

**PALM BEACH COUNTY CRIMINAL JUSTICE COMMISSION
LAW ENFORCEMENT PLANNING COUNCIL**

FINAL MINUTES

Thursday, January 6, 2011 – 9:30 a.m.

Clayton Hutchinson Agricultural Center
Exhibit Hall “B”
559 North Military Trail
West Palm Beach, Florida

Members Present

Chief Frank Kitzerow Vice-Chair
Stephen Barborini, Resident Agent in Charge
Chief Delsa Bush
Pete Garcia, Federal Security Director
Acting Chief Mark Hall
Chief James Kelly
Chief Steve Kniffin
Chief Robert Mangold
John McKenna, Assistant Special Agent in Charge
Chief Stephen Stepp
Edward (Eddie) Thompson, Resident Agent In Charge
Chief Clay Walker
Chief Christopher Yannuzzi

Members Absent

Chief Daniel Alexander
Danny Auer, Special Agent In Charge
Chief Joseph Benevento
Chief Kirk Blouin
Steven Burdelski, Senior Supervisory Resident Agent
Sheriff Ric Bradshaw
Chief Roger M. Crane
Michael Driscoll, Resident Agent in Charge
Chief Graig Hartmann
Major Jeffrey Hubert
Chief Matt Immler- Chair
Matthew Lynch, Resident Agent In Charge
Chief Charles Lowe
Director Phillip A. Ludos
John Modlin, Patrol Agent in Charge
Dana Morrison, Special Agent Supervisor
Major Carol Owsiany-Himmel
Chief Robert O'Neill
Major Luis Ramil
Acting Chief Rick Ricciardi
Chief Wes Smith
Lt. Anthony Stafford
Chief Anthony Strianese
Chief Jeff Tyson
Mike Waites, Chief Investigator
Chief Garrett Ward
Chief Dennis Weiner
Chief Clarence Williams, III
Glen Wilner, Assistant Chief Deputy

Advisory Members Present

Feirmon Johnson, Chief Probation Officer
Joni Livingston, Florida Department of Law Enforcement (FDLE)
Director Larry Schroeder

Advisory Members Absent

Rosalyn Baker, Circuit Administrator
Dr. Michael Bell, Palm Beach County Medical Examiner
Rolando Garcia, Deputy Chief
Hon. Michael McAuliffe, State Attorney

- I. Welcome and opening comments by Chief Kitzerow, Vice-Chairman. The Vice-Chairman noted by Chief Immler, LEPC Chair, is still away and asked that he cover for him while Chief Immler is away today.
- II. Roll Call
- III. Introduction of Guests
- IV. Approval and/or additions to the agenda
 - a. The agenda was approved as is.
- V. Approval of the minutes of the meeting of October 7, 2010
 - a. Minutes were approved as is.
- VI. Chairman's Comments
 - a. LEPC Elections. Vice-Chair Kitzerow asked that this be placed on next month's agenda so that Chief Immler can chair this item on the agenda. Staff agreed to place this on February 2011 meeting agenda.
 - b. LEPC meeting scheduled for 2011 were attached to the agenda package.
- VII. Presentations
 - a. **2011 Executive Leadership Program - Lt. Colonel Tim Gillette and Captain Robin Larson.** Broward Sheriff's Office is pleased to announce that the 2011 Executive Leadership Program will be starting January 12, 2011. Again this year, each participant will identify an issue salient to his or her agency and will prepare a report (paper) and oral presentation on his or her solutions. The participant's commander is invited to this presentation. We consider this a valuable return on your investment. The land-based portion of this program will be available via video-conference at the Palm Beach Gardens Student Education Center (generally on Wednesdays from 8 AM to 12 NOON). Please share this opportunity with your public safety management staff. Applications can be prepared by using the attached form or by accessing our website at <http://www.sheriff.org/seminars/elp2011/>.

- b. **Point in Time Count:** Claudia Tuck, Director Human Services and Daniel Gibson Director of Continuous Quality Improvement the Lord's Place. Ms. Tuck emphasized that the "point in time count" is a survey of homeless individuals in Palm Beach County. She noted that this is not a census of homeless individuals but a count of the homeless over a 24 hour period of time. This count is very important as it is used to determine funding levels from federal and state sources. We rely primarily on volunteers and law enforcement to coordinate the count, and since 2007, we have seen a substantial increase in our volunteers 65 (in 2007) and 145 in 2009. In 2009, we reported some 2147 homeless individuals in Palm Beach County and the survey is conducted every two years. We hope to expand our volunteer poll. Mr. Gibson noted that the definition of a homeless person has changed; recently a homeless person can now include individuals who "couch surf for at least 2 weeks". He stated that the count uses a 22 question survey which is completed by volunteers for each homeless individual. If you don't have time to complete the survey, then we would ask that you at least complete your agency's field incident reports (FIRs). While this is not the preferred way, they are willing to accept this information in place of the 22 question survey. PBSO rep (Mark Escri (inaudible)) will be coordinating the pickup of the FIRs. This year's count will last 24hours (12 noon to 12 noon) between January 26 and 27, 2011.

VIII. New Business

- a. **LEPC Nominations and Elections:** Chief Kitzerow noted that this is moved to next month.
- b. **Proposed Legislation (Knock-and-Announce)** Barry Krischer, PBSO. Mr. Krischer explained that he was going to talk about a recent Florida Supreme Case that he believes was wrongfully decided and as such he proposed legislation to help them overturn their opinion. In State v. Cable (December 9, 2010) police officers was doing surveillance where he noticed a vehicle, later on he saw the same vehicle in the parking lot of a motel, he ran the tag and then the individual and as a result found an open arrest warrant for failure to appear on a drug case went into the motel and found out what room the person was living in and went to room and knocked on the door and said "Sheriff's Office open up". He did not say "Sheriff's Office I have an arrest warrant open up." Mr. Krischer noted that since the officer did not state the purpose... it's suppose to be first purpose than authority... he stated in authority and not purpose. As a result, all of the drugs seen and seized from the room were suppressed from evidence by the prosecution. Mr. Krischer then noted that the US Supreme Court (in 1995) that using the exclusionary rule for violation of "knock and announce" was not appropriate, because the officer had a warrant which allowed him to be inside the premises. The Florida Supreme Court knew about the US Supreme Case, but noted that we are deciding this case on Florida Statute (rather than the 4th amendment)

which has to abide by “knock and announce” and therefore we don’t have to abide by the US Supreme Court Case; and so they suppressed the evidence. He noted that the suggested legislation was included in the agenda package, which would not impose the exclusionary rule when there is a warrant. Mr. Krischer noted that he would like to present a letter of support from LEPC and CJC to the County’s legislative delegation to pressure Tallahassee to amend the law. He requested that LEPC members review the proposal and to provide him with comments; and that it be placed on the agenda next month.

IX. Old Business

- a. **Data Request Update:** Michael Rodriguez, Criminal Justice Commission Executive Director. Mr. Rodriguez noted that a matrix was prepared for members to show which agency’s have responded and how they responded. In addition, we have prepared a brief summary of the history of this request and how it will help us complete the evaluation of the Youth Violence Prevention Project. He also noted that he has been unsuccessful meeting with Colonel Bradshaw from PBSO. Chief Bush, West Palm Beach, noted that while they are trying to complete our request, she noted that the volume and complexity of the request has made it very difficult. She would have to hire someone. While she wants to comply, she is not sure how? Michael Rodriguez noted that we understand that not all agencies will be able to provide the entire request; however, we are willing to accept what is provided. Chief Bush then questioned then how can you have a meaningful study without the “big agency”? With West Palm being the largest and having the largest crime you need to have the participation of the Sheriff’s Office and West Palm Beach. Mr. Rodriguez noted that we are trying to report with the data we get to the best of our abilities. Mr. Damir Kukec emphasized that the request was based on the original study request (by FSU) in 2006 and that the only difference is the inclusion of non-firearm violent crime – all of the variables are the same. He suggested that the difficulty this time around stems from the exclusions under the public records laws (e.g., juvenile records or victims). Mr. Kukec stated that the County has presented its legal opinion and this has been shared with all agencies, so that we can have a discussion. He also stated that they have a limited budget and that they are willing to work with all agencies by providing funding or staff. Chief Kitzerow summarized the following: the CJC would meet with West Palm Beach, and we would also continue to try to meet with Colonel Bradshaw. Mr. Kukec asked if we should consider creating a sub-committee to examine mechanisms to facilitate access to incident level data; however, it was decided to hold-off on such a committee until after this request was addressed.

b.

X. Committee Reports

- a. **Book and Release Committee:** Chief Crane – no report.

- b. **Domestic Violence Committee:** Elizabeth Parker, SAO. Ms. Parker noted that the domestic violence protocol how changed more into guidelines or best practices, so not to hinder local agencies. Once the full report is completed, we will rollout training for law enforcement agencies. We are still considering how best to implement training across the county.
- c. **Homeless Protocol Committee:** Captain Lindskoog, PBSO. Captain Lindskoog thank all of the agencies that were on the committee, and he is hopeful that you received copies of the Interlocal agreement and homeless referral form, and the best practices guide, and that you have had a chance to review those documents. With me this morning is Claudia Tuck, Marilyn Munoz, PBC HS and Audrey Wolf from FDO. Ms Wolf thanked members for this participation and provided an overview of the Interlocal agreement and HRC form (section 2 and 3). It was agreed that since members did not have an opportunity to review the documentation, Chief Kitzerow asked that this be placed back on the agenda next month. Acting Chief Hall was very impressed with the work of this committee, both its professionalism and its turn-around-time. He thanked everyone for their hard work. Staff agreed to include re-circulate the document for next months meeting.
- d. **Recruitment and Retention Committee:** Chief Yannuzzi. Chief Yannuzzi thank CJC staff for their work in administering the Recruitment and Retention Survey; and he reported on the most recent results of the recruitment and retention committee for the 3th QT in 2010 (July, August, and September). Following today's meeting, he let members know that there will be a call for the 4th QT data in 2010 (October, November, and December). Chief Yannuzzi reported that the number of officers in the 3rd QT 2010 continued on a downward trend; which reflects the current budgetary situation. He noted that he is the second person today stating that we are being asked to do more work with less people. As there were no further questions concerning this report the LEPC Chair moved to the next item.
- e. **Traffic Committee:** Chief Crane. No report.
- f. **Vulnerable Adult Protocol:** Chief Walker. He reported that the protocol went out before the holidays and that so far approximately 50% of the agencies have signed on. The other half are either in legal review and some are considering not signing the protocol; however, integrating the material into their operating procedures. Chief Walker noted that they should be finished with their "train the trainer" material before the end of this month. We are also planning to finalize the material in a meeting next month and then attempt to schedule training to take place at the local college over the next 60 days.

XI. Liaison Updates

- a. **Data Sharing:** Chief Kitzerow. He reported that with William McCollom (Tequesta PD) moving to another post, LEX now has a new Vice-Chair, Chief Stepp. We continue to develop our plans for integrating LEX into the regional COMPSTAT initiatives, and coordinating that with the fusion center.

- b. **Child Abuse Protocol:** Chief Strianese. No report.
- c. **Crime Prevention Officers Association:** Chief Stepp. No report.
- d. **Criminal Justice Commission:** Chief Kitzerow. No report.
- e. **Criminal Justice Institute:** Director Schroeder. Director Schroeder noted that in spite of the Recruitment and Retention Survey 3rd QT results, the number of applicants and enrollment to the CJI continues to increase. We are starting our 4th active class with 34 recruits, and just yesterday we started our corrections class out in Belle Glade with 24 recruits.
- f. **High-Intensity Drug Trafficking Area:** Colonel Stormes, PBSO. No report.
- g. **High School Criminal Justice Academy's:** Rosalyn Baker, DOC. No report.
- h. **Municipal Public Safety Communications Consortium:** Chief Mangold. No report.

XII. Training Announcements

- a. No training announcements.

XIII. Member Comments

- a. Acting Chief Hall, Palm Springs PD, noted that they continue to have a challenge defending red light camera cases and traffic court magistrates. He was hoping that others might be able to help him as they deal with these cases before traffic court. Some of the magistrates are questions such as “was there a photo enforcement sign up”; however, they are not asking whether there was a sign posting speed limits in speeding cases. Defendants learn that is they raise the same issue that their case may be dismissed; and this is after hours of preparation time by my officers. Acting Chief Hall asked if there was a way to meet with the Chief Judge to discuss these concerns and to perhaps try to address them. Someone suggested that Chief Crane should raise this issue within his group. Dennis Crispo, from the West Palm Beach PD, noted that their department’s attorneys were working with the Attorney General’s Office to see if there is any way they can help with the case law by writing opinions that address these types of issues. Chief Kitzerow noted that Chief Weiner, from Juno Beach PD, has a committee that is examining issues that stem from red light cameras; and he recommended that before we move ahead with this that we clearly define what the issues are; and be in a position to make some sort of recommendations. He advised the acting chief to approach Chief Weiner’s committee to see if they can be of assistance. Chief Yannuzzi noted that this committee (ALPR) is meeting on January 21st at 2:30 at Jupiter. He mentioned a local attorney Harvey Oyer III who has represented red light camera companies in Palm Beach County, who may be interested in hearing our challenges.

- b. Chief Walker noted that 2011 is the 30th Anniversary of Crime Stoppers of Palm Beach County and there will be a 1st annual motorcycle run to help raise money and awareness for the organization on January 30, 2011. He noted that there was a flyer attached.
- c. Chief Yannuzzi wanted to credit Chief Ludos for his work with the State and Palm Beach County Chiefs Association. He expressed his best wishes on his new assignment as assistant city manager for Saginaw Michigan. Chair Kitzerow echoed the same sentiments, including his work locally and with the Florida Association of Chiefs of Police.
- d. Chief Bush noted that they have a large asset forfeiture fund and that while these funds are helpful; there are federal and state legal issues and policy guidelines that restrict how we can spend the money. Based on the current guidelines everything appears to be “supplanting”. For example, we need to upgrade our in-car video microphones; however, our legal department notes the “equitable sharing guidelines” precludes the use of forfeiture funds for this purpose as it would be viewed as supplanting – it should be part of daily operational expenses. She further noted that there is only so much innovation out there that you can purchase – we are going to be forced to spend 200k on an armored vehicle instead. She stated that the guidelines need to be changed to allow for greater use for such funds or obtain special permission on an ad hoc basis. Clay Walker noted that at times you have to be creative and seeking your commission’s approval. He mentioned starting a “new unit” to justify an expense. He also cautioned members to be careful as the more you rely on these types of funds city managers may be less inclined to maintain an adequate operational budget pointing to funds available from other sources such as asset forfeiture funds.
- e. Michael Rodriguez asked that LEPC designate a member to sit in on the CJC Finance Committee. Chief Jim Kelly agreed to represent LEPC at the January 17, 2011 of the Finance Committee.

XIV. Adjournment

Next Meeting: February 3, 2010.