

# The Rap Sheet

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## A-Form enhancements implemented on November 1<sup>st</sup>, 2017

A number of important changes were made to the Electronic A-form (see attached document)

Some of the changes include the following:

- Officers will have to provide their email addresses. They will not appear on the A-form. They will be used to send email alerts to officers and their supervisors indicating that an A-form has not been approved by a supervisor or processed by Miami-Dade Corrections.....
- A field was added to record a witness or victim's email address. This email address will appear on the A-form.
- A required field (in the upper portion of the A-Form and in the officer section on the SAO page) was added to notate if an officer used a body worn camera (BWC). In addition, officers

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### IMPORTANT!

**PPCC MEETINGS ARE SUSPENDED  
UNTIL FURTHER NOTICE**

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using BWC must mention such at the end of the officer's narrative.

- Armband ID validation – once an officer has submitted an A-form, the system will automatically check to see if any other A-form was booked with the same armband id number. If yes, an error code will be displayed with the defendant's jail number and that number will automatically populate in the jail number field. If the defendant was released, an error code will be displayed with that information so that officers will know they need to locate the defendant to effectuate an arrest.

### **Case Law by Criminal Intake ASA Roberto Fiallo**

**State v. Lee, --- So.3d ---, (Fla. 4th DCA 2017), 2017 WL 5474446**

#### **CONSTRUCTIVE POSSESSION OF NARCOTICS IN A VEHICLE**

Subject was detained in a vehicle, where he was the sole occupant. A subsequent search of the vehicle revealed a small rock of crack cocaine on the sliding track under the driver's seat. The evidence presented at trial established that the car's registration "came back to" the subject, but there was no evidence presented as to whether he was the owner or whether anyone else drove or rode in the vehicle on a regular basis.

The subject was convicted by a jury, but defense counsel moved the court for a judgment of acquittal, which was granted. The State appealed (a judgment of acquittal entered by the court after a jury verdict of guilty, is appealable by the State).

The Appellate Court held that a jury could have properly found the subject guilty of possession of cocaine under the theory of "constructive possession". The evidence established that the subject was in possession and control of the vehicle when the rock of cocaine was found. This fact alone was sufficient to establish a prima facie case of guilt, allowing the case to go to the jury. The defense did not introduce any evidence rebutting the presumption of knowledge that arose from the subject's possession and control of the vehicle. The inference of constructive possession was not negated by the fact that another person had briefly been in the vehicle. The Court reversed the trial court decision and the jury verdict was reinstated.

Officers are reminded that "constructive possession" cases require proof of knowledge and control. This is often proven by inference and circumstance, and officers should extensively document all information and observations which show proof.

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**Noh v. State, --- So.3d ---, (Fla. 2nd DCA 2017), 2017 WL 5472196**

**MIRANDA WARNINGS GIVEN TO SUBJECT IN CUSTODY FOR CAPITAL SEXUAL BATTERY WERE INEFFECTIVE.**

Subject was arrested, charged with capital sexual battery on a minor and subsequently convicted. Subject was advised of his rights per Miranda and subsequently made incriminating statements. As the detective advised the subject of his rights, specifically the right to have counsel present during questioning, the subject stated that he could not afford a lawyer. The detective did not further discuss or clarify that the subject could have an attorney appointed at no cost to him, before the subject made the incriminating statements. Prior to trial, the subject moved to suppress the statements made after he was advised of Miranda, which the trial court denied. The subject was subsequently convicted and sentenced to life in prison. The subject appealed the denial of the post-Miranda statements, arguing that his motion should have been granted, because he did not knowingly and intelligently waive his Miranda rights before speaking with the detective. The Court of Appeals reversed the conviction and remanded for a new trial, excluding the incrimination statements.

The Court held that rather than attempting to ensure that the subject understood that he had a right to counsel during questioning (even though he could not afford it), the detective “encouraged” the subject to sign the Miranda waiver, and began questioning him. The court specifically held “...an officer cannot simply ignore a comment by a suspect that indicates that the suspect does not fully understand his or her Miranda rights and assume that a waiver predicated on that misunderstanding will be valid. Thus, because the detective never clarified... that he had the right to appointed counsel at no cost; the State did not establish that... “(the) waiver of his right to counsel was knowingly and intelligently made. And faced with, at best, an ambiguity as to whether Noh understood the rights he was waiving, the trial court should have suppressed Noh's statement to the detective.”

Officers are reminded that Miranda warnings must be given in their entirety, and if a question arises regarding the subject’s understanding of those rights, an officer should thoroughly go over and clarify any “ambiguity” before going forward with the interview.

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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