

0508385

3676

ARREST / NOTICE TO APPEAR Juvenile Referral Report		1. Arrest 2. N.T.A.	3. Request for Warrant 4. Request for Capias	Juvenile
OBTS Number		1		N
Agency ORI Number FLO 502600		Agency Name PALM BEACH GARDENS POLICE DEPARTMENT		Agency Report Number (N.T.A.'s only) 78-19003344
Charge Type: 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		Multiple Clearances Indicator
Location of Arrest (Including Name of Business) GARDENS PKWY AND KEW GARDENS AVE		Location of Offense (Business Name, Address) GARDENS PKWY AND KEW GARDENS AVE		
Date of Arrest 06/01/2019	Time of Arrest 2207	Booking Date	Booking Time	Jail Date Jail Time Location of Vehicle KAUFF'S TOWING & RECOVERY 4381 East Avenue, West Palm Beach, FL 33405
Name (Last, First, Middle) Penner, Gary		Alias (Name, DOB, Soc. Sec. #, Etc.)		
Race W - White I - American Indian B - Black O - Oriental/Asian	Sex W M	Date of Birth 09/06/1952	Height 6'2	Weight 300
Scars, Marks, Tattoos, Unique Physical Features (Location, Type, Description) TATTOO UPPER RIGHT ARM		Marital Status Married	Religion CHRISTIAN	Indication of: Alcohol Influence ☐ Y ☒ N Drug Influence ☐ Y ☒ N
Local Address (Street, Apt. Number) 14848 FAVERSHAM CIR ORLANDO FL 32826		Phone (407) 590-5090		
Permanent Address (Street, Apt. Number) 14848 FAVERSHAM CIR ORLANDO FL 32826		Address Source VERBAL		
Business Address (Name, Street) (City) (State) (Zip)		Occupation ()		
DL Number, State P-660-280-52-328-0 FL		Soc. Sec. Number ()		INS Number ()
Co-Defendant Name (Last, First, Middle)		Race	Sex	Date of Birth
Co-Defendant Name (Last, First, Middle)		Race	Sex	Date of Birth
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
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
Drug Activity N. N/A P. Possess		S. Sell B. Buy T. Traffic	R. Smuggle D. Deliver E. Use	K. Dispense/ Distribute
Charge Description Driving Under the Influence		Counts 1	Domestic Violence ☐ Y ☒ N	Statute Violation Number 316.193-1
Drug Activity Drug Type Amount / Unit		Offense #		Warrant / Capias Number
Charge Description DUI OVER 0.15		Counts 1	Domestic Violence ☐ Y ☒ N	Statute Violation Number 316.193(4)
Drug Activity Drug Type Amount / Unit		Offense #		Warrant / Capias Number
Charge Description		Counts	Domestic Violence ☐ Y ☒ N	Statute Violation Number
Drug Activity Drug Type Amount / Unit		Offense #		Warrant / Capias Number
Charge Description		Counts	Domestic Violence ☐ Y ☒ N	Statute Violation Number
Drug Activity Drug Type Amount / Unit		Offense #		Warrant / Capias Number
1. Location (Court, Street, Address) NORTH COUNTY COURTHOUSE, 3188 PGA BOULEVARD, PALM BEACH GARDENS, FL 33410 - PH: (561) 662-6700				
Court Date and Time Month 07 Day 03 Year 2019 Time 10:00 AM ☒ 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) [Signature]		Date Signed 06/01/2019		
HOLD for other Agency Name:		Signature of Arresting Officer [Signature]		Name Verification (Printed by Arrestee) (PRINT)
☐ Dangerous ☐ Suicidal ☐ Related Arrest ☐ Other:		Name of Arresting Officer (Print) OFC ANDREW FLINK		ID # 514
Intake/Deputy Thomas B36		Transporting Officer FLINK		ID # 514
Agency PBGF		Agency PBGF		Page 1
DISTRIBUTION: WHITE - COURT COPY GREEN - STATE ATTORNEY YELLOW - AGENCY				

JUN 02 2019

D.U.I. PROBABLE CAUSE AFFIDAVIT

ON THE 1ST DAY OF JUNE 20 19 AT 2142 AM PM
SUBJECT: Penner, Gary CASE NUMBER: 19003344

AGENCY: PALM BEACH GARDENS POLICE DEPT. ARRESTING OFFICER: OFC ANDREW FLINK 514

PERSONAL CONTACT

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

I observed the vehicle just east of Valencia Gardens Avenue. While traveling in the right lane I observed the vehicle to be traveling 20mph in a 35mph zone. I observed the vehicle fail to maintain a single lane approximately two times in pursuant with Florida State Statute 316.089(1) while also nearly striking a curbed median. On all three occasions, the vehicle would drift into the right through lane before quickly swerving back into the left through lane. Ofc Koegele 456, conducted the traffic stop and observed Penner behind the wheel, in actual and physical control.

OBSERVATION OF DRIVER:

While still in the driver seat of the vehicle, Penner had blood shot watery eyes, flushed red face, slurred speech and the odor of an alcoholic beverage emanating from his breath.

DRIVER'S STATEMENTS:

Stated he was coming from his son's house and that he had three Vodka drinks.

ODORS:

Alcoholic Beverage

GENERAL OBSERVATIONS

SPEECH: Slurred

ATTITUDE: Compliant

CLOTHING: Salmon shirt, beige shorts, no footwear

MEDICAL/OTHER: Replacement right hip and two steel rods in his left lower leg.

STATE OF FLORIDA
COUNTY OF PALM BEACH

(Signature of Arresting/Investigative Officer)

The foregoing instrument was sworn to or affirmed and subscribed before me this 1st day of June 20 19 by OFC ANDREW FLINK

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

(Signature of Notary Public, Clerk of Court, Officer (F.S.S. 117.10))

SUBJECT: Penner, Gary

CASE NUMBER 19003344

ROADSIDE TASKS

HORIZONTAL GAZE NYSTAGMUS:

☒ LT EYE-LACK OF SMOOTH PURSUIT

☒ RT EYE-LACK OF SMOOTH PURSUIT

☒ LT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION

☒ RT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION

☒ LT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES

☒ RT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES

Other Observations:

Swayed while balancing, initially would not follow the stimulus all the way until instructed three times.

WALK & TURN:

Right arm remained raised more than six inches. Used police vehicle to assist with balance. Paused to ask for additional instructions. Paused to steady himself and regain balance. Took ten steps rather than nine as instructed. Conducted improper turn around, not as instructed. Missed heel-to-toe on each step and stepped off the line multiple times.

ONE LEG STAND:

When he attempted the exercise, he lost balance and almost fell. Initially he began counting, but did not raise his foot as instructed. Penner asked to not participate in the exercise.

ROMBERG ALPHABET:

N/A

FINGER TO NOSE:

N/A

BREATH TEST RESULTS:

1) .167

2) .163

3)

4)

STATE OF FLORIDA
COUNTY OF PALM BEACH

(Signature of Arresting/Investigative Officer)

The foregoing instrument was sworn to or affirmed and subscribed before me this 1st day of June, 2019 by OFC ANDREW FLINK

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

(Signature of Notary Public)
Notary Public, Clerk of Court, Officer (F.S.S. 117.10)

TESTING FACILITY TASK REPORT

AGENCY: PEG Ofc. Flink #514

SUBJECT: Penner, Gary CASE NUMBER: 14-017738

DATE: 06-01-14 VIDEO TAPE NUMBER: 1

BEGINNING TIME: 2202hrs ENDING TIME: 2324hrs

BREATH TESTS RESULTS: 1) .167 TIME 2303 A.M. (P.M.) 2) .163 TIME 2310 A.M. (P.M.)
3) _____ TIME _____ A.M./P.M. 4) _____ TIME _____ A.M./P.M.

BREATH OPERATOR: S. O'Neal #6212

MAINTENANCE TECHNICIAN: Cpl. Murlecke #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: Mumbled, Heavy

ATTITUDE: Calm, Quiet, Cooperative, Forgetful

CLOTHING: Shirt: Peach - Unbuttoned Short: White No Shoes

MEDICAL CONDITIONS: Hearing Problems, Allergy None, Hip Replacement

MEDICATIONS: None * Titanium Rods in the knee on camera.

OTHER: Eyes: Red, Glossy

- Diabetic, Cholesterol Med., Testosterone injections, Heart med. and
Odor of unknown alcoholic beverage. on camera.

COMMENTS: 20 min. observation done by AIO Flink #514

AIO requested the breath test.

D submitted to the breath request.

D completed the test correctly.

C/W read on camera.

Q4A conducted.

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) Read on Camera

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? yes

WHERE WERE YOU GOING? Home

WHAT STREET OR HIGHWAY WERE YOU ON? Home Street and 1st St

DIRECTION OF TRAVEL? West WHERE DID YOU START? Prosperity Farms

WHAT TIME DID YOU START? 7:30 WHAT TIME IS IT NOW? 9:10

WHAT IS TODAY'S DATE? 6/20/01 WHAT DAY OF THE WEEK IS IT? Saturday

WHAT COUNTY AND CITY ARE YOU IN NOW? Travis County

WHEN DID YOU LAST EAT? 2:00 WHAT DID YOU EAT? Meat pie, chicken, chicken

WHAT HAVE YOU BEEN DOING FOR THE LAST THREE HOURS? working on car

HOW MUCH DO YOU WEIGH? 310 HAVE YOU BEEN DRINKING? yes WHAT? Vodka

HOW MUCH? 1/2 Pint WHERE? at home WITH WHOM? grand kids

WHEN DID YOU HAVE YOUR FIRST DRINK? 1:00 AND YOUR LAST DRINK? 2:00

HOW DID YOU CONSUME YOUR LAST TWO DRINKS? Mixed drink

CAN YOU FEEL THE EFFECTS OF THE ALCOHOL? No ARE YOU UNDER THE INFLUENCE? No

HAVE YOU CONSUMED ANY ALCOHOL SINCE THE ACCIDENT? No HOW MUCH? N/A

WHAT? _____ WHERE? _____ WHEN? _____

WHAT LINE OF WORK ARE YOU IN? Technical WHEN DID YOU LAST WORK? Friday

DO YOU HAVE ANY PHYSICAL DEFECTS OR INJURIES? yes WHAT? left foot injury

ARE YOU SICK OR INJURED? No WHAT'S WRONG? N/A

DO YOU LIMP? No DID YOU RECEIVE A BUMP ON THE HEAD RECENTLY? No

WERE YOU IN AN ACCIDENT TODAY? No

HAVE YOU TAKEN ANY DRUGS OR SMOKED ANY MARIJUANA TODAY? No WHEN? _____

HAVE YOU SEEN A DOCTOR OR DENTIST TODAY? No WHO? _____ WHY? _____

ARE YOU TAKING ANY PRESCRIPTION MEDICINES? yes WHAT? Tramadol, Aleve, Tylenol WHEN? daily

DO YOU HAVE:

EPILEPSY?	<u>No</u>
GLASS EYE?	<u>No</u>
FALSE TEETH?	<u>yes (upper 3-4)</u>
EAR INFECTION?	<u>No</u>
INNER EAR TROUBLE?	<u>No</u>
DIABETES?	<u>Borderline</u>

DO YOU HAVE ANY PROBLEMS WITH YOUR EYES THAT ARE NOT CORRECTED BY GLASSES? No

DO YOU TAKE INSULIN? No IF SO, WHEN WAS YOUR LAST INJECTION? _____

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

INTERVIEWER: Andrew Flinn



**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)
I/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	☐	119.071 (2)(j)1	Other: Address, telephone numbers and personal assets of domestic violence and other specified crime victims	
	☐		Other:	

REVIEW COMPLETED BY

Booking Number: 2019018203	Date: 6/2/2019
	Specialist Name/ID: Tiara Jones/34072