

CRB COMPLAINT EVALUATION FORM

Case Number: 09-009

Complainant Name:

Shahdaroba Rodd

CASE SUMMARY

Date of Incident: 4/25/2009
Date of Complaint filed with IA: 11/19/09
Date of Complaint filed with CRB: 11/19/09

Officers: Officer Luis Sanchez
Officer Brian Leahy

Allegation: False Arrest
Untruthfulness
Harassment
Conspiracy

The Complainant, Mr. Shahdaroba Rodd, appeared in the CRB office on several occasions to discuss and ultimately file this complaint with the supporting documents/audio visual items. On April 25, 2009, Mr. Rodd was stopped by Officer Brian Leahy at night on Duval Street for failure to have the proper white light on the front of his bicycle and also for suspicion of operating a bicycle under the influence. Officer Leahy initiated the stop at the corner of Petronia and Duval. He requested Officer Sanchez to come to the scene to administer DUI sobriety investigation.

During the detainment on the roadway, Mr. Rodd attempted to walk across the street while waiting for Officer Leahy to complete this roadside interaction and also waiting for the arrival of Officer Sanchez. Officer Leahy used minimal force to move Mr. Rodd back to the scene and in front of his unit I-COP Camera.

Officer Sanchez arrived on the scene and proceeded to interface with Mr. Rodd to explore if he was truly under the influence. During the verbal exchange between Mr. Rodd and Officer Sanchez, Mr. Rodd refused to cooperate with Officer Sanchez's requests for Mr. Rodd to do roadside sobriety tests. Other supporting officers appeared on the scene which, according to the dispatch logs, amounted to an additional three (3) officers.

Mr. Rodd was eventually arrested by Officer Sanchez with Operating a Vessel Under the Influence in violation of F.S. 327.35 (BUI) and received the following traffic tickets by Officer Sanchez & Leahy:

- a. Failure to have a white light on his bicycle in violation of F.S. 316.2065(8);
- b. Failure to sign a traffic citation in violation of F.S. 318.14;
- c. Refusal to submit to a breathalyzer in violation of F.S. 316.1939

Mr. Rodd feels that he was first struck unintentionally by Officer Leahy's vehicle and then improperly pulled over for failing to have a necessary white light on the front of his bicycle. Mr. Rodd feels that Officer Leahy improperly told other officers at the scene that he did not impact Mr. Rodd with his vehicle. Mr. Rodd also feels that his bicycle was fully lit by many, many lights and Officer Leahy used a pretext to pull him over in an effort to harass Mr. Rodd. Mr. Rodd feels that Officer Sanchez improperly filled out the police/DUI reports by claiming that Mr. Rodd was in violation of F.S. 327.35 (BUI). Further, Mr. Rodd feels that this event is evidence of his continued harassment by the KWPD against him (see CRB file #09-006 in which Mr. Rodd was

charged with DUI and other related charges. Mr. Rodd prevailed in all the charges at trial or they were dismissed other than the initial traffic charge of "failure to maintain a single lane" which he was convicted of. During this past file review by the CRB, the CRB found that Officer Kouri authored inaccurate police/DUI reports that amounted to deficient service)

Ultimately a crash report was authored by another officer on the scene and an independent witness executed an affidavit that she saw the police vehicle driven by Officer Leahy impact with Mr. Rodd's bicycle. However, by all accounts there were no markings on either the police vehicle or Mr. Rodd's bicycle to show the impact, no injuries and Mr. Rodd apparently did not fall off his bicycle.

The State Attorney's Office filed charges against Mr. Rodd on May 26, 2009 as follows:

- 1) Driving under the Influence in violation of F.S. 316.193(1); &
- 2) Disorderly Conduct in violation of F.S. 877.03

The State Attorney's Office dropped these charges on October 22, 2009 citing "*Prosecutorial Discretion.*" According to Mr. Rodd, the only pending in traffic ticket (failure to have a white light on the front of his bicycle) is scheduled for a court hearing on January 19, 2010 and he is contesting said ticket. According to Mr. Rodd, the other traffic tickets were dismissed in his criminal case. According to Mr. Rodd, he is not facing any other charges stemming from this incident other than the one remaining traffic ticket.

Copies of three (3) I-Cop videos were secured. Officer Leahy's video shows the initial stop and documents the numerous decorative blinking and colored lights on Mr. Rodd's bicycle. Officer Sanchez's video shows the same decorative blinking and colored lights on Mr. Rodd's bicycle and the roadside sobriety investigation that Officer Sanchez attempted to conduct on Mr. Rodd. However, both I-COP videos apparently show no "white light" on the FRONT of Mr. Rodd's bicycle. Sgt. Rodriguez's I-COP video reveals the dialog between Sgt. Rodriguez and the independent witness who stated there was an impact between officer Leahy's vehicle and Mr. Rodd's bicycle. Sgt. Rodriguez's I-COP video also memorializes dialog between himself and some of the officers on the scene discussing the possible charges against Mr. Rodd. Sgt. Rodriguez's I-COP also reveals the apparent traffic obstruction caused by the ongoing investigation on Duval which necessitated one officer to direct traffic via the one unblocked lane from time to time. An audio dispatch recording was secured from the KWPD. On this recording, one involved Officer called into the KWPD dispatch in a good faith effort to locate a cab driver who reported that Mr. Rodd had been interfering with traffic on Duval Street while he was allegedly operating his bicycle under the influence. However, apparently this cab driver could not be located or identified according to the dispatch dialog.

Chief Donie Lee responded with a memo dated December 31, 2009, which stated that Chief Lee did not intend on opening an investigation into this matter as there was "*no basis to his [Mr. Rodd's] allegations.*" However, Chief Lee did state in the same memo that Officer Sanchez "*was deficient in his report writing in a couple of areas.*" Further Chief Lee explained that "*I will direct Officer Sanchez's supervisor to counsel him and document the deficiency for evaluation purposes.*"

This file consists of the following written/visual materials:

1. Complaint and attachments received from Mr. Rodd and signed receipt from KWPD;
2. Additional court documents relative to the criminal case against Mr. Rodd which was ultimately dismissed by the State Attorney's Office & Crash Report later found after the CRB complaint was filed;
3. E-Mail exchange between Chief Lee and Mr. Rodd apparently generated after a meeting between the two about this file;
4. Memorandum dated December 31, 2009 from Chief Donie Lee;
5. Short CD ROM of the Dispatch Calls;
6. I-COP Videos from Officer Leahy's, Officer Sanchez's and Sgt. Rodriguez's vehicles;
7. Misl. Pictures of Mr. Rodd's lighted bicycle captured as still frames from the above mentioned I-COP videos;
8. Copies of relevant Florida Statutes;
9. Mr. Rodd's "Amended Complaint" received on January 6, 2010;
10. Notice Letters to involved parties;

THE FACTUAL ALLEGATIONS OF THIS/THESE COMPLAINT(S) HAS/HAVE NOT BEEN INVESTIGATED BY EITHER THE INTERNAL AFFAIRS DIVISION OF THE KEY WEST POLICE DEPARTMENTMENT, NOR THE CITIZENS REVIEW BOARD (CRB). THIS/THESE COMPLAINT(S) IS/ARE BEFORE THE BOARD FOR ADMINISTRATIVE PROCESSING ONLY UNTIL SUCH TIME AS EITHER INTERNAL AFFAIRS OR THE CRB INVESTIGATES THE ALLEGATIONS OF THE COMPLAINT. ANY READER OF THIS/THESE COMPLAINT(S) SHOULD NOT PRESUME THAT THE OFFICER COMPLAINED AGAINST HAS ENGAGED IN ANY WRONGDOING.

1

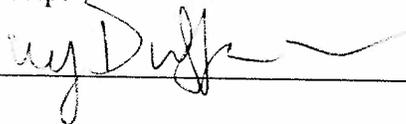


Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Chief Donie Lee/Lt. David Smith/Randall Smith
FROM: Stephen Muffler, Esquire
DATE: 11/19/09
RE: CRB Complaint 09-009/Transfer to IA

Attached please find a complaint filed by Mr. Shahdaroba Rodd against Officers Sanchez & Kouri. I have also enclosed the mentioned 3 I-COP videos (via the 3 CDROMS enclosed). Please acknowledge below receipt of this request and letter/enclosures and report back to the CRB with your findings within the 45 day time frame. Thanks.

Receipt



Citizen Review Board

#3 East Quay Road, Key West, FL 33040

PO Box 1946, Key West, FL 33041

(305) 809-3887 Fax (305) 293-9827

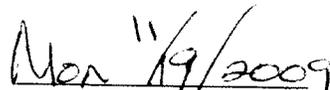
email: crb@keywestcity.com

<http://www.keywestcity.com/department/board.asp?IDD=36-153>

- What you need to know before completing the attached complaint form:
- This complaint and any attachment become public record. If you have already filed a report with Key West Police Department Internal Affairs, and you want that complaint to remain confidential until the investigation is complete, you may want to refrain from filing at this time.
- Complaints should be filed as soon as possible the time you became aware of the incident or after resolution of any criminal charges.
- Anyone who has criminal charges pending related to this complaint should consult an attorney before filing the complaint with the CRB and such pending charges may delay the progress of the investigation of your complaint with the CRB. Further, any statements made to the CRB are public record and can be used by anyone to incriminate the complainant. All statements will be uploaded to the internet
- Complainants must advise the CRB of any changes of address or phone number; failure to provide the CRB current information or means for CRB to contact the complainant may result in dismissal of the case.
- All documents received by this office, including medical records, photo IDs, communications and alike become public records and will be disclosed on the Internet and viewable by anyone or any person. You should consider this fact before sending any matters or materials to this office.
- The CRB and its employees and agents are not your legal representatives. You should seek independent legal representations to understand your legal rights regarding the matters referenced in your complaint.
- The CRB jurisdiction is limited to City of Key West Police Officers and NOT Monroe county sheriffs, correction officers, Florida Fish and Wildlife Officers, FDLE representatives, Florida Highway Patrol Officers, Federal Agents, Military personal and alike.

I have read and understand the information provided to me on this page.


Name/Nombre


Date/Fecha

COMPLAINT FORM

Citizen Review Board

#3 East Quay Road, Key West, FL 33040

PO Box 1946, Key West, FL 33041

<http://www.keywestcity.com>

email: crb@keywestcity.com

(305) 809-3887 Fax (305) 293-9827

Please provide as much information as you can about the incident(s). Use additional pages if necessary.
Suministre la mayor cantidad de información posible acerca del (de los) incidente(s). Utilice páginas adicionales si fuese necesario

A. COMPLAINANT INFORMATION DATOS DEL DENUNCIANTE

Name: SHANDAZOBA RUDD Date of Birth: 9-19-1946
Nombre Fecha de nacimiento

Address: HOMELESS
(Dirección) Street (Ciudad) City (Estado) State (Código Postal) Zip

Mailing Address: P O Box 742 KEY WEST FL 33041
Dirección postal PO Box or Street, City, State and Zip

Work Address: N/A
(Dirección del trabajo)

Home Phone: () X Work Phone: () X Cellular: (305) 966-2006
Teléfono Particular Teléfono del Trabajo Celular

B. NATURE OF COMPLAINT: CIRCLE ALL THAT APPLY. Naturaleza de la denuncia: Circular le todas las que apliquen.
UNTRUTHFULNESS, FALSE ARREST, CONSPIRACY, HARASSMENT

C. INFORMATION ABOUT THE OFFICER(S) INVOLVED IN THE INCIDENT DATOS DEL (DE LOS) OFICIAL (ES) INVOLUCRADO(S) EN EL INCIDENTE

Name: BRIAN LEAHY Badge #: _____ Vehicle #: _____
Nombre Placa No. Patrulla No.

Please provide a physical description of officer:
Describa la apariencia física del oficial: _____

Name: LUIS SANCHEZ Badge #: _____ Vehicle #: _____
Nombre Placa No. Patrulla No.

Please provide a physical description of officer:
Describa la apariencia física del oficial: _____

Name: _____ Badge #: _____ Vehicle #: _____
Nombre Placa No. Patrulla No.

Please provide a physical description of officer:
Describa la apariencia física del oficial: _____

E. INFORMATION ABOUT THE INCIDENT
INFORMACION ACERCA DEL INCIDENTE

Please provide as much information as possible, using additional pages if necessary.
Suministre la mayor cantidad de informacion posible, utilizando páginas adicionales si fuese necesario.

Date: SAT 4/25/2009 Time: 8:30 PM (+) Location: DUVAL & Petronia St
Fecha: SAT 4/25/2009 Hora: 8:30 PM (+) Lugar: PETRONIA ST Case # if applicable: _____
No. de Caso, si corresponde: _____

As I neared the intersection of Duval & Petronia St, bicycling and heading south, a KWPd patrol car, heading west on Petronia, made a left hand turn onto Duval St, and struck me/my bicycle. The driver was Off. Brian Leahy. Other cops were called to the scene. Videos were made by KWPd personnel. Off. Luis Sanchez was one of the after-the-crash cops. He directed me onto Petronia St & proceeded to ask me a number of questions. After approx 15-20 minutes he said that I was under arrest & took me to the jail on Stock Island.

The next day, at my 1st appearance, I was told I had been charged with a violation of F.S.S. 327.35, Boating Under the Influence + other charges. I also learned that Leahy had written me a traffic ticket for not having a light on my bike (front)

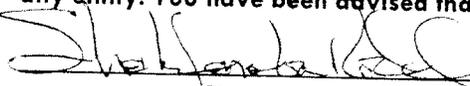
This whole situation is absolutely insane - Boating Under the Influence, on Duval St, while riding a bicycle? Mistake? Oh yeah!

Attach additional pages if necessary. Page number 1 of 3 pages of narrative

Are you being prosecuted for this incident or do you have a pending criminal case? Yes ___ No X

Have you ever been convicted of a felony? Yes ___ No X **NOT RELATED TO THIS INCIDENT**

"I hereby certify that, to the best of my knowledge, and under the penalty of perjury, the statements made herein are true." I hereby acknowledge and understand that any documents, materials, medical records, e-mail and other communication delivered to the CRB office becomes public record and shall be viewable on the internet by anyone or any entity. You have been advised that any statement made to the CRB can be used by other governmental entities.


Signature of Complainant

Nov 19, 2009
Date signed

| | | |
|--|------------------------|---------------|
| Complaint Received by: | Complaint Reviewed by: | Action Taken: |
| Date complaint forwarded to Chief of Police: _____ | | |

D. VICTIM/WITNESS INFORMATION
DATOS DE LA VICTIMA/TESTIGO

Did you witness the incident? Yes No **I AM THE VICTIM**
¿Fue usted testigo del incidente denunciado? Si No

If you are filing a complaint on behalf of someone else, what is your relationship, if any, to the person(s):
Si usted está presentando una denuncia en nombre de otra(s) persona(s), indique cuál es su relación, si la hay, con esa(s) persona(s):

Parent Spouse Relative Guardian Child Friend Other
Padre/Madre Conyuge Familiar Tutor Hijo/a Amigo/a Otra

Please provide as much of the following information as you can about the person(s) on whose behalf the complaint is filed and any witness(es) to the incident:
Suministre la mayor cantidad posible de la información que se solicita a continuación, sobre la (las) persona(s) en nombre de la(s) cual(es) presenta la denuncia, y sobre el (los) testigo(s) del incidente:

Victim/Witness #1

Victima/Testigo No. 1

Is this person a: victim witness
Esta persona es: víctima testigo

Name: SHANDARUBA RODD
Nombre _____
Address: PO BOX 742 City Key West State FL
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code 33041 Contact numbers: Telephone Cell 305-266-2006
Código Postal _____ Teléfono _____

Victim/Witness #2

Victima/Testigo No. 2

Is this person a: victim witness
Esta persona es: víctima testigo

Name: _____
Nombre _____
Address: _____ City _____ State _____
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code _____ Contact numbers: Telephone _____ Cell _____
Código Postal _____ Teléfono _____

Victim/Witness #3

Victima/Testigo No. 3

Is this person a: victim witness
Esta persona es: víctima testigo

Name: _____
Nombre _____
Address: _____ City _____ State _____
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code _____ Contact numbers: Telephone _____ Cell _____
Código Postal _____ Teléfono _____

But folks, it gets way worse than a simple, honest, careless mistake - which is what I imagine the cops are going to claim yet again. All you need do is view the videos that were made that night by the KWPD; then compare and contrast what you see and hear with what was written by Officer Sanchez that night in his documentation of the incident. He wrote that I am left handed (I'm NOT), that I was wearing no shirt (you can see the words on the front and back on my shirt easily), that I was yelling, that I was uncooperative, and I was wearing no shoes.

Okay, maybe this is the key question and its answer will explain the actions/reactions of the KWPD that night - Was there a crash? The officer(s) involved still to this day has (have) not filed a crash report. Perhaps the theory is that if a report isn't written, then the crash never really happened. Officer Leahy checked on the ticket he wrote me that there was no crash, while Officer Sanchez checked on the BUI ticket that there was a crash. Common sense will tell you that one officer has it right, and the other doesn't. Who is lying? Leahy is said to have told Sanchez that I told Leahy that the crash was my fault, that I had collided with the officer's (Leahy) car.

As part of the papers I rec'd from the State Attorney's office by requesting to participate in Discovery, there was a signed statement from one Trisha Tischmacher, who apparently lives upstairs at the corner of Duval Street and Petronia Street; she said the "bicyclist was bumped by the patrol car". This is an independent 3rd party witness. I do not know the lady (I don't believe I know her); I haven't spoken with her, although someone from the Public Defender's office did at one point.

In the report CAD CALL, in the section titled "NARRATIVE", on page 1, you'll find on line three (3) this entry: p74 - crash occ'd at Petronia/Duval veh vs bicycle.

In the same report, on page 3 under "DISPOSITIONS" is entry #3 which reads: 005 crash report number case #1-09-400366 unit: p74

I believe what we have here is a conspiracy to protect an officer whose driving was less than stellar that night. I was not screaming that I was injured, or the bike was damaged. I have no idea exactly why the cops did what they did. I can only guess that Leahy didn't want to be known as a bad driver so he and the others concocted this lame story to cover their hides.

Additionally Officer Sanchez illegally suspended my driver license that night. Illegally? Yes, because to suspend my license legally, Officer has to have had probable cause to believe that I was in actual physical control or driving a motor vehicle, AND that I was lawfully arrested for a violation of the state DUI law, # 316.193. Both elements have to be present to be a legal suspension. But neither of those criteria are met in this case. Sanchez knows full well that I was operating a bicycle that night and there was NO boat involved, and he charged me with a violation of state law # 327.35, the boating under the influence law.

There are 2 other troubling aspects to this story/situation, and they are:
#1 the lack of response by the KWPD to provide the legally requested documents to my attorney and/or myself in a timely fashion, as requested through Discovery, and #2 charging me with violating the state law of not signing the tickets in question.

Before a public defender attorney was appointed to represent me, I requested copies of all radio transmissions from the night in question -radio transmissions between Leahy and KWPD headquarters, Sanchez and KWPD HQ, and between all of the officers involved. Then when the P.D. was appointed she requested the same evidence. It was not forthcoming from either request. At one point the KWPD says there was NO 911 emergency call that night for this case; yet sometime later, the State Attorney's office admitted that they have a recording of the 911 call from that night. After I fired my public defender attorney, I again requested the evidence through a motion to compel. In the end, the KWPD and/or the State Attorney's office NEVER did provide the requested potentially exculpatory evidence.

Please make the KWPD prove that they gave me the opportunity to refuse signing the tickets in this case. It's real easy to make claims that have no basis in reality. I say that I WAS never presented with the tickets and asked to sign them. I understand that signing tickets is NOT an admission of guilt; that it only signifies your receipt of same, and not signing tickets does nothing more than give the officer involved the legal authority to add another criminal charge. This act of charging people with not signing tickets seems to be a rather standard operating procedure by the KWPD of late. Let's stop this nonsense once and for all— institute a policy whereby all arrestee's are videotaped refusing to sign tickets so there can be no more doubt about the compliance of the arrestee.

p.s. I was in traffic court yesterday, Wednesday, November 18, 2009 to contest the traffic ticket that Leahy wrote me for not having a light on the front of my bike. All you need to do to see the stupidity of that charge is to view the videos and see that I indeed did have not only one light on my bike that was illuminated, but numerous lights, both on the front wheel and the back wheel that were flashing. The state attorney's office requested a continuance of the case, and the judge permitted it so this part of the case won't be decided until at least December 16, 2009 when the case continues then.

THIS CASE & ALL RELATED CRIMINAL CHARGES WERE DROPPED BY
THE STATE ATTORNEY'S OFFICE BY OCTOBER 28, 2009.

3 SR



FLORIDA UNIFORM TRAFFIC CITATION 6541-EVA X

09-2-87

COUNTY OF Monroe (1) F.H.P. (2) P.D. (3) S.O. (4) OTHER

CITY OF APPLICABLE Key West 38/LR AGENCY

IN THE COUNTY DESCRIBED BELOW THE UNDERSIGNED CERTIFIES THAT HE/SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE THAT ON

DAY OF WEEK Sat MONTH 09 DAY 25 YEAR 09 A.M. P.M.

NAME (PRINT) FIRST Shana Darlene MIDDLE Rod LAST Rod

STREET PO Box 623 IF DIFFERENT THAN ONE OPERATOR LICENSE "I" HERE

CITY Key West STATE FL ZIP CODE 33040

TELEPHONE NUMBER DATE OF BIRTH 9-19-96 SEX M HEIGHT 600

DRIVER LICENSE NUMBER [REDACTED] STATE FL CLASS PL COLL. LICENSE Y EXP. DATE 2013 IF COMMERCIAL MTR. VEH. "C" HERE

VEHICLE LICENSE NO. LA 113, Ye Blue CHECKED Blue IF PLACARDED HAZARDOUS MATERIAL "H" HERE

UPON A PUBLIC STREET OR HIGHWAY, OR OTHER LOCATION, NAMELY Retronia & Duval St

FT. _____ IN. _____ OF MILE _____ OF MILE

DID UNLAWFULLY COMMIT THE FOLLOWING OFFENSE. CHECK ONLY ONE OFFENSE EACH CITATION.

- UNLAWFUL SPEED _____ MPH SPEED APPLICABLE _____ MPH
 - INTERSTATE 4-LANE HWY WITH 20 FT. MEDIAN OUTSIDE SUB. OR REG. DIST.)
- CARELESS DRIVING
- VIOLATION OF TRAFFIC CONTROL DEVICE
- VIOLATION OF RIGHT-OF-WAY
- IMPROPER CHANGE OF LANE OR COURSE
- IMPROPER PASSING
- CHILD RESTRAINT
- DRIVING UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES, CHEMICAL OR CONTROLLED SUBSTANCES, DRIVING ACTUAL PHYSICAL CONTROL WHILE IMPAIRED, OR DRIVING ACTUAL PHYSICAL CONTROL WITH UNLAWFUL BREATH/BLOOD/URINE ALCOHOL LEVEL, BAL _____
- SAFETY BELT VIOLATION
- IMPROPER OR UNSAFE EQUIPMENT
- EXPIRED TAG
- SIX (6) MONTHS OR LESS
- MORE THAN SIX (6) MONTHS
- NO PROOF OF INSURANCE
- EXPIRED DRIVER LICENSE
- FOUR (4) MONTHS OR LESS
- MORE THAN FOUR (4) MONTHS
- NO VALID DRIVER LICENSE
- DRIVING WHILE LICENSE SUSPENDED OR REVOKED
- FAILURE TO STOP AT A TRAFFIC SIGNAL

OTHER VIOLATIONS OR COMMENTS PERTAINING TO OFFENSE _____

NO light on Bike

AGGRESSIVE DRIVING

IN VIOLATION OF STATE STATUTE 316.2065 (F) SECTION _____

CRASH: YES NO PROPERTY DAMAGE: YES NO

CRIMINAL VIOLATION COURT APPEARANCE REQUIRED AS INDICATED BELOW

INFRACTION COURT APPEARANCE REQUIRED AS INDICATED BELOW

INFRACTION WHICH DOES NOT REQUIRE APPEARANCE IN COURT

6541-EVA X

COURT INFORMATION DATE 500 Whitehead St

LOCATION 38 LR

APPERT DELIVERED TO _____ DATE _____

I AGREE AND PROMISE TO COMPLY AND ANSWER TO THE CHARGES AND INSTRUCTIONS SPECIFIED IN THIS CITATION. WILLFUL REFUSAL TO ACCEPT AND SIGN THIS CITATION MAY RESULT IN ARREST. UNDERSTAND BY SIGNATURE IS NOT AN ADMISSION OF GUILT OR WAIVER OF RIGHTS. IF YOU NEED REASONABLE FACILITY ACCORDING TO THIS CITATION CONTACT THE CLERK OF THE COURT.

REFUSAL TO SIGN

Signature of Driver: Shana Darlene Rod MOBILE NO. _____

Signature of Officer: Blaney 2905 IPbx Padul MOBILE NO. _____

NOTICE THAT LEAHY, WHO CRASHED INTO ME, MARKS "NO" FOR A CRASH BEING INVOLVED

FROM P.D. AFTER PRO SE

1957



FLORIDA DUI UNIFORM TRAFFIC CITATION 6311-XCP 8

COUNTY OF MONROE 38 (1) F.H.P. (2) P.D. (3) S.O. (4) OTHER

CITY OF APPLICABLE Key West FL AGENCY KWPD 42

IN THE COURT DESIGNATED BELOW THE UNDERSIGNED CERTIFIES THAT HE/SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE THAT ON

COMPLAINT (RETAINED BY COURT)

DAY OF WEEK Sat MONTH 04 DAY 25 YEAR 2009 TIME 9:07 A.M. P.M.

NAME (PRINT) Shahdara Roba Kadd LAST

STREET P.O. Box 623 IF DIFFERENT THAN ONE ON DRIVER LICENSE "X" HERE

CITY Key West STATE FL ZIP CODE 33041

TELEPHONE NUMBER DATE OF BIRTH 09 DAY 19 YEAR 46 RACE W SEX M HT 6 WT 0

DRIVER LICENSE NUMBER [REDACTED] CLASS DL COL. LICENSE Y EXP. DATE 9-19-13 IF COMMERCIAL MTR. VEH. "X" HERE

VEHICLE TYPE Motorcycle COLOR Blue IF PLACARDED HAZARDOUS MATERIAL "X" HERE

VEHICLE LICENSE NO. TRAILER TAG NO. STATE YEAR TAG EXPIRES IF COMPANION CITATIONS "X" HERE

UPON PUBLIC STREET OR HIGHWAY, OR OTHER LOCATION, NAMELY Petronia And Duval Street IF COMPANION CITATIONS "X" HERE

09-2187

DUI UNLAWFULLY COMMIT THE OFFENSE OF DRIVING UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES, CHEMICAL OR CONTROLLED SUBSTANCES; DID DRIVE, OR WAS IN ACTUAL PHYSICAL CONTROL OF A VEHICLE, WHILE UNDER THE INFLUENCE OF AN ALCOHOLIC BEVERAGE/CHEMICAL SUBSTANCE/CONTROLLED SUBSTANCE TO THE EXTENT NORMAL FACULTIES WERE IMPAIRED, OR WITH A BLOOD OR BREATH ALCOHOL LEVEL OF .08 OR ABOVE OF Refusal

COMMENTS PERTAINING TO OFFENSE (Only one offense each slash)

STATE STATUTE AGGRESSIVE DRIVER SECTION 327.35 SUB-SECTION

CRASH DAMAGE TO OTHER PROPERTY INJURY TO ANOTHER SERIOUS BODILY INJURY TO ANOTHER FATAL

THIS IS A CRIMINAL VIOLATION, COURT APPEARANCE REQUIRED, AS INDICATED BELOW.

NOTE: SANCHEZ MARKS "YES" —
THERE IS A CRASH

COURT DATE 5-07-2009 9:00 AM

COURT AND LOCATION 500 Whitehead Key West FL 33040

ARREST DELIVERED TO MCSO Jail DATE 04-25-09

I ADVICE AND PROMISE TO COMPLY AND ANSWER TO THE CHARGES AND INSTRUCTIONS SPECIFIED IN THIS CITATION WILLFUL REFUSAL TO ACCOPI AND SIGN THIS CITATION MAY NEGATE IN ARREST UNDERSTAND BY SIGNATURE IS NOT AN ADMISSION OF GUILT OR WAIVER OF RIGHTS. IF YOU NEED REASONABLE FACILITY ACCOMMODATIONS TO COMPLY WITH THIS CITATION, CONTACT PROSECUTOR OF THE COURT.

X Refusal to Sign

X SIGNATURE OF VIOLATOR

EFFECTIVE THE DATE OF ARREST YOUR DRIVING PRIVILEGE IS SUSPENDED/DISQUALIFIED FOR:

DRIVING WITH AN UNLAWFUL BLOOD OR BREATH ALCOHOL LEVEL THIS SUSPENSION/DISQUALIFICATION IS FOR A PERIOD OF SIX MONTHS IF THIS IS THE FIRST VIOLATION OF DRIVING WITH UNLAWFUL BLOOD OR BREATH ALCOHOL LEVEL OR ONE YEAR IF PREVIOUSLY SUSPENDED OR DISQUALIFIED FOR DRIVING WITH AN UNLAWFUL BLOOD OR BREATH ALCOHOL LEVEL. WHEN OPERATING A CMV, YOUR COMMERCIAL DRIVER LICENSE/PRIVILEGE WILL ALSO BE DISQUALIFIED FOR THE SAME PERIOD OF TIME AS THE SUSPENSION.

X REFUSAL TO SUBMIT TO LAWFUL BREATH, BLOOD OR URINE TEST F.S. 322.2615. THIS SUSPENSION IS FOR A PERIOD OF ONE YEAR IF THIS IS A FIRST REFUSAL OR 18 MONTHS IF PREVIOUSLY SUSPENDED FOR THIS OFFENSE. WHEN OPERATING A CMV, YOUR COMMERCIAL DRIVER LICENSE/PRIVILEGE WILL ALSO BE DISQUALIFIED FOR A PERIOD OF ONE YEAR FOR A FIRST REFUSAL OR PERMANENTLY FOR A SECOND REFUSAL WHILE OPERATING A CMV.

LICENSE SURRENDERED? YES NO REASON _____

ELIGIBLE FOR PERMIT? YES NO REASON _____

UNLESS INELIGIBLE THIS CITATION SHALL SERVE AS A TEMPORARY DRIVER LICENSE AND WILL EXPIRE AT MIDNIGHT ON THE 30TH DAY FOLLOWING THE DATE OF ARREST.

AT THE Miami 10 BUREAU OF ADMINISTRATIVE REVIEWS OFFICE, YOU MAY REQUEST, WITHIN 10 DAYS AFTER THE DATE OF ARREST, A REVIEW OF SUSPENSION BY THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES. SEE REVERSE SIDE.

h-Sanchez 2583 177 14-36

NAME SIGNATURE OF OFFICER BADGE NO. ID NO. TROOP UNIT

HEAVY 75004 (Rev. 2008)

FROM P.D. AFTER PRO SE



FLORIDA UNIFORM TRAFFIC CITATION 5901-GEB 1

(1) F.H.P. (2) P.D. (3) S.O. (4) OTHER
 COUNTY: **MONROE 38**
 CITY (IF APPLICABLE): **Key West FL** AGENCY: **KWPD 42**
 IN THE COURT DESIGNATED BELOW THE UNDERSIGNED CERTIFIES THAT HE/SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE THAT ON
COMPLAINT (RETAINED BY COURT)
 DAY OF WEEK: **Sat** MONTH: **04** DAY: **25** YEAR: **2009** TIME: **9:07** A.M. P.M.
 NAME (PRINT): **Shahdara Roba Rood** LAST
 STREET: **P.O. Box 623** IF DIFFERENT THAN ONE ON DRIVER LICENSE "I" HERE
 CITY: **Key West** STATE: **FL** ZIP CODE: **33040**
 TELEPHONE NUMBER: DATE OF BIRTH: **09** DAY: **19** YEAR: **47** RACE: **W** SEX: **M** HEIGHT: **6.0**
 DRIVER LICENSE NUMBER: [REDACTED] CLASS: **FL** CLASS: **E** COL. LICENSE: **Y** V.L. LICENSE EXP. DATE: **9-19-13** IF COMMERCIAL VEH. "I" HERE
 V.L. VEHICLE: **Huffy Bike Blue** IF FLAGGED HAZARDOUS MATERIAL "I" HERE
 VEHICLE LICENSE NO.: TRAILER TAG NO.: STATE: YEAR TAG EXPIRES: IF COMPANION CITATIONS "I" HERE
 UPON A PUBLIC STREET OR HIGHWAY, OR OTHER LOCATION, NAMELY: **Petronia And Duval Street**
 FT. _____ MI. _____ OF ROAD
DID UNLAWFULLY COMMIT THE FOLLOWING OFFENSE. CHECK ONLY ONE OFFENSE EACH CITATION.

09-2187

- UNLAWFUL SPEED MPH SPEED APPLICABLE _____ MPH
- (INTERSTATE 4-LANE HWY WITH 20 FT. MEDIAN OUTSIDE BLK. OR RES. DIST.)
- CARELESS DRIVING SAFETY BELT VIOLATION EXPIRED DRIVER LICENSE
- VIOLATION OF TRAFFIC CONTROL DEVICE IMPROPER OR UNSAFE EQUIPMENT FOUR (4) MONTHS OR LESS
- VIOLATION OF RIGHT-OF-WAY EXPIRED TAG MORE THAN FOUR (4) MONTHS
- IMPROPER CHANGE OF LANE OR COURSE SIX (6) MONTHS OR LESS NO VALID DRIVER LICENSE
- IMPROPER PASSING MORE THAN SIX (6) MONTHS DRIVING WHILE LICENSE SUSPENDED OR REVOKED
- CHILD RESTRAINT NO PROOF OF INSURANCE FAILURE TO STOP AT A TRAFFIC SIGNAL
- DRIVING UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGE, CHEMICAL OR CONTROLLED SUBSTANCE; DRIVING ACTUAL PHYSICAL CONTROL WHILE IMPAIRED OR DRIVING ACTUAL PHYSICAL CONTROL WITH UNLAWFUL BREATH/BLOOD/URINE ALCOHOL LEVEL, BAC _____

OTHER VIOLATIONS OR COMMENTS PERTAINING TO OFFENSE: **Refusal To Sign Citations**

AGGRESSIVE DRIVING IN VIOLATION OF STATE STATUTE **318.14** SECTION _____ SUB-SECTION _____
 YES NO INJURY TO OTHER INJURY TO ANOTHER FATAL YES NO

"YES" TO CRASH, BY SANCHEZ

CRIMINAL VIOLATION COURT APPEARANCE REQUIRED AS INDICATED BELOW
 INFRACTION COURT APPEARANCE REQUIRED AS INDICATED BELOW
 INFRACTION WHICH DOES NOT REQUIRE APPEARANCE IN COURT
5901-GEB 1
 COURT INFORMATION DATE: **5-07-2009** TIME: **9:00 AM**
 LOCATION: **500 Whitehead Key West FL 33040**

ARREST BELIEVED TO: **MCSO JAIL** DATE: **04-25-09**
 I AGREE AND PROMISE TO COMPLY AND ANSWER TO THE CHARGES AND INSTRUCTIONS SPECIFIED IN THIS CITATION. WILLFUL REFUSAL TO ACCEPT AND SIGN THIS CITATION MAY RESULT IN ARREST. UNLAWFUL AND ILLEGAL SIGNATURE IS NOT AN ADMISSION OF GUILT OR WAIVER OF RIGHTS. IF YOU NEED REASONABLE FACILITY ACCOMMODATIONS TO COMPLY WITH THIS CITATION, CONTACT THE CLERK OF THE COURT.
 SIGNATURE OF VIOLATOR: **Refused**
 NAME, RESIDENCE OF OFFICER: **L. Sanchez 2583** TRUCK UNIT: **14-36**

FROM P.D. AFTER PRO SE

Key West Police Department

Report 04/25/2009 20:32

Incident Report

Case # 01-09-002187

| | | | | | | |
|--|---|----------------|-----------|---|-------|--------------------------|
| V E H I C L E 1 | Tag # | Tag Expiration | Year | Make | Model | Vehicle Style Bicycle |
| | Tag Country United States | | Tag State | Vehicle Type Other | VIN | Category |
| | Top Color : BLUE Bottom Color : BLUE Vehicle Features : NOT USED AT THIS TIME | | | Vehicle Features : NOT USED AT THIS TIME Vehicle Disposition : IMPOUNDED NCIC Number : BLUE HUFFY | | |
| | End of Vehicle: 1 | | | | | |

| | | | | |
|--|-----------------------------|----------------------|---------------------------------------|-----------|
| P R O P E R T Y 1 | Category Evidence/Seized | Property Type DVD | Make | Model |
| | Serial # | Color | Description DUI DVD AT ARREST AREA | Condition |
| | Value : \$10.00 | | | |
| End of Property: 1 | | | | |

| | | | |
|--|-------|----------|---|
| N A R R A T I V E 1 | Topic | Original | <p>On 04/25/2009, I, Officer L. Sanchez, responded to the intersection of Duval and Petronia Street, reference a possible intoxicated person driving a bicycle that was weaving all over the road, and had no front white light on the bicycle.</p> <p>Upon my arrival I met with Officer LEAHY, who told me he conducted his traffic stop after observing the driver of the bicycle, SHAHDAROBA RODD, failing to maintain a single lane of travel. He said he observed RODD had no front white light on the bicycle, and he was blocking traffic, as he peddled the bicycle south on Duval Street.</p> <p>I observed RODD was standing next to his bicycle and as the officer was explaining the nature of the traffic stop. RODD decided to walk away from the investigation, into the 800 Bar. Officer LEAHY detained him and walked him back to the initial traffic stop, and turned him over to me. RODD was not in handcuffs.</p> <p>I explained to SHAHDAROBA RODD that I was conducting a BUI investigation and asked him to walk with me to the front of my patrol vehicle and away from all the ongoing traffic. I observed RODD was swaying from left to right as he walked by my side. I observed his eyes were very red and watery, and I was able to smell a very strong odor of an alcoholic beverage coming from his breath.</p> <p>SHAHDAROBA RODD, who I identified by his Florida drivers license, was yelling and, he told me several times he did nothing wrong. I asked if he would do several exercises for me and he told me, "I AM NOT GOING TO DO ANY TRICKY THINGS FOR YOU". I explained the nature of the exercises and informed him they were voluntary exercises, and he understood.</p> <p>RODD told me he was hit by a police vehicle. I informed him that I will call for an officer to further investigate the crash investigation. I made sure he understood that I was conducting a BUI investigation and not a crash investigation. I asked him if he had any kind of injuries or if he needed any</p> |
|--|-------|----------|---|

| | | |
|---|--|---------------------------------|
| Reporting Officer LUIS E SANCHEZ (2583) | Department KEY WEST POLICE DEPARTMENT | Report Status: Approved |
| Officer Name | | Date/Time |
| Verifying Officer SGT SEAN TYER BRANDENBURG (2604) | Department KEY WEST POLICE DEPARTMENT | Date / Time 04/26/2009 01:28 |

01-09-002187

medical assistance before I continued with my BUI investigation and he told me, "NO, NOT FOR NOW".

I observed RODD kept repeating himself and at one point he was yelling so loud I had to tell him to calm down. RODD told me he was drinking beer and was on his way home. He asked me to let him go home and he will forget everything that happened. RODD was not able to stand still.

I arrested him for BUI and asked if he would take a breath test for me at the jail. RODD told me he would. I read him Miranda rights since he was not able to keep quiet and kept telling me he was hit by a police vehicle. I notified my night supervisors who immediately send a second police officer to investigate the crash. I was able to get the rest of the information from Officer LEAHY who told me that upon making contact with RODD, he told him he had collided with the officer's vehicle; however, he told Officer LEAHY it was his fault.

I placed RODD into my police vehicle and transported him to the Monroe County jail. While in transport RODD urinated and defecated inside of my patrol vehicle. Upon my arrival at the sally port, I had to assist him out of my patrol vehicle. While in the DUI room RODD defecated for a second time in his seat and told me he was not going to take the breath test. I asked him to sign the citations and he refused to sign them and told me he now wanted to speak with an attorney. RODD refused to answer any of my questions so I turned him over to the jail.

End of Narrative: 1

| | | |
|--|---|--|
| Reporting Officer LUIS E SANCHEZ (2583) | Department KEY WEST POLICE DEPARTMENT | Report Status: Approved |
| Officer Name | | Date/Time |
| Verifying Officer SGT SEAN TYER BRANDENBURG (2604) | Department KEY WEST POLICE DEPARTMENT | Date / Time 04/26/2009 01:28 |

RESIDENT OF MONROE COUNTY YES NO
RESIDENT OF FLORIDA YES NO

CASE NO.: 09-2187 IN BOOK: _____

Defendant's Name: RODD SHAHDAROBA 09-19-1946

Place of Birth: AN ARBOR MICHIGAN Local Address: STREETS OF KEY WEST FL Scars/Tattoos: UNK

Permanent Address: PO BOX 623 KEY WEST FL 33040 Phone: 305-766-2006 Occ.: RETIRED

Soc. Sec. No.: [REDACTED] Race: WHITE Sex: M Eyes: BRN Hair: GRY Ht: 6.0 Wt: 210

Arrest Date: 04-25-2009 Time: 9:07 PM Location: PATRONIA AND DUVAL KEY WEST FL 33040
(Day, Month, Year) (Place of Arrest)

Co-Defendant's Name: None Taken To County Station: Monroe County Jail

Citation No.: _____ 6541-eva Other: 6311-XCP

| OFFENSES CHARGED | In Viol. Of F.S. | Ordinance of Monroe Co., Sec. |
|------------------------------------|------------------|-------------------------------|
| 1. <u>BUI</u> | <u>327.35</u> | _____ |
| 3. <u>BUI REFUSAL</u> | <u>316.1939</u> | _____ |
| 4. <u>REFUSED TO SIGN CITATION</u> | <u>318.14</u> | _____ |

HOLD FOR FIRST APPEARANCE HEARING - DO NOT BOND OUT (complete reverse sides of white and pink copies for additional witnesses)

PRELIMINARY HEARING:

| | Name | Address | Phone | Location | Date Set |
|-------------------------------------|-------------------------|----------------------------------|-----------------|----------|----------|
| WITNESSES AGAINST DEFENDANT: | | | | | |
| 1. | <u>L. SANCHEZ</u> | <u>1604 N. ROOSEVELT BLVD.</u> | <u>809-1111</u> | | |
| 2. | <u>OFC BISKUP/LEAHY</u> | <u>1604 N. ROOSEVELT BLVD.</u> | <u>809-1111</u> | | |
| 3. | <u>State Of Florida</u> | <u>3202 NORTH ROOSEVELT BLVD</u> | <u>809-1111</u> | | |

Physical Evidence against Defendant: DVD AT ARREST AREA, REFUSAL FORM

Arresting Officers: OFC. L. SANCHEZ Ct. ID # 2583 Dept.: KWPD

Transporting Officers: OFC L. SANCHEZ Ct. ID # 2583 Dept.: KWPD

The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that:
On the 25 Day of APRIL, 2009

RODD, SHAHDAROBA
(Last Name) (First Name) (Initial)

Committed the following violation of law:

Narrative: (Be specific) See attached narrative.

Sworn to and subscribed before me,
The undersigned authority, this

25 Day of APRIL, 2009

[Signature]
Judge - Clerk - Notary Public - L.E.O.

I swear the above statement is correct and true to the Best of my knowledge and belief.

Ofc. L. SANCHEZ
Signature of Officer or Complainant

Dept.: KWPD Ct. ID Number 2583

ID NO.: M36

EDWARD P. DARTOL P...

RESIDENT OF MONROE COUNTY

YES X NO

RESIDENT OF FLORIDA

YES X NO

CASE NO.: 09-2187

IN BOOK: _____

Defendant's Name: RODD SHAHDAROBA

Date of Birth: 09-19-1946

(Last)

(First)

(Middle)

(Day, Month, Year)

On 04/25/2009, I, Officer L. Sanchez, responded to the intersection of Duval and Petronia street, reference a possible intoxicated person driving a bicycle that is weaving all over the road, and had no front white light on the bicycle.

Upon my arrival I met with Officer LEAHY, who told me he conducted his traffic stop after observing the driver of the bicycle **SHAHDAROBA RODD** failing to maintain a single lane of travel. He said he observed RODD had no front white light on the bicycle, and he was blocking traffic, as he peddled the bicycle south on Duval Street.

I observed RODD was standing next to his bicycle and as the officer was explaining the nature of the traffic stop, RODD decided to walk away from the investigation into the 800 Bar. Officer LEAHY detained him and walked him back to the initial traffic stop, and turned him over to me. RODD was not in handcuffs.

I explained to **SHAHDAROBA RODD** that I was conducting a BUI investigation and asked him to walk with me to the front of my patrol vehicle and away from all the ongoing traffic. I observed RODD was swaying from left to right as he walked by my side. I observed his eyes were very red and watery, and I was able to smell a very strong odor of an alcoholic beverage coming from his breath.

SHAHDAROBA RODD who I identified by his Florida drivers license, was yelling and, he told me several times he did nothing wrong. I asked if he would do several exercises for me and he told me "I AM NOT GOING TO DO ANY TRICKY THINGS FOR YOU". I explained the nature of the exercises and informed him they were voluntary exercises, and he understood.

RODD told me he was hit by a police vehicle, I informed him that I will call for an officer to further investigate the crash investigation. I made sure he understood that I was conducting a BUI investigation and not a crash investigation. I asked him if he had any kind of injuries or if he needed any medical assistance before I continued with my BUI investigation and he told me "NO NOT FOR NOW".

I observed RODD kept repeating himself and at one point he was yelling so loud I had to tell him to calm down. RODD told me he was drinking beer and was on his way home. He asked me to let him go home and he will forget everything that happened. RODD was not able to stand still.

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worn to and subscribed before me,
the undersigned authority, this

25 Day of APRIL, 2009

Thomas J. Stutz

Judge - Clerk - Notary Public - L.E.O.

I swear the above statement is correct and true to the
Best of my knowledge and belief.

Ofc L. SANCHEZ

Signature of Officer or Complainant

Dept. KWPD

Ct. ID Number 2583

ID NO.: M36

COURT COPY

STATE ATTORNEY'S COPY

P.S.D. RECORD'S COPY

OFFICER'S COPY

DEFENDANT'S COPY

from P.D. ARTEL P. S. E

INCIDENT #
09-400366
DATE
25 APR 09

STATEMENT FORM

NAME TRISHA A TISCHMACHER
FIRST MIDDLE LAST

ADDRESS 800 DUVAL ST. #3 Key West FL 33046
STREET CITY STATE ZIP

BUSINESS ADDRESS "Retired"
STREET CITY STATE ZIP

TELEPHONE (305) 923-3116 () ()
HOME BUSINESS OTHER

PLEASE PRINT LEGIBLY

I hereby state the following:

I was in my apt on
Petronia + Duval, the bicyclist was
dumped by the police car. The bicyclist
was a little wavy in his drink.
No one was hurt. I did not see the
bicyclist fall down.

I have read each page of this statement consisting of 1 page(s) and swear or affirm that it is true to the best of my knowledge or belief

Trisha Tischmacher
Signed

25 APR 09
Date

Michael Smith
Notary Public Or Officer-Authorized To Administer An Oath

25 APR 09
Date

1. AGENCY OR NUMBER
 2. RELATIVE CASE
 3. AGENCY REPORT NUMBER
 4. REPORTED DATE TIME TIME DISP. TIME COMPLETED
 INCIDENT TYPE: 1. FELONY 2. TRAFFIC FELONY 3. MISDEMEANOR 4. TRAFFIC MISDEMEANOR 5. ORDINANCE 6. OTHER
 6. INCIDENT FROM DAY DATE TIME DAY DATE TIME
 8. OFFENSE #1 TYPE ATTEMPTED 7. STATUTE VIOLATION # 8. NCC/AUCR CODE
 9. OFFENSE #2 TYPE ATTEMPTED STATUTE VIOLATION # NCC/AUCR CODE
 10. INCIDENT LOCATION (STREET/NUMBER) CITY STATE ZIP 11. GEOGRAPHIC INDICATOR
 12. BUSINESS NAME/AREA IDENTIFIER
 13. # OFFENSES 14. # VICTIMS 15. # OFFENDERS 16. # PREM. ENT. 17. # VEH. STOLEN 18. FORCED ENTRY
 19. OCCUPANCY: N/A, 1. NA, 2. OCCUPIED, 3. UNOCCUPIED, 4. ABANDONED
 20. LOCATION TYPE: 1. RESIDENCE - SINGLE, 2. APARTMENT, 3. RESIDENCE - OTHER, 4. HOTEL - MOTEL, 5. COMMERCIAL STORE, 6. GAS STATION, 7. LIQUOR SALES, 8. BAR/night CLUB, 9. SUPERMARKET, 10. DEPT./COUNT STORE, 11. RESTAURANT, 12. DRUG STORE/HOSPITAL, 13. BANK/FINANCIAL INST., 14. COMMERCIAL/OFC. BLDG., 15. INDUSTRIAL/IMP., 16. STORAGE, 17. GOVT./PUBLIC BLDG., 18. SCHOOL/UNIVERSITY, 19. JAIL/PRISON, 20. RELIGIOUS BLDG., 21. AIRPORT, 22. BUS/RAIL TERMINAL, 23. CONSTRUCTION SITE, 24. OTHER STRUCTURE, 25. PARK LOT/DGARAGE, 26. HIGHWAY/ROADWAY, 27. PARK/WOODLANDS, 28. LAKE/WATERWAY, 29. MOTOR VEHICLE, 30. OTHER MOBILE, 31. OTHER KNOWN

3-2187

CAD = 091150350

GENERAL

VICTIM

PERSON 1

PERSON 2

INJURY

WITNESS

ASMP
RUIE
RPSB
RBEIC
RSTCN
RTE

ASMP
RUIE
RPSB
RBEIC
RSTCN
RTE

VICTIM TYPE: 1. AVAILBLE, 2. LAW ENFORCEMENT OFFICER, 3. ADULT, 4. BUSINESS, 5. GOVERNMENT, 6. CHURCH, 7. OTHER
 VICTIM RELATIONSHIP TO OFFENDER: 00. N/A, 01. UNDETERMINED, 02. STRANGER, 03. SPOUSE, 04. EX-SPOUSE, 05. CO-HABITANT, 06. PARENT, 07. SPO. PARTNER, 08. CHILD, 09. STEP-PARENT, 10. STEP-CHILD, 11. IN-LAW, 12. OTHER FAMILY, 13. STUDENT, 14. TEACHER, 15. CHILD OF BOY/GIRL FRIEND, 16. BOY/GIRL FRIEND, 17. FRIEND, 18. NEIGHBOR, 19. SITTER/DAY CARE, 20. EMPLOYEE, 21. EMPLOYER, 22. LANDLORD/TENANT, 23. ACQUAINTANCE, 24. OTHER
 1. VICTIM 2. LAST NAME, FIRST, MIDDLE/BUSINESS 3. AJ 4. R/B 5. DOB/AGE
 6. RESIDENCE ADDRESS APT. # CITY STATE ZIP
 7. OFFENSE INDICATOR 8. RESIDENCE STATUS 02. PART YEAR 8 A. RESIDENCE TYPE 02. COUNTY 04. OUT STATE 9. LOCAL CONTACT ADDRESS
 01. #1 02. #2 03. BOTH 00. N/A 01. FULL YR. 05. NON-RES. 00. N/A 01. CITY 08. FLORIDA
 10. BUSINESS ADDRESS / SCHOOL / CITY / STATE / ZIP 11. DATE/TIME AVBL. 12. OCC./TITLE
 13. RESIDENCE PHONE () 14. BUSINESS PHONE ()
 1. VICTIM 2. LAST NAME, FIRST, MIDDLE/BUSINESS 3. AJ 4. R/B 5. DOB/AGE
 6. RESIDENCE ADDRESS APT. # CITY STATE ZIP
 7. OFFENSE INDICATOR 8. RESIDENCE STATUS 02. PART YEAR 8 A. RESIDENCE TYPE 02. COUNTY 04. OUT STATE 9. LOCAL CONTACT ADDRESS
 01. #1 02. #2 03. BOTH 00. N/A 01. FULL YR. 05. NON-RES. 00. N/A 01. CITY 08. FLORIDA
 10. BUSINESS ADDRESS / SCHOOL / CITY / STATE / ZIP 11. DATE / TIME AVBL. 12. OCC./TITLE
 13. RESIDENCE PHONE () 14. BUSINESS PHONE ()
 1. EXTENT OF INJURY 2. LOCATION ON BODY 3. HOSPITAL/CLINIC SQUAD #
 00. NONE 01. MINOR 02. SERIOUS 03. FATAL V1. #1 V2. #2 V1. #1 V2. #2
 INJURY TYPE: 00. N/A, 01. BURN/SHOT, 02. STABBED, 03. LACERATION, 04. UNCONSCIOUS, 05. POSS. BRN. BONES, 06. POSS. INT. INJURY, 07. LOSS OF TEETH, 08. BURNS, 09. ABRASIONS/BRUISE, 10. OTHER
 1. PERSON INTERVIEWED 2. AJ 3. AGE RES. ADDRESS APT. CITY RES. PHONE
 4. LOCAL CONTACT ADDRESS BUS. ADDRESS CITY BUS. PHONE
 1. PERSON INTERVIEWED 2. AJ 3. AGE RES. ADDRESS APT. CITY RES. PHONE
 4. LOCAL CONTACT ADDRESS BUS. ADDRESS CITY BUS. PHONE
 1. LAST NAME, FIRST, MIDDLE 2. RESIDENCE ADDRESS APT. # CITY STATE RES. PHONE
 OFFENSE INDICATOR 4. BUSINESS ADDRESS CITY ZIP 5. USUAL OCCUPATION 6. BUS. PHONE
 01. #1 02. #2 03. BOTH
 7. INJURED 0Y 0N 0FATAL 8. CITIZENSHIP 9. NICKNAME 10. AJ
 11. DOB/AGE 12. RACE/SEX 13. HGT. 14. WGT. 15. EYE COLOR 16. HAIR
 17. CLOTHING, JEWELRY, MANNERISMS, CHARACTERISTICS 18. SCARS, MARKS, TATTOOS, DEFORMITIES
 19. SS # 20. OBTS #
 1. LAST NAME, FIRST, MIDDLE 2. RESIDENCE ADDRESS APT. # CITY STATE RES. PHONE
 OFFENSE INDICATOR 4. BUSINESS ADDRESS CITY ZIP 5. USUAL OCCUPATION 6. BUS. PHONE
 01. #1 02. #2 03. BOTH
 7. INJURED 0Y 0N 0FATAL 8. CITIZENSHIP 9. NICKNAME 10. AJ
 11. DOB/AGE 12. RACE/SEX 13. HGT. 14. WGT. 15. EYE COLOR 16. HAIR
 17. CLOTHING, JEWELRY, MANNERISMS, CHARACTERISTICS 18. SCARS, MARKS, TATTOOS, DEFORMITIES
 19. SS # FROM P.D. AFTER PRE S 20. OBTS #

HAIR LENGTH: 1. LONG, 2. MEDIUM, 3. SHORT, 4. RECEDING, 5. BALDING, 6. BALD
 HAIR STYLE: 1. AFRICAN/NATURAL, 2. BRAIDED, 3. SLEEK, 4. DIRTY/NEARBY, 5. DISHWOLOCS, 6. PROCESSED, 7. STYLED, 8. UNCOMBED, 9. WAVY/CURLY
 FACIAL HAIR: 1. CLEANSHAVEN, 2. FULL BEARD, 3. PU MANCHU, 4. PLUG, 5. GOATBE, 6. LOWER LIP, 7. MUSTACHE, 8. BEARD/WHIS, 9. UNSHAVEN
 COMPLEXION: 1. LIGHT, 2. MEDIUM, 3. DARK, 4. RUDDY, 5. TANNED, 6. MUAATTO, 7. ALEND, 8. ACNE, 9. PIMPLED
 TEETH: 1. BROKEN, 2. BLACK TEETH, 3. DECAYED, 4. DIRTY, 5. GOLD, 6. GOLD LINED, 7. DETERIOR, 8. MISSING, 9. VERY WHITE
 APPEARANCE/SIMILAR: 1. DIRTY, 2. FLABBY, 3. NEAT, 4. ANGRY, 5. CALM, 6. COOKY, 7. DRUNK, 8. NERVOUS, 9. VOLUNT
 SPEECH: 1. ACCENT, 2. RAPID, 3. SLOW, 4. LOUD, 5. SOFT, 6. LISPS, 7. NASAL, 8. RABBY, 9. STUTTER
 PALM HANDS: 1. RIGHT, 2. LEFT, 3. UNKNOWN
 BUILD: 1. LIGHT, 2. MEDIUM, 3. HEAVY

09-2187

BUI =

Court 5-7-2009

Fowler

Disp = 2033

Arrival = 2035

Arrested = 2107

Dep = 2144

Arrival = 2200

OFFICER ASSAULTED / KILLED

| 1. INCIDENT TYPE <input type="checkbox"/> 1. OFFICER KILLED FELONIOUS <input type="checkbox"/> 2. OFFICER KILLED ACCIDENT OR NEGLIGENCE <input type="checkbox"/> 3. OFFICER ASSAULTED, NO INJURY <input type="checkbox"/> 4. OFFICER ASSAULTED, MINOR INJURY <input type="checkbox"/> 5. OFFICER ASSAULTED, SERIOUS INJURY | | 2. OFFICER ACTIVITY <input type="checkbox"/> 1. RESPONDING TO DISTURBANCE <input type="checkbox"/> 2. BREAKING AND ENTERING IN PROGRESS OR PURSUING <input type="checkbox"/> 3. ROBBERY IN PROGRESS OR PURSUING ROBBERY SUSPECT <input type="checkbox"/> 4. ATTEMPTING OTHER ARREST <input type="checkbox"/> 5. CIVIL DISORDER <input type="checkbox"/> 6. DETECTIVE OR SPECIAL ASSIGNMENT, ASSISTED <input type="checkbox"/> 7. OTHER, ALONE <input type="checkbox"/> 8. OTHER, ASSISTED | | <input type="checkbox"/> 6. DOMESTIC DISTURBANCE <input type="checkbox"/> 7. HANDLING, TRANSPORTING, CUSTODY OF PRISONERS <input type="checkbox"/> 8. INVESTIGATING SUSPICIOUS PERSONS OR CIRCUMSTANCES <input type="checkbox"/> 9. AMBUSH, NO WARNING <input type="checkbox"/> 10. ASSAILANT MENTALLY DERANGED <input type="checkbox"/> 11. TRAFFIC PURSUIT OR STOP <input type="checkbox"/> 99. OTHER | | | | | | | | | | | | |
|--|---------------------------------------|--|--|---|--|--------------|-----|----------------|--|--|--|--------|--|----------|--|-----------|
| 3. TYPE OF ASSIGNMENT <input type="checkbox"/> 1. ONE PERSON VEHICLE, ALONE <input type="checkbox"/> 2. ONE PERSON VEHICLE, ASSISTED <input type="checkbox"/> 3. TWO PERSON VEHICLE <input type="checkbox"/> 4. DETECTIVE OR SPECIAL ASSIGNMENT, ALONE | | 4. (ANSWER ALL QUESTIONS) WAS OFFICER WEARING BODY ARMOR? <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNK DID ARMOR PREVENT SERIOUS INJURY OR FATALITY? <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNK WAS OFFICER AWARE OFFENDER HAD WEAPON? <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNK DID OFFICER USE OFFICER'S WEAPON? <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNK WAS A FIREARM DISCHARGED BY OFFENDER? <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNK DISTANCE FROM OFFICER IN FEET (ESTIMATE) _____ WAS A FIREARM DISCHARGED BY THE OFFICER? <input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNK | | | | | | | | | | | | | | |
| 5. WAS OFFENDER INJURED? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK EXTENT OF INJURIES TO OFFENDER <input type="checkbox"/> 00. NA <input type="checkbox"/> 01. MINOR <input type="checkbox"/> 02. MODERATE <input type="checkbox"/> 03. SERIOUS <input type="checkbox"/> 04. FATAL | | <table border="1"> <tr><th colspan="2">OFFENDER</th></tr> <tr><th>PLS</th><th>AGE</th></tr> <tr><td> </td><td> </td></tr> </table> | | OFFENDER | | PLS | AGE | | | 6. OFFICER EXPERIENCE (IN YEARS) _____ AGE _____ 7. OFFICER ASSAULTED BY OFFENDERS/SUSPECT # _____ | | | | | | |
| OFFENDER | | | | | | | | | | | | | | | | |
| PLS | AGE | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| ADMIN. | 1. Officer Reporting (Print and Sign) | | | 2. ID Number(s) | | 3. Unit | | 4. Date | | | | | | | | |
| | 5. Officer Reviewing (If Applicable) | | | 6. ID Number | | 7. Routed To | | 8. Referred To | | 9. Assigned To | | 10. By | | 11. Date | | 12. Pg. # |



KEY WEST POLICE DEPARTMENT

DUI CHECK SHEET

Paperwork for the Jail

- 1.) Arrest Affidavit (original) _____
- 2.) Top copy of DUI citation _____
- 3.) Photocopy of DUI Check Sheet _____
- 4.) Copy of breath test result/ _____
- 5.) Jail Assessment form _____
- 6.) Victim Notification form _____
- 7.) White top copy of any criminal citations _____

Paperwork for Defendant

- 1.) Yellow Copy of DUI citation _____
- 2.) Copy of Breath Test result Refusal
- 3.) Copy of Vehicle Acquisition N/A
- 4.) Yellow copies of any other citations X 2

Paperwork for Office/Records to turn in

- 1.) Copy of Arrest Affidavit _____
- 2.) Original DUI Check Sheet _____
- 3.) Copy of Offense Report _____
- 4.) Any Witness Written Statements _____
- 5.) Property Receipts _____
- 6.) Original Breath test result/affidavit _____
- 7.) Blue copy of DUI citation _____
- 8.) Any Traffic citations _____
- 9.) FDLE evidence request form (if applicable) _____
- 10.) Copy of Crash reports (if applicable) _____
- 11.) Blue copies of any criminal citations _____
- 12.) Drivers License (if applicable) _____

M. D. ...



KEY WEST POLICE DEPARTMENT
FIELD SOBRIETY AND DUI CHECK SHEET

Date of Incident: 04-25-09 DUI Citation #: 6311-XCP Court Date: 05-07-2009
Court Time: 9:00 AM Court Location: MONROE COUNTY Judge: FOWLER
IN-CAR VIDEO YES NO DUI ROOM VIDEO YES NO

Defendant's Name: ShahdAROLA Rodd Drivers License # & State of Issue: [REDACTED]
Arresting Officer: LUIS E. SANCHEZ ID #: 2583

TIMES

Defendant placed under arrest for driving under the influence at: 9:07 pm hours
Departed the arrest location at: 9:44 pm hours
Arrived at the DUI Room at: 10:00 pm hours

VEHICLE CONTACT

BOLO Vehicle YES NO If yes, what time was BOLO received? _____ hours
What time was Officer notified? _____ hours
Dispatcher ID # who received BOLO information _____

Did reporting party stop? YES NO
Name of reporting party: _____
Address: _____ Phone: _____

If yes, is there a statement? YES NO Anonymous* * You must confirm with dispatch, if reporting party wishes to remain anonymous.

CRASH CASE YES NO

* If NO, skip this section

Location of crash: DUAL / Patterson St I arrived at the crash scene at: 9:33 pm hours
I verified that the crash occurred at: 9:33 pm hours At location: Patterson / DUAL St.
I verified that ShahdAROLA Rodd was the driver (explain how verified) _____

Crash investigation completed: YES NO If no, why? _____
Defendant informed of beginning of DUI investigation: YES NO If no, why? I Did not investigate the crash
Miranda Rights read after crash investigation and prior to beginning of DUI investigation?
 YES NO If no, why? _____

I verified that _____ had consumed no alcoholic beverages since the crash (explain how verified) _____

EVIDENCE OF DUI FOUND IN VEHICLE OR ON DEFENDANT

Open Containers: YES NO Type: LAN BEER (See DVD)

Closed Containers: YES NO Type: _____

Drugs: YES NO Description: _____

- Note: Take evidence into property. In the case of prescription medication, make note of type and amount, take a photo (if possible) and then send with defendant to the jail, may be necessary medication (send a sample to FDLE for analysis).

Miscellaneous Items Found: _____

EXAMINATION OF DRIVER

Driver(s): _____

Speech was: loud

Odor of an alcoholic beverage was: VERY VERY STRONG

Face was: Red, Wet

Clothing was: DIRTY, MOIST, NO shirt Δ WAS WEARING shirt

Ability to walk was: SWAYING Δ WAS RELEASED w/o his

Ability to stand was: NOT STILL

Actions were: NOT COOPERATIVE yelling Δ denies clothes

PASSENGER / WITNESS INFORMATION

of Passengers 0 (need to interview passengers) in vehicle

Passenger Witness Statement
 Name: _____
 Address: _____
 City/State: _____
 Phone: _____

Passenger Witness Statement
 Name: _____
 Address: _____
 City/State: _____
 Phone: _____

Passenger Witness Statement
 Name: _____
 Address: _____
 City/State: _____
 Phone: _____

Passenger Witness Statement
 Name: _____
 Address: _____
 City/State: _____
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 City/State: _____
 Phone: _____

Passenger Witness Statement
 Name: _____
 Address: _____
 City/State: _____
 Phone: _____

Passenger Witness Statement
 Name: _____
 Address: _____
 City/State: _____
 Phone: _____

Officers on scene: Biskup
 Officers on scene: Beahy
 Officers on scene: Sgt Rodriguez
 Officers on scene: 1

| | | |
|---------------------|------|---------|
| Agency: <u>KWPD</u> | ID # | Sector: |
| Agency: <u>"</u> | ID # | Sector: |
| Agency: <u>"</u> | ID # | Sector: |
| Agency: <u>1</u> | ID # | Sector: |

KEY WEST POLICE OFFENSE # 09-2187

Driver was requested to voluntarily participate in the Standardized Field Sobriety Exercises YES NO
Driver agreed to voluntarily participate in the Standardized Field Sobriety Exercises YES NO

STANDARDIZED FIELD SOBRIETY EXERCISES

| | | | | |
|---|--|--|--|---|
| (Validated) | | HORIZONTAL GAZE NYSTAGMUS EVALUATION | | <input type="checkbox"/> Did not give this evaluation (see comments) <input type="checkbox"/> Stopped <input checked="" type="checkbox"/> Refused |
| Are you sick or injured? | <input type="checkbox"/> YES <input type="checkbox"/> NO | If yes, what is wrong? _____ | | |
| Do you have any physical defects? | <input type="checkbox"/> YES <input type="checkbox"/> NO | If yes, what kind? _____ | | |
| Are you diabetic? | <input type="checkbox"/> YES <input type="checkbox"/> NO | If yes, do you take insulin? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A | | |
| HGN Instructions: 1. I'm going to check your eyes. (Please remove your glasses.) 2. Keep your head still and follow the stimulus with your eyes only. 3. Do not move your head. 4. Do you understand these instructions? | | | | |
| Do not give this evaluation if this defendant is blind in one eye, has a glass eye, eyes do not track equally, or a head / eye injury exists that may show unequal pupils (if unequal, notify EMS). | | | | |
| Corrective lenses <input type="checkbox"/> YES <input type="checkbox"/> NO If so, Remove them Contacts: <input type="checkbox"/> YES <input type="checkbox"/> NO If so, <input type="checkbox"/> Hard <input type="checkbox"/> Soft Blindness in either eye: <input type="checkbox"/> YES <input type="checkbox"/> NO. If so, do not conduct this evaluation. Eyes track equal: <input type="checkbox"/> YES <input type="checkbox"/> NO. If no, do not conduct this evaluation. Able to follow stimulus: <input type="checkbox"/> YES <input type="checkbox"/> NO Equal pupil size: <input type="checkbox"/> YES <input type="checkbox"/> NO Vertical Nystagmus: <input type="checkbox"/> YES <input type="checkbox"/> NO Appearance: <input type="checkbox"/> Bloodshot <input type="checkbox"/> Watery <input type="checkbox"/> Glassy <input type="checkbox"/> Normal <input type="checkbox"/> Other _____ Eyelids: <input type="checkbox"/> Normal <input type="checkbox"/> Droopy <input type="checkbox"/> Other _____ | | <input type="checkbox"/> Lack of smooth pursuit left eye <input type="checkbox"/> Lack of smooth pursuit right eye <input type="checkbox"/> Distinct and sustained Nystagmus at maximum deviation left eye <input type="checkbox"/> Distinct and sustained Nystagmus at maximum deviation right eye <input type="checkbox"/> Onset of Nystagmus prior to 45degree angle left eye <input type="checkbox"/> Onset of Nystagmus prior to 45degree angle right eye _____ TOTAL AMOUNT OF CLUES (DECISION POINT 4) | | |
| Comments: _____ _____ | | | | |

STANDARDIZED FIELD SOBRIETY EXERCISES

(Validated)

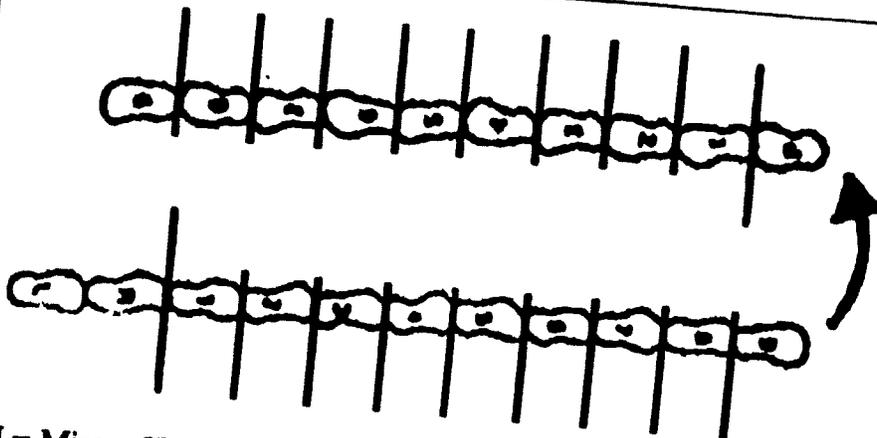
WALK AND TURN EVALUATION

Did not give this evaluation (see comments)

Stopped

Refused

* Stop the evaluation and assess 8 clues, if the defendant steps off the line 3 or more times is in danger of falling or cannot perform the exercise.



- Can't keep balance during Instructions
- Starts before the Instructions are finished
- Stops walking to steady self
- Does not touch heel to toe
- Steps off the line
- Uses arms for balance
- Improper turn
- Incorrect number of steps

____ TOTAL AMOUNT OF CLUES (DECISION POINT 2)

- Road Surface Level
- Free of debris

Imaginary Line Fixed Line

Comments: _____

M = Misses Heel to Toe
S = Steps off Line

Describe turn: _____

ACTUAL STEPS TAKEN

1st nine _____

2nd nine _____

Type of shoe: _____

Comments: _____

WALK AND TURN INSTRUCTIONS:

1. Put your left foot on the line and put your right foot in front of it with your right heel touching your left toe. Keep your hands at your side (Demonstrate).
 2. Do not start until I tell you to.
 3. Do you understand these directions?
 4. When I tell you to begin, take 9 heel-to-toe steps on the line, turn around keeping one foot on the line, and return taking 9 heel to-toe steps. (Demonstrate heel-to-toe; 3 steps is sufficient.)
 5. On the 9th step, keep the front foot on the line and turn by taking several small steps with the other foot. (Demonstrate turn).
 6. While walking, watch your feet at all times, keep your arms at your side, count your steps out loud. Once you begin, do not stop until the exercise is completed.
 7. Do you understand these instructions?
- You may begin the exercise.

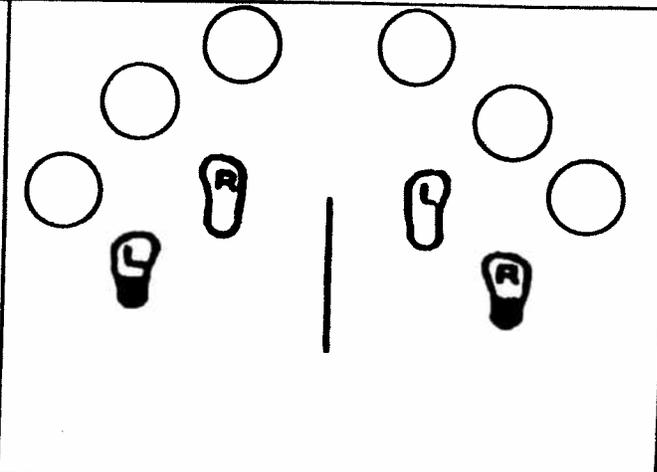
STANDARDIZED FIELD SOBRIETY EXERCISES

| | | |
|--------------------|---------------------------------|---|
| (Validated) | ONE LEG STAND EVALUATION | <input type="checkbox"/> Did not give this evaluation (see comments) <input type="checkbox"/> Stopped <input checked="" type="checkbox"/> Refused |
|--------------------|---------------------------------|---|

* Stop the Evaluation and access 4 clues, if the defendant puts foot down 3 or more times is in danger of falling or cannot perform the exercise.

When the subject puts their foot down record their count number inside the circle for each foot.

Count Reached _____



L R

Sways while balancing
 Using arms to balance
 Hopping
 Puts foot down

Count Reached _____

One-Leg Stand Instructions:

1. Stand with your heels together and your arms at your side (Demonstrate).
2. Do not begin the exercise until I tell you to.
3. Do you understand?
4. When I tell you to, I want you to raise one leg, either leg, approximately 6 inches off the ground, foot parallel to the ground, keep both legs straight, and keep your eyes on the elevated foot.
5. While holding that position, count out loud in the following manner; one thousand and one, one thousand and two, one thousand and three, and so forth until told to stop. (Demonstrate, raised leg and count).
6. Do you understand the instructions?
7. You may begin the exercise.

Comments: _____

BREATH TEST QUESTIONS

| | | |
|---|---|---|
| 1. Are you ill? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | If yes, what's wrong? _____ |
| 2. Are you wearing dentures (false teeth) or a partial plate | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | If yes, is it an upper or lower? _____ If yes, have defendant remove plate or dentures and rinse mouth with clear water. If not removable or subject refuses to remove, still ask to rinse mouth with clear water and start the 20 minute observation. |
| 3. Do you have any foreign substances in your mouth at this time? Chewing gum, tobacco, coins, etc.? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | If yes, have the defendant remove the substance and rinse mouth with clear water. Then start the 20 minute observation. |
| 4. Will you take the breath test? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | If YES, skip implied consent warning. If NO read implied consent warning to subject. |

IMPLIED CONSENT WARNING

1. a. (Breath Test)
I am now requesting that you submit to a lawful test of your breath for the purpose of determining its alcohol content.

b. (Urine Test)
I am now requesting that you submit to a lawful test of your urine for the purpose of determining the presence of chemical or controlled substances.

c. (Blood Test)
I am now requesting that you submit to a lawful test of your blood for the purpose of determining its alcohol content and/or the presence of chemical or controlled substances.

2. If you fail to submit to the test I have requested of you, your privilege to operate a motor vehicle will be suspended for a period of one (1) year for a first time refusal, or eighteen (18) months if your privilege has been previously suspended as a result of a refusal to submit to a lawful test of your breath, urine or blood.

3. Additionally, if you refuse to submit to the test I have requested of you, and if your driving privilege has been previously suspended for a prior refusal to submit to a lawful test of your breath, urine or blood you will be committing a misdemeanor. Refusal to submit to the test I have requested of you is admissible into evidence in any criminal proceeding.

Do you understand the implied consent warning? YES NO
If refusal, ask the following question.
Do you still refuse to submit to this test knowing your driving privilege will be suspended for a period of at least one year?
 YES NO N/A

Defendant refused: YES or NO I need to speak with my attorney
Defendant was unable to sign YES NO

| | | |
|------|------|---|
| Date | Time | Defendant's Signature (Your signature is not an admission of Guilt) |
| / | / | "Refusal" |

| | |
|--|---|
| Arresting Officer (Please print name and ID #) | Breath Test Operator (Please print name and ID #) |
| LUIS E. SANCHEZ | LUIS E. SANCHEZ |

Observation Period Began at _____ hours. By: LUIS E. SANCHEZ Department: KWPD
The samples were taken using the following instrument: Intoxilyzer 4000
Instrument Location: DUI ROOM MCSO Instrument Serial Number: 80-000868

| | | |
|-------|----------------|-------|
| _____ | Hours, Results | _____ |
| _____ | Hours, Results | _____ |
| _____ | Hours, Results | _____ |

The breath test operator explained the results of the breath test to the defendant at _____ hours.

Refusal

FROM P.D. ACCORD P. 17

WARNING OF CONSTITUTIONAL RIGHTS (MIRANDA)

- (1) You have the right to remain silent.
- (2) Anything you say can be used against you in court of law.
- (3) You have the right to talk to a lawyer and have him present while you are being questioned.
- (4) If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
- (5) You can decide to at any time to exercise these rights and not answer any questions or make any statements.

After the warning, ask the following questions and secure an affirmative answer to each to obtain a waiver:

- (1) Do you understand each of the rights I have explained to you? YES NO
- (2) Have you asked any law enforcement officer to speak to an attorney? YES NO
- (3) Having these rights in mind, do you wish to talk to me now? YES NO

R-Refusal

INTERVIEW (QUOTE ANSWERS)

Subject advised of Miranda Rights? YES NO Date 04-25-2009 Time 9:10 pm AT The Arrest Area
 Interviewer's name: Luis B. Sanchez
 Were you operating a vehicle? YES or NO. Where were you going? Home on my Bike
 What street or highway were you on? Duval St Direction of travel? South MA way
 Where did you start from? Duval St What time did you start? Just Now
 Is it day or night? Night What time is it now? I Don't Know
 What is the date? Friday Day of Week? 24th 25th What city (county) are we in? Key West FL

INTERVIEWER TO FILL IN ACTUAL Time 10:30 pm Day Sat Date 04-25-2009

When did you last eat? R What did you eat? R Where? R
 What were you doing during the last three hours? R
 Have you been drinking alcohol beverage? YES or NO. What? Beer How much? A Few
 Can you feel the effects of the alcoholic beverages? I hope not Are you under the influence? R
 Are you wearing an artificial limb? NO Do you have false teeth? NO Do you have a glass eye? NO
 Do you have any physical defects? NO If so, what? /
 Are you sick or injured? NO If so, what's wrong? /
 When did you last sleep? R How much sleep did you have? R
 Were you involved in a crash today? YES or NO. Did you get a bump in your head? YES or NO
 Were you injured in the crash? YES or NO Describe injury? N/A
 Have you had any alcoholic beverages since the crash? YES or NO If so, what? N/A
 Where? N/A How much? N/A When? N/A
 Are you under the care of a doctor or dentist? YES or NO. If so, who? N/A
 What for? / Are you taking tranquilizers, pills or medicines of any kind? NO
 If so, what kind? (get sample). /
 Last does? / Do you have epilepsy? NO Diabetes? NO
 Do you take insulin? YES or NO. If so, last dose? N/A
 Have you used any type of drugs recently? YES or NO If so, what for? Just Beer
 What kind of drug? / Last dose? /

CHEMICAL TEST DATA

Specimen: Blood Breath Saliva Urine None Refused Unable

Comments:

STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY & MOTOR VEHICLES
AFFIDAVIT OF
REFUSAL TO SUBMIT TO BREATH, URINE OR BLOOD TEST

I, OFC Luis E. Sanchez, a duly certified Law Enforcement Officer or Correctional Officer, am a member of KEY WEST POLICE DEPARTMENT (Name of enforcement agency), and I do swear

or affirm that on or about the 25th day of April, 2009, at 9:43 (P.M.) A.M. (Circle One)

NAME Shahdarooba Rodd
(Type or Print) FIRST MIDDLE OR MAIDEN LAST

DL # [REDACTED] state of Florida, was placed under lawful arrest for

The offense of BUI by OFC Luis E. Sanchez and issued Citation # 6311-XCP (Name of Arresting officer)

That on or about the 25th day of April, 2009, at 9:07 (P.M.) A.M. (Circle One)

in MONROE County, [PLEASE CHECK THE BOX OR BOXES THAT APPLY] I did request said person to submit to a breath, urine, or blood test to determine the content of alcohol in his or her blood or breath or the presence of chemical or controlled substances therein. I did inform such person that any refusal to submit to such test or tests would result in the suspension of his or her privilege to operate a motor vehicle for a period of one (1) year for a first refusal, or for a period of eighteen (18) months if the driving privilege of such person has been suspended previously for refusing to submit to such test or tests. I did inform such person that he or she commits a misdemeanor, if said person refuses to submit to a lawful test as requested above, and his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood. In cases involving a Commercial Motor Vehicle, I did inform the driver that this refusal will result in the disqualification of the driver's Commercial Driver's License/privilege for a period of one (1) year in the case of a first refusal or permanently if he or she has previously been disqualified as a result of a refusal to submit to such test.

Said person did at that time and place refuse to submit to such test or tests.

Luis E. Sanchez
Signature of Law Enforcement Officer or Correctional Officer

THE AFFIDAVIT MUST BE NOTARIZED OR ATTESTED TO (F.S. 117.10)

The foregoing instrument was sworn and subscribed before me:
[Signature]
Signature of Attesting Officer
Title OFC
Date 25 APR 09

~~(AFFIX SEAL)
The foregoing instrument was sworn and subscribed before me this ___ day of ___, 20___, by ___ who is personally known to me or who has produced ___ as identification. Notary Public ___~~

Note: Mail or hand deliver to the designated Bureau of Administrative Reviews office, Department of Highway Safety and Motor Vehicles, with the driver's license, the appropriate copy of the UTC, and the probable cause affidavit. If no DUI arrest is made, attach HSMV 7805 (Notice of Commercial Driver's License/Privilege Disqualification).

PD [unclear]

FLORIDA DEPARTMENT OF LAW ENFORCEMENT
ALCOHOL TESTING PROGRAM
BREATH ALCOHOL TEST AFFIDAVIT

Instrument Type: Intoxilyzer 8000
Instrument Registered To: MONROE COUNTY SO
Instrument Serial Number: 80-000868 Software: 8100.27
Date of Test: 04/25/2009

Date of Last Agency Inspection: 04/15/2009
Observation Period Began: 21:07
Subject's Name: SHAHDAROBA RODD

DOB: 09/19/1946 Sex: M

The subject was observed for at least twenty-minutes prior to the administration of the breath test to ensure that the subject did not take anything orally and did not regurgitate.

| Results: | Test | g/210L | Time |
|----------|-------------------|--------|-------|
| | Diagnostics Check | OK | 22:17 |
| | Air Blank | 0.000 | 22:18 |
| | Control Test | 0.078 | 22:18 |
| | Air Blank | 0.000 | 22:19 |
| | Subject Sample #1 | REF* | 22:20 |
| | Air Blank | 0.000 | 22:20 |
| | Control Test | 0.078 | 22:21 |
| | Air Blank | 0.000 | 22:21 |
| | Diagnostics Check | OK | 22:21 |

*Subject Test Refused

Cylinder Lot: 8318021
Exp: 11/22/2010

State of Florida, County of MONROE,

Personally appeared before me the undersigned authority, who () is personally known to me or () produced _____ as identification, and who after being placed under oath, states:

I LUIS E. SANCHEZ, hold a valid Breath Test Operator permit issued by the Florida Department of Law Enforcement, I administered the above breath test to the subject named above in accordance with Chapter 11D-8, Florida Administrative Code, and this form is a true and accurate report of that breath test.

Breath Test Operator: Luis E. Sanchez Date: 04-25-2009
Signature

Sworn to (or affirmed) before me this 25th day of APRIL, 2009

[Signature] X Kevin O'Connell
Signature of Notary Public-State of Florida Printed Name of Notary Public-State of Florida

Note: Pursuant to section 117.10, Florida Statutes, law enforcement officers, correctional officers, traffic accident investigation officers and traffic infraction enforcement officers are notaries public when engaged in the performance of official duties. In accordance with section 316.1934(5), F.S., this completed form is admissible without further authentication and is presumptive proof of the results herein. To be used in accordance with Section 316.1934(5), F.S., and in administrative proceedings pursuant to 322.2615, F.S.

KEY WEST POLICY DEPARTMENT
Key West, FL

PROPERTY RECEIPT

Check ONLY ONE:
 Prisoner Property Legal Evidence Lab Evidence Found Property
 Safekeeping (Return) Stolen/Recovered For Destruction

CASE NUMBER: 09-2187 DATE/TIME IMPOUNDED: 9/25/04 2032 hrs

EXACT ADDRESS WHERE PROPERTY WAS IMPOUNDED: 800 Block of Duval St TYPE OF CASE: DWI

CODES: S = SUSPECT A = ARRESTEE V = VICTIM O = OWNER R = REPORTING PERSON

Felony Misdemeanor

| CODE | NAME (LAST, FIRST, MIDDLE) | RACE | SEX | DOB | ADDRESS | PHONE |
|------|----------------------------|------|-----|---------|------------------------------|-------|
| A | Rodd SHARDA ROBA | W | M | 9/17/16 | 610 1/2 Duval St Key West | |
| ✓ | State of Florida | | | | | |

| ITEM # | QUANTITY/WEIGHT/COUNT | DESCRIPTION (including identifying marks, serial number, color, etc.) |
|--------|-----------------------|---|
| 1 | 1 | Bike (color Blue) Model Lu Jolla Next Street Cruise SN G5050506037 |
| | | LAST Item |

| | | |
|---|--|--|
| HOLD REQUESTED - REQUESTING PERSON/PURPOSE: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | FORFEITURE/SEIZED? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES | NCIG CHECK? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |
| <p>I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt. (Please read the information on the back of this sheet for an explanation of your rights according to law.)</p> <p>Signature (x): _____</p> | | <p>I hereby acknowledge that the above represents all property impounded by me in the official performance of my duty as a Key West Police Officer.</p> <p>Impounding Officer (x) <u>[Signature]</u></p> <p>Employee ID# <u>2965</u></p> |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |

WHITE COPY - Person surrendering property YELLOW COPY - Property Division PINK COPY - Records BLUE COPY - Officer's Copy

From P D ADAM B. S.

KEY WEST POLICY DEPARTMENT
Key West, FL

PROPERTY RECEIPT

Check ONLY ONE: Trial Evidence Lab Evidence Found Property
 Prisoner Property Safekeeping (Return) Stolen/Recovered For Destruction

CASE NUMBER: 09-2187 DATE/TIME IMPOUNDED: 1/25/09 2032 hrs
 EXACT ADDRESS WHERE PROPERTY WAS IMPOUNDED: 800 Block Duval St TYPE OF CASE: DWI
 Felony Misdemeanor
 CODES: S = SUSPECT A = ARRESTEE V = VICTIM O = OWNER R = REPORTING PERSON

| CODE | NAME (LAST, FIRST, MIDDLE) | RACE | SEX | DOB | ADDRESS | PHONE |
|--------|----------------------------|---|-----|----------|------------------|-------|
| A | Rodd SHAHARODA | W | M | 04/21/46 | 610 1/2 Duval St | |
| V | State of Florida | | | | | |
| ITEM # | QUANTITY/WEIGHT/COUNT | DESCRIPTION (including identifying marks, serial number, color, etc.) | | | | |
| 2 | 1 | ICOP VIDEO CAR 5004 CAD# 091150350 | | | | |
| | | LAST ITEM | | | | |
| | | | | | | |
| | | | | | | |

HOLD REQUESTED - REQUESTING PERSON/PURPOSE: YES NO
FORFEITURE/SEIZED? YES NO
NCIC CHECK? YES NO

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt. (Please read the information on the back of this sheet for an explanation of your rights according to law.)
 Signature (x): _____

I hereby acknowledge that the above represents all property impounded by me in the official performance of my duty as a Key West Police Officer.
 Impounding Officer (x) [Signature]
 Employee ID# 2965

| | | |
|--------------|---------|---------------------|
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |

WHITE COPY - Person surrendering property YELLOW COPY - Property Division PINK COPY - Records BLUE COPY - Officer's Copy

from PD room B

KEY WEST POLICE DEPARTMENT
Key West, FL

PROPERTY RECEIPT

Check **ONLY ONE**:
 Prisoner Property Trial Evidence Lab Evidence Found Property
 Safekeeping (Return) Stolen/Recovered For Destruction

CASE NUMBER: 09-2177 **DATE/TIME IMPOUNDED:** 04-25-2009 **BIN NUMBER (ECO use only):** [blank]

EXACT ADDRESS WHERE PROPERTY WAS IMPOUNDED: DWARK AND PETAQUIN ST **TYPE OF CASE:** BUI

CODES: S = SUSPECT A = ARRESTEE V = VICTIM O = OWNER R = REPORTING PERSON

Felony Misdemeanor

| CODE | NAME (LAST, FIRST, MIDDLE) | RACE | SEX | DOB | ADDRESS | PHONE |
|--------|----------------------------|---|-----|---------|---------|-------|
| A | Shahica Redd | W | M | 9-19-46 | / | / |
| / | / | / | / | / | / | / |
| ITEM # | QUANTITY/WEIGHT/COUNT | DESCRIPTION (including identifying marks, serial number, color, etc.) | | | | |
| 1 | ONE | BUI ICCP DVD CAD = C91150350 | | | | |
| / | / | / | | | | |
| / | / | / | | | | |

HOLD REQUESTED - REQUESTING PERSON/PURPOSE: YES NO

FORFEITURE/SEIZED? YES NO

NCIC CHECK? YES NO

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt. (Please read the information on the back of this sheet for an explanation of your rights according to law.)

I hereby acknowledge that the above represents all property impounded by me in the official performance of my duty as a Key West Police Officer.

Impounding Officer (x) L. Sanchez
Employee ID# 2583

Signature (x):

| | | |
|--------------|---------|---------------------|
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |

WHITE COPY - Person surrendering property YELLOW COPY - Property Division PINK COPY - Records BLUE COPY - Officer's Copy

PD ARDAN P. S.

KEY WEST POLICY DEPARTMENT
Key West, FL

PROPERTY RECEIPT

Check ONLY ONE:
 Trial Evidence Lab Evidence Found Property
 Prisoner Property Safekeeping (Return) Stolen/Recovered For Destruction

CASE NUMBER: 09-2187 DATE/TIME IMPOUNDED: 01/25/09 2032 hrs

EXACT ADDRESS WHERE PROPERTY WAS IMPOUNDED: 800 Clock of Duval St. TYPE OF CASE: DUI

CODES: S = SUSPECT A = ARRESTEE V = VICTIM O = OWNER R = REPORTING PERSON

Felony Misdemeanor

| CODE | NAME (LAST, FIRST, MIDDLE) | RACE | SEX | DOB | ADDRESS | PHONE |
|----------|----------------------------|---|----------|----------------|--------------------------|-------|
| <u>A</u> | <u>Rodolfo Hernandez</u> | <u>W</u> | <u>M</u> | <u>9/19/76</u> | <u>610 1/2 Duval St.</u> | |
| <u>✓</u> | <u>State of Florida</u> | | | | | |
| ITEM # | QUANTITY/WEIGHT/COUNT | DESCRIPTION (including identifying marks, serial number, color, etc.) | | | | |
| <u>1</u> | <u>1</u> | <u>1 Cop Video CAR# 5101 CAD# 091150350</u> | | | | |
| | | <u>LAST I to</u> | | | | |
| | | | | | | |
| | | | | | | |

HOLD REQUESTED - REQUESTING PERSON/PURPOSE: YES Evidence NO

FORFEITURE/SEIZED? YES NO

NCIC CHECK? YES NO

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt. (Please read the information on the back of this sheet for an explanation of your rights according to law.)

I hereby acknowledge that the above represents all property impounded by me in the official performance of my duty as a Key West Police Officer.

Signature (x): _____ Impounding Officer (x) [Signature] Employee ID# 2298

| | | |
|--------------|---------|---------------------|
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |
| Received By: | Reason: | Date/Time Received: |

WHITE COPY - Person surrendering property YELLOW COPY - Property Division PINK COPY - Records BLUE COPY - Officer's Copy

PD Army P. S.

MONROE COUNTY DETENTION FACILITY
 FIRST APPEARANCE
 KEY WEST
 DATE APRIL 26, 2009
 JUDGE BECKER

VIDEO FIRST: PLANTATION () KEY VACA ()

| DEFENDANTS NAME | CASE NUMBER | DISPOSITION | P.D. APP. |
|----------------------------|--|-----------------------|-----------|
| FALVO, GREGORY | OPEN CONTAINER | sent 2cfs 2 days | PC PD |
| GOOCH, KURT | DUI REFUSAL | PTX2 NO ACI | PC PD |
| MARSTON, SHANE | DOMESTIC BATTERY | 2,500 | PC PD |
| | CHILD ABUSE | 2,500 | |
| MCDONALD, MICHAEL | TRESPASSING FAIL TO LEAVE PROPERTY UPON ORDER BY OWNER | 500 500 | PC PD |
| | RESISTING W/OUT VIOLENCE | 500 | |
| PEDRAZA- JUAREZ, ARTURO | NON RESIDENT REQUIREMENTS FOR DL | 500 | PC PD |
| REBON, FRANCISO | OUT OF COUNTY WRNT (DADE COUNTY) CS#F86004934 REF POSSESSION OF COCAINE, CARRING CONCEALED WEAPON, POSSESSION OF CANNABIS LESS THEN 20GR | NBA | PD |
| RODD, SHAHDAROBA | BUI | PTR 2xw | PC PD |

No Harrot
Contact

NO ACI

FROM P.D. AFTER PRO SE

IN THE COUNTY COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, STATE OF FLORIDA

LOWER KEYS CRIMINAL DIVISION

State of Florida

vs.

Case Number: 2009-MM-01042-A-K

Shahdaroba Rodd
W/M, DOB: 09/19/1946

INFORMATION FOR:

- 1) Driving Under the Influence 316.193(1) (1 M)
- 2) Disorderly Conduct 877.03 (2 M)

In the Name and by Authority of the State of Florida:

Dennis W. Ward, State Attorney for the Sixteenth Judicial Circuit, prosecuting for the State of Florida in the said Judicial Circuit, under oath, information makes that Defendant, Shahdaroba Rodd on or about April 25, 2009, in the County of Monroe and State of Florida, did drive or was in actual physical control of a vehicle, while under the influence of alcoholic beverages or chemical substances as set forth in Florida Statute 877.111, or a controlled substance as set forth in Florida Statute 893 or any combination thereof, and was affected to the extent that his normal faculties were impaired; or while having a blood or breath alcohol level of .08 or higher, contrary to Florida Statute 316.193(1).

COUNT 2: And the said Dennis W. Ward, State Attorney for the Sixteenth Judicial Circuit, prosecuting for the State of Florida in the said Judicial Circuit, under oath, further information makes that Defendant, Shahdaroba Rodd on or about April 25, 2009, in the County of Monroe and State of Florida, unlawfully did commit such acts as are of a nature to corrupt the public morals or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engage in brawling or fighting, or engaged in conduct constituting a breach of the peace or disorderly conduct, contrary to Florida Statute 877.03.

The State hereby "NO ACTIONS"
all remaining charges in this case.

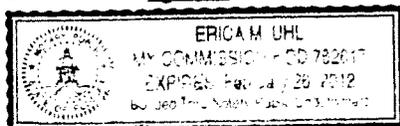


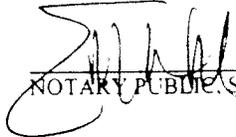
Adam Gersten
Assistant State Attorney
Florida Bar Number: 0054016

STATE OF FLORIDA,)
COUNTY OF MONROE) "

Personally appeared before me, Adam Gersten, Assistant State Attorney for the Sixteenth Judicial Circuit of Florida who is personally known to me and whose signature appears above, and who being duly sworn, says that the allegations set forth in this Information are based upon facts, which if true, would constitute the offenses(s) charged, and that this prosecution is instituted in good faith.

Sworn to and subscribed to before me this 20th day of May, 2009.





NOTARY PUBLIC, State of Florida

FROM P.D. AFTER P. 26 SE

COURT MINUTES

IN THE 16th JUDICIAL CIRCUIT
AN. OR MONROE COUNTY, FLORIDA

Bond # _____ Bond \$ _____

CASE NUMBER: _____

Court Opened _____ on _____ / _____ / 20____ with the following officer present: (ONE CASE PER PAGE)
TIME MONTH DAY YEAR

HONORABLE _____ STATE ATTORNEY _____
DEFENSE ATTORNEY _____ COURT REPORTER _____
STATE OF Florida VS _____ BAILIFF _____

DEFENDANT CHARGED WITH: 1) _____ 2) _____ 3) _____
4) _____ 5) _____ 6) _____

PLED TO COUNTS: 1) _____ 2) _____ 3) _____
4) _____ 5) _____ 6) _____

PLEA

- In jail
- Denial
- Not Guilty
- Demand Filed
- 10 Days Granted For Motion
- 40 Paid App Fee W/I 7 Days
- PD Appt (_____) Contact Weekly
- Information File
- Present with Attorney
- Negotiated plea
- Bond Set \$ _____
- Other _____
- Present Without Attorney
- Guilty
- PSI Ordered
- Not Present In Court
- Nolo-Contendre
- Speedy Trial
- Issue Capias
- Bond Estreated
- Factual Basis

Sentencing Date: _____ Accepts Plea Admittance No Objection to Score Sheet _____ PTS

SENTENCE

IT IS THE JUDGEMENT OF THE COURT AND THE SENTENCE OF THE LAW THAT YOU, THE ABOVE NAMED DEFENDANT:

- Adjudication Guilty
- Nolle-Prosequi
- Drug Offender
- Drug Court
- Probation Restored
- _____ Hours Comm Service _____ Hours Monthly
- Community Control - Period of _____
- Complete terms probation w/in _____ Months
- Confined to MCSO Jail for _____ Days
- Jip Program
- Early Release Review After JIP Program
- Hold & Transport (bed space) to _____
- Same Terms and Conditions
- State Prison
- Tier Program or Other W/I Prison
- Sentence Concurrent
- Urinalysis _____ Weekly
- Psychological Evaluation _____
- NA / AA Meetings _____ Weekly
- No Contact with Victim
- No Harmful Contact
- Surrender Weapons
- Indiv/Group Counseling w/Res. Trmt. if needed
- Indigent for Evaluation/Treatment
- Adjudication Withheld
- Placed on Probation
- After Care
- Probation Revoked
- New Period of Probation
- Electronic Monitor Phone Line Inst. within 10 days
- New Period of Community Control
- Indigent for Cost of Supervision
- Jail Program
- PSW/COS Waived during Jail / Program
- Care Center
- Furlough Granted Start _____ / End _____
- Make up Arrears
- Credit For Time Served (CFTS)
- Other _____
- Sentence Consecutive
- 90 / 90 Program
- Report to DOC within _____ of Release
- License Revoked / Suspended Work Permit _____
- Make equal monthly installments
- Previously Imposed JL Remains in Effect
- Daily Activity/Exercise as directed 1/2-1 hr Daily 3xs week
- Sub Abuse Eval W/I _____ days & treatment if needed
- Advised of Immigration Rights Appeal Rights _____

COSTS

- Attorney's Fees \$ _____
- Fines \$ _____
- Judgment Lien \$ _____
- Convert Fines to CSW @ \$10.00/hr _____
- FHP \$ _____
- Bond Money - deduct court cost \$ _____
- OTHER INFORMATION: _____
- F.S. 27.3455 - \$ _____
- Cost _____
- Cost Super DOC - \$ _____
- Early Term. _____
- FFWL - \$ _____
- Refund Bond Money _____
- BOCC - \$ _____
- SA \$ _____
- MCSO \$ _____
- PD \$ _____
- Restitution \$ _____

DANNY L. KOLHAGE, CLERK OF THE CIRCUIT AND COUNTY COURTS.
BY: _____ DEPUTY CLERK, in attendance.

Continued
 See Second Page

7/30 MO

IN THE COUNTY COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

LOWER KEYS CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

vs.

Case Number 2009-MM-01042-A-K

SHAHDAROBA RODD,
Defendant.

_____ /

**ANSWER TO DISCOVERY NOTICE
DEMAND FOR RECIPROCAL DISCOVERY
DEMAND FOR NOTICE OF ALIBI
STATE'S WITNESS LIST**

The State of Florida hereby responds to the Notice of Discovery made on behalf of the Defendant pursuant to Rule 3.220 of the Florida Rules of Criminal Procedure. The State hereby demands reciprocal discovery and all disclosure required by the Defendant as set forth in Rule 3.220 of the Florida Rules of Criminal Procedure. Further, the State hereby demands notice of alibi pursuant to Rule 3.200 of the Florida Rules of Criminal Procedure.

NOTICE IS HEREBY GIVEN that all information and material as defined by Rule 3.220(b) of the Florida Rules of Criminal Procedure, within the State's possession or control has been disclosed by providing copies of all reports and statements in the State Attorney's file to the Attorney for the Defendant. Those items are as follows:

| | |
|---|-------------|
| Florida Uniform Traffic Citation | 3 citations |
| Initial Offense or Incident Report | 2 pages |
| Witness Statements and or Transcripts | 1 page |
| Arrest Form | 2 pages |
| Breath Test Results Affidavit | 1 page |
| Key West Police Department Field Sobriety & DUI Check Sheet | 4 pages |
| Affidavit of Refusal to Submit to Test | 1 page |
| Driver's License | 2 pages |
| Property Receipts | 3 pages |

FROM P.D. AFTEL PKC SE

The Attorney for the Defendant, Office of the Public Defender - Key West, is hereby granted permission to inspect, copy, test, and photograph the material described in supplied reports which are attached to this answer, if prior notice has been given to the undersigned of any such inspection, copying, testing, or photographing.

WITNESS LIST

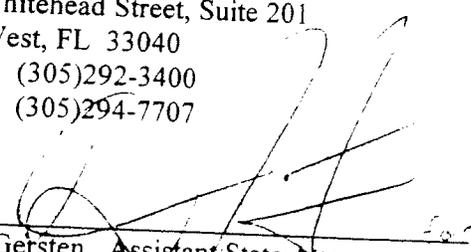
The following is a list of persons known to the prosecutor to have information which may be relevant to the offense charged:

- Eric M Biskup, #1929, Key West Police Department, 1604 N. Roosevelt Blvd., Key West, FL 33040
- Brian Leahy, #2965, Key West Police Department, 1604 North Roosevelt Boulevard, Key West, FL 33040
- Luis E. Sanchez, #2583, Key West Police Department, 1604 North Roosevelt Boulevard, Key West, FL 33040
- Thomas Stutz, Key West Police Department, 1604 North Roosevelt Boulevard, Key West, FL 33040

I do certify that a copy hereof has been furnished to Office of the Public Defender - Key West, 801 Eisenhower Drive, Key West, FL 33040 by delivery on June 8th, 2009.

Respectfully submitted,

Dennis W. Ward, State Attorney
530 Whitehead Street, Suite 201
Key West, FL 33040
Phone: (305)292-3400
Fax: (305)294-7707

By: 
Adam Gersten, Assistant State Attorney
Florida Bar # 0054016

Call Staver

IN THE COUNTY COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR MONROE COUNTY

STATE OF FLORIDA

V.

CASE NO: 09-MM-1042

SHAHADAROBA RODD
Defendant

_____ /

MOTION TO COMPEL

COMES NOW the Defendant, SHAHADAROBA RODD, by and through undersigned counsel, pursuant to Rule 3.220, FRCrP, and moves this Honorable Court to compel the State to provide the Defendant with all radio transmission, communications and recordings between Officer Leahy, Officer Sanchez and the KWPD dispatch and any and/or all law enforcement officers on April 25, 2009 involving the above-named Defendant, and in support thereof states the following:

1. That the Defendant is charged by information with Driving Under the Influence.
2. That on May 18, 2009, the undersigned made a public information request with the KWPD for with all radio transmission, communications and recordings between Officer Leahy, Officer Sanchez and the KWPD dispatch and any and/or all law enforcement officers, via fax, and was advised once the KWPD completed my request, all materials would be forwarded to the Office of the State Attorney.
3. That on July 1, 2009, July 11, 2009 and July 27, 2009, the undersigned requested the communications by emailing ASA Gersten.
3. The State has failed to provide the Defendant with the requested communications.
4. Defendant requires the inspection of the communications in order to prepare effectively for trial.
5. Defendant will be deprived of effective assistance of counsel and due process of law without said inspection of the communications.

FROM P.D. AFTER PRO SE

WHEREFORE, the Defendant moves this Honorable Court to compel the State to provide the Defendant with the photographs of the spear gun and battery charger.

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered by hand/fax/mail to the office of the State Attorney, Sixteenth Judicial Circuit, 530 Whitehead Street, Key West, Florida, this 30 day of July, 2009.

Respectfully submitted,

ROSEMARY E. ENRIGHT
PUBLIC DEFENDER
Sixteenth Judicial Circuit
801 Eisenhower DR.
Key West, Florida 33040
(305) 294-2501



MARGARET M. GUTIERREZ
Assistant Public Defender
Florida Bar No.: 48972

IN THE COUNTY COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR MONROE COUNTY

STATE OF FLORIDA

V.

CASE NO: 09-MM-1042

SHAHADAROBA RODD
Defendant

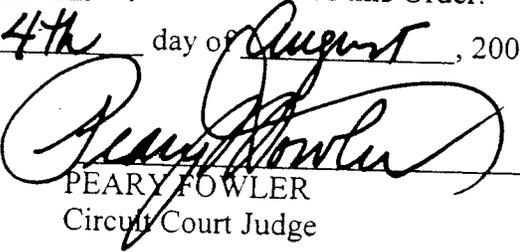
ORDER TO COMPEL DISCOVERY

THIS CAUSE having come before the Court this 4th day of August, 2009, upon the Defendant's Motion to Compel, and the Court having heard argument of counsel and being otherwise fully advised in the premises, it is hereby:

ORDERED AND ADJUDGED:

That Defendant's Motion to Compel be and hereby is **GRANTED**, and the State shall provide to the Office of the Public Defender any and all radio transmission, communications and recordings between Officer Leahy, Officer Sanchez and the KWPD dispatch and any and/or all law enforcement officers on April 25, 2009 regarding the above-captioned case within 10 days of the date of this Order.

DONE AND ORDERED this 4th day of August, 2008, at Key West, Monroe County, Florida.


PEARY FOWLER
Circuit Court Judge

cc: Public Defender
State Attorney

FROM P.D. AFFOL PRO SE

IN THE COUNTY COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

LOWER KEYS CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

vs.

Case Number 2009-MM-01042-A-K

SHAHDAROBA RODD,
Defendant.

SUPPLEMENTAL DISCOVERY EXHIBIT

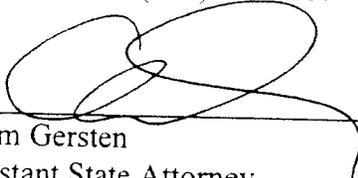
The State of Florida hereby files this Supplemental Discovery Exhibit pursuant to Florida Rule of Criminal Procedure 3.220, as follows:

CAD Call Report 4 pages

I do certify that a copy hereof has been furnished to Office of the Public Defender - Key West by delivery on August 13th, 2009.

Respectfully submitted,

Dennis W. Ward, State Attorney
530 Whitehead Street, Suite 201
Key West, FL 33040
Phone: (305)292-3400
Fax: (305)294-7707

By: 
Adam Gersten
Assistant State Attorney
Florida Bar # 0054016

FROM P.D. AFTER PR &

Donald J. Lee, Jr.

Chief of Police



Key West

POLICE DEPARTMENT

To: Adam Gersten, Assistant State Attorney
From: Jessica A. Strader, Communications Administrator
Date: August 6, 2009
Ref: Public Records Request

This letter is to inform you that I do not show that an emergency call exists for Key West Police Department case 09-2187. I have included the CAD report as requested.

If you have any questions please do not hesitate to contact me personally.

Sincerely,

Jessica A. Strader

Communications Administrator

Key West Police Department

jstrader@keywestcity.com

Office: 305-809-1075

Fax: 305-809-1078



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



FROM P.D AFTER Pizo SE

8/06/09
11:02:14

HTE CAD
CAD CALL INFORMATION

PAGE 1
091150350

Call Number: 091150350 SI Call Type.: 156 T50 TRAFFIC STOP
Entry Day/Tm: 4/25/09 20:32:37 156 T50 TRAFFIC STOP

Police
Police

CmnN: Agency.....: 001 KEY WEST
Location...: 800 DUVAL ST Apt: INTERSECTN
City.....: KEYWEST Block#: 800 Loc ID: I Mapr: 1112XX6XO
Intersectn.: PETRONIA OLIVIA

Caller Name: Last: First: Mid: See Caller:
Address...: Phone#: Apt:
City/State: Source: SI

Call Taker.: 2978 GAINNEY JASON DISPATCH2
Dispatcher.: 2978 GAINNEY JASON DISPATCH2

NARRATIVE

M36 - 1 DETAINED REF DUI 21:07:35
M36 - DETAINED TIME WILL BE 10-15 TIME 21:18:30
P74 - CRASH OCC'D AT PETRONIA/DUVAL VEH VS BICYCLE 21:38:05
PER M36 - SUSP DEFACATED ON BACK SEAT OF OFC PATROL VEH 22:40:46

M36 Unit Status History Information

4/25/09 20:33:15 4 DISPATCHED D | 2583 SANCHEZ, LUI
4/25/09 20:33:16 32 ENROUTE 51 |
4/25/09 20:35:47 6 AT SCENE 97 * |
4/25/09 21:03:24 15 STOP UNIT TIME CHECK SP |
4/25/09 21:17:50 43 IN CUSTODY/ARRESTED IC |
4/25/09 21:41:12 44 ENROUTE TO JAIL EJ |
4/25/09 21:57:18 45 AT JAIL AJ |
4/26/09 1:16:38 20 AVAILABLE AV |

UNIT LOCATIONS

1 5501 W JR COLLEGE RD Apt: 04/25/09
City: KEYWEST ST: ZIP: Block#: 5500 21:41:14
Common Name: MONROE CO DETENTION CENTER

74 Unit Status History Information

4/25/09 21:23:13 4 DISPATCHED D | 3025 SHOULDICE, MIC
4/25/09 21:23:15 32 ENROUTE 51 |
4/25/09 21:27:19 6 AT SCENE 97 |
4/25/09 21:34:38 15 STOP UNIT TIME CHECK SP |
4/25/09 21:44:15 47 ENROUTE TO STATION ES |
4/25/09 23:17:01 20 AVAILABLE AV |

UNIT LOCATIONS

REC'D THESE PAPERS FROM P.D. AFTER I WENT PRO SE

8/06/09
11:02:14

HTE CAD
CAD CALL INFORMATION

PAGE 2
091150350

1 1604 N ROOSEVELT BV Apt: 04/25/09
City: KEYWEST ST: ZIP: Block#: 1600 21:44:19
Common Name: POLICE DEPARTMENT

P75 Unit Status History Information

4/25/09 20:51:55 4 DISPATCHED D | 3026 WALLIS, DER
4/25/09 20:51:55 6 AT SCENE 97 |
4/25/09 21:03:24 15 STOP UNIT TIME CHECK SP |
4/25/09 21:43:24 47 ENROUTE TO STATION ES |
4/25/09 22:40:26 20 AVAILABLE AV |

UNIT LOCATIONS

1 1604 N ROOSEVELT BV Apt: 04/25/09
City: KEYWEST ST: ZIP: Block#: 1600 21:43:30
Common Name: POLICE DEPARTMENT

P81 Unit Status History Information

4/25/09 20:32:43 4 DISPATCHED D | 1929 BISKUP, ERI
4/25/09 20:32:44 32 ENROUTE 51 |
4/25/09 20:40:20 6 AT SCENE 97 |
4/25/09 20:41:59 9 STARTED SELF-INITIAT SI |
4/25/09 20:53:18 10 ENDED SELF-INITIATED AV |
4/25/09 21:03:24 15 STOP UNIT TIME CHECK SP |
4/25/09 22:23:36 9 STARTED SELF-INITIAT SI |
4/25/09 22:25:11 10 ENDED SELF-INITIATED AV |
4/25/09 22:25:14 20 AVAILABLE AV |

F19 Unit Status History Information

4/25/09 20:59:09 4 DISPATCHED D | 2298 RODRIGUEZ, PAB
4/25/09 20:59:11 32 ENROUTE 51 | 2965 LEAHY, BRI
4/25/09 21:07:45 15 STOP UNIT TIME CHECK SP |
4/25/09 21:23:49 6 AT SCENE 97 |
4/25/09 21:34:38 15 STOP UNIT TIME CHECK SP |
4/25/09 22:25:18 20 AVAILABLE AV |

F68 Unit Status History Information

4/25/09 20:32:38 4 DISPATCHED D | 2965 LEAHY, BRI
4/25/09 20:32:38 6 AT SCENE 97 |
4/25/09 20:32:38 11 DESIGNATED PRIMARY U P |
4/25/09 20:44:26 16 RESET UNIT TIME CHEC OK |
4/25/09 21:03:11 16 RESET UNIT TIME CHEC OK |
4/25/09 21:16:30 16 RESET UNIT TIME CHEC OK |
4/25/09 21:34:34 16 RESET UNIT TIME CHEC OK |
4/25/09 21:35:38 20 AVAILABLE AV |

8/06/09
11:02:14

HTE CAD
CAD CALL INFORMATION

PAGE 3
091150350

A D D I T I O N A L C A L L A D D R E S S E S

1 801 WHITEHEAD ST Apt: INTERSECTN
City: KEYWEST ST: ZIP: Block#: 800
Common Name:

D I S P O S I T I O N S

| | | | | | | | | |
|---|-----|---------------------|-------|---|---|-----------|-------|------|
| 1 | 055 | INC REPORT NUMBER | Case# | 1 | - | 09-002187 | Unit: | M36 |
| 2 | 038 | TRAFFIC CITATION | Case# | 1 | - | 00-000000 | Unit: | TF68 |
| 3 | 005 | CRASH REPORT NUMBER | Case# | 1 | - | 09-400366 | Unit: | P74 |
| 4 | 008 | ARREST | Case# | 1 | - | 00-000000 | Unit: | M36 |
| 5 | 038 | TRAFFIC CITATION | Case# | 1 | - | 00-000000 | Unit: | M36 |
| 6 | 038 | TRAFFIC CITATION | Case# | 1 | - | 00-000000 | Unit: | M36 |
| 7 | 038 | TRAFFIC CITATION | Case# | 1 | - | 00-000000 | Unit: | M36 |
| 8 | 038 | TRAFFIC CITATION | Case# | 1 | - | 00-000000 | Unit: | M36 |

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Junk

Drafts

Sent

Deleted (30)

A. Legal Mess (...)

ALAN, TRACY, k...

cindy huff (86)

connie

CR,P trip friend...

david fisher-SB...

ebay buys (5)

EGBrandi

jean gray (86)

KWPD stuff

Lenny

mike guyette (...)

misc. personal ...

My Legal Stuff

Romano (8)

ron carter, noo...

spanish diction...

Manage folders

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Calendar

online albums



Rodd, Shahdaroba

From: Margaret M. Gutierrez (mgutierrez@pd16.org)

Sent: Tue 9/29/09 11:36 AM

To: Adam Gersten (agersten@keyssao.org)

Cc: shahdaroba rodd (kwhatman@hotmail.com)

Mr. Gersten,

I received an email from Mr. Rodd on September 25, 2009. Mr. Rodd advises that he went to your office on that day and was advised by your receptionist that a CD of a 911 call exists regarding his case.

As you know, I previously filed requests and motions with the KWPD and you to be provided with all radio transmissions and/or communications, including, but not limited to, 911 calls.

Please advise if a CD of 911 calls exists, why it has not been previously disclosed and provided, and when Mr. Rodd can expect to receive the CD. As it is discoverable information, I believe that there should be no costs to Mr. Rodd for obtaining such materials.

I look forward to your prompt reply.

Margaret M. Gutierrez

Assistant Public Defender
801 Eisenhower Drive
Key West, Florida 33040
Office: 305-294-2501

Please consider the environment before printing this email

Please be advised that Florida has a "Sunshine" public records law, and all correspondence to me via email may be subject to disclosure. Under Florida law, email messages are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact the office by phone or regular mail.

Reply Reply all Forward | Delete |

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2

FLORIDA TRAFFIC CRASH REPORT

LONG FORM

MAIL TO: DEPT. OF HIGHWAY SAFETY & MOTOR VEHICLES TRAFFIC CRASH
RECORDS, NEIL KIRKMAN BUILDING, TALLAHASSEE, FL 32399-0537

DO NOT WRITE IN THIS SPACE

| | | | | | | | | | | | | | | | |
|------------------------|--------------------|---------------------------|-----------------|------|--|-----------------------|---------------|--|----------------------|-------------------------------------|--|------------------------------|--------------|--------------------------|----------|
| Time & Location | DATE OF CRASH | 04 25 09 | TIME OF CRASH | 2032 | AM <input type="checkbox"/> PM <input checked="" type="checkbox"/> | TIME OFFICER NOTIFIED | 2032 | AM <input type="checkbox"/> PM <input checked="" type="checkbox"/> | TIME OFFICER ARRIVED | 2127 | AM <input type="checkbox"/> PM <input checked="" type="checkbox"/> | INVEST. AGENCY REPORT NUMBER | 09-400366 | HSMV CRASH REPORT NUMBER | 76028437 |
| | COUNTY / CITY CODE | 38 / 42 | FEET or MILE(S) | / / | N S E W | CITY OR TOWN | | | KEY WEST | | | (Check if in City or Town) | COUNTY | MONROE | |
| | AT NODE NO. | / | FEET or MILE(S) | / / | FROM NODE NO. | / | NEXT NODE NO. | / | NO. OF LANES | 1. DIVIDED <input type="checkbox"/> | | ON STREET, ROAD OR HIGHWAY | | | |
| | Duval Street | | / / | | / / | | / / | | / / | | 2. UNDIVIDED <input checked="" type="checkbox"/> | | Duval Street | | |
| AT THE INTERSECTION OF | | (street, road or highway) | | or | | FEET MILE(S) | | N S E W | | FROM INTERSECTION OF | | (street, road or highway) | | | |
| Petronia Street | | / / | | / / | | / / | | / / | | / / | | / / | | | |

| | | | | | | | | | | | | | | | | | | | |
|--------------------------------------|--------------------------------------|---|--------------|------|------|-----------|------|-----|-----|-----|---------------------|--------|-------|-----|-------------------------------|-------------------|--|---|---|
| DRIVER ACTION | 1. Phantom 2. Hit & Run 3. N/A | 3 | YEAR | 2004 | MAKE | Chevrolet | TYPE | 01 | USE | 08 | VEH. LICENSE NUMBER | 227877 | STATE | FL | VEHICLE IDENTIFICATION NUMBER | 2G1WF55K449377385 | | | 18 Undercarriage 19 Overtum 20 Windshield 21 Trailer |
| TRAILER OR TOWED VEHICLE INFORMATION | / / | | TRAILER TYPE | / / | | / / | | / / | | / / | | / / | | / / | | / / | | SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S) | |

| | | | | | | | | | | | | | | | | | |
|---------|--|--------------|---|---------------|----|--------------------|----|--------------|----|---|-----|---|---|---------------------|---|---|--|
| Vehicle | VEHICLE TRAVELING | N S E W | <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> | ON | AT | Est. MPH | 30 | Posted Speed | 30 | EST. VEHICLE DAMAGE | \$0 | 1. Disabling 2. Functional 3. No Damage | 3 | EST. TRAILER DAMAGE | / | SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S) | |
| | MOTOR VEHICLE INSURANCE COMPANY (LIABILITY OR PIP) | Self Insured | | POLICY NUMBER | | VEHICLE REMOVED BY | | Driver | | 1. Tow Rotation List 2. Tow Owner's Request 3. Driver 4. Other | | 3 | | / | | / | |

| | | | | | |
|------------|---|--------------------------|-------------------------------------|----------------|----------|
| Pedestrian | NAME OF VEHICLE OWNER (Check Box if Same As Driver) | <input type="checkbox"/> | CURRENT ADDRESS (Number and Street) | City and State | ZIP CODE |
| | City of Key West | 525 Angela Street | Key West, FL. | 33040 | |
| Pedestrian | NAME OF OWNER (Trailer or Towed Vehicle) | / | CURRENT ADDRESS (Number and Street) | / | / |
| | NAME OF MOTOR CARRIER (Commercial Vehicle Only) | / | CURRENT ADDRESS (Number and Street) | / | / |

| | | | | | | | | |
|------------|--|-------------|-------------------------------------|-------------------------|-------------------------|--------------------|---------------|-------|
| Pedestrian | NAME OF DRIVER (Take From Driver License) / PEDESTRIAN | Brian Leahy | CURRENT ADDRESS (Number and Street) | 1604 N. Roosevelt Blvd. | CITY & STATE / ZIP CODE | Key West Fl. 33040 | DATE OF BIRTH | / / / |
| | DRIVER LICENSE NUMBER | / | STATE | FL | DL TYPE | 5 | REQ. END. | 2 |

| | | | | | |
|---------------------------------------|-----------|--|---------------------------------|--|--------------------|
| HAZARDOUS MATERIALS BEING TRANSPORTED | PLACARDED | IF YES, INDICATE NAME OR 4 DIGIT NUMBER FROM DIAMOND OR BOX ON PLACARD, AND 1 DIGIT NUMBER FROM BOTTOM OF DIAMOND. | WAS HAZARDOUS MATERIAL SPILLED? | RECOMMEND DRIVER RE-EXAM IF YES EXPLAIN IN NARRATIVE | DRIVER'S PHONE NO. |
| 2 | 2 | / | 2 | 2 | (305) 809 1111 |

| | | | | | | | | | | | | | | | | | | | |
|--------------------------------------|--------------------------------------|---|--------------|-----|------|------|------|-----|-----|-----|---------------------|-----|-------|-----|-------------------------------|-------------|--|---|---|
| DRIVER ACTION | 1. Phantom 2. Hit & Run 3. N/A | 3 | YEAR | / | MAKE | Next | TYPE | 10 | USE | 01 | VEH. LICENSE NUMBER | / | STATE | / | VEHICLE IDENTIFICATION NUMBER | GS080506037 | | | 18 Undercarriage 19 Overtum 20 Windshield 21 Trailer |
| TRAILER OR TOWED VEHICLE INFORMATION | / / | | TRAILER TYPE | / / | | / / | | / / | | / / | | / / | | / / | | / / | | SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S) | |

| | | | | | | | | | | | | | | | | | |
|---------|--|---------|---|---------------|----|--------------------|----|--------------|----|---|-----|---|---|---------------------|---|---|--|
| Vehicle | VEHICLE TRAVELING | N S E W | <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> | ON | AT | Est. MPH | 30 | Posted Speed | 30 | EST. VEHICLE DAMAGE | \$0 | 1. Disabling 2. Functional 3. No Damage | 3 | EST. TRAILER DAMAGE | / | SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S) | |
| | MOTOR VEHICLE INSURANCE COMPANY (LIABILITY OR PIP) | n/a | | POLICY NUMBER | | VEHICLE REMOVED BY | | KWPD | | 1. Tow Rotation List 2. Tow Owner's Request 3. Driver 4. Other | | 4 | | / | | / | |

| | | | | | | | | |
|------------|--|-------------------------------------|-------------------------------------|----------------------|-------------------------|---------------------|---|---------------------|
| Pedestrian | NAME OF VEHICLE OWNER (Check Box if Same As Driver) | <input checked="" type="checkbox"/> | CURRENT ADDRESS (Number and Street) | 610 1/2 Duval Street | CITY AND STATE | Key West, FL. | ZIP CODE | 33040 |
| | NAME OF OWNER (Trailer or Towed Vehicle) | / | CURRENT ADDRESS (Number and Street) | / | / | / | / | / |
| Pedestrian | NAME OF MOTOR CARRIER (Commercial Vehicle Only) | / | CURRENT ADDRESS (Number and Street) | / | CITY, STATE / ZIP CODE | / | US DOT or ICC MC IDENTIFICATION NUMBERS | / / / / / / / / / / |
| | NAME OF DRIVER (Take From Driver License) / PEDESTRIAN | SHAH DAROBA RODD | CURRENT ADDRESS (Number and Street) | 610 1/2 Duval Street | CITY & STATE / ZIP CODE | Key West, FL. 33040 | DATE OF BIRTH | 9/19/46 |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----------------------|---|-------|----|---------|---|-----------|---|--------------------|---|---------|-------|----------|---|------------|---|------|---|------|---|-----|---|------|---|-----------|---|--------|---|
| DRIVER LICENSE NUMBER | / | STATE | FL | DL TYPE | 5 | REQ. END. | 2 | ALC/DRUG TEST TYPE | 4 | RESULTS | / / / | ALC/DRUG | 2 | PHYS. DEF. | 1 | RES. | 1 | RACE | 1 | SEX | 1 | INJ. | 1 | S. EQUIP. | 1 | EJECT. | 1 |
|-----------------------|---|-------|----|---------|---|-----------|---|--------------------|---|---------|-------|----------|---|------------|---|------|---|------|---|-----|---|------|---|-----------|---|--------|---|

| | | | | | |
|---------------------------------------|-----------|--|---------------------------------|--|-------------------------------|
| HAZARDOUS MATERIALS BEING TRANSPORTED | PLACARDED | IF YES, INDICATE NAME OR 4 DIGIT NUMBER FROM DIAMOND OR BOX ON PLACARD, AND 1 DIGIT NUMBER FROM BOTTOM OF DIAMOND. | WAS HAZARDOUS MATERIAL SPILLED? | RECOMMEND DRIVER RE-EXAM IF YES EXPLAIN IN NARRATIVE | DRIVER'S PHONE NO. |
| 2 | 2 | / | 2 | 2 | (/ / /) / / / / / / / / / / |

| | | | | | | | |
|------------------|--|---|---|--|--|--|--|
| Code Information | VEHICLE TYPE | VEHICLE USE | TRAILER TYPE | RESIDENCE (Driver / Ped.) | PHYSICAL DEFECTS | ALCOHOL / DRUG USE | LOCATION IN VEHICLE |
| | 01 Automobile 02 Van 03 Light Truck / P.U. - 2 or 4 rear tires 04 Medium Truck - 4 rear tires 05 Heavy Truck - 2 or more rear axles 06 Truck Tractor (Cab-Boobtail) 07 Motor Home (RV) 08 Bus (driver + seats for 9-15) 09 Bus (driver + seats for over 15) 10 Bicycle 11 Motorcycle 12 Moped 13 All Terrain Vehicle 14 Train 15 Low Speed Vehicle 77 Other | 01 Private Transportation 02 Commercial Passengers 03 Commercial Cargo 04 Public Transportation 05 Public School Bus 06 Private School Bus 07 Ambulance 08 Law Enforcement 09 Fire / Rescue 10 Military 11 Other Government 12 Dump 13 Concrete Mixer 14 Garbage or Refuse 15 Cargo Van 77 Other | 01 Single Semi Trailer 02 Tandem Semi Trailer 03 Tank Trailer 04 Saddle Mount / Flatbed 05 Boat Trailer 06 Utility Trailer 07 House Trailer 08 Pole Trailer 09 Towed Vehicle 10 Auto Transport 77 Other | 1 County of Crash 2 Elsewhere in State 3 Non-Resident of State 4 Foreign 5 Unknown DL TYPE 1 A 2 B 3 C 4 C/Chauffeur 5 E/Operator 6 E/Oper-Rest 7 Other REQUIRED ENDORSEMENTS 1 Yes 2 No 3 No Endorsement Required | 1 No Defects Known 2 Eyessight Defect 3 Fatigue / Asleep 4 Hearing Defect 5 Illness 6 Seizure, Epilepsy, Blackout 7 Other Physical Defect INJURY SEVERITY 1 None 2 Possible 3 Non-Incapacitating 4 Incapacitating 5 Fatal (Within 30 Days) 6 Non-Traffic Fatality | 1 Not Drinking or Using Drugs 2 Alcohol - Under Influence 3 Drugs - Under Influence 4 Alcohol & Drugs - Under Influence 5 Had Been Drinking 6 Pending Alcohol/Drug Test Results SAFETY EQUIPMENT IN USE 1 Not in use 2 Seat Belt / Shoulder Harness 3 Chld Restraint 4 Air Bag - Deployed 5 Air Bag - Not Deployed 6 Safety Helmet 7 Eye Protection | 1 Front Left 2 Front Center 3 Front Right 4 Rear Left 5 Rear Center 6 Rear Right 7 In Body Of Truck 8 Bus Passenger 9 Other EJECTED 1 No 2 Yes 3 Partial |

| | | | | | | | | | | | | | | |
|--------------------------------------|--|-------------------------------------|--|-----------|--|---------------------------------|--|--|-----------------------|------|---|------|-----------|--|
| S e c t i o n 3 | DRIVER ACTION 1. Phantom 2. Hit & Run 3. N/A | YEAR | MAKE | USE | VEH LICENSE NUMBER | STATE | VEHICLE IDENTIFICATION NUMBER | 2 | 3 | 4 | 5 | 6 | 7 | 18 Undercarriage 19 Overturn 20 Windshield 21 Trailer |
| | TRAILER OR TOWED VEHICLE INFORMATION | | | | | | | 1 | 15 | 16 | 17 | 8 | 9 | SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S) |
| Vehicle | VEHICLE TRAVELING N S E W | ON | AT | Est. MPH | Posted Speed | EST. VEHICLE DAMAGE | 1. Disabling 2. Functional 3. No Damage | EST. TRAILER DAMAGE | | | SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S) | | | |
| | MOTOR VEHICLE INSURANCE COMPANY (LIABILITY OR PIP) | POLICY NUMBER | | | VEHICLE REMOVED BY: | | | 1. Tow Rotation List 2. Tow Owner's Request | 3. Driver 4. Other | | | | | |
| Pedestrian | NAME OF VEHICLE OWNER (Check Box If Same As Driver) | CURRENT ADDRESS (Number and Street) | | | CITY AND STATE | | | ZIP CODE | | | | | | |
| | NAME OF OWNER (Trailer or Towed Vehicle) | CURRENT ADDRESS (Number and Street) | | | CITY AND STATE | | | ZIP CODE | | | | | | |
| | NAME OF MOTOR CARRIER (Commercial Vehicle Only) | CURRENT ADDRESS (Number and Street) | | | CITY, STATE / ZIP CODE | | | US DOT or ICG MC IDENTIFICATION NUMBERS | | | | | | |
| | NAME OF DRIVER (Take From Driver License) / PEDESTRIAN | CURRENT ADDRESS (Number and Street) | | | CITY & STATE / ZIP CODE | | | DATE OF BIRTH | | | | | | |
| | DRIVER LICENSE NUMBER | STATE | DL TYPE | REQ. END. | ALC/DRUG TEST TYPE 1 Blood 3 Urine 5 None 2 Breath 4 Refused | RESULTS | ALC/DRUG | PHYS. DEF. | RES. | RACE | SEX | INJ. | S. EQUIP. | EJECT. |
| | HAZARDOUS MATERIALS BEING TRANSPORTED | PLACARDED | IF YES, INDICATE NAME OR 4 DIGIT NUMBER FROM DIAMOND OR BOX ON PLACARD, AND 1 DIGIT NUMBER FROM BOTTOM OF DIAMOND. | | | WAS HAZARDOUS MATERIAL SPILLED? | RECOMMEND DRIVER RE-EXAM IF YES EXPLAIN IN NARRATIVE | DRIVER'S PHONE NO. | | | | | | |

| | | | | | | | |
|-----|--|-------------|--------------|---------|------|-------|-----|
| # 1 | PROPERTY DAMAGED - OTHER THAN VEHICLES | EST. AMOUNT | OWNER'S NAME | ADDRESS | CITY | STATE | ZIP |
| # 2 | PROPERTY DAMAGED - OTHER THAN VEHICLES | EST. AMOUNT | OWNER'S NAME | ADDRESS | CITY | STATE | ZIP |

| | | | |
|---|---|---|---|
| CONTRIBUTING CAUSES - DRIVER / PEDESTRIAN | VEHICLE DEFECT | VEHICLE MOVEMENT | VEHICLE SPECIAL FUNCTIONS |
| 01 No Improper Driving / Action 02 Careless Driving 03 Failed To Yield Right-of-Way 04 Improper Backing 05 Improper Lane Change 06 Improper Turn 07 Alcohol - Under Influence 08 Drugs - Under Influence 09 Alcohol & Drugs - Under Influence 10 Followed Too Closely 11 Disregarded Traffic Signal 12 Exceeded Safe Speed Limit 13 Disregarded Stop Sign 14 Failed To Maintain Equip. / Vehicle 15 Improper Passing 16 Drove Left Of Center 17 Exceeded Stated Speed Limit 18 Obstructing Traffic | 01 No Defects 02 Def. Brakes 03 Worn / Smooth Tires 04 Defective / Improper Lights 05 Puncture / Blowout 06 Steering Mech. 07 Windshield Wipers 08 Equipment / Vehicle Defect 77 All Other (Explain in Narrative) | 01 Straight Ahead 02 Stopping / Stalled 03 Making Left Turn 04 Backing 05 Making Right Turn 06 Changing Lanes 07 Entering / Leaving Parking Space 08 Properly Parked 09 Improperly Parked 10 Making U-Turn | 1 None 2 Farm 3 Police Pursuit 4 Recreational 5 Emergency Operation 6 Construction / Maintenance 7 All Other (Explain in Narrative) |
| 19 Improper Load 20 Disregarded Other Traffic Control 21 Driving Wrong Side / Way 22 Fleeting Police 23 Vehicle Modified 24 Driver Distraction (Explain in Narrative) 77 All Other (Explain in Narrative) | POINT OF COLLISION 01 On Road 02 Not On Road 03 Shoulder 04 Median 05 Turn Lane | PEDESTRIAN ACTION 01 Crossing Not At Intersection 02 Crossing at Mid-block Crosswalk 03 Crossing at Intersection 04 Walking Along Road With Traffic 05 Walking Along Road Against Traffic 06 Working on Vehicle In Road | SOURCE OF CARRIER INFORMATION 1 Not Applicable 2 Shipping Papers 3 Vehicle Side 4 Driver 5 Other |
| | WORK AREA 01 None 02 Nearby 03 Entered | | LOCATION TYPE 1 Primarily Business 2 Primarily Residential 3 Open Country |

| | | |
|---|--|--|
| FIRST/SUBSEQUENT HARMFUL EVENT(S) | ROAD SYSTEM IDENTIFIER | LIGHTING CONDITION |
| 01 Collision With MV In Transport (Rear End) 02 Collision With MV In Transport (Head On) 03 Collision With MV In Transport (Angle) 04 Collision With MV In Transport (Left Turn) 05 Collision With MV In Transport (Right Turn) 06 Collision With MV In Transport (Sideswipe) 07 Collision With MV In Transport (Backed Into) 08 Collision With Parked Car 09 Collision With MV on Roadway 10 Collision With Pedestrian 11 Collision With Bicycle 12 Collision With Bicycle (Bike Lane) 13 Collision With Moped 14 Collision With Train | 01 Interstate 02 U.S. 03 State 04 County 05 Local 06 Turnpike /Toll 07 Forest Road 08 Private Roadway 77 All Other (Explain in Narrative) | 01 Daylight 02 Dusk 03 Dawn 04 Dark (Street Light) 05 Dark (No Street Light) 88 Unknown |
| 15 Collision With Animal 16 MV Hit Sign / Sign Post 17 MV Utility Pole / Light Pole 18 MV Hit Guardrail 19 MV Hit Fence 20 MV Hit Concrete Barrier Wall 21 MV Hit Bridge/Pier/Abutment/Rail 22 MV Hit Tree / Shrubbery 23 Collision With Construction Barricade Sign 24 Collision With Traffic Gate 25 Collision With Crash Attenuators 26 Collision With Fixed Object Above Road 27 MV Hit Other Fixed Object 28 Collision With Moveable Object On Road | 29 MV Ran Into Ditch/Culvert 30 Ran Off Road Into Water 31 Overturned 32 Occupant Fell From Vehicle 33 Tractor/ Trailer Jackknifed 34 Fire 35 Explosion 36 Downhill Runaway 37 Cargo Loss or Shift 38 Separation of Units 39 Median Crossover 77 All Other (Explain in Narrative) | ROAD SURFACE CONDITION 01 Dry 02 Wet 03 Slippery 04 Icy 77 All Other (Explain in Narrative) |
| | WEATHER 01 Clear 02 Cloudy 03 Rain 04 Fog 77 All Other (Explain in Narrative) | ROAD SURFACE TYPE 01 Slag / Gravel / Stone 02 Blacktop 03 Brick/ Block 04 Concrete 05 Dirt 77 All Other (Explain in Narrative) |

| | | | | |
|---|---|--|--|--|
| ROAD CONDITIONS AT TIME OF CRASH | VISION OBSTRUCTED | TRAFFIC CONTROL | SITE LOCATION | TRAFFICWAY CHARACTER |
| 01 No Defects 02 Obstruction With Warning 03 Obstruction Without Warning 04 Road Under Repair / Construction 05 Loose Surface Materials 06 Shoulders - Soft / Low / High 07 Holes/Ruts/Unsafe Paved Edge 08 Standing Water 09 Worn / Polished Road Surface 77 All Other (Explain in Narrative) | 01 Vision Not Obscured 02 Inclement Weather 03 Parked/Stopped Vehicle 04 Trees / Crops / Bushes 05 Load On Vehicle 06 Building /Fixed Object 07 Signs / Billboards 08 Fog 09 Smoke 10 Glare 77 All Other (Explain in Narrative) | 01 No Control 02 Special Speed Zone 03 Speed Control Sign 04 Speed Zone 05 Traffic Signal 06 Stop Sign 07 Yield Sign 08 Flashing Light 09 Railroad Signal 10 Officer / Guard / Flagperson | 01 Not At Intersection / RR X-ing/Bridge 02 At Intersection 03 Influenced By Intersection 04 Driveway Access 05 Railroad 06 Bridge 07 Entrance Ramp 08 Exit Ramp 09 Parking Lot - Public 10 Parking Lot - Private | 01 Straight - Level 02 Straight - Upgrade / Downgrade 03 Curve - Level 04 Curve - Upgrade / Downgrade TYPE SHOULDER 01 Paved 02 Unpaved 03 Curb |

| | | | | | |
|-------------|-----------|------------------|-------------------|-------------------------|-----------------|
| Violator(s) | SECTION # | NAME OF VIOLATOR | FL STATUTE NUMBER | CHARGE | CITATION NUMBER |
| | 2 | SHAH DAROBA RODD | 316.2065(8) | no white light to front | 6541-eva |
| | 2 | SHAH DAROBA RODD | 327.35 | DUI | 6311-ecp |
| | 2 | SHAH DAROBA RODD | 318.14 | refuse to sign citation | 5901-geb |
| / | / | / | / | / | / |

NARRATIVE / DIAGRAM

MAIL TO: DEPARTMENT OF HIGHWAY SAFETY & MOTOR VEHICLES, TRAFFIC CRASH RECORDS SECTION, NEIL KIRKMAN BUILDING, TALLAHASSEE, FL 32399-0500

DO NOT WRITE IN THIS SPACE

| | | | | | |
|--|---|-------------------------------|-------------------------------|--|--------------------------------------|
| Time EMS Notified (FATALITIES ONLY) / <input type="checkbox"/> AM <input type="checkbox"/> PM | TIME EMS ARRIVED (FATALITIES ONLY) / <input type="checkbox"/> AM <input type="checkbox"/> PM | DATE OF CRASH 04 25 09 | COUNTY / CITY CODE 38 / 42 | INVEST AGENCY REPORT NUMBER 09-400366 | HSMV CRASH REPORT NUMBER 76028437 |
|--|---|-------------------------------|-------------------------------|--|--------------------------------------|

(NARRATIVE)

V1 was traveling west on Petronia Street. V2 was traveling south on Duval Street.

V1 stopped at the stop sign at Petronia and Duval Street. V1 proceeded through the intersection of Petronia and Duval Street. V1 collided with V2.

The driver of V2 was not ejected from the bicycle and refused medical treatment.

The driver of V1 told me he got distracted with the crowd and did not see V2.

There was no damage to either vehicle. Photos were taken of both vehicles.

No one was injured.

A witness (Trisha Tischmacher) provided me with a written statement.

The driver of V2 was later arrested for driving under the influence.

| SEC# | PASS# | PASSENGER'S NAME | CURRENT ADDRESS | CITY & STATE | ZIP CODE | DATE OF BIRTH | RACE | SEX | LOC | INJ | S. EQUIP | EJECT |
|------|-------|------------------|-----------------|--------------|----------|---------------|------|-----|-----|-----|----------|-------|
| // | // | / | / | / | / | // - // - // | / | / | / | / | / | / |
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| Violator(s) | SECTION# | NAME OF VIOLATOR | FL STATUTE NUMBER | CHARGE | CITATION NUMBER |
|-------------|----------|------------------|-------------------|--------|-----------------|
| | / | / | / | / | / |
| / | / | / | / | / | / |

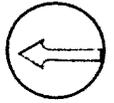
| | | | | | | | |
|--|----------------------------------|------------------------------|-------------------|-----------------------|----------------------|-------------------|---------------|
| WITNESS NAME (1) Trisha Tischmacher | CURRENT ADDRESS 800 Duval St. | CITY & STATE Key West Fl. | ZIP CODE 33040 | WITNESS NAME (2) / | CURRENT ADDRESS / | CITY & STATE / | ZIP CODE / |
|--|----------------------------------|------------------------------|-------------------|-----------------------|----------------------|-------------------|---------------|

| | | | |
|--------------------------------|---|------------------------|--------------|
| FIRST AID GIVEN BY - NAME / | 1. Physician or Nurse 2. Paramedic or EMT 3. Police Officer 4. Certified 1st Aider 5. Other | INJURED TAKEN TO: / | BY-NAME / |
|--------------------------------|---|------------------------|--------------|

| | | | | | | |
|---|--------------------------|---|------------------------|--------------------------------|---|---|
| WAS INVESTIGATION MADE AT SCENE? 1 Yes <input checked="" type="checkbox"/> 2 No | IF NO., THEN WHERE? 1 | IS INVESTIGATION COMPLETE? 1 Yes <input checked="" type="checkbox"/> 2 No | IF NO., THEN WHY? 1 | DATE OF REPORT 04 25 09 | PHOTOS TAKEN 1 Yes <input checked="" type="checkbox"/> 2 No | IF YES, BY WHOM? 1. INVESTIGATING AGENCY <input checked="" type="checkbox"/> 2. OTHER |
|---|--------------------------|---|------------------------|--------------------------------|---|---|

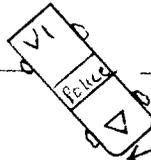
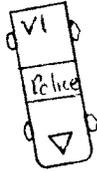
| | | | |
|---|---------------------------|--|---|
| INVESTIGATOR - RANK & SIGNATURE <i>[Signature]</i> | ID / BADGE NUMBER 3025 | DEPARTMENT KEY WEST POLICE DEPARTMENT | FHP SO PD OTHER <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> |
|---|---------------------------|--|---|

DIAGRAM

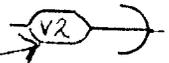
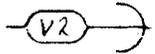
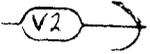


INDICATE NORTH
WITH ARROW

Duval Street



Point of Impact



Final Rest

Peterson Street

Not To Scale

IN THE COUNTY COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR MONROE
COUNTY

STATE OF FLORIDA,

CASE NO.: 09-MM-1042

v.

SHAHDAROBA RODD
Defendant

ORDER

THIS CAUSE having come on to be heard and the Court being duly advised and otherwise in the premises, it is hereby:

ORDERED AND ADJUDGED that Defendant's Motion for Deposition of an Essential Witness(es) is hereby GRANTED. The Defendant shall be allowed to subpoena and take the depositions of the following:

1. Eric Biskup, #1929, KWPD;
2. Brian Leahy, #2965, KWPD;
3. Luis Sanchez, #2583, KWPD;
4. Thomas Stutz, KWPD;
5. Trisha Tischmacher, 800 Duval Street, #3, Key West, FL 33040

DONE AND ORDERED in Key West, Monroe County, Florida, this 22 day

of July, 2009. None pro Tuzer May 28, 2009.


PEARY FOWLER
COUNTY JUDGE

FILED
CC: 09 JUL 27 PM 1:30

OPD
SAO

RESIDENT OF MONROE COUNTY YES X NO

RESIDENT OF FLORIDA YES X NO

CASE NO.: 09-2187

IN BOOK: 4401042041

Defendant's Name: RODD SHAHDAROBA

09-19-1946

Place of Birth: AN ARBOR MICHIGAN

(Last) (First) (Middle)

Local Address: STREETS OF KEY WEST FL

Scars/Tattoos: UNK

Permanent Address: PO BOX 623 KEY WEST FL 33040

Phone: 305-766-2006

Occ.: RETIRED

Soc. Sec. No.: [REDACTED]

Race: WHITE

Sex: M

Eyes: BRN

Hair: GRY

Ht: 6.0

Wt: 210

Arrest Date: 04-25-2009

(Day, Month, Year)

Time: 9:07 PM

Location: PATRONIA AND DUVAL KEY WEST FL 33040

(Place of Arrest)

Co-Defendant's Name: None

(Last)

(First)

(Middle)

Taken To County Station: Monroe County Jail

Citation No.:

6541-eva

Other: 6311-XCP

OFFENSES CHARGED

1. DUI

In Viol. Of F.S. 5/5/09
327.39 316.193(G)

Ordinance of Monroe Co., Sec.

3. DUI REFUSAL

316.1939

4. REFUSED TO SIGN CITATION

318.14

ORIGINAL
Damm/042k

HOLD FOR FIRST APPEARANCE HEARING - DO NOT BOND OUT (complete reverse sides of white and pink copies for additional witnesses)

PRELIMINARY HEARING:

WITNESSES AGAINST DEFENDANT:

Location

Date Set

1. Name: L. SANCHEZ

Address: 1604 N. ROOSEVELT BLVD.

Phone: 809-1111

2. Name: OFC BISKUP/LEAHY

Address: 1604 N. ROOSEVELT BLVD.

Phone: 809-1111

3. Victim: State Of Florida

Address: 3202 NORTH ROOSEVELT BLVD

Phone: 809-1111

Physical Evidence against Defendant: DVD AT ARREST AREA, REFUSAL FORM

Arresting Officers: OFC. L. SANCHEZ

Ct. ID # 2583

Dept.: KWPD

Transporting Officers: OFC L. SANCHEZ

Ct. ID # 2583

Dept.: KWPD

The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that:
On the 25 Day of APRIL 2009

RODD SHAHDAROBA

(Last Name)

(First Name)

Committed the following violation of law:

Narrative: (Be specific) See attached narrative.

Sworn to and subscribed before me,
The undersigned authority, this

25 Day of APRIL, 2009

OFC. Thomas G. Spivey

Judge - Clerk - Notary Public - L.E.O.

I swear the above statement is correct and true to the Best of my knowledge and belief.

Ofc. L. SANCHEZ

Signature of Officer or Complainant

Dept.: KWPD

Ct. ID Number 2583

ID NO.: M36

COURT COPY

STATE ATTORNEY'S COPY

P.S.D. RECORD'S COPY

OFFICER'S COPY

DEFENDANT'S COPY

FILED FOR RECORD
2009 APR 27 PM 1:58
DANNY L. HARRIS
CLERK OF CIRCUIT COURT
MONROE COUNTY, FL



OFFICE OF THE STATE ATTORNEY
SIXTEENTH JUDICIAL CIRCUIT

530 Whitehead Street, Suite 201
Key West, FL 33040

(305)292-3400
Fax (305)294-7707

Dennis W. Ward
State Attorney

October 22, 2009

TO: The Honorable Danny L. Kolhage, Clerk of Court

Re: ***State of Florida vs. Shahdaroba Rodd***

Case Number: 2009-MM-01042-A-K

Charge(s):
1) Driving Under the Influence 316.193(1) (1 M)
2) Disorderly Conduct 877.03 (2 M)

NOLLE PROSEQUI

The State of Florida hereby enters a Nolle Prosequi in this case for the following reasons:
Prosecutorial Discretion



Dustin S Hunter
Assistant State Attorney
Florida Bar Number 44212

cc: Jail records
Warrants

10/22/09 11:11 AM

IN THE COUNTY COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

LOWER KEYS CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

vs.

Case Number 2009-MM-01042-A-K

SHAH DAROBA RODD,
Defendant.

SUPPLEMENTAL DISCOVERY EXHIBIT

The State of Florida hereby files this Supplemental Discovery Exhibit pursuant to Florida Rule of Criminal Procedure 3.220, as follows:

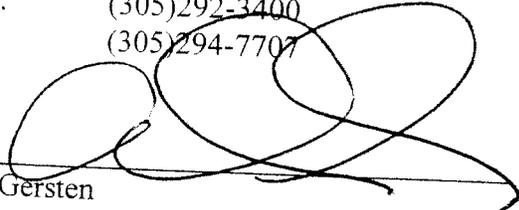
911 transmission 1 CD

Please contact the Office of the State Attorney at 305-292-3400 for cost/ordering information.

I do certify that a copy hereof has been furnished to Shahdaroba Rodd - Key West by mail on September 27th, 2009.

Respectfully submitted,

Dennis W. Ward, State Attorney
530 Whitehead Street, Suite 201
Key West, FL 33040
Phone: (305)292-3400
Fax: (305)294-7707

By: 
Adam Gersten
Assistant State Attorney
Florida Bar # 0054016

IN THE COUNTY COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA
LOWER KEYS CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

vs.

Case Number 2009-MM-01042-A-K

SHAH DAROBA RODD,
Defendant

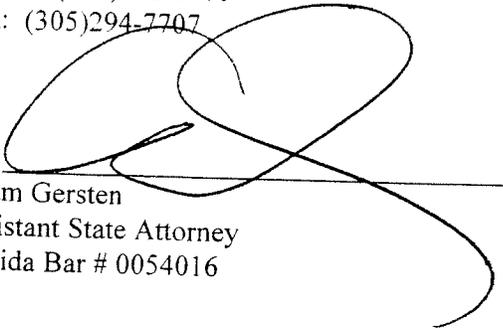
NOTICE OF PRIOR COMPLIANCE TO DEMAND FOR DISCOVERY

COMES NOW the State of Florida, by and through the undersigned Assistant State Attorney and files this notice of having previously complied with the defendant's demand for discovery. In support of this notice the undersigned Assistant State Attorney would show as follows:

1. The defendant was previously represented in this matter by Office of the Public Defender.
2. The previous counsel for the defendant has already demanded discovery on behalf of the defendant.
3. The State of Florida has already answered the defendant's previous demand for discovery on June 8, 2009 (supplementals provided: June 10, 2009, June 19, 2009 and August 12, 2009).
4. The defendant is not entitled to multiple discovery responses, and therefore the counsel for the defendant should obtain the discovery materials already provided to the defendant in this cause from the previous counsel.

I do certify that a copy hereof has been furnished to Shahdaroba Rodd by mail on this 22 day of September 2009.

Respectfully submitted,
Dennis W. Ward, State Attorney
530 Whitehead Street, Suite 201
Key West, FL 33040
Phone: (305)292-3400
Fax: (305)294-7707

By: 
Adam Gersten
Assistant State Attorney
Florida Bar # 0054016

3

Citizens Review Board

From: Donald Lee
Sent: Wednesday, December 16, 2009 11:13 AM
To: Citizens Review Board; Jim Scholl
Subject: FW: thanks

FYI, Just for the record.

Donald J. Lee Jr.
Chief of Police
305.809.1042-office
305.809.1043-fax

From: shahdaroba rodd [mailto:kwhatman@hotmail.com]
Sent: Saturday, December 12, 2009 10:36 AM
To: Donald Lee
Subject: thanks

Chief Lee, this is Mr. Rodd. We had a 30-45 minute meeting on this past Tuesday afternoon, and for that I am thankful. I was able to tell you about some actions and policies of the KWPD which have had an impact on my life, legally and otherwise, and also actions and policies which have impacted a wider group of people. I came away from the meeting optimistically hopeful of the eventual results.

You called me on Wednesday morning to clarify some points we had discussed the day prior. After that call, I told friends and others that I took that to be a positive sign.

Then on Thursday, you called me and since I didn't personally answer, you left a message that I could stop by the Records Department and pick up the evidence I had been seeking--the crash report, the radio transmissions, and the I-Cop video from Officer Leahy's car, all emanating from the April 2009 crash between myself/my bike and Officer Leahy's car.. I did stop by on the following day, Friday, and as you said the material was there waiting for me. I now have what I sought.

You also said that the crash in question between myself and Leahy would be discussed at the next meeting of your department's Accident Review Board. I can only hope that whenever that does occur that you keep me posted as to what was discussed and any results as well.

I want to thank you for the very prompt attention to my requests for items I had waited months for when using other avenues. I am totally impressed with the speed you were able to accomplish my requests.

THANK YOU ! Mr. Rodd

Hotmail: Trusted email with Microsoft's powerful SPAM protection. [Sign up now.](#)

4

Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

TO: Stephen Muffler, Citizens Review Board
FROM: Donald J. Lee, Jr. Chief of Police 
DATE: December 31, 2009
RE: CRB 09-009 Rodd

I have received and reviewed the complaint packet from your officer in reference to Mr. Rodd. I have conducted an inquiry into Mr. Rodd's allegations and find that there is no basis to his allegations of untruthfulness, false arrest, conspiracy and harassment. I do not intend on initiating an internal investigation into this matter.

As a result of the inquiry I have found that Officer Sanchez was deficient in his report writing in a couple of areas. I will direct Officer Sanchez's supervisor to counsel him and document the deficiency for evaluation purposes.

CC: Lt. David Smith, Professional Standards



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



5

Audio/Visual Available at the CRB Office for Inspection

6

Audio/Visual Available at the CRB Office for Inspection

7

Colored Pictures Available Online or at the CRB Office for Inspection

8

327.35 Boating under the influence; penalties; "designated drivers".—

(1) A person is guilty of the offense of boating under the influence and is subject to punishment as provided in subsection (2) if the person is operating a vessel within this state and:

(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person's normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or

(c) The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

- a. Not less than \$500 or more than \$1,000 for a first conviction.
- b. Not less than \$1,000 or more than \$2,000 for a second conviction; and

2. By imprisonment for:

- a. Not more than 6 months for a first conviction.
- b. Not more than 9 months for a second conviction.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$2,000 or more than \$5,000 and by imprisonment for not more than 12 months.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

However, the fine imposed for such fourth or subsequent violation may not be less than \$2,000.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vessel; and

(c) Who, by reason of such operation, causes or contributes to causing:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
2. Serious bodily injury to another, as defined in s. 327.353, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. The death of any human being commits BUI manslaughter, and commits:
 - a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 - b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:
 - (I) At the time of the accident, the person knew, or should have known, that the accident occurred; and
 - (II) The person failed to give information and render aid as required by s. 327.30.

This sub-subparagraph does not require that the person knew that the accident resulted in injury or death.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vessel by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$1,000 or more than \$2,000 for a first conviction.
2. Not less than \$2,000 or more than \$4,000 for a second conviction.
3. Not less than \$4,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.
2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.15 or higher.

(5) In addition to any sentence or fine, the court shall place any offender convicted of violating this section on monthly reporting probation and shall require attendance at a substance abuse course specified by the court; and the agency conducting the course may refer the offender to an authorized service provider for substance abuse evaluation and treatment, in addition to any sentence or fine imposed under this section. The offender shall assume reasonable costs for such education, evaluation, and treatment, with completion of all such education, evaluation, and treatment being a condition of reporting probation. Treatment resulting from a psychosocial evaluation may not be waived without a supporting psychosocial evaluation conducted by an agency appointed by the court and with access to the original evaluation. The offender shall bear the cost of this procedure. The term "substance abuse"

means the abuse of alcohol or any substance named or described in Schedules I-V of s. 893.03.

(6) With respect to any person convicted of a violation of subsection (1), regardless of any other penalty imposed:

(a) For the first conviction, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours. The court must also, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 10 days or for the unexpired term of any lease or rental agreement that expires within 10 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e) or paragraph (f). The total period of probation and incarceration may not exceed 1 year.

(b) For the second conviction for an offense that occurs within a period of 5 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days. The court must also, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 30 days or for the unexpired term of any lease or rental agreement that expires within 30 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e) or paragraph (f). At least 48 hours of confinement must be consecutive.

(c) For the third or subsequent conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. The court must also, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e) or paragraph (f). At least 48 hours of confinement must be consecutive.

(d) The court must at the time of sentencing the defendant issue an order for the impoundment or immobilization of a vessel. Within 7 business days after the date that the court issues the order of impoundment, and once again 30 business days before the actual impoundment or immobilization of the vessel, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of each vessel, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vessel.

(e) A person who owns but was not operating the vessel when the offense occurred may submit to the court a police report indicating that the vessel was stolen at the time of the offense or documentation of having purchased the vessel after the offense was committed from an entity other than the defendant or the defendant's agent. If the court finds that the vessel was stolen or that the sale was not made to circumvent the order and allow the defendant continued access to the vessel, the order must be dismissed and the owner of the vessel will incur no costs. If the court denies the request to dismiss the order of impoundment or immobilization, the petitioner may request an evidentiary hearing.

(f) A person who owns but was not operating the vessel when the offense occurred, and whose vessel was stolen or who purchased the vessel after the offense was committed directly from the defendant or the defendant's agent, may request an evidentiary hearing to determine whether the impoundment or immobilization should occur. If the court finds that either the vessel was stolen or the purchase was made without knowledge of the offense, that the purchaser had no relationship to the defendant other than through the transaction, and that such purchase would not circumvent the order and allow the defendant continued access to the vessel, the order must be dismissed and the owner of the vessel will incur no costs.

(g) All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vessel or, if the vessel is leased or rented, by the person leasing or renting the vessel, unless the impoundment or immobilization order is dismissed.

(h) The person who owns a vessel that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vessel and who has not requested a review of the impoundment pursuant to paragraph (e) or paragraph (f), may, within 10 days after the date that person has knowledge of the location of the vessel, file a complaint in the county in which the owner resides to determine whether the vessel was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vessel released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of the costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vessel. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vessel or to the contents of the vessel.

(i) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

For the purposes of this section, any conviction for a violation of s. 316.193, a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028, or a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, driving with an unlawful breath-alcohol level, or any other similar alcohol-related or drug-related traffic offense, is also considered a previous conviction for violation of this section.

(7) A conviction under this section does not bar any civil suit for damages against the person so convicted.

(8) A person who is arrested for a violation of this section may not be released from custody:

(a) Until the person is no longer under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 and affected to the extent that his or her normal faculties are impaired;

(b) Until the person's blood-alcohol level or breath-alcohol level is less than 0.05; or

(c) Until 8 hours have elapsed from the time the person was arrested.

(9) Notwithstanding any other provision of this section, for any person convicted of a violation of subsection (1), in addition to the fines set forth in subsections (2) and (4), an additional fine of \$60 shall be assessed and collected in the same manner as the fines set forth in subsections (2) and (4). All fines collected under this subsection shall be remitted by the clerk of the court to the Department of Revenue for deposit into the Brain and Spinal Cord Injury Rehabilitation Trust Fund and used for the purposes set forth in s. 381.79, after 5 percent is deducted therefrom by the clerk of the court for administrative costs.

(10) It is the intent of the Legislature to encourage boaters to have a “designated driver” who does not consume alcoholic beverages.

History.—s. 2, ch. 59-400; s. 5, ch. 63-105; s. 1, ch. 65-361; s. 1, ch. 71-81; s. 22, ch. 73-331; s. 5, ch. 83-187; s. 7, ch. 84-188; s. 7, ch. 91-255; s. 8, ch. 93-124; s. 456, ch. 95-148; s. 19, ch. 96-330; s. 98, ch. 97-264; s. 49, ch. 97-271; s. 10, ch. 98-308; s. 14, ch. 98-324; s. 47, ch. 2000-152; s. 11, ch. 2000-320; s. 28, ch. 2001-122; s. 4, ch. 2002-78; s. 6, ch. 2002-263; s. 35, ch. 2008-111; s. 7, ch. 2009-86.

Note.—Former s. 371.51.

316.2065 Bicycle regulations.—

- (1) Every person propelling a vehicle by human power has all of the rights and all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application.
- (2) A person operating a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.
- (3)(a) A bicycle may not be used to carry more persons at one time than the number for which it is designed or equipped, except that an adult rider may carry a child securely attached to his or her person in a backpack or sling.
- (b) Except as provided in paragraph (a), a bicycle rider must carry any passenger who is a child under 4 years of age, or who weighs 40 pounds or less, in a seat or carrier that is designed to carry a child of that age or size and that secures and protects the child from the moving parts of the bicycle.
- (c) A bicycle rider may not allow a passenger to remain in a child seat or carrier on a bicycle when the rider is not in immediate control of the bicycle.
- (d) A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet that is properly fitted and is fastened securely upon the passenger's head by a strap, and that meets the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the department. As used in this subsection, the term "passenger" includes a child who is riding in a trailer or semitrailer attached to a bicycle.
- (e) Law enforcement officers and school crossing guards may issue a bicycle safety brochure and a verbal warning to a bicycle rider or passenger who violates this subsection. A bicycle rider or passenger who violates this subsection may be issued a citation by a law enforcement officer and assessed a fine for a pedestrian violation, as provided in s. 318.18. The court shall dismiss the charge against a bicycle rider or passenger for a first violation of paragraph (d) upon proof of purchase of a bicycle helmet that complies with this subsection.
- (4) No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle may attach the same or himself or herself to any vehicle upon a roadway. This subsection does not prohibit attaching a bicycle trailer or bicycle semitrailer to a bicycle if that trailer or semitrailer is commercially available and has been designed for such attachment.
- (5)(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:
1. When overtaking and passing another bicycle or vehicle proceeding in the same direction.
 2. When preparing for a left turn at an intersection or into a private road or driveway.
 3. When reasonably necessary to avoid any condition, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, or substandard-width lane,

that makes it unsafe to continue along the right-hand curb or edge. For the purposes of this subsection, a "substandard-width lane" is a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

- (b) Any person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.
- (6) Persons riding bicycles upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and shall ride within a single lane.
- (7) Any person operating a bicycle shall keep at least one hand upon the handlebars.
- (8) Every bicycle in use between sunset and sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by this section.
- (9) No parent of any minor child and no guardian of any minor ward may authorize or knowingly permit any such minor child or ward to violate any of the provisions of this section.
- (10) A person propelling a vehicle by human power upon and along a sidewalk, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances.
- (11) A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.
- (12) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, may go upon any roadway except while crossing a street on a crosswalk; and, when so crossing, such person shall be granted all rights and shall be subject to all of the duties applicable to pedestrians.
- (13) This section shall not apply upon any street while set aside as a play street authorized herein or as designated by state, county, or municipal authority.
- (14) Every bicycle shall be equipped with a brake or brakes which will enable its rider to stop the bicycle within 25 feet from a speed of 10 miles per hour on dry, level, clean pavement.
- (15) A person engaged in the business of selling bicycles at retail shall not sell any bicycle unless the bicycle has an identifying number permanently stamped or cast on its frame.
- (16)(a) A person may not knowingly rent or lease any bicycle to be ridden by a child who is under the age of 16 years unless:
1. The child possesses a bicycle helmet; or
 2. The lessor provides a bicycle helmet for the child to wear.

(b) A violation of this subsection is a nonmoving violation, punishable as provided in s. 318.18.

(17) The court may waive, reduce, or suspend payment of any fine imposed under subsection (3) or subsection (16) and may impose any other conditions on the waiver, reduction, or suspension. If the court finds that a person does not have sufficient funds to pay the fine, the court may require the performance of a specified number of hours of community service or attendance at a safety seminar.

(18) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations under paragraphs (3)(e) and (16)(b) shall be deposited into the State Transportation Trust Fund.

(19) The failure of a person to wear a bicycle helmet or the failure of a parent or guardian to prevent a child from riding a bicycle without a bicycle helmet may not be considered evidence of negligence or contributory negligence.

(20) Except as otherwise provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a pedestrian violation as provided in chapter 318. A law enforcement officer may issue traffic citations for a violation of subsection (3) or subsection (16) only if the violation occurs on a bicycle path or road, as defined in s. 334.03. However, they may not issue citations to persons on private property, except any part thereof which is open to the use of the public for purposes of vehicular traffic.

History.—s. 1, ch. 71-135; s. 1, ch. 76-31; s. 2, ch. 76-286; s. 1, ch. 78-353; s. 8, ch. 83-68; s. 5, ch. 85-309; s. 1, ch. 86-23; s. 7, ch. 87-161; s. 21, ch. 94-306; s. 899, ch. 95-148; s. 1, ch. 96-185; s. 2, ch. 97-300; s. 161, ch. 99-248.

Note.—Former s. 316.111.

318.14 Noncriminal traffic infractions; exception; procedures.—

- (1) Except as provided in ss. 318.17 and 320.07(3)(c), any person cited for a violation of chapter 316, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.16(2) or (3), s. 322.161(5), s. 322.19, or s. 1006.66(3) is charged with a noncriminal infraction and must be cited for such an infraction and cited to appear before an official. If another person dies as a result of the noncriminal infraction, the person cited may be required to perform 120 community service hours under s. 316.027(4), in addition to any other penalties.
- (2) Except as provided in s. 316.1001(2), any person cited for an infraction under this section must sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing and must indicate the applicable civil penalty established in s. 318.18.
- (3) Any person who willfully refuses to accept and sign a summons is guilty of a misdemeanor of the second degree.
- (4) Except as provided in subsection (12), any person charged with a noncriminal infraction under this section who does not elect to appear shall pay the civil penalty and delinquent fee, if applicable, either by mail or in person, within 30 days after the date of issuance of the citation. If the person cited follows the above procedure, he or she shall be deemed to have admitted the infraction and to have waived his or her right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings. Any person who is cited for a violation of s. 320.0605 or s. 322.15(1), or subject to a penalty under s. 320.07(3)(a) or (b) or s. 322.065, and who makes an election under this subsection shall submit proof of compliance with the applicable section to the clerk of the court. For the purposes of this subsection, proof of compliance consists of a valid driver's license or a valid registration certificate.
- (5) Any person electing to appear before the designated official or who is required so to appear shall be deemed to have waived his or her right to the civil penalty provisions of s. 318.18. The official, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the official may impose a civil penalty not to exceed \$500, except that in cases involving unlawful speed in a school zone or involving unlawful speed in a construction zone, the civil penalty may not exceed \$1,000; or require attendance at a driver improvement school, or both. If the person is required to appear before the designated official pursuant to s. 318.19(1) and is found to have committed the infraction, the designated official shall impose a civil penalty of \$1,000 in addition to any other penalties and the person's driver's license shall be suspended for 6 months. If the person is required to appear before the designated official pursuant to s. 318.19(2) and is found to have committed the infraction, the designated official shall impose a civil penalty of \$500 in addition to any other penalties and the person's driver's license shall be suspended for 3 months. If the official determines that no infraction has been committed, no costs or penalties shall be imposed and any costs or penalties that have been paid shall be returned. Moneys received from the mandatory civil penalties imposed pursuant to this subsection upon persons required to appear before a designated official pursuant to s. 318.19(1) or (2) shall be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to certified trauma centers to assure the availability and accessibility of trauma services throughout the state. Funds deposited into the Administrative Trust Fund under this section shall be allocated as follows:
 - (a) Fifty percent shall be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services.

(b) Fifty percent shall be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry.

(6) The commission of a charged infraction at a hearing under this chapter must be proved beyond a reasonable doubt.

(7)(a) The official having jurisdiction over the infraction shall certify to the department within 10 days after payment of the civil penalty that the defendant has admitted to the infraction. If the charge results in a hearing, the official having jurisdiction shall certify to the department the final disposition within 10 days after the hearing. All dispositions returned to the county requiring a correction shall be resubmitted to the department within 10 days after the notification of the error.

(b) If the official having jurisdiction over the traffic infraction submits the final disposition to the department more than 180 days after the final hearing or after payment of the civil penalty, the department may modify any resulting suspension or revocation action to begin as if the citation were reported in a timely manner.

(8) When a report of a determination or admission of an infraction is received by the department, it shall proceed to enter the proper number of points on the licensee's driving record in accordance with s. 322.27.

(9) Any person who does not hold a commercial driver's license and who is cited for an infraction under this section other than a violation of s. 316.183(2), s. 316.187, or s. 316.189 when the driver exceeds the posted limit by 30 miles per hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld and points, as provided by s. 322.27, may not be assessed. However, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may make no more than five elections within 10 years under this subsection. The requirement for community service under s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court. If a person makes an election to attend a basic driver improvement course under this subsection, 18 percent of the civil penalty imposed under s. 318.18(3) shall be deposited in the State Courts Revenue Trust Fund; however, that portion is not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35.

(10)(a) Any person who does not hold a commercial driver's license and who is cited for an offense listed under this subsection may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, no election shall be made under this subsection if such person has made an election under this subsection in the 12 months preceding election hereunder. No person may make more than three elections under this subsection. This subsection applies to the following offenses:

1. Operating a motor vehicle without a valid driver's license in violation of the provisions of s. 322.03, s. 322.065, or s. 322.15(1), or operating a motor vehicle with a license which has been suspended for failure to appear, failure to pay civil penalty, or failure to attend a driver improvement course pursuant to s. 322.291.

2. Operating a motor vehicle without a valid registration in violation of s. 320.0605, s. 320.07, or s.

320.131.3. Operating a motor vehicle in violation of s. 316.646.

(b) Any person cited for an offense listed in this subsection shall present proof of compliance prior to the scheduled court appearance date. For the purposes of this subsection, proof of compliance shall consist of a valid, renewed, or reinstated driver's license or registration certificate and proper proof of maintenance of security as required by s. 316.646. Notwithstanding waiver of fine, any person establishing proof of compliance shall be assessed court costs of \$25, except that a person charged with violation of s. 316.646(1)-(3) may be assessed court costs of \$8. One dollar of such costs shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund of the Department of Children and Family Services. One dollar of such costs shall be distributed to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund. Fourteen dollars of such costs shall be distributed to the municipality and \$9 shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, if the offense was committed within the municipality. If the offense was committed in an unincorporated area of a county or if the citation was for a violation of s. 316.646(1)-(3), the entire amount shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, except for the moneys to be deposited into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund. This subsection shall not be construed to authorize the operation of a vehicle without a valid driver's license, without a valid vehicle tag and registration, or without the maintenance of required security.

(11) If adjudication is withheld for any person charged or cited under this section, such action is not a conviction.

(12) Any person cited for a violation of s. 316.1001 may, in lieu of making an election as set forth in subsection (4) or ¹¹s. 318.18(7), elect to pay a fine of \$25, or such other amount as imposed by the governmental entity owning the applicable toll facility, plus the amount of the unpaid toll that is shown on the traffic citation directly to the governmental entity that issued the citation, or on whose behalf the citation was issued, within 30 days after the date of issuance of the citation. Any person cited for a violation of s. 316.1001 who does not elect to pay the fine imposed by the governmental entity owning the applicable toll facility plus the amount of the unpaid toll that is shown on the traffic citation directly to the governmental entity that issued the citation, or on whose behalf the citation was issued, as described in this subsection shall have an additional 45 days after the date of the issuance of the citation in which to request a court hearing or to pay the civil penalty and delinquent fee, if applicable, as provided in s. 318.18(7), either by mail or in person, in accordance with subsection (4).

(13)(a) A person cited for a violation of s. 316.1926 shall, in addition to any other requirements provided in this section, pay a fine of \$1,000. This fine is in lieu of the fine required under s. 318.18(3) (b), if the person was cited for violation of s. 316.1926(2).

(b) A person cited for a second violation of s. 316.1926 shall, in addition to any other requirements provided in this section, pay a fine of \$2,500. This fine is in lieu of the fine required under s. 318.18(3) (b), if the person was cited for violation of s. 316.1926(2). In addition, the court shall revoke the person's authorization and privilege to operate a motor vehicle for a period of 1 year and order the person to surrender his or her driver's license.

(c) A person cited for a third violation of s. 316.1926 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Upon conviction, the court shall impose a fine of \$5,000, revoke the person's authorization and privilege to operate a motor vehicle for a period of 10

years, and order the person to surrender his or her driver's license.

History.—s. 1, ch. 74-377; s. 2, ch. 79-27; s. 194, ch. 81-259; s. 7, ch. 82-97; s. 22, ch. 83-215; s. 268, ch. 84-309; s. 14, ch. 84-359; s. 59, ch. 85-180; s. 2, ch. 85-250; s. 1, ch. 86-12; s. 5, ch. 86-154; s. 2, ch. 86-182; ss. 1, 3, ch. 86-185; s. 1, ch. 87-108; s. 1, ch. 88-50; s. 53, ch. 89-282; s. 2, ch. 90-230; ss. 1, 6, ch. 91-200; ss. 1, 5, ch. 92-195; s. 19, ch. 93-164; ss. 13, 36, ch. 94-306; s. 908, ch. 95-148; s. 58, ch. 95-267; s. 2, ch. 95-326; s. 7, ch. 96-200; s. 43, ch. 96-350; s. 8, ch. 96-414; s. 46, ch. 97-300; s. 58, ch. 99-8; s. 94, ch. 99-13; ss. 7, 249, ch. 99-248; s. 27, ch. 2001-122; s. 963, ch. 2002-387; s. 27, ch. 2003-1; s. 21, ch. 2003-286; s. 58, ch. 2004-265; ss. 11, 57, ch. 2005-164; s. 20, ch. 2006-290; s. 5, ch. 2006-296; s. 20, ch. 2007-196; s. 31, ch. 2008-111; s. 3, ch. 2008-117; s. 14, ch. 2008-176; s. 1, ch. 2009-6.

[1]Note.—The language pertaining to election was deleted from s. 318.18(7) by s. 21, ch. 2007-196.

316.1939 Refusal to submit to testing; penalties.—

(1) Any person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine, as described in s. 316.1932, and whose driving privilege was previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, and:

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;

(b) Who was placed under lawful arrest for a violation of s. 316.193 unless such test was requested pursuant to s. 316.1932(1)(c);

(c) Who was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath, urine, or blood, if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor; and

(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer

commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

(2) The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under this section.

(3) The disposition of a criminal action under this section does not affect any administrative proceeding that relates to the suspension of a person's driving privilege. The department's records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood shall be admissible and shall create a rebuttable presumption of such suspension.

History.—s. 5, ch. 2002-263.

316.193 Driving under the influence; penalties.—

(1) A person is guilty of the offense of driving under the influence and is subject to punishment as provided in subsection (2) if the person is driving or in actual physical control of a vehicle within this state and:

(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person's normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or

(c) The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than \$500 or more than \$1,000 for a first conviction.

b. Not less than \$1,000 or more than \$2,000 for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$2,000 or more than \$5,000 and by imprisonment for not more than 12 months. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938

upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such fourth or subsequent violation may be not less than \$2,000.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes or contributes to causing:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being or unborn quick child commits DUI manslaughter, and commits:

a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the crash, the person knew, or should have known, that the crash occurred; and

(II) The person failed to give information and render aid as required by s. 316.062.

For purposes of this subsection, the definition of the term “unborn quick child” shall be determined in accordance with the definition of viable fetus as set forth in s. 782.071. A person who is convicted of DUI manslaughter shall be sentenced to a mandatory minimum term of imprisonment of 4 years.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$1,000 or more than \$2,000 for a first conviction.

2. Not less than \$2,000 or more than \$4,000 for a second conviction.

3. Not less than \$4,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.
2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.15 or higher.

(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person for not less than 6 continuous months for the first offense and for not less than 2 continuous years for a second offense, when the convicted person qualifies for a permanent or restricted license.

(5) The court shall place all offenders convicted of violating this section on monthly reporting probation and shall require completion of a substance abuse course conducted by a DUI program licensed by the department under s. 322.292, which must include a psychosocial evaluation of the offender. If the DUI program refers the offender to an authorized substance abuse treatment provider for substance abuse treatment, in addition to any sentence or fine imposed under this section, completion of all such education, evaluation, and treatment is a condition of reporting probation. The offender shall assume reasonable costs for such education, evaluation, and treatment. The referral to treatment resulting from a psychosocial evaluation shall not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider appointed by the court, which shall have access to the DUI program's psychosocial evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver. The offender shall bear the full cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If an offender referred to treatment under this subsection fails to report for or complete such treatment or fails to complete the DUI program substance abuse education course and evaluation, the DUI program shall notify the court and the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege on a restricted basis upon verification from the DUI program that the offender is currently participating in treatment and the DUI education course and evaluation requirement has been completed. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of treatment from the DUI program. The organization that conducts the substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the department. A waiver may be granted only if the department determines, in accordance with its rules, that the service provider that conducts the substance abuse education and evaluation is the most appropriate service provider and is licensed under chapter 397 or is exempt from such licensure. A statistical referral report shall be submitted quarterly to the department by each organization authorized to provide services under this section.

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2), subsection (3), or subsection (4):

(a) For the first conviction, the court shall place the defendant on probation for a period not to exceed 1

year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours. The court may order a defendant to pay a fine of \$10 for each hour of public service or community work otherwise required only if the court finds that the residence or location of the defendant at the time public service or community work is required or the defendant's employment obligations would create an undue hardship for the defendant. However, the total period of probation and incarceration may not exceed 1 year. The court must also, as a condition of probation, order the impoundment or immobilization of the vehicle that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 10 days or for the unexpired term of any lease or rental agreement that expires within 10 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h).

(b) For the second conviction for an offense that occurs within a period of 5 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days. The court must also, as a condition of probation, order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization, for a period of 30 days or for the unexpired term of any lease or rental agreement that expires within 30 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant and must occur concurrently with the driver's license revocation imposed under s. 322.28(2)(a)2. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h). At least 48 hours of confinement must be consecutive.

(c) For the third or subsequent conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. The court must also, as a condition of probation, order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization, for a period of 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant and must occur concurrently with the driver's license revocation imposed under s. 322.28(2)(a)3. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h). At least 48 hours of confinement must be consecutive.

(d) The court must at the time of sentencing the defendant issue an order for the impoundment or immobilization of a vehicle. The order of impoundment or immobilization must include the name and telephone numbers of all immobilization agencies meeting all of the conditions of subsection (13). Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of each vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

(e) A person who owns but was not operating the vehicle when the offense occurred may submit to the court a police report indicating that the vehicle was stolen at the time of the offense or documentation of having purchased the vehicle after the offense was committed from an entity other than the defendant or the defendant's agent. If the court finds that the vehicle was stolen or that the sale was not made to circumvent the order and allow the defendant continued access to the vehicle, the order must be dismissed and the owner of the vehicle will incur no costs. If the court denies the request to dismiss the order of impoundment or immobilization, the petitioner may request an evidentiary hearing.

(f) A person who owns but was not operating the vehicle when the offense occurred, and whose vehicle was stolen or who purchased the vehicle after the offense was committed directly from the defendant or

the defendant's agent, may request an evidentiary hearing to determine whether the impoundment or immobilization should occur. If the court finds that either the vehicle was stolen or the purchase was made without knowledge of the offense, that the purchaser had no relationship to the defendant other than through the transaction, and that such purchase would not circumvent the order and allow the defendant continued access to the vehicle, the order must be dismissed and the owner of the vehicle will incur no costs.

(g) The court shall also dismiss the order of impoundment or immobilization of the vehicle if the court finds that the family of the owner of the vehicle has no other private or public means of transportation.

(h) The court may also dismiss the order of impoundment or immobilization of any vehicles that are owned by the defendant but that are operated solely by the employees of the defendant or any business owned by the defendant.

(i) All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle, unless the impoundment or immobilization order is dismissed. All provisions of s. 713.78 shall apply. The costs and fees for the impoundment or immobilization must be paid directly to the person impounding or immobilizing the vehicle.

(j) The person who owns a vehicle that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vehicle and who has not requested a review of the impoundment pursuant to paragraph (e), paragraph (f), or paragraph (g), may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

(k) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

For the purposes of this section, any conviction for a violation of s. 327.35; a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028; or a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, driving with an unlawful breath-alcohol level, or any other similar alcohol-related or drug-related traffic offense, is also considered a previous conviction for violation of this section. However, in satisfaction of the fine imposed pursuant to this section, the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay. In determining such additional sentence, the court shall consider the amount of the unpaid portion of the fine and the reasonable value of the services to be ordered; however, the court may not compute the reasonable value of services at a rate less than the federal minimum wage at the time of sentencing.

(7) A conviction under this section does not bar any civil suit for damages against the person so convicted.

(8) At the arraignment, or in conjunction with any notice of arraignment provided by the clerk of the court, the clerk shall provide any person charged with a violation of this section with notice that upon conviction the court shall suspend or revoke the offender's driver's license and that the offender should make arrangements for transportation at any proceeding in which the court may take such action. Failure to provide such notice does not affect the court's suspension or revocation of the offender's driver's license.

(9) A person who is arrested for a violation of this section may not be released from custody:

(a) Until the person is no longer under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 and affected to the extent that his or her normal faculties are impaired;

(b) Until the person's blood-alcohol level or breath-alcohol level is less than 0.05; or

(c) Until 8 hours have elapsed from the time the person was arrested.

(10) The rulings of the Department of Highway Safety and Motor Vehicles under s. 322.2615 shall not be considered in any trial for a violation of this section. Testimony or evidence from the administrative proceedings or any written statement submitted by a person in his or her request for administrative review is inadmissible into evidence or for any other purpose in any criminal proceeding, unless timely disclosed in criminal discovery pursuant to Rule 3.220, Florida Rules of Criminal Procedure.

(11) The Department of Highway Safety and Motor Vehicles is directed to adopt rules providing for the implementation of the use of ignition interlock devices.

(12) If the records of the Department of Highway Safety and Motor Vehicles show that the defendant has been previously convicted of the offense of driving under the influence, that evidence is sufficient by itself to establish that prior conviction for driving under the influence. However, such evidence may be contradicted or rebutted by other evidence. This presumption may be considered along with any other evidence presented in deciding whether the defendant has been previously convicted of the offense of driving under the influence.

(13) If personnel of the circuit court or the sheriff do not immobilize vehicles, only immobilization agencies that meet the conditions of this subsection shall immobilize vehicles in that judicial circuit.

(a) The immobilization agency responsible for immobilizing vehicles in that judicial circuit shall be subject to strict compliance with all of the following conditions and restrictions:

1. Any immobilization agency engaged in the business of immobilizing vehicles shall:

a. Have a class "R" license issued pursuant to part IV of chapter 493;

b. Have at least 3 years of verifiable experience in immobilizing vehicles; and

c. Maintain accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court's order of impoundment or immobilization, and any other documents

relevant to each immobilization. Such records must be maintained by the immobilization agency for at least 3 years.

2. The person who immobilizes a vehicle must never have been convicted of any felony or of driving or boating under the influence of alcohol or a controlled substance in the last 3 years.

(b) A person who violates paragraph (a) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any immobilization agency who is aggrieved by a person's violation of paragraph (a) may bring a civil action against the person who violated paragraph (a) seeking injunctive relief, damages, reasonable attorney's fees and costs, and any other remedy available at law or in equity as may be necessary to enforce this subsection. In any action to enforce this subsection, establishment of a violation of paragraph (a) shall conclusively establish a clear legal right to injunctive relief, that irreparable harm will be caused if an injunction does not issue, that no adequate remedy at law exists, and that public policy favors issuance of injunctive relief.

(14) As used in this chapter, the term:

(a) "Immobilization," "immobilizing," or "immobilize" means the act of installing a vehicle antitheft device on the steering wheel of a vehicle, the act of placing a tire lock or wheel clamp on a vehicle, or a governmental agency's act of taking physical possession of the license tag and vehicle registration rendering a vehicle legally inoperable to prevent any person from operating the vehicle pursuant to an order of impoundment or immobilization under subsection (6).

(b) "Immobilization agency" or "immobilization agencies" means any firm, company, agency, organization, partnership, corporation, association, trust, or other business entity of any kind whatsoever that meets all of the conditions of subsection (13).

(c) "Impoundment," "impounding," or "impound" means the act of storing a vehicle at a storage facility pursuant to an order of impoundment or immobilization under subsection (6) where the person impounding the vehicle exercises control, supervision, and responsibility over the vehicle.

(d) "Person" means any individual, firm, company, agency, organization, partnership, corporation, association, trust, or other business entity of any kind whatsoever.

History.—s. 1, ch. 71-135; s. 19, ch. 73-331; s. 1, ch. 74-384; s. 1, ch. 76-31; s. 1, ch. 79-408; s. 1, ch. 80-343; s. 2, ch. 82-155; s. 1, ch. 82-403; s. 2, ch. 83-187; s. 1, ch. 83-228; s. 1, ch. 84-359; s. 24, ch. 85-167; s. 2, ch. 85-337; s. 1, ch. 86-296; s. 2, ch. 88-5; s. 5, ch. 88-82; s. 8, ch. 88-196; s. 8, ch. 88-324; s. 60, ch. 88-381; s. 7, ch. 89-3; ss. 1, 18, ch. 91-255; s. 32, ch. 92-78; ss. 1, 11, ch. 93-124; s. 3, ch. 93-246; s. 1, ch. 94-324; s. 895, ch. 95-148; s. 1, ch. 95-186; s. 4, ch. 95-333; s. 12, ch. 95-408; s. 3, ch. 96-330; s. 2, ch. 96-413; s. 48, ch. 97-100; s. 97, ch. 97-264; s. 25, ch. 97-271; ss. 6, 13, ch. 98-324; s. 5, ch. 99-234; s. 139, ch. 99-248; s. 4, ch. 2000-313; s. 10, ch. 2000-320; s. 2, ch. 2002-78; s. 1, ch. 2002-263; s. 1, ch. 2004-379; s. 1, ch. 2005-119; s. 3, ch. 2007-211; s. 29, ch. 2008-111; s. 5, ch. 2008-176; s. 5, ch. 2009-138; s. 10, ch. 2009-206.

Note.—Former s. 316.028.

877.03 Breach of the peace; disorderly conduct.—Whoever commits such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 59-325; s. 1147, ch. 71-136; s. 2, ch. 86-174.

9

THIS IS AN AMENDMENT TO THE COMPLAINT

In the very recent past, a situation has come to pass and been reported in several articles in the KW Citizen where a KWPD police car struck a pedestrian as he was crossing an intersection. These articles made mention of a KWPD Accident Review Board, the existence of which I was not aware previously. One of those articles mentioned that Chief Lee's office is open to any citizen who wishes to discuss officer behavior and other issues. Two days after the article appeared on Saturday, December 5, 2009, I called and made an appointment to meet with Chief Lee in his office; the meeting was scheduled for and held on Tuesday, December 8, 2009.

On my agenda of several items were the Accident Review Board and the results of any discussion of my crash with Officer Leahy. Chief Lee had no idea what I was talking about so I showed him the CAD CALL report where it shows a crash occurred and the crash report number. Chief Lee said the Accident Review Board had not discussed my crash because he/they didn't know about it.

I also asked him about the radio transmissions, which would have been central, I thought, to my criminal defense of the BUI/DUI charge, and why his department had not provided these recordings, especially since a judge had issued an order to produce them.

Again the Chief didn't have an answer as to why or why not.

I then mentioned that I wanted a copy of the video/DVD made by Officer Leahy's car, and we discussed that item for a few minutes.

In all, I told the Chief, I wanted those three (3) items in particular as they related to the case in hand--- the crash report, the radio transmissions, and the I-Cop video from Leahy's car. When I left, I felt good about the meeting and what results it may would bring. The Chief had been attentive to my points of discussion and had retrieved paper on which to make notes so as to not rely on memory. The positive feeling was further cemented and reinforced the next morning (Wednesday, December 9, 2009) when the Chief called to clarify some points we had discussed, and to insure that we both were "on the same page."

On Thursday, December 10, 2009, the Chief called and left a message on my phone that the items/evidence that I sought was waiting for me at the Records department whenever I chose to stop by and pick them up; I did just that on Friday, December 11, 2009. And everything I asked for, I got.

(Second page of the complaint amendment)

So now we know there indeed was a crash, which is NOT what Leahy marked on the ticket he wrote me. The crash report says he failed to yield the right-of-way to me because he was distracted by the crowd(s) and he didn't see me. How could he NOT see my bike? And why did he write me a ticket for not having a light on my bike?

He claims that I didn't have a white light on the front of my bike, and of course I didn't realize I was being ticketed for such an offense until well after I was away from the scene. Here's a possible explanation -----

I had 60 lights -- white and other colors -- on my front wheel, 60 lights - again, white and other colors -- on my rear wheel, and 49 lights which were all red enclosed in a plastic tube that was mounted over the rear wheel and attached to the platform over the rear wheel. In addition I had a white light, which had been issued by the city of KW at that time, clipped onto my wire basket which was hung from the front handlebars.

The lights on the wheels were interwoven between the spokes and taped to the spokes, making them virtually irremovable. The red lights in the tube on the rear were enclosed and again virtually irremovable. That's 169 lights on my bike, all of which were fully illuminated at the time of the crash. So that only leaves in dispute the white light clipped to the basket in front. I can only surmise that it came off due to the crash. Or maybe someone took it off later, for whatever sinister reason. And of course since Officer Leahy did indeed hit me, then he certainly would not look to find any evidence which would implicate him and at the same time exonerate me. NO, no, no - we have to make the bicyclist the bad guy here.

Had I known that Leahy was going to write me a ticket for a failure to have a light on my bike, then I certainly would have done whatever searching was necessary to prove right then and there that I did have a light on my bike. But you have to understand that once Sanchez arrived on the scene, I had no chance to do anything but to address his concerns and questions. And then he arrested me.

Stop and think for a moment what the "light on the front of a bike " law is for; it is so other motorists can see the bicyclist, that he/she can be visible. And visible am I with all those lights illuminated. So I met the intent of the law, but did I meet the letter of the law? And the answer is YES !!!!!

(third page of the complaint amendment)

The law says a bicyclist "shall be equipped with a lamp on the front exhibiting a white light visible from a". Nowhere does the law specify the size or shape; it only specifies "on the front" as to location of the lamp.

Since my lights were mounted in the wheel itself, and the front wheel on any bike is further to the front than any other position on a bike, then lights on my wheel satisfy the requirements of the law. Office Leahy did NOT contend that my lights may have been too dim to see (they were NOT) from the mandated distance; he merely claims that I did NOT have a light on the front of my bike.

I think Leahy's actions speak for themselves in that he was not concerned for my possible injuries inasmuch as he never asked if I was all right; he only sought to extricate himself from a situation of his own creation. And then to have Sanchez make matters nuttier yet by him arresting me and charging me with BUI is just the topper.

One more point to consider, and that's this: why was Leahy NOT charged with a traffic infraction? Or two? He not only failed to yield the right-of-way to me, but because he was also passing me then he violated state law that says motorists MUST stay at least THREE FEET away. Obviously, by crashing into me, he failed to stay three feet away. If you or I cause an accident, then you can bet your last dollar we are going to be charged with a traffic violation.

Chief says that my crash will be investigated during the next meeting of the Accident Review Board.

10



CITY OF KEY WEST
Citizen Review Board
P.O. Box 1946
Key West, FL 33041
Ph: (305) 809-3887
Fax: (305) 293-9827

November 19, 2009

Mr. Shahdaroba Rodd
P.O. Box 742
Key West, FL 33041

VIA REGULAR US MAIL

Complaint File: **CRB No. 09-009**
KWPD-IA File Number: (to be assigned)

Dear Mr. Shahdaroba:

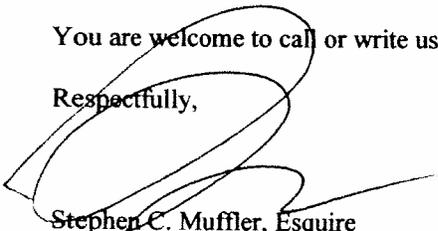
This letter shall confirm receipt of your complaint against Officers Sanchez & Leahy. As per the Board's standard operating procedures, your complaint has been forwarded to the Key West Police Internal Affairs Department (IA) for investigation. At this time, the Board will await IA's findings and conclusions. The Board will consider the matter thereafter if you are not satisfied with IA's handling of the complaint. The Board reserves its rights to investigate the matter at any time if appropriate under the circumstances and in accordance with the City's Charter and Florida law.

Please note that all documents and communications received by this office are considered public records. You will be updated periodically by this office during material stages of the aforementioned processes. Please make sure that this office is updated at all times of any change to your contact information or mailing address.

The Board appreciates the time you have taken to lodge this complaint. If you change your mailing address, please send in written notice to this office so our files can reflect the same.

You are welcome to call or write us with any questions you may have.

Respectfully,


Stephen C. Muffler, Esquire
Executive Director
Attorney-at-Law
cc: File



CITY OF KEY WEST

Citizen Review Board
P.O. Box 1946
Key West, FL 33041
Ph: (305) 809-3887
Fax: (305) 293-9827

January 5, 2010

VIA REGULAR US MAIL

Mr. Shahdaroba Rodd
P.O. Box 742
Key West, FL 33041

Complaint File: **CRB No. 09-009**
KWPD-IA File Number: (None)

Dear Mr. Rodd:

Enclosed please find KWPD memorandum dated December 31, 2009 which I received today. Your case file will be prepared and ready to be evaluated by the CRB at its next meeting on January 25, 2010. If you wish to respond to this latest memorandum, please do so in writing and get it to me no later than January 15, 2010, so I can timely prepare all the materials. You can also respond to this memorandum via direct comment to the Board at the January 25, 2010 meeting at 6:00 p.m. at the Old City Hall.

Respectfully,

A handwritten signature in black ink, appearing to read "Stephen C. Muffler", with a long, sweeping underline.

Stephen C. Muffler, Esquire
Executive Director
Attorney-at-Law
cc: File

Donald J. Lee, Jr.

Chief of Police



Key West

POLICE DEPARTMENT

TO: Stephen Muffler, Citizens Review Board

FROM: Donald J. Lee, Jr. Chief of Police 

DATE: December 31, 2009

RE: CRB 09-009 Rodd

I have received and reviewed the complaint packet from your officer in reference to Mr. Rodd. I have conducted an inquiry into Mr. Rodd's allegations and find that there is no basis to his allegations of untruthfulness, false arrest, conspiracy and harassment. I do not intend on initiating an internal investigation into this matter.

As a result of the inquiry I have found that Officer Sanchez was deficient in his report writing in a couple of areas. I will direct Officer Sanchez's supervisor to counsel him and document the deficiency for evaluation purposes.

CC: Lt. David Smith, Professional Standards



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com





Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Lt. David Smith
FROM: Stephen Muffler, Esquire
DATE: 1/06/10
RE: CRB Amended Agenda for 1/25/10

Attached please find the Amended agenda for the above referenced CRB meeting. Also enclosed please find the respondent officers' notices. **Would you please forward these notices to the individual officers so that they are aware of this upcoming meeting?** It would be desirable for a representative from your office attend this meeting to help address the Board's specific questions on any files or procedures. Please note that all of the Board materials are now available for yourself or the respondent officers to view on the CRB website.

AGENDA

Citizen Review Board Meeting
Old City Hall, 510 Greene Street
Monday, January 25, 2010
6:00 p.m.

1. CALL THE MEETING TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF MINUTES:
 - a. December 14, 2009
5. TRACKING CHART REVIEW
6. CONTINUED OR NEW BUSINESS
 - a. File Review: CRB #09-009 (Rodd)
 - b. Final Modification/Approval of CRB Annual Report for 2009
8. COUNSEL'S REPORT
9. CHAIRPERSON'S REPORT
10. BOARD MEMBERS REPORT/GENERAL COMMENTS
11. EXECUTIVE DIRECTOR'S REPORT
 - a. CIP Miami January 19th Meeting Results/Update on Florida Legislative Session 2010
 - b. CRB Recent PR/News Media interface efforts
 - c. CRB Litigation Final Hearing date of 1/27/10 @ 9:00 a.m. Judge Audlin's Courtroom
12. PSO/IA COMMENTS/FOLLOW-UP
13. PUBLIC INPUT
14. MEDIA AND PRESS QUESTIONS
15. ADJOURNMENT

Citizens Review Board

From: Citizens Review Board
Sent: Wednesday, January 06, 2010 2:22 PM
To: Brian Leahy
Cc: Citizens Review Board; David T. Smith; Randall Smith
Subject: CRB Notice

Attachments: Leahy Notice 012510.PDF

Good Day:

Attached is your notice to the upcoming CRB meeting scheduled for January 25, 2010 at Old City Hall. Please contact me directly with any questions you may have regarding this matter.



Leahy Notice
012510.PDF (42 KB..)

Stephen C. Muffler, Esquire
Executive Director
Attorney at Law

City of Key West
Citizen Review Board
P.O. Box 1946
Key West, Florida 33041
tel(305) 809-3887
fax(305) 293-9827
crb@keywestcity.com
www.keywestcity.com

Note To Recipients: Under Florida law, this communication and any response or reply to it, will be subject to public records requests/disclosure laws, unless an applicable privilege or rule of evidence applies.

Note to Citizen Review Board Members: In accordance with the Florida Sunshine Law, please do not "reply to all" if there are other board members receiving this e-mail concerning Board business. Please only reply to non-board members when responding.



Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Officer Brian Leahy
FROM: Stephen Muffler, Esquire
DATE: 1/6/10
RE: CRB Complaint #09-009/Rodd

Attached please find a copy of the proposed Agenda for the CRB meeting to be held at 6:00 p.m. at the Old City Hall on January 25, 2010. One or more of the Board Members and/or the Executive Director as placed the above referenced file on the Agenda for discussion. You are a respondent in this file and are invited to attend this meeting to help clarify the matter to the Board members. You are under no obligation to attend nor speak to the Board, but your input on the matter would be carefully weighed and would assist the Board in reaching a fair and just recommendation. You may attend personally, via a union representative or through legal counsel. Materials on this file may be viewable via the CRB website prior to the meeting.

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Citizen Review Board Meeting
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13. PUBLIC INPUT
14. MEDIA AND PRESS QUESTIONS
15. ADJOURNMENT

Citizens Review Board

From: Citizens Review Board
Sent: Wednesday, January 06, 2010 2:21 PM
To: Luis Sanchez
Cc: Citizens Review Board; David T. Smith; Randall Smith
Subject: CRB Notice

Attachments: Sanchez Notice 012510.PDF

Good Day:

Attached is your notice to the upcoming CRB meeting scheduled for January 25, 2010 at Old City Hall. Please contact me directly with any questions you may have regarding this matter.



Sanchez Notice
012510.PDF (42 ...)

Stephen C. Muffler, Esquire
Executive Director
Attorney at Law

City of Key West
Citizen Review Board
P.O. Box 1946
Key West, Florida 33041
tel(305) 809-3887
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Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Officer Luis Sanchez
FROM: Stephen Muffler, Esquire
DATE: 1/6/10
RE: CRB Complaint #09-009/Rodd

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