22CT 3314 SB

ARREST / NOTICE TO APPEAR
Juvenile Referral Report

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

ADMINISTRATIVE

OBTS Number	
Agency ORI Number	FLO 500000
Agency Name	PALM BEACH COUNTY SHERIFF'S OFFICE
Agency Report Number (N.T.A.'s only)	06- 22-041423
ChargeType: Check as many as apply.	☐ 1. Felony ☐ 2. Traffic Felony ☐ 3. Misdemeanor ☒ 4. Traffic Misdemeanor ☐ 5. Ordinance ☐ 6. Other
Weapon Seized / Type (1. Yes 2. No)	2
Multiple Clearance Indicator	01
Location of Arrest (Including Name of Business)	South Jog Road / SR 80, West Palm Beach, FL 33415
Location of Offense (Business Name, Address)	South Jog Road / SR 80, West Palm Beach, FL 33415
Date of Arrest	03/01/2022
Time of Arrest	01:57
Booking Date	03/01/2022
Booking Time	
Jail Date	
Jail Time	
Location of Vehicle	Joy Towing, 2712 Park St., Lake Worth, FL 33460, (561) 547-5527

DEFENDANT

Name (Last, First, Middle)	Mcsherry, Justin, Robert
Alias (Name, DOB, Soc. Sec. #, Etc.)	
Race (W - White I - American Indian B - Black 0- Oriental/Asian)	W
Sex	M
Date of Birth	8/28/1981
Height	6'03
Weight	185
Eye Color	hazel
Hair Color	brown
Complexion	light
Build	medium
Scars, Marks, Tatoos, Unique Physcal Features (Location, Type, Description)	
Marital Status	Married
Religion	NONE
Indication of: Alcohol Influence	Y ☒ N ☐ Unk. ☐
Indication of: Drug Influence	Y ☐ N ☐ Unk. ☒
Local Address (Street, Apt. Number) (City) (State) (Zip)	6129 Eaton St, West Palm Beach, FL 33411
Phone	(561) 255 2833
Residence Type: 1. City 2. County 3. Florida 4. Out of State	2
Permanent Address (Street, Apt. Number) (City) (State) (Zip)	,
Phone	( )
Address Source	DL
Business Address (Name, Street) (City) (State) (Zip)	
Phone	( )
Occupation	Restaurant owner
D/L Number, State	M260436813080, FL
Soc. Sec. Number	[redacted]
INS Number	
Place of Birth (City, State)	Coral Springs, FL
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
				☐ 1. Arrested ☐ 2. At Large	☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile

JUVENILE

☐ Parent ☐ Legal Custodian ☐ Other: Name (Last) (First) (Middle) — Residence Phone ( )

Address (Street, Apt. Number) (City) (State) (Zip) , — Business Phone ( )

Notified by: (Name) — Date — Time — Juvenile Disposition: 1. Handled/ processed within Dept. and Released. 2. TOT HRS / DYS 3. Incarcerated

Released To: (Name) — Relationship — Date — Time

The above address provided by ☐ defendant and / or ☐ defendant's parents The child and / or parent was told to keep the Juvenile Court Clerk (Phone 355-2526) informed of any change of address. ☐ Yes, by: (Name) ☐ No: (Reason)

School Attended — Grade

Property Crime? ☐ Yes ☐ No — Description of Property — Value of Property

CODE

Drug Activity: N. N/A P. Possess S. Sell B. Buy T. Traffic R. Smuggle D. Deliver E. Use K. Dispense/ 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. Synthetics U. Unknown Z. Other

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
Driving Under the Influence (enhanced)	1	☐Y ☒N	316.193(4)	

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond
N	N		22-041423		

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
		☐Y ☐N		

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
		☐Y ☐N		

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
		☐Y ☐N		

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond

NOTICE TO APPEAR

Location (Court, Room Number, Address): South County Courthouse, Courtroom #1, 200 W. Atlantic Ave., Delray Beach, FL 33444 - Ph: (561) 355-2996

Court Date and Time: Month March Day 28 Year 2022 Time 08:30 AM X PM

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 CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED

Signature of Defendant (or Juvenile and Parent /Custodian) — Date Signed: 03/01/2022

MAR 1 AM 8:52

ADMIN

HOLD for other Agency Name:	
☐ Dangerous ☐ Suicidal ☐ Resisted Arrest ☐ Other:	
Intake Deputy / I.D. # / Pouch #	
Signature of Arresting Officer	X
Name of Arresting Officer (Print)	Inv. POINTU P.
I.D. #	16032
Transporting Officer	D/S POINTU P.
ID #	16032
Agency	PBSO
Name Verification (Printed by Arrestee) (PRINT)	Justin McSherry
Witness here if subject signed with an -X"	
PAGE	1 OF

DISTRIBUTION: WHITE - COURT COPY GREEN - STATE ATTORNEY YELLOW - AGENCY PINK - AGENCY GOLD - DEFENDANT (N.T.A.'s ONLY)

PBSO #148 REV. 8/97

J# 0504830 — Pd 1551

D.U.I. PROBABLE CAUSE AFFIDAVIT

ON THE 1 DAY OF March 20 22, AT 01:34 ✓ AM PM

SUBJECT: Mcsherry, Justin, Robert CASE NUMBER: 22-041423

AGENCY: PALM BEACH COUNTY SHERIFF'S OFFICE ARRESTING OFFICER: Inv. POINTU P.

PERSONAL CONTACT

DRIVING PATTERN: Actual physical control (physical evidence or statements putting def. behind wheel of vehicle)

I was conducting traffic enforcement in the area of South Jog Road, South of Gun Club Road, in unincorporated West Palm Beach, Palm Beach County, Florida. I observed a vehicle driving Northbound on lane 1 driving at an estimated 80 MPH in a 45 MPH zone. I obtained a clear Doppler tone from my front RADAR antenna with a reading of 80 MPH. I initiated a traffic stop of the vehicle that was identified as a Tesla bearing Florida tag LJZQ39. The Tesla came to a stop in the left turning lane 2, just south of the intersection with SR80. The driver and only occupant of the vehicle was identified by his Florida driver license as Justin McSherry. McSherry was the registered owner of the car.

OBSERVATION OF DRIVER:

McSherry had glassy and bloodshot eyes. His speech was slurred. He was fumbling to retrieve his license from his wallet and passed it twice before recognizing it. A plastic cup containing a brown frothy liquid was visible in clear view on the floorboard behind the front passenger seat.

DRIVER'S STATEMENTS:

McSherry admitted drinking two beers.

ODORS:

Obvious odor of unknown alcoholic beverage that become stronger when he talked.

GENERAL OBSERVATIONS

SPEECH: **Slurred**

ATTITUDE: **Cooperative, friendly**

CLOTHING: **black t shirt, blue jeans, white flip flops**

MEDICAL/OTHER: **none disclosed**

STATE OF FLORIDA
COUNTY OF PALM BEACH

Inv. POINTU P.
(Signature of Arresting/Investigative Officer)

The foregoing instrument was sworn to or affirmed and subscribed before me this 1st day of March 20 22 by Inv. POINTU P.

(Print name of Arresting/Investigative Officer), who is personally known to me and/or produced identification. Type of identification produced known

Renee Ragin (#16877)
Notary Public, Clerk of Court, Officer (F.S.S 117.10)

Notary Public State of Florida
Renee Ragin
My Commission GG 968418
Expires 03/05/2024

SUBJECT: Mcsherry, Justin, Robert **CASE NUMBER** 22-041423

ROADSIDE TASKS

HORIZONTAL GAZE NYSTAGMUS:

- [x] LT EYE-LACK OF SMOOTH PURSUIT
- [x] RT EYE-LACK OF SMOOTH PURSUIT
- [x] LT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION
- [x] RT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION
- [x] LT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES
- [x] RT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES

Other Observations:

Pupils round and equal. No resting nystagmus. Equal tracking. Onset of HGN at approximately 35 degrees. VGN present. LOC present. Swayed during the task.

WALK & TURN:

McSherry could not maintain the instructional stance. Once asked to start he did not walk heel to toe. He stepped off the line, used his arms to balance, took eight steps forward, did not turn as instructed and took nine steps back.

ONE LEG STAND:

McSherry swayed while balancing. He used his arms to balance and put his foot down multiple times. He also restarted the count instead of resuming it.

FINGER TO NOSE:

McSherry swayed during the task. He tilted his head forward and opened his eyes multiple times. On task 2 he used the pad of his finger instead of the tip. On tasks 1 and 2 he touched the bridge of his nose instead of the tip.

ROMBERG ALPHABET:

McSherry swayed during the task. He could not recite the alphabet properly to the end and repeated some letters multiple times. For the Romberg balance, McSherry stopped the 30 seconds task at approximately 31 seconds. He swayed in all directions more than 2 seconds.

BREATH TEST RESULTS: **0.162** **0.165**

STATE OF FLORIDA
COUNTY OF PALM BEACH

Inv. POINTU P.
(Signature of Arresting/Investigative Officer)

The foregoing instrument was sworn to or affirmed and subscribed before me this 1st day of March 20 22 by Inv. POINTU P.

(Print name of Arresting/Investigative Officer), who is personally known to me and/or produced identification. Type of identification produced known

Renee Ragin (#16877)
Notary Public, Clerk of Court, Officer (F.S.S 117.10)

Notary Public State of Florida
Renee Ragin
My Commission GG 966418
Expires 03/05/2024

TESTING FACILITY TASK REPORT

AGENCY: PBSO

SUBJECT: McSherry, Justin R.

CASE NUMBER: 22-041423

DATE: Mar 1, 2022

VIDEO DVD NUMBER: N/A

BEGINNING TIME: 02:32

ENDING TIME: 02:43

BREATH TESTS RESULTS: 1) .162 TIME 02:36 A.M. ☒ P.M. ☐ 2) .165 TIME 02:39 A.M. ☒ P.M. ☐

3) N/A TIME ——— A.M. ☐ P.M. ☐ 4) N/A TIME ——— A.M. ☐ P.M. ☐

BREATH OPERATOR: R. Ragin #16877

MAINTENANCE TECHNICAN: Jason Karlecke #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: Slurred

ATTITUDE: Calm, cooperative, talkative, polite

CLOTHING: Blue jeans, black t-shirt, white flip-flops

MEDICAL CONDITIONS: None

MEDICATIONS: None

OTHER:

Eyes are red
odor of unknown alcoholic beverage on breath

COMMENTS:

Arrived at center A/O started 20 minute observation period at 02:11 hrs.

Subject agreed to perform breath test.

A/O read rights.
Subject stated he understood rights.

Tech read breath test results.
Subject stated he understood breath test results.

A/O attempted Q&A.
Subject refused to answer Q&A.

SUBJECT: [illegible] CASE NUMBER: 22-04142

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

PBSO #0129B REV. 06/11

SUBJECT: [illegible] CASE NUMBER: 22-041452

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: _____

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: 80-006478 Software: 8100.27
Date of Test: 03/01/2022

Date of Last Agency Inspection: 02/04/2022
Observation Period Began: 02:11
Subject's Name: JUSTIN R MCSHERRY DOB: 08/28/1981 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	02:34
Air Blank	0.000	02:35
Control Test	0.080	02:35
Air Blank	0.000	02:36
Subject Sample #1	0.162	02:36
Air Blank	0.000	02:37
Air Blank	0.000	02:38
Subject Sample #2	0.165	02:39
Air Blank	0.000	02:40
Control Test	0.079	02:40
Air Blank	0.000	02:41
Diagnostics Check	OK	02:41

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 RENEE M RAGIN, 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: _____ Date: 03/01/22
Signature

Sworn to (or affirmed) before me this 01 day of March, 2022

_____ Inv. P. Pointu # 16032
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

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: 2022005530	**Date:** 3/1/2022
	Specialist Name/ID: S.Evans/23872