22CT3716 SB

ARREST / NOTICE TO APPEAR

1. Arrest 2. N.T.A. 3. Request for Warrant 4. Request for Capias

1 JUVENILE

ADMINISTRATION

OBTS Number

Agency ORI Number: 0500400

Agency Name: Delray Beach Police Department

Agency Report Number (N.T.A.'s only): 40 22-002964

Charge Type: Check as many as apply. 1. Felony 2. Traffic Felony 3. Misdemeanor 4. Traffic Misdemeanor 5. Ordinance 6. Other

If Weapon Seized: Enter Type: UNARMED

Multiple Clearance Indicator: 1

Location of Arrest (Including Name of Business): 1040 W LINTON BLVD DELRAY BEACH FL 33444

Location of Offense (Business Name, Address): 1040 W LINTON BLVD, DELRAY BEACH, FL 33444

Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle
03/04/2022	21:57	03/04/2022	22:33			1040 W LINTON BLVD

DEFENDANT

Name (Last, First, Middle): FERRY, DIANE ELLA

Alias: Alias (Name, DOB, Soc. Sec. #, Etc.)

Race (W - White, B - Black, I - American Indian, O - Oriental/Asian)	Sex	Date of Birth	Height	Weight	Eye Color	Hair Color	Complexion	Build
W	F	05/01/1956	5'07	150	BLUE	BLOND OR	LIGHT	SMALL

Scars, Marks, Tatoos, Unique Physical Features (Location, Type, Description):

Marital Status: M Religion: PROTESTANT

Indication of: Alcohol Influence Yes ☒ No ☐ Unk. ☐ Drug Influence ☐

Local Address (Street, Apt. Number) (City) (State) (Zip): 598 W PALMETTO PARK RD, BOCA RATON, FL 33432

Phone: (561) 542-3768

Residence Type: 1. City 2. County 3. Florida 4. Out of State: 1

Permanent Address (Street, Apt. Number) (City) (State) (Zip): 598 W PALMETTO PARK RD, BOCA RATON, FL 33432

Phone: (561) 542-3768

Address Source: VERBAL

Business Address (Name, Street) (City) (State) (Zip):

Phone:

Occupation:

DL Number, State: F600165566610 / FL

Soc. Sec. Number: [redacted]

INS Number:

Place of Birth (City, State): PHILIDELPHIA, PA,

Citizenship: US

CO-DEF

Co-Defendant Name (Last, First, Middle) | Race | Sex | Date of Birth | ☐ 1. Arrested ☐ 2. At Large ☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile

Co-Defendant Name (Last, First, Middle) | Race | Sex | Date of Birth | ☐ 1. Arrested ☐ 2. At Large ☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile

JUVENILE

☐ Parent ☐ Other: ☐ Legal Custodian

Name (Last, First, Middle): 1 OR

Residence Phone:

Address (Street, Apt. Number) (City) (State) (Zip):

Business Phone:

Notified by: (Name) Date Time

JUVENILE DISPOSITION: 1. Handled/Processed within Department and Released 2. TOT JAC 3. Incarcerated

Released To: (Name) Relationship Date Time

The above address was provided by ☐ defendant and/or ☐ defendant's parents.
The child and/or parent was told to keep the Juvenile Court Clerk's Office (Phone 355-2526) informed of any change of address.

☐ Yes, by: ☐ No:

School Attended: Grade:

Property Crime? ☒ Yes ☒ No

Description of Property: CONCRETE PILLAR

Value of Property: $5,000

CODE

Drug Activity: N. N/A P. Possess S. Sell B. Buy T. Traffic D. Deliver E. Use K. Disperses/ Distribute M. Manufacture/ Produce/ Cultivate Z. Other

Drug Type: N. N/A A. Amphetamine B. Barbiturate C. Cocaine E. Heroin H. Hallucinogen M. Marijuana O. Opium/Deriv. P. Paraphernalia/ Equipment S. Synthetic U. Unknown Z. Other

CHARGE

Charge Description	Statute Violation Number	Violation of ORD #
DRIVING WHILE UNDER INFLUENCE	316.193(1)A	

Drug Activity	Drug Type	Amount / Unit	Offense #	Counts	Domestic Violence	Warrant / Capias Number	Bond
	N	/	22-002964	1	☐ Y ☒ N		

CHARGE

Charge Description	Statute Violation Number	Violation of ORD #

Drug Activity	Drug Type	Amount / Unit	Offense #	Counts	Domestic Violence	Warrant / Capias Number	Bond
		/			☐ Y ☐ N		

CHARGE

Charge Description	Statute Violation Number	Violation of ORD #

Drug Activity	Drug Type	Amount / Unit	Offense #	Counts	Domestic Violence	Warrant / Capias Number	Bond
					☐ Y ☐ N		

INTAKE

Health / Apparent Physical Condition of Defendant:

Any knowledge of the following: ☐ Mental ☐ Escape Risk ☐ Medication ☐ Deformities ☐ Injuries
Explain:

Check which applies: ☐ Released O.R. ☐ Released to Parent/Guardian ☒ T.O.T. County Jail ☐ Posted Bond ☐ South County Mental Health

PROPERTY - Received By: Released By: Released To:

Transported By: Date Transported: / / Time Transported: : Other:

NOTICE TO APPEAR

☒ INSTRUCTION NO. 1 - Mandatory appearance in court
☐ INSTRUCTION NO. 2 - You need not appear in Court but must comply with instructions on Page 2.

Location (Court, Room): South County 200 W Atlantic Ave Delray Beach, FL 33444

Court Date and Time: 03/22/2022 08:30:00

I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN COMTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

Signature of Defendant (or Juvenile and Parent/Custodian)

Date Signed: 3/25/65 MAR 5 AM 7:05

No Photo Available

ADMIN

HOLD for Other Agency

☐ Dangerous ☐ Resisted Arrest ☐ Suicidal ☐ Other

Signature of Arresting Officer:

Name of Arresting Officer (Print): LOPEZ, BRIAN I.D. # 1218

Name Verification (Printed by Arrestee) (PRINT)

Intake Deputy: Barilla I.D. # 18342 Pouch #

Transporting Officer: LOPEZ I.D. # 1218 Agency: DELRA

Witness here if subject signed with an "X".

PAGE 1 OF 1

☐ COURT ☐ STATE ATTORNEY ☐ AGENCY ☐ CENTRAL RECORDS ☐ JAIL ☐ CRIME ANALYSIS ☐ P.I.O. ☐ DEFENDANT

052911

1439

D.U.I. PROBABLE CAUSE AFFIDAVIT

ON THE 4th DAY OF March, 2022 AT 9:57 ☐AM ☒ PM
IN THE CITY OF DELRAY BEACH, COUNTY OF PALM BEACH, STATE OF FLORIDA

Case No: 22-002964 **Defendant:** Ferry, Diane
Agency: Delray Beach **Arresting Ofc:** Lopez

PERSONAL CONTACT/DRIVING PATTERN/OBSERVATIONS OF DRIVER:

On 3/4/2022 at approximately 2123hrs, I responded to 1040 W Linton Blvd in reference to a black Tesla (bearing the FL tag LMHI18) that crashed into a concrete pillar behind the plaza. Upon arrival, I observed the vehicle was being operated by the sole occupant, Diane Ferry. Ferry stated that she did not have any neck or back pain from the accident. The fire department arrived and assisted me with removing Ferry from the vehicle. As Ferry exited the vehicle, she stumbled out and could not walk without assistance. Post Miranda, Ferry stated that she just left her mother's house and she admitted to having three Jack Daniels drinks. Ferry stated the drinks were not mixed; it was just alcohol. After the fire fighters removed Ferry from the vehicle, an empty 375ML bottle of Jack Daniels was located on the front driver's side floorboard. When I questioned Ferry about it, she stated she bought the bottle today and she had her last drink approximately three hours ago. At this time, I requested if she would consent to the Standardized Field Sobriety Tasks which she did.

I started with the horizontal gaze nystagmus. Before starting, I observed both her pupils appeared to be the same size and were slightly dilated. Her eyes were also reddened and glossy. During the task, both her eyes lacked smooth pursuit and there was nystagmus prior to maximum deviation and sustained nystagmus at maximum deviation. She also did not keep her hands by her side and on the final pass, she followed the stimulus with her head and not with her eyes despite being instructed not to.

I then had the defendant perform the walk and turn task which she was unable to follow the instructions that were given to her. She did not maintain the starting position, she was swaying back and forth, and stepping to the side to regain her balance. She also did not touch heel to toe on any of the steps she took. She stumbled several times and stepped to the side as she was performing the task. The defendant took the incorrect number of steps walking back.

The defendant was then asked to perform the one leg stand where she was unable to complete the task. She was only able to hold her foot up for approximately one second before putting it back down to regain her balance. She repeated this seven times and I had her stop the task because I did not want her to fall and hurt herself.

During the finger to nose task, the defendant did not close her eyes or tilt her head back.

I asked the defendant if she knew her numbers from 1-100 and from 100-1. He advised he did. I instructed her count backwards from 45 to 15, and she skipped several numbers and stopped counting at 21.

At this time, the defendant Diane Ferry was arrested for DUI in accordance with FSS 316.193 (1)A. She was also given a citation for Careless Driving in accordance with FSS 316.1925.

The foregoing instrument was sworn to before me this 4th day of March, 2022
by Officer Lopez

1218
Arresting Officer

JOSHUA BELL
MY COMMISSION #GG346008
EXPIRES: JUN 18, 2023
Bonded through 1st State Insurance

Notary/Police Officer (FSS 117.10)

ROADSIDE TASKS

Case No: 22-002964 **Defendant:** Ferry, Diane

HORIZONTAL GAZE NYSTAGMUS: 6 of 6 clues

Left Eye:	Right Eye:
☒Lack of smooth pursuit	☒Lack of smooth pursuit
☒Distinct & sustained nystagmus at maximum deviation	☒Distinct & sustained nystagmus at maximum deviation
☒Onset prior to 45 degrees	☒Onset prior to 45 degrees

Notes: DEFENDANT's eyes were checked for pupil and equal tracking; no abnormalities were noted.

WALK AND TURN: 4 of 8 clues
This task was explained and demonstrated to Ferry, Diane, which she stated she understood.

ONE LEG STAND: 4 of 4 clues
This task was explained and demonstrated to Ferry, Diane, which she stated she understood.

FINGER TO NOSE: 2 of 4 clues
This task was explained and demonstrated to Ferry, Diane, which she stated she understood.

ROMBERG/ALPHABET: 1 of 4 clues
This task was explained and demonstrated to Ferry, Diane, which she stated she understood.

The defendant was handcuffed and taken into custody without incident. I then transported Ferry to the booking facility at the PBCJ BAT. Upon my arrival at 2241 I completed the required 20-minute observation. I then requested Ferry provide a sample of his/her breath for the purpose of determining the alcohol content. The defendant complied and provided the requested breath samples. The results are: .109 and .109.

Based on the above facts, probable cause does exist to charge Diane Ferry with one count of DUI pursuant to FSS 316.193(1). I issued the Diane Ferry the following citations: Driving While Under Influence and Careless Driving.

Upon completion of the booking process, Diane Ferry was turned over to Palm Beach County Jail.

The foregoing instrument was sworn to before me this 4th day of March, 2022
by Officer Lopez.

12.18

Arresting Officer

Notary/Police Officer (FSS 117.10)

JOSHUA BELL
MY COMMISSION #GG346008
EXPIRES: JUN 18, 2023
Bonded through 1st State Insurance

WITNESS LIST

Case No: 22-002964 **Defendant:** Ferry, Diane

Arresting Officer: Brian Lopez
Address: 300 W Atlantic Avenue Delray Beach FL 33444
Phone Numbers: Home: (561) 243-7888 Ext 2945 **Work:** (561) 243-7800

Name:
Address:
Phone Numbers: Home: **Work:**
Can testify to:

Name:
Address:
Phone Numbers: Home: **Work:**
Can testify to:

Name:
Address:
Phone Numbers: Home: **Work:**
Can testify to:

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Can testify to:

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Phone Numbers: Home: **Work:**
Can testify to:

Name:
Address:
Phone Numbers: Home: **Work:**
Can testify to:

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

Instrument Type: Intoxilyzer 8000
Instrument Registered To: PALM BEACH CO SO
Instrument Serial Number: 80-006029 Software: 8100.27
Date of Test: 03/04/2022

Date of Last Agency Inspection: 02/04/2022
Observation Period Began: 22:41
Subject's Name: DIANE FERRY DOB: 05/01/1956 Sex: F

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	23:08
Air Blank	0.000	23:08
Control Test	0.081	23:08
Air Blank	0.000	23:09
Subject Sample #1	0.119	23:10
Air Blank	0.000	23:11
Air Blank	0.000	23:13
Subject Sample #2	0.109	23:13
Air Blank	0.000	23:14
Control Test	0.080	23:14
Air Blank	0.000	23:15
Diagnostics Check	OK	23:15

Cylinder Lot: 19021080A2
Exp: 09/05/2023

State of Florida, County of Palm Beach,

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 SHARI L O'NEAL, 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: S L O'Neal Date: 03-04-22
Signature

Sworn to (or affirmed) before me this 04 day of March, 2022

[signature] 1218 Ofc. Lopez #1218
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.

FDLE/ATP FORM 38 - MARCH 2004, Ref. 11D-8.007

SUBJECT: _____ CASE NUMBER: _____

IMPLIED CONSENT FOR DUI IN A MOTOR VEHICLE

NOTE: READ ONLY THE PARAGRAPH APPLICABLE TO THE TYPE OF TEST YOU ARE REQUESTING.

I am now requesting that you submit to a lawful test of your BREATH for the purpose of determining its alcohol content.

-OR-

I am now requesting that you submit to a lawful test of your URINE for the purpose of detecting the presence of chemical or controlled substances.

-OR-

I am now requesting that you submit to a lawful test of your BLOOD for the purpose of detecting its alcohol content and the presence of chemical or controlled substances.

NOTE: READ ONLY IF THE SUBJECT DOES NOT COMPLY WITH YOUR REQUEST.

I am _____ of the _____.

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 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. 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.

SUBJECT'S SIGNATURE: (X)_____

CONSTITUTIONAL WARNINGS

I AM REQUIRED TO WARN YOU BEFORE YOU MAKE ANY STATEMENTS THAT YOU HAVE THE FOLLOWING RIGHTS:

1. You have the right to remain silent and not answer any questions.
2. Any statement must be freely and voluntarily given.
3. You have the right to the presence of a lawyer of your choice before you make any statement and during any questioning.
4. If you cannot afford a lawyer, you are entitled to the presence of a court appointed lawyer before you make any statements and during any questioning.
5. If at any time during the interview you do not wish to answer any questions, you are privileged to remain silent.
6. I can make no threats or promises to induce you to make a statement. This must be of your own free will.
7. Any statement can and will be used against you in a court of law.

SUSPECT'S SIGNATURE: (X)_____

WHITE - STATE ATTY. YELLOW - DHSMV PINK - CENTRAL RECORDS GOLD - JAIL

PALM BEACH COUNTY SHERIFF'S OFFICE
DUI TESTING FACILITY
INFORMATION SHEET

PBSO CASE #: 22-042849 **PBSO ZONE:** Click or tap here to enter text.

AGENCY CASE #: 22-002964 **DHSMV CRASH #:** 24847701

TIME OF CRASH/STOP: 2123 **DATE:** 3/4/2022 **DAY:** Friday

DEFENDANT: Ferry, Diane **RACE:** W **SEX:** F

HGT: 507 **WGT:** 150 **DOB:** 5/1/1956

LOCATION: 1040 W Linton Blvd Delray Beach 33444

ARRESTING OFC: Lopez **ID:** 1218 **AGENCY:** Delray Beach

DIVISION: Community Patrol Brian

NOTIFIED BY COMM: /

ARRIVAL AT FACILITY: 2241

TIME OF ARREST: 2157

BREATH RESULTS:
1. .119
2. .109
3.
4.

TESTING OFC. ID: 6212 **PBSO VIDEOTAPE #:** /

SUBJECT: _____ CASE NUMBER: _____

QUESTIONS AND ANSWERS

I AM NOW GOING TO ASK YOU SOME QUESTIONS. WITH THESE RIGHTS IN MIND, YOU MAY ANSWER SOME OF, ALL OF, OR NONE OF THE FOLLOWING QUESTIONS AS YOU LIKE.

WERE YOU OPERATING A MOTOR VEHICLE AT THE TIME OF THE STOP/ACCIDENT? _____

WHERE WERE YOU GOING? _____

WHAT STREET OR HIGHWAY WERE YOU ON? _____

DIRECTION OF TRAVEL? _____ WHERE DID YOU START? _____

WHAT TIME DID YOU START? _____ WHAT TIME IS IT NOW? _____

WHAT IS TODAY'S DATE? _____ WHAT DAY OF THE WEEK IS IT? _____

WHAT COUNTY AND CITY ARE YOU IN NOW? _____

WHEN DID YOU LAST EAT? _____ WHAT DID YOU EAT? _____

WHAT HAVE YOU BEEN DOING FOR THE LAST THREE HOURS? _____

HOW MUCH DO YOU WEIGH? _____ HAVE YOU BEEN DRINKING? _____ WHAT? _____

HOW MUCH? _____ WHERE? _____ WITH WHOM? _____

WHEN DID YOU HAVE YOUR FIRST DRINK? _____ AND YOUR LAST DRINK? _____

HOW DID YOU CONSUME YOUR LAST TWO DRINKS? _____

CAN YOU FEEL THE EFFECTS OF THE ALCOHOL? _____ ARE YOU UNDER THE INFLUENCE? _____

HAVE YOU CONSUMED ANY ALCOHOL SINCE THE ACCIDENT? _____ HOW MUCH? _____

WHAT? _____ WHERE? _____ WHEN? _____

WHAT LINE OF WORK ARE YOU IN? _____ WHEN DID YOU LAST WORK? _____

DO YOU HAVE ANY PHYSICAL DEFECTS OR INJURIES? _____ WHAT? _____

ARE YOU SICK OR INJURED? _____ WHAT'S WRONG? _____

DO YOU LIMP? _____ DID YOU RECEIVE A BUMP ON THE HEAD RECENTLY? _____

WERE YOU IN AN ACCIDENT TODAY? _____

HAVE YOU TAKEN ANY DRUGS OR SMOKED ANY MARIJUANA TODAY? _____ WHEN? _____

HAVE YOU SEEN A DOCTOR OR DENTIST TODAY? _____ WHO? _____ WHY? _____

ARE YOU TAKING ANY PRESCRIPTION MEDICINES? _____ WHAT? _____ WHEN? _____

DO YOU HAVE:
- EPILEPSY? _____
- GLASS EYE? _____
- FALSE TEETH? _____
- EAR INFECTION? _____
- INNER EAR TROUBLE? _____
- DIABETES? _____

DO YOU HAVE ANY PROBLEMS WITH YOUR EYES THAT ARE NOT CORRECTED BY GLASSES? _____

DO YOU TAKE INSULIN? _____ IF SO, WHEN WAS YOUR LAST INJECTION? _____

HAVE YOU EVER HAD A DRIVER'S LICENSE IN ANY OTHER STATE? _____ WHERE? _____

INTERVIEWER: _____

PALM BEACH COUNTY
SHERIFF'S OFFICE
Florida State Statute Exemption Sheet

Palm Beach County Sheriff's Office – Arrests Only

	X	Florida State Statute	Description	Page Number(s)
L/E Exemptions	☐	119.071(2)(d)	Surveillance techniques, procedures and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization deployment or tactical operations.	
	☐	943.053, 943.0525	NCIC/FCIC/FBI and in-state FDLE/DOC.	
	☐	119.071(4)(c)	Undercover personnel.	
	☐	119.071(2)(f)	Confidential informants (CIs).	
	☐	119.071(2)(e)	Confession.	
Public Info. Exemptions	☐	985.04(1)	Juvenile offender records.	
	☐	119.071(h)(i)	Assets of a crime victim.	
	☐	395.3025(7)(a), 456.057(7)(a)	Medical information.	
	☐	394.4615(7)	Mental health information.	
	☐	119.071(4)(d)(2)(a)	Home address, telephone, Social Security number, date of birth, or photos of active/former LE personnel, spouses, and children.	
Florida Rules of Judicial Administration 2.420 (Rule of 23)	☒	(iii) 119.0714(1)(i)-(j), (2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers.	2
	☐	(viii) 394.4615(7)	Clinical records under the Baker Act.	
	☐	(xii) 741.30(3)(b)	The victim's address in a domestic violence action on petitioner's request.	
	☐	(xiii) 119.071(2)(h), 119.0714(1)(h)	Protected information regarding victims of child abuse or sexual offenses.	
	☐			
	☐			
	☐			
	☐			
	☐			
Other	☐		Other:	
	☐		Other:	

REVIEW COMPLETED BY

Booking Number: 2022005890	**Date:** 3/6/2022
	Specialist Name/ID: M. Tooks #8557