

The Rap Sheet

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January 2015

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

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Summary of PPCC Meeting December 17, 2014

Agencies represented: SAO, Miami-Dade PD, City of Miami PD, Coral Gables PD, Miami Beach PD, Aventura PD, Sunny Isles Beach PD, Surfside PD, University of Miami PD, Miami-Dade Corrections and Miami-Dade IDT

Agenda Items:

Sworn Statements from Victims/Witnesses

Sworn statements can be obtained by officers from victims who did not witness certain crimes, i.e., burglary, theft, criminal possession of identification information or from tellers or cashiers in forgery cases. Obtaining these statements at the time of arrest would reduce the number of cases that are no-actioned and then have to be re-filed when the civilian contacts us. Such statements should include as much factual information as possible known to the victim/witness.

Referring Victims to the SAO

Victims who file felony allegations should not be referred to the SAO for us to review such allegations. They will be sent back to the police departments for final resolution. However, detectives are encouraged to call us to discuss problem cases beforehand.

Automated A-Forms -- Charge Forms

When entering arrest charges in the automated system, officers must verify that the charge information displayed on the A-form is the correct one. Incorrect entries can affect a defendant's jail status as well as bond amount. A defendant arrested and charged with one count of burglary and one count of battery was released on bond when in fact the charge should have a burglary with a battery, a non bondable offense.

Recommendations from Miami-Dade Department of Corrections and Miami Dade ITD Personnel relating to the Automated A-Form Project.

- Use one (1) armband ID number per defendant per incident. The same armband ID must be used for all a-forms written for a defendant's arrest.
- All additional a-forms for inmates in custody at TGK must be submitted with the corresponding Jail number. These a-forms will be processed by the Corrections Department from their Task List Queue.

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IMPORTANT!

Next PPCC meeting, **Wednesday, January 21, 2015 at 2:00 p.m.**
State Attorney's Office • 1350 NW 12 Avenue • Miami FL 33136
All are invited to attend

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- Scan the defendant's armband bar code using the scanner reader provided by the A-Form Project to avoid data entry errors. These scanners can also be used to capture the Traffic Citation number into the application.
- Enter at least the chapter and subchapter code to search for the appropriate statute. This will narrow the list of offense charges displayed. Verify the statute type and degree that is displayed in front of the statute number.
- Verify the status of the a-form a few hours after the defendant has been transported to a correctional facility by an officer other than the arresting officer. This verification can be done by selecting the Officer History Queue.

Next PPCC meeting – Wednesday, January 21, 2015

Recent Case Law

Agreda v. State, 39 Fla. L. Weekly D2516a

The defendant was stopped for driving 45 miles an hour on U.S Highway 27 where the posted speed limit is 65 miles per hour and the minimum speed is 40 miles per hour. The detective was stationary in an unmarked car in the median lane when he saw the car traveling at what he said was under the speed limit. The officer paced the car going at 45 miles per hour. Subsequent to the stop, the officer found out that the driver's license was suspended. The defendant, a convicted felon, who was a passenger admitted that his license was suspended and that he had a gun in the car. The gun was recovered and inventory search of the vehicle revealed cocaine and a crack pipe under the passenger seat.

The defendant's motion to suppress the contraband was denied by the Circuit Court and he was convicted of possession of a firearm by a convicted felon, unlawful carrying of a concealed weapon, possession of cocaine and possession of paraphernalia. The defendant appealed his convictions arguing there was no legal basis for the stop and therefore the contraband should have been suppressed.

The officer's stated reason for the stop was that he thought the car's slow speed might be due to a medical condition of the driver, but then he subsequently said his sole concern was that the driver was impeding the flow of traffic with 5 cars driving behind him.

The question before the Court was whether the officer had an objective basis for the stop. The Court found that the subject's car was not impeding the flow of traffic where traffic was light and the other lane was empty so that the cars following the defendant's car could have easily switched lanes. In fact even though the car was traveling below the speed limit, it was still "traveling within the permissible range".

The court also found that "the detective observed nothing to objectively suggest that there was something wrong with the driver or the car".

Consequently the Court held that there was no legal basis for the stop and therefore, the Circuit court erred when it denied the defendant's motion to suppress. It reversed the defendant's convictions and directed that the defendant be discharged on remand.

Temple Fla. L. Weekly D2445b

In this constructive possession case, officers responded to the home shared by the defendant and her boyfriend to arrest the boyfriend on an arrest warrant. After the boyfriend's arrest, the officer returned to the home and knocked for several minutes before a third person answered the door and went to get the defendant pursuant to the officers' request. The defendant appeared to have been sleeping. Officer obtained from the defendant consent to search the home and found paraphernalia on a kitchen table and the living room. Officers obtained a search warrant and returned to the home where they found a torch used for smoking methamphetamine in the defendant's bedroom, meth oil in a cabinet underneath the kitchen sink, a tank of anhydrous ammonia in the bathtub of the hallway bathroom, and a second tank of anhydrous ammonia was found within an orange cooler wrapped in a towel inside the third bedroom.

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The defendant was charged and convicted of trafficking in amphetamine or methamphetamine (28 grams or more, less than 200 grams); the sale, manufacture, delivery or possession with intent to sell, manufacture, or deliver a controlled substance, methamphetamine; unlawful possession of a listed chemical, anhydrous ammonia; and possession of drug paraphernalia.

The defendant testified that that she knew nothing about any meth oil or any production of methamphetamine in the residence because she limited her use of the residence to the master bedroom and the master bath. She said she had been away from the residence the day before the search and only returned at four o'clock in the morning on the day of the search, went to bed, and slept until she was awakened to meet officers at the door.

The Court cited a number of constructive possession cases. *"The present case is not a case where a controlled substance was found in the defendant's bedroom or in plain view in a common area over which she had joint control. Cf. Duncan v State, 986 So. 2d 653, 654-56 (Fla. 4th DCA 2008) (concluding there was sufficient evidence to create a factual question as to appellant's constructive possession when appellant was an occupant of the house, cocaine was found in plain view in a room used by all house occupants, a spoon with cocaine residue was found in the kitchen that appellant jointly controlled, baggies with cocaine residue were found in appellant's bedroom, and marijuana was found in a jacket hanging in appellant's bedroom).* Citing *Evans, 32 So. 3d at 189*, the Court stated that *"the circumstantial evidence that the state introduced in the present case to prove constructive possession of methamphetamine and anhydrous ammonia was not inconsistent with Ms. Temple's reasonable hypothesis of innocence.*

There was no proof that the defendant had knowledge or access to or control over the drugs. No personal effects of the defendants were found in the areas where the drugs and ammonia were found. Consequently, the Court held that the State's evidence was insufficient to sustain the defendant's convictions on the drug charges.

The Court reversed the three drug charges and affirmed the paraphernalia charge.

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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