

The Rap Sheet

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Enforcement Officers
Subcommittee are
listed on the back page**

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NEWS FLASH

The State of Florida is not a victim in a victimless crime case!!!!

In all victimless crime cases such as drug related possession charges, firearm possession charges, traffic charges and/or any other charge where there is no victim, **the State of Florida is not a victim and therefore must not be listed as a victim.** This old practice was harmless when all A-forms were on paper because the notation was ignored. However, with the advent of the new automated A-form process, it is creating a problem in CJIS as the information cannot be deleted. **Officers must only list the officers and/or civilian witnesses, if any, involved in such cases.**

Summary of PPCC Meeting October 16, 2013

Agencies represented: SAO, MDPD, Miami PD, Homestead P.D, Coral Gables PD, Miami Springs PD, Miami Beach PD, Florida State Fire Marshal's Office, Surfside PD, Aventura PD, Sunny Isles Beach PD, Miami Dade School PD and FDLE.

Agenda Items:

• Search Warrants

All search warrants must be executed by an officer who has lawful jurisdiction where the search is being conducted.

A municipal police officer cannot execute a search warrant outside the officer's jurisdiction. The following law enforcement agencies have countywide jurisdiction: FDLE, FHP, MDPD and SAO investigators. Only officers from those four agencies can execute a search warrant anywhere in Miami-Dade County. Therefore, the municipal officer needing the warrant must get an officer from the appropriate jurisdiction to execute the warrant. Update: This only applies to municipalities that do not have a mutual aid agreement with Miami-Dade Police Department.

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IMPORTANT!

Next PPCC meeting, **Wednesday, November 20, 2013 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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Municipal officers whose police departments have signed a Mutual Aid Agreement with Miami Dade PD have concurrent law enforcement jurisdiction as provided in Section V of said agreement. The section sets forth the conditions under which this concurrent jurisdiction can be exercised. It allows the municipal officer to make arrests and/or to execute search warrants within the territorial limits of municipalities that are signatories to the Agreement and in areas in which the Miami-Dade Police Department has law enforcement jurisdiction. The agreement also provides that prior to taking action; a municipal officer shall notify the designated officer of the jurisdiction in which the law enforcement action is to take place, unless exigent circumstances prevent such notification. In cases of exigent circumstances, notification shall be made as soon after the action as practicable.

Municipal officers cannot execute a warrant in a municipality that is not a signatory to the Agreement; they would need to have officers from that jurisdiction execute the warrant.

Updates from the Floor:

Automated A-Forms- Training is continuing for a number of police departments.

There is a problem with inputting foreign addresses for civilian victims/witnesses. The Automated A-Form Committee has been made aware of this issue and is working on it.

The address field for a civilian victim/witness must be completed and officers have been listing their police department’s address as the victim/witness’ address. **Police department addresses should never be used.** Until this issue is resolved, officers must enter the foreign street address, the city and the postal code. “FL” must be entered in the “State” field and the foreign address must be listed in the “Synopsis of Testimony” section. Please see illustration below.

Officer Information									
ARRESTING	Evid?	Dist	ID No.	Phone	Shift				
ALBELO, YENELL	NO	008	00050		1				
DUI ONLY: <input type="checkbox"/> (W) <input type="checkbox"/> (RS) <input type="checkbox"/> (B) <input type="checkbox"/> (M) <input type="checkbox"/> (MW) <input type="checkbox"/> (IC) <input type="checkbox"/> (ICW) <input type="checkbox"/> (BAFF) <input type="checkbox"/> (BAFFW) <input type="checkbox"/> (DRE) <input type="checkbox"/> (2DMINOBS)									
Involved Persons									
<input type="checkbox"/> VICTIM	<input checked="" type="checkbox"/> WITNESS	<input type="checkbox"/> OWNER	<input type="checkbox"/> DCF Contacted	RELATIONSHIP:	Sex	Date Of Birth			
Last Name	First	Middle	Race	W	F	01/01/1965			
TESTA	ARIANA								
HOME ADDRESS (Street, Apt. Number)			(City)	(State)	(Zip)	PHONE	CELL PHONE	PAGER	
105 NRO 2501			MAR DEL PLATA	FL	3028				
ADDRESS SOURCE			DL	DL#		ALT PHONE	WORK PHONE		
Synopsis of Testimony: 105 NRO 2501, MAR DEL PLATA, ARGENTINA 3028									

COMPLAINT/ARREST AFFIDAVIT - SAO COPY

Video Bond Hearings from TGK have started. Defendants are no longer being transported to DCJ on weekdays. They are still being transported for weekend bond hearings.

Misdemeanor video hearings started on October 16.

The next PPCC meeting will be held on Wednesday, November 20, 2013 at 2:00 p.m.

Recent Case Law

Compiled by Felony Screening Unit Chief Joe Robinson

1. Drug-detection dogs: Is the sniff up to snuff?

After the U.S. Supreme Court ruled this year in *Florida v. Harris* that training records alone can establish a dog’s reliability in detecting drugs, even if the dog is uncertified, the Florida courts have begun to apply the holding in *Harris*. In *State v. Grue* (decided October 11, no citation yet available), the Fifth District Court of Appeal was confronted with a motion to suppress granted in the trial court where the issue was “whether there was sufficient evidence to establish probable cause –

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based upon a police K-9's alert – set forth in the affidavit to support the issuance of a search warrant". While the affidavit in support of the application for the warrant was "a pre-printed form with a minimal amount of case-specific information" it did record the K-9 officer's credentials, training and experience, including with the dog in this case, and information regarding the dog's training, including participation in a narcotics scent discrimination course, that the dog was "certified" and had located "thousands of pounds of narcotics" in the past.

The trial court, acting under the Florida Supreme Court's *Harris* requirements for extensive evidence showing dog reliability to establish probable cause, found the affidavit in this case failed to meet those standards. The Fifth District, having the benefit of the U.S. Supreme Court's ruling subsequent to the ruling by the Florida Supreme Court, found that the affidavit was sufficient to establish probable cause to support the warrant. The Fifth District added that "Although the (U.S. Supreme court's ruling in *Harris*) allows for evidence of a dog's certification or training to presumptively establish probable cause, we believe that it is preferable to provide additional information as to the identity of the organization that certified the K-9, the dates of that certification, and additional subsequent training".

2. Miranda rights

In *Loureiro v. State* (decided October 9, no citation yet available), the Fourth District Court of Appeals threw out a murder conviction, where the trial court admitted into evidence a confession from the defendant and the case hinged almost entirely on the confession.

The detectives questioning the defendant advised him of his *Miranda* rights, including his right to an attorney, but failed to advise him of his right to have the presence of an attorney before or during questioning. The Fifth DCA held that this amounted to a failure to comply with the requirements of *Miranda*, and ruled the confession should have been ruled inadmissible into evidence.

3. You can be right even when you're wrong

In *D.S. v. State* (decided September 25, no citation yet available), the testifying officers (Collier and Lambert) testified they responded to a residence on a burglary in progress call. The defendant juvenile had already been detained and brought out of the home by other officers. Officer Collier spoke to a witness who saw D.S. and two others break down the door to the residence. Officer Lambert testified that she saw other officers leading D.S. being escorted from the house. Lambert searched D.S. and found a baggie of marijuana in his pocket. Officer Collier arrested D.S. for loitering and prowling and possession of cannabis.

On appeal, D.S. argued that his arrest for loitering and prowling was without probable cause, and that the cannabis recovered thereafter should be suppressed from admission into evidence.

The Third District Court of Appeal, without coming out and saying it, agreed that there was no probable cause for a loitering and prowling arrest. But, they upheld the search and resultant cannabis charge anyway: "*Even if probable cause to arrest D.S. did not exist, the search incident to that arrest is still lawful as there was probable cause to arrest him for another charge, burglary.*", notwithstanding the officers mistaken arrest for loitering and prowling.

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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