50-2023-CT-002765-ANB

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: 0501700 | Agency Name: Jupiter Police Department | Agency Report Number (N.T.A.'s only): 5 4 23-000650

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:

Location of Arrest (Including Name of Business): 5490 W INDIANTOWN RD, JUPITER, FL

Location of Offense (Business Name, Address): 5490 W INDIANTOWN RD, JUPITER, FL

Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle
02/11/2023	12:07	02/11/2023	12:17			

DEFENDANT

Name (Last, First, Middle): BERGEL, KELLY BROOKS

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

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	07/11/1963	5'05	115	BLUE	BROWN	LIGHT	SMALL

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

Marital Status: M | Religion:

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

Local Address (Street, Apt. Number) (City) (State) (Zip): 6122 ROGER ST, JUPITER, FL 33458 | Phone: (561) 339-1923 | Residence Type: 1. City 2. County 3. Florida 4. Out of State: 1

Permanent Address (Street, Apt. Number) (City) (State) (Zip): 6122 ROGER ST, JUPITER, FL 33458 | Phone: (561) 339-1923 | Address Source: VERBAL

Business Address (Name, Street) (City) (State) (Zip): SELF, | Phone: | Occupation: Realtor

D/L Number, State	Soc. Sec. Number	INS Number	Place of Birth (City, State)	Citizenship
B624502637510 / FL	[redacted]		WEST PALM BEACH,	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) | 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 | Value of Property

CODE

Drug Activity: N. N/A, P. Possess, S. Sell, B. Buy, T. Traffic, R. Smuggle, 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 #
DUI - BREATH .08 OR ABOVE	316.193(1)(C)	

Drug Activity	Drug Type	Amount / Unit	Offense #	Counts	Domestic Violence	Warrant / Capias Number	Bond
	N	/		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): North County PALM BEACH GARD

Court Date and Time: 03/15/2023 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.

No Photo Available

Signature of Defendant (or Juvenile and Parent/Custodian) Date Signed

ADMIN

HOLD for Other Agency

☐ Dangerous ☐ Resisted Arrest ☐ Suicidal ☐ Other

Intake Deputy I.D. # Pouch #

Signature of Arresting Officer

Name of Arresting Officer (Print): MCGILLICUDDY, STEVEN I.D. #: 1216

Transporting Officer: S. MCGILLICUDDY I.D. #: 1216 Agency: JUPITE

Name Verification (Printed by Arrestee) (PRINT)

Witness here if subject signed with an "X"

NOT A CERTIFIED COPY

PROBABLE CAUSE AFFIDAVIT

ADMIN

OBTS Number:

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

JUVENILE:

Agency ORI Number	Agency Name	Agency Report Number
FL 0501700	JUPITER POLICE DEPARTMENT	5 | 4 | 23-000650

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

Special Notes:

DEF

Name (Last, First, Middle)	Alias	Race	Sex	Date of Birth
BERGEL, KELLY BROOKS		W	F	07/11/1963

CHARGES

Charge Description	Charge Description
316.193(1)(C) DUI - BREATH .08 OR ABOVE	
Charge Description	Charge Description

VICTIM

Victim's Name (Last, First, Middle)	Race	Sex	Date of Birth
State Of Florida			

Local Address (Street, Apt. Number)	(City)	(State)	(Zip)	Phone	Address Source

Business Address (Name, Street)	(City)	(State)	(Zip)	Phone	Occupation

PROBABLE CAUSE STATEMENT

The undersigned certifies and swears that he/she has just and resonable grounds to believe, and does believe that the above named Defendant committed the following violation of law

The Person taken into custody

☐ committed the below acts in my presence.

☐ confessed to _____ admitting to the below facts.

☐ was observed by _____ who told _____ that he/she saw the arrested person committ the below acts.

☒ was found to have committed the below acts, resulting from my (described) investigation.

On the 11 day of February, 2023 at 11:21 (Specifically include facts constituting cause for arrest.)

On 2/11/2023 at approximately 1121 hrs, Jupiter PD received a phone call from Joni Wilson (WITNESS-1), stating that her parked vehicle, a white Suburu (HFLM35/FL) had been struck by a grey Hyundai Santa Fe (LLUB53/FL), being operated by Kelly Bergel (OF-1). For full details of my crash investigation, please refer to my long form crash report. During the crash investigation, I determined that Bergel had operated her vehicle east bound through the parking lot, took a very wide turn and struck he stationary vehicle belonging to Wilson. Bergel had slurred speech, appeared unsteady on her feet and had a strong odor of unknown alcoholic beverage emitting from her breath, which intensified when she spoke.

At the conclusion of my crash investigation, I advised Bergel that I was now transitioning into a criminal DUI investigation. I then read her her Miranda rights. She agreed to speak to me. She first stated that she had no alcohol to drink. I advised her that I could smell the odor of consumed alcoholic beverage coming out of her breath. She advised she had half of a vodka drink, from a tumbler. She advised on a scale from 1-10 of impairment that she was a "0" then a "1". Once I had her remove her glasses I observed that they were watery and bloodshot red. Bergel consented to participating in field scbriety exercises. I am currently a Certified Drug Recognition Expert (IACP #34042) in good standing, and these exercises were done in a manner consistent with my training.

HORIZONTAL GAZE NYSTAGMUS (HGN)
-No resting nystagmus in either eye
-Equal tracking and pupil size
-Lack of smooth pursuit in both eyes
-Distinct and sustained nystagmus at maximum deviation in both eyes
-Onset of nystagmus prior to forty-five degrees in both eyes, with an estimated angle of onset of thirty-five degrees

ADMINISTRATIVE

SWORN AND SUBSCRIBED BEFORE ME

NOTARY PUBLIC / CLERK OF COURT / OFFICER, U.S. Renee Ragin

02/11/2023
DATE

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

SIGNATURE OF ARRESTING / INVESTIGATING OFFICER

MCGILLICUDDY, STEVEN (1216)
NAME OF OFFICER (PLEASE PRINT)

02/11/2023
DATE

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

NOT A CERTIFIED COPY

ADMIN

OBTS Number	PROBABLE CAUSE AFFIDAVIT SUPPLEMENT	1. Arrest 2. N.T.A. 3. Request for Warrant 4. Request for Capias	1	JUVENILE

Agency ORI Number	Agency Name	Agency Report Number
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Special Notes:

DEF

Name (Last, First, Middle)	Alias	Race	Sex	Date of Birth
BERGEL, KELLY BROOKS		W	F	07/11/1963

PROBABLE CAUSE STATEMENT

-No vertical nystagmus

WALK AND TURN
-Bergel immediately fell out of the starting position and advised that due to lack of food she could not do standing exercises. I then transitioned into the seated battery

HAND COORDINATION
-Task 1 - Imroper touch
-Task 3 - Improper touch
-Did not return first to chest
-Improper count
-Task 4 - Did not perform
-5 clues (2 suggest impairment)

PALM PAT
- Did not increase speed
- Rolled hands
- 2 clues (2 suggest impairment)

FINGER TO NOSE
1L - Pad to bobble on nose
2R - Pad to under nose then to tip
3L - Pad to tip
4R - Pad to tip
5R - Start with L, switched to R, Pad to under tip search to tip
6L - Pad to tip

RHOMBERG ALPHABET (B TO X)
B C D E F G H R J K L M N O P Q R X

Based on my investigation, I had probable cause to believe that Kelly Bergel was in actual physical control of a vehicle while under the influence of an alcoholic beverage, chemical or controlled substance, contrary to F.S.s. 316.193(1). I placed her under arrest at 1207 hrs. I transported her to the Palm Beach County BAT, arriving at 1235 hrs. We then went on video with BAT Technician Ragin (ID #16877). Bergel provided me with breath samples of .105 BrAC and .106 BrAC. I then booked her into the county jail. BWC.

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ADMINISTRATIVE

SWORN AND SUBSCRIBED BEFORE ME

NOTARY PUBLIC / CLERK OF COURT / OFFICER IF SUB. TO 117.10

02/11/2023
DATE

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

SIGNATURE OF ARRESTING / INVESTIGATING OFFICER

MCGILLICUDDY, STEVEN (1216)
NAME OF OFFICER (PLEASE PRINT)

02/11/2023
DATE

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

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

PBSO CASE # 23-035523 PBSO ZONE 3-14

AGENCY CASE # 23-000650 CRASH CASE #

TIME OF STOP/CRASH 1121 DATE 02/11/2023 DAY SATURDAY

SUBJECT'S NAME BERGEL (LAST) KELLY (FIRST) B (MID) RACE W SEX F

HGT 5'5 WGT 112 DOB 7/11/1963

LOCATION 5490 MILITARY TRAIL, JUPITER, FL

ARRESTING OFFICER'S NAME & ID MCGILLICUDDY 1216 AGENCY JUPITER PD

DIVISION: RP - TRAFFIC

NOTIFIED BY COMMO Yes

ARRIVAL AT FACILITY 1235

ARREST TIME 1207

BREATH RESULTS:

1) .105
2) .106
3)
4)

NOT A CERTIFIED COPY

TESTING OFFICER'S ID 16877 PBSO VIDEOTAPE # N/A

SUBJECT: **BERGEL, KELLY B** CASE NUMBER: **23-000650**

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 o chemical or controlled substances.

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

I am - of the **Jupiter Police Department**

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.

SUBJECT'S SIGNATURE: **NOT READ - AGREED TO BREATH** **BERGEL, KELLY B**

CONSTITUTIONAL WARNINGS

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

You have the right to remain silent and not answer any questions.

Any statement must be freely and voluntarily given.

You have the right to the presence of a lawyer of your choice before you make any statement and during any questioning.

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.

If at any time during the interview you do not wish to answer any questions, you are privileged to remain silent.

I can make no threats or promises to induce you to make a statement. This must be of your own free will.

Any statement can and will be used against you in a court of law.

SUSPECT'S SIGNATURE: **READ ON BWC** **BERGEL, KELLY B**

NOT A CERTIFIED COPY

WITNESS LIST

CASE NUMBER: 23-000650

ARRESTING OFFICER: MCGILLICUDDY

ADDRESS: 196 Military Trl. Jupiter, FL 33458

PHONE NUMBERS (HOME): _____ (WORK) (561) 746-6201

CAN TESTIFY TO: PC

NAME: OFC WOLF

ADDRESS: 196 Military Trl. Jupiter, FL 33458

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: BACKUP OFFICER

NAME: JONI WILSON

ADDRESS 409 CARAVELLE DR JUPITER, FL 33458

PHONE NUMBERS (HOME) _____ (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 _____

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NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NOT A CERTIFIED COPY

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: 02/11/2023

Date of Last Agency Inspection: 02/10/2023
Observation Period Began: 12:35
Subject's Name: KELLY B BERGEL DOB: 07/11/1963 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	13:08
Air Blank	0.000	13:09
Control Test	0.080	13:09
Air Blank	0.000	13:10
Subject Sample #1	0.105	13:10
Air Blank	0.000	13:11
Air Blank	0.000	13:13
Subject Sample #2	0.106	13:13
Air Blank	0.000	13:14
Control Test	0.080	13:14
Air Blank	0.000	13:14
Diagnostics Check	OK	13:15

Cylinder Lot: 29122080A1
Exp: 12/05/2024

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: 02/11/23
Signature

Sworn to (or affirmed) before me this 11 day of Feb., 2023

_____ Ofc. S. McGillicuddy #1216
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

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TESTING FACILITY TASK REPORT

AGENCY: JPD

SUBJECT: Bergel, Kelly B.

CASE NUMBER: 23-035523

DATE: Feb 11, 2023

VIDEO DVD NUMBER: N/A

BEGINNING TIME: 13:06

ENDING TIME: 13:17

BREATH TESTS RESULTS: 1) .105 TIME 13:10 A.M.☐ P.M.☒ 2) .106 TIME 13:13 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

CLOTHING: Blue jean shorts, LS white shirt, brown shoes

MEDICAL CONDITIONS: None

MEDICATIONS: None

OTHER:

Eyes are red
odor of unknown alcoholic beverage on breath
Stated in Q&A she had Vodka

COMMENTS:

Arrived at center A/O started 20 minute observation period at 12:35 hrs.

Subject agreed to perform breath test.

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

A/O read rights on scene.
Subject stated she understood rights.

A/O conducted Q&A.
Subject answered Q&A.

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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: 2023004012	**Date:** 2/12/2023
	Specialist Name/ID: M. Tooks #8557