

The Rap Sheet

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FEBRUARY 2016

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Subcommittee are listed
on the back page**

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Summary of PPCC Meeting January 16th, 2015

Agencies represented: SAO, Miami-Dade PD, Miami Springs PD, Miami Beach PD, Coral Gables PD; North Miami Beach PD, Coral Gables PD, Sunny Isles Beach PD, Homestead PD; Medley PD; Miami Gardens PD; Aventura PD and Opa Locka PD.

Agenda Items

Value of stolen property – When the value of stolen property cannot be ascertained, the only charge possible is Petit Theft, a 2nd degree misdemeanor. In addition, victims can neither estimate value without a sound basis nor attribute the entire value of lost inventory to a subject who did not have exclusive possession of the stolen property.

Defendant's Statements - This is a reminder that a defendant's statement, whether exculpatory or inculpatory, and any known evidence that may be exculpatory must be made known or provided to the State so that they are included in discovery. In addition, if there are any video or other recordings, bring a copy to the pre-filing conference or the original from which a copy can be made by our litigations support staff. Providing completed discovery packets will reduce the number of Motions to Compel Discovery filed by defense attorneys.

Affidavit pre-files – A small number of police departments submit sworn affidavit packets in cases involving victimless crimes, i.e., possession of drugs or firearms. This is done in order to keep officers in the field. Therefore, the information included in the affidavit packets must be complete; it defeats the purpose to have to reset the case because the reason for the stop or the search was not provided, or the location of the contraband was not given or the number of occupants in the vehicle was not stated, etc.

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IMPORTANT!

Next PPCC meeting, **Wednesday, February 17, 2016**
State Attorney's Office • 1350 NW 12 Avenue • Miami FL 33136
All are invited to attend

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In addition, these affidavits must be received by our office prior to the first pre-filing conference day. Cases have been dropped because the packets were not received by the 21st or 30th day after the arrest or because the information requested was not received prior to the arraignment date. In drug cases, the illegal drugs must be submitted to the lab as soon as possible after the arrest. These cases are dropped when the lab results are not available by the arraignment date.

Automated A-Forms - 89% of all arrest affidavits were submitted electronically in December, a 2% increase from November stats.

Case Law Discussed

Next PPCC Meeting – February 16th, 2016

Recent Case Law

Compiled by Felony Screening Unit Chief Joe Robinson

Strawder v. State, (Third District Court of Appeals, 2015)

This Monroe County defendant was observed placing a black box (which turned out to be a small safe) in a garbage receptacle in front of a residence where he did not live. Due to a nearby house fire, this was reported to the police. When the police looked in the receptacle, they discovered the box in a garbage can. When the police retrieved it, the defendant approached them and claimed the box as his own, and that it contained cash and jewelry. The defendant declined to open the safe when asked by police to do so to prove ownership, and the defendant additionally refused a property receipt. When no one came to the station to claim the safe, the police x-rayed it and discerned the outline of a firearm. Upon opening the safe, they discovered a firearm, magazines for it, cocaine, cash and the defendant's ID.

The defendant was charged with possession of a firearm by a convicted felon and possession of cocaine. The defendant moved to suppress the contents of the safe, claiming he had not relinquished his expectation of privacy and was merely protecting it from being damaged in the nearby fire. The trial court ruled the defendant had abandoned the property.

The Third DCA observed "*The issue in this case is not whether Strawder actually "abandoned" the black box, as this term is commonly understood in property law; but rather, whether Strawder -- after placing the black box in a garbage can on another person's property -- abandoned a reasonable expectation of privacy in the black box's contents? ... (e)ven if we accept that Strawder was trying to protect his black box from being destroyed in the fire (and, therefore, intending to retain it as his property), when Strawder placed the black box into someone else's garbage can, from an objective perspective Strawder abandoned any reasonable expectation of privacy in the black box's contents by choosing the garbage can of a neighbor as the black box's refuge. ... Understandably, Strawder urges us to examine and evaluate Strawder's subjective intent in discarding the safe, and apply the traditional notion of abandonment as used in property law. Indeed, under the facts of this case, it would be difficult to conclude that Strawder had abandoned the black box so that Strawder's ownership claim would be inferior to another person who might have found the black box. When, as here, a person voluntarily places an item into someone else's garbage can, and then leaves the immediate vicinity of the garbage can -- even if only for a few minutes -- that person can reasonably expect a variety of possible occurrences, none of which are consistent with protecting Fourth Amendment privacy interests. For example, the contents of the garbage can might be collected by the trash hauler; the garbage might be rummaged by animals; or the item itself might be taken by scavengers or children or the puzzled owner of the garbage can.*"

A.J.M. v State, (Fourth District Court of Appeals, 2015)

The defendant challenged his conviction for trespass. A McDonald's store in Coral Springs posted a sign reading "Notice: All Coral Springs police officers are authorized to advise any person to leave these premises. Failure to leave the premises after being instructed will result in an arrest for trespass. Florida Statutes 810.09." The State offered into evidence a picture of the sign to prove the officer's authority to give and enforce trespass warnings.

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The defendant claimed at trial and on appeal that the sign was inadmissible hearsay, i.e., a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” § 90.801(1)(c), Fla. Stat. (2014). This claim was rejected, as explained by the Fourth DCA: “*The words on the sign amounted to a verbal act and not hearsay, because they had “independent legal significance -- the law attaches duties and liabilities to their utterance.” ... The words went to prove that the owner of the property had conferred authority on all Coral Springs police officers to communicate an order to leave the property. Like language giving consent, the words that conferred authority on the police to act were operative once McDonald's securely posted them on the building. The words were not offered for the truth of their contents.*”

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 PPCC Subcommittees, 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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