

Arrest Report

FLORIDA HIGHWAY PATROL
P.O. BOX 540007, GREENACRES, FL 33454

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Report Date / Time 12/16/2018 11:29:59PM	Report Number FHP99ARR793519	Case Number/CAD Number FHPL18OFF104505 / LWRC18CAD227838	Reporting Officer Name CANTELAR, JOAN
Originating Agency ORI FL0509000	Occurrence Date Time Range 12/16/2018 9:22:17 PM -	Jurisdiction	Clearance

Location of Occurrence

Location Type PUBLIC PLACE	Location Description NOF		
Street Number I-95 SB NOF PALM BEACH LAKES	Apt/Lot/Bldg		
County PALM BEACH	City WEST PALM BEACH	State FL	Zip 33410

Defendant

First Name GIULIANA	Middle Name	Last Name GARAY	Suffix	Date Of Birth 12/8/1969	Age 49	Race W	Sex FEMALE
SSN	MNI #	Place of Birth LIME, PERU	Height 502	Weight 125	Hair BLO	Eyes BRO	
DL or ID Number G600280699480	ID State FL	ID Type E	Address Type RESIDENCE				
Street Number 9040	Street SW 78 CT						Apt/Lot/Bldg
County	City MIAMI	State FL	Zip 33156	Phone Number	Extension		
Location Description							

Arrest

Arrest Date/Time 12/16/2018 9:56:51PM	Arrest Location Type PUBLIC PLACE	Arrest Location Description
Street Number I-95 SB NOF PALM BEACH LAKES	Apt/Lot/Bldg	County PALM BEACH
City WEST PALM BEACH	State FL	Zip 33410

Charge(s)

Counts 1	Charge 316.193.1	General Offense Code	Bond Amount \$ 0.00	☐ No Bond
Charge Degree N	Charge Level MISDEMEANOR	Arrest Offense Code Description DUI-UNLAW BLD ALCH	Received VVB	
Charge Description DUI ALCOHOL OR DRUGS				

DEC 17 2018

Probable Cause

On December 16th, 2018, I Trooper Cantelar (4166/1597) with the Florida Highway Patrol was on patrol in Palm Beach County, Florida. I was in a jurisdictional marked FHP vehicle equipped with overhead emergency lights and external siren. At approximately 9:22 PM Lake Worth dispatch center received a call from a driver that had visual of a Silver Mercedes that was traveling southbound on Interstate 95, south of PGA Blvd. Per the caller, the vehicle was all over the road, failing to maintain a single lane. The caller stayed land line and updating dispatch the locations. I then advised dispatch I was going to be stationary on Interstate 95 southbound, just north of Blue Heron on the right shoulder to wait for the vehicle to pass me. The caller was able to advise dispatch that the vehicles had a Florida Tag of (2770UC). I then observed the Silver Mercedes pass me from the outside center lane. I then began to travel and tried to overtake the vehicle. I then observed the vehicle to be weaving inside its lane. I also was able to pace the vehicle with my marked and certified patrol vehicle (FHP0773-2C3C DXAT5HH529040) at approximately 80mph in a posted 65mph zone. I then observed the vehicle failing to maintain a single lane.

SPAW 8/01

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I observed the vehicles two right tires going into the outside lane. I then observed the vehicle use a turn signal to change into the outside lane. While changing to the outside lane, I observed the vehicle almost go into the right paved shoulder. The vehicle was still traveling at approximately 80mph in a posted 65mph zone. I then positioned my patrol vehicle directly behind the silver Mercedes to initiate a traffic stop. I then activated my emergency lights and siren. The vehicle then pulled over to the right paved shoulder. I then advised dispatch to send me a backup unit. I then exited my patrol vehicle and approached the Silver Mercedes by the driver's side. Upon making contact, I observed a white Female driver and no other occupants. Upon making contact with the driver, I introduced myself speaking English. The driver answered back to me speaking Spanish. I then advised the driver I could speak fluent Spanish. I then observed the driver to have a slurred speech, also red and bloodshot eyes. Upon the driver speaking to me, I detected a strong odor of an unknown alcoholic beverage emitting from the inside of the vehicle. My back up unit, Trooper Petti then arrived on scene. I then asked the driver to provide me with her driver's license, registration and insurance. The driver provided me with the vehicle registration. The driver then advised me she had given me all her documents. I advised the driver I was still missing the driver's license and insurance. The driver then began to look for them.

Approximately 5 seconds later, she asked me if I already had all the requested paperwork. I advised the driver I was still missing the driver's license and insurance. The driver then provided me with her Florida driver's license. I then identified the driver as Giuliana Garay by her Florida driver's license. I then advised Ms. Garay to step out of the vehicle. Once Ms. Garay stepped out of the vehicle I advised her to step behind her vehicle. Once outside her vehicle, I asked Ms. Garay where she was coming from. She advised me she was coming From Orlando. She also advised me she had been driving for 4 hours. Upon Ms. Garay speaking to me, I detected a strong odor of an unknown alcoholic beverage emitting from her facial area and mouth. I then asked Ms. Garay if she had anything to drink. She advised me "no". Ms. Garay then began to tell me "no me hagas esto" (Don't do this to me). I advised Ms. Garay I was not doing anything, I was just asking questions and conducting an investigation based on my observations. I then asked Ms. Garay a second time if she had anything to drink. She advised me "talvez" (might have). Based upon my observations made on scene, within contact with Ms. Garay, and the totality of the circumstances I requested Ms. Garay to perform a series of road side exercises (Standardized Field Sobriety exercises). Mr. Garay advised me he would perform.

Standardized Field Sobriety Exercises (SFSE):

The area for the following roadside exercises was a level hard surface and was free of debris. The weather was clear. Lighting was dark but illuminated with surrounding ambient light and vehicle lights.

Horizontal Gaze Nystagmus:

I advised Ms. Garay to stand straight with her feet together and arms down and by her side. I asked Ms. Garay if she wear any glasses or contacts, Ms. Garay advised she did not. Ms. Garay was asked about any current medical conditions, she stated that she did not have any. For the exercise, I used my state issued red pen light.

I asked the Ms. Garay if she could see the tip of my red pen light, she said "yes". I then advised the subject to follow the red light on the tip of the pen with her eyes and eyes only, and to not move her head. I asked the subject if she understood the instructions I gave to her, she said "yes".

The following was observed during Horizontal Gaze Nystagmus:

The subject did have resting Nystagmus and dilated pupils.

- 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

Ms. Garay was told during the exercise multiple times to not move her head and use her eyes only. Ms. Garay kept moving

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her head. Ms. Garay would not follow the light with her eyes. Ms. Garay kept trying to anticipate where the light was moving.

While standing within close proximity of Ms. Garay, I could detect a strong and distinct odor of an unknown alcoholic beverage, and her eyes were bloodshot and watery. Subject was swaying.

Walk and Turn Exercise:

Interaction Phase:

The area for the following roadside exercises was level and free of debris. We used a imaginary straight line on the shoulder . I advised the subject to place her left foot on the imaginary line and her right foot directly in front of it, touching heel to toe. I advised the subject to keep her arms down by her side and to stay in that position until I advised her to begin the exercise. This exercise was first explained to the subject then was demonstrated by myself. Subject advised that she would be able to perform the exercise. Subject advised me that she understood instructions and did not have any questions. Ms. Garay also advised she did not have any medical conditions with her legs or knees. Ms. Garay interrupted me many times. The exercise was explained and demonstrated 3 times.

- The following was observed during the instructional phase of the exercise:

Ms. Garay failed to follow my instructions.

Ms. Garay could not keep her balance while attempting to stand straight on the line heel to toe.

The exercise was explained to Ms. Garay 3 times.

Ms. Garay was then warned that failing to perform the exercise would be used against her in a court of law.

Ms. Garay could not focus and pay attention to instructions.

- The following was observed during the walking phase of the exercise:

Ms. Garay missed heel to toe on multiple steps (15 steps)

Ms. Garay used her arms for balance.

Ms. Garay took 15 steps in total instead of 18 steps.

Ms. Garay improperly turned.

One Leg Stand Exercise:

The area for the following roadside exercises was level and free of debris.

I instructed the subject to stand with her feet together and keep her arms down by her side. I instructed the subject to stay in that position until I told her to start the exercise. This exercise was first explained to the subject then was demonstrated by myself. Subject advised that she was be able to perform the exercise. Subject advised me that she had no injuries that would affect the exercise. Subject advised that she understood the instructions and did not have any questions.

- The following was observed during the exercise:

Ms. Garay used arms for balance

Ms. Garay put her foot down multiple times (2 times)

Ms. Garay did not look at her raised foot.

Ms. Garay could not leave her raised foot straight.

Ms. Garay began to interrupt and was not able to finish the exercise.

Based upon my observations and the totality of circumstances, Ms. Garay was placed under arrest for DUI pursuant to Florida Statute 316.193.1 at 9:56 PM.

Ms. Garay was then searched and placed in my patrol vehicle and transported to the Palm Beach County Jail

While in transport to the Palm Beach County Jail there was an obvious strong odor of an unknown alcoholic beverage withir my vehicle that was not present prior to placing the defendant in the vehicle.

After the defendant's 20min observation, the defendant was then given the opportunity to provide a sample of her breath which she did not consent to provide (On Video).

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Jail Booking Facility

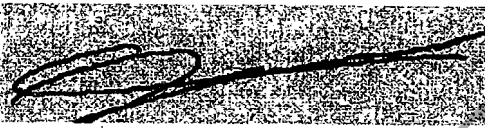
Booking Date/Time	Booking County PALM BEACH	Booking Facility PALM BEACH COUNTY CORRECTIONS	Booking Facility Phone Number (561) 688-4400
Booking Facility Location 3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406			Booking Number
Booking Comments			

Court

Court County PALM BEACH	Court Location 3188 PGA BLVD. PALM BEACH GARDENS, FL 33410		
Court PALM BEACH NORTH COUNTY COURTHOUSE	Court Phone 561-624-6608	Court Appearance Date / Time 1/15/2018 830AM	Court Fine
Comments			

The undersigned certifies and swears that he/she has just and reasonable grounds to believe that the above named Defendant, committed violation(s), of law, on the below date(s) and time(s), as listed in the probable cause associated with this report:

Reporting Officer

Officer Name CANTELAR, JOAN	Officer Rank TROOPER	Officer ID No 4166	Sworn and subscribed before me, the undersigned authority This the <u>16th</u> day of <u>December</u> , <u>2018</u> DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT OFFICER <i>TPR Andrew [Signature] 3651</i>
Officer Agency FLORIDA HIGHWAY PATROL			
Officer Signature 			

Approving Supervisor

Officer Name	Officer Rank	Officer ID No	Officer Agency
Officer Signature			

TESTING FACILITY TASK REPORT

AGENCY: FHP/CANTELAR

SUBJECT: GIULIANA, GARAY

CASE NUMBER: 18-156417

DATE: Dec 16, 2018

VIDEO DVD NUMBER: N/A

BEGINNING TIME: 2246

ENDING TIME: 2253

BREATH TESTS RESULTS: 1) R TIME 2249 A.M. ☐ P.M. ☒ 2) XX TIME XX A.M. ☐ P.M. ☐
3) XX TIME XX A.M. ☐ P.M. ☐ 4) XX TIME XX A.M. ☐ P.M. ☐

BREATH OPERATOR: S. PALMER #24520

MAINTENANCE TECHNICIAN: J Karlecke #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: SPANISH SPEAKER

ATTITUDE: EMOTIONAL, UPSET CRYING

CLOTHING: BLUE STRIPPED SHIRT, BLUE JEANS, BLACK FLIP FLOPS

MEDICAL CONDITIONS: NONE

MEDICATIONS: NONE

OTHER:

EYES GLASSY AND BLOODSHOT,

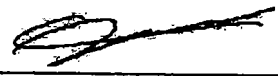
COMMENTS:

ARRESTING OFFICER CONDUCTED THE 20 MINUTE OBSERVATION BEGINNING AT 2220
SUBJECT REFUSED TO TAKE BREATH TEST
A/O READ I/C
SUBJECT STATED SHE UNDERSTOOD I/C
AND AGAIN REFUSED TO TAKE BREATH TEST @ 2249
A/O READ RIGHTS
SUBJECT STATED SHE DIDNT UNDERSTOOD RIGHTS
A/O DID NOT ATTEMPT Q&A

STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY & MOTOR VEHICLES
AFFIDAVIT OF REFUSAL TO SUBMIT TO
BREATH AND/OR URINE TEST

I, CANTELAR, JOAN, a duly certified Law Enforcement Officer or Correctional Officer,
(Name of Officer reading Implied Consent Warning)
am a member of FLORIDA HIGHWAY PATROL, and I do swear
(Name of law enforcement agency)
or affirm that on or about the 16TH day of DECEMBER, 2018, at 9:56 ☒ P.M. ☐ A.M.
DRIVER GIULIANA GARAY
(Type or Print) FIRST NAME MIDDLE OR MAIDEN NAME LAST NAME
DL# G600280699480, state of FL, was placed under lawful arrest for
316.193(1)
the offense of D.U.I. - DRIVING UNDER THE INFLUENCE (MISD... by CANTELAR, JOAN and
(Name of Arresting Officer)
issued Citation # A766Z7E
That on or about the 16TH day of DECEMBER, 20 18, at 10:49 ☒ P.M. ☐ A.M.
in PALM BEACH County,

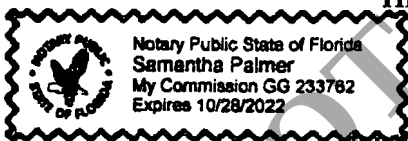
I requested that the driver submit to a ☒breath and/or ☐urine test to determine his or her blood alcohol level and/or the presence of chemical or controlled substances. I informed the driver that the refusal to submit to such test(s) would result in the suspension of his or her driving privilege for a period of one (1) year for a first refusal, or for a period of eighteen (18) months if his or her driving privilege had been previously suspended for refusing to submit to a breath, urine or blood test. I also informed the driver that he or she commits a misdemeanor by refusing to submit to a lawful test as requested above if his or her driving privilege has been previously suspended for refusal to submit to a lawful test of his or her breath, urine, or blood. Additionally, I informed the driver that if he or she holds a CDL, or was operating a CMV, refusal will result in the disqualification of the Commercial Driver's License/driving 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 any such lawful test. Nonetheless, the driver refused to submit to the test(s) requested.



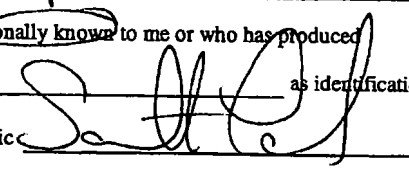
Signature of Law Enforcement Officer or
Correctional Officer

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

The foregoing instrument was sworn and subscribed before me:



(AFFIX SEAL)

The foregoing instrument was sworn and subscribed before
me this 16 day of December, 20 18,
by Trooper Cantelar,
who is personally known to me or who has produced
 as identification.

Notary Public Samantha Palmer

HSMV-BAR1001 (REV. 10/2016)

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.



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

PBSO CASE # 18-156417

AGENCY CASE# FHPL18OFF104505

AGENCY ZONE 3-15

CRASH CASE # N/A

TIME OF STOP/CRASH 9:29 PM DATE 12/16/2018 DAY Sunday

SUBJECT'S NAME GIULIANA GARAY RACE White SEX FEMALE

HGT 502 WGT 125 DOB 12/08/1969

LOCATION INTERSTATE 95 SB, NOG PALM BEACH LAKES

ARRESTING OFFICER'S NAME & ID Tpr. Cantelar (1597) AGENCY FHP

DIVISION: LAKE WORTH

NOTIFIED BY COMMO NO

ARRIVAL AT FACILITY 2220

ARREST TIME 9:56 PM

BREATH RESULTS:

1.
2.
3.
4.

TESTING OFFICER'S ID 24520

PBSO VIDEOTAPE # N/A

REFUSED

NOT A CERTIFIED COPY

SUBJECT: Giuliana, Garay CASE NUMBER: FHPL18 OFF 104505

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 Trooper Cantelar of the FHP

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) Read on Camera

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: Giuliana, Garay CASE NUMBER: FHR180FF104505

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: TPR. Cantelar #1597



**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: 2018041571

Date: 12/17/2018

Specialist Name/ID: AM/31562