

Incident Report

OAKLAND POLICE DEPARTMENT
455 7TH STREET
OAKLAND, CALIFORNIA 94607
(510) 238-3021

Incident Number: 17-054783

Incident Summary

Incident Type: DOMESTIC VIOLENCE	Report Type: INCIDENT REPORT
Inc Occurred Address: [REDACTED] 65TH AV, OAKLAND, CALIFORNIA 94605	Sector/Beat: CCD6/29X
Inc Occurred Start: 10/18/2017 18:58	Inc Occurred End: 10/18/2017 18:58
Bias Motivation:	Gang Related: N
Contact Nature:	Substance: U
Reporting Officer: CROSS, WENDY	Reported Date/Time: 10/18/2017 20:44
Primary Assigned Officer: BADDIE, MELISSA	
Case Status: COMPLAINT REFU; Disposition: CLOSED BY ARREST - ADULT	Disposition Date: 10/24/2017 11:20

Offenses

Statute Code: PC243 (E)(1) Enhancers: DOM
Statute Desc: BATTERY:SPOUSE/EX SPOUSE/DATE/ETC
Counts: 1 Statute Severity: Misdemeanor

Persons Involved

Person#: 0001	
Event Association: VICTIM	
Name: [REDACTED]	Age: 20 - 20
Address: [REDACTED]	Sector/Beat: CCD6/29X
Person#: 0002	
Event Association: SUSPECT	
Name: CERVANTESHIGAREDA, JOSE DEJESUS	Age: 20 - 20
Address: [REDACTED]	Sector/Beat: CCD7/33X

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Modus Operandi

Against Persons:
Against Property:
Occupied:
General Premise 1:
General Premise 2:
Specific Premise:
Surrounding Area 1:
Surrounding Area 2:
Surrounding Area 3:
Relationship to Suspect 1:
Relationship to Suspect 2:
Weapon Type 1:
Automatic:
Weapon Type 2:
Automatic:
Weapon Type 3:
Automatic:

Crime Against Property

of Premises Entered:
Entry Point:
Exit Point:
Entry Loc 1:
Exit Loc 1:
Entry Loc 2:
Exit Loc 2:
Entry Method 1:
Exit Method 1:
Entry Method 2:
Exit Method 2:
Entry Tool 1:
Exit Tool 1:
Entry Tool 2:
Exit Tool 2:
Vehicle Entry:
Safe Entry:

Suspect Action 1:
Suspect Action 2:
Suspect Action 3:
Suspect Action 4:
Suspect Action 5:
Additional Factor 1:
Additional Factor 2:
Additional Factor 3:
Additional Factor 4:
Additional Factor 5:
Security Type:
Victim Location:
Electronic Locks:
Video Surveillance:
Maid:
Inspectress:

Crime Against Persons

Pre-incident Contact 1:
Pre-incident Contact 2:
Pre-incident Contact 3:
Victim Condition 1:
Victim Condition 2:
Victim Condition 3:
Victim Condition 4:
Victim Condition 5:
Suspect Solicited 1:
Suspect Solicited 2:
Suspect Pretended to Be:

Suspect Action 1:
Suspect Action 2:
Suspect Action 3:
Suspect Action 4:
Suspect Action 5:
Sex Crime 1:
Sex Crime 2:
Sex Crime 3:
Sex Crime 4:
Sex Crime 5:
Vehicle Involvement 1:
Vehicle Involvement 2:

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Narratives

ENTERED DATE/TIME: 10/18/2017 20:44:00

SUBJECT: SYNOPSIS

AUTHOR: CROSS, WENDY

domestic battery--I/C

ENTERED DATE/TIME: 10/18/2017 20:44:00

SUBJECT: FBR NARRATIVE

AUTHOR: CROSS, WENDY

Nature of Relationship: [REDACTED]
[REDACTED]

Victim Relocated to an Alternate Shelter: [REDACTED]

Dates of Previous Incidents (Month/Year): [REDACTED]

Total Reported Incidents: [REDACTED]

Restraining Order in Effect: [REDACTED]

Domestic Violence Resource Card Given: [REDACTED]

If misdemeanor case, was the victim advised of citizen's arrest procedures? [REDACTED]

If the victim refuses to prosecute, list reasons: [REDACTED]

Victim advised to notify the investigator of any address or phone number changes: [REDACTED]

Summary:

On 18 Oct 17, at about 1922hrs, I was working as 2L33, wearing full Police uniform and driving marked patrol vehicle #1446. Radio put out a call of a domestic battery that had just occurred at [REDACTED] 65th Ave. I responded. Ofc. J. Wingate 9686 responded to assist.

Upon our arrival, I contacted the victim who appeared to be upset and was crying. She said that she and the suspect are [REDACTED]s and have a [REDACTED]n. She said that they live together. She said that the suspect had come home angry for an unknown reason. He had knocked on the door of the house and got angry when she didn't come right away to open it. She said that he came in and started throwing things

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around and cussing at her. He took [REDACTED] and said that he was going to leave. The victim went out to her car and as she was sitting in the driver's seat, the suspect opened her door and punched her in the stomach and pulled her hair. She said that she then called OPD. She said that this was not the first time that there had been physical violence between them but it was the first time that she had called the Police. She stated that she did not want to press charges against him and did not want him to go to jail. She refused to provide a written statement but requested an Emergency Protective Order against the suspect. This exchange was captured on my PDRD.

I did not observe any signs of physical injury to the victim and she refused medical attention.

No technician was called due to there being no signs of injury to the victim.

The suspect was still on scene and placed under arrest for violation of Domestic Battery 243(e)(1)pc.

I called the on call Judge and spoke with Commissioner Clay, who issued an Emergency Protective Order against the suspect.

I advised the suspect of the parameters of the order and provided him his copy.

I advised the victim of the parameters of the order and provided her with a copy.

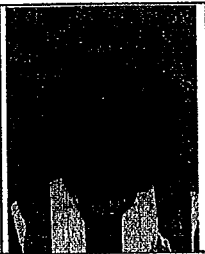
I provided the victim with a report number, Marsy's Law information and a Domestic Violence Resource Card.

I admonished the suspect and he provided a written statement. He stated that he had come home angry tonight because he had been at work all day and had not had any breaks or been able to eat anything. He said it made him angry when he discovered that the front door was locked and he couldn't get in. The victim opened the door and the suspect walked in to the house and said, "You stupid bitch, you really gonna do this?" He got into the shower and when he got out, he said that the victim told him that she was going to go to Walmart. He said that he had told her that his leg was stuck to the tire. He said that he had called the victim's friend because he just wanted to see [REDACTED] See his statement for further information.

The suspect was transported to Santa Rita Jail without incident.

My PDRD was activated.

I did not use force or observe any force used.

Defendant's True Name JOSE DEJESUS CERVANTES				True PFN [REDACTED]		Report Number 17-054783		
Defendant's Last Name CERVANTES		First JOSE		Middle DE JESUS		Gen [REDACTED]		
AKA / Nickname				Juvenile / Arrest #		AJIS No.		
DOB 10/22/1996	Age 20	POB		Height 506	Weight 165	Hair BROWN		
Eyes BROWN	Race HISPANIC	Sex MALE	Facial Hair Unshaven		Marital Status	Pregnant	Photo Taken 10/18/2017	
Arrest Date 10/18/2017		Arrest Time 19:45		Salient Characteristics (SMT's)				ID Confirmed by Claudia Topete
Home Address [REDACTED]								Court Date/Time 10/20/2017 09:00
Business / School Name				Business / School Address				Total Bail \$15,000.00
Home Phone		Business Phone		Cell Phone	Driver's License # [REDACTED]	Social Sec #		Occupation
CII #				FBI #		CMS Incident No [REDACTED]		
Electronic Account Type and Value								
Misc ID #								
Clothing SOCCER JERSEY AND SWEAT PANTS								
Code Section 243(E)(1) PC	Attempted N	M/F M	Count 1	Court ECH	CIR 03	Warrant #	CEN 7836129	Bail \$15,000.00
Felony Bail Enhancements								
Total Felony Non-Strike Convictions:		Qty X \$5,000	Felony Non-Strike Bail Enhancement			Bail	Section and code number of prior strike conviction(s)	
1 Felony Strike Conviction:		1170.12(c)(1) P.C. Bail Enhancement \$100K						
2+ Felony Strike Convictions:		1170.12(c)(2) P.C. Bail Enhancement \$500K						
CP Beat 29X	Incident No. 968	Supervisor on Scene	Arrest Approved by		Serial	Arrest Approval Time		No Known Witnesses
Reason Supervisor Not on Scene				Crime Report Detailed to				
Location of Arrest 65TH AV OAKLAND CA (CITY STREET)							Court Jurisdiction NO. COUNTY (OAKLAND)	
Arresting Officer JORDAN WINGATE 9686, WENDY Cross 8346								
Transporting Officer JORDAN WINGATE 9686, WENDY Cross 8346								
Submitting Officer / Badge# / Agency JORDAN WINGATE / 9686 / OAKLAND PD					Agency Phone (510) 238-3455	Agency Fax (510) 777-8826	Duty Station	
Notes								
Admonished N	By Name		Rights Waived	Words of Invocation / Reason Not Admonished NO WAIVER SOUGHT				
Modus Operandi								

Submitted to Jail by JORDAN WINGATE at 10/18/2017 20:25:56

Accepted by Christopher Salazar at 10/18/2017 21:22:11

See statement form for citizen signature and details



REC'D OCT 10 2017

APPLICATION FOR EMERGENCY PROTECTIVE ORDER (CLETS)

(Name): [redacted] has provided the information in items 1-5.

LAW ENFORCEMENT CASE NUMBER:

1. PERSON(S) TO BE PROTECTED (insert names of all persons to be protected by this order):

17-054783

2. PERSON TO BE RESTRAINED (name): Jose Cervantes, Jose

Sex: ☒ M ☐ F Ht: 5'6 Wt: 200 Hair color: brn Eye color: brn Race: H Age: 20 Date of birth: [redacted]

3. The events that cause the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (other than solely financial abuse), or stalking (including workplace violence or civil harassment) are (give facts and dates; specify weapons):

Subject punched [redacted] in the stomach and pulled her hair. History of DV.

4. ☒ The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 9.

5. a. ☒ The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 3. A custody order ☐ does ☒ does not exist.

b. ☐ The person to be protected is a minor child in immediate danger of being abducted by the person to be restrained because of the facts alleged in item 3.

6. ☐ A child welfare worker or probation officer has advised the undersigned that a juvenile court petition ☐ has already been filed. ☐ will be filed. ☐ will NOT be filed.

7. ☐ Adult Protective Services has been notified.

8. Phone call to (name of judicial officer): Comm. Cley on (date): 10-18-17 at (time): 1954hrs

☒ The judicial officer granted the Emergency Protective Order that follows.

By: W. Cross 8346
(PRINT NAME OF LAW ENFORCEMENT OFFICER)

W. Cross
(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: Oakland Police

Telephone No.: 238-3455 Badge No.: 8346

EMERGENCY PROTECTIVE ORDER (See reverse for important notices)

9. To restrained person (name): Jose Cervantes

a. ☒ You must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, send any messages to, follow, stalk, destroy any personal property, or disturb the peace of each person named in item 1.

b. ☒ You must ☒ stay away at least 100 yards from each person named in item 1.
☒ stay away at least 100 yards from ☒ move out immediately from

(address): [redacted] 152 Ave

10. ☒ (Name): [redacted] is given temporary care and control of the following minor children of the parties (names and ages): DOB - [redacted]

11. Reasonable grounds for the issuance of this order exist and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking (including workplace violence or civil harassment).

12. THIS EMERGENCY PROTECTIVE ORDER WILL EXPIRE AT 5:00 P.M. ON:

Oct 25, 2017

13. To protected person: If you need protection for a longer period of time, you must request restraining orders at (court name and address):

INSERT DATE OF FIFTH COURT DAY OR SEVENTH CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT COUNT DAY THE ORDER IS GRANTED

PROOF OF SERVICE

14. Person served (name): Jose Cervantes

15. I personally delivered copies to the person served as follows: Date: 18 Oct 17 Time: 2000hrs
Address: _____

16. At the time of service I was at least 18 years of age and not a party to this cause. ☒ I am a California sheriff or marshal.

17. My name, address, and telephone number are (this does not have to be server's home telephone number or address): Off. Cross 8346 455 7th St Oakland Police Officer

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 18 Oct 17
(TYPE OR PRINT NAME OF SERVER)

W. Cross 8346
(SIGNATURE OF SERVER)

Form Adopted for Mandatory Use
Judicial Council of California
EPO-001 (Rev. January 1, 2004)
Approved by DOJ

EMERGENCY PROTECTIVE ORDER (CLETS)
(Domestic Violence, Child Abuse, Elder or Dependent
Adult Abuse, or Stalking (Workplace Violence, Civil Harassment))

Family Code, § 6200 et seq.
Penal Code, § 646.91

American LegalNet, Inc.
www.USCourtForms.com

WHITE copy to court, CANARY to restrained person, PINK to protected person

STATEMENT

Oakland Police Department

536-200-1 (4/13)

Page 1 of 1

2. Report No.

A-054783

1. Complainant [REDACTED]		Offense/Crime 243(c)(1)pc		2. Report No. A-054783	
3. Name of Person Giving Statement Cervantes Jose		Sex/Race/DOB MH [REDACTED]		<input type="checkbox"/> Complainant <input checked="" type="checkbox"/> Suspect <input type="checkbox"/> Reporting Person <input type="checkbox"/> Witness <input type="checkbox"/> Driver	
4. Residence Address [REDACTED] Oakland		City/Zip [REDACTED]		Phone [REDACTED]	
5. Employment (Name, Address, Phone, Occupation, Work Hours, Days Off) or Supplemental Information if Unemployed or Transient					
6. Statement Taken By W. Cross 8346		Serial No.		Date 18 Oct 17	Time Started - Completed 2036 - 2042
7. Location Where Statement Taken patrol vehicle		Names, Addresses of Persons Present During Statement None			

FOR VEHICLE COLLISIONS ONLY

8. License No.	State	Veh Yr.	Make	Model	Type	Color(s)	Drivers License No.	State
9. Registered Owner		Address		City/Zip		Residence/Business Phone		

ADMONITION:

You have the right to remain silent. Anything you say can be used against you in a court of law. You have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford a lawyer, one will be appointed to represent you before any questioning if you wish one.

Subject's Initials

WAIVER:

Do you understand each of these rights I have explained to you? yes

CITIZEN'S ARREST: Defendant

DOB

Arrest Charge

I hereby arrest the above-named defendant on the charge indicated and request that a Peace Officer take him/her into custody. I will appear when notified to sign a complaint against the person I have arrested.

X

Statement	<p>I started work at UC Berkeley at 7. No break, no lunch. I got out at 6. I get home and I see that her friends there. I found that my door was locked. I was upset. I haven't eaten since yesterday. She opened the door and I came inside and I said, "you stupid bitch, you really gonna do this?". I got in the shower and when I got out the shower I saw that she had left w/my daughter. She said she was going to Walmart. I told her that she had my leg stuck to the tire. Vanessa left. I called her friend so I could see [REDACTED]. They said they were going to call the police. I just wanted to hold [REDACTED]. This is a true statement.</p> <p style="text-align: right;">10/18/17.</p>
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