Response to Resistance Report Key West Police Department

Aggressive: Deadly Force: 10. Last Name: Schmitt 11. First: Andrew 12. Race: W 13. Sex: M 14. DOB: 10.10.83 15. Height: 6.03 16. Weight: 220 17. Did you observe the subject: No Yes If NO, explain why in Section 42. If "YES", complete sections 18. Appeared to be: Intoxicated Under the influence of controlled substance Emotionally / mentally disturbe 19. Injuries: No Evident Alleged (If Evident or Alleged, describe and indicate areas on charts in Section 22)					
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Resistance Level 7. Explanation S. Response Option S. Explanation Body drag takedown Active: Walk away/pull away Physical Control Non-lethal Weapon TASER Drive stun CO Padly Force Deadly Force Deadly Force Deadly Force Deadly Force Deadly Force Taser		2 Date: 07 12 21 3. Time: 1904 4. Loca	tion: 900 blo	ock of Duval St 5. Inc	cident type: DUI
10. Last Name: Schmitt 11. First: Andrew 12. Race: W 13. Sex: M 14. DOB: 10.10.83 15. Height: 6.03 16. Weight: 220 17. Did you observe the subject: No Sex of No. explain why in Section 42. If "YES", complete sections 18. Appeared to be: Intoxicated Under the influence of controlled substance Emotionally / mentally disturbe 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 Det 22. Anterior View 23. Officer: Tony Ane 24. Race: A 25. Sex: M 26. Age: 30 27. Height: 5.10 28. Weight: 205 29. Duty Status: On-duty Off-duty Extra duty employment Uniformed Plain clothes 30. Yrs Exp: 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: (If TASER®, also reference line number from TASER® section)	INCIDENT	6. Resistance Level Passive: Active: Walk away/pull away Aggressive:	8. <u>Res</u>	sponse Option Physical Control Non-lethal Weapon	9. Explanation
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	-	34. Response option used by this officer: (If TASER®, a	lso reference	e line number from TA	ASER® section)
	OFFICER				

Case No: 21.3714

Response to Resistance Report (continued) Key West Police Department

			Case No:s	source not found.					
	36. TASER® device serial #)	(1200CT4X	37. TASER® device serial #						
	TASER®Cam serial # V21002		TASER®Cam serial#						
	Cartridge 1 serial # N/A		Cartridge 1 serial #						
>	Cartridge 2 serial # N/A		Cartridge 2 serial #						
ONLY	Number of cycles: 1		Number of cycles:						
SE	Type of contact: ☐ Probe ☒	CODS Drive Stun	Type of contact: ☐ Probe ☐ CODS	☐ Drive Stun					
TASER USE	Did probes penetrate skin: 🔲	∕es ⊠ No	Did probes penetrate skin: ☐ Yes ☐	No					
SEI	Target distance at probe launcl	n: N/A	Target distance at probe launch:						
¥	Distance between probes: N/A		Distance between probes:						
	Probes removed by (name): N/	A	Probes removed by (name):						
	Device downloaded by: J. STO	CKTON	Device downloaded by:						
	☐ 38. Check and list any add	itional TASER® devic	ces, cartridges or details in the incide	nt description section.					
	39. Offense/Incident Report an		nust include:						
ь	✓ All necessary criminal eleme✓ All details of the arrest	nts.							
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	Detailed description of injury	•							
	· · · · · · · · · · · · · · · · · · ·	•	ical treatment provided to the officer and/or s	ubiect.					
	40. Notified Date: 07.12.21		41. Time : 1904	,					
	42. Did you respond to the sce	ene: No No Ye	es (If "No", explain why)						
The property of the property o									
	43. Did you watch all relevant	videos associated with	the use of force? No X Yes (If "No", e	xplain why)					
	44. Did you meet with the Office	er(s): No X Yes (If "No", explain why)						
JR	,		,,						
INQUIRY	45. During your review did you	u find any potential poli	icy violations or training issues associated	d with the incident?					
S	No Yes (If "Yes," lis		of the state of th						
OR,									
ISC									
SUPERVIS	46. Were you able to locate an	v indopondent witness	es: No Yes (If "Yes," list below)						
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0)									
	47. Is further review recommen		230	07.12.21					
	FORWARD COMPLETED ORIGINAL REPO	ORT TO INTERNAL AFFAIRS	48. Preparing Supervisor's Signature / ID	49. Date					
100	50. Did the review of this incid			0//					
AFF	of force was in compliance wit		1/htd	1606/11/8					
INT.	policy? No X Yes If "No",	complete section 51)	51. Signature of Internal Affairs Inspector	52. Date					
=	53. If section 48 is "No" record	the Professional Stant	ards Control Number: 54. D	ate Entered:					

21:3714Error! Reference

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Incident Report Additional Offense List

Key West Police Department

OCA: 21-003714

Offense List (Continued)

Page 2

Counter	Offense Description	Fel/Misd	Statute	Completed/Attempted
# 4	TRAFFIC OFFENSE (NON-DUI)		VEC	Com

INCIDENT/INVESTIGATION REPORT

Key West Police Department

Case # 21-003714

Statu: Code:	L=	Lost S	= Stolen $R = R$	ecovered D = Dama	ged $Z = Seized$ $B = Burned$ $C = Counterfeit / B$	Forged F = Found
	UCR	Status	Quantity	Type Measure	Suspected Type	Up to 3 types of activity
_				+ +		
D R						
U G						
S						
				-		
	Accie	ting Offi	parc	1		
				SELL, M. (3648)		
			•			

Suspect Hate / Bias Motivated:

NARRATIVE			

	OCA		
Key West Police Department	21-003714		
Victim	Offense	Date / Time Reported	
Society	BATTERY	Mon 07/12/2021 18:39	

On Monday, July 12, 2021, at approximately 1840 hours, Ofc. Ane and I (Ofc. N. Wynn) were dispatched to the area of 915 Duval Street in reference to an individual passed out in a vehicle.

Key West Communications received multiple calls about a white male, later identified as Andrew Schmitt, passed out in a blue Jeep on Duval St. across from the Nine-One-Five restaurant. One caller said the subject would not wake up but was breathing.

I arrived and saw the blue Jeep parked on the west side of Duval St. The vehicle was partially in a street parking spot and partially blocking the driveway of the A&M Rentals parking lot. Ofc. Ane already had Schmitt outside of the vehicle. Ofc. Ane asked Schmitt to come to the passenger side of the vehicle and sit on the side rail. Schmitt did not comply and said to Ofc. Ane and I, "Look boys, I'm going to set these keys on the floor, and walk away." I noticed that Schmitt's speech was slurred and he seemed unsteady on his feet. Ofc. Ane again told Schmitt to sit on the side of his vehicle. Schmitt did not comply and argued with Ofc. Ane about being drunk and passed out in his vehicle. Schmitt then threw his keys in some yard waste on the A&M Rentals property. After finally getting Schmitt to sit down, Ofc. Ane went to his patrol vehicle to check Schmitt's information in the F/NCIC database, and I stayed with Schmitt.

After a few minutes Ofc. Ane called me over to his position. Ofc. Ane told me that when he had originally walked up to the vehicle Schmitt was sleeping behind the wheel and had his phone in his lap. Ofc. Ane told me that when he woke Schmitt up and spoke with him, his eyes were bloodshot and there was a strong odor of alcohol on his breath. Ofc. Ane said Schmitt was unsteady on his feet when he asked him to get out of the vehicle. Schmitt told Ofc. Ane he was asleep in the vehicle waiting for his girlfriend to come pick him up. Ofc. Ane also informed me that his F/NCIC check confirmed that Schmitt's license was suspended, and that he was on probation for Grand Theft Motor Vehicle. Schmitt's license was suspended for a prior refusal to take a Breath Test in a DUI investigation.

I went back to where Schmitt was seated and introduced myself as Ofc. Wynn, Traffic Unit, from Key West Police Department. I asked Schmitt if he was willing to participate in Field Sobriety Exercises to dispel my concerns that he was operating a motor vehicle under the influence of an intoxicant. He said he wasn't operating the vehicle. I asked him again if he was willing to participate in Field Sobriety Exercises. Schmitt replied "no" and then began to walk away from me as I attempted to detain him to continue my investigation. Ofc. Ane grabbed Schmitt to prevent him from leaving and Schmitt aggressively pulled away. Ofc. Ane grabbed Schmitt again and pushed Schmitt against his vehicle to prevent him from leaving, but Schmitt got his arm between his body and Ofc. Ane's body and pushed away and attempted to run. Ofc. Ane was able to get a hold of Schmitt by the waste and Schmitt fell to the ground. Ofc. Ane was able to position himself on top of Schmitt, but Schmitt continued to fight to keep his arms free. Schmitt refused Ofc. Ane and my verbal commands to roll onto his stomach and put his hands behind his back.

Schmitt then grabbed one of Ofc. Ane's legs and said "I'll fuck both of you up". I was able to pull Schmitt's right arm free and control it with my right knee and left hand. I used my right arm to put pressure on Schmitt's collarbone to gain compliance. I saw Ofc. Ane remove his taser from its holster and remove the cartridge. Ofc. Ane informed Schmitt that if he did not stop resisting he would get tased. Schmitt then grabbed my right wrist with his left hand and tried to take control of my arm. Ofc. Ane then cartridge-off drive stunned Schmitt. I was able to get control of Schmitt's left arm. Schmitt was flat on his back and I was able to pin both of his hands above his head on the sidewalk. Ofc. Ane was able to change position and roll Schmitt onto his stomach. Once Schmitt was on his stomach Ofc. Ane and I were able to wrestle his left and right arms behind his back and place him in handcuffs. Once Schmitt was in handcuffs Ofc. Ane transitioned him into a seated position.

OCA						
Key West Police Department 21-003714						
Date / Time Reported						
Mon 07/12/2021 18:39						
RY						

Ofc. Hansell arrived on scene and assisted with towing Schmitt's vehicle. Schmitt's vehicle was removed by Arnold's Towing.

Sgt. Sims responded to our location and documented the response to resistance (RRI).

Ofc. Ane transported Schmitt to the Monroe County Detention Center where I continued my DUI investigation. I requested Schmitt consent to a lawful test of his breath. Schmitt refused to take the Breath Test. Schmitt refused to sign his DUI citation or his Implied Consent Warning. Schmitt was turned over to the Jail Deputies for further processing.

FIELD SOBRIETY EXERCISES RESULTS: FSE'S REFUSED

BREATH TEST RESULTS: BREATH TEST REFUSED

Schmitt received the following citations:
UNIFORM DUI CITATION number A0LKP3E: DUI Alcohol of Drugs
UNIFROM TRAFFIC CITATION number AEU4UYE: Refusal to Accept and Sign Citation

Schmitt was assigned a Court date of 07/29/2021 with Judge Fowler, 9:00 am, at the Key West Courthouse in reference to the DUI charge.

For further information about the DUI case, please see the completed DUI packet. This incident was recorded on my BWC.

ADDITIONAL PROBABLE CAUSE STATEMENT

Andrew Schmitt knowingly and willfully resisted officers by attempting to leave the scene while Ofc. Ane and I (Ofc. N. Wynn), were conducting a lawful DUI investigation. When Ofc. Ane attempted to prevent Schmitt from leaving, Schmitt pushed away from him and attempted to run. In the course of preventing Schmitt from leaving, Schmitt was taken to the ground. Once on the ground Schmitt continued to refuse to comply to instructions given to him by Ofc. Ane and me. While on the ground Schmitt grabbed Ofc. Ane by the leg to get a better position and to prevent Ofc. Ane from gaining control of Schmitt's arms. After continued resistance, Schmitt grabbed me by my right arm and attempted to gain control of it. Even after Schmitt was drive stunned with a taser it took the efforts of both Ofc. Ane and me to place Schmitt into handcuffs. Ofc. Ane and I were wearing Key West Police Department Class-B uniforms and arrived at the scene in our patrol vehicles, which are marked with Key West Police Department emblems and colors. Schmitt was being legally detained as part of a DUI investigation. Schmitt knew and understood that we were legally authorized to conduct the investigation. Based on these factors I had probable cause to charge Schmitt for violation of F.S.S. 843.01, RESISTING AN OFFICER WITH VIOLENCE.

In the course of Andrew Schmitt's attempt to resist his detention by Ofc. Ane and me, Schmitt intentionally pushed Ofc. Ane as he tried to prevent Schmitt from leaving the scene. In addition, when Ofc. Ane and I were trying to get Schmitt into handcuffs Schmitt yelled "I'll fuck both of you up", and intentionally grabbed Ofc. Ane's leg with both arms and tried to pull himself into a better position to prevent Ofc. Ane from maintaining control of him. Ofc. Ane and I were wearing Key West Police Department Class-B uniforms and arrived at the scene in our patrol vehicles, which are marked with Key West Police Department emblems and colors. Schmitt was being legally detained as part

Reporting Officer: WYNN, NOLAN R_CS3NC

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21-003714
Date / Time Reported
Mon 07/12/2021 18:39
_ _

of a DUI investigation. Schmitt knew and understood that we were legally authorized to conduct the investigation. Based on these factors I had probable cause to charge Schmitt for violation of F.S.S. 784.07-2B, BATTERY ON LEO / FIREFIGHTER / EMT.

While Ofc. Ane and I were trying to detain Andrew Schmitt and place him in handcuffs, Schmitt grabbed me by my right wrist and attempted to gain control of my arm. This was shortly after Schmitt had yelled "I'll fuck both of you up", to Ofc. Ane and me. Ofc. Ane and I were wearing Key West Police Department Class-B uniforms and arrived at the scene in our patrol vehicles, which are marked with Key West Police Department emblems and colors. Schmitt was being legally detained as part of a DUI investigation. Schmitt knew and understood that we were legally authorized to conduct the investigation. Based on these factors I had probable cause to charge Schmitt for violation of F.S.S. 784.07-2B, BATTERY ON LEO / FIREFIGHTER / EMT.

Reporting Officer: WYNN, NOLAN R_CS3NC

Incident Report Suspect List

Key West Police Department

OCA: 21-003714

1	Name (Last, First, Middle) SCHMITT, ANDREW MICHAEL Business Address MARTINS							Also Known As				Home Address 3316 FLAGLER AVE KEY WEST, FL 33040		
	Duamess rudiess	CEDI	71D (017 DUV	AI ST				303.	305-680-9132				
	DOB	Age	Race	Sex	Eth	Hgt	Wgt Hair Eye Skin			Driver	's License / State.			
	10/10/1983 37 W M N 60						220	BRO	BRO	FAR	S53	0013833700 F	TL .	
_	Scars, Marks, Ta			ispect A		1141	ace 5	Sex Eth	Heigh	ıt	Weigh	nt	SSN	
	Weapon, Type	Featur	e	Mak	3	М	odel		Colo	or	Caliber	Dir of Travel Mode of Travel		
	VehYr/Make/Mod	lel		Drs	Style	;	Co	olor	Lic/St			VIN		
	Notes								P	hysical Ch	ıar			

Incident Report Related Vehicle List

Key West Police Department

OCA: 21-003714

1		VehYr/Make/Model 2010 JEEP, Wrangler				Color Lic/Lis /Decal BLU QRRT62 FL 2021, 19			19250951	VIN	1J4BA5H19AL176085		
ł	IBR Status		Date	UT	Lo	ocation				10/12/13/11/11/11/11/10/03			
	Тон			07/12/20	1								
	Condition Val				ie		ffense Code	Jurisdiction	State #		NIC#		
					\$0.	00	2100	Locally					
	Name (Last, First,	Middle)					Also Known	As	Home Add	iress			
	Sc	hmitt, A	ndrew	Mich	ael					3316 FLAGLER AVE			
Business Address M. 305-295-0111, SE							 RTINS RVAR, 917 D	OUVAL ST			EST, FL 33040 5-680-9132		
ĺ	DOB 10/10/1983	Age 37	Race W	Sex M	Hgt 603	Wgt 220	1 1	s, Tattoos, or other distingu	ishing features				

Notes

CASE SUPPLEMENTAL REPORT

NOT SUPERVISOR APPROVED

OCA: 21003714

Printed: 07/12/2021 22:24

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

Investigator: ANE, ANTONIO A (3418) Date / Time: 07/12/2021 21:26:38, Monday

Supervisor: (0) Supervisor Review Date / Time: NOT REVIEWED

Contact: Reference: General Supplemental Report

On Monday, July 12, 2021, at approximately 1840 hours, Ofc. N. Wynn and I, Ofc. Ane, were dispatched to 915 Duval Street, in reference to a male passed out behind the wheel of a vehicle.

Upon arrival, I saw a blue Jeep, bearing FL tag QRRT62, parked on the westside of Duval Street. Sitting in the driver's seat was a white male, later identified as Andrew Schmitt. Schmitt's head was down, his eyes were closed and his cell phone was in his lap. I tapped Schmitt and he appeared startled, as he regained consciousness. He looked at me for a moment and appeared confused.

I introduced myself and asked if he was ok. Schmitt said he was fine and told me he was waiting for his girlfriend to pick him up. When Schmitt spoke, I immediately smelled a strong odor of alcohol emanating from his breath and heard a slur in his speech.

Based on my belief of Schmitt being intoxicated while in actual, physical control of a vehicle, I asked him to exit the vehicle. I asked him if he knew where his keys were and he said he did not. Schmitt then rummaged through his pockets and found his keys.

Ofc. N. Wynn arrived on scene and I instructed him to standby with Schmitt, while I ran his information, via F/NCIC. I found Schmitt had a suspended driver's license, was on probation for motor vehicle theft and his vehicle had a seize tag order.

I explained my findings to Ofc. N. Wynn, who advised he would begin a DUI investigation. Ofc. N. Wynn introduced himself to Schmitt and I saw Schmitt was already becoming apprehensive.

Ofc. N. Wynn asked Schmitt if he would be willing to conduct field sobriety exercises. Schmitt said "No", then began to walk away from Ofc. N. Wynn. I grabbed Schmitt's right arm and told him not to walk away. Schmitt violently turned towards me, pulling his arm out of my hand. I then grabbed his shirt, just under his collar bone and pushed him into his vehicle and again told him to not walk away. Schmitt again violently jerked his body out of my grasp and turned in the other direction and tried to run. I grabbed the back Schmitt's shirt, near his left shoulder and attempted to conduct a modified leg sweep, when my foot over-stepped a ramp that was installed into the sidewalk. I began to fall, with Schmitt still trying to run. I clasped my hands around his waist, fell to a knee and tripped his left foot, as I pulled him towards me. This caused Schmitt to fall to the ground. I then repositioned myself on top of Schmitt and grabbed his right arm.

I told Schmitt to turn over and put his arms behind back. Schmitt refused and pulled his arm out of my hand. Schmitt continued to pull his arms away and refused to comply with any verbal commands Ofc. N. Wynn and I gave him.

Investigator Signature:	

CASE SUPPLEMENTAL REPORT

NOT SUPERVISOR APPROVED

OCA: 21003714

Printed: 07/12/2021 22:24

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Investigator: ANE, ANTONIO A (3418)

Date / Time: 07/12/2021 21:26:38, Monday

Supervisor: (0)

Supervisor Review Date / Time: NOT REVIEWED

Contact:

Reference: General Supplemental Report

Schmitt then said he would "Fuck us up" and wrapped both of his arms around my left calf, just below my knee. I drew my department issued TASER and told Schmitt to stop resisting, or he would be "Tased". Schmitt continued to fight and was pulling on my leg. I removed the cartridge from my TASER and conducted a cartridge- off drive stun to Schmitt's abdomen, just left of his naval. I delivered three drive stuns and saw there was no effect on Schmitt. I holstered my TASER and Ofc. N. Wynn grabbed Schmitt's left arm. I was able to weave my right arm through Schmitt's legs, just below his knees and roll him to his stomach.

Once on his stomach, Ofc. N. Wynn and I placed Schmitt in handcuffs.

I sat Schmitt up and asked if he was ok, or needed to be seen by Key West Rescue, Schmitt said he was uninjured and did not need medical attention.

Ofc. M. Hansell arrived on scene and assisted Ofc. N. Wynn with towing Schmitt's vehicle.

Sgt. C. Sims responded to our location and documented the response to resistance (RRI).

I transported Schmitt to MCDC without further incident.

Once at MCDC Ofc. N. Wynn continued with his DUI investigation, see his original report and affidavit for further.

This investigation was recorded via my department issued body worn camera, which I later uploaded to evidence.com.

Investigator Signature: