26CT 6094 SB

Marsy's Law CVI FL Const. Art. 1 § 16(b)

05608419

ARREST / NOTICE TO APPEAR

Check if Supplement is Attached

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

1

Juvenile

1175

ADMINISTRATIVE

OBTS Number			
Agency ORI Number: 0500400	Agency Name: Delray Beach Police Department	Agency Report Number (N.T.A.'s only): 40 26-000660	

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: 2

Location of Arrest (Including Name of Business)	Location of Offense (Business Name, Address)
411 E ATLANTIC AVE, DELRAY BEACH, FL 334	411 E ATLANTIC AVE, DELRAY BEACH, FL 33483

Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle
01/17/2026	03:34	01/17/2026	03:44	01/17/2026	03:50	411 E ATLANTIC AVE DELRAY

DEFENDANT

Name (Last, First, Middle): GERARDO, NICOLE ANDREA

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	12/09/1981	5'09	140	Brown	BLACK	OLIVE	MEDIUM

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

Marital Status: S

Religion:

Indication of: Alcohol Influence ☒ Y ☐ N ☐ Unk; Drug Influence ☐ Y ☐ N ☒ Unk

Local Address (Street, Apt. Number) (City) (State) (Zip): 218 VIA D ESTE 1311, DELRAY BEACH, FL 33445

Mobile Phone:

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

Permanent Address (Street, Apt. Number) (City) (State) (Zip): 218 VIA D ESTE 1311, DELRAY BEACH, FL 33445

Phone: (201) 396-3633

Address Source:

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

Phone:

Occupation:

DL Number, State	Soc. Sec. Number	INS Number	Place of Birth (City, State)	Citizenship
G663621819490 / FL	[redacted]		Livingston, NJ	US

CODEF

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) 355-6511) 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: ☐ No N. N/A P. Possess S. Sell B. Buy T. Traffic R. Smuggle D. Deliver E. Use K. Disperse/ 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 #
REFUSAL TO SUMIT TO BAL TEST	1	☐ Y ☒ N	316.1939(1)(b)	

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond
	N	1	26-000660		250

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
Driving under the influence	1	☐ Y ☐ N	316.193 [illegible]	

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond
		1			1000

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

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond
		1			

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): 200 W Atlantic Ave DELRAY BEACH

Court Date and Time: Month February Day 9 Year 2026 Time 8:30 (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 COMTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

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

I consent to receive text reminders of court date(s) and times for this case by automated technology to the mobile number identified above. I understand that standard text message rates may apply, and that I may revoke this consent via the text message system if I choose. Signature

ADMIN

HOLD for Other Agency

☐ Dangerous ☐ Resisted Arrest ☐ Suicidal ☐ Other

Intake Deputy I.D. # Pouch #

Signature of Arresting Officer

Name of Arresting Officer (Print): BELMAN OTERO, JONATHAN E I.D. #: 1224

Transporting Officer: BELMAN OTERO I.D. #: 1224 Agency: DBPD

Name Verification (Printed by Arrestee) (PRINT) JAN 17 AM 7:12

Witness here if subject signed with an "X"

PBSO #0148 REV: 10/22

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

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FILED PBC - GUN CLUB
'26 JAN 19 AM 5:51

D.U.I. PROBABLE CAUSE AFFIDAVIT

ON THE JANUA DAY OF 17, 2026 AT 0117 HRS,

IN THE CITY OF Delray Beach, COUNTY OF PALM BEACH, STATE OF FLORIDA,

SUBJECT: NICOLE GERARDO CASE NUMBER: 26-000660

AGENCY: Delray Beach ARRESTING OFFICER: BELMAN OTERO

PERSONAL CONTACT

DRIVING PATTERN: ACTUAL PHYSICAL CONTROL (PHYSICAL EVIDENCE OR STATEMENTS PUTTING DEF BEHIND WHEEL OF VEHICLE)

On 01/17/26, I responded to the 411 E Atlantic Ave regarding a possible DUI investigation to a crash. Upon my arrival, I met with Officer Lopez and Officer Mayor who informed me that Defendant Nicole Gerardo was driving a black 2022 Chevrolet Equinox (FL Tag 69BWHN) and was involved in an accident. Officer Lopez also informed me that Gerardo sideswiped a vehicle as she was exiting from her parking space.

OBSERVATION OF DRIVER:

Gerardo had glossy red eyes, slurred speech, and an order of an unknown alcoholic beverage emitting from her person.

DRIVERS STATEMENTS:

Gerardo stated that she was on his way home from dinner with a friend. Gerardo mentioned that she had one pineapple vodka drink during her dinner.Gerardo agreed to complete roadside tasks to dispel my theory that she was under the influence.

ODORS:
Unknown alcoholic beverage

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GENERAL OBSERVATIONS

SPEECH: Slurred and admission of drinking

ATTITUDE: Confused

CLOTHING: White shirt, black pants, and no shoes.

MEDICAL/OTHER: Gerardo stated that she takes prescription medication for depression and noted that she did not have recent injuries.

STATE OF FLORIDA
COUNTY OF PALM BEACH

DB 1224
(SIGNATURE OF ARRESTING OFFICER)

THE FORGOING INSTUMENT WAS SWORN TO OR AFFIRMED AND SUBSCRIBED BEFORE ME THIS 17th DAY OF January, 20 26 BY BELMAN OTERO.

WHO IS PERSONALLY KNOWN TO ME AND/OR PRODUCED IDENTIFICATION TYPE OF IDENTIFICATION PRODUCED _____

Thomasina Mills
NOTARY PUBLIC, CLERK OF COURT, OFFICER (FSS 117.10)

THOMASINA
Notary Public
Commission
My Comm. Expir
Bonded through National

SUBJECT: NICOLE GERARDO CASE #: 26-000660

ROADSIDE TASKS

HORIZONTAL GAZE NYSTAGMUS: 6 OF 6

- [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:

During the exercise, I had to instruct Gerardo several times to not move her head from side to side while tracking the top of my pen. Gerardo could not keep her hands to her sides as instructed.

WALK & TURN: 2 OF 8

Gerardo was unable to follow instructions and could not maintain her balance on her own. Gerardo noted that her ankles bothered her and could not continue the task.

ONE LEG STAND: 2 OF 4

Gerardo was unable to follow instructions and could not maintain her balance on her own.

FINGER TO NOSE: 2 OF 4

Gerardo was unable to follow instructions and could not maintain her balance on her own.

ROMBERG ALPHABET: 1 OF 4

Gerardo could not count from 30 to 60 in English. Gerardo skipped to 39 and continued counting down instead of counting towards 60.

NOT A CERTIFIED COPY

BREATH TEST RESULTS: 1) 2) 3) 4)

STATE OF FLORIDA
COUNTY OF PALM BEACH

1224
(SIGNATURE OF ARRESTING OFFICER)

THE FORGOING INSTUMENT WAS SWORN TO OR AFFIRMED AND SUBSCRIBED BEFORE ME THIS 17th DAY OF January 26 BY BELMAN OTERO

WHO IS PERSONALLY KNOWN TO ME AND/OR PRODUCED IDENTIFICATION. TYPE OF IDENTIFICATION PRODUCED

THOMASINA MILLER
Notary Public - State of Florida
Commission # [illegible]
My Comm. Expires [illegible] 2026
Bonded through National [illegible] Assn.

NOTARY PUBLIC, CLERK OF COURT, OFFICER (FSS 117.10)

[redacted] Implied Consent

[redacted] VOLUNTARY CONSENT

[redacted] CASE NO: 24-[redacted]

[redacted] TIME OF ARREST: [redacted]

[redacted] request you to submit to a breath test of your **BREATH** for the purpose of determining its [redacted]

Will you take the test? YES ____ NO ____

[redacted]

Your refusal to take the test requested of you your driving privilege will be suspended for a period of [redacted] year or a civil penalty, if you refuse to take the test I have requested of you, you will be [redacted] this is your first refusal, in addition to any other [redacted] refusal 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 [redacted] for refusal to submit to a test of your breath, urine, or blood, your driving privilege will be [redacted] months. Additionally, you will be committing a misdemeanor of [redacted] which can be imposed by law. Refusal to submit to the [redacted] is admissible into evidence in any criminal proceeding.

Do you understand what I have just read to you? YES ____ NO ____

Do you refuse to submit to this test? YES ____ NO ____

[redacted]

NOTE: [redacted] *COMMERCIAL DRIVER LICENSE (CDL), READ THE FOLLOWING; [redacted] DRIVING A COMMERCIAL MOTOR VEHICLE (CMV).*

[redacted]

In addition to the [redacted] Commercial Driver License (CDL) or were driving a Commercial Motor Vehicle (CMV), your refusal to submit to this test will result in the loss of your commercial driving privileges for one year. If this is your second refusal, you will be permanently disqualified from operating a Commercial Motor Vehicle (CMV).

Do you understand what I have just read to you? YES ____ NO ____

Do you refuse to submit to this test? YES ____ NO ____

[redacted]

Date read: [redacted] Time read: [redacted] Location read: [redacted]

LAW ENFORCEMENT OFFICER NAME (printed): [redacted] ID: [redacted]

LAW ENFORCEMENT OFFICER SIGNATURE: [redacted]

WHITE: STATE ATTY YELLOW: DHSMV [redacted] PINK: CENTRAL RECORDS GOLD: JAIL

FORM DL128B REV 08/25

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: _____

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

PBSO #0129C REV. 9/93

D.U.I. WITNESS LIST

CASE #: 26-000660

ARRESTING OFFICER: BELMAN OTERO
ADDRESS: 300 W Atlantic
PHONE NUMBERS (HOME): 561-243-7800 (WORK):
CAN TESTIFY TO: DUI

NAME: Ricky Mitchell
ADDRESS: 300 W Atlantic Ave
PHONE NUMBERS (HOME): 561-243-7800 (WORK):
CAN TESTIFY TO: DUI and Crash

NAME: Officer Hefty
ADDRESS: 300 W Atlantic Ave
PHONE NUMBERS (HOME): 561-243-7800 (WORK):
CAN TESTIFY TO: Crash

NAME: Officer Lopez
ADDRESS: 300 W Atlantic Ave
PHONE NUMBERS (HOME): 561-243-7800 (WORK):
CAN TESTIFY TO: DUI & Crash

NAME: Officer Mayor
ADDRESS: 300 W Atlantic Ave
PHONE NUMBERS (HOME): 561-243-7800 (WORK):
CAN TESTIFY TO: DUI

NAME: Christopher Rogalski
ADDRESS: 3491 S Federal HWY, Boynton Beach, FL 33435
PHONE NUMBERS (HOME): 774-666-0351 (WORK):
CAN TESTIFY TO: DUI / Crash

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:

NOT A CERTIFIED COPY

TESTING FACILITY TASK REPORT

AGENCY: DBPD

SUBJECT: GERARDO, NICOLE .A.

CASE NUMBER: 26-025696

DATE: Jan 17, 2026

VIDEO DVD NUMBER: N/A

BEGINNING TIME: 02:37

ENDING TIME: 02:59

BREATH TESTS RESULTS: 1) .0227 TIME 02:43 A.M.☒ P.M.☐ 2) VNM TIME 02:49 A.M.☒ P.M.☐

3) R TIME 02:50 A.M.☒ P.M.☐ 4) N/A TIME N/A A.M.☐ P.M.☐

BREATH OPERATOR: T. MILLER #41017

MAINTENANCE TECHNICAN: J. KARLECKE# 6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: SLURRED

ATTITUDE: MOODSWINGS, DEMANDING, UNCOOPERATIVE

CLOTHING: WHITE TANK TOP, BLACK PANTS, NO SHOES

MEDICAL CONDITIONS: ALLERGIC TO EVERYTHING, EPSTEIN BARR REFUSED

MEDICATIONS: CLARITIN D, KLONOPIN

OTHER:

EYES: RED & GLASSY
SUBJECT HAD AN ODOR OF UNKNOWN ALCOHOL BEVERAGE.
INSTRUMENT: ON FINAL CYCLE AFTER REFUSAL THERE WAS AN CONTROL OUTSIDE TOLERANCE.

COMMENTS:

ARRIVED AT CENTER A/O BEGAN THE 20 MINUTE OBSERVATION PERIOD AT 02:12 HRS.

SUBJECT: AGREED TO TAKE TEST.

SUBJECT: WHEN ASKED TO PROVIDE SECOND VALID BREATH SAMPLE, THE SUBJECT KEPT STOPPING AND BLOWING. WHEN ASKED IF SHE WAS GOING TO PROVIDE A BREATH SAMPLE, SHE STATED OR WHAT.

A/O: READ I/C.
SUBJECT: DID NOT ACKNOWLEDGE SHE UNDERSTOOD I/C AND REFUSED TO TAKE TEST.

A/O: READ RIGHTS.
SUBJECT: STATED SHE UNDERSTOOD RIGHTS.

REFUSED

A/O: CONDUCTED Q & A.
SUBJECT: ANSWERED QUESTIONS.

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

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PBSO CASE # 26-025696 PBSO ZONE 4-31

AGENCY CASE # 26-000660 CRASH CASE #

TIME OF STOP/CRASH 00:55 DATE 01/17/2026 DAY Saturday

SUBJECT'S NAME GERARDO (LAST) NICOLE (FIRST) A (MID)

DOB 12/09/1981 HGT 5'9 WGT 140 RACE W SEX F

LOCATION 411 E ATLANTIC AVE Delray Beach, FL 33444

ARRESTING OFFICER'S NAME & ID OFC. J. BELMANOTERO 1224 DBPD (AGENCY)

NOTIFIED BY COMMO YES

BREATH RESULTS:

1) .027
2) VNM. 201
3)
4) REFUSED

ARRIVAL AT FACILITY 02:12

ARREST TIME 01:40

MILLER 41017

BAT TECH. OFFICER NAME & ID

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

Instrument Type: Intoxilyzer 8000
Instrument Registered To: PALM BEACH COUNTY SO
Instrument Serial Number: 80-006238 Software: 8100.27
Date of Test: 01/17/2026

Date of Last Agency Inspection: 01/16/2026
Observation Period Began: 02:12
Subject's Name: NICOLE A GERARDO DOB: 12/09/1981 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	02:40
Air Blank	0.000	02:41
Control Test	0.078	02:41
Air Blank	0.000	02:42
Subject Sample #1	0.227	02:43
Air Blank	0.000	02:44
Air Blank	0.000	02:45
Subject Sample #2	VNM*	02:49
Air Blank	0.000	02:49
Air Blank	0.000	02:51
Subject Sample #3	REF**	02:51
Air Blank	0.000	02:52
Control Test	0.074***	02:52
Air Blank	0.000	02:53

*Volume Not Met (0.201 - Breath Sample Not Reliable to Determine Breath Alcohol Level)
**Subject Test Refused
***Control Outside Tolerance

Cylinder Lot: 19825080A2
Exp: 09/05/2027

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 THOMASINA E MILLER, 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: Thomasina Miller 01/17/26
Signature Date:

Sworn to (or affirmed) before me this 17 day of January, 2026

[signature] Dr. J. Belmonteo
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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STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY & MOTOR VEHICLES
AFFIDAVIT OF
REFUSAL TO SUBMIT TO BREATH, URINE, OR BLOOD TEST

I, BELMAN OTERO (Person Reading Implied Consent Warning), a duly certified Law Enforcement Officer or Correctional Officer, am a member of Delray Beach (Name of Enforcement Agency), and I do swear or affirm that on or about the JANUAR day of 17, 20 26, at 0140 (Circle One) A.M.

NAME: NICOLE GERARDO (Type or Print) FIRST MIDDLE OR MAIDEN LAST

DL # G238133752000, state of FL, was placed under lawful arrest for the offense of Driving under the Influence by BELMAN OTERO (Name of Arresting Officer) and issued Citation # ALJ2WHE.

That on or about the 17th day of January, 20 26, at 0259 0140 JB (Circle One) P.M. A.M.

In Palm Beach 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 said 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 had been suspended previously for refusing to submit to such test or tests. I did inform said person that he or she commits 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. If driver holds a CDL or is operating a CMV, 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.

Signature of Law Enforcement Officer or Correctional Officer

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

THOMASINA MILLER
Notary Public - State of Florida
Commission # HH 339641
My Comm. Expires Dec 7, 2026
Bonded through National Notary Assn.

(NOTARY SEAL)

The foregoing instrument was sworn and subscribed before me this 17th day of January, 20 26, by BELMAN OTERO, who is personally known to me or who has produced _____ as identification.

Notary Public _____

The foregoing instrument was sworn and subscribed before me:

_____
Signature of Attesting Officer

Title _____

Date _____

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.

HSMV 78054 (REV. 12/13)

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Palm Beach County Sheriff's Office

Florida State Statute Exemption Sheet

	X	Florida State Statute	Description	Page Number(s)
L/E Exemptions	☐	119.071(4)(c)	Undercover personnel	
	☐	119.071(2)(e)	Confession	
Public Info. Exemptions	☐	FL Const. Art. I, s. 16(b)(5)	Marsy's Law – victim information shall be redacted. The term "victim" also includes the victim's lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim. The term "victim" does not include the accused (ref. page 110 of the CRTM for additional information)	
	☐	119.071(2)(j)	Home/employment telephone number, home/employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery or domestic violence	
	☐	119.0712(2)	Personal information contained in a motor vehicle record	
	☐	316.650(11)	Driver information contained in a uniform traffic citation	
	☐	119.071(4)(d)2.a.	Home addresses, telephone numbers, dates of birth, and photographs of active/former LE personnel, spouses, and children	
Florida Rules of Judicial Administration 2.420	☒	(iii) 119.0714(1)(i)-(j), (2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers	2
	☐	(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	☐			
	☐			
	☐			
	☐			

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REVIEW COMPLETED BY

Booking Number: 2026001532	**Date:** 1/18/2026
	Specialist Name/ID#: Joseph Kovach/44820