>M</i>	Eth <i>N</i>	Hgt <i>508</i>	Wgt <i>216</i>	Hair <i>BRO</i>	Eye <i>GRN</i>	Skin <i>LGT</i>	Driver's License / State. <i>H430438841330 FL</i>																																													
Scars, Marks, Tattoos, or other distinguishing features																																																								
<table border="1"> <tr> <td colspan="2">Reported Suspect Detail</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>Weapon, Type</td> <td>Feature</td> <td colspan="2">Make</td> <td colspan="3">Model</td> <td>Color</td> <td>Caliber</td> <td colspan="3">Dir of Travel</td> <td colspan="2">Mode of Travel</td> </tr> <tr> <td colspan="2">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> <td colspan="2"></td> </tr> </table>															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				
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

BUILD, MEDIUM/AVERAGE
BUILD, MUSCULAR
FACIAL HAIR, NO FACIAL HAIR
FACIAL HAIR, STUBBLE
HAIR TYPE, MEDIUM
HAIR TYPE, SHORT
HAND USE, AMBIDEXTROUS
TEETH, OTHER
TEETH, WHITE

Incident Report Related Vehicle List

Key West Police Department

OCA: 19-000584

1	VehYr/Make/Model 2013 HCHE, Scooter			Style MC		Color BLK/BLK		Lic/Lis /Decal MGVV41 FL 2019		VIN RFLDT0517DA008234	
	IBR Status Towed			Date 01/27/2019		Location 401 EATON ST/WHITEHEAD ST, KEY WEST FL					
	Condition		Value \$0.00		Offense Code 2100		Jurisdiction Locally		State #		NIC #
	Name (Last, First, Middle) Holt, Justin Tyme					Also Known As			Home Address 24 KEY HAVEN RD KEY WEST, FL 33040 305-414-3477		
	Business Address BUSINESS OWNER, UNK, KEY WEST										
	DOB 04/13/1984	Age 34	Race W	Sex M	Hgt 508	Wgt 216	Scars, Marks, Tattoos, or other distinguishing features				

Notes

Incident Report Related Property List

Key West Police Department

OCA: 19-000584

1	Property Description AXON BWC 3914				Make		Model		Caliber		
	Color		Serial No.		Value \$0.00		Qty 1.000		Unit		
	Status Evidence		Date 01/27/2019		NIC #		State #		Local #		
									OAN		
	Name (Last, First, Middle) * No name *				DOB		Age		Race		
										Sex	

Notes

CASE SUPPLEMENTAL REPORT

Printed: 01/28/2019 11:11

Key West Police Department

OCA: **19000584**

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

Case Status: *CLEARED BY ARREST*Case Mng Status: *NA*Occurred: *01/27/2019*Offense: *DRIVING UNDER THE INFLUENCE*Investigator: *MOGERLEY, NEIL (3819)*Date / Time: *01/27/2019 03:29:40, Sunday*Supervisor: *SIRACUSE, MARK W (3366)*Supervisor Review Date / Time: *01/27/2019 07:02:10, Sunday*

Contact:

Reference: *General Supplemental Report*

On January 27, 2019 at about 02:54 hours, I was parked on Caroline Street and Whitehead Street working an event (Arts and Craft Fair). Whitehead Street was closed with barricades from Whitehead and Green Street to Whitehead and Eaton Street. There were barricades on Caroline Street at Telegraph Lane. The barricade went across the street, and had large visible "road closed" sign with a detour sign that had a arrow pointing down Telegraph Lane. The closed area of Whitehead Street had tents all over the roadway blocking one lane of the road.

I observed a moped with one male operator and a female passenger drive on the sidewalk and go around the barricade and back on the roadway. The moped was traveling on the wrong side of the road toward me. The moped turned left on Whitehead Street toward Eaton Street. I activated my blue lights and siren, and conducted a traffic stop on the moped. The moped was bearing Florida registration MGVV41. I made contact with the operator who identified himself as Justin Holt (dob:4/13/1984), by a valid Florid driver's license. I could smell a very strong odor of intoxicants (alcoholic beverage) coming from Holt. Holt had blood shot watery eyes. Holt's speech was slurred and mumbled. At one point I could not understand what Holt was saying it was so mumbled and slurred. Holt apologized for his improper driving. Holt seemed to be highly intoxicated. I have had several prior police encounters/contacts with Holt and have seen him when he is both drinking and sober.

I went to my car and ran a registration and license check on Holt. I requested a traffic unit to respond. The passenger was later identified as Anna Unmos (dob:04/16/1988). Holt and Unmos both got off the scooter and started walking around. Holt was stumbling as he walked.

I exited my vehicle and asked Holt for the registration. Holt asked me if I wanted to see his cash and pulled it out of his pocket. I asked Holt a few times about his registration, and he was very confused about what I was talking about. Holt put his hands in his pockets, and I told him to take his hands out of his pockets. He took them out of his pockets and quickly put them up and started to aggressively move his right hand toward my face. I blocked and grabbed his right arm. Holt tensed up and pulled his arm away. I put it into an arm bar, and did a takedown onto the hood of my police car. I pulled my taser and ordered him to put his other arm behind his back and he did so. I placed him into handcuffs (double locked and checked for tightness). Holt was trying to kick me with his left foot, and I placed my foot against his to prevent him from kicking me. I held Holt on the hood of my car until another Officer arrived.

Officer Torrecillas arrived and we placed Holt into the back of his police car. Holt was refusing to get into the car, and we gave him several commands to get in. Holt still was refusing, and Officer Torrecillas and I had to use force by pushing and pulling him to put him in the car.

Officer Tyler arrived and processed Holt for DUI. Sgt. Rodriguez arrived and was informed about the incident.

Investigator Signature

Supervisor Signature

CASE SUPPLEMENTAL REPORT

Printed: 01/28/2019 11:11

Key West Police Department

OCA: **19000584**

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Case Status: *CLEARED BY ARREST*

Case Mng Status: *NA*

Occurred: *01/27/2019*

Offense: *DRIVING UNDER THE INFLUENCE*

Investigator: *MOGERLEY, NEIL (3819)*

Date / Time: *01/27/2019 03:29:40, Sunday*

Supervisor: *SIRACUSE, MARK W (3366)*

Supervisor Review Date / Time: *01/27/2019 07:02:10, Sunday*

Contact:

Reference: *General Supplemental Report*

Arnolds Towing towed the moped to their impound lot.

I recorded the area of Caroline Street that was blocked with barricades and signs on my BWC.

Investigator Signature

Supervisor Signature