DCT 18590

ARREST / NOTICE TO APPEAR
Juvenile Referral Report

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

ADMINISTRATION

OBTS Number	Agency ORI Number	Agency Name	Agency Report Number
	FL0500300	BOYNTON BEACH POLICE DEPT.	34-21-012689

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: N/A | Multiple Clearance Indicator:

Location of Arrest (Including Name of Business)	Location of Offense (Business Name, Address)
739 E Ocean Ave. Boynton Beach FL 33426	739 E Ocean Ave. Boynton Beach FL 33426

Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle
11/03/2022	2117					Banana Boat

DEFENDANT

Name (Last, First, Middle): Fitzgerald, Joseph Patrick

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

W - White I - American Indian B - Black O - Oriental / Asian	Race	Sex	Date of Birth	Height	Weight	Eye Color	Hair Color	Complexion	Build
	W	M	11/30/1941	5'07	175	blue	Grey	light	small

Scars, Marks, Tattoos, Unique Physical Features (Location, Type, Description): none

Marital Status: single | Religion: none | Indication of: Alcohol Influence ☐ Y ☐ N ☐ Unk. Drug Influence ☐ ☐ ■

Local Address (Street, Apt. Number) (City) (State) (Zip)	Phone	Residence Type (1. City 2. County 3. Florida 4. Out of State)
625 Casa Loma Blvd. 1507 Boynton Beach FL 33426	(516)848-2105	2

Permanent Address (Street, Apt. Number) (City) (State) (Zip)	Phone	Address Source
	( ) -	Verbal

Business Address (Street, Apt. Number) (City) (State) (Zip)	Phone	Occupation
	( ) -	Retired

D/L Number, State	See Soc. Sec. Number	INS Number	Place of Birth	Citizenship
F326495414300	[redacted]		New York, New York	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 ☐ 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 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 561-355-2526) 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. Synthetic U. Unknown Z. Other

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD#
DUI	1	☐Yes ■No	316.193.1a	

Drug Activity	Drug Type	Amount/Unit	Offense #	Warrant/Capias Number	Bond
N/A	N/A	N/A	21-012689		

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD#
		☐Yes ☐No		

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

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD#
		☐Yes ☐No		

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

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD#
		☐Yes ☐No		

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

NOTICE TO APPEAR

☐ Instruction No. 1 Mandatory Appearance in Court
☐ Instruction No. 2 You need not appear in Court but must Comply with instruction on reverse side.

Location (Court, Room Number, Address): South County Courthouse, 200 West Atlantic Ave, Delray Beach, FL 33444

Court Date and Time: Month December Day 12 Year 2022 Time 0830 ■ A.M. ☐ P.M.

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

ADMIN.

HOLD for other Agency Name: | Signature of Arresting Officer | Name Verification (Printed by Arrestee) (PRINT)

☐ Dangerous ☐ Suicidal ☐ Resisted Arrest ☐ Other: | Name of Arresting Officer (Print): J. Festa 1102 | I.D. # 1102 | BU#116890

Intake Deputy | I.D. # | Pouch # | Transporting Officer: Festa | I.D. # 1102 | Agency BBPD | Witness here is subject Signed with an "X".

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D.U.I. PROBABLE CAUSE AFFIDAVIT

ON THE 3rd **DAY OF** November **2022 AT** 2010 ☐ **A.M** ☒ **P.M.**

CASE #: 22-012689 **DEFENDANT:** Fitzgerald, Joseph Patrick

PERSONAL CONTACT/DRIVING PATTERN/OBSERVATION OF DRIVER:

On November 3rd, 2022 at approximately 2010 hrs., I responded to an accident with injuries at Banana Boat (located at 425 W. Ocean Ave.)

Contact was made with Carly Monacello who provided a sworn statement advising that while she was attempting to leave the parking lot she observed Joseph Fitzgerald as the sole occupant and operator of a Black Toyota Camry displaying FL tag CUAY15. Monacello stated that Fitzgerald had attempted to back into a parking spot along the intercoastal on the North side of the parking lot but had to make several attempts at doing so in order to get into the spot. While attempting to back up Monacello stated that she observed him strike the front right bumper of a Gold BMW SUV (NFI) with his rear left bumper and then continue to back up.

I was able to observe Joseph Fitzgerald slumped over in the driver's seat of a Black Toyota Camry displaying FL tag CUAY15. I observed said vehicle backed into a parking spot along the intercoastal on the North side of the parking lot and not running. It was observed that the key to the vehicle was in Fitzgerald's hand by Officer Hall. Fitzgerald awoke and attempted to start his vehicle multiple times even though commands were being given to him to open the door and not start the vehicle. Officer Hall was able to open the unlocked drivers side door in order to ensure that Fitzgerald did not start the vehicle. Upon opening the driver's side door Officers were immediately able to detect the odor of an unknown alcoholic beverage emanating from within the vehicle. Fitzgerald stated multiple times that he was fine and didn't need although appreciated the attention. I asked Fitzgerald for his ID at which time he provided me his former work ID and then handed me his FL DL.

BBFD checked Fitzgerald to ensure that he was ok and cleared him Fitzgerald also denied transport to the hospital. Fitzgerald advised that he did not remember ever being involved in an accident on todays date. It was not able to be determined if Fitzgerald made contact with either vehicle as one was not longer present and the other had dust over the alleged area to have been hit although there did appear to be newer damage to both sides of his back bumper as there was no dirt over the damage.

I then informed Fitzgerald that I had completed my crash investigation and moved onto a DUI investigation. I then informed Fitzgerald of his Miranda rights to which he stated that he understood. I gave Fitzgerald multiple. lawful commands to step out of the vehicle. After finally stepping out I was able to observe that Fitzgerald was swaying front to back while speaking with me. When asked where he was coming from Fitzgerald stated that he was coming home from his daughter's house in Delray Beach and going home (Casa Loma Blvd. Boynton Beach). When asked if he was going to go to Banana Boat as he was parked in their parking lot he stated yes but he never made it inside Banana boat. Fitzgerald advised that he had a few glasses of Chardonnay but when asked what kind/brand Fitzgerald repeatedly stated that it was not of any importance. I was able to observe the odor of an unknown alcoholic beverage emanating from Fitzgerald's person which only grew stronger as he spoke and Bloodshot glassy eyes.

Based on the above obtained information and the evidence in which I observed, I asked Fitzgerald if he was willing to submit to a series of road side sobriety tasks in order to dispel my fears that he is unable to safely drive his vehicle. Fitzgerald refused to conduct the tasks at which time I informed him of his Taylor warnings. Fitzgerald then continued to question what I was saying as he repeatedly staed that he did not understand. After numerous times re-explaining to Fitzgerald he agreed to go perform the tasks.

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The results of the tasks are as follows;

Prior to starting the tasks Fitzgerald asked to stretch and loosen up as he was stiff and proceeded to stretch bending forward touching his fingers to toes and even waking forward on his hands.

HORIZONTAL GAZE NYSTAGMUS:

- ☐ Left eye does not follow smoothly
- ☐ Left eye prior to 45 degrees
- ☐ Distinct jerking in left eye at maximum deviation
- ☐ Vertical Nystagmus in left eye
- ☐ Right eye does not follow smoothly
- ☐ Right eye prior to 45 degrees
- ☐ Distinct jerking in right eye at maximum deviation
- ☐ Vertical Nystagmus in right eye

WALK AND TURN:

During the instructional phase of this task Fitzgerald refused to get into the instructional position as he stated that due to a pending knee operation and lack of cartilage in his right knee he would not be able to complete the task. Fitzgerald then proceeded to walk forward trying to di the task with out being told to do so to demonstrate that he could not do it. Due to Fitzgeralds right knee this task was not performed.

ONE LEG STAND:

During the instructional phase of this task I advised Fitzgerald that he would be able to utilize his left leg to balance on in order to not hurt his right knee. Fitzgerald also stated that I explained and demonstrated this task to Fitzgerald multiple times where he stated it was not possible and that even I would not be able to complete the task even though I had just demonstrated the task for him. Fitzgerald then started the task when instructed to do so kept hi balance for approximately 5 seconds while utilizing his arms for balance. Fitzgerald then asked if he was done or had to continue. Fitzgerald then started again, was not able to keep his balance and stopped.

FINGER TO NOSE:

I explained and demonstrated this task to which Fitzgerald who attempted to start prior to me finishing my demonstration and explanation. I then re-explained this task to Fitzgerald who stated that he understood. Upon beginning this task Fitzgerald did not tilt his head back, missed the tip of his nose every time and waited till the next instruction to bring his hand back down to his side.

ROMBERG/ALPHABET:

I explained and demonstrated this task to Fitzgerald who stated he understood. Fitzgerald was able to complete this task.

Based on the above, Fitzgerald was placed under arrest (handcuffed D/L and checked for tightness) at 2117 hrs. Once at PBCJ, I began a required 20 min. observation period at 2136 hrs. Fitzgerald then requested his handcuffs to be removed when he was informed that it was not possible at that point Fitzgerald then advised that he was having chest pain and requested to be taken to a hospital. I then transported Fitzgerald to Good Samaritan Hospital in order to be evaluated. Due to Dr. Andreadias advising that Fitzgerald would be in the hospital for a minimum of 3 hrs. I requested Fitzgerald submit to a lawful sample of his blood for the purpose of determining its blood alcohol content. Fitzgerald refused at which time I then read implied consent to Fitzgerald and he then asked for more explanation as to what implied consent meant I then re explained implied consent to Fitzgerald to which he stated that he understood and agreed to the blood draw. I informed Fitzgerald of his Miranda warnings to which he

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asked to be repeated I then re-read his Miranda rights and he stated that he understood. In attempting the question and answer portion Fitzgerald invoked his right to not answer questions.

Based on the above I find probable cause to charge Joseph Patrick Fitzgerald with DUI pursuant to FSS # 316.193(1)(A).

Fitzgerald was released from the hospital and cleared for PBCJ. Fitzgerald was then transported back to the PBCJ, processed and turned over to their quality care and control.

Fitzgeralds' vehicle was legally parked and locked in the parking lot of Banana Boat.

Nothing further.

The following instrument was sworn to before me this 4 day of November 2022

By: Ofc. J. Festa

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

Notary/Police Officer (P.S.S.#1[illegible])

1102

Signature of Arresting Officer

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Florida Department of Law Enforcement
Alcohol Testing Program

CERTIFICATION OF BLOOD WITHDRAWAL

I certify that as a physician, certified paramedic, registered nurse, licensed practical nurse, or other person authorized by a hospital to draw blood, or as a licensed clinical laboratory director, supervisor, technologist or technician, I am authorized by 316.1932, 316.1933, 322.63, 327.352 and 327.353, Florida Statutes, to withdraw blood at the request of a law enforcement officer. I certify that on 11/3/22 (Date) I withdrew blood from JOSEPH PATRICK FITZGERALD (Driver) at the request of OFC. J. FESTA (Officer). The blood sample(s) were collected and labeled in accordance with the provisions of Rule 11D-8.012, Florida Administrative Code. Before collecting the blood sample(s), the skin was cleansed with an antiseptic that did not contain alcohol. The blood sample(s) were collected in glass evacuation tubes that contained a preservative and an anticoagulant. Immediately after collection, the tubes were inverted several times. The blood collection tubes were labeled with the name of the person tested, the date and time the sample(s) were collected and the initials of the person who collected the sample(s).

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M. White
(Printed name of person withdrawing blood)

Registered Nurse
(Title)

[signature]
(Signature)

11/3/22
(Date)

May also be used in administrative proceedings pursuant to s. 322.2615, Florida Statutes. To be forwarded to the local Bureau of Driver Improvement Office, Division of Driver Licenses, Department of Highway Safety and Motor Vehicles.

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: _____

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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 determining 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 refuse to take the test I have requested of you, your driving privilege will be suspended for a period of one (1) year for a FIRST REFUSAL, or eighteen (18) months if your driving privilege has been PREVIOUSLY SUSPENDED, or if you have been PREVIOUSLY FINED under s. 327.35215, for refusing to submit to a lawful test of your breath, urine, or blood. Additionally, if you refuse to take the test I have requested of you, and if your driving privilege has been previously suspended, or if you have been previously fined under s. 327.35215, for a refusal to submit to a lawful test of your ***breath, urine*** or blood, you will be committing a misdemeanor, in addition to any other penalties which can be imposed by law.

Refusal to submit to the test I have requested is admissible into evidence in any criminal proceeding.

Do you understand what I have just read to you? YES <or> NO Do you still refuse to submit to this test? YES <or> NO

NOTE: IF THE SUBJECT POSSESSES A COMMERCIAL DRIVER'S LICENSE (CDL), READ THE FOLLOWING,

If you are a Commercial Driver License (CDL) holder or were driving a Commercial Motor Vehicle (CMV), your refusal to submit to testing will result in the loss of your commercial driving privilege for a period of one year from today. If this is your SECOND REFUSAL, you will be permanently disqualified from holding a CDL or operating a CMV.

Do you understand what I have just read to you? YES <or> NO Do you still refuse to submit to this test? YES <or> NO

SUBJECTS 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)_____

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CASE #: 22-012689 **DEFENDANT:** Fitzgerald, Joseph Patrick

Arresting Officer: Ofc. J. Festa 1102
Address: 2100 HIGH RIDGE ROAD, BOYNTON BEACH, FL 33426
Phone Numbers: Home: _____ **Work:** (561) 742-6100

Name: Ofc. Hall
Address: 2100 High Ridge Rd. Boynton Beach Fl 33426
Phone Numbers: Home: _____ **Work:** (561)742-6100
Can testify to: initial observations

Name: Carly Monacello
Address: 4833 FOX HUNT TRL Boca raton
Phone Numbers: Home: 5613320302 **Work:** _____
Can testify to: wheel witness

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: _____

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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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:	

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REVIEW COMPLETED BY

Booking Number: 2022028835	**Date:** 11/04/2022
	Specialist Name/ID: T.Howard/7185