

The Rap Sheet

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

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Summary of PPCC Meeting October 15, 2014

Agencies represented: SAO, Miami-Dade PD, City of Miami PD, Coral Gables PD, Miami Beach PD, Miami Springs PD, Aventura PD, Sunny Isles Beach PD, Surfside PD, Miami Gardens PD, North Miami PD, North Miami Beach PD, South Miami PD, Miami Shores PD, University of Miami PD, Homestead PD; Florida City PD and Miami-Dade County School Board PD

Agenda Items:

Retail Theft

Discussion of new case law setting forth how the value of merchandise can be introduced pursuant to Florida Statutes §812.015. Topic to be re-visited next month

Human Trafficking Presentation

ASA Brenda Mezick gave a presentation on Human Trafficking and on the many amendments to statutes relating to this crime. She explained that Human trafficking cases can be very difficult to handle because victims are usually very vulnerable and hard to reach. She asked officers to look for signs of trafficking when they handle prostitution cases or when they see young people, mostly young women or teenagers who are being dropped off at street corners. She offered to provide training to officers. She also talked about the 2014 amendments which clarified the crime of Human Trafficking, added new and more severe provisions, enhanced certain penalties and added provisions designed to assist victims of Human Trafficking.

Chapter 2014-160—An Act Relating to Human Trafficking

Some of the changes are as follow:

Section 450.021 was amended to prohibit minors, even those who are married from being employed in an adult theater.

Section 775.15 - Statute of Limitations — was amended to allow the prosecution of human trafficking cases to commence at any time, except if the prosecution would have been barred on or before October 1, 2014.

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IMPORTANT!

Next PPCC meeting, **Wednesday, November 19, 2014 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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Section 787.06 clarifies that it applies to anyone who engages in human trafficking or attempts to engage in human trafficking, or benefits from participation in a venture that has subjected a person to human trafficking. Coercion is no longer required to be used against a minor for labor or services or commercial sexual activity when the minor was transported from outside this State to within the state for the crime to be a first degree felony. A new subsection was added which makes it a first degree felony if coercion is used against an adult for labor and services or commercial sexual activity when the adult was transported from outside this State to within this state. It is a first degree felony PBL if a minor is the victim of commercial sexual activity where the minor has been transported from outside the state into the state. It is a life felony if the victim of commercial sexual activity is a minor or is mentally defective or mentally incapacitated. A parent or legal guardian or other person who has custody of a minor, who sells or transfers custody to someone else knowing or in reckless disregard of the fact, that the minor would be subject to human trafficking, commits a life felony. A new subsection prohibits the permanent branding of a victim and makes it a second degree felony. Lack of knowledge of a victim's age is not a defense to this crime.

Section 775.082 is amended to make a violation of section 787.06(3), a life felony.

The Bill also repeals sections 796.03, 796.035, and 796.036, with a statement of legislative intent in newly created section 796.001, where the Legislature finds that adults should be prosecuted under other laws for these crimes, such as section 787.06, chapter 794, chapters 800, 810.145, chapters 827 and 847, where minors are unable to consent to that prohibited behavior.

Section 796.05 – Depriving support from the proceeds of prostitution - is amended to make a first offense a second degree felony, a second offense a first degree felony and a third or subsequent offense, a first degree felony, but with a 10 year minimum mandatory.

Habitual Traffic Offender

Case law relating to whether drivers can be arrested and charged with driving with an HTO revocation under if they have never had a license, was discussed. Additional scenarios will be discussed next month.

Case Law Discussed

Automated a-Forms

All trainers have completed their training. 27% of arrest affidavits are done electronically.

Next PPCC meeting – Wednesday, November 19, 2014

Recent Case Law

Compiled by Joe Robinson, Chief of the Felony Screening Unit

Tracey v. State, 39 Fla. L. Weekly S617a (Fla. Sup. Ct.)

The police received information from a confidential informant that the defendant was getting large amounts of cocaine in Broward County and distributing them in the Cape Coral area. The police obtained a court order for a pen register and trap and trace device to record calls dialed and received from the defendant's cell phone. After receiving specific information regarding an expected trip by the defendant to Broward County, and without obtaining another court order, the police began to monitor the location of the defendant's cell phone in real time, leading to the search and arrest of the defendant for trafficking and other offenses.

In a lengthy opinion, the Florida Supreme Court held that the use of real time cell site location emanating from the defendant's cell phone to track the defendant's vehicle constituted a search for which probable cause is required. The court found that the defendant had a subjective expectation of privacy in the location signals transmitted solely to enable the use of his cell phone, even on public roads, and that this expectation of privacy was objectively reasonable, thus falling within the safeguards of the Fourth Amendment. Because there was not yet probable cause to support the search, and no warrant was sought or issued based on probable cause authorizing the use of the defendant's real time cell site information to track him, the evidence obtained as result of the search must be suppressed from admission into evidence.

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Brown v. State, 39 Fla. L. Weekly 2394b (1st Dist.)

The defendant was charged with and convicted of Introduction of Contraband into a County Detention Facility, F.S. 951.22(1). After returning from a work release job, he was searched and cannabis was found in his pants pocket.

At trial the defense was as follows: *“Testifying in his own behalf, Mr. Brown said he left the work release center around eight on the morning of the fourth and began work in the parking lot of a convenience store detailing vehicles, then worked as a cashier at the convenience store from 6:00 p.m. until 10:00 p.m. He testified he changed clothes before beginning his shift as cashier because his clothing was wet; the only thing he put into his pants when he changed was his wallet; and he did not check the other pants pockets. He also testified that other people worked at the store and had access to the clothing he changed into. He denied any knowledge of the small plastic bag containing marijuana, before the guard discovered it, and maintained he did not intend to bring marijuana into the facility.”*

The First DCA overturned the conviction on the grounds that the trial court failed to instruct the jury that the defendant knowingly introduced the contraband into the facility, proof of knowledge being a necessary element of this and nearly all other crimes.

State v. Vinci , 39 Fla. L. Weekly D1970c, 2nd DCA

During a consensual search of a car, the officer discovered a prescription pill bottle labeled “Suboxone”, and without opening the bottle could see two pills within it, and recognized one of the pills to be an alprazolam bar. This was held to constitute probable cause in that possession of Xanax in a container that is not for a Xanax prescription provides prima facie evidence that the possession is unlawful, citing to Sections 499.03(1), 893.13(6)(a) of the Florida Statutes.

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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