

Primary Case Report
Antioch Police Department

CA0070100 - 300 L Street (925)779-6900

CASE NO: 09011139
EVENT NO: 09122954

Classification: PC 243(C)(1) (BAT EMERGENCY PERSON/ETC) - FELONY

Officer ID: KINT #3652

Location Name:

Location: 821 W 14TH ST ANTIOCH

XStreet: MACAULAY ST

2nd XStreet:

Beat: 1

Occurred	Date	Time	Day
On/From	11/21/2009	02:33	Sat
To	11/21/2009	05:26	Sat
Received	11/21/2009	02:33	Sat

Primary Case Report Antioch Police Department CA0070100 - 300 L Street (925)779-6900				CASE NO: 09011139 EVENT NO: 09122954	
REPORT - 1 Primary Case Report				Officer ID: KINT #3652 Supervisor: SCHNITZIUS #2840	
VIC		VICTIM			
HOFFMAN, RICK					
Race: Hispanic/Latin/ Mexican Sex: M DOB: Age: 27 Type: PERSON Height: Weight: Hair: Eyes:					
ADDRESS INFORMATION					
Address Type: PERSONAL/HOME Phone: (925) 779-6900 / (925) 779-6900 Address: 300 L ST ANTIOCH CA 94509 Time at Address: Comments:					
School: Grade #: Occupation: POLICE OFFICER Employer: ANTIOCH PD How long: Work Hrs: Language: Clothing: Crime Type: Suspect Status: Additional Info: Comments:					
VIC		VICTIM			
KINT, KRIS					
Race: White Sex: M DOB: Age: Type: PERSON Height: Weight: Hair: Eyes:					
ADDRESS INFORMATION					
Address Type: BUSINESS Phone: (925) 779-6900 Address: 300 L STREET ANTIOCH CA 94509 Time at Address: Comments:					
School: Grade #: Occupation: POLICE OFFICER Employer: ANTIOCH PD How long: Work Hrs: Language: Clothing: Crime Type: Suspect Status: Additional Info: Comments:					
ARR		ARRESTED			
BARR, ROBERT EARL JACK					
Race: White Sex: M DOB: 08/17/1970 Age: 39 Type: PERSON Height: 601 Weight: 155 Hair: Brown Eyes: Blue					
ALIASES					
AKA Name: AKA DOB:					
BARR, ROBERT EARL					
ADDRESS INFORMATION					
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Officer ID: KINT #3652

Supervisor: SCHNITZIUS #2840

BARR, ROBERT EARL JACK (Cont'd)

ADDRESS INFORMATION

(Cont'd)

Address Type: Phone: (925) [REDACTED] / (925) [REDACTED]
Address: [REDACTED] Time at Address:

Comments:

Address Type: Phone:
Address: [REDACTED] ANTIOCH CA 94509 Time at Address:

Comments: UNK PHONE NUMBER

School: Grade #: Occupation:

Employer: How long: Work Hrs:

Language: Clothing:

Crime Type:

Suspect Status:

Additional Info:

Comments:

IDENTIFICATION NUMBERS

Identification: Issued By: ID No:

Drivers License
SSN

[REDACTED]

ALERT/SPECIAL REGISTRANT INFORMATION

Alert	Source Type:	Source #:	Supp #:	Date:
DNA	Start: CASE	09011139	1	11/21/2009
	Clear:		0	11/21/2900

Contact: CSO MING Phone: (925) 778-2441

Agency: ID #: 5131

Ref #: Zone: Date Sent for DNA:

☒ Prints ☒ Photo ☐ DNA Sample Collected CDC Release Date:

Comments: PER DEPUTY BARRY. CCCSO WILL COLLECT DNA FROM BARR. PALM PRINTS ON FILE.

ARREST INFORMATION

Arrest Number: 0905189 Arrest Date: 11/21/2009 04:20

Location: 821 W 14TH ST ANTIOCH

Arrest Officer: KINT #3652

Booked By:

Arrest Lvl: FELONY

Book Date: 11/21/2009 08:21

Transport Officer:

Booking No. C09-11139

XStreet: MACAULAY ST

Cite No.:

Blood Alcohol:

Appear Court:

Attitude:

Test Performance:

Dispo: FELONY - MDF

CHARGE INFORMATION

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BARR, ROBERT EARL JACK (Cont'd)

CHARGE INFORMATION

(Cont'd)

Charge: PC 69 (OBSTRUCT/RESIST EXEC OFF) - FELONY

Counts: 1 Bail: Warrant No:

Description: OBSTRUCT/RESIST EXEC OFF

Charge: PC 71 (THREATN SCH/PUB OFCR/EMPL) - FELONY

Counts: 1 Bail: Warrant No:

Description: THREATN SCH/PUB OFCR/EMPL

Charge: PC 243(C)(1) (BATT EMERGENCY PERSON/ETC) - MISDEMEANOR

Counts: 1 Bail: Warrant No:

Description: BATT EMERGENCY PERSON/ETC

PROBABLE CAUSE DECLARATION

Declarant Officer:

PCD Date: 11/23/2009 04:20

Facts:

PCD Inds:

PROSECUTION LIAISON INFORMATION

DA Date: 12/09/2009 08:51

DA No.:

DA Name:

Charges Reqst'd: PC 243 (C)(2), PC 69, PC 245 (A)(1) Charges Filed: PC 69 - 2 CNTS, PC 242/243(C)(2) - 2CNTS W/DEF ENHANCEMENTS

Lvl Requested: F

Lvl Filed: F

Status: FEL FILE

Court Date:

Court No.:

Comments: PKG: 12/9/2009 08:51:39 ** R1-R8, RAP, PHOTOS ** 2831
TAKEN BY GREEN 12-9-09

Detective ID: GREEN #3639

Det Assignment:

NCF Code:

Inv Unit:

Strike No:

ARR ARRESTED

VIERRA, TIMOTHY MICHAEL

Race: White Sex: M DOB: 05/26/1969 Age: 40 Type: PERSON

Height: 601 Weight: 210 Hair: Blond Eyes: Blue

ALIASES

AKA Name:

AKA DOB:

VIERA, TIMOTHY

ADDRESS INFORMATION

Address Type: Phone: (925) [REDACTED] / (925) [REDACTED]

Address: [REDACTED] Time at Address:

Comments:

Address Type: Phone:

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VIERRA, TIMOTHY MICHAEL (Cont'd)

ADDRESS INFORMATION

(Cont'd)

Address: [REDACTED] Time at Address:

Comments:

Address Type: PERSONAL/HOME Phone:

Address: [REDACTED] Time at Address:

Comments: UNK PHONE NUMBER

School: Grade #: Occupation:

Employer: How long: Work Hrs:

Language: Clothing:

Crime Type:

Suspect Status:

Additional Info:

Comments:

IDENTIFICATION NUMBERS

Identification: Issued By: ID No:

CII Number Calif. DOJ

Federal Bureau of FBIRAP

Investigation Number

AFIS NUMBER AFIS#

Drivers License

Social Security Card SOCIAL SECURITY
ADMINISTRATION

ALERT/SPECIAL REGISTRANT INFORMATION

Alert	Source Type:	Source #:	Supp #:	Date:
DNA	Start: CASE	09011139	1	11/21/2009
	Clear:		0	11/21/2900

Contact: CSO MING Phone: (925) 778-2441

Agency: ID #: 5131

Ref #: Zone: Date Sent for DNA:

☒ Prints ☒ Photo ☒ DNA Sample Collected CDC Release Date:

Comments: DNA COLLECTED AT ANTIOCH PD BY CSO MING

ARREST INFORMATION

Arrest Number: 0905188 Arrest Date: 11/21/2009 04:20

Location: 821 W 14TH ST ANTIOCH

Arrest Officer: KINT #3652

Booked By:

Arrest Lvl: FELONY

Book Date: 11/21/2009 08:20

Transport Officer:

Booking No. 260905188

XStreet: MACAULAY ST

Cite No.:

Blood Alcohol:

Appear Court: Pittsburg Superior Court

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Supervisor: SCHNITZIUS #2840

VIERRA, TIMOTHY MICHAEL (Cont'd)

ARREST INFORMATION

(Cont'd)

Attitude:

Test Performance: Book

Dispo: **FELONY - MDF**

CHARGE INFORMATION

Charge: **PC 243(C)(1) (BAT EMERGENCY PERSON/ETC) - FELONY**

Counts: **1**

Bail: **25000**

Warrant No:

Description: **BAT EMERGENCY PERSON/ETC**

Charge: **PC 69 (OBSTRUCT/RESIST EXEC OFF) - FELONY**

Counts: **1**

Bail: **20000**

Warrant No:

Description: **OBSTRUCT/RESIST EXEC OFF**

PROBABLE CAUSE DECLARATION

Declarant Officer:

PCD Date: **11/23/2009 04:20**

Facts:

PCD Inds:

PROSECUTION LIAISON INFORMATION

DA Date: **12/09/2009 08:51**

DA No.:

DA Name:

Charges Reqst'd: **PC 243 (C)(2), PC 69, PC 245 (A)(1)**

Charges Filed: **PC 69 - 2 CNTS, PC 242/243(C)(2) - 2CNTS W/DEF ENHANCEMENTS**

Lvl Requested: **F**

Lvl Filed: **F**

Status: **FEL FILE**

Court Date:

Court No.:

Comments: **PKG: 12/9/2009 08:51:39 ** R1-R8, RAP, PHOTOS ** 2831
TAKEN BY GREEN 12-9-09**

Detective ID: **GREEN #3639**

Det Assignment:

NCF Code:

Inv Unit:

Strike No:

PROP Evidence POLICE UNIFORM

ITEM#: 1

Quantity: **1** Category: **Items/Clothing/Accessories**

Article: **POLICE UNIFORM**

Brand: **FLYING CROSS**

Model:

Value:

Color: **Blue**

Serial #:

Owner Applied #:

Size:

Special Marks:

Officer ID: **KINT #3652**

Inv Date: **11/21/2009 12:57**

Obliterated Restored:

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Evidence 1 (Cont'd)

Obliterated Removal Code:

Obliterated Drill Size:

Comments: ANTIOCH POLICE UNIFORM WITH DRIED BLOOD ON IT

RELATED PERSONS

Person:

KINT, KRIS

Relation:

OWN

Total Evidence: \$

NARRATIVE

On 11/21/2009, at approximately 0347 hours, I was dispatched to the intersection of West 14th Street and Cook Street, regarding a noise complaint. Information in the call stated that there were intoxicated subjects yelling and screaming at an unknown residence near the listed intersection.

Upon my arrival on the scene, I observed the front door to 821 West 14th Street was wide open, and several subjects inside the house. I also overheard music playing from inside of the residence (821 West 14th Street), and determined it to be the house the reporting party was complaining about.

I observed three white males (Later identified as ARR-Frank Sterling, ARR-Robert Barr, and ARR-Timothy Vierra) acting very strange, as I overheard them yelling out loud and dancing in a circle. The three subjects grabbed miscellaneous items and raised them over their heads, as they danced in a circle screaming in a ritualistic manner. I recognized one of the miscellaneous objects to be a mountain bike.

Myself and Officer Hoffman walked up to the address (821 West 14th Street) in order to contact the subjects, and notify them of the noise complaint. I contacted all three subjects, and I advised them that a neighbor called to complain about the noise, and I requested them to turn the music off and stay inside their house.

One white male (Frank Sterling) had identified himself as the homeowner, but he refused to tell me his name or provide me with his driver's license. Frank did turn the music off, and he demanded to know which neighbor called to complain on him. I advised Frank that it would not be appropriate to inform him the name or address of the complainant, and he became upset and angry with me. Frank demanded to know who called the police, as he informed me that he has lived at his house for over seven years, and that he knows all of his neighbors on a first name basis.

I observed that all three subjects (Frank Sterling, Robert Barr, Timothy Vierra) exhibited several objective signs of being under the influence of an alcoholic beverage: a strong odor of an alcoholic beverage, slurred speech, bloodshot/watery eyes, and an unsteady gait. All three subjects acknowledged that they were heavily intoxicated, as they have been out partying/drinking all evening long. Timothy Vierra advised me that he is going through a divorce with his wife, and that all of them were **"getting hammered"** to **"vent their frustration"** at life.

I also smelled a strong odor of a controlled substance coming from inside of the residence. From my prior

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NARRATIVE

(Cont'd)

training and experience, I recognized that odor to be a controlled substance, specifically marijuana. Based on the strange behavior that I observed all three subjects exhibiting, I asked them if they have been smoking marijuana and/or using any illegal drugs this evening. Frank responded first by saying, **"I'm in my house, you're on my porch."** Frank then began yelling at myself and Officer Hoffman, because he thought that we had entered his residence without his consent. Frank continually asked where our warrant was, and he thought that Officer Hoffman had placed his foot inside of his residence.

I attempted to defuse the situation by saying that a noise complaint was a minor nuisance and not that big of a deal, and I asked all three subjects if I could see their identification, so I could document whom I spoke to regarding the noise complaint. Frank stated, **"Hell no. We are in my house. We don't have to do shit. Where's your warrant?"**

Both Robert Barr and Timothy Vierra had attempted to calm Frank down several times, but Frank would not listen to what they had to say. At one point, both Robert Barr and Timothy Vierra had voluntarily handed us their identification, as they both stated, **"Here Officers, you can have my I.D. (identification)."** I believed that this was Robert Barr and Timothy Vierra's way of attempting to calm Frank Sterling down, by complying, with the notion that Frank would follow their lead.

Robert Barr was positively identified by his Oregon driver's license and Timothy Vierra was positively identified by his California identification card.

A wants/warrant check on Robert Barr and Timothy Vierra revealed that they had no wants or warrants.

Frank started to become more agitated, and began pacing back and forth towards myself and Officer Hoffman. Frank even began yelling outside in the direction of his neighbors or the RP, and was yelling profanities at APD and the RP who called to report the noise complaint.

I observed that Frank unzipped his jacket/sweater and threw it off his body in a threatening/intimidating manner. After Frank took off his jacket/sweater, he held his arms out away from his body and off to the side, as he stated, **"What's up."** I noticed that Frank had his palms facing myself and Officer Hoffman, as he wiggled his fingers towards his body, as to motion us to come inside of his house. It was evident by seeing Frank's demeanor and hearing him speak, that he was challenging myself and Officer Hoffman to a physical fight. Frank did this several times, as Officer Hoffman and I stood outside his door in a calm manner. At some point in the middle of all Frank's verbal threats, Frank had provided us with his identification.

A wants/warrant check on Frank Sterling revealed that he had no wants or warrants. A probation check on Frank Sterling revealed that he was not currently on probation.

As Frank continually got louder and more aggressive, Robert Barr appeared to be getting more and more upset, and he began following/mockingly Frank's behavior. Robert Barr began pointing his finger towards myself and Officer Hoffman, and began making verbal threats to harm me. Robert Barr began stating that he would **"beat"** our **"asses"**. Frank requested myself and Officer Hoffman to enter his apartment and fight him several times. I had advised all three subjects that we would be leaving, and for them to please quiet down, out

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NARRATIVE

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of respect for their neighbors. Robert Barr continued to point fingers, as he told me to leave before there was a fight. Robert Barr got really close to myself and Officer Hoffman, as he was threatening us in an aggressive manner. Robert Barr was within close proximity to Officer Hoffman, when I observed him grab at his waist or belt area, in what I thought was an effort to push him away and/or act tough in front of his friend Frank.

As Robert Barr touched Officer Hoffman, I advised him that he was under arrest for his threatening/assaulting Officer Hoffman. Myself and Officer Hoffman tried to pull Robert Barr out of the residence to effect the arrest, as it would have been unsafe to enter the residence with other hostile occupants located inside. I tried to keep Frank back, so he would not interfere with the arrest of Robert Barr. Frank then ran directly at me in an aggressive manner, and pushed me backwards. I had lost my balance, and Frank was able to easily push me backwards. The front porch was very small, and I was in fear of being pushed backwards and off of the front porch.

Officer Hoffman was able to get Frank off of me, which enabled me to regain my balance and assist Officer Hoffman in arresting Frank. Robert Barr seemed to be shocked or momentarily stunned at what had transpired, and he was not an immediate threat to myself and Officer Hoffman at this time. I observed Frank attempt to tackle Officer Hoffman, and they were wrestling around with one another trying to get in a position of advantage. I decided to leave Robert Barr, whom had never been handcuffed even though we advised him he was under arrest, in order to assist Officer Hoffman because Frank was the more violent subject at the moment.

I observed Frank and Officer Hoffman wrestling around and being thrown into walls inside of the residence, so I began delivering flashlight strikes to Frank's body, as it was in my right hand due to the lighting conditions/time of night. I did not believe that I could use any other use of force option at the time, as Officer Hoffman and Frank were too close to each other to use my pepper spray or electronic control device. I struck Frank at least 8 to 10 times with my flashlight in various parts of Frank's body. It should be noted that the fight was violent and hectic in nature, and I cannot specifically remember the number of strikes that I threw throughout the duration of the fight.

Frank was violently resisting arrest, and none of my flashlight strikes appeared to have any effect on him whatsoever. I began to suspect that Frank may have been under the influence of a controlled substance, based on actions during the fight/brawl. Frank appeared to be happy that we were fighting, as he continually yelled, **"Come one, come one."** I then approached Officer Hoffman and Frank, and attempted to physically pull Frank away from Officer Hoffman, as to create distance so an effective use of force option could be applied. It should be noted that the residence was very small, and the five of us fighting made the house feel very cramped in nature. I grabbed Frank around the arms/shoulder area, and tried to pull Frank away from Officer Hoffman.

I overheard Frank yelling at Timothy and Robert to get involved in the fight. Frank repeatedly yelled, **"Get em, get em"** and **"let's take these fucking cops"**.

At this point, Robert Barr and Timothy Vierra had entered the fight, as I felt myself being punched in the back of the head and back area. I did not see who was punching me, as it was coming from behind me. I knew

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that it was not Frank punching me in the back of the head, as he was in front of me, and myself and Officer Hoffman were trying to control Frank. I now suspected that Timothy Vierra and Robert Barr had actively entered the fight, and were now assaulting myself and Officer Hoffman. It should be noted that myself and Officer Hoffman were outnumbered in the fight, and now being assaulted by three bigger/larger subjects. I looked backwards and noticed both Timothy and Robert directly behind me, as I now felt someone pulling me backwards by my duty belt. I then yelled at Timothy and Robert to **"get back."** As I started paying more and more attention to Timothy and Robert, I got grabbed by Frank and lifted off of the ground. Frank lifted me up and moved me into the kitchen area, and slammed me on the kitchen floor. I was now in a vulnerable position, as Frank layed on top of me, and I was laying on my back.

Frank began reaching for my belt, and I felt him tugging on my electronic control device and my firearm. I began to feel like was losing this fight, and I was now in fear for my life. I began grabbing at my firearm to protect it from being removed, and I felt helpless, because I could not remove myself from my position of disadvantage. Officer Hoffman had ran over to our position in the kitchen, and began assisting me in getting Frank off of me. I began feeling fatigued and exhausted, as the fight appeared to go on for several minutes.

Timothy and Robert were attempting to pull Officer Hoffman off of Frank, as Officer Hoffman tried to apply a carotid restraint on Frank. I was able to get up off of the ground, and push Timothy and Robert away as I yelled **"get back"** again. Myself and Officer Hoffman were finally able to place Frank into handcuffs and arrest him.

I looked back at Timothy and Robert, and observed Robert coming towards our position with his fists clinched. Officer Hoffman was able to remove his electronic control device and use it on Robert, which was effective in controlling him and eventually taking him into custody. Refer to Officer Hoffman's supplemental report for further information. Timothy had voluntarily got onto the ground on his own accord and placed his hands out to his side to be arrested. Timothy was saying, **"I'm sorry, I'm so sorry Officers. My dad is a Police Officer."** I was able to place Timothy into handcuffs without any incident.

After all three subjects had been detained in handcuffs, CODE 2 AMR was requested in order to treat all the involved parties for their injuries.

It should be noted that I have been a victim of an assault before while working on-duty as a Police Officer, including an incident where I was slashed/cut with a knife in the face by a subject. This fight with all three involved subjects was the longest and most violent fight I have been involved in, and I truly believed that my life was in danger.

Frank Sterling and Robert Barr were transported to the Contra Costa County Hospital by AMR, in order to be treated for their injuries. Refer to Officer McDonald's and Officer Graham's supplemental report for further information regarding this incident.

I sustained minor cuts and bruises all over my body as a result of this incident. I felt a sharp pain in my left wrist/hand area, which I was uncertain on how I obtained that pain. There were photographs taken of me on the scene (see attached). I later went to Sutter Delta Medical Hospital and got treated for an injury to my hand.

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I observed that I had a good amount of blood on my Antioch Police BDU shirt. I suspected that the blood was from Frank when he tackled me onto the kitchen floor, and layed on top of me. I later took off my Antioch Police BDU shirt, and later entered it into APD evidence (see attached).

Officer Gillespie had conducted a neighborhood canvass in order to attempt to locate any evidence or witnesses regarding this incident. Refer to Officer Gillespie's supplemental report for further information.

An RMS computer check on Robert Barr revealed several prior contacts, including one arrest for PC 602. I placed a copy of Robert Barr's RMS contacts in this file (see attached).

I requested APD dispatch to run a criminal history check on Robert Barr. APD dispatch advised me that Robert Barr had no prior criminal history.

An RMS computer check on Timothy Vierra revealed several prior contacts, including one prior warrant arrest and an arrest for PC 12500(a). I placed a copy of Timothy Vierra's RMS contacts in this file (see attached).

I requested APD dispatch to run a criminal history check on Timothy Vierra. Timothy Vierra has been previously arrested for CVC 20002(a), PC 12020(a), CVC 2800.1, and PC 148(a)(1). Timothy has been previously convicted PC 12020(a) and CVC 2800.1. I placed a copy of Timothy's criminal history in this file (see attached).

Officer Gillespie had interviewed Timothy Vierra and obtained a statement regarding this incident. Timothy Vierra was booked at APD, and later sent to the Martinez Detention Facility for the listed charges.

No further information

K.Kint #3652