

The Rap Sheet

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Miami-Dade State Attorney



1 July 2012

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Summary of PPCC Meeting June 20, 2012

Agencies represented: SAO, M-DPD, Surfside PD, Sunny Isles Beach PD, M-DPD-FSB, Aventura PD, University of Miami PD

Agenda Items:

Domestic Cases – Charging Child Abuse:

Elyse Targ, Assistant Chief of the Domestic Crimes Unit, spoke on the issue of charging child abuse in domestic situations. When a parent or other guardian strikes a child, other than as an acceptable form of discipline, the charge should be child abuse, not simple battery. In addition, she requested that when crimes against a Law Enforcement Officer (such as battery on an LEO or resisting an officer) follow a domestic call which results in an arrest, it would preferable to include all charges on a single arrest affidavit. It is possible that if they are charged on separate arrest affidavits, they may be assigned to different persons, or even to different units, for pre-filing conference and may not be consolidated when it is appropriate to do so.

New Laws Effective July 1, 2012:

This is a sampling of some of the new laws which have already gone into effect or will go into effect as of July 1st:

Chapter 2012-23

Adds 92 new controlled chemical substances to Schedule I(c) in Chapter 893. These are predominantly synthetic cannabinoids and "bath salts" chemical substances. I understand that new formulas have already been developed that differ from the chemical makeup of these new substances listed. Some cities and Miami-Dade County are contemplating enacting their own ordinances to try to get out ahead of this problem. Ordinances, however, can only prohibit misdemeanor offenses, not felonies.

Effective March 23, 2012

Chapter 2012-79

It is a third degree felony to knowingly and intentionally bring into any facility for the commitment or detention of sexually violent predators, or to take or attempt to take or send therefrom, any intoxicating beverage, controlled substance, of firearm or weapon. This will be found in new statute 394.9265.

Effective July 1, 2012

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

IMPORTANT!

Next PPCC meeting, **September 19, 2012, 1:00 p.m.**
State Attorney's Office • 1350 NW 12 Avenue • Miami FL 33136
All are invited to attend

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Chapter 2012-74

The law in section 775.087 currently provides that a defendant convicted of possession of a firearm by a convicted felon (when the defendant actually possessed the firearm) is subject to a three-year minimum mandatory sentence of imprisonment. A new provision in this section states that if a defendant who is convicted of possession of a firearm by a convicted felon has a previous conviction of committing or attempting to commit a felony listed in s. 775.084(1)(b)1., and actually possessed the firearm during the commission of the prior felony, then the defendant is subject to a ten-year minimum mandatory. The offenses listed in s. 775.084(1)(b)1. are those offenses which qualify a defendant to be categorized as a "Habitual Violent Felony Offender".

Effective July 1, 2012

Chapter 2012-108

Section 790.15, discharging a firearm in public, has been amended to include an offense for "recklessly or negligently discharging a firearm outdoors on any property used primarily as the site of a dwelling...or zoned exclusively for residential use". It is also a first degree misdemeanor, like discharging a firearm in public.

Effective April 13, 2012

Issues from the Floor:

A-Form Automation:

Five agencies are scheduled to begin use of the automated A-forms in August. After the extensive testing that has been done, it is expected that the remainder of this project will proceed on schedule.

The next PPCC meeting will be held on September 19, 2012 at 1:00 p.m.

Chapter 2012-179 – Effective July 1, 2012 Secondhand Dealers and Secondary Metals Recyclers

This new law operates as a major overhaul of Chapter 538, which deals with Secondhand Dealers and Secondary Metals Recyclers.

Persons dealing in secondhand goods at flea markets are no longer **exempted** from the requirements of this chapter. All auction businesses used to be exempt from the application of this statute but now only those auction businesses operating in the buying and selling of estates, business inventory, surplus merchandise or business liquidations are exempt.

The definition of what type of **personal identification card** is required to engage in sales to secondary metals recyclers was made more specific. It must be a state-issued driver license or identification card, a passport or an employment authorization issued by the U.S. Bureau of Citizenship and Immigration Services that contains an individual's photograph and current address.

The statutory definition of "regulated metals property" now includes items made of ferrous metal obtained from any restricted regulated metals property. "**Restricted regulated metals property**" is now defined as any regulated metals property listed in subsection 538.26(5)(b), the sale of which is restricted as provided in subsection 538.26(5)(a). Restricted regulated metals property includes

- Manhole covers
- Electric light poles or other utility structure and its fixtures, wires and hardware
- Guard rails
- Street or traffic signs or signals
- Communication, transmission, distribution and service wire from a utility (including copper or aluminum bus bars, connectors, grounding plates or grounding wire)
- Funeral markers or funeral vases
- Historical markers
- Railroad equipment such as tie plates, signal houses, control boxes, switch plates, E clips or rail tie junctions
- Any metal item that is observably marked with any form of the name, initials or logo of a governmental entity, utility company, cemetery or railroad
- Copper, aluminum or aluminum-copper condensing or evaporator coils, tubing or rods, from an AC or heating unit (excluding window AC or heating units and motor vehicle units)
- Aluminum or stainless steel containers to hold propane for fueling forklifts
- Stainless steel beer kegs

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Catalytic converters or any nonferrous part of same (unless purchasing the motor vehicle)
Metallic wire that has been burned to remove insulation
Brass or bronze commercial FDC valves or fittings
Brass or bronze commercial potable water backflow preventer valves
Shopping carts
Brass water meters
Storm grates
Brass sprinkler heads used in commercial agriculture

The **record-keeping requirements** for secondary metals recyclers have been changed. In addition to the paper record of all purchase transactions, a secondary metals recycler must now also maintain an electronic record (in English). The appropriate law enforcement agency may provide data specifications for the record format, which must be approved by FDLE. An electronic record of all purchase transactions shall be transmitted to the "appropriate law enforcement official" (a new term which is now specifically defined) no later than 10 a.m. of the business day following the purchase. Once the record is transmitted electronically, the recycler is not required to also deliver the paper record to law enforcement, but must maintain the original record of the purchase. The original paper record must include the amount paid for the items. The information to be maintained on the approved forms remains essentially the same and now must be maintained for a minimum of 3 years.

If a secondary metals recycler obtains a motor vehicle (from a licensed salvage motor dealer or another secondary metals recycler) with the intent to use a mechanical crusher to convert the vehicle to scrap metal, a signed statement from the seller stating that the certificate of title has been surrendered to DHSMV must be obtained by the secondary metals recycler.

The provisions for **methods of payment** have changed, depending upon the type of property being purchased by the secondary metals recycler. Cash purchases of regulated metals property over \$1,000 are prohibited; payment must be made by check issued to the seller and payable to the seller. No cash purchases may be conducted for purchases of restricted regulated metals property; they must be made by check issued to the seller and payable to the seller or by electronic payment to the seller's bank account or the seller's employer's bank account. All checks for the purchase of restricted regulated metals must be mailed to the street address of the seller within three days of the purchase if not made by electronic payment. There are certain exceptions with regard to those to whom checks can be handed over rather than mailed.

It is not a new requirement that all secondary metals recyclers must register with the Department of Revenue, but they are now required to register only from a **fixed business address**. Permitted hours of operation for purchase of regulated metals property, restricted regulated metals property or ferrous metals have been reduced to 7 a.m. to 7 p.m. A secondary metals recycler cannot purchase regulated metals property from a seller who uses any name other than his own or the registered name of his business, is under 18, or is visibly or apparently under the influence of drugs or alcohol.

Restricted regulated metals property cannot be purchased absent proof that the seller owns the property, or is an employee, agent or contractor of the property's owner who is authorized to conduct the sale. The law requires "reasonable proof" of said ownership or authority.

New section 538.28 preempts regulation in this area to the state, except for county or municipal ordinances already in existence as of March 1, 2012. In addition, Miami-Dade County has until July 1, 2013 to enact changes to its ordinances in this area which will still be considered valid and not a violation of state preemption.

Violations of s. 538.20 (inspection of records), 538.21 (hold notices), 538.26(4) (purchases from specified sellers), 538.235 (methods of payment) or engaging in a pattern of failing to keep records required by 538.19, which were first degree misdemeanors, are now third degree felonies. A third or subsequent violation of these sections becomes a second degree felony. It is now a first degree felony to knowingly and intentionally remove copper or other nonferrous metals from an electrical substation without the authorization of the utility.

Miami-Dade County has created a Task Force on Scrap Metal & Copper Wire Theft. The membership of the Task Force is comprised of representatives of the county and some municipalities, law enforcement, utilities, representatives from the scrap metal industry and members of the community. One of the stated purposes of the Task Force is to consider and recommend to the Board of County Commissioners changes to the Miami-Dade ordinances dealing with the regulation of the Scrap Metal Industry, so that they may be acted upon prior to the July 1, 2013 deadline set by the legislature in this new law.

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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