

City of Coral Gables City Commission Meeting
Agenda Item I-1
March 25, 2015
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

City Manager, Cathy Swanson-Rivenbark

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Speaker(s)

Manny Guarch, Representing Justice Advocate Program

Agenda Item I-1 [11:52:22 a.m.]

Status report on Justice Advocate Program

Vice Mayor Kerdyk: Item I-1 is the City Attorney item, Craig please present your item.

City Attorney Leen: Thank you Mr. Mayor.

Commissioner Lago: I've been looking forward to this item, by the way for some time.

City Attorney Leen: Oh, really. I appreciate that.

Commissioner Lago: I'm proud of this item.

City Attorney Leen: Thank you.

Commissioner Lago: You've done great work on this. This is great.

Mayor Cason: This is one of the great achievements.

City Attorney Leen: Well thank you. Manny could you come up?- Mr. Guarch. We have a PowerPoint presentation, if they could put the presentation up. I'm going to try to have this done by noon. I'm going to introduce Manny Guarch in a moment. I just want to briefly say that this is an item that the Commission has been strongly in favor of. It's a partnership between the City Attorney's Office, the Police Department and Manny's law firm, who serves as our Justice Advocate, both Manny Guarch and Izzy Reyes, pardon me, Izzy Reyes' law firm, sorry Manny, I don't want to get you in trouble. You are going to see a slide about Judge Reyes, he's a former Circuit Court Judge, a former homicide detective, and Manny is a former prosecutor and basically what this program does – we have a brief presentation to show you, but what it does is Coral Gables gets involved with prosecution of crime, which I think is a state-of-the-art idea for localities to do. I think there is a lot of help that we can provide to the State Attorney's office, and we have seen significant results that make the City of Coral Gables safer, and so with that I would turn it over to Manny to do the presentation.

Manny Guarch: So, Mr. Leen did me a great honor, but just in case my stuff is not packed in boxes when I get back to the office (laughter), it's the Reyes Law Firm, Managing Partner is Izzy Reyes. You can see there is a very truncated portion of his bio in the presentation as is mine. As the City Attorney said, my name is Manny Guarch and I serve as the City Attorney's arm in this program. The program is really a collaboration between the City Attorney, the Police Department, and the State Attorney's office; and what its aimed at is ensuring prosecution to the fullest extent of the law of those individuals who are either committing certain target crimes, in this case burglary of both residences and conveyances, which are vehicles, and then also repeat offenders who we found are targeting either Coral Gables or Coral Gables residents multiple times. I believe you've been provided with a lengthier presentation as well as a log – very short.

City Attorney Leen: Yes. I would like to interrupt to say that you've been provided with two presentations; one is a lengthy one that goes through every – basically every person that's been part of the program, and a spreadsheet that's being put on the web site, and then there is also the shorter one.

Mr. Guarch: And so part of what we do is we will attend bond hearings. You'll see in this presentation and the lengthier presentation, we attend bond hearings for individuals who are arrested in order to argue for either increase of bond requirements, increase release requirements, stay away orders from the City of Coral Gables, stay away orders from certain portions of the City of Coral Gables, and we've been successful in obtaining these orders from the court in order to protect the interest of the City. I'm not going exactly along the list, but I believe the Commission was either provided a presentation previously about six months ago or maybe a

little longer on this program. The program is still relatively in its infancy in relation to the average length of a criminal prosecution, especially the ones we are looking at, which are generally felony offenses. This is a new admit since the last presentation, which is the initiation form and we've formalized this project with the State Attorney's office, so they track all the individuals who we provide items on this form. This form actually goes into the prosecutor's file and the prosecutor can look and say, look this is might lead us – I need to get this information from and if I can't get a hold of these people on this case they reach out to our office and we'll make sure it happens, and we've been able to do that on multiple occasions which I'm pretty happy with. There has been 107 cases total since the beginning, there is currently 38 open offenders being tracked with 69 percent closed. So that's Mr. Reyes and that's myself, there is state, that's his bio, that's the shorter version.

City Attorney Leen: I would like to add here that Judge Reyes couldn't be here today because he had a mediation that he couldn't cancel or he would have been. I would like to thank both Judge Reyes and Manny for just being wonderful police legal advisors. We brought them in a couple of years ago and not only did they do our forfeitures, they show a lot of opinions to the police and I have to tell you since they've come in, we really have had no issues with the Police Department regarding like civil rights cases or things like that. It's great for a police officer in the evening to be able to call up Manny or Izzy or me, but often they will call them because they have a lot of experience in this area and get advice as to what they can do or not do and I'm very appreciative of that.

Mr. Guarch: So the next one – so I'm going to go through just a couple quick offenders. I know everybody is on a time crunch. On this individual you might have read about him in the newspaper, he is one of three individuals who committed a string of three burglaries here in the Gables. Following the third burglary they were involved in a traffic accident which left one resident of Coral Gables severely injured and in the hospital for over a month. One of those three cases is currently pending and this case highlights one of the issues with criminal prosecution...

Commissioner Quesada: Let me just stop you just for one second. This is the case that there was a car crash by the Biltmore Golf Course?

Mr. Guarch: Yes.

Commissioner Quesada: OK.

Mr. Guarch; so this highlights – one of the problems with criminal prosecutions in general, which is oftentimes more serious crimes, you need cooperation of the victim, of the citizens in the community. One of these three cases the victim flat out refuse to prosecute, told the State

Attorney's office that they simply no longer wanted to discuss the matter, so there is only so much the police department can do that we can do in order to push that case along. The second one, there was insufficient evidence based on the identification of the individual, there was no one to identify the three. The third case is still going forward and actually the City Attorney, the Mayor and myself appeared in court on the 16th in order to discuss the case with the State Attorney's office and to make our presence known to the presiding judge.

City Attorney Leen: And the trial date was set in that case and I can see that everyone there was very interested and surprised even that we were there, and they were talking about it and its good because criminal talk, and they hear that Coral Gables is going to send someone that's going to track their entire case makes it less likely they'll victimize...

Mayor Cason: The actual case is June 29th.

Mr. Guarch: Criminals talk, defense attorney's talk and prosecutors talk. We've actually been contacted on other Coral Gables cases now, cases that aren't even sent as part of this program, for assistance because they realize the City's taking all crime in the City seriously. So that's an unintended benefit.

Mayor Cason: And that should help because a lot of these are determined on plea bargaining, right?

Mr. Guarch: 98 percent of all cases are plea...

Mayor Cason: So when they see how serious we are that we want these people to go to jail if they've been found guilty that the plea helps.

Mr. Guarch: It certainly incentivizes the defense, especially the defense attorney to tell their client, look these officers are going to show up, the victims are going to be here, and we've even offered to provide transportation for victims to ensure their presence.

Mayor Cason: I think one of the things that when we were discussing this particular case over at the court was, I think you mentioned that on the case of theft on automobiles, which is the biggest number of incidents, two-thirds of the victims refuse to come and testify and know that they can walk and come back and victimize the neighborhood again. I think that's shameful.

Mr. Gaurch: My rough estimation is about 60 percent of the cases where you have – oftentimes you have juveniles and just offenders in general walking through the City, they'll go and they'll test...in the vehicles. If the car is open, they'll reach in, take sun glasses, take change, take a

purse, that's technically a burglary of conveyance. A lot of times because of the way the department responds to these incidents, we'll get property back for victims, at which point the victim sort of no longer has an incentive to participate in the prosecution, because it's not easy, and I'm not trying to minimize it in any way. You have to go and appear for a pre-file conference, you have to appear generally at least two or three more times for hearings, and it's part of the game that defense attorneys play, which is resetting cases.

City Attorney Leen: Manny, I'm going to scroll through the different offenders now. Can you just give a brief summary of what these slides say basically? What have been the results you've been able to find?

Mr. Guarch: This is an individual who...

Commissioner Quesada: Please speak into the mike because....

Mr. Guarch: This is an individual who exposed himself to a woman here in Coral Gables while she was sunbathing. We attended the bond hearing and obtained, I'm not great on math, but it was like a thousand percent increase in the bond from the standard bond to this, based on his previous arrest for similar incidents. This is one of the first entrants into the program and he was just sentenced, there it is, he was just sentenced to ten years state prison in this case. So part of the good thing about this program is it results in specific deterrents in some of these offenders, which means that they, he won't be bothering Coral Gables for ten years.

Commissioner Quesada: Do you think if you weren't involved, I know what your answer is going to be, but if you weren't involved would the outcome have been different?

Mr. Guarch: I can't answer that. What I can say is that on these cases I can tell you where there are specific examples where we've assisted the prosecution. There have been cases on the last one – I sent an entire legal analysis regarding search and seizure to the State Attorney's office.

Commissioner Quesada: Well, I'll tell you. I think the answer is yes. I think it's absolutely yes, because my wife has been a State Attorney for a long time and I was there for a little bit and there are so many cases that you know, you were there, there are so many cases, there are so many files that you have in front of you when you have a victim, when you have a representative of a victim on top of that prosecutor, you know it's going to be easier. You can help digest the information for them, you can work with them.

Mr. Guarch: It's harder to forget the case.

Commissioner Quesada: Exactly.

Mr. Guarch: I agree.

Mayor Cason: Having gone there and seen what you just said, there are hundreds of files and everything deferred, deferred, deferred. To the extent that people don't want to go there because they have to take time off from work or something, I was discussing this with Craig, maybe we can have some kind of a way to help those people.

Commissioner Quesada: Well they have what's called a victim's witness coordinator; we have...that takes care of that, so we have that already. What they do now is really the missing link.

Mayor Cason: Right – but if somebody doesn't want to go because they have to take time off from work and they are not going to pay me, maybe there is something we could look at that would – we want the results, we don't want to lose these cases with these gangs because somebody can't take the time off work or can't afford it.

Commissioner Lago: Let me ask you a quick question. How often do you see that scenario come up when the individual, the victim says, I can't attend the hearing due to the fact that my work, my children, another obligation they may have, what do you think?

Mr. Guarch: It's all the time.

Commissioner Lago: All the time – and that's a major problem, that's a major problem.

Mayor Cason: Maybe we should ask Craig.

Mr. Guarch: It depends on the severity of the crime. Somebody who is seriously injured, an assault, or who's robbed at gunpoint, they are much more likely to participate in the prosecution. They have a personal stake, they are invested in that. Somebody who's had a pair of sunglasses taken out of their unlocked vehicle and those sunglasses might have been recovered, you know...

Commissioner Quesada: Less likely to pursue.

Mr. Guarch: Right.

City Attorney Leen: How about Mr. Pino?

Mr. Guarch: Mr. Pino was sentenced to four years in state prison. This is somebody, to address the Mayor's point, he took a plea; he took a plea and he got a good hit on the four years and we were involved, we appeared in the case, so it's a good result. Mariana Pile – extremely involved in this case. I'll leave the details of his offense out, a little disturbing, but we are in constant contact with the ASA, constant contact with the ASA's supervisor, with the sexual battery unit, and in the end we actually got a very nice e-mail from the ASA thanking us for all of our assistance and thanking the detective for his good work and saying that the victim was extremely appreciative of everything that was done. So every now and then it's good. So these are the benefits – so we have the ability to attend first appearance hearings, to argue for stay away orders, to facilitate communication between the police department and the State Attorney's office, and we've attended depositions on cases actually when the State Attorney wasn't able to participate or the officer in question wanted a little more assistance, because of the sensitivity of the case, and this is what we were discussing earlier.

City Attorney Leen: And I'd like to just finish by saying that, I view this as an outstanding program. I'm so thankful to the Commission for supporting this. I think that it's something that other communities simply don't do, and you do it and it has an effect. I know it has an effect because Judge Reyes tells me and you are a very modest Manny, but I know it has an effect because when you have an attorney there at the first appearance when they set the bond, they are saying this is important to the City of Coral Gables it makes a difference, it makes an impact and I just think by the numbers the results that they have and we have full PowerPoint on the web site that's being put on the web site so you can see for yourselves or the public can see for themselves, it makes an impact, and I think it's an outstanding program and I thank you.

Mayor Cason: I think if you look on the cost side, I think we are only spending something like \$52,000 a year and look at the results we are getting.

Mr. Guarch: There is no other program, I just wanted to – the State Attorneys who I deal with because they change out a lot; the State Attorneys who I deal with they are always somewhat surprised the efforts that were put in because there is no other city that I'm aware of that does this. There is one other city that has a spreadsheet for offenders that they are interested in, but it doesn't go to the extent that this program goes.

Vice Mayor Kerdyk: Commissioner Keon.

Commissioner Keon: I understand that the State Attorney has some discretion over what cases prosecute or what they don't and how they respond to things that maybe not always – we may not feel would be in our best interest because there are crimes that we feel...

City Attorney Leen: That's an additional program we are working on with Judge Reyes and with Manny is that there are some cases, that particularly in municipal ordinance violations of certain types that we've been informed may not be prosecuted by the State Attorney and I don't want to speak for her because I know that she is a believer of prosecution of all crimes, but there are certain ones we've been told sometimes that may not rise to that level. I've authorized both Manny and Judge Reyes to serve as the prosecutor in that sort of case. For example, there was a squatter case we were looking at and if the squatter had refused to leave and we had made a determination that a crime had been committed, which unlawful squatting would be if someone broke into the house, for example. We were prepared to have Manny and Judge Reyes actually prosecute that case. Also Miriam Ramos who is the new Deputy City Attorney is a former prosecutor; she was going to work on that as well. I can say, we mean business on – if there is a crime in our City, a municipal ordinance violation, we expect it to be prosecuted and that's part of the reason why we are doing this program.

Commissioner Keon: I think that's good. I think those are all those quality of life issues that really enhance and improve and make our City a great place to live.

Mayor Cason: Craig, I'd like you to look into – follow up on a discussion we had about, is there anything else that we can do as a Commission to help those victims or to convince those victims that don't want to go to the trial, to get these people, maybe they lose money at work, maybe they don't have a car that can be picked up, something that we might do to make it – even if we got 5 or 10 percent more of the victims appearing more likely to put these guys behind bars because these are the people, the gangs that come in and do repeat things.

City Attorney Leen: I thought about this because you had mentioned this to me Mr. Mayor. We can do a victim assistance program, that's something that could be considered, but definitely would be in conjunction with the Manager's office, Police Department, because there is a policy component to that, but we could do that. What we can't do is directly tie their testimony to that sort of benefit, but what we can do is we have a program for all of them with the hope that that would lead them to make it easier for them to testify.

Commissioner Lago: I would love to see this Commission implement that program if possible. I think it's a great idea. I know we can't tie any financial obligations to whether any individual will go to court or not, but I think anything that we can do to entice them to go there. Because again, you lose a cell phone its \$100; the effort of losing a day at work, driving down to downtown, it's just overwhelming sometimes.

City Attorney Leen: But what we can do – it doesn't mean that you can't have a benefit for the victim; it just has to be a general benefit....a program to help them to make it easier for them to participate in the process.

Mayor Cason: The hand-holding that comes from it and helping them – where do you go to the courthouse?- where do you park?- a lot of that...get involved, but you were also saying that even on the cases of home burglaries there are times when people will just not go.

Mr. Guarch: Yes. That's one of the three burglaries that were committed by those individuals.

Commissioner Lago: And what was the reason, if you don't mind me asking, without divulging too much about the individual, what was the reasoning behind their lack of interest in attending?

Mr. Guarch: She really indicated she did not want to discuss the matter any further. She didn't give a reason, she was...

Commissioner Keon: I think they are afraid of retribution. I think they are afraid if they go to court.

Mayor Cason: But what they don't know is then those people will be back doing it to their neighbors.

Vice Mayor Kerdyk: Very good program Craig. Thank you very much Manny. Thank you very much.

Mayor Cason: Great work.

Commissioner Quesada: You guys do a spectacular job. Thank you.

[End: 12:12:00 p.m.]

