

# Bulletin

OB Number # 10-12

Date: 12/2/2010

**OFFICER OF THE MONTH – NOVEMBER 2010**

On November 9, at 5:45 am, Officer John Gentile was conducting proactive patrol in an area where several bicycle thefts had occurred during the past week. Ofc. Gentile stopped a subject that he observed loitering between buildings. The subject did not live in the area, was in possession of a bicycle and had an extensive criminal history. Ofc. Gentile located a witness who had observed the same subject inside a fenced back yard looking through the windows of the home. The subject was arrested for Loitering and Prowling. Due to Ofc. Gentile's good police work, a criminal was arrested and a crime was deterred. Congratulations and thanks John!

**HIGH ACHIEVERS – NOVEMBER 2010**

G. Fernandez	63 traffic citations	24 traffic warnings	2 arrests	7 reports	1 FIC
M. Valino	66 traffic citations	22 traffic warnings	8 reports		
Gentile	50 traffic citations	32 traffic warnings	4 arrests	8 reports	1 FIC
Leonard	37 traffic citations	14 traffic warnings	1 arrest	5 reports	2 FIC
Ruiz	34 traffic citations	32 traffic warnings	1 arrest	3 reports	1 FIC 1 comm event
Arboleda	34 traffic citations	25 traffic warnings	1 arrest	2 reports	2 FIC
Smith	32 traffic citations	12 traffic warnings	2 arrests	15 reports	1 community event
Pedre	30 traffic citations	4 traffic warnings	4 reports		
Matelis	30 traffic citations	22 traffic warnings	11 parking citations	5 community events	

Keep up the excellent work!

**NEW FOP PRESIDENT**

Congratulations to Officer Tammy Pedre for her election as the new incoming FOP President. I look forward to working with her. It also has been a pleasure working with Sgt. Patrick McKenna over the past several years. Although we did not agree on every issue, we were always able to work together professionally, keep grievances to a minimum, complete two contracts, and make this a better police department. A thank you to the FOP for their generous contribution to the Police Department Holiday Party.

**CLICK IT OR TICKET TRAFFIC CAMPAIGN**

Officer G. Fernandez was recognized by the State of Florida as the high producer for Surfside PD for the Click It or Ticket Traffic Campaign. Good work Giranny!

**CRIME PREVENTION/ COMMUNITY EVENTS**

MBPD PAL Thanksgiving Food Drive, Nov 23 – Dina Goldstein and Ofc. Matelis  
Local Area Network Law Enforcement Traffic Conference, Dec 1 – Sgt. Williams  
Menorah Lighting, Dec 2, Town Hall - Sgt. Williams and Ofc. Ruiz  
Menorah Parade, Dec 5 - Sgt. McKenna, Bal Harbour and Bay Harbor PDs  
MADD Annual Celebration of Life, December 8 – Ofc. G. Fernandez  
Blood Drive, Commission Chambers Dec 15 – Dina Goldstein  
MB UNIDAD Seniors event, Dec 15 – Ofc. Matelis  
Easter Seals Holiday event, Dec 15 – Sgt. Arch  
Holiday Toy Drive Party, Commission Chambers, Dec 22– Dina Goldstein and Ofc. Matelis

## **MULTI SPACE PAY STATIONS INFORMATION**

Please familiarize yourself with the following information in the event you are asked a question about new parking meters.

The 23 new meters are located in all the municipal parking lots, the 9400-9500 blocks of Harding Avenue, the 9400 block of Collins Avenue and the 200 block of 95<sup>th</sup> Street. The meters are solar powered and will operate in the pay-and-display mode where the customer chooses the amount of time to be purchased then makes payment. The machine prints a receipt which is placed on the driver's side dashboard of the vehicle.

The rate structure will remain at one dollar (\$1.00) per hour with a four (4) hour maximum time limit. The minimum time purchase will be thirty (30) minutes for all transactions regardless of method of payment. Additional time may be purchased in fifteen minute increments.

The meters will accept nickels, dimes, quarters, \$1.00 and \$5.00 dollar bills as well as credit and debit cards. The meters will not give change and there are no refunds. All of this information will be clearly displayed on each meter. However, to avoid possible negative reaction to not receiving change for a \$5.00 bill, if a customer purchases the maximum \$4.00 of parking (\$1.00 per hour for 4 hours maximum) we will refund the \$1.00, if requested, for a sixty (60) day period.

We will still have approximately 75 single space meters in operation throughout the Town. The rate structure for the single space meters is one dollar (\$1.00) per hour with a four (4) hour maximum time limit.

Thank you to Assistant Chief Di Censo, Sgt. Williams, PSA E. Joseph, Parking Enforcement Officers W. Perez, A. Acosta, and R. Fernandez, and Public Works employee J. Iglesias for their exceptional support in completing this project ahead of schedule.

## **AUTOMATED INTERSECTION SAFETY PROGRAM UPDATE**

The red light camera project is on schedule. The designs have been completed and we are expecting approvals on the permits from FDOT. Construction of the foundations and pole and installation of the cameras and communication equipment should be completed in December. We are also hosting a training course for agencies throughout South Florida December 7-10. The warning period will be the month of January and we hope to begin our enforcement efforts by February 1.

## **GRANTS**

The PD was awarded funding for a fingerprint scanning device that can be used by officers on the street to identify suspects. We are also waiting approval on a grant for funding a new server for the mobile/ laptop project.

## **EXTRA DUTY TRAFFIC DETAILS**

Officers are reminded that when working Extra-duty traffic details they must take a proactive role in ensuring public safety and maintaining the flow of traffic. In order to do this, officers need to be out of their police vehicle, highly visible and wearing a traffic vest. Please review Administrative Directive 01-03, Section (H) Employee Duties and Responsibilities.

## **BAL HARBOUR PD**

Bal Harbour PD will be using our facilities next week, December 6-10 for **Life Scan testing**. The fitness center and interview/ intoxilyzer room will not be available for use Monday through Friday.

## **TRAINING**

Code Compliance – all sworn personnel

Courtroom Testimony – Luke, M. Valino, Dulaney, Knight, Smith

Executive Development – Sgt. Pacheco, Sgt. Valino

Automated Intersection Training – Sgt. Williams, M. Valino, Dulaney, Luke

**LOITERING AND PROWLING ARREST (COURT DECISION)**

Hunter v. State, 35 Fla. Law Weekly D744b (4th DCA, 3/31/10) This case discusses **loitering and prowling**, the elements of which are often misunderstood. Police in this case were dispatched to a call regarding “a couple of black males standing behind a church in a dark alleyway”. When they arrived in the area, they found 2 men sitting under a tree in an area halfway between a closed church and an apartment complex. The church and the apartments basically backed up to each other, with an alley in between the back yard of the apartments and the back of the church. The men were “rummaging” in their pockets. The officer wanted to make contact with the men, but did not intend to search them. Although the officers said they were on a team to deter burglaries, they did not testify that there had been burglaries in the area or that it was a high crime area. As an officer approached the men, announcing “Police”, the men ran around the corner of the apartment building and tried to enter, but the officer stopped them. This defendant gave an incorrect name. The officer arrested him, searched him and found cocaine. The defendant argued that the trial court erred in denying his motion to suppress because the evidence failed to show that the officers had a reasonable suspicion that he had committed, was committing or about to commit a crime when he was stopped. The court held that the officers did not have reasonable suspicion that the defendant was loitering and prowling.

The elements of L&P are:

- 1.) the defendant loitered or prowled in a place, at a time, or in a manner not usual for law-abiding individuals, and
- 2.) the loitering and prowling was under circumstances that warranted a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity

The first element requires that the defendant be involved in “incipient criminal behavior” – conduct which comes close to, but falls short of, the actual commission or attempted commission of a substantive crime and which must be alarming in nature, pointing toward an imminent breach of the peace or threat to public safety. Moreover, the conduct constituting the L&P must be complete before any police action occurs. Citing to a previous L&P case (*Hollingsworth v. State*), the court stated that “mere presence in an area of closed businesses at a late hour is insufficient to raise an alarm of immediate threat to public safety. The mere fact that [a subject] fled and attempted to conceal herself after observing the police could not be „retroactively” used to support a suspicion of imminent criminal conduct.” Considering the facts in this case, the court failed to see how rummaging in one’s own pockets while seated under a tree in a backyard constituted an act suggestive of criminal conduct. And although both of the defendants fled toward their residence when the officers announced their presence, this flight does not retroactively supply the elements that an officer must observe to satisfy the requirements of an L&P. The convictions were reversed and the defendant was ordered discharged.

**HAPPY HOLIDAYS!**