18CF-8148 Rough Arrest Only ☐

ARREST / NOTICE TO APPEAR
Juvenile Referral Report

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

ADMINISTRATION

OBTS Number

Agency ORI Number: FL0500000 | Agency Name: PALM BEACH COUNTY SHERIFF'S OFFICE | Agency Report Number: 06-18-109848

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 (1. Yes 2. No) Shotgun | Multiple Clearance Indicator: 07

Location of Arrest (Including Name of Business):

Location of Offense (Business Name, Address): 804 Federal Highway Suite #8 (Just Fishing and Tackle)

Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle

DEFENDANT

Name (Last, First, Middle): Kellener, Marc, Ashley

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

Race (W - White, B - Black, I - American Indian, O - Oriental/Asian)	Sex	Date of Birth	Height	Weight	Eye Color	Hair Color	Complexion	Build
W	M	09-04-1965	5'10"	180	Green	Gray	Light	Med

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

Marital Status: Unknown | Religion: Unknown | Indication of: Alcohol Influence ☐ Y ☐ N ☒ Unk.; Drug Influence ☐ Y ☐ N ☒ Unk.

Local Address (Street, Apt. Number)	(City)	(State)	(Zip)	Phone	Residence Type (1. City 2. County 3. Florida 4. Out of State)
2202 Arterra Ct	Royal Palm Beach	FL	33411	(561) 231-1052	1

Permanent Address (Street, Apt. Number)	(City)	(State)	(Zip)	Phone	Address Source
2202 Arterra Ct	Royal Palm Beach	FL	33411	( )	FLDL

Business Address (Street, Apt. Number)	(City)	(State)	(Zip)	Phone	Occupation
804 Federal Highway Suite #8	Lake Park	FL	33403	(561) 863-3328	Self-Employed

D/L Number, State	Soc. Sec. Number	INS Number	Place of Birth	Citizenship
K458-541-65-324-0 Florida	[redacted]		NY	US

CO-DEF

Co-Defendant Name (Last, First, Middle)	Race	Sex	Date of Birth	
Friedman, Daniel,L	W	M	06-27-1957	☐ 1. Arrested ☒ 2. At Large ☒ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile
Friedman, Eric, James	W	M	01-31-1989	☐ 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/CYF 3. Incarcerated

Released To: (Name) | Relationship | FCIC/NCIC | 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 informed of any change of address: ☐ Yes, by: (Name) ☐ No: (Reason) | School Attended | Grade

CODE

Recovery Information: 0. N/A 1. Voluntary 2. Located Not Returned 3. Hospitalized 4. HRS Custody 5. Law Enforcement Custody 6. Returned to Parent 7. Deceased 8. Other

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 #
Robbery with a Firearm	02	☐ Yes ☒ No	812.13 (2)(a)	

Drug Activity	Drug Type	Amount/Unit	Offense #	Warrant/Capias Number	Bond
-	-	-	18-109848		

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
Tampering with Evidence	01	☐ Yes ☒ No	918.13(1)	

Drug Activity	Drug Type	Amount/Unit	Offense #	Warrant/Capias Number	Bond
-	-	-	18-109848		

CHARGE

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
False Imprisonment	02	☐ Yes ☒ No	787.02 (1)(a)	

Drug Activity	Drug Type	Amount/Unit	Offense #	Warrant/Capias Number	Bond
-	-	-	18-109848		

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 instructions on reverse side.

Location (Court, Room Number, Address):

Court Date and Time: Month Day Year Time 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:

☐ Dangerous ☐ Resisted Arrest ☐ Suicidal ☐ Other:

Intake Deputy I.D. # Pouch #

Signature of Arresting Officer: X

Name of Arresting Officer (Print): Det. J. Lawless | I.D. #: 12469

Transporting Officer I.D. # Agency: PBSO

Name Verification (Printed by Arrestee) (PRINT)

Witness here is subject signed with an "X".

PAGE 1 OF 1

DISTRIBUTION: 1st WHITE - COURT 2nd WHITE - RECORDS GREEN - STATE ATTY. YELLOW - CID PINK - JAIL (Rough Arrest) GOLD - DEFENDANT (Misd.) or BLOTTER (Felony)

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SHARON R. BOCK, CLERK PALM BEACH COUNTY, FL CRIMINAL 2018 DEC 23 AM 7:1 FILED

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

Agency ORI Number	Agency Name	Agency Report Number
FLO 5 0 0 0 0 0	PALM BEACH COUNTY SHERIFF'S OFFICE	06 – 18-109848

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

Special Notes:

Defendant's Name (Last, First, Middle)	Race	Sex	Date of Birth
Kellener, Marc, Ashley	White	Male	09-04-1965

Charge Description	Charge Description
Robbery with a Firearm	Tampering with Evidence
Charge Description	Charge Description
False Imprisonment	

Victim's Name (Last, First, Middle)	Race	Sex	Date of Birth
Mitchell, Duncan	White	Male	09-21-1994

Victim's Local Address (Street, Apt. Number)	(City)	(State)	(Zip)	Phone	Address Source
1370 NE 23rd Ct	Pompano Beach	FL	33064	954 605-1150	Verbal

Victim's Business Address (Name, Street)	(City)	(State)	(Zip)	Phone	Occupation
N/A					

The undersigned certifies and swears that he/she has just and reasonable 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 commit the below acts.
☐ was found to have committed the below acts, resulting from my (described) investigation.

On the day of , 200 at ☐ A.M. ☐ P.M. (Specifically include facts constituting cause for arrest).

NARRATIVE:

On Thursday, August 16th, 2018 at approximately 1644 hours, deputies of the Palm Beach County Sheriff's Office responded to the 'Just Fishing' Tackle and Consignment store located at 804 Federal Hwy in the town of Lake Park in reference to a shoplifting complainant. Upon arrival at the scene, first responding unit PBSO Deputy Sheriff Maduri #9151 entered the business where he made contact with the alleged suspect, Gerry Thompson, who was laying on the ground, surrendering to law enforcement. D/S Maduri proceeded to the rear of the business where the owner of the business, Daniel Friedman was holding a chrome-colored shotgun and standing over alleged suspect two, Duncan Mitchell. Mitchell had lacerations and swelling to his face, lacerations to his arms and back sustained while the owner detained both Thompson and Mitchell.

During the fact-finding stages of the call, PBSO D/S Maduri learned that the suspects are known to the owners of the business, Daniel Friedman, Eric Freedman, and Naomi Freedman. Employees informed D/S Maduri that on August 8th, 2018 Mitchell and another unknown male came to the business and stole a fishing reel worth approximately $480. At no time did the Friedman's or the employees notify law enforcement to report the crime. D/S Maduri advised that on today's date, August 16, 2018, Daniel Friedman and his son Eric, called Mitchell as a ruse/ploy to get them to come to the business to purchase an item, with the intent to confront Mitchell about the stolen fishing reel. Thompson and Mitchell arrived at the business, shortly before 16:30 hours according to Mitchell and Thompson but they could not be sure. Upon entering the store Eric Friedman confronted Mitchell about the theft. D/S Maduri advised the employees indicated Mitchell and Daniel Friedman began to fight where Daniel Friedman produced a shotgun. While in the rear of the business, Mitchell was held against his will at gunpoint by the Daniel Friedman and was unable to leave, while Thompson was held by the front door. Daniel Friedman, his wife, Naomi Friedman and their son, Eric Friedman, then held Thompson and Mitchell for an unknown amount of time then called PBSO at approximately 16:44 hours. As D/S Maduri was gathering this information, he attempted to speak with Eric and Naomi, who was standing at store surveillance camera system. D/S Maduri attempted to view the video where it was learned the camera system, which was functional and recording, had been turned off on 8/16/18 at 1455 hours. The video resumed at 1636 hours. Once the video came back on, both

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alleged suspects appeared to have been battered with employees and the Friedman's standing over them.

As PBSO Deputies began to question all parties, it was learned that during the portion when the video was turned off, the alleged suspects, Thompson and Mitchell, were held against their will and battered by the owner, Daniel Friedman, who struck Mitchell with the shotgun. Mitchell alleged that he was struck multiple times with unknown blunt objects while attempting to flee. Both Thompson and Mitchell told Deputies that they were attacked and forced at gunpoint to hand over their cell phones, $1180 in cash and their wallets. After learning this information, Daniel Friedman and family then became confrontational with Deputies regarding the alleged robbery of Thompson and Mitchell; the family denied Deputies access to the business.

In a sworn statement with Duncan Mitchell, he advised that on 8/16/18, he was contacted by Eric Friedman in regards to the fishing equipment he had for sale. Once at the business, Mitchell was attacked by Eric, Daniel, and Marc, who struck him with a "blackjack" on his legs, and punched and kicked him in the face and body and struck him in the face with a shotgun. Daniel Friedman placed the shotgun to his face and yelled: "do you want to die today!" Mitchell stated he was dragged to the back room of the business by Eric, Daniel, and Marc, where he was beaten for several minutes while Eric threatened to kill his family multiple times. Mitchell advised the employees ordered him to give them everything. Mitchell advised that the suspects entered his pockets and stole his two cellphones from his front pocket (Apple iPhone X and Samsung Galaxy), his driver's license and $1180 in US Currency. Mitchell advised he watched Eric give the money to his mother, Naomi Friedman. Eric showed Mitchell the video of Mitchell holding a $400 reel on 8/8/18, which Eric accusing Mitchell of stealing. He was then brought back to the front of the business, at which time he overheard Eric telling another employee to "delete the video," where he observed Naomi walk to the rear of the business.

In a sworn statement with Thompson, he corroborated Mitchell's accounts. Thompson stated that once he and Mitchell walked in, they were confronted about the theft. Thompson advised Daniel Friedman then shoved him and ordered him to put his hands on the wall. Thompson stated he attempted to go towards the front door where he learned the front door was now locked. Thompson was then shoved to the ground where he felt the barrel of a shotgun being placed on the back of his head, where the employees told him he was going to die. While on the ground, an unknown employee then entered his front pocket and removed his Apple iPhone 6. Thompson watched as Mitchell was dragged into the rear of the store, and he heard Mitchell being battered and crying for help. Thompson continuously heard Mitchell pleading for who he was with to call the police. After approximately 10 minutes, Mitchell was again brought back to the front of the business where the employees were saying to call the police.

Audio-recorded interviews were conducted with all parties on the scene. Due to the allegations by all parties, each individual was read their Miranda warnings from a preprinted PBSO Miranda Card.

At approximately 21:11 hours, Marc Kellener provided a post-Miranda statement. While speaking with Marc explained he has only worked at the store for approximately two months. On 8/8/18, during a store inventory, he noticed a fishing reel valued at $479.00 missing. On 8/16/16 he informed Eric of the missing fishing reel. On 8/16/18 he reviewed the video of the alleged theft and believed Mitchell had stolen the reel. He knows Mitchell as a customer. Eric called Mitchell to come to the store. When Mitchell and Thompson arrived at the store, Mitchell handed him several fishing reels, which Mitchell was going to sell. After Eric confronted Mitchell, Mitchell "went at Daniel" and they started fighting. While they were fighting Daniel was screaming to "watch the other guy (Thompson). Daniel told Thompson to "get on the floor" to which he complied. While Mitchell and Daniel were fighting, he noticed Naomi call 911. Mitchell voluntarily went to the back room, with Daniel and Eric. He only stood by watching Thompson until law enforcement's arrival.

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Ultimately Kellener stated he never touched, hit, or struck either victim nor did anyone take anything other than their driver's licenses, to confirm their identities. He denied ever being in the back office with Mitchell. He denied deleting or tampering with the video recording system.

Kellener later provided detectives with signed written consent to search his cellular telephone. A search of his recent text messages showed a conversation with an unknown female telling her " I think I am going to go." When asked what that meant, he replied he thought he was going to go to jail.

Ultimately Eric denied striking Mitchell or taking anything from him other than his driver's license to confirm his identity. He denied witnessing anyone touch Mitchell other than the initial altercation between Mitchell and Daniel. He stated Mitchell voluntarily remained on scene, and he was not threatened. He stated multiple times he was in fear for his life, because of Mitchell but could not describe exactly how or why.

While on the scene, Det. Rebholz authored a search warrant for the business located at 804 Federal Hwy, Lake Park, FL, 33403. The warrant was approved and signed by the honorable Judge J. Keyser. The warrant was executed at approximately 22:18 hours. During the search of the business, PBSO Detectives, along with PBSO crime Scene located the victims' stolen cell phones, the 12-gauge chrome colored shotgun, two blunt weapons (baton and a weighted leather impact weapon commonly referred to as a leather sap.), and the store's video DVR system.

A later review of the store's DVR system revealed the date and time to be accurate. There are several cameras angles which capture the interior and exterior of the store. The cameras are motion-activated and record when there is motion. The DVR holds several days' worth of video, and Detectives were able to retrieve and review video from days prior. The DVR system was in excellent working order. On 8/16/18, the DVR records what appears to be a normal business within the store the time the store opened until 02:40:46 pm, where the video cuts off abruptly. At that time store employee, Marc Kellener is observed walking towards the area where the DVR system is located. The DVR immediately stops recording and is believed to have been unplugged. There were no other people in the area where the DVR is located at this time. The next video files contained on the DVR start at 04:35:51 hours on 08-16-2018.

At this time, victim Gerry Thompson is seen lying on the ground next to the front door. His hands are out to his side in the surrender position. Employee Glenn Morton is seen standing near him. The victim, Duncan Mitchell, is seen seated in a chair in the rear office portion of the store. Duncan appears scared and is at times seen visibly crying. Eric Friedman is seen yelling at Mitchell. Daniel Friedman is standing next to Mitchell holding a chrome-colored shotgun. Naomi Friedman is seen placing a large sum of cash into a white envelope, then placing the envelope in a larger mailing envelope and places it into a desk drawer. Employee, Marco Pinto, is seen attempting to operate the store DVR system. At 04:36:19 hours (video time), Mitchell is seen trying to stand up. Daniel Friedman, while still holding the shotgun in his right hand, grabs Mitchell around his neck and pushes him back down into the chair with his left hand. Marco Pinto is seen watching this occur along with a store employee, Eduardo Pinto. Daniel Friedman is then seen holding Mitchell down with his left hand on top of Mitchell's neck/collar area. At 04:36:28 hours, employee Marc Kellener is seen walking into the rear office through the north doorway. He immediately turns his attention towards Mitchell and punches Mitchell in the face twice. Several employees are in the rear office at this time, along with Daniel, Eric and Naomi Friedman. Shortly after, Naomi Friedman is seen speaking with Mitchell, while Daniel Friedman is still standing over him with the shotgun in his hand. Mitchell reaches into his pocket and removes his wallet. Eric Friedman is seen angrily pointing his finger in Mitchell's face. Mitchell hands Naomi his driver's license, and she walks away. At 04:37:05 hours, Eric Friedman walks away from Mitchell, and Mitchell leans forward in his chair. Daniel Friedman immediately steps in front of Mitchell and pulls back his arm as if to strike Mitchell but does not. Each time Mitchell repositions himself within the chair, Daniel Friedman moves towards him to prevent him from moving.

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NARRATIVE CONTINUATION

At 04:40:45 hours, Daniel Friedman forcefully strikes Mitchell in the left side of his head with the buttstock of the shotgun. Naomi Friedman, Eric Friedman, Marc Kellener, and Eduardo Pinto were present inside the room when this occurs.

At 04:42:04 hours, Marc Kellener is seen entering the rear office area and kicking Mitchell.

At 04:43:28 hours, Eric Friedman is seen spitting in Mitchell's face and again at 04:43:35 hours, which he wipes off with his T-Shirt.

At 04:44:27 hours, Naomi Friedman is seen carrying the business telephone, consistent with the 911 call PBSO received at 16:44 hours.

At 04:46:23 hours, Naomi Friedman is seen removing the mailing envelope containing the large sum of cash and placing it into a black purse, consistent with Mitchell's account of his money being stolen. Naomi ultimately removes the envelope from the purse and hands it to employee Marco Pinto, along with her vehicle keys. Pinto is seen walking to Naomi's vehicle with the envelope and then returning without the envelope.

At 04:48:20 hours, PBSO D/S Maduri is seen entering the rear office.

At 05:05:07 hours, Naomi Friedman is seen attempting to operate the store DVR system. Two minutes later, Eric Friedman joins her, and the two are seen operating the DVR. At 05:09:34 hours, both Marco and Eduardo Pinto enter the rear office, and Marco Pinto is seen now operating the DVR system. At 05:18:27 hours, Marco Pinto is seen operating the DVR system for PBSO deputies.

Throughout the video, Eric Friedman, Daniel Friedman, Naomi Friedman and Marc Kellener are seen continually yelling at Mitchell who is seen cowering in fear and, at times, visibly crying. Additionally, Eric, Naomi, and Marco are seen attempting to operate the DVR system. Each time Marc Kellener enters the rear office, he is seen yelling at Mitchell.

Based on my described investigation, the victims' statements, my observations of the store's DVR recordings which contradict Marc Kellener's post Miranda statements, I find Probable cause exists to charge Marc Kellener with violation of FSS 812.13 (2)(a) Robbery with a Firearm (2 counts), FSS 787.02 (1)(a) False Imprisonment (2 counts) and FSS 918.13(1) Tampering with Evidence.

Sworn and Subscribed before me	
Signature Notary Public / Clerk of Court / Officer (F.S.S 117.10) Det. T Rebholz #9166	Signature of Arresting / Investigating Officer Det. J Lawless #12469
Name of Notary Public / Clerk of Court / Officer (F.S.S 117.10) 8/22/18	Name of Officer (Please Print) 8/22/18
Date	Date

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