



To: Frank Fernandez and Edward Hudak

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

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

RE: Legal Opinion Regarding Justice Advocate Program/City Prosecutor

Date: October 12, 2016

As you both know, I have recently been named the City Prosecutor. As such, I will continue working closely with you both and with all the members of CGPD and will also be supervising the Justice Advocate Program. Attached you will find an opinion issued by the City Attorney which describes my duties as City Prosecutor.

As you both know, at its inception, the Justice Advocate Program was designed to focus on a particular subset of crime and criminals in Coral Gables. Specifically, the program was intended to focus on defendants who repeatedly committed crimes in Coral Gables and/or had lengthy criminal histories. It was also intended to focus on certain target crimes, including Burglary, Robbery, and vehicle-based crimes (i.e. conveyance burglaries).

When the program began, the Justice Advocates would often receive phone calls from the on-duty supervisor (either CID or Patrol) advising that a subject was being taken into custody. This allowed the Justice Advocates to attend bond hearings in order to advocate for increased bond amounts and Stay Away Orders, as appropriate. As you know, the likelihood of obtaining a favorable result in criminal cases is often related to whether the subject remains in custody or is released on bond. Since it has been in place, the Justice Advocate Program has been very successful in increasing the prosecution and conviction of individuals who commit crimes within the City. As such, going forward, I would like the following list of crimes included in the program:

- 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.

I would also like to ensure that supervisors contact our Justice Advocates (Israel Reyes and/or Manuel Guarch) while arrests are in progress or shortly thereafter, in order to discuss the offense/offender and determine if involvement of the Justice Advocate is warranted. If the Justice Advocates, in consultation with the City Prosecutor, determine that their involvement will be beneficial, it will allow the Justice Advocates to attend bond hearings, as discussed above.

If you have any thoughts or concerns, I am happy to discuss with you.

I am honored to work with the men and women of the Coral Gables Police Department and look forward to the expansion of our program for the benefit of our City Beautiful.

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Cc: [Ramos, Miriam](#)
Subject: FW: Justice Advocate Program/City Prosecutor
Date: Wednesday, October 12, 2016 9:31:22 AM
Attachments: [City Prosecutor Opinion.pdf](#)
[image001.png](#)
[image002.png](#)

Please publish.

Craig E. Leen, City Attorney

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CORAL GABLES
THE CITY BEAUTIFUL

Celebrating 90 years of a dream realized.

From: Ramos, Miriam
Sent: Sunday, October 02, 2016 6:23 PM
To: Fernandez, Frank; Hudak, Edward
Cc: Leen, Craig; Swanson-Rivenbark, Cathy
Subject: Justice Advocate Program/City Prosecutor

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Sincerely,

Miriam S. Ramos, Esq.

Deputy City Attorney & City Prosecutor
City of Coral Gables

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CITY OF CORAL GABLES
CITY ATTORNEY'S OFFICE

OPINION REGARDING CITY PROSECUTOR

During the August 23, 2016 City Commission meeting the City Attorney announced naming of the Deputy City Attorney as City Prosecutor. Pursuant to Sec. 2-201(e)(3) of the City Code, the City Attorney has the authority to prosecute for and on behalf of the City and pursuant to Sec. 2-201(d) the City Attorney may delegate authority to the Deputy City Attorney. Accordingly, the City Attorney delegates authority to prosecute on behalf of the City to the City Prosecutor.

Currently, the Deputy City Attorney/City Prosecutor serves as Code Enforcement Prosecutor and will also be prosecuting municipal ordinance violations. In addition to those duties, as City Prosecutor she will also be the primary liaison to the United States Attorney's Office, State Attorney's Office and Miami-Dade Ethics Commission. As liaison to the State Attorney's Office, the Deputy City Attorney/City Prosecutor will oversee the Justice Advocate Program, handled by the City's Police Legal Advisors.

When exercising prosecutorial function in the role of City Prosecutor, the Deputy City Attorney is entitled to absolute immunity. *See Redlich v. Leen*, No. 16-CIV-20001, 2016 WL 3670575, at *5 (S.D. Fla. May 20, 2016) (report and recommendation stating that City's special counsel "entitled to absolute immunity" when performing "hired role as a prosecutor on behalf of the City of Coral Gables."). Additionally, all prosecutors enjoy broad discretion which includes the power to select the charges brought in a particular case. *See Ball v. U.S.*, 470 U.S. 856, 859 (1985). As such, the City Prosecutor has the discretion to dismiss a case if she finds it to be legally insufficient or settle a case if she deems it to be in the best interest of the City, pursuant to Sec. 2-201(e)(6) of the City Code and Sec. 2-702 of the Zoning Code. With particularity, Sec. 101-190(c) of the City Code authorizes the city attorney to enter into settlement and fine reduction agreements in code enforcement matters.

As with all other delegations, in matters of prosecution, the City Attorney maintains concurrent authority to prosecute as well as supervise the City Prosecutor. This opinion is issued pursuant to Sections 2-201(e)(1) and (8) of the City Code.