

The Rap Sheet

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May 2015

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Enforcement Officers
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Summary of PPCC Meeting April 15th, 2015

Agencies represented: SAO, Miami-Dade PD, Aventura PD, Sunny Isles Beach PD, Coral Gables PD, South Miami PD, Sunny Isles Beach PD, Surfside PD, Miami Springs PD, University of Miami PD, and Medley PD.

Agenda Items

Defendants' refusal to identify themselves

A number of defendants, some of whom calling themselves Sovereign Citizens, have refused to identify themselves when arrested. Miami-Dade Corrections has on rare occasions, booked unidentified defendants as Jane or John Doe but this is not a desirable practice. Miami-Dade Corrections has asked that arresting agencies make every effort to identify defendants so as to limit the number of "John or Jane Doe" bookings; informing such defendants that they will not be able to post bond if they are not positively identified, might cause them to relent and provide the necessary information.

Violent Offenders

ASA Santiago Aroca spoke about the investigation and prosecution of cases involving violent offenders and firearms. He advised that many violent crimes are committed by gang members.

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IMPORTANT!

Next PPCC meeting, **Wednesday, May 20th, 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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Consequently, he asked officers responding to violent crimes or crimes committed in areas known for gang activity, to inquire as to whether defendants are gang members and if they are, to mark the appropriate section at the top right hand corner of the A-Form. Doing so will subject defendants to enhanced penalties under Florida Statute 874.

Automated A-Forms

Currently, about 39% of arrest affidavits are submitted electronically. A few reminders are in order:

- Some officers are referencing the Offense Incident Report as to where a victim's information is recorded. Such information must be provided in the appropriate section on the automated form so that it can be entered in CJIS.
- Always provide the full names of officers and their court id number
- If there is a problem with an automated A-form, do not automatically submit a paper A-form. Contact Miami-Dade Corrections so as to avoid duplication of the arrest affidavit, which may result in a defendant being booked twice for the same incident.
- In a case involving an officer who is a victim of a non-work related case, e.g., home burglary or theft, do not list the officer's home address. Provide the officer's police department address.

Case Law Discussed

Next PPCC meeting – Wednesday, May 20th, 2015

Recent Case Law

Compiled by Joe Robinson, Chief of the Felony Screening Unit

Conyers v. State, 40 Fla. L. Weekly D1059a (2nd Dist.)

The defendant consented to a patdown for weapons during an encounter with a Clearwater police officer. The officer felt a hard, cylindrical object in the defendant's pants pocket, and immediately believed it to be a crack pipe. The officer removed the object and found it to be a glass tube with steel wool at one end and white residue inside. A search incident to arrest revealed cocaine under the defendant's hat.

At a motion to suppress hearing, the officer testified as to his experience and training, and said that he had encountered numerous crack pipes in patdowns of subjects. The trial court found, and the 2nd DCA affirmed, that what the officer felt, based on his extensive experience, did provide probable cause to search the defendant to remove the pipe. "The paraphernalia in this case is a short glass tube of a variety that, over the last thirty years, has become known as a "pipe" because it is used to heat illegal drugs. The defendant suggests no common explanation for carrying such a glass tube in a pocket except for its role as a drug delivery system, and this court has not discovered any alternative common explanation. Thus, we hold that an experienced officer who identifies such a glass tube by plain feel can conclude, based on his or her prior experience and the totality of the circumstances at

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the time and place of the search, that it is more likely than not that the hard cylindrical object is drug paraphernalia.”

State v. Strickling, 40 Fla. L. Weekly D1131a (3rd Dist.)

This case involves “doctor shopping” and the statutory requirement to obtain a patient’s medical records. Medical records are confidential and can be obtained either by securing the consent of the patient or by giving notice to the patient and securing a subpoena for such records.

A doctor (Shapiro) in Key West phoned the police and reported a patient (the defendant) in his waiting room was attempting to obtain a prescription for a controlled substance and that he knew the patient had obtained a prescription for a controlled substance the day before from another doctor (McKnight), whose office was in the same building. Dr. Shapiro gave the police his records on the defendant and gave them Dr. McKnight’s name. Officers visited Dr. McKnight who provided a sworn statement of what had occurred the day before.

Four months later, the State finally notified the defendant of its intention to subpoena his medical records from the two doctors pursuant to section 456.057, Florida Statutes. The subpoena was issued, and the defendant subsequently moved to suppress the testimony of the two doctors as well as all of the medical records obtained, both those originally handed over by the reporting doctor and those obtained from both doctors via subpoena.

The Third DCA reversed that part of the order which precluded all testimony from Dr. Shapiro based on the fact that Dr. Shapiro initiated contact with the police and such contact did not implicate the Fourth Amendment.

The Court upheld the trial court’s order to suppress all of the medical records obtained from both doctors and precluded Dr. McKnight from testifying at all. This was because once the medical records were handed over by Shapiro and accepted by the police, it triggered a Fourth Amendment violation by the police for failing to comply with the statutory requirements for obtaining medical records. Any evidence obtained after that was held to be “the fruit of the poisonous tree” and would be excluded from admission into evidence at trial.

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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