

The Rap Sheet

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Enforcement Officers
Subcommittee are listed
on the back page**

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Summary of PPCC Meeting February 18th, 2015

Agencies represented: SAO, Miami-Dade PD, City of Miami PD, Miami Beach PD, Aventura PD, Sunny Isles Beach PD, North Miami Beach PD, Coral Gables, Surfside PD, Miami Springs PD, University of Miami PD, Bay Harbor Island PD, Hialeah PD, and Pinecrest PD.

Agenda Items

Property Receipts/ Drug cases

The following issues dealing with property receipts were addressed:

- Information listed on property receipts must be legible. Illegible documents can prevent the lab from being able to reconcile the evidence submitted.
- Each item must be labeled properly. Often, mislabeled contraband is not tested. Chemist will only test one item unless an indication to test more is made.
- Evidence needs to be taken to lab in a timely manner as we will not file a case without a positive lab result. Return SAO calls when we contact you to have drugs taken to the lab; return calls from the lab when a chemist contacts you for clarification
- The lab is short staffed and the chemists will not always be able to analyze drugs brought in late.

Affidavit PFCs

- Only list one officer as the lead and remember to list officers who are essential witnesses.
- Affidavit must be signed and notarized. We have received affidavits that were notarized but not signed.
- Affidavits packets must be received within five (5) days after the arrest.

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IMPORTANT!

Next PPCC meeting, **Wednesday, March 18, 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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Arrest Charge /Electronic A-Forms

- Be reminded that probable cause is determined by the information written in the narrative portion of the arrest form and not by what is listed in the charge section. This means that if you charge a defendant with grand theft but you fail to list the value of the stolen property, probable cause will not be found and you might have to appear for a probable cause hearing.
- Be sure to list both the first and last names of police officers as well as their court id numbers.
- A lead officer who is also the transporting officer should be listed once as the lead officer.

Issues from the floor

- Scheduling Conflicts – Scheduled pre-filing conferences may conflict with an officer's court schedule or other related appointment because Case Screening doesn't have access to such schedules; consequently, officers should inform case screening personnel of conflict, if it exists.

Recent Case Law

Compiled by Joe Robinson, Chief of the Felony Screening Unit

Grandison v. State, 40 Fla.L.Weekly D613a (1st Dist.)

The defendant was charged with, among other charges, the burglary of a convenience store, criminal mischief and possession of a burglary tool in connection with the burglary. The defendant was seen driving up to the scene and picking up one of the burglars, and fleeing from the scene of a police stop of his vehicle shortly thereafter. A search of the defendant's vehicle revealed several ski masks, gloves and a crowbar inside said vehicle. A second crowbar, a mobile phone and a calculator were found on the street near the vehicle. A small "hatchet-type" ax was found at the scene of the burglary, broken glass was found on the ground and part of the store's alarm system was found in outdoor ashtray, and observed that someone had tried to pry open a door to the store." A DNA swab of the defendant termed him a "possible (DNA) contributor" to a ski mask found in the vehicle.

Upon review, the First DCA held that the evidence against the defendant was insufficient to go to the jury for their deliberation. The court stated the law as it pertains to a purely circumstantial case: "Generally, a motion for JOA (Judgment of Acquittal) should be denied "[i]f, after viewing the evidence in the light most favorable to the State, a rational trier of fact could find the existence of the elements of the crime beyond a reasonable doubt." ... A defendant is entitled to a JOA "if there is no direct evidence of guilt and if the circumstantial evidence does not exclude every reasonable hypothesis of innocence."

The court noted the defendant's only link to the crime was as the driver of the vehicle that picked up the two men at the scene: "By itself, that fact does not allow an inference of guilt, and the remaining evidence does not cure the deficiency. The items found in the white Oldsmobile Grandison was driving were not established, by DNA or fingerprint evidence, as having been used in the break-in".

The State claimed the defendant's flight from the scene of the traffic stop demonstrated the defendant's knowledge and intent of his involvement as a principal but "to convict under the principal theory, the State is required to prove "the defendant had a conscious intent that the criminal act be done and . . . the defendant did some act or said some word which was intended to and which did incite, cause, encourage, assist, or advise the other person or persons to actually commit or attempt to commit the crime. ... Neither mere knowledge that an offense is being committed nor presence at the scene of the crime and flight therefrom are sufficient to establish participation with the requisite intent." ... Any other circumstantial evidence of the defendant's intent to participate in the crime "must not only be consistent with guilt but must also be inconsistent with any reasonable hypothesis of innocence." ... Here, the State presented no evidence, other than his picking up the two men from the scene and later fleeing from sheriff's deputies, from which the jury could infer Grandison intended to participate in the burglary.

The defendant's convictions for burglary, criminal mischief and possession of a burglary tool were reversed.

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State v. Dorsett, 40 Fla.L.Weekly, s103a (Fl. Sup. Ct.)

Regarding Florida's hit-and-run statute (F.S. 316.027) requiring the driver involved in a vehicular crash to stop, provide assistance to anyone injured, and provide information to others and the authorities, the Florida Supreme Court held that the State must prove the defendant driver's actual knowledge that he was involved in a crash. The standard is no longer that the defendant "knew or should have known".

Finkelstein v. State, 40 Fla.L.Weekly, D536a (1st Dist.)

The Escambia County Sheriff's Office was investigating an armed robbery, and had staked out the defendant's home. When the defendant exited the residence a sheriff's deputy accosted the defendant at gunpoint, and said 'Sheriff's Office. Show me your hands.' The defendant pulled a gun and shot the deputy.

The defendant then claimed prosecution should be barred due to a Stand Your Ground (F.S. 776.032) defense. Not surprisingly, the First DCA found this defense unavailable to the defendant under these facts.

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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