



To: City Commission

From: Miriam S. Ramos, Deputy City Attorney for the City of Coral Gables

Approved: Craig E. Leen, City Attorney for the City of Coral Gables 

RE: Legal Opinion Regarding Expansion of Justice Advocate Program

Date: August 28, 2017

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In 2014, the City Attorney's Office in coordination with the City's Police Legal Advisor and the State Attorney's Office, established the Justice Advocate Program (the Program). The Program was created to follow certain criminal arrests made in the City of Coral Gables through to their successful prosecution. The Program's initial focus was burglaries, robberies, and vehicle-based crimes. Due to its successes the Program was expanded in 2016 to include the following:

- 1) All felony offenses, excluding violations of Chapter 893,
- 2) Any misdemeanor offense under Chapter 810, including but not limited to;
  - 810.02 - Burglary
  - 810.08 - Trespass in structure or conveyance,
  - 810.09 - Trespass on property other than structure or conveyance,
  - 810.097 - Trespass upon grounds or facilities of a school,
  - 810.0975 - School safety zones; definition; trespass prohibited,
  - 810.14 - Voyeurism,
  - 810.145 - Video voyeurism,
- 3) Any misdemeanor offense under Chapter 784 – Assault; Battery; Culpable Negligence
- 4) Any misdemeanor offense under Chapter 800 – Lewdness; Indecent Exposure,
- 5) The following misdemeanor violations of Chapter 812, Theft, Robbery, And Related Crimes;
  - 812.014(3)(b), Petit Theft, with prior conviction,
  - 812.015. Retail and farm theft
- 6) Any violations of Chapter 790. Weapons and Firearms.

- 7) Any offender taken into custody who is on any type of supervised release, i.e. probation, house arrest, or pre-trial release,
- 8) Any subject who qualifies as a violent career criminal; habitual felony offender, habitual violent felony offender; or three-time violent felony offender, pursuant to Section 775.084, Fla. Stat. (2016), or Prison releasee reoffender under section 775.082, Fla. Stat. (2016) or is later designated as such.
- 9) Any offense where an employee of the City of Coral Gables is the victim, or where members of the media have responded or are likely to be involved.

Since its inception, the Program has yielded significant results. Most recently for example was the successful prosecution of an offender charged with two counts of Attempted Murder in the Second Degree and one count of Armed Carjacking, that resulted from a synergistic effort by the Justice Advocate, the Miami-Dade State Attorney's Office, the men and women for the CGPD and the testimony of courageous victims. In general, the City has seen a decrease in violent crimes and an increase in the successful prosecution of the same.

Some property crimes, however, remain an issue for our residents. In an effort to further reduce crime in the City thereby increasing the safety of our residents, businesses and visitors, the City Attorney's Office has expanded the Program through the prosecution of State Misdemeanors, as incorporated in the City Code. The idea behind the expansion of the program is to ensure that every crime committed in the City is addressed and that, to the degree possible, every perpetrator faces a consequence for his/her criminal act and to further reduce crime in the City and, in particular, to increase safety in the City's residential areas. As such, the City Attorney's Office has instituted a process for the review of criminal cases that are not pursued by the State Attorney's Office. In combination with the Program, it is intended to be a state-of-the-art, holistic approach to reducing crime in the City using all appropriate legal methods.

Periodically, the City's Police Legal Advisor obtains all "close-out" memoranda from the State Attorney's Office and evaluation of the same with the City Prosecutor. Each case is evaluated for the potential issuance of a citation under Section 38-1 of the City Code if the merits of the case warrant such issuance. Section 38-1 of the City Code adopts state misdemeanors and makes violations of the same a City Code violation. Penalties are in accordance with Section 1-7 of the City Code which provides for a fine not to exceed \$500 and also provides for a fine of up to \$15,000 in the event that the violation is irreparable. The cases are also evaluated in order to provide additional training for our police personnel that will aid in the strengthening of all criminal cases.

In implementing the program, the City Attorney's Office will follow the prosecution policy parameters detailed below, consistent with the authority provided under sections 2-201(e)(3), 2-201(e)(6), and 101-190(c) of the City Code, as well as prior City Attorney Opinions. See, e.g., CAO 2016-083, CAO 2016-082, and CAO 2016-074. This policy is an exercise of prosecutorial discretion and does not create any rights or defenses. This policy is intended to set

out general guidelines; however, each case will be evaluated on its own merits, and treated independently.

-Citations will not be issued to defendants who are incarcerated and serving a sentence, of 1 year or longer; whether as the result of the same criminal act or another criminal act, as that individual is incapable of committing another crime in the City, or elsewhere, for the period of time during which they are incarcerated.

-Defendants with an underlying charge of petit theft will be issued a citation for \$500. If the Defendant agrees to enter into a Stay Away Order from the City's residential neighborhoods for a period of 2 years, the citation and corresponding fine will be held in abeyance. Should the Defendant violate the Stay Away Order, the ticket with the original \$500 fine will be reassessed.

-Defendants with an underlying charge of loitering and prowling will be issued a citation for \$500. If the Defendant agrees to enter into a Stay Away Order from the City's residential neighborhoods for a period of 2 years, the citation and corresponding fine will be held in abeyance. Should the Defendant violate the Stay Away Order, the ticket with the original \$500 fine will be reassessed.

-Defendants with an underlying charge of trespass involving an unoccupied vehicle, will be issued a citation for \$500. If the Defendant agrees to enter into a Stay Away Order from the City's residential neighborhoods for a period of 2 years, the fine will be reduced to \$150 and the Citation will be held in abeyance. Should the Defendant violate the Stay Away Order, the ticket with the original \$500 fine will be reassessed.

-Defendants with an underlying charge of trespass in a series of unoccupied vehicles in the same event, will be issued a citation for \$500 (one citation may be issued for the series or one for each instance of trespass into an unoccupied vehicle). If the Defendant agrees to enter into a Stay Away Order from the City's residential neighborhoods for a period of 2 years, the fine will be reduced to \$250 and the Citation will be held in abeyance. Should the Defendant violate the Stay Away Order, the ticket with the original \$500 fine will be reassessed.

-Defendants with an underlying charge of trespass involving a home that was unoccupied at the time or an attempted trespass of a home, will be issued a citation for \$5,000. If the Defendant agrees to enter into a Stay Away Order from the City's residential neighborhoods for a period of 2 years, the fine will be reduced to \$750 and the Citation will be held in abeyance. Should the Defendant

violate the Stay Away Order, the ticket with the original \$5,000 fine will be reassessed.

-Defendants with an underlying charge of trespass involving a vehicle that was occupied at the time, will be issued a citation for \$15,000. If the Defendant agrees to enter into a Stay Away Order from the City's residential neighborhoods for a period of 2 years, the fine will be reduced to \$1,500 and the Citation will be held in abeyance. Should the Defendant violate the Stay Away Order, the ticket with the original \$5,000 fine will be reassessed.

-Defendants with an underlying charge of assault or battery relating to the attempted theft or theft of property from an individual, will be issued a citation for \$15,000. If the Defendant agrees to enter into a Stay Away Order from the City's residential neighborhoods for a period of 2 years, the fine will be reduced to \$1,500 and the Citation will be held in abeyance. Should the Defendant violate the Stay Away Order, the ticket with the original \$15,000 fine will be reassessed.

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In situations where a defendant recidivates, the City may issue higher initial fines of up to \$15,000. Depending on the special circumstances of a case, the City Attorney and/or City Prosecutor may enter into agreements with different reduced amounts including the establishment of payment plans. Any reduced amount may be adjusted at any time by amending the original agreement.

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August 2017

**CITY OF CORAL GABLES**  
**CITY ATTORNEY'S OFFICE**

EXPANSION OF JUSTICE ADVOCATE PROGRAM THROUGH PROSECUTION OF STATE MISDEMEANORS  
AS INCORPORATED INTO THE CITY CODE

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August 2017

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Subject:** Prosecution Policy Re Incorporation of State Misdemeanors into City Code  
**Date:** Monday, August 28, 2017 5:15:02 PM  
**Attachments:** [Prosecution Policy Re Incorporation of State Misdemeanors into City Code.pdf](#)  
[image001.png](#)  
[image002.png](#)

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Please publish.

**Craig E. Leen, City Attorney**

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*Celebrating 90 years of a dream realized.*

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**From:** Ramos, Miriam  
**Sent:** Monday, August 28, 2017 5:14 PM  
**To:** Leen, Craig <[cleen@coralgables.com](mailto:cleen@coralgables.com)>  
**Subject:** Prosecution Memo

*Miriam Soler Ramos, Esq., B.C.S.*

Deputy City Attorney & City Prosecutor  
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