

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Commissioner Steven Meiner  
DATE: October 13, 2021

SUBJECT: REFERRAL TO THE OCTOBER 29, 2021 NEIGHBORHOOD AND QUALITY OF LIFE COMMITTEE FOR AN UPDATE AND ACTION PLAN REGARDING THE MUNICIPAL PROSECUTION PROGRAM AND RELATED MATTERS, SUCH AS ENFORCEMENT OF HABITUAL MISDEMEANOR OFFENDERS AND THE UTILIZATION OF STAY AWAY ORDERS AS AN ENFORCEMENT TOOL TO ADDRESS QUALITY OF LIFE OFFENSES IN THE CITY.

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### **ANALYSIS**

Please place on the October 13, 2021 City Commission meeting agenda a referral to the October 29, 2021 Neighborhood and Quality of Life Committee for an update and action plan regarding the City's Municipal Prosecution Program and related matters, including enforcement regarding habitual misdemeanor offenders and the utilization of stay away orders as an enforcement tool to address quality of life offenses in the City.

Until about one (1) year ago, judges in the County Court of the Eleventh Judicial Circuit in and for Miami-Dade County would regularly issue standalone stay away orders to defendants pursuant to the disposition of criminal cases, as a result of crimes tied to particular victims or locations.

However, on November 25, 2020, the Eleventh Judicial Circuit Court, in its appellate capacity, in *Eric Freshman v. The State of Florida*, held that judges have no authority to issue standalone stay away orders because there is no explicit statutory provision which would allow them to do so, even when ordered pursuant to a plea agreement by the parties.

The inability of judges to order those defendants who commit crimes tied to particular victims or locations, to stay away from such victims or locations, has created an additional challenge to preventing criminal activity and quality of life offenses. This challenge is magnified in those cases of habitual misdemeanor offenders who continue to commit crimes in certain areas of the City, but cannot be legally prohibited from returning to such area(s) and reoffending.

Should you have any questions, please do not hesitate to contact my aide, Amadeus Huff.

### **SUPPORTING SURVEY DATA**

N/A.

**Applicable Area**

Citywide

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

No

**Does this item utilize G.O. Bond Funds?**

No

**Legislative Tracking**

Commissioner Steven Meiner