


Memorandum



Date: May 8, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Report to Conduct an Enforcement Operation Regarding Unlawful Activities of
Jet Ski Rental Businesses on Biscayne Bay – Directive 232462

Executive Summary

The following information is provided in response to Resolution 1153-23, sponsored by Commissioner Danielle Cohen Higgins, and adopted by the Board of County Commissioners on Tuesday, December 12, 2023, directing the County Mayor or County Mayor's designee to conduct an enforcement operation, over the course of several weeks, regarding unlawful activities of jet ski rental businesses on Biscayne Bay, provide a report focused on the results of that enforcement operation, and identify a funding source of up to \$10,000 for such operation.

The Miami-Dade Police Department's (MDPD) Marine Patrol Unit (MPU) was tasked with conducting the enforcement operations and reporting the results. Consequently, the MPU, in conjunction with other departmental entities and outside agencies, conducted several weekend and weekday operations which took place from Saturday, January 13, 2024, until Sunday, February 4, 2024. The results are outlined below. Additionally, the MPU utilized a total of \$9,543.20 from its overtime budget to conduct the operations.

Background

Biscayne Bay ranks high among the many beautiful features that Miami-Dade County (MDC) is known for. For this reason, many tourists include some form of activity that includes Biscayne Bay during their visit. Consequently, the MDC waterways has experienced an increase in activity related to personal watercrafts (PWC), commonly referred to as "jet skis or wave runners." A PWC is defined in Florida Statutes 327.02(30) as "a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump, as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel."

According to the Florida Fish and Wildlife Conservation Commission from the year 2019 to 2022, there was an increase of 2,921 registered PWCs in MDC. A great number of residents and tourists alike choose to enjoy Biscayne Bay by utilizing a PWC since the experience tends to be more exciting. Therefore, a significant portion of PWC activity comes by way of rentals, a trend that has created a greater demand for PWC rental businesses to operate in the waters of Biscayne Bay.

A livery, according to Florida Statutes 327.54(1)(c), is defined as "a person who advertises and offers a livery vessel for use by another in exchange for any type of consideration when such person does not also provide the lessee or renter with a captain, a crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel." As this genre of business began to grow, so did issues that accompany them. For example, there have been reports of reckless operation, inexperienced operators causing damage to other vessels and property, and in extreme cases, accidents resulting in death involving PWCs.

Livery owners often fail to take the time to conduct mandatory safety instruction and training lessons to renters. Many companies who are looking to increase profits bypass requirements such as obtaining the proper and adequate insurance coverage. Law enforcement agencies, such as MDPD and the Florida Fish and Wildlife Conservation Commission, have been addressing the illicit activity through enforcement; yet, since the business is so lucrative, oftentimes livery operators opt to pay fines and continue their operations. The MPU has collaborated diligently with other agencies to conduct joint enforcement initiatives, cooperated with the Miami-Dade State Attorney's Office to provide for better educated prosecutors, worked alongside local representatives and with the MDC Attorney's Office to create more effective legislation regarding liveries and illicit activity on the MDC waterways.

The MPU has also collaborated with Miami-Dade County Parks, Recreation, and Open Spaces (PROS) to have MPU officers work at MDC marinas. This collaboration permits marinas to benefit from multiple angles of enforcement that MPU officers provide. The officers are available to provide general police services such as keeping the peace, enforcing traffic laws, and are versed in maritime laws which provide the opportunity to intercept illegal liveries before they get on the waterways. As a result, the marinas have seen a significant decrease in disturbances and denied ramp access to illegal liveries on multiple occasions. This practice, coupled with the fact that conducting business at a County park is unlawful, has led livery companies to seek alternative methods.

Many livery companies conduct their business by transporting rental PWCs to customers. These companies launch several PWCs and proceed to tie them to each other in a daisy chain configuration. The operator then tows this chain of PWCs to awaiting customers who are already on vessels, generally chartered vessels. The livery operator approaches the vessel and offers their patron an opportunity to rent one of their PWCs.

In their latest business model, liveries deploy floating structures anchored along Biscayne Bay, use them as a platform to conduct their business, and keep them on the water overnight. Livery operators transport their customers to these floating structures which create navigable hazards as most have little to no lighting. At times, livery companies have been observed picking up passengers along roadways such as the Julia Tuttle Causeway. These actions have caused roadway concerns along with unsafe boating practices as part of their business practices. In response to MPU's recent investigation, PROS reviewed their current landing permit operations at the two (2) County marinas that facilitate landing opportunities. Both Bill Bird Marina and Crandon Marina require commercial vessels to have an active landing permit to conduct business. Permit holders are required to give 24-hour notice when requesting landings. A landing is counted as one (1) pick-up and one (1) drop off, weekdays and weekends. Currently, there are nine (9) active commercial landing permit holders at Bill Bird Marina and three (3) active commercial landing permit holders at Crandon Marina, none of which are considered liveries. PROS' other four (4) marinas do not facilitate landing opportunities.

In May of 2023, the MPU began tracking arrests and investigations specifically related to liveries. Since that time, the MPU has affected over 43 livery arrests and conducted over 150 inspections.

Action Plan

To comply with the mandates of this resolution, MPU, in conjunction with other departmental entities and outside agencies, conducted several weekend and weekday livery enforcement operations, which took place from Saturday, January 13, 2024, until Sunday, February 4, 2024. The goal of the operations was to conduct multi-prong, multi-agency livery enforcement

operations aimed to address the floating structures from which liveries companies operate. The MPU partnered with the MDPD Intracoastal District’s Marine Unit, MDPD Illegal Dumping Unit, MDPD Motorcycle Unit, and the MDC Department of Regulatory and Economic Resources (RER). Additionally, the operations included agencies such as the United States Coast Guard, Florida Fish and Wildlife Conservation Commission, and North Bay Village Police Department. Livery investigations were tracked by general areas of interaction such as Bear Cut or Miami Marine Stadium. Please see the attached chart identifying areas of operations for MPU (Attachment 1). Additionally, attached are photographs of various floating structures that were cited (Attachment 2).

The MPU enforces several laws such as reckless operation of a vessel, manatee zone violations, improper registration use/not registered as a commercial vessel, renting a PWC without a boater safety card, improper/insufficient safety equipment, expired vessel registration, not providing pre-ride instructions, not providing the on-the-water demonstration, not providing a rental agreement, not having insurance, conducting business without a commercial license, not having the proper commercial vehicle markings on the towing vehicle, and no local business tax receipt. One of the challenges faced by the MPU when conducting livery investigations is customers who follow instructions by rental operators to claim that they are friends of the operator and deny renting the PWC.

Below are the statistics gathered from the enforcement operations:

Statistics:

ENFORCEMENT OPERATIONS	Saturday, 01/13/24 - Sunday, 01/14/24	Wednesday, 01/17/24	Saturday, 01/20/24 - Sunday, 01/21/24	Wednesday, 01/24/24	Saturday, 01/27/24 - Sunday, 01/28/24	Saturday, 02/03/24 - Sunday, 02/04/24	TOTALS
LIVERY INVESTIGATIONS TOTAL:	14	0	15	8	6	3	46
Pelican	5	0	5	5	0	3	
Crandon Park	3	0	5	0	2	0	
Pace Picnic Island	2	0	2	2	0	0	
Hobie Beach	2	0	1	0	1	0	
Matheson Hammock	0	0	2	0	0	0	
Miami River	0	0	0	0	1	0	
Rickenbacker Marina	0	0	0	0	2	0	
Cruise Ship Channel	0	0	0	1	0	0	
Miami Marine Stadium	1	0	0	0	0	0	
Intracoastal Waterways	1	0	0	0	0	0	
TERMINATED VOYAGES	3	0	13	0	2	4	22
BOATING INSPECTIONS	28	0	15	10	28	4	85
VERBAL WARNINGS	45	0	20	8	6	6	85
CASES	6	0	3	0	2	4	15
BOATING CITATIONS TOTAL:	62	0	55	9	25	15	166
Livery Related	62	0	32	1	3	5	
Non-livery Related	0	0	23	8	22	10	
CIVIL CITATIONS	0	14	2	0	1	3	20
U.S. COAST GUARD CAPTAIN OF THE PORT ORDER	0	0	1	0	0	0	1
PROMISE TO APPEAR ARRESTS - LIVERY	7	0	6	0	1	1	15
ARRESTS - LIVERY	1	0	3	0	0	0	4
IMPOUNDED TOTAL:	6	0	9	0	0	3	18
Vessels	0	0	2	0	0	0	
Vehicle	1	0	0	0	0	0	
PWCs	4	0	7	0	0	3	
Trailer	1	0	0	0	0	0	

On each Saturday and Sunday operations, the MPU dedicated two vessels, each with two officers, for a total of four dedicated officers for illegal livery enforcement. Two officers each day worked the operation on overtime to minimize the impact on routine operations and response. The operations held on weekdays utilized on-duty officers. The fiscal impact of the operations on the MPU's overtime budget was \$9,543.20.

The MPU continues to work with the MDC Attorney's Office to close loopholes and address livery enforcement concerns by creating and/or amending laws and ordinances. Currently, livery laws require that each company register with the Florida Fish and Wildlife Conservation Commission. At the moment, the MPU does not have access to this database without the need to contact Florida Fish and Wildlife Conservation Commission officials, which causes delays in receiving information necessary during investigations. The MPU has been working with Florida Fish and Wildlife Conservation Commission to gain access to this livery database that would facilitate access to information and confirm if a livery is registered as mandated. Until then, the MPU created an electronic database to collect livery information for MPU's reference.

Additionally, the MPU periodically hosts training sessions for partner agencies regarding livery operations to ensure enforcement tactics and applicable laws are shared. Currently, the MPU has been in communication with the Florida Fish and Wildlife Conservation Commission and various other agencies to schedule the next session. The training is very informative and has been well received.

On several occasions, the MPU has experienced instances where criminal and citation cases have been prematurely dismissed, as it appears, judicial personnel do not fully understand the extent of the issues and challenges faced on the waterways. To that extent, MPU personnel continue to work with the Miami-Dade State Attorney's Office to provide training along with imparting the importance of pursuing violators. In addition, a future meeting is being scheduled with judicial personnel in furtherance of more stringent prosecution of violators. The goal is to have maritime cases seen before judges and special prosecutors who understand the intricacies of liveries and are well versed on maritime laws.

Recommendation/Conclusion

It is the recommendation of the MDPD's MPU to continue to conduct multi-agency enforcement operations to address illegal jet ski businesses and liveries, twice a month at a minimum. These investigations are lengthy and personnel intensive, often resulting in police vessels and operators being unable to respond to calls for service. Currently, the MPU is conducting two weekday and two weekend (Saturday or Sunday) operations a month utilizing on-duty resources.

With the average cost in manpower for each operation, as conducted at approximately \$3,000, the fiscal impact to MDPD's budget is projected to be \$72,000 per year. As a method to fund this enforcement activity, the MDPD's MPU will explore the creation of a fund with allocations from vessel registration fees.

Livery operations generally access the waterways by way of several marina ramps throughout MDC, including County parks. PROS revisited their policies and procedures and have currently suspended all livery landing permits until further notice.

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Should you require additional information, please contact Director Stephanie V. Daniels, Miami-Dade Police Department, at 305-471-3272.

Per Ordinance No. 14-65, this report will be placed on the next available Board meeting agenda.

Attachments (2)

1. Chart – Identifying Areas of Operation – MPU
2. Floating Structure Photographs

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CHART – Identifying Areas of Operations – MPU



Floating Structure Photographs

