

Bulletin

11-08

Date: 8/02/2011

HIGH ACHIEVERS – JULY 2011

Alvarez	62 traffic citations	18 traffic warnings	6 arrests	7 reports
McGavern	50 traffic citations	27 traffic warnings	2 arrests	6 reports
Hernandez	47 traffic citations	34 traffic warnings	2 reports	
Leonard	42 traffic citations	8 traffic warnings	1 arrest	1 report
Matelis	36 traffic citations	4 traffic warnings	1 report	1 community events
Ruiz	36 traffic citations	33 traffic warnings	2 arrests	4 reports 2 FICs

Thanks and keep up the good work!

RETIREMENT

Congratulations to Dispatcher Jackie Kaye on her retirement from Surfside PD after 14 years of service. We wish her the best of luck! We will recognize Jackie on August 3 at 1:30 pm in the training room. All are welcome to attend.

SEMI-ANNUAL UNIFORM CRIME REPORTS

The preliminary semi-annual UCR statistics have been completed. There was an overall 5 % decrease in total crimes for the first six months of 2011 as compared to the first six months of 2010. Violent crime decreased by 63% over the same period.

	2010	2011
Murder	0	0
Rape	1	0
Robbery	0	2
Aggravated Assault	7	1
Burglary	11	9
Larceny	71	71
Motor Vehicle Theft	2	2
Total Crimes	92	87

TOWN CONSTRUCTION PROJECTS

A force main sewer will be installed down the center traffic lane along Collins Avenue from 72 Street to 96 Street. Start time is expected on August 9. The project will run through early September. The center and east traffic lanes will be closed in stages. The west lane and parking lane will become the travel lanes. The project will require off duty details 24/7. Officer John Gentile will coordinate the assignments.

The Town Water and Sewer project will begin August 8. Employees from Ric-Man Construction will be in the residential area wearing identification cards.

COMMUNITY BLOOD DRIVE

SPD will sponsor a community blood drive on August 15, 1:00pm – 7:30 pm in the training room.

NEW DISPATCHER POSITION

Interviews for the dispatcher position have been completed. Backgrounds on the top candidates are being conducted. Thank you to Assistant Chief Di Censo, Communications Supervisor Susie Sperbeck, Officer Tammy Macklin, and HR Director Yami Slate-McCloud for their assistance with the interview process.

ABBOTT PARKING LOT

Due to concerns of lack of available parking in the morning for customers in the business district, we will continue to shut down the Abbott lot until 0800 hours Monday through Friday.

Be advised that workers from FTE Engineering will be conducting occupancy surveys, percolation tests and land surveys in the Town's parking lots over the next several weeks. They will be wearing orange traffic vests.

VIDEO DEPOSITION PROJECT

The Video Deposition Project Agreement between the Surfside Police Department, the Miami-Dade County State Attorney's Office and the Miami-Dade County Public Defender's Office intend to commence a project whereby defense depositions of police officers from the Surfside Police Department shall be taken via video by the Miami-Dade County Public Defender's Office in lieu of the officer's actual appearance. The parameters of such project will be as follows:

- Cases involving charges no greater than third degree felonies.
- Video depositions may be taken in the abovementioned cases in lieu of live depositions. Live depositions may be taken at any party's request.

Notices of video deposition on the above mentioned cases shall be sent to both the State Attorney's Office and witnesses in a timely manner, as required by the rules of criminal procedure. Upon receipt of the notice, the ASA handling the case will forward a Discovery Reminder Memo to the Surfside Police Court Liaison requesting that all discovery items not previously provided be immediately provided to the State, including, but not limited to, the Offense Incident report, Supplemental Reports, property receipts, Miranda waivers, search consent forms, copies of photo line ups, witness statements, etc. The ASA will provide copies of the discoverable material to the public defender (at least 48 hours) prior to the taking of the video deposition. If the discoverable material has not been timely provided to the public defender in accordance with the process set forth above, the public defender may seek to have the officer provide the material directly to the public defender for use at the deposition. Failure of the defense to timely receive the abovementioned items prior to the date of the video deposition shall not constitute a basis to re-depose the police officer if the defense willingly proceeds with the deposition. Additionally, absence of an ASA at the deposition will not be grounds for the officer to seek cancellation of the deposition.

POLICE TEEN CAMP

The Miami-Dade Fire Rescue Department (Station 21), Bal Harbour K-9 Officer John Fruschi, and North Miami Crime Scene Technician Sharon Plotkin are recognized for instructing at the Teen Camp.

EYE ON SURFSIDE MEETING

The Eye on Surfside monthly crime prevention meeting is August 16, at 1800 hours in the training room. The topic is to be announced.



MARCHMAN ACT

There is some confusion regarding Orders for Involuntary Assessment and Stabilization (Marchman Act, statute 397). Some law enforcement officers have been reluctant to serve Orders for Involuntary Assessment and Stabilization that have been submitted to them because they were not in sealed envelopes when presented to the officer.

Officers are advised that there is no requirement in the law that Orders for Involuntary Assessment and Stabilization be submitted to the law enforcement officer in a sealed envelope. Section 397.6815, entitled "Involuntary assessment and stabilization. Any such order must of course be signed by the judge and certified by the Clerk of the Court. There is no requirement for the order to be placed in one or two sealed envelopes.

Any officer who is presented with a signed and certified Order for Involuntary Assessment and Stabilization must serve the order and may not refuse to do so because the order is not presented in a sealed envelope.

PROPERTY DISPOSITION FORMS

The Property Disposition Forms must be returned within seven (7) days of receipt. It is the responsibility of the impounding officer to conduct whatever research is necessary to determine the status of property. Check the appropriate box and provide the required information. Deadline, Friday, August 5, 2011.

REGIONAL LAW ENFORCEMENT EXCHANGE (R-LEX) PROJECT

R-LEX is funded by DHS Law Enforcement Terrorism Prevention (LETP) funds with the intent to provide Federal agencies access to local law enforcement records. Records management data from local and state law enforcement agencies will be combined in a secure data warehouse at FDLE HQ, and access to the data will be made available for local, state, and federal law enforcement agencies. Our agency is part of Region 7 of the Regional Domestic Security Task Force (RDSTF). Region 7 includes Palm Beach, Broward, Miami-Dade, and Monroe Counties. In addition to Region 7, R-LEX includes Region 6 (Fort Meyers), Region 2 (Tallahassee) and all State Law Enforcement Agencies.

BIKE WITH CHIEF

The Bike Ride with the Chief was canceled due to rain and is rescheduled for Thursday August 4, at 1800 hours. All personnel are welcome to participate and get to know our residents.

TRAINING

Speed Measurement Devices – Officers Colonna and Hernandez
Driver Improvement – Officer Arch
Promotional Assessor – Sgt. Williams

NEW LAWS EFFECTIVE JULY 1, 2011

Chapter 2011-145:

This deals with some changes to **Chapter 790** regarding weapons and **firearms**. An amendment to Subsection **790.053(1)**, dealing with the **open carrying of weapons**, now

provides that it is not illegal for a person with a CCF license to “briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense”.

Although it would seem to go without saying that a person licensed to carry a **concealed firearm** can lawfully carry the firearm **in a vehicle**, new subsection 790.06(12)(b) now specifically provides this, if it is being carried or stowed in the vehicle “for lawful purposes”.

Chapter 2011-146:

The following are now **violations of injunctions** against repeat violence, sexual violence or dating violence, issued pursuant to **784.046**:

Being within 500 feet of the petitioner’s residence, school, place of employment or any other location specified in the injunction frequented regularly by the petitioner and any named family or household member

Knowing and intentionally coming within 100 feet of the petitioner’s motor vehicle, whether the vehicle is occupied or not

Defacing or destroying the petitioner’s personal property, including the petitioner’s motor vehicle

Refusing to surrender firearms or ammunition if ordered to do so by the court

NEW CASE LAW

Mills v. State, 36 Fla. Law Weekly D877a (2d DCA, 4/27/11) Shortly after midnight officers were patrolling what they considered a high crime area in downtown Clearwater. The area had recently been hit with a series of smash-and-grab burglaries. They saw the defendant walk from behind a closed business, he saw the officers circling around and walked back in the direction from which he had come. Officers went behind the business to find the defendant standing in a dark area “up against the building, behind a tree in... some overgrowth”. They shined their spotlight on the man and he walked toward them. When asked what he was doing, the defendant said he had walked behind the business because he got nervous when he saw the police car. The officers arrested the defendant for **L & P** and found prescription drugs in a search incident to arrest. The defendant said the drugs were for his blood pressure and heart. He said he was living at the motel next to the business parking lot. He gave a name – but gave the wrong first name. At the time of the stop, there was no information received by police about a crime at this location.

L& P requires proof of 2 elements. First, the defendant must be “loitering or prowling” in a manner not usual for law-abiding citizens, and this conduct must come close to, but fall short of, the actual commission or attempted commission of a substantive crime, suggesting that a breach of the peace is imminent. The court cites to case precedent that a defendant’s “response to police pursuit cannot be used retroactively to support an imminent suspicion of criminal activity”. Secondly, the factual circumstances must establish that the defendant’s behavior is alarming in nature, creating an imminent threat to public safety. Again citing to precedent, the court states that a defendant’s explanation of his presence is not an element of the crime of L & P. The court held that the officers did not observe the defendant committing both elements of an L & P. The court describes the defendant as “at most, a vaguely suspicious presence”. The defendant attempted to avoid the police and, when the officers pursued him, he concealed himself. But when the officers spoke to him, he came out of his hiding place, identified himself, and provided some explanation for his behavior. While his explanation may have been suspicious, it was not enough to raise alarm of suggest an imminent threat. The defendant’s convictions were reversed.