

# The Rap Sheet

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MIAMI-DADE STATE ATTORNEY



1 November 2008

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**IN THIS ISSUE:**

**PAGE**

Meeting Summary .....	1 – 3
Case Law .....	3
PPCC Sub-Committees.....	4

## Summary of PPCC Meeting October 16, 2008

Agencies represented: Coral Gables PD, M-DPD, Sunny Isles Beach PD, Miami Shores PD, North Miami PD, ABT, Hialeah PD, Miami-Dade Schools PD, SAO Community Outreach Division, Miami Gardens PD, Miami Beach PD, Miami PD, North Miami Beach PD, Surfside PD

**Agenda:**

**The Storage and Destruction of Narcotics Evidence:**

The initiative to develop county-wide procedures for the seizure, impoundment and storage of narcotics evidence continues. Major Rita Banner, M-DPD Property and Evidence Bureau, recently met with Acting SAO Narcotics Chief, Sharad Motiani, and brought a sample of vacuum packaged cannabis to determine if this type of packaging meets the legal requirements for preservation of such evidence. Oliver Spicer, M-DPD Crime Lab, informed those present that this type of packaging has been approved. We will continue to publish updates of the progress being made in the effort to create countywide procedures for storage of this evidence in the *Rap Sheet*.

**Preparation for Prefiling Conferences:**

Officers are once again reminded to bring all documentation with them to their prefile conferences. This includes ALL victim/witness information, if not given at the time they called in their arrests or included on the back of

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**Members of the Crimes  
Against Law Enforcement  
Officers Subcommittee are  
listed on the back page**

**IMPORTANT!**

Next PPCC meeting, **Thursday, November 20, 2008, 10:00 a.m.**  
State Attorney's Office • 1350 NW 12 Avenue • Miami FL 33136  
All are invited to attend

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the pink copy of the A-form. (An area of particular importance is providing the name of the credit card holder when charging I.D. or credit card theft. We need this information in order to establish that the information or credit card was used without the consent of the card holder/victim.) In addition, we will need police reports, rights waiver forms, property receipts, checks and credit card receipts. It was suggested that before putting documents into property rooms for storage, officers first make a copy, front and back, of forged checks and credit card receipts that they can bring with them to the conference. If a felony arrest is the result of a traffic stop, please bring a copy of the ticket to the prefile. If a search warrant was used, bring a copy of the warrant and the return. Officers should keep in mind that in readying cases for filing, we are gathering all paperwork that we are obliged to present in discovery.

### **Issues from the Floor:**

Some very important and exciting issues were raised. Further discussion and possible resolution of these areas/procedures will likely take a while. Input in any of these areas is requested and appreciated.

### **Establishing Jurisdiction in Credit Card/Check Fraud Cases:**

These types of crimes are extremely widespread in South Florida and an increasing number of victims are having difficulty in identifying exactly how to deal with "the system" when they have been victimized. An example that was given was a citizen being referred to a particular police department by bank personnel when jurisdiction didn't lie with that department. Oftentimes defendants will steal a card in one jurisdiction and use it in another. When defendants use victims' cards at ATMs, sometimes there are many jurisdictions involved as they move throughout the county. Victims can go back and forth between police agencies and financial institutions before finding out exactly which jurisdiction will preside over the matter. Police departments are attempting to assist victims with this situation and are asking the State Attorney's Office to provide written materials they can give to victims which will clarify the steps they need to take and which documents they need to provide in order to have their cases investigated. Banks also need to be brought into the loop so that they will be giving their customers correct information as to the location of the commission of the crime and can refer them to the correct jurisdiction. Multi-jurisdictional cases can be particularly frustrating for victims and also need to be addressed. There was discussion of an Attorney General's opinion that may address the question of jurisdiction in these cases. This will be researched and the discussion of this topic will continue at next month's meeting.

### **Scheduling Officers for Prefile Conferences can be Problematic:**

Yvonne O'Can, SAO Case Screening Unit, stated that her unit is running into problems when trying to schedule officers for their initial prefile conference because an increasing number of officers are advising her staff that their "hours vary". It is imperative that we get officers in for the first prefile as quickly as possible in order to facilitate filing the cases by the 21<sup>st</sup> day. Another setback occurs when officers call to say that they have training and cannot come in for the prefile, after it has already been scheduled and the officer notified. Captain Mike Hernandez, M-DPD Court Services, stated that court always supersedes training and prefiles taken at our office are considered part of court operations. He suggested that when these scheduling difficulties arise, our office send out 'informational memos' to the officer's sergeant to make them aware of the situation.

### **Video Prefile Conferences:**

Inquiry was made about the video-conferencing pre-filing system used in the Felony Screening Unit. There are currently 6 video-conferencing sites (Aventura, North Miami Beach, Coral Gables, M-DPD's Hammocks Station, Sunny Isles Beach and Sweetwater), although some locations are shared by more than one agency. The advantage to this system is obvious; officers can save a great deal of travel time to and from the State Attorney's Office for

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felony PFCs. There are certain procedures to be followed when using such a system. For example, written materials need to be faxed to our office prior to the PFC. These include copies of checks, O.I. reports, property receipts and any statements, to name a few. Complex paper cases cannot be video prefiled because they involve copious amounts of paperwork. Some departments, like the City of Miami PD, are simply too large to be accommodated in the video process. Our system automatically blocks two officers from scheduling video profiles at the same time from the same station. These and other logistical problems have prevented large departments from availing themselves of this system. Some smaller departments now want to take part in this video system. The cost will include the purchase of their own tele-conferencing equipment and the monthly expense of the line. Our current connection can accommodate additional locations. If any departments are interested in exploring this option, please contact Hamilton Davies in our Informations Systems Department at 305-547-0532. The Felony Screening Unit currently has only two fax machines officers may fax to and sometimes paperwork gets delayed or simply doesn't fax well. This led into a discussion of the following issue.

#### Emailing Police Reports:

Currently, one police department is scanning and emailing their reports to the State Attorney's Office. We have set up a dedicated mailbox to receive these emails. This is certainly technologically superior to faxing, but our limited experience thus far has made it apparent that the process needs some refining to make the reports more easily retrievable. The subject line in the current emails may contain only the crime charged, or perhaps a subject's name. For more widespread use we will want to develop a more case-specific subject, such as the numeric departmental code followed by the police case number. We will discuss this further at next month's meeting.

#### Meeting Day:

It was suggested that we consider switching our PPCC meeting to Fridays, in order to facilitate parking around the Justice Building. Kristi announced that we would do that for the November meeting, only to learn that the meeting room was not available on that date. Therefore, the November meeting will remain scheduled on **Thursday, November 20th**. All are invited to attend.

### **Case Law**

State v. Jardines, 33 Fla.Law Weekly D2455a (10/22/08) The Third District has now weighed in on the question of **canine sniffs from outside of a home**. With its decision in this case it has certified a conflict with the Fourth District and created precedent for our district to follow.

The facts of this particular case involve a detective who received information from a Crime Stoppers tip that the house at a specific location was being used as a hydroponics grow lab. The detective surveilled the house and noted other circumstances about the house that indicated to him that it was a marijuana grow house, based upon his previous and extensive experience. After making these observations, a dog handler approached the front door of the house along with a narcotics detector dog. The dog alerted on the house. The detective then approached the front door and smelled the distinct odor of marijuana from outside of the front door. Based upon this information, the detective sought and obtained a search warrant for the house, seized a trafficking amount of marijuana and arrested the defendant.

The Fourth DCA case of *State v. Rabb* has previously held, on substantially the same facts, that the dog sniff from outside of the house was a 4<sup>th</sup> Amendment violation. The Third District holds in this case, however, that a canine sniff is *not* a Fourth Amendment search that compromises a legitimate privacy interest and that the detective and the dog were lawfully present at the defendant's front door.

**All opinions of the Third District Court of Appeal (3d DCA) and the Supreme Court are binding in our Circuit. All other DCA opinions are binding in this District only if there are no contrary opinions in the 3d DCA.**

All PCCC Sub-Committees, Chairs and members are listed below. Please contact any of the Co-Chairs or members if you have an issue to be addressed.

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