

# Response to Resistance Report

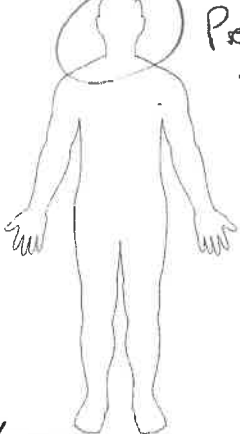
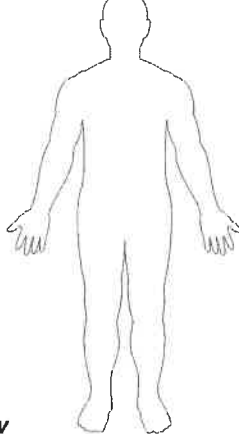
Key West Police Department

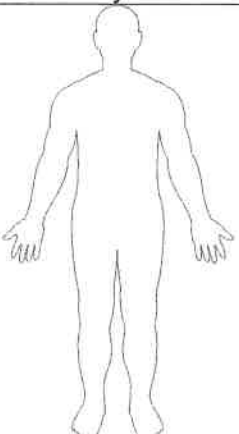
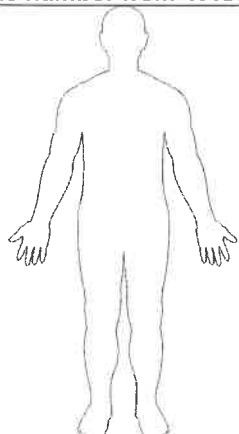
Case No: 21-1981

**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: 04/14/21	3. Time: 0130 HR	4. Location: 1221 DUVAL ST	5. Incident type: S34 / Resisting
	6. Resistance Level	7. Explanation	8. Response Option	9. Explanation
	<input checked="" type="checkbox"/> Passive:	VERBALLY COMBATIVE	<input type="checkbox"/> Physical Control	
	<input checked="" type="checkbox"/> Active:	WALKING AWAY	<input type="checkbox"/> Non-lethal Weapon	OC-SPRAY
	<input type="checkbox"/> Aggressive:		<input type="checkbox"/> Deadly Force	
	<input type="checkbox"/> Deadly Force:			

SUBJECT	10. Last Name: AYERS	11. First: JOSEPH	12. Race: W	13. Sex: M
	14. DOB: 03/29/1987	15. Height: 5'11"	16. Weight: 180	
	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 checked="" type="checkbox"/> Yes By: <input checked="" type="checkbox"/> EMT/Paramedic on scene <input type="checkbox"/> Hospital <input type="checkbox"/> Detention			
				
	22. Anterior View		Posterior View	

OFFICER	23. Officer: KENNETH JW WAITE	24. W	25. Sex: M	26. Age: 32	27. Height: 6'0	28. Weight: 198
	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: 2					
	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)					
						
	35. Anterior View		Posterior View			

# Response to Resistance Report (continued)

Key West Police Department

Case No: 21-1981

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 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: 04-14-21	41. Time: 0130 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
Nick Brinkley	Illinois	217-855-4631
Courtney Shaw	Key West 1221 Duval Street	868-616-7815
47. Is further review recommended: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes FORWARD COMPLETED ORIGINAL REPORT TO INTERNAL AFFAIRS		
48. Preparing Supervisor's Signature / ID		49. Date
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		52. Date
53. If section 48 is "No" record the Professional Standards Control Number:		54. Date Entered:

INCIDENT DATA		INCIDENT/INVESTIGATION REPORT													
		Agency Name <b>Key West Police Department</b>					Case# <b>21-001981</b>								
		ORI <b>FL0440100</b>					Date / Time Reported <b>04/14/21 01:12 Wed</b>								
Location of Incident <b>1221 DUVAL ST, Key West FL 33040-</b>					Premise Type <b>Bar / Nightclub / Lounge</b>		Beat/GP <b>B2, GPB2</b>		Last Known Secure <b>04/14/21 01:12 Wed</b>						
#1 Crime Incident(s) (Com) <b>Disorderly Conduct DCA</b>					Weapon / Tools <b>NOT APPLICABLE/NONE</b>					Activity					
					Entry		Exit		Security						
#2 Crime Incident (Com) <b>Resist Arrest / Escape XOM</b>					Weapon / Tools					Activity					
					Entry		Exit		Security						
#3 Crime Incident ( )					Weapon / Tools					Activity					
					Entry		Exit		Security						
MO															
VICTIM		# of Victims <b>1</b>		Type: SOCIETY/PUBLIC/STATE				Injury:				Domestic: N			
		V1		Victim/Business Name (Last, First, Middle) <b>Society</b>				Victim of Crime # <b>1,2</b>		DOB <b>Age</b>		Race Sex <b></b>		Relationship To Offender <b></b>	
				Home Address				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: INDIVIDUAL Injury:													
O T H E R S		Code		Name (Last, First, Middle) <b>SHAW, COURTNEY RIANNA</b>				Victim of Crime #		DOB <b>06/24/93 Age 27</b>		Race Sex <b>W F</b>		Relationship To Offender <b></b>	
		IO													
INVOLED		Home Address <b>7101 PETER PAN AVE SAN DIEGO, CA 92114</b>						Home Phone <b>888-333-2846</b>							
		Employer Name/Address <b>Vip Gentlemans Club, 1221 DUVAL STREET (ENTERTAINER)</b>						Business Phone		Mobile Phone <b>888-333-2846</b>					
		Type:		Injury:											
		Code		Name (Last, First, Middle)				Victim of Crime #		DOB <b>Age</b>		Race Sex <b></b>		Relationship To Offender <b></b>	
		Home Address						Home Phone							
		Employer Name/Address						Business Phone		Mobile Phone					
PROPERTY		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	
			35	EVID	\$0.00		1	AXON BWC/3646							
Officer/ID# <b>WAITE, KENNETH J (3646)</b>															
Invest ID# <b>(0)</b>						Supervisor <b>KOURI, DAVID G (3022)</b>									
Status		Complainant Signature				Case Status <i>Cleared By Arrest</i>		<b>04/14/21</b>		Case Disposition: <i>Cleared By Arrest</i>		<b>04/14/21</b>			
												Page 1			

# INCIDENT/INVESTIGATION REPORT

Key West Police Department

Case # 21-001981

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  
LITTON, A.J. (3958)

Suspect Hate / Bias Motivated:

NARRATIVE

## REPORTING OFFICER NARRATIVE

Key West Police Department

OCA

21-001981

Victim

Society

Offense

DISORDERLY CONDUCT

Date / Time Reported

Wed 04/14/21 01:12

On April 14, 2021, at approximately 0113 hours, I, Ofc. Waite, was dispatched to VIP Gentleman's Club, located at 1221 Duval Street, in reference to a male subject refusing to leave the premises. On arrival, I observed a white male, identified later as Joseph Ayers, standing on the sidewalk directly in front of the business. Several female employees of VIP Gentleman's Club were standing on the front porch of the business.

The caller, identified later as Courtney Shaw, informed Ofc. Litton that she had asked Ayers to leave the property approximately thirty minutes prior to calling for Police. Shaw also added that she asked Ayers to leave approximately ten times and he continuously refused. Another female stated that Ayers had walked behind the front desk and began looking through its contents. While Ofc. Litton spoke to the females, Ayers continuously interrupted their conversation by shouting and talking through them. Due to Ayers' belligerent behavior, I asked him to walk a short distance away from the business to speak with me.

I recommended to Ayers that he return to his hotel room for the evening. This was in an attempt to prevent any further calls from the business in the instance that Ayers remained in the area after we left. Ayers refused to leave and sarcastically stated "I'm resting". It was very apparent that Ayers was intoxicated and the strong odor of an alcoholic beverage emanated from his breath as he spoke. I strongly urged Ayers to vacate the area for the evening and even offered to give him a ride back to his hotel room. Ayers declined my offer and told me he was not breaking any laws by standing on the sidewalk in front of the business. I ended my encounter with Ayers and began walking to my patrol vehicle. While returning to my patrol vehicle, Ayers shouted "Go find something better to do!". As I unlocked my patrol vehicle, which was parked across the street from the business, I heard Ayers confront Ofc. Litton who had decided to remain near the business in an attempt to deter any further altercation.

I returned to Ofc. Litton. Ofc. Litton was issuing Ayers a trespass warning on behalf of the business. Ayers loudly and belligerently argued the legality of the trespass warning, claiming that the establishment was a "public business". As Ayer's argued with Ofc. Litton, I observed several passersby in the area uncomfortably walk past the business. I also observed three subjects standing on the front porch of a residence across the street. All three individuals were very curiously watching our encounter with Ayers and appeared to be intrigued by the commotion Ayers was causing. I walked across the street and spoke with a male subject, identified later as Nick Brinkley, who was on the front porch of the residence. Brinkley told me he could hear the commotion from his residence and described Ayers as a "drunk idiot". I returned to VIP Gentleman's Club and spoke with an employee who would only identify herself as "Diamond". Diamond told me that Ayers was making her very uncomfortable and deterring potential customers from entering the business.

Due to the totality of the circumstances, my conversation with Brinkley and Diamond, and the fact that Ayers was now disrupting the peace and quiet of the neighborhood, I approached Ayers and asked him to turn around and place his hands behind his back. Ayers verbally and physically refused. I unholstered my department issued OC spray and displayed it for Ayers. Again, I asked Ayers to turn around and place his hands behind his back. Ayers continuously refused to verbally and physically respond to my requests. In total, Ayers was asked six times to turn around and place his hands behind his back. Due to the passive resistance displayed by Ayers, I issued two bursts of OC Spray from my canister. The bursts struck Ayers in his face and neck. Ayers turned away from me and began walking south on Duval Street. This was a physically evasive movement made by Ayers to defeat our attempts of taking him into custody. Ofc. Litton and I grabbed a hold of Ayers and placed him into handcuffs. I notified Communications that Ayers had been sprayed and requested that Rescue respond to my location. Sgt. Kouri heard my transmission and responded to the scene. Key West Fire Department Rescue 2 also responded to the scene to treat Ayers. After receiving treatment from Rescue 2, I placed Ayers into the rear of my patrol vehicle. Ayers was transferred to the

## REPORTING OFFICER NARRATIVE

Key West Police Department

Victim Society	Offense DISORDERLY CONDUCT	OCA 21-001981 Date / Time Reported Wed 04/14/21 01:12
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Monroe County Detention Center without incident.

My BWC was activated throughout this call and will be uploaded to Evidence.com.

Based on the facts and evidence, Joseph Clyde Ayers did commit such acts as are of a nature to corrupt the public morals, outrage the sense of public decency, and affect the peace and quiet of numerous passersby contrary, to F.S. - 877.03 - 877.03 - Breach of the peace; disorderly conduct.

Based on the facts and evidence, Joseph Clyde Ayers did resist arrest and oppose multiple lawful orders contrary to F.S. 843.02 - Resisting officer without violence to his or her person.

## Incident Report Suspect List

Key West Police Department

OCA: 21-001981

<b>1</b>	Name (Last, First, Middle) <i>AYERS, JOSEPH CLYDE</i>					Also Known As					Home Address <i>1201 N DONIPHAN ST LAWSON, MO 64062 816-286-3195</i>				
	Business Address														
	DOB <i>03/29/87</i>	Age <i>34</i>	Race <i>W</i>	Sex <i>M</i>	Eth <i>N</i>	Hgt <i>511</i>	Wgt <i>180</i>	Hair <i>BRO</i>	Eye <i>BRO</i>	Skin <i>LGT</i>	Driver's License / State. <i>T011221029 MO</i>				
	Scars, Marks, Tattoos, or other distinguishing features														

<b>Reported Suspect Detail</b>		Suspect Age		Race	Sex	Eth	Height		Weight		SSN		
Weapon, Type		Feature		Make		Model		Color		Caliber		Dir of Travel	
VehYr/Make/Model				Drs	Style		Color		Lic/St		VIN		
Notes								Physical Char					

**CASE SUPPLEMENTAL REPORT**  
*NOT SUPERVISOR APPROVED*

Printed: 04/14/2021 05:47

OCA: **21001981**

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

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Investigator: *LITTON, ANDREW J.* (3958)

Date / Time: *04/14/2021 03:39:58, Wednesday*

Supervisor: *(0)*

Supervisor Review Date / Time: *NOT REVIEWED*

Contact:

Reference: *General Supplemental Report*

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On 04/14/2021 at approximately 0100 hours, Officer K. Waite and I (Ofc. A. Litton) were dispatched to the VIP Gentleman's Club, 1221 Duval Street, in reference to a disruptive customer outside the business.

When I arrived, the subject described as a male wearing a black t-shirt was standing outside, leaning against the VIP Gentleman's Club's vehicle. I could hear the employees asking the male to leave, but he continued to argue as he leaned against their vehicle. I asked the subject for his ID but he refused. The subject continued to argue and deny any form of identification as I explained he was going to be issued a trespass warning for the VIP Gentleman's Club. I then asked the subject for his name who simply stated "Joe Shmo." I then realized I recognized the subject from a report I took on 04/12/2021. I checked my computer and identified him as Joseph Ayers from a criminal mischief report I took for him. As with my previous encounter with Ayers, he appeared intoxicated with a heavy slur in his speech and an odor of an alcoholic beverage emanating from his breath as he spoke.

I spoke with the reporting party, Courtney Shaw, who explained Ayers was inside the business for approximately 30 minutes. During that time, Ayers was behind the front desk rummaging through the drawers of the business' welcome desk without anybody's permission. Shaw stated she asked Ayers to leave about 10 times as he continuously refused. Since Ayers was off the property and leaning on the business' vehicle as I arrived, I asked the employees if, aside from standing on the sidewalk, if Ayers was doing anything else? Shaw said he was just leaning against their car being loud and obnoxious, scaring off other customers.

I had Ayers information from a previous call and issued him a trespass warning. Ayers continuously argued with me about the trespass warning's legality arguing it was a public business and he was allowed to enter the premise. Ayers then informed me his phone was inside the business. I asked the employees to verify this who affirmed they allowed Ayers to search for his phone inside. They also stated they helped him search for his phone which was never located. I went back and told Ayers his phone was not inside the business which he now acknowledged he already knew.

Ayers became continuously loud, argumentative and insulting during our encounter. After explaining the trespass warning and seeing Ayers' obvious defiance of any warnings, I remained on scene to assure he did not enter the premise again. Ayers then resorted to insults as he still refused to disengage and walk away.

After speaking with numerous bystanders about Ayers disruptive behavior, Officer K. Waite told Ayers to turn around and place his hands behind his back. Officer K. Waite repeated himself two more times as Ayers continued to verbally and physically refused. Officer K. Waite then displayed his department issued OC spray and again told Ayers to turn around and place his hands behind his back. Ayers continued to defy the commands given and was informed that he would be pepper sprayed if he continued to resist. Ayers still refused when Officer K. Waite deployed two bursts of OC spray from his canister.

Investigator Signature: \_\_\_\_\_



**CASE SUPPLEMENTAL REPORT**  
*NOT SUPERVISOR APPROVED*

Printed: 04/14/2021 05:47

OCA: **21001981**

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Investigator: *LITTON, ANDREW J. (3958)*

Date / Time: *04/14/2021 03:39:58, Wednesday*

Supervisor: *(0)*

Supervisor Review Date / Time: *NOT REVIEWED*

Contact:

Reference: *General Supplemental Report*

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The bursts struck Ayers in the head and neck. Some of the spray splashed off Ayers and, because I was downwind, I was struck in the face with the OC spray. Ayers turned away and began walking South on Duval Street. Officer K. Waite and I followed Ayers, took ahold of each of his arms and I placed him in handcuffs. Officer K. Waite notified dispatch of the OC spray deployment and Key West Rescue 2 responded to the scene to treat Ayers. Sergeant D. Kouri also responded to the scene to document the use of force and photograph my exposure to the OC spray, as well. Officer K. Waite transported Ayers to MCDC, which concluded my involvement in this case.

Axon BWC was activated during this incident and later uploaded to Evidence.com.

Investigator Signature: \_\_\_\_\_

## Incident Report Related Property List

Key West Police Department

OCA: 21-001981

<b>1</b>	Property Description <b>AXON BWC 3958</b>			Make		Model		Caliber				
Color		Serial No.		Value <b>\$0.00</b>		Qty <b>1.000</b>		Unit		Jurisdiction <b>Locally</b>		
Status <b>Evidence</b>		Date <b>04/14/2021</b>		NIC #		State #		Local #		OAN		
Name (Last, First, Middle) <b>* No name *</b>						DOB		Age		Race		Sex

Notes