

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 11-33223 CA 25

SILVIO MEMBRENO and
FLORIDA ASSOCIATION OF
VENDORS, INC.,

Plaintiffs,

v.

THE CITY OF HIALEAH, FLORIDA,

Defendants.

**DEFENDANT CITY OF HIALEAH'S SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

Defendant City of Hialeah (the "City" or "Defendant"), by and through its undersigned counsel and pursuant to Fla. R. Civ. P. 1.510, hereby files its supplemental memorandum in support of its motion for summary judgment on the claims brought against it by Plaintiffs Silvio Membreno and the Florida Association of Vendors, Inc. ("Plaintiffs"). In support thereof, the City states as follows:

Subsequent to the City's filing of its Motion for Summary Judgment, on March 13, 2014, the City deposed Plaintiff Silvio Membreno ("Membreno"). A copy of Membreno's deposition transcript is attached as Exhibit A. Plaintiffs deposed the City's corporate representative, Police Chief Sergio Velazquez, on March 14 and 19, 2014. A copy of Chief Velazquez's deposition transcript is attached as Exhibit B.

As set forth more fully in the City's Motion for Summary Judgment and Memorandum in Support, the City is entitled to summary judgment because Plaintiffs have altogether failed to

meet their burden of demonstrating that Sections 18-302 and 18-304 of the Amended Ordinance bear no reasonable relationship to the City's legitimate interests. To the contrary, the testimony of both Plaintiff Membreno as well as Chief Velazquez further support that, in fact, there are numerous legitimate bases for these provisions and that the presumptively valid provisions are rationally related to those legitimate interests. Indeed, Plaintiff Membreno admits that the City has an interest in keeping its pedestrians safe and making sure that traffic on the roadways flows freely. See Membreno Depo. Transcript at 69, 71, 102. He also concedes that boxes, stands and chairs on the sidewalks could pose safety problems for pedestrians. Id. All of these issues are directly addressed by the Amended Ordinance. Similarly, Chief Velazquez testified that the main interests the Amended Ordinance protects are public safety and traffic flow. See Velazquez Depo. Vol. I at 42, 47-51, 63-67. These interests are also set forth in the City of Hialeah Peddlers and Itinerant Vendors Traffic Assessment, dated January 7, 2013. See Traffic Assessment attached as Exhibit C. Thus, based on the record evidence, not only have Plaintiffs failed to satisfy their burden, but the evidence (including Plaintiff's own testimony) affirmatively establishes numerous legitimate interests to which the Amended Ordinance is rationally related.

In their Amended Complaint, Plaintiffs also claim that Section 18-302 of the Amended Ordinance is unconstitutionally vague. In addition to the arguments and law set forth in the City's previously-filed Motion and Memorandum, Plaintiff Membreno's own testimony establishes that Section 18-302 is clear and not vague. Membreno Depo. at 106. When asked if he understands the substance of § 18-302, Membreno testified that he interprets it to mean "[t]hat I have to move within the area from where I'm selling." Id. To confirm his understanding, he was asked whether the section is clear to him and he responded "That is correct. And if it's like

that, then I'm clear." Id. Particularly given Plaintiff Membreno's admission that the meaning of §18-302 is clear to him, Plaintiffs' vagueness challenge fails as a matter of law.

Accordingly, and for the additional reasons set forth in the City's Memorandum of Law in Support of its Motion for Summary Judgment, this Court should enter summary judgment in favor of the City on Plaintiffs' claims.

WHEREFORE, the City respectfully requests that the Court enter an order granting its motion for summary judgment in its entirety and entering judgment in its favor with respect to Plaintiffs' claims against it. The City also respectfully requests that the Court grant it such other and further relief it deems just and proper.

Respectfully submitted,

Dated: May 23, 2014

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was served electronically this **23rd** day of May, 2014 upon: **Claudia Murray Edenfield, Esq.**, Institute for Justice, Florida Chapter, 999 Brickell Avenue, Suite 720, Miami, FL 33131.

/s/Jennifer Glasser

1 IN THE CIRCUIT COURT OF THE
2 ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

3 CIVIL DIVISION

4 CASE NO.: 11-33223 CA 25

5
6 SILVIO MEMBRENO and
7 FLORIDA ASSOCIATION OF
8 VENDORS, INC.,

9 Plaintiffs,

10 vs.

11 THE CITY OF HIALEAH, FLORIDA,

12 Defendant.
13 _____/

14 1 S.E. 3rd Avenue
15 25th Floor
16 Miami, Florida
17 Thursday, 11:20 a.m.
18 March 13, 2014

19 DEPOSITION

20 OF

21 SILVIO MEMBRENO

22 Taken on behalf of the Defendant
23 Pursuant to a Notice of Taking Deposition

24 _____

25 EXHIBIT "A"

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APPEARANCES:

INSTITUTE FOR JUSTICE FLORIDA CHAPTER, by
CLAUDIA MURRAY EDENFIELD, ESQ., and
JUSTIN PEARSON, ESQ.,
On behalf of the Plaintiffs.

AKERMAN L.L.P., by
JENNIFER GLASSER, ESQ.,
On behalf of the Defendant.

WILLIAM M. GRODNICK, CITY ATTORNEY, by
LORENA E. BRAVO, ASSISTANT CITY ATTORNEY,
On behalf of the Defendants.

ALSO PRESENT: Leticia Matas, Spanish interpreter

WITNESS

SILVIO MEMBRENO

Direct Examination (By Ms. Glasser)	3
Cross Examination (By Ms. Murray Edenfield)	112
Redirect Examination (By Ms. Glasser)	116

E X H I B I T S

Defendant's Exhibit Number 1	36
Defendant's Exhibit Number 2	36
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Defendant's Exhibit Number 4	62
Defendant's Exhibit Number 5	88

1 (Thereupon, LETICIA MATAS was sworn to
2 interpret from English to Spanish and Spanish to
3 English, to the best of her ability.)

4 THE INTERPRETER: I do.

5 THEREUPON:

6 SILVIO MEMBRENO

7 was called as a witness by the Defendant and, having
8 first been duly sworn, was examined and testified
9 through the interpreter as follows:

10 THE WITNESS: Yes.

11 DIRECT EXAMINATION

12 BY MS. GLASSER:

13 Q. Good morning, Mr. Membreno. I'm Jennifer
14 Glasser. I represent the City of Hialeah. And with me
15 is Lorena Bravo, who is an Assistant City Attorney for
16 Hialeah.

17 A. Okay.

18 Q. I'm going to go over some of the basic
19 deposition rules with you first, and I understand that
20 you don't speak English fluently, so your deposition is
21 going to be taken with a translator.

22 A. Okay.

23 Q. And even if you do understand some of my
24 questions when I say them in English, please wait for
25 her to translate them to you, before you answer.

1 A. Okay.

2 Q. This deposition is being taken pursuant to the
3 Florida Rules of Civil Procedure and will be used in the
4 case that you have filed against the City of Hialeah and
5 may be used for purposes of this case and submitted to
6 the Court.

7 It's very important that if you don't
8 understand the question that I've asked, that you let me
9 know, so that I can rephrase it.

10 A. Okay.

11 Q. Otherwise I'm going to assume that you
12 understood my question. Is that fair?

13 A. Yes.

14 Q. And one other important rule is that we don't
15 talk over each other. We need to have a clean record
16 for the deposition.

17 A. Okay.

18 Q. And for the same reason, I need your answers to
19 be verbal, instead of just gestures or a shaking of the
20 head, that sort of thing.

21 A. Okay.

22 Q. If at any time you need to take a break, just
23 let us know. The only rule is that you can't take a
24 break while a question is pending, while we're in the
25 middle of a question.

1 A. Okay.

2 Q. From time to time your lawyer may object to
3 some of my questions. You still need to go ahead and
4 answer the question, unless she instructs you not to
5 answer the question.

6 A. Okay.

7 Q. Your testimony today is under oath, and even
8 though we're in a more informal setting today, your
9 testimony has the same force and effect as if you were
10 testifying before a Court --

11 A. Okay.

12 Q. -- so it's important that you tell the truth.
13 Do you understand?

14 A. Yes.

15 Q. Is there any reason today that you cannot
16 answer my questions fully, accurately and truthfully?

17 A. There are none.

18 Q. Okay. Let's proceed, then, with your
19 deposition.

20 Please state your full name, for the record.

21 A. Silvio Membreno.

22 Q. Do you have a middle name?

23 A. M.

24 Q. Does that stand for something?

25 A. Milan.

1 Q. Have you ever gone by any other names?

2 A. No.

3 Q. What is your date of birth?

4 A. 12/31/62.

5 Q. Where were you born?

6 A. Nicaragua.

7 Q. When did you move to the United States?

8 A. '98.

9 Q. Where did you move to?

10 A. Miami -- Hialeah.

11 Q. What is your current address?

12 A. 779 Southeast 11th Place, Hialeah, Florida

13 33010.

14 Q. How long have you lived there?

15 A. Sixteen years.

16 Q. So that was the first place you lived when you
17 moved here?

18 A. Yes.

19 Q. Is it a house or an apartment?

20 A. It's my sister's (sic) house.

21 Q. What is your sister's name?

22 A. Jose Membreno. It's my brother.

23 Q. Does anybody live in the house with you?

24 A. My sister.

25 Q. That's it? Just the two of you?

- 1 A. No.
- 2 Q. Is there anyone else living there?
- 3 A. Yes.
- 4 Q. Who else?
- 5 A. My sister's family.
- 6 Q. Who is that?
- 7 A. Juana Membreno.
- 8 Q. Is that your sister?
- 9 A. Yes.
- 10 Q. Okay. So you and your sister live there, and
11 who else?
- 12 A. And her family.
- 13 Q. Who is her family? Is she married?
- 14 A. Yes.
- 15 Q. Okay. Are you married?
- 16 A. No.
- 17 Q. Okay. Do you have any children?
- 18 A. Yes.
- 19 Q. Do they live with you?
- 20 A. No.
- 21 Q. Okay. Do they live in Hialeah?
- 22 A. Yes.
- 23 Q. How many children do you have?
- 24 A. Four.
- 25 Q. Okay. Do any of them work with you?

1 A. One of them helps me.

2 Q. How old are your children?

3 A. 22, 20, 19 and 10.

4 Q. Okay. Mr. Membreno, have you ever had your
5 deposition taken before?

6 A. I don't remember.

7 Q. Have you ever been a party to a lawsuit before
8 this one?

9 A. I don't remember.

10 Q. You don't remember if you've ever sued anyone
11 before?

12 A. No.

13 Q. No, you don't remember or, no, you haven't sued
14 anybody?

15 A. I don't remember.

16 Q. Have you ever testified in court before?

17 A. No.

18 Q. Have you ever been sued? Have you ever been a
19 defendant before?

20 A. No.

21 Q. But you don't remember if you've ever sued
22 anyone else?

23 A. No.

24 Q. Okay.

25 MR. PEARSON: Would you like for us to go

1 off the record for a minute and talk to our
2 client?

3 MS. GLASSER: I don't think it's necessary.

4 MR. PEARSON: Okay.

5 BY MS. GLASSER:

6 Q. You grew up in Nicaragua, correct?

7 A. Yes.

8 Q. What was your occupation in Nicaragua?

9 A. I would work with my father.

10 Q. Doing what?

11 A. In his job. In his common job.

12 Q. What was his job?

13 A. Work out in the fields.

14 Q. Did he have his own business?

15 A. Yes.

16 Q. What was his business?

17 A. Properties, cattle and agriculture.

18 Q. Did he sell products?

19 A. Yes.

20 Q. What did he sell?

21 A. Basic grains.

22 Q. And what did you do, as far as helping your
23 father? What was your role?

24 A. I would walk with him. That's what I remember
25 the most. Because, afterwards, then I devoted myself to

1 my studies.

2 Q. You would walk with him?

3 A. Yes.

4 Q. And were you paid to do that?

5 A. No.

6 Q. So how did you earn a living, while you were in
7 Nicaragua?

8 A. He helped me.

9 Q. Your father supported you?

10 A. Yes.

11 Q. Were you married, when you were in Nicaragua,
12 at any time?

13 A. No.

14 Q. Have you ever been married?

15 A. No.

16 Q. You just indicated that you went to pursue your
17 studies, correct?

18 A. Yes.

19 Q. What were those studies?

20 A. Primary and secondary school, basic.

21 Q. Did you graduate?

22 A. No.

23 Q. What was the highest grade level you got to?

24 A. Fourth grade.

25 Q. Why did you leave Nicaragua?

1 A. To come here and find a better life.

2 Q. Did you move here with anyone else?

3 A. No, I came by myself.

4 Q. At the time you moved here, did you have
5 children?

6 A. Yes.

7 Q. Where were they living at the time you moved
8 here?

9 A. In Nicaragua.

10 Q. When did they move to the United States?

11 A. It must have been in '99, around there, maybe.
12 I don't remember the date.

13 Q. Do you have any sort of educational degree?

14 A. No.

15 Q. So you said you left working with your father
16 to pursue your studies, correct?

17 A. Yes.

18 Q. About how old were you at that time?

19 A. I don't remember. When I left the house to go
20 and study, I don't remember when it was.

21 Q. A child?

22 A. Yeah. Yes.

23 Q. What have you done to prepare for today's
24 deposition?

25 A. Just show up here and say the truth.

1 Q. You didn't meet with any of your attorneys
2 beforehand?

3 A. I -- I met yesterday. I talked to her, simply.

4 MR. PEARSON: Objection, obviously.

5 BY MS. GLASSER:

6 Q. I don't want to know the specifics of any
7 conversation you had with your attorneys. Just simply
8 that you met with them, and other facts about the
9 meeting, but not conversations with them.

10 A. That's correct.

11 Q. Okay. Did you review any documents in
12 preparation for this deposition?

13 A. No.

14 Q. At any time, did you look for any documents in
15 response to requests that we -- the City sent to you?

16 A. Yes.

17 Q. What documents did you look for?

18 A. The rules of the City regarding vendors.

19 Q. And you have a copy of that?

20 A. No.

21 Q. Do you have a copy of it at home?

22 A. Yes.

23 Q. Did you look for any other documents?

24 A. No.

25 Q. Why not?

1 A. I don't know.

2 Q. Do you have any documents at all that relate to
3 this case, aside from the copy of the ordinance that you
4 just stated?

5 A. No.

6 Q. No license -- a copy of your license?

7 A. No.

8 Q. You have that?

9 A. Yes.

10 Q. What about photographs of you vending?

11 A. I do have.

12 Q. Okay. What about receipts for the purchase or
13 sale of the items you vend?

14 A. Yes.

15 Q. You have that?

16 A. Some of them.

17 Q. Okay. What about any documents relating to the
18 income you get from your vending?

19 A. No.

20 Q. You have no documentation relating to your
21 income from vending?

22 A. My income tax returns.

23 Q. You have those?

24 A. Yes.

25 Q. Okay. And you didn't gather any of these

1 documents or look for them prior to your deposition?

2 A. No.

3 Q. Why not?

4 A. I don't know why.

5 Q. Did you speak to anybody else about your
6 deposition today?

7 A. Yes.

8 Q. Who else?

9 A. With Jose Aguirre and Norma Sequeira.

10 MS. GLASSER: Can you spell the last name
11 of Norma?

12 THE INTERPRETER: Yes, S-E-Q-U-E-I-R-A.

13 BY MS. GLASSER:

14 Q. Okay. Who is Jose Aguirre?

15 A. He's part of our directors.

16 Q. Who is "ours," when you say "ours directors"?

17 A. How can I say it? The ones who, you know,
18 manage or handle this organization.

19 Q. What organization are you referring to?

20 A. The ambulatory vendors.

21 Q. What is the name of that organization?

22 A. Hialeah Ambulatory Vendors.

23 Q. Is Hialeah Ambulatory Vendors the actual name
24 of the organization?

25 A. I don't know exactly, but --

1 Q. What is your involvement with that
2 organization?

3 A. It's organized in order to sell and to defend
4 ourselves, our rights.

5 Q. And it's just within Hialeah?

6 A. Yes.

7 Q. How many members are there of this
8 organization, approximately?

9 A. Three, the directors or the board of directors,
10 and fifteen who are the support.

11 Q. So you named two of the directors, correct,
12 Jose and Norma?

13 A. Yes.

14 Q. And who is the third?

15 A. Myself.

16 Q. What is your position?

17 A. President.

18 Q. Are you the one who formed the organization?

19 A. Yes.

20 Q. When did you form it?

21 A. I don't recall exactly.

22 Q. Did you fill out the paperwork to create the
23 organization?

24 A. We gathered. We had a meeting with the group.

25 Q. Okay. And who actually did the paperwork?

1 A. The group, with the help of Claudia.

2 Q. Does the organization have meetings?

3 A. Yes.

4 Q. How often?

5 A. Very few times.

6 Q. When was the last time the organization met?

7 A. A year ago.

8 Q. What was that meeting about?

9 A. About the different points in the lawsuit that
10 was taking place.

11 Q. Okay. Can you be more specific?

12 A. Regarding the way the City was working with us.

13 Q. What do you mean by that?

14 A. The written rules and regulations the City had
15 regarding the ambulatory vendors and the way we were
16 working with those rules and regulations.

17 Q. Okay. How were you working with those rules
18 and regulations?

19 A. We were working in a pressured manner.

20 Q. Can you explain what you mean?

21 A. Let's say -- how can I explain it -- we were
22 working, but we felt we were violating those rules.

23 Q. Why did you feel you were violating the rules?

24 A. The rules state that the products could not be
25 out visible and we did have our products out visible.

1 Q. Okay. Was this meeting before or after the
2 change in the law in Hialeah?

3 A. Before.

4 Q. Okay. So the old ordinance that is no longer
5 in existence, right, that was the time frame?

6 A. Yes.

7 Q. Okay. So the last time that this organization
8 met was prior to the change in the law, correct?

9 A. Yes.

10 Q. Where did that meeting take place?

11 A. At the Latin Cafe in Hialeah.

12 Q. Were any of your attorneys -- were any of your
13 attorneys present at that meeting?

14 A. Yes.

15 Q. Who?

16 A. Claudia.

17 Q. Okay. You stated that you felt, at that time,
18 you were violating the old ordinance, correct?

19 A. Yes.

20 Q. And I think you just said by displaying goods?
21 Is that what I understood?

22 A. That was one point.

23 Q. What were the other points?

24 A. To sell in State roads, moving every ten
25 minutes from one place to another. That.

1 Q. How long was that meeting?

2 A. Approximately one hour.

3 Q. And what was the purpose of talking about the
4 violations?

5 MS. MURRAY EDENFIELD: Objection. I'm
6 instructing him not to answer.

7 MS. GLASSER: You're instructing him not to
8 answer what the purpose of his discussion was?

9 MS. MURRAY EDENFIELD: You were asking him
10 what was the purpose of having the meeting.

11 MS. GLASSER: No, the purpose -- my
12 question was -- he says they were discussing
13 violations, and I said, what was the purpose of
14 that discussion?

15 MS. MURRAY EDENFIELD: That violates
16 attorney/client privilege.

17 MS. GLASSER: The purpose?

18 MS. MURRAY EDENFIELD: Uh-huh.

19 MS. GLASSER: He's allowed to say what the
20 purpose was. He's already discussed what he
21 talked about specifically.

22 MS. MURRAY EDENFIELD: Attorney/client
23 privilege. You asked him what the purpose was.

24 MS. GLASSER: I think we'll have to take
25 that to the Court, because he's already

1 discussed any specifics.

2 BY MS. GLASSER:

3 Q. Aside from any communications you had with your
4 attorney, why did you decide to discuss the violations
5 that you perceived with the ordinance?

6 A. I don't know.

7 Q. Did you hope to accomplish something?

8 A. Yes.

9 Q. What did you hope to accomplish?

10 A. That the law would be regulated.

11 Q. What do you mean by that?

12 A. That we would be allowed to sell our products.

13 Q. In the manner that you want, correct?

14 A. Yes.

15 Q. Because the City wasn't preventing you from
16 selling your products, right?

17 A. Not the City, but the police was.

18 Q. The police told you you could not sell
19 products?

20 A. Yes, that we could not sell it at that spot and
21 showing them.

22 Q. Right.

23 But you could -- they never told you you were
24 not allowed to sell, in general, correct?

25 A. They even made us remove our products from

1 there, that we could not be selling anymore.

2 Q. In a certain manner you could not sell, but you
3 were allowed to sell, in general, right?

4 A. No.

5 Q. "No," what? I don't understand your answer.

6 A. We were not able to sell that product while
7 showing it.

8 Q. Okay. But you could sell it without showing
9 it, correct?

10 A. Correct.

11 Q. Okay.

12 A. Correct.

13 Q. Okay. Did you call the meeting of the
14 organization?

15 A. Yes.

16 Q. Okay. And the reason you called it was because
17 you wanted to change the law? Is that what you were
18 saying earlier?

19 A. Not for me, for the law to be changed in
20 Hialeah.

21 Q. You wanted the law to be changed?

22 A. That's correct.

23 Q. Okay. What specifically did you want to change
24 in the law?

25 A. Moving from one place to another, that was

1 affecting us; having the products or the goods out there
2 on a place where they could be seen; being able to sell
3 in the streets in Hialeah, even those that were State
4 streets; being those points the ones that affected us
5 the most.

6 Q. Who else was present at that meeting, besides
7 you?

8 MS. MURRAY EDENFIELD: Objection.

9 MS. GLASSER: You can go ahead and answer.

10 MS. MURRAY EDENFIELD: Objection. That's
11 one of our objections.

12 (Through the Interpreter) Don't answer the
13 question.

14 MS. BRAVO: No, you have to say it in English.

15 MS. MURRAY EDENFIELD: Objection, don't
16 answer the question. This is one of the things
17 in contention. This is asking him who the
18 members are of the association.

19 MS. GLASSER: Okay. But that's not
20 attorney/client privilege.

21 MS. MURRAY EDENFIELD: But the Judge hasn't
22 made a ruling. I'm not going to --

23 MS. GLASSER: You did not move for a
24 protective order.

25 MS. MURRAY EDENFIELD: You chose not to

1 take it to the Judge. We were coordinating
2 with you to take it before the Judge, and you
3 chose not to.

4 MS. BRAVO: It's not our burden to move to
5 protect your client.

6 MR. PEARSON: This is confidential
7 information.

8 MS. GLASSER: This is a deposition and we
9 have a right to --

10 MR. PEARSON: Not if it's confidential
11 information.

12 MS. GLASSER: The Judge hasn't made a
13 ruling, but this wasn't in a --

14 MR. PEARSON: We would have done a
15 protective order, if we had anticipated you
16 were even going to be asking about this. It's
17 confidential privileged information, and it's
18 protected by the First Amendment Rights.

19 MS. GLASSER: I'm going to reserve my right
20 to move -- it's not attorney/client privilege
21 and you can't make generally objections and
22 instruct your witness not to answer without a
23 court order prohibiting him from testifying
24 about that. We reserve the right to call him
25 back for his deposition at a future time.

1 MS. MURRAY EDENFIELD: Okay.

2 BY MS. GLASSER:

3 Q. You said that there were at least two other
4 people there, Norma and Jose?

5 MS. MURRAY EDENFIELD: Object to the form.

6 THE WITNESS: Yes.

7 BY MS. GLASSER:

8 Q. And Claudia, as well?

9 A. Claudia and the vendors who were there.

10 Q. Right. Do you know Gabriela Zelaya?

11 A. Yes.

12 Q. Is she a vendor?

13 A. Yes.

14 Q. Okay. What about -- give me one second,
15 please.

16 Oscar Rodriguez, was he there?

17 MS. MURRAY EDENFIELD: Objection. I'm
18 instructing him not to answer.

19 MS. GLASSER: I'm asking whether an
20 individual, by name, was there. What is the
21 objection?

22 MS. MURRAY EDENFIELD: The objection,
23 again, is that the members of the association
24 are confidential.

25 MS. GLASSER: I'm not asking whether they

1 are a member of the organization. I'm asking
2 if he was present.

3 MS. MURRAY EDENFIELD: You're asking about
4 a meeting of the organization.

5 MS. GLASSER: Right. And there were people
6 there that were not members of the
7 organization, so I can ask whether a particular
8 name or person was at a meeting.

9 MR. PEARSON: No. You're trying to do an
10 end run.

11 MS. GLASSER: This is a deposition where --

12 MR. PEARSON: You need to take it up before
13 the Judge, but our client is not going to
14 let --

15 MS. GLASSER: You know, there is one
16 attorney representing him today.

17 MR. PEARSON: But my co-counsel made an
18 objection. For whatever reason, you're not
19 willing to accept it.

20 MS. GLASSER: I'm not willing to accept an
21 improper order.

22 MR. PEARSON: You're asking for
23 confidential information.

24 MS. GLASSER: I'm asking if a specific name
25 of a person was at a meeting, where he didn't

1 say it was solely --

2 MR. PEARSON: You didn't ask him that
3 question.

4 MS. GLASSER: We already know that.

5 BY MS. GLASSER:

6 Q. Is Ms. Edenfield a member of the organization?

7 MS. MURRAY EDENFIELD: Objection.

8 BY MS. GLASSER:

9 Q. Do you know?

10 MS. MURRAY EDENFIELD: Objection. Don't
11 answer.

12 MS. GLASSER: What is the basis for not
13 answering that?

14 MS. MURRAY EDENFIELD: You're asking who
15 the members of the organization are.

16 MS. GLASSER: You were present at the
17 meeting.

18 MS. MURRAY EDENFIELD: It doesn't matter.
19 You are not allowed to know who are the members
20 of the organization.

21 BY MS. GLASSER:

22 Q. Do you know Romana Pastor Martinez?

23 A. Yes.

24 Q. Who is she?

25 A. A vendor.

1 Q. Was she at that meeting?

2 MS. MURRAY EDENFIELD: Objection.

3 BY MS. GLASSER:

4 Q. You can answer.

5 MS. MURRAY EDENFIELD: No, don't answer.

6 BY MS. GLASSER:

7 Q. What about Armando Chirino, do you know him?

8 A. Yes.

9 Q. Who is he?

10 A. A fruit vendor.

11 Q. Was he at that meeting?

12 MS. MURRAY EDENFIELD: Objection. Don't
13 answer.

14 BY MS. GLASSER:

15 Q. Are you accepting your attorney's instruction
16 not to answer?

17 MS. MURRAY EDENFIELD: Objection.

18 THE WITNESS: Yes.

19 BY MS. GLASSER:

20 Q. Jose Tercero, do you know him?

21 A. Yes.

22 Q. Who is that?

23 A. A vendor.

24 Q. In Hialeah?

25 A. Yes.

1 Q. Okay. Humberto Campos, do you know him?

2 A. Yes.

3 Q. Who is he?

4 A. A vendor.

5 Q. In Hialeah?

6 A. Yes.

7 MS. MURRAY EDENFIELD: Object to the form.

8 BY MS. GLASSER:

9 Q. Gilberto Echevarria, do you know him?

10 A. Yes.

11 Q. Who is he?

12 A. A fruit vendor.

13 Q. In Hialeah?

14 A. Yes.

15 MS. MURRAY EDENFIELD: Object to the form.

16 BY MS. GLASSER:

17 Q. And Ramon Tercero, do you know him?

18 A. Yes.

19 Q. Who is he?

20 A. A flower vendor.

21 Q. In Hialeah?

22 A. Yes.

23 MS. MURRAY EDENFIELD: Object to the form.

24 BY MS. GLASSER:

25 Q. What about a Juan Gabriel Rodriguez, do you

1 know that name?

2 A. I don't recall who he is.

3 Q. Okay. What about Oscar Rodriguez, do you know
4 who that is?

5 A. I don't remember.

6 Q. Jose Samuel Terceron, do you know who that is?

7 A. Yes.

8 Q. Who is that?

9 A. A vendor.

10 Q. Of what products?

11 A. Flowers.

12 Q. In the City of Hialeah?

13 A. Yes.

14 Q. You said you spoke with Norma and Jose prior to
15 this deposition about this deposition, correct?

16 A. Yes.

17 Q. What did you discuss with them?

18 MS. MURRAY EDENFIELD: Object to the form.

19 BY MS. GLASSER:

20 Q. You can go ahead and answer.

21 A. About this meeting that I was coming to.

22 Q. How long was that discussion?

23 A. Three minutes.

24 Q. When was that?

25 A. Over the phone.

1 Q. Just telling them that you had this meeting
2 scheduled?

3 MS. MURRAY EDENFIELD: Object to the form.

4 BY MS. GLASSER:

5 Q. You can answer.

6 A. Yes.

7 Q. Aside from that conversation, have you had
8 discussions with anyone else -- I don't want to know the
9 content of any conversations you might have had with
10 your attorney -- about this deposition?

11 A. No.

12 Q. How long have you been the president of the
13 organization?

14 A. I have always been the president, even though
15 it's not on the document.

16 Q. Okay. What documents are you referring to?

17 A. From the organization.

18 Q. Are you talking about the Articles of
19 Incorporation?

20 A. Let me explain myself. I have always been a
21 leader, like the representative of them in Hialeah.

22 Q. Representative to whom?

23 A. To the ambulatory vendors, who have no voice.

24 Q. But you've been a spokesperson for them to
25 whom? Who do you speak to on behalf of them?

1 A. Regarding every aspects where there might be
2 problems.

3 Q. Okay. But what I'm asking is, give me some
4 examples then.

5 A. Just like I'm a representative of the church, I
6 feel the need to be with them and support them, because
7 they do not all have the resources. I have seen the
8 reality that they live, and they needed someone to
9 support them, someone who would be the spokesperson.

10 Q. And someone who has the resources?

11 A. Yes.

12 Q. So that's you?

13 A. Yes.

14 Q. And have Norma and Jose always served as
15 directors of the organization?

16 A. Yes.

17 Q. How does one become a member of the
18 organization, if they choose to?

19 A. We meet. We gather at a meeting, and if you
20 want to participate and be a part of that organization
21 of ambulatory vendors, then you just are.

22 Q. But the last meeting, you said was a year ago,
23 right?

24 A. A meeting as a group, but we all communicate
25 with each other by phone.

1 Q. Okay. So people have called you and said, "I
2 want to become a member of this group"?

3 A. Yes.

4 Q. Okay. And as a member of the group, what
5 benefits do the individuals get?

6 A. They get to know the rights that the vendor
7 has, they can sell freely at some spot, and to have a
8 license so that you can have your rights to sell, keep
9 the City clean.

10 Q. So do you explain them their rights as vendors?

11 A. Yes.

12 Q. And do you help them get licenses, if they
13 want?

14 A. Yes.

15 Q. Did you explain to them, when the ordinance was
16 changed, what the new ordinance allowed for?

17 A. Yes.

18 Q. Do you have to pay for a license?

19 A. Yes.

20 Q. How much is the fee?

21 A. 45 for the Hialeah and 100 for the County.

22 Q. Do you pay for the other vendors' licenses?

23 A. No.

24 Q. Only for yours?

25 A. Yes.

1 Q. Okay. So you've now just handed me two
2 documents, correct?

3 A. Yes.

4 Q. And one is your Hialeah vendor ID?

5 A. Yes.

6 Q. Okay. And the other is a Local Business Tax
7 receipt for the County, correct?

8 A. Yes.

9 Q. What does the Hialeah vending license allow you
10 to do?

11 A. It allows me to sell freely within the City.

12 Q. What do you mean by "freely within the City"?

13 A. That is without any restrictions.

14 Q. No restrictions?

15 A. Yes.

16 Q. So this license allows you to open up a store
17 and sell?

18 A. No.

19 Q. Okay. Does it allow you to sell in the middle
20 of the street?

21 A. On the street, yes.

22 Q. Without any restrictions?

23 A. Yes.

24 Q. And it allows you to set up a stand on a
25 sidewalk and sell?

1 A. That's what we were analyzing that the law
2 stated.

3 Q. What is your understanding of what the law
4 stated with respect to that?

5 A. That one cannot have the merchandise visibly,
6 before. And now, with the new law, which is what we are
7 attempting to, so they allow for us to show the product
8 so we can sell it.

9 Q. So this license does restrict the way in which
10 you can sell, it's not completely freely, correct?

11 A. Yes.

12 Q. Okay. And did you explain those restrictions
13 to the other vendors?

14 A. Yes.

15 Q. Okay. What did you explain to them under
16 the -- when the new ordinance came out, what did you
17 explain to the vendors?

18 MS. MURRAY EDENFIELD: Object to the form.

19 THE WITNESS: That the law had not yet been
20 approved, but that there were some regulations
21 that favored us.

22 BY MS. GLASSER:

23 Q. What do you mean by that?

24 A. That we would be able to sell without having
25 problems with the police.

1 Q. The new ordinance would allow you to sell
2 without having problems from the police, that was your
3 understanding?

4 A. Yes.

5 Q. Okay. Why do you say that?

6 A. Well, the police showed us -- the police
7 arrived and told us that we were able to sell.

8 Q. Go ahead.

9 A. Yes, that the police came and showed me and
10 told us, and that's why I told them that the police
11 officer, Frank Caldara, told me that we were able to
12 sell.

13 Q. Without any restrictions?

14 A. Yes, for the moment.

15 Q. When was this?

16 A. After the approval.

17 Q. So after the approval of the new ordinance,
18 Detective Caldara told you you could sell your products
19 without any restrictions?

20 A. Without the restrictions that were previously
21 specified.

22 Q. Okay. Were there any new restrictions when the
23 new ordinance was passed?

24 A. No.

25 Q. Did you ever read the new ordinance?

1 A. Yes.

2 Q. Okay. When was that?

3 A. After it was approved.

4 Q. So shortly after it was approved?

5 A. Yes.

6 Q. Did you participate in any way in the changes
7 that were made to the ordinance?

8 A. With my help, you know, with what I offered
9 regarding what we liked or disliked about it.

10 Q. So as it was being re-drafted, you participated
11 in that process?

12 A. Yes.

13 Q. What were your specific suggestions?

14 A. For us to be allowed to sell while showing our
15 products. Since we are people who like to make an
16 honest living, to be allowed to sell on the streets. To
17 remove that article of the law that stated that every
18 five minutes we had to move, so that we would be allowed
19 to keep a clientele.

20 Q. And, in fact, the restriction with regard to
21 moving every ten minutes was taken out of the ordinance,
22 correct?

23 A. Yes.

24 Q. And what is it now? What is the law on that
25 now?

1 (Discussion off the record.)

2 THE WITNESS: Okay.

3 BY MS. GLASSER:

4 Q. Okay. Does that refresh your recollection of
5 how the ordinance was changed with respect to getting
6 rid of the ten-minute standstill requirement?

7 A. Yes.

8 Q. Okay. And what is your understanding?

9 A. That is the change that favors us, while
10 letting us stay there and sell.

11 Q. So the ordinance now lets you stand still and
12 sell?

13 A. Yes.

14 Q. And you can stay in one place indefinitely and
15 sell? Is that your understanding?

16 A. Yes.

17 Q. Is that what you explained to the vendors?

18 A. Yes.

19 Q. So you don't believe that the ordinance
20 requires you to keep moving?

21 A. That I don't believe --

22 Q. Your understanding is that the ordinance does
23 not require you, as a vendor, to keep moving?

24 A. Yes.

25 Q. Okay. What is your understanding about moving?

1 A. That we can stay there and we don't have to
2 move to some other place.

3 Q. Okay. Where are you getting that understanding
4 from, in the ordinance? Can you point me to that
5 provision?

6 A. Well, that's what the police explained to us,
7 you see. They were the ones who interpreted that. It
8 was not us.

9 Q. And so the police told you that you don't have
10 to keep moving when you sell your products?

11 A. Moving from one place to another.

12 Q. That you don't need to?

13 A. Yes.

14 Q. Okay.

15 MS. MURRAY EDENFIELD: Do you want to take
16 a break?

17 (Short recess taken.)

18 BY MS. GLASSER:

19 Q. Have you ever been -- and I'm talking about
20 since the new ordinance went into place, the one that
21 you're looking at, have you ever been cited or arrested
22 or otherwise fined for violating the ordinance?

23 A. No.

24 Q. So you said that the new ordinance or that
25 provision of the ordinance that we're discussing

1 actually favors vendors?

2 A. Yes.

3 Q. So you don't have a problem with that part of
4 the ordinance?

5 A. No.

6 Q. How else did the ordinance change? What is
7 your understanding of how else the ordinance changed
8 from the prior version?

9 A. I don't recall exactly right now.

10 Q. What is it that you sell, Mr. Membreno?

11 A. Flowers.

12 Q. Anything else? Anything else?

13 A. No.

14 Q. What kind of flowers?

15 A. Roses and sunflowers.

16 Q. Is that the only product you've sold as a
17 vendor in Hialeah?

18 A. And on some occasions, fruits.

19 Q. What kind of fruits?

20 A. Mamoncillos.

21 MS. MURRAY EDENFIELD: Muscadine grapes.

22 BY MS. GLASSER:

23 Q. Do you have your own company?

24 A. Yes.

25 Q. What is the name of the company?

1 A. Ezequiel Flowers.

2 Q. Can you spell that, please?

3 THE INTERPRETER: E-Z-E-Q-U-I-E-L.

4 BY MS. GLASSER:

5 Q. Is it a Florida company?

6 A. Yes.

7 Q. Is it incorporated?

8 A. No.

9 MS. GLASSER: I'm going to go ahead and
10 mark this as Exhibit 3. It's a two-page
11 document.

12 (Thereupon, Defendant's Exhibit Number 3 was
13 marked for Identification.)

14 BY MS. GLASSER:

15 Q. Did you bring any other documents with you
16 today?

17 A. No.

18 Q. Do you have or does the Ezequiel Flower Company
19 have any employees?

20 A. No.

21 Q. Does anybody else work for the company, besides
22 yourself?

23 A. No.

24 Q. Does this company file tax returns?

25 A. Yes.

1 Q. So you file a corporate tax return separate
2 from your individual return, correct?

3 A. Yes.

4 Q. Does the company, Ezequiel, have an office?

5 A. No, a house.

6 Q. Ezequiel Flower Enterprise operates out of a
7 house?

8 A. The company is just to import the flowers from
9 Ecuador.

10 Q. Okay. So what is done in the house where you
11 said the company is?

12 A. Nothing. Nothing regarding the preparation of
13 the roses. It just has an address for the company.

14 Q. Whose house is that?

15 A. I rent it.

16 Q. But you don't live there?

17 A. No.

18 Q. Does anybody live there?

19 A. Yes.

20 Q. Who lives there?

21 A. My daughter's mother.

22 Q. Okay. What is her name?

23 A. Gabriela.

24 Q. Last name?

25 A. Zelaya, Z-E-L-A-Y-A.

1 Q. Does she vend?

2 A. Yes, she vends.

3 Q. With you?

4 A. Sometimes.

5 Q. Why do you rent that house?

6 A. So that my daughter can live there.

7 Q. Okay. And why do you use that address for your
8 company?

9 A. I can do it.

10 Q. But why did you choose that address for your
11 company?

12 A. It's close to the business.

13 Q. Close to what business?

14 A. Of where I sell, out on the streets.

15 Q. Okay. What about your home address, that's not
16 close to where you vend?

17 A. It's farther away.

18 Q. Do you ever have to store the flowers
19 overnight?

20 A. Yes.

21 Q. Where do you do that?

22 A. At the house.

23 Q. Which house?

24 A. There at the address for the company.

25 Q. Okay. So that's the 621 East 41st Street --

1 A. Yes. Yes.

2 Q. How do you store them in the house?

3 A. I don't know how to explain it. Whatever I
4 have left over, I bring to the house, and, let's say, at
5 the living room.

6 Q. They don't have to be refrigerated?

7 A. From one day to the next one, there is no
8 problem.

9 Q. So you just store them in buckets or how?

10 A. Like that, in buckets.

11 Q. Do you store anything else in that house for
12 your business?

13 A. No.

14 Q. Only flowers?

15 A. Yes.

16 Q. Do you have any equipment for your business?

17 A. Just materials to do flower arrangements.

18 Q. Like what?

19 A. Scissors, things to pull out the thorns.

20 Materials that you use for flowers.

21 Q. Do you wrap the flowers in anything?

22 A. Yes.

23 Q. What do you wrap them in?

24 A. In small packages. Like in small arrangements.

25 Q. Inside of plastic or paper or what?

1 A. A plastic.

2 Q. Okay. And you keep that at the 621 East 41st
3 Street address?

4 A. Sometimes. Sometimes I have it with me in the
5 car.

6 Q. Okay. Where do you buy the flowers from?

7 A. From different places.

8 Q. What places?

9 A. I import from Ecuador, and I purchase them at
10 Royal.

11 Q. Royal Flowers, Inc.?

12 A. Correct.

13 Q. That's the name that's on this document you
14 handed me, correct --

15 A. Yes.

16 Q. -- as Exhibit 3?

17 Is Royal Flowers the only place you buy your
18 flowers from?

19 A. Sometimes I do.

20 Q. Who else?

21 A. JJ Flowers.

22 Q. Anyone else?

23 A. Just that.

24 Q. How often do you pick up the flowers from these
25 companies or do they deliver to you?

1 MS. MURRAY EDENFIELD: Object to the form.

2 THE WITNESS: I don't know how often. It
3 depends on what products I have. I go there as
4 often as I need to, whenever I need to.

5 BY MS. GLASSER:

6 Q. When you say, "There," it's to the -- is it
7 2020 Northwest 89th Place, for Royal Flowers?

8 A. Yes.

9 Q. But it's not every day?

10 A. No.

11 Q. More than once a week, usually?

12 A. Once a week, approximately.

13 Q. Okay. So you go and you get enough flowers
14 each time for approximately a week, correct?

15 A. Yeah. Now that's the frequency that we have,
16 because business is not very good now.

17 Q. Okay. Since when has business not been very
18 good?

19 A. Two years.

20 Q. And prior to two years ago, business was good?

21 A. It was better.

22 Q. When was your best year, would you say?

23 A. 2010.

24 Q. Why do you think it was so good in 2010?

25 A. I don't know. We sold more that year.

1 Q. About how much did you sell that year?

2 MR. PEARSON: Just a clarification. Are
3 you asking him for a number of flowers or
4 monetarily?

5 MS. GLASSER: Monetarily.

6 MR. PEARSON: Because we object. That's
7 confidential financial information.

8 MS. GLASSER: Are you instructing him not
9 to answer?

10 MR. PEARSON: Yes, we are.

11 MS. GLASSER: Okay. And we, again, reserve
12 the right to bring him back to be deposed on
13 specific issues that have been raised by your
14 complaint, and it's directly relevant to this
15 case.

16 BY MS. GLASSER:

17 Q. 2010 you said was your best year, correct?

18 A. Yes.

19 Q. Which would you say was your worst year?

20 A. The one that just passed.

21 Q. 2013?

22 A. Yes.

23 Q. In 2013, about what quantity of flowers did you
24 sell per day?

25 A. The quantity? About a hundred dollars in

1 flowers.

2 Q. \$100 in sales of flowers each day?

3 A. Yes.

4 Q. And do you sell only in Hialeah?

5 A. No.

6 Q. Where else do you sell?

7 A. Miami Lakes.

8 Q. And were your sales -- in 2013, you sold in
9 Hialeah and Miami Lakes?

10 A. Yes.

11 Q. Do you sell more in Hialeah or Miami Lakes?

12 A. No, about the same.

13 Q. So your sales went down in both, Hialeah and
14 Miami Lakes, over the past few years; is that correct?

15 A. Yes.

16 Q. Okay. Why do you think your sales went down?

17 MS. MURRAY EDENFIELD: Object to the form.

18 THE WITNESS: Because we have not sold. No
19 sales, that's why. Oh, the reasons why we have
20 not sold?

21 BY MS. GLASSER:

22 Q. Yes.

23 A. I think it's because we did not have the same
24 pressure to sell. The restrictions those years affected
25 us.

1 Q. Okay. Can you explain that to me, please?

2 A. There were days when we were not able to sell,
3 because the police would not allow us to sell. We would
4 lose our steady clients that would come there and buy.

5 Q. In 2013?

6 A. Yes.

7 Q. In both, Hialeah and Miami Lakes?

8 A. In Hialeah.

9 Q. Okay. And Miami Lakes, your sales went down,
10 though, as well, correct?

11 A. Yes.

12 Q. Do they have the same restrictions there as
13 Hialeah with regard to vending?

14 A. No.

15 Q. So then why do you think your sales went down
16 in Miami Lakes?

17 MS. MURRAY EDENFIELD: Object to the form.

18 THE WITNESS: I don't know.

19 BY MS. GLASSER:

20 Q. So it could be for reasons other than the
21 restrictions in the ordinance, right?

22 MS. MURRAY EDENFIELD: Object to the form.

23 THE WITNESS: Yes.

24 BY MS. GLASSER:

25 Q. And in Hialeah, as well?

1 A. Yes.

2 Q. Okay. Do you sell directly to the customer?

3 A. Yes.

4 Q. And how much do you sell the flowers for?

5 A. Five and ten.

6 Q. What do you mean, "five and ten"?

7 A. The case, I prepare them and I sell them for
8 five and for ten.

9 Q. What do you get for five dollars and what do
10 you get for ten dollars?

11 A. Six roses -- six flowers for five, and twelve
12 for ten. That's what I do. There are other people who
13 sell them for -- other different prices.

14 Q. Do you sell your flowers to other vendors?

15 A. Now I don't.

16 Q. Did you, at one point?

17 A. Yes.

18 Q. When?

19 A. Years ago.

20 Q. When did you stop?

21 A. A year or two years ago, more or less.

22 Q. Why did you stop?

23 A. I don't know. Sometimes it's better for me
24 just to sell my products than to sell to somebody else.

25 Q. Why is that?

1 A. When I sell it myself, I make more money. If I
2 sell to them, I don't produce much income. Before, I
3 would do that to help them out, to help the vendors.

4 Q. But then you decided to stop doing that,
5 correct?

6 A. Yes.

7 Q. So in May 2013, less than a year ago, were you
8 selling flowers to other vendors?

9 A. To some of them.

10 Q. About how many?

11 A. Not much. I don't remember.

12 Q. Less than ten?

13 A. Yes.

14 Q. Maybe less than five?

15 A. No. Ten, more or less.

16 Q. Okay. And you regularly supplied them? I'm
17 going back to May of last year.

18 A. Yes.

19 Q. Okay. So when did you stop supplying vendors
20 with flowers?

21 A. This year.

22 Q. Well, this year has only been a few months, so
23 within the last couple of months you stopped?

24 A. Yes.

25 Q. Okay. So you're no longer in the business of

1 distributing flowers, correct?

2 A. Yes. Now I'm selling directly.

3 Q. Okay. And that's because you make more money
4 for yourself that way? Is that what you said?

5 A. Yes.

6 Q. Okay. Within Hialeah, where do you sell your
7 flowers?

8 A. On 49th and 4th, West, in Hialeah.

9 Q. Only at that location?

10 A. And in Miami Lakes.

11 Q. Right. Sorry, bad question.

12 Within Hialeah, you sell only at that one
13 location; is that correct?

14 A. Yes.

15 Q. How do you sell them?

16 A. I prepare small arrangements and I sell them.

17 Q. Where do you prepare the arrangements?

18 A. Some at the house and some right there as I'm
19 selling them. Right across, I have a clinic on the
20 corner there, from which I rent some space there on the
21 parking lot.

22 Q. Okay. Right across from what is the clinic?

23 A. Of 49th and 4th, West.

24 Q. What is the name of the clinic?

25 A. It's for pregnant women. I don't know the name

1 of the company.

2 Q. Who do you rent the space from?

3 A. From the doctor or the person there in charge
4 of the clinic. I don't know if it's her or the manager
5 there.

6 Q. What's the name of the person?

7 A. I don't know the name exactly.

8 Q. Do you pay to rent the space?

9 MS. MURRAY EDENFIELD: Objection.

10 THE WITNESS: No.

11 BY MS. GLASSER:

12 Q. So in other words, they just give you
13 permission to use the space?

14 A. Yes.

15 Q. Do you have written documentation that allows
16 you to use that space?

17 A. Yes.

18 Q. Have you provided that documentation to the
19 City?

20 A. No.

21 Q. Why not?

22 A. They have not requested it.

23 Q. Do you know that it's a requirement of the
24 amended ordinance to provide the City with such
25 documentation?

1 A. Yes.

2 Q. But you haven't done so?

3 A. Yes, I have forgotten to.

4 Q. When did you start renting that space?

5 A. Some months ago.

6 Q. This year?

7 A. Last year.

8 Q. Okay. And what is the space that you're
9 allowed to use?

10 A. One of the parking spots.

11 Q. Okay. And how do you use that parking spot?

12 A. To prepare the roses.

13 Q. Do you have a table set up there? Describe to
14 me what is in the spot.

15 MS. MURRAY EDENFIELD: Object to the form.

16 THE WITNESS: I have my vehicle, my van.

17 BY MS. GLASSER:

18 Q. Your van is parked there?

19 A. Yes.

20 Q. And, then, inside the van you create the
21 arrangements?

22 A. Yes.

23 Q. So I want you to describe for me, please,
24 the -- how your day begins with the flowers.

25 MS. MURRAY EDENFIELD: Object to the form.

1 THE WITNESS: I start preparing the
2 arrangements at 5:00 a.m., when I wake up.

3 BY MS. GLASSER:

4 Q. Where do you start preparing at 5:00 a.m.?

5 A. At the house.

6 Q. Which house?

7 A. At the 4 -- 621, the one there.

8 Q. Okay. So every morning you go from your --
9 where you reside, where you live, over to Ezequiel
10 Flower at 621 East 41st Street, right?

11 A. Yes, every day.

12 Q. Seven days a week?

13 A. Yes.

14 Q. And you start making the arrangements there,
15 the flower arrangements?

16 A. Yes.

17 Q. Okay. Then what next?

18 A. I move to the corner.

19 Q. Well, you have to load the flowers in the van,
20 I assume?

21 A. Yes.

22 Q. Okay. Anything else that you have to do while
23 you're at Ezequiel Flowers?

24 A. No.

25 Q. Okay. So you load the flowers onto the van and

1 then what?

2 A. I go to the corner.

3 Q. Okay. Same corner every day?

4 A. Yes.

5 Q. And what do you do when you get to that corner?

6 A. I prepare the roses so that they can be seen,
7 so that they're visible, and I'm moving about on that
8 corner.

9 Q. Okay. Let's take the first part of what you
10 said first. You said you prepare the flowers so that
11 they're visible, correct?

12 A. Yes.

13 Q. Okay. What do you mean by that?

14 A. I pull them out, and I put them in the packing
15 or in the buckets.

16 Q. Okay. And where do you place the buckets?

17 A. Inside the van.

18 Q. So you keep the buckets of flowers inside the
19 van?

20 A. And some of them outside the van.

21 Q. The van, which is in the parking spot of the
22 clinic, correct?

23 A. Yes.

24 Q. So do you have anything set up across from that
25 corner, where you said 49th and West 4th --

1 A. Yes.

2 Q. Okay. What do you have there?

3 A. The van.

4 Q. You indicated that the van is in the parking
5 lot of the clinic, right?

6 A. Of course.

7 Q. And then across the intersection, I thought --
8 maybe I misunderstood -- you had flowers set up?

9 A. No, no, not across the intersection. On the
10 parking lot.

11 Q. Okay. So you sell from the parking lot; is
12 that correct?

13 A. Yes, from the parking lot and on the street.

14 Q. Okay. So within the parking lot, describe the
15 set-up that you have.

16 A. Inside the van, and then outside the van, on
17 the corner there, two buckets.

18 Q. So you have two buckets placed outside the van,
19 inside the parking spot; is that correct?

20 A. Yes.

21 Q. Okay. So once you have your buckets set up
22 outside the van, what do you do next?

23 A. I start selling.

24 Q. How do you sell?

25 A. On the street, and on the parking lot.

1 Q. Okay. Within the parking lot, how do you sell?

2 A. The clients who get there, I take care of them
3 there.

4 Q. Explain that to me.

5 A. The clients who get there to that parking lot
6 where I'm parked, I take care of them, and the ones who
7 are passing by the street, I also take care of them.

8 Q. Okay. The ones in the parking lot, are they
9 driving up to you or are they walking from somewhere?

10 A. No, they're driving.

11 Q. So they're driving and they pull up to your
12 parking spot where your van is; is that correct?

13 A. Yes.

14 Q. Do they have to get out of the car or do you
15 bring the flowers to them while they're in the car?

16 A. Both ways.

17 Q. Okay. Do they pull off the road in order to
18 purchase the flowers?

19 A. Yes, sometimes.

20 Q. And some don't?

21 A. Yes.

22 Q. The ones who don't, they're driving on the
23 street at the time you make the sale?

24 A. Yes.

25 MR. PEARSON: It's about 10 after 1:00.

1 Can we go to lunch soon or maybe now?

2 MS. GLASSER: Sure. That sounds fine.

3 (Lunch recess taken from 1:10 p.m. until 2:00
4 p.m.)

5 BY MS. GLASSER:

6 Q. We're back on the record now, Mr. Membreno. I
7 just want to ask you one thing. During the break, you
8 went and had lunch, correct?

9 A. Yes.

10 Q. Did you discuss your testimony or this
11 deposition at all during lunch?

12 MS. MURRAY EDENFIELD: Objection,
13 attorney/client privilege.

14 MS. GLASSER: Whether he discussed the
15 deposition? If he's discussing the deposition,
16 he's not permitted to discuss the deposition
17 during the break.

18 MS. MURRAY EDENFIELD: You can't ask for
19 the content --

20 MS. GLASSER: He's not permitted to
21 discuss --

22 MS. MURRAY EDENFIELD: You're not permitted
23 to ask what he is discussing with us.

24 MS. BRAVO: We asked if he discussed the
25 deposition today.

1 MS. MURRAY EDENFIELD: You're asking him
2 about the content --

3 MS. BRAVO: The question is, did he discuss
4 the taking of his deposition while he was at
5 lunch, not what the discussion was about, but
6 if he had a discussion.

7 MR. PEARSON: You can ask him if he talked
8 to anybody other than his attorney --

9 BY MS. GLASSER:

10 Q. During lunch, did you discuss your deposition
11 testimony at all?

12 MS. MURRAY EDENFIELD: Objection. Don't
13 answer it.

14 MS. GLASSER: You're instructing him not to
15 answer whether at lunch today he discussed his
16 deposition testimony?

17 MS. MURRAY EDENFIELD: Yes.

18 MS. GLASSER: On what basis?

19 MS. MURRAY EDENFIELD: Attorney/client
20 privilege.

21 MS. GLASSER: My question is, did he
22 discuss the deposition testimony while he was
23 at lunch. I didn't ask him the content of what
24 he discussed with his attorneys --

25 MS. MURRAY EDENFIELD: If I can clarify

1 with him that he's not allowed to discuss
2 anything that we discussed --

3 MS. GLASSER: I want to know if he
4 discussed his deposition testimony, and that is
5 a permissible question, during lunch -- during
6 the break.

7 MS. MURRAY EDENFIELD: I am telling him not
8 to answer regarding anything that he discussed
9 with his attorney at all. If he wants to
10 answer based on what he discussed with someone
11 else, that's fine.

12 Do you understand?

13 THE WITNESS: Yes. No.

14 BY MS. GLASSER:

15 Q. No, you did not -- I'm not understanding your
16 answer. No, you did not discuss your deposition
17 testimony?

18 A. I don't know how to explain myself. If she
19 says that I should not talk, then I won't talk.

20 MS. GLASSER: Just to be clear, for the
21 record, are you instructing your client not to
22 answer that question?

23 MS. MURRAY EDENFIELD: I'm instructing my
24 client not to answer regarding -- not to
25 discuss anything that he discussed with his

1 attorneys.

2 MS. BRAVO: Not to discuss the content --

3 BY MS. GLASSER:

4 Q. Mr. Membreno, without discussing the content of
5 any conversation you had with your attorneys today, did
6 you discuss your deposition testimony at lunch today?

7 A. Yes.

8 Q. You did?

9 A. Yes.

10 Q. With who?

11 A. With them. With my attorneys.

12 MS. MURRAY EDENFIELD: Objection.

13 MS. GLASSER: Are you objecting to his
14 answer?

15 MS. MURRAY EDENFIELD: To the question.

16 MS. GLASSER: Of who he had discussions
17 with?

18 MS. MURRAY EDENFIELD: He told you he
19 didn't discuss it with anyone.

20 MS. GLASSER: He has a different
21 recollection now.

22 BY MS. GLASSER:

23 Q. So you discussed the contents of this
24 deposition today during lunch?

25 A. Not regarding the contents, but how it's coming

1 along.

2 Q. And that's it?

3 A. Yes. I asked her --

4 MS. MURRAY EDENFIELD: Objection.

5 MR. PEARSON: This is an attorney/client
6 privileged conversation.

7 BY MS. GLASSER:

8 Q. Okay. Mr. Membreno, before the lunch break, we
9 were discussing your vending at the intersection of 49th
10 Street and 4th Avenue, right?

11 A. Yes.

12 (Thereupon, Defendant's Exhibit Number 4 was
13 marked for Identification.)

14 BY MS. GLASSER:

15 Q. Okay. I'm going to show you what's been marked
16 as Defendant's Exhibit 4 for identification, and ask you
17 to take a look at that. Do you recognize that area
18 that's shown on that map?

19 A. Yes. That's the area.

20 Q. The area where you vend?

21 A. Yes.

22 Q. Okay. Can you show me where on the --
23 specifically on that map you set up your van?

24 A. Where are the clinics in here? Help me.

25 MS. BRAVO: This is north.

1 MS. MURRAY EDENFIELD: This is towards the
2 Palmetto.

3 THE WITNESS: Yes, because I cannot just
4 locate it there.

5 MS. BRAVO: This is the Walmart. This is
6 the bank and the attorney's office. The
7 clinics are along this road here, where it
8 says, "West 4th Avenue."

9 THE WITNESS: Yes, that's the clinic.

10 BY MS. GLASSER:

11 Q. Okay. So where, in this area, is your van
12 parked?

13 A. On 390. That's the number for the clinic.

14 Q. Okay. Can you mark for me where you typically
15 park?

16 A. It's that I cannot really find it very well. I
17 know it's at the clinic, 290 (sic). It's in front of
18 the clinic.

19 Q. Do you see, on this map, the intersection where
20 you sell the flowers?

21 A. Yes, on this part here. That's my
22 understanding.

23 Q. Here, can you go ahead and mark it, so we can
24 see, with a pen?

25 Okay. So the area where you marked right now,

1 put an "X" there, if you don't mind -- perfect.

2 What happens there in the area where you
3 marked?

4 A. Here is where I have the van.

5 Q. Okay. Can you put a "V" for van?

6 A. It's that I'm not really sure if it's right
7 there.

8 Q. It doesn't mean to be the precise spot, but in
9 the area.

10 A. That's the area.

11 Q. Okay. Can you mark it with a "V"?

12 Okay. So you park your van in this general
13 area where you have the "V," correct?

14 A. Yes.

15 Q. And you have some buckets placed outside the
16 van, in the area where the van is; is that correct?

17 A. Yes.

18 Q. Okay. And, then, when you said you walk to the
19 intersection when cars are going by, where, on here, do
20 you walk to sell the flowers?

21 A. Across from it.

22 Q. On this side, here?

23 A. Yes.

24 Q. Okay. And what exactly do you do when you walk
25 on this area here that you just pointed to?

1 A. By this area, I offer it to the vehicles that
2 are passing by.

3 Q. Where are you physically located? Are you on
4 the street? Is there a swale, sidewalk?

5 A. On the sidewalk, and underneath the shade of
6 the tree.

7 Q. Okay. And if somebody in a car wants to
8 purchase flowers from you, what do you do?

9 A. I go over and I sell it to the car, here.

10 Q. You're pointing into the street. You go into
11 the street to make the sale?

12 A. Yes.

13 Q. Are there any traffic lights in this area?

14 A. The one on 103rd. The one on 49th.

15 Q. In this particular intersection, can you mark
16 where there are traffic lights? Do you know?

17 A. I think the traffic light is here, in this
18 middle part. I think.

19 Q. Okay. Is there a median in that road?

20 A. No. It's under construction right now, that
21 area there.

22 Q. Okay. And what do you do, if anything, to get
23 the attention of the people driving, to show them that
24 you're selling flowers?

25 A. Well, most of the people already know that I

1 sell over there.

2 Q. How do they know that?

3 A. Well, fifteen or sixteen years of knowing that
4 I'm there selling them.

5 Q. Every day?

6 A. Every day.

7 Q. Same spot?

8 A. Same spot. And if I'm not there, I leave
9 someone there, someone is there taking care of it, of
10 the roses, the van.

11 Q. Who else would take care of it, if you are not
12 there?

13 A. It could be Gabriela or any other person that I
14 see that I trust.

15 Q. They'll sell your flowers for you?

16 A. Yes.

17 Q. And do they get to keep a portion of the sales?

18 A. Yes.

19 Q. Okay. How often does that happen?

20 A. Now it happens less frequently. Before it
21 happened more often.

22 Q. Before, what?

23 A. Years ago.

24 Q. Okay. Why did you change?

25 A. I'm no longer in Miami Lakes. I'm in Hialeah.

1 Q. Okay. So before you would physically sell in
2 Miami Lakes and you had somebody else sell for you in
3 Hialeah? Is that what you're saying?

4 A. Not for me. He was selling for himself, but I
5 gave him the roses. That's when I distributed them.

6 Q. Gave them for free?

7 A. No. No. I would sell them to those people,
8 and then they would sell them for themselves.

9 Q. Okay. But I'm talking about at this
10 intersection. You said at one point you had other
11 people selling for you when you weren't there?

12 A. Yes. The flowers that I would -- so that you
13 understand, I would bring in the flowers. I would give
14 the flowers to them. They would prepare them, and then
15 they would sell their flowers. Whatever they made, it
16 was for them.

17 But with these last problems that were
18 occurring, this person that was selling for me, that
19 person left to Nicaragua. He did not keep on selling,
20 and so then I automatically went back to sell my
21 flowers, and I'm there.

22 Q. Okay. So when you say, "These problems that
23 were occurring," what were you referring to?

24 A. The restrictions from the City.

25 Q. Which restrictions?

1 A. We go back to the same, that we were not
2 allowed to sell -- to stay in the same spot, moving from
3 one place to the other, not selling in the streets. The
4 same things.

5 Q. About the previous ordinance?

6 A. Yes.

7 Q. Okay. Do you sometimes sell to people who are
8 not your regular customers?

9 A. Yes.

10 Q. And how do they know that you're selling
11 flowers?

12 A. Well, they know me. First of all, they know me
13 in Hialeah. Most of the people know me.

14 Q. Okay. So if somebody is driving by and they
15 don't know you, would they be able to tell that you're
16 selling flowers?

17 A. Yes. That person sees the product.

18 Q. How do they see the product?

19 A. Outside the vehicle. The buckets that I have
20 placed outside the vehicle.

21 Q. So while they're driving, they can see the
22 flowers you have displayed?

23 A. Yes.

24 Q. Do you think the City has an interest in
25 keeping its roadways safe?

1 A. Yes.

2 Q. Do you think the City has an interest in
3 keeping its pedestrians or people who are walking safe?

4 A. Yes.

5 Q. Do you think the City has an interest in making
6 sure that the traffic on the roadways flows freely?

7 A. Yes.

8 Q. Do you think the City has an interest in
9 keeping its -- the public right-of-ways and the
10 sidewalks clear from obstructions for the safety of
11 people walking in that area?

12 A. Yes.

13 Q. Okay. Do you understand that to be the purpose
14 of the ordinance that we are here on today?

15 MS. MURRAY EDENFIELD: Objection, form.

16 THE WITNESS: Well, practically the reason
17 why I'm here is to defend my rights and the
18 rights of many of the other vendors.

19 BY MS. GLASSER:

20 Q. I understand why you're here today. My
21 question was, though, we just discussed a bunch of
22 interests of the City, including making sure the traffic
23 flows freely and there are no obstructions and the
24 safety.

25 A. I understand that the City has to have its

1 restrictions. I understand, but I also ask to be
2 understood, for us, a lot of people who are unemployed
3 and we are trying to make an honest living, for us to be
4 understood.

5 And not only do we make an income, but we
6 provide a service for these people, who, from 7:00 a.m.
7 to 10:00 p.m., they can still buy a product.

8 Q. Right.

9 So the question I had, though -- I understand
10 what you're here for, but the question I had is, going
11 back to all of those interests that the City has that we
12 went through a moment ago, do you believe that those are
13 the reasons that the ordinance we are here on today was
14 adopted?

15 MS. MURRAY EDENFIELD: Objection, form.

16 THE WITNESS: I don't know.

17 BY MS. GLASSER:

18 Q. Did you ever read the ordinance?

19 A. Yes.

20 Q. Do you think it's possible that if there are
21 flower buckets set up on a sidewalk, that people can
22 trip over them when they're walking on the sidewalk?

23 A. It's that we practically don't have them on the
24 sidewalk.

25 Q. Right, but if they were on the sidewalk, do you

1 believe that it could be an issue for somebody who is
2 walking through the sidewalk?

3 MS. MURRAY EDENFIELD: Objection, form.

4 THE WITNESS: Yes.

5 BY MS. GLASSER:

6 Q. And do you believe if vendors are going into
7 the street to make a sale, while there is traffic going,
8 there could be a safety issue?

9 A. Well, if it is done like we do it, while
10 respecting all of the traffic signs and signals, which
11 we do when traffic is stopped and we go in when the
12 light is red, then there are no problems.

13 Q. Right.

14 So with certain restrictions, it becomes more
15 safe to go into the roadway with traffic, right?

16 A. Yes.

17 Q. Does anybody else, besides you, vend or sell
18 flowers at this intersection?

19 A. On the other corners.

20 Q. Of this intersection?

21 A. Yes.

22 Q. Do you know who they are?

23 A. Yes, I know. They work independently.

24 Q. Independently of what?

25 A. That is, they don't depend on my flowers.

1 Q. Who does depend on your flowers?

2 A. The ones to whom I used to give flowers before
3 or provide flowers before at other corners.

4 Q. Okay. But right now there is nobody who
5 depends on your flowers?

6 A. No.

7 Q. Okay. So how often are the people on the other
8 corners selling flowers, when you are there selling
9 flowers?

10 A. At the same time.

11 Q. Do you have a problem with that?

12 A. No.

13 Q. What if somebody wants to sell flowers at the
14 same corner that you're located, is that okay?

15 A. No.

16 Q. It's okay?

17 A. No, I don't see it as okay.

18 Q. Why not?

19 A. Because we're both going to be at the same
20 place, so we wouldn't have any space.

21 Q. So if somebody gets there before you in the
22 morning and sets up, though, that's okay?

23 A. It's okay.

24 Q. And what would you do, in that situation? What
25 would you do?

1 A. Normally, but how could it be -- if you're on a
2 spot selling a product and somebody comes there to that
3 same spot to sell a product, how would you see that?

4 Q. I don't understand your answer.

5 A. A question. If you had a business or you sold
6 something and someone gets there to sell that same
7 product that you're selling on your same spot, how would
8 you see that?

9 Q. Well, I'm asking how you see that.

10 A. Well, just to explain myself, I see that it's
11 not right. I don't see that as something that's fine
12 with, and that's the order that we have in the City,
13 that both vendors are not there on the same corner.

14 Q. But if I want to go tomorrow, for instance, and
15 sell flowers on that corner, do you have a problem with
16 that?

17 A. As long as I'm not there.

18 Q. Well, but you said you were there every day,
19 right?

20 A. Yes.

21 Q. Right.

22 So you would be there?

23 A. Yes.

24 Q. So then you would have a problem with me trying
25 to sell flowers on the same corner that you are at every

1 day?

2 MS. MURRAY EDENFIELD: Objection, form.

3 THE WITNESS: No, I won't have any
4 problems, but the police has regulated that.
5 They have taken our names of the people that
6 sell at every spot in Hialeah.

7 BY MS. GLASSER:

8 Q. I don't think that's what I'm asking right now.
9 What I'm asking is whether you would have a problem with
10 somebody else, who you don't know, selling at the same
11 spot that you do, on the same corner as you, while
12 you're there?

13 MS. MURRAY EDENFIELD: Objection, asked and
14 answered.

15 THE WITNESS: Well, personally I don't have
16 a problem.

17 BY MS. GLASSER:

18 Q. Okay. So if somebody else wants to come in
19 there, you're okay with that?

20 A. I wouldn't have a problem, personally, but
21 there are some who would create a problem.

22 Q. What kind of problems would they create?

23 A. It has happened. Fights, some conflicts in
24 some corners.

25 Q. What kind of conflicts and fights?

1 A. Within the -- among the same vendors.

2 Q. What are they fighting about?

3 A. About their products and the clients to which
4 they're selling.

5 Q. And you've never had that issue yourself,
6 though?

7 A. No.

8 Q. Okay. Why is it that you go to the same corner
9 every day?

10 A. Because that's where I have my clientele.

11 Q. But if you were maybe across the street, here,
12 same intersection, couldn't your clients find you there?

13 A. No.

14 Q. Why?

15 A. Because the ones who are coming from the west,
16 from Okeechobee, they have their route, and the ones who
17 are coming from the other way, those are different types
18 of people.

19 Q. So what you're saying is that you prefer the
20 spot where you are at?

21 A. Yes.

22 Q. And you want to be able to be the only one who
23 vends there every day?

24 A. I don't want to be the only one. I sell,
25 because I have a need.

1 Q. I understand, but do you feel you have a right
2 to be the one who sells at this particular corner of the
3 intersection?

4 A. I don't have the right. I don't have a right,
5 as such, but I do have the need to work and I have found
6 that mode of living.

7 Q. Right, but you could have the need to work and
8 that mode of living at numerous different intersections,
9 right?

10 A. But then I would lose my clients, the ones who
11 know that I am there.

12 Q. But they can learn that you are somewhere else,
13 right?

14 A. They might, but I see that as difficult.

15 Q. And you could also walk up and down this block
16 and your clients would see you, right?

17 A. That's what I do.

18 Q. Okay. So you walk up and down this block?

19 A. That's right.

20 Q. And that's not a problem for your business,
21 right?

22 A. No.

23 Q. So you don't have to be standing still for your
24 business to be successful, correct?

25 A. That's right.

1 Q. Okay.

2 A. Within the same area.

3 Q. Right.

4 The same general area that we've depicted on
5 this picture, on Exhibit 4, right?

6 A. Yes.

7 Q. Do you ever see any of the other vendors with
8 things, other than -- I'm talking about the flower
9 vendors, first, or fruit or whatever other products --
10 do you see any of them with things other than buckets,
11 for instance, boxes, carts?

12 A. No.

13 Q. You've never seen a vendor set up with boxes
14 near him or her?

15 A. No.

16 Q. And you've never seen vendors set up in Hialeah
17 with carts or stands?

18 A. You mean, that they're driving?

19 Q. No, that they have set up outside?

20 A. No.

21 Q. Have you ever seen -- strike that.

22 Have you ever seen vendors with chairs out,
23 whether they're sitting in them or standing next to
24 them, have you seen that?

25 A. No.

1 Q. So in your fifteen, sixteen years vending in
2 the City of Hialeah, you've never seen one of the
3 peddlers or vendors with boxes or a chair or a stand of
4 any sort set up?

5 MS. MURRAY EDENFIELD: Objection, asked and
6 answered.

7 THE WITNESS: I don't recall.

8 BY MS. GLASSER:

9 Q. But you do recall seeing them with buckets?

10 A. I don't recall.

11 Q. When vendors are selling fruits, how are they
12 displaying the fruit?

13 A. The same way they do it on the street, offering
14 it to the people in the cars.

15 Q. Do they have it displayed?

16 A. No. In their hands. At that corner, they sell
17 fruits and I sell roses. He goes about showing his
18 fruits, and I go about showing my roses.

19 Q. And where does he keep the fruits that he is
20 not selling? Does he hold all of it?

21 MS. MURRAY EDENFIELD: Objection, form.

22 THE WITNESS: Inside the vehicle.

23 BY MS. GLASSER:

24 Q. So nothing is displayed outside of the vehicle?

25 A. No.

1 Q. Except in your case, yes, because you have
2 buckets of flowers, you've already said, right?

3 A. Yes.

4 Q. What times do you sell?

5 A. From 7:00 a.m. until 10:00 p.m.

6 Q. Have you ever had to or have you ever leased or
7 rented or paid for a spot to vend in Hialeah?

8 A. No.

9 Q. Do you give your customers receipts when they
10 buy flowers?

11 A. No, as long as it's only, you know, a small
12 amount. If it's like in a big quantity, yes, then there
13 is a receipt.

14 Q. Do you sell in big quantities -- what do you
15 consider a large quantity?

16 A. A large quantity would be like an order that
17 someone makes.

18 Q. You take orders?

19 A. Yes.

20 Q. How does that work?

21 A. You ask me for an arrangement or a certain
22 amount of flowers, and I tell you, "Okay, come on such a
23 day to pick it up."

24 Q. Do people call you to place orders?

25 A. Yes.

1 Q. And do some people come to you, on the street
2 corner, and tell you in advance that they want to buy a
3 large quantity?

4 A. Sometimes.

5 Q. And for these large orders, where do the
6 customers pick them up?

7 A. I bring it to them.

8 Q. Where?

9 A. To wherever they tell me. They give me the
10 address.

11 Q. How often do you sell in large quantities?

12 A. Very few times. Now very few. Before, I used
13 to do that more.

14 Q. And that was when you were selling to other
15 vendors?

16 A. Yes.

17 Q. Do you import flowers?

18 A. Yes, I used to import.

19 Q. When did you stop importing?

20 A. More than a year.

21 Q. Why did you stop importing?

22 A. I don't have the same amount to sell now.

23 Q. What do you mean?

24 A. That I sell very little now. I sell to very
25 few people, so now it's not worth to bring the roses

1 from over there. Before, I used to bring them in, and I
2 would help by distributing them to other people.

3 Q. And this was before January of 2013?

4 A. Yes.

5 Q. And you pretty much stopped doing that before
6 January of 2013, correct?

7 A. Yes.

8 Q. You said you have a customer base, right?

9 A. Yes.

10 Q. Do you have a list of the customers?

11 A. No.

12 Q. Do you have any of their names or phone
13 numbers, if you wanted to contact them?

14 A. No. They call me. Since they know me, they
15 call me.

16 Q. Okay. How do they know you?

17 A. It's been so many years that I've been there in
18 Hialeah working, they've seen the way that I -- they buy
19 one, and I give them one for free.

20 Q. And do you ever run sales or specials?

21 A. Yes, that's my way of treating all of my
22 clients. I'm always giving them specials.

23 Q. And so that's why they return to you?

24 A. Yes. Besides that, I work -- I also work with
25 the church.

1 Q. What do you mean?

2 A. That those clients are the ones who help me,
3 help me buy in the business.

4 Q. Can you explain that a little more?

5 A. Since I work with the church, there are more
6 people who know me. I tell them that I sell flowers,
7 and that I sell flowers at such and such a spot, so they
8 know me.

9 Q. Do you ever sell to them at the church?

10 A. I make donations. To the church, I make
11 donations to them.

12 Q. But do you sell there at all?

13 A. No. I don't sell there. I just donate them
14 there, and so I tell them where I'm at, and they know
15 me.

16 Q. And when you tell them where you're at, it's
17 the same intersection, the same corner we've been
18 talking about, correct?

19 A. Yes.

20 Q. But you could just as easily tell them a
21 different corner, and they could meet you there, right?

22 A. Yes. To those people, yes, but what about the
23 other clients who know that I'm there?

24 Q. Right, but there is nothing to prevent you --
25 the City does not prevent you from selling to other

1 people, in other locations in the City, right?

2 MS. MURRAY EDENFIELD: Objection, form.

3 THE WITNESS: Some places are already
4 occupied by other people

5 BY MS. GLASSER:

6 Q. What do you mean by occupied by other people?

7 A. That vendor team that we have, we are organized
8 in such a way that each one of us is at a different
9 corner.

10 Q. Okay. But you don't have a right to that
11 corner, correct?

12 A. Yes, but it's a way of being organized, like a
13 way of working within a certain order, so each one has a
14 different place, each one to whom the City grants a
15 license.

16 Q. And who determines which corner which
17 individual gets to sell on?

18 A. When I go to get my license, they will ask me
19 where it is that I am going to work.

20 Q. Right. And you said there is an organization
21 as to who gets which corner or which area to sell in,
22 right?

23 A. Yes.

24 Q. So how is that determined, who gets what area?

25 A. That's already -- like whoever gets there

1 first, then that gets established like that.

2 Q. Each day?

3 A. Each day.

4 Q. So every day there could be a different person
5 at a different corner?

6 A. No. Each person has their own clients at their
7 own spot. The same thing that I do, they do it.

8 Q. Right. So what I want to know is, how is it
9 determined that each vendor has their own clients at a
10 particular spot?

11 A. Well, because that person gets there every day
12 and creates his or her own clientele.

13 Q. And do you know what the word itinerant means?

14 A. No.

15 Q. Have you ever heard the word before?

16 A. No.

17 Q. Do you know what the word peddler is?

18 A. Yes.

19 Q. What is your understanding of the word peddler?

20 A. The one who has a license to sell, a permit.

21 Q. In a store?

22 A. I don't know.

23 Q. The ordinance that we are here on today, do you
24 know who it is intended to regulate?

25 A. To us vendors.

1 Q. Does it include a permanent fixed store?

2 A. I don't think so.

3 Q. So only vendors that are moving from place to
4 place, is that the intention of this?

5 MS. MURRAY EDENFIELD: Objection, form.

6 THE WITNESS: I think so.

7 BY MS. GLASSER:

8 Q. I want to go back real quickly to Exhibit 3,
9 this one. What is this exhibit?

10 A. A receipt from where I purchase the flowers.

11 Q. Where you purchased the flowers, looks like, on
12 Valentine's Day of 2014, correct?

13 A. Yes.

14 Q. And turning to the second page, those are more
15 flowers that you purchased on Valentine's Day of 2014?

16 A. Yes.

17 Q. In addition to these two purchases that we just
18 went over, did you purchase any other flowers on
19 Valentine's Day 2014?

20 A. No.

21 Q. Do you recall if you sold all of the flowers
22 that you bought in these two invoices?

23 A. I don't recall.

24 Q. If you look at the first page of this document,
25 can you explain to me -- you see where it says, "Roses

1 Red Assorted Reds 40-50 X 200 Stem"?

2 A. Yes. 40 and 50, that's the size.

3 Q. Okay.

4 A. 200, that's the quantity.

5 Q. And then it says in "(8 Bun)", which I assume
6 is bunches?

7 A. Yes, bunches.

8 Q. So what does that mean then? Are the 200
9 flowers grouped in bunches of eight?

10 A. Yes.

11 Q. Okay. And then you separate those bunches into
12 buckets, I think you said, of five and ten, generally?

13 A. Yes.

14 Q. Okay. So based on this invoice -- let me
15 rephrase that. On the line underneath the one that we
16 just went through, you have "Roses Red Red Paris."

17 A. Yes. That's the variety.

18 Q. Okay. So you bought varieties, including Red
19 Red Paris, Red Freedom, Red Royal Majesty and Red Sexy
20 Red, right?

21 A. Yes.

22 Q. And all of those totaled the 200 that are
23 listed on top?

24 A. Yes, 200.

25 Q. Okay. And then you also bought -- underneath

1 that, it says, "Roses Red Freedom 60 X 200 Stem,"
2 correct?

3 A. Yes.

4 Q. And 60, again, is the size, right?

5 A. Yes.

6 Q. Okay. So this invoice reflects -- shows that
7 you purchased 200 -- I'm sorry, 400 flowers, right?

8 A. Yes.

9 Q. For a total of \$217.04, correct?

10 A. Yes.

11 Q. It says, "Total cubes." What does that mean?

12 A. Taxes.

13 Q. Well, above that, it says, "Total boxes,"
14 right?

15 A. Yes.

16 Q. Okay. So you think cubes is the taxes?

17 A. I think so.

18 Q. Okay. And, then, turning to the second page,
19 you also, that same day, bought 200 of the Yellow Deja
20 Vu, with a measurement of 50, right?

21 A. Yes.

22 Q. And then you also purchased 150 Yellow Deja Vu
23 roses with the measurement of 70, correct?

24 A. Yes.

25 Q. For a total of \$95.50, right?

1 A. Yes.

2 Q. Now, do you sell the different sized roses for
3 different prices?

4 A. Yes.

5 Q. Okay. How much do you sell the 40 to 50 roses?

6 A. When I make those packages, I make them in
7 packages of five or six. If they're the bigger flowers,
8 I put in less. If they're the smaller ones, I put in
9 more.

10 Q. So you still sell for five or ten, but you
11 change the amount of flowers depending on the size?

12 A. Yes, perfect.

13 Q. I'm learning.

14 MR. PEARSON: Could we take a quick
15 bathroom break?

16 MS. GLASSER: Sure.

17 (Short recess taken.)

18 (Thereupon, Defendant's Exhibit Number 5 was
19 marked for Identification.)

20 BY MS. GLASSER:

21 Q. Mr. Membreno, I'm going to show you now what's
22 already been marked as Defendant's Exhibit 5. Do you
23 recognize that document?

24 A. I have seen it.

25 Q. What is it?

1 A. The document regarding the regulations --

2 Q. That's the --

3 A. -- of the City of Hialeah.

4 Q. Are you saying that's the City of Hialeah's law
5 regarding vendors?

6 A. Yes. I think so.

7 Q. Did you help in any way prepare this document
8 that's in front of you?

9 A. To help?

10 Q. Yes.

11 A. That is, I answered the questions that are
12 here, if this is the document that I think it is.

13 Q. Is this a document that you filed with the
14 court for this lawsuit?

15 MS. MURRAY EDENFIELD: Objection, form.

16 THE WITNESS: Yes.

17 BY MS. GLASSER:

18 Q. Is that what this is?

19 A. Well, it's in English and I barely read
20 English.

21 Q. Okay.

22 A. And I had it in Spanish.

23 Q. You had a copy of this in Spanish?

24 MS. MURRAY EDENFIELD: Objection, form.

25 THE WITNESS: I saw it in Spanish, this.

1 BY MS. GLASSER:

2 Q. Do you still have a copy of it in Spanish?

3 A. Yes.

4 Q. Okay. If I asked you to produce that, could
5 you produce that to us?

6 MR. PEARSON: Obviously we would object to
7 that.

8 MS. MURRAY EDENFIELD: Objection, form.

9 THE WITNESS: I don't know. I would have
10 to look for it.

11 BY MS. GLASSER:

12 Q. Okay. And if you found it, would you have a
13 problem producing it --

14 MS. MURRAY EDENFIELD: Objection, form.

15 BY MS. GLASSER:

16 Q. -- a copy of it?

17 MS. MURRAY EDENFIELD: Objection, form.

18 THE WITNESS: Not a problem.

19 BY MS. GLASSER:

20 Q. I want to go through this document with you,
21 this Exhibit 5. I understand you don't speak English,
22 but the translator will translate what I'm reading from
23 this document.

24 A. Yes.

25 Q. And if you don't understand something, please

1 ask me to restate the question.

2 A. Okay.

3 Q. On the first page, it says -- you see where it
4 says, "Silvio Membreno," at the top left?

5 A. Yes.

6 Q. Right after that, it says, "Florida Association
7 of Vendors"?

8 A. That's right.

9 Q. What is the Florida Association of Vendors?

10 A. That's the association of ambulatory vendors.

11 Q. The one we were talking about earlier in your
12 deposition?

13 A. Yes.

14 Q. Okay. When you say, "Ambulatory vendors," what
15 does ambulatory mean?

16 A. That's the same that we give it, because the
17 association is the Association of Vendors of Florida.
18 So that is the name that we gave it.

19 Q. What does "ambulatory" mean?

20 A. That we ambulate everywhere in Hialeah.

21 Q. What does "ambulate" mean?

22 A. Like that we don't have like a house.

23 Q. Or like a fixed storefront?

24 A. Yes.

25 Q. Okay. You said the majority of your business

1 comes from clients who know where you are, right?

2 A. Yes.

3 Q. So it's not so important to have your flowers
4 displayed, because they know already where to find you,
5 right?

6 A. It's not that it's not that important, because
7 that's for the clients that already know, but I am
8 looking for new clients.

9 Q. Right. But the majority of your clients or
10 people who buy flowers from you are the ones that
11 already know you, right?

12 A. Not most of them. I do have clients, but most
13 of the clients are clients that -- clients that pass by
14 and they see that.

15 Q. So most of the clients are ones who don't know
16 you are there already, they just happen to be driving by
17 and see you?

18 A. Let's say, fifty percent.

19 Q. Okay. You said your business declined in the
20 past few years, right?

21 A. Yes.

22 Q. Can you estimate by about how much, like half
23 of your business, a smaller amount? How much of your
24 business declined?

25 A. Half.

1 Q. And when, exactly, was that?

2 A. Like approximately during the last years.

3 Q. Last how many years?

4 A. Two years, more or less.

5 Q. So the decline started before January of 2014;
6 is that correct?

7 A. No.

8 Q. No, 2013?

9 A. Yes, 2012, more or less.

10 Q. Okay. And if we requested your company's tax
11 documents, would you have a problem producing them?

12 MS. MURRAY EDENFIELD: Objection.

13 THE WITNESS: I would have to think about
14 that.

15 BY MS. GLASSER:

16 Q. Okay. And what about your personal tax
17 returns, same question?

18 MS. MURRAY EDENFIELD: Objection.

19 THE WITNESS: The same, I would have to
20 think about it.

21 BY MS. GLASSER:

22 Q. Okay. I'm going to ask you to turn to Page 3
23 of the Amended Complaint, and look at the, first,
24 Paragraph 18. It says, "Plaintiff Membreno also
25 operates a business that supplies flowers to

1 approximately 30 other vendors, most of whom sell the
2 flowers in the City."

3 MS. MURRAY EDENFIELD: She didn't translate
4 what the document was, and he still has no idea
5 what the document is.

6 BY MS. GLASSER:

7 Q. Exhibit Number 5, the Complaint that was filed
8 in this case, that you filed against the City of Hialeah
9 when you sued the City.

10 A. Yes.

11 Q. So I just read to you one of the paragraphs,
12 Paragraph 18.

13 A. Yes.

14 Q. It states that you supply flowers to
15 approximately 30 other vendors. Is that true?

16 A. Yes.

17 Q. You do -- you currently supply 30 vendors with
18 flowers?

19 A. No.

20 Q. And did you, in May of 2013, supply 30 other
21 vendors with flowers?

22 A. Last year --

23 MS. MURRAY EDENFIELD: Objection, asked and
24 answered.

25 THE WITNESS: -- no.

1 BY MS. GLASSER:

2 Q. Then why does it say that here?

3 MS. MURRAY EDENFIELD: Objection, form.

4 THE WITNESS: It was before.

5 BY MS. GLASSER:

6 Q. So when you filed this complaint, that
7 statement was not accurate, in 2013?

8 MS. MURRAY EDENFIELD: Objection, form.

9 THE WITNESS: Yes, it was correct.

10 BY MS. GLASSER:

11 Q. In May 2013, you sold flowers to 30 vendors?

12 A. May and back. Like from May back.

13 Q. Okay. You testified differently earlier, did
14 you not?

15 A. Now I am not. Now I am not selling to these
16 people.

17 Q. Okay. But the question was, in May 2013 -- and
18 you already answered that you were not selling to 30
19 vendors in May 2013?

20 A. Well, we could say that I don't recall the
21 exact so as to not be that precise, but approximately
22 before I used to sell them -- before I made this
23 lawsuit, but now I don't.

24 Q. In this Complaint, in Paragraph 17, it says
25 that you are an importer and distributor of flowers?

1 A. Yes.

2 Q. And I think you already testified that for at
3 least the past year, you have not been an importer of
4 flowers, correct?

5 A. That's right. Not with those precise
6 stipulated dates, but more or less.

7 Q. Right.

8 A. This was before, and now this is the system
9 that I have. I don't have the precise dates of when was
10 each.

11 Q. Right, but you said previously that it was at
12 least a year ago?

13 A. Approximately.

14 Q. In Paragraph 30 of the Complaint, on Page 4, it
15 talks about vendors and specifically it says,
16 "Typically, on-foot vendors stay at or near an
17 intersection, and they return to their respective
18 intersections with regularity so they can be reliable
19 for their customers and develop a customer base."

20 A. That's right.

21 Q. What do you mean by "their respective
22 intersections"?

23 A. "Their respective intersections" means all of
24 the intersections for the vendors, not just the one that
25 I work at.

1 Q. Right, but it refers to -- does each vendor
2 have their own intersection?

3 MS. MURRAY EDENFIELD: Objection, asked and
4 answered.

5 THE WITNESS: That's right.

6 BY MS. GLASSER:

7 Q. Does anything in the City's ordinance prevent
8 that from happening?

9 MS. MURRAY EDENFIELD: Objection, form.

10 THE WITNESS: The way it used to be before,
11 it was preventing us from it, and the police
12 would regulate that.

13 BY MS. GLASSER:

14 Q. That was before, you said, right?

15 A. Yes.

16 Q. But with the new ordinance, that's what I'm
17 asking about?

18 A. We have not had any problems.

19 Q. Okay. Paragraph 31 of the Amended Complaint,
20 Page 5, it says, "Other members of Plaintiff FAV vend
21 from their vehicles by parking either on public or
22 private property, and waiting for customers to approach
23 on foot. Alternatively, customers approach in their
24 vehicles, park near the vendor, and the vendor will
25 bring the merchandise to the customer to transact

1 business."

2 MS. MURRAY EDENFIELD: Objection, form.

3 THE WITNESS: Yes.

4 MS. GLASSER: What is the objection?

5 MS. MURRAY EDENFIELD: There wasn't a
6 question.

7 MS. GLASSER: Right. She was reading it
8 for me.

9 BY MS. GLASSER:

10 Q. It says in that paragraph that the vendors are
11 waiting for customers to approach on foot. The question
12 is, where do they wait for the customers?

13 A. At the intersection.

14 Q. In the street?

15 A. No, on the parking lot, as stated in there,
16 whether it be in a private one or a public.

17 Q. So how long might you stand there waiting for
18 customers to approach?

19 MS. MURRAY EDENFIELD: Objection, form.

20 THE WITNESS: I don't know exactly for how
21 long.

22 BY MS. GLASSER:

23 Q. Could it be hours?

24 A. I don't know.

25 Q. So it could be indefinitely just waiting for

1 the next person to show up to purchase?

2 A. I think so.

3 Q. And have you, in fact, waited hours between
4 customers?

5 MS. MURRAY EDENFIELD: Objection, form.

6 THE WITNESS: Yes.

7 BY MS. GLASSER:

8 Q. Do you think you can be reliable for your
9 customers if you're remaining in the same general area
10 walking around, and I've circled the area where, on
11 Exhibit 4, you indicated earlier you vend from?

12 MS. MURRAY EDENFIELD: Objection, form.

13 THE WITNESS: I think that being there I
14 will guarantee my base of clients.

15 BY MS. GLASSER:

16 Q. Even if you're walking in the area --

17 MS. MURRAY EDENFIELD: Objection, form.

18 BY MS. GLASSER:

19 Q. -- moving around?

20 A. That's how I do it.

21 Q. Okay.

22 MS. MURRAY EDENFIELD: Do you mind circling
23 where you said?

24 MS. GLASSER: I did circle it.

25 MS. MURRAY EDENFIELD: I just don't see it.

1 BY MS. GLASSER:

2 Q. Okay. Do you have any problem with the way the
3 City has defined peddler and itinerant vendors in its
4 ordinance?

5 MS. MURRAY EDENFIELD: Objection, form.

6 BY MS. GLASSER:

7 Q. And, by all means, if you need to refer to the
8 Spanish copy of the ordinance, feel free.

9 A. I don't know.

10 Q. I want you to take a look at it, and tell me
11 whether you have a problem with it. The Spanish one, do
12 we have it?

13 I'll read it. I'll read it and you can
14 translate. It's going to be on Page 2, towards the
15 bottom, where it says Section 18-301 - Definitions, and
16 it begins on that page, saying, "Peddlers and itinerant
17 vendors include all persons going from place to place
18 for the purpose of selling or offering for sale, any
19 goods, merchandise or ware at the time the order is
20 taken, whether or not using a wagon, pushcart or other
21 vehicle. This definition does not include delivery of
22 any item previously ordered, the sale of items along
23 delivery routes, solicitation of orders by sample where
24 the goods are not delivered at the time the order is
25 taken, or food truck operators."

1 Do you have any problem with that definition of
2 peddler or itinerant vendor?

3 MS. MURRAY EDENFIELD: Object to the form.

4 THE WITNESS: It's a manner of interpreting
5 the law as it is stated there, and I have not
6 been able to interpret it very well.

7 BY MS. GLASSER:

8 Q. You don't understand the definition, is that
9 what you're saying?

10 A. I don't understand it in my personal case.

11 Q. Okay. So in your lawsuit, are you claiming
12 that there is a problem with that definition?

13 A. Because it's based on which way it's
14 interpreted in Hialeah or the police. If the police say
15 that they interpret this as being that you have to be
16 moving from one place to another, then that will go
17 against us.

18 Q. No, my question is whether this definition --
19 this is simply a definition. Whether you have an issue
20 or a problem with the way it's been defined?

21 MS. MURRAY EDENFIELD: Object to the form.

22 THE WITNESS: I don't understand you.

23 BY MS. GLASSER:

24 Q. Okay. I just read to you a definition in the
25 current ordinance. What I need to know is whether part

1 of your claim in this lawsuit is that there is a problem
2 with this definition of itinerant and peddler?

3 MS. MURRAY EDENFIELD: Object to the form.

4 THE WITNESS: It's the way that you
5 interpret it. If you interpret it that you
6 have to be moving from one place to the other,
7 then it will affect me. If I have to move
8 within the same area, then it will not affect
9 me.

10 BY MS. GLASSER:

11 Q. I know you said you have not seen other vendors
12 with boxes or chairs or carts or stands out on the
13 street and swales, right?

14 A. Correct.

15 Q. But I want you to assume that there are vendors
16 who are doing that. Would you agree that boxes on the
17 sidewalk and/or stands or chairs on the sidewalk could
18 present a problem for people trying to walk on the
19 sidewalks?

20 A. Of course.

21 Q. Are you familiar with the rules on displaying
22 and selling merchandise on private property?

23 A. No.

24 Q. You don't know what those regulations are?

25 A. No.

1 Q. Do you even know if there are regulations about
2 that?

3 A. I don't know.

4 Q. So if you wanted to sell your flowers in front
5 of the Walmart, right in front of their doors, set up
6 some of your merchandise and sell them, do you know if
7 you are able to do that, in accordance with the Laws of
8 Hialeah?

9 A. I don't know.

10 Q. Do you know whether in -- since the passage of
11 this ordinance the police have enforced any regulations
12 against stores, fixed stores, for setting up --
13 displaying and selling their products outside of their
14 storefront?

15 A. I don't know. Regarding the document of this
16 lawsuit that I filed, the main objective was for the
17 protection and regulation of the laws for us, for us
18 vendors. My lawsuit is nothing against, nor is it a
19 monetary lawsuit. I just want that to be clear. It's
20 just for us to be granted the opportunity to protect
21 ourselves and to be able to defend our work, our jobs.

22 Q. But you do claim in your lawsuit that you were
23 monetarily harmed, correct?

24 A. I suffered them, but they are not in there.
25 They are not pointed out in it.

1 Q. Your lawsuit doesn't state that you were harmed
2 monetarily?

3 A. I did suffer some harm, but my lawsuit is not
4 regarding monetary issues. It's for the regulations to
5 be changed in those statutes.

6 Q. So are you saying, to the extent there are
7 references in your Complaint about you being monetarily
8 harmed, they shouldn't be here?

9 MR. PEARSON: Objection. That's not what
10 it says.

11 MS. GLASSER: She's the one defending the
12 lawsuit.

13 MS. MURRAY EDENFIELD: Objection, form.

14 THE WITNESS: I did not understand you.

15 BY MS. GLASSER:

16 Q. Assume there are references in your Complaint
17 that you filed in this lawsuit regarding economic harm
18 to you and that you have suffered economic damages as a
19 result of the ordinance. Are you saying that those
20 claims should not be a part of this lawsuit?

21 MS. MURRAY EDENFIELD: Objection.

22 THE WITNESS: What I'm saying is that my
23 lawsuit is against the regulations.

24 BY MS. GLASSER:

25 Q. I understand that, but you also said, and

1 correct me if I am wrong, that your monetary harm and
2 your economic damages are not part of this lawsuit.

3 MS. MURRAY EDENFIELD: Objection, form.

4 THE WITNESS: I have pointed out the
5 damages that the law has cost me.

6 BY MS. GLASSER:

7 Q. As you sit here today, is this new law damaging
8 you now?

9 A. Some parts of it, yes, they are. They have
10 not -- they are not clear.

11 Q. What part is not clear?

12 A. About moving from one place to the other, that
13 Article 18. That's interpreted as according to the way
14 the police interprets that, because it has happened in
15 some cases.

16 Q. What has happened?

17 A. That the police tell you that you have to move
18 from this spot.

19 Q. What is your understanding of the ordinance --
20 forget about what the police have told you. What is
21 your understanding of the ordinance on that particular
22 subject?

23 A. What I am asking for, and what I have asked is
24 that we be allowed to move within the area.

25 Q. Does this ordinance allow that?

1 MS. MURRAY EDENFIELD: Object to the form.

2 THE WITNESS: This ordinance, some police
3 officers have not interpreted it correctly, and
4 it has not been clear.

5 BY MS. GLASSER:

6 Q. I get that. Let's put aside the officers for
7 now. You said that some police officers have not
8 interpreted it correctly. My question is, how do you
9 interpret it?

10 MS. MURRAY EDENFIELD: Object to the form.

11 THE WITNESS: That I have to move within
12 that area from where I'm selling.

13 BY MS. GLASSER:

14 Q. And that's clear to you?

15 MS. MURRAY EDENFIELD: Objection.

16 THE WITNESS: That is correct. And if
17 that's like that, then I'm clear.

18 BY MS. GLASSER:

19 Q. Okay. Are there any more changes to this
20 ordinance that you would like to see?

21 MS. MURRAY EDENFIELD: Object to the form.

22 THE WITNESS: I'm not able to answer that
23 now.

24 BY MS. GLASSER:

25 Q. Why?

1 A. I'm not sure. I'm not clear about the answer.

2 Q. Well, I want you to take a moment and think
3 about it, because this is a lawsuit that you brought
4 against the City, and I need to know exactly what it is
5 you claim, if anything, is wrong with this ordinance,
6 the amended one.

7 A. It's the same thing that I've been telling you.
8 It's the way in which it is interpreted. If it says
9 that I can move within the area, and that I don't have
10 to go from one place to the other, then it's correct.
11 If my product has to be outside the vehicle, then it's
12 correct. But if this product, I have to keep in hiding,
13 so that it's not visible, then I don't see that as
14 something that is right.

15 Q. And does it say that you have to keep your
16 product in hiding?

17 MS. MURRAY EDENFIELD: Object to the form.

18 THE WITNESS: But it says that it should
19 not be visible.

20 BY MS. GLASSER:

21 Q. So if you're carrying flowers, holding flowers
22 in your hand, are those visible to other people?

23 A. Yes. With that, we have no problem. The
24 problem is what I have like stored or put away.

25 Q. Right. So the problem isn't with having your

1 product visible -- this doesn't prevent you from having
2 your product visible, right?

3 A. Yes, visible, but they don't want to -- that's
4 why it's in the manner in which they interpret it. It's
5 not that I say, "Okay, forget about the police," it's
6 because the police is the one who regulates that.

7 Q. Okay. So if I understand you correctly, and
8 please correct me if I am wrong, you don't have a
9 problem with the ordinance itself, you have a problem
10 with the way it's been interpreted by the police and
11 other City people?

12 MS. MURRAY EDENFIELD: Object to the form.

13 BY MS. GLASSER:

14 Q. Is that correct?

15 A. Yes.

16 Q. All right. Since the amendment to the
17 ordinance, have you been able to sell on State roads?

18 A. Yes.

19 Q. Have you ever gotten -- again, this is since
20 the amendment to the ordinance, have you ever gotten any
21 ticket, fine, arrest for violating this ordinance?

22 A. Me personally, no, but it has happened.

23 Q. To whom? Do you know?

24 A. To some of the vendors.

25 Q. Do you know who any of those vendors are?

1 A. Yes. And some of them have documents, and I
2 can show those documents to you at the appropriate time.

3 Q. What is the appropriate time?

4 A. Whenever I talk or contact those people that
5 are involved.

6 Q. Do you know what the fines or arrests or
7 citations were for?

8 A. According to the vendors, for having their
9 goods visible.

10 Q. Okay. Were they arrested?

11 A. No.

12 Q. Were they fined?

13 A. Yes, I think so.

14 Q. Do you know how much?

15 A. No.

16 Q. Have you ever seen the application to obtain a
17 license, the form that went into place after the amended
18 ordinance?

19 A. No.

20 Q. The place where you park your van, you said in
21 the parking spot near the clinic, do you know if that
22 piece of property is owned by the clinic or is public
23 property?

24 A. I don't know. I was told to park there. I
25 don't know the characteristics of it.

1 Q. You were told by who to park there?

2 A. The owner of the clinic, because she told me
3 that she was entitled to that parking spot.

4 Q. Do you think that if you're using a parking
5 space to conduct your business of selling flowers, it
6 deprives people from using that parking space to park
7 their cars? And by "people," I mean, people who are
8 going to use that shopping center or stores or whatever
9 are in that location.

10 A. I don't know. No.

11 Q. Was your van parked there all day?

12 A. Not always.

13 Q. When is it not parked there?

14 A. I move it. I move in that vehicle, and I go
15 from one place to another. So sometimes it's there and
16 sometimes it's not.

17 Q. When you go from one place to another -- I'm
18 confused. I thought you stay in one spot all day.

19 A. Yes, but I have to move it. I have to move it
20 like, for example, if I have to go pick up some
21 materials.

22 Q. All right. But for the most part it's there
23 and you're selling flowers from that spot, for the most
24 part?

25 A. That's right.

1 Q. Okay. Just give me two more minutes, please.

2 Do you know whether today somebody is selling
3 flowers at this intersection where you typically sell?

4 A. I wouldn't be able to tell you if that person
5 is or is not there.

6 Q. If any person is there?

7 A. I wouldn't be able to -- I don't know.

8 Q. Did you send somebody there to sell flowers
9 today?

10 A. I told someone there to make use of that spot
11 today and go there and sell.

12 Q. And why did you tell somebody to make use of
13 that spot?

14 A. Because I was not going to be there today.

15 Q. At your corner?

16 A. Yes. Yes.

17 MS. GLASSER: I don't have anything
18 further. Thank you very much for coming today.
19 I appreciate you taking the time.

20 THE WITNESS: And I thank you, and whatever
21 you can do for us, I would appreciate it,
22 because sometimes we go through a lot of hard
23 times. It's so many hours that we work to be
24 able to support our families. So I really
25 appreciate, from the bottom of my heart,

1 Q. So, for example, for Exhibit 5 here, which is
2 what we would consider a "demanda" or a lawsuit, do you
3 recall ever having done something like this before?

4 A. No.

5 Q. Okay. Earlier in the questioning, there was a
6 discussion of a meeting -- meetings of the Florida
7 Association of Vendors, and you discussed a meeting that
8 happened before the law was changed; is that right?

9 A. Yes.

10 Q. Have there ever been any meetings of the
11 Florida Association of Vendors after the law was changed
12 in February of 2013?

13 A. At that moment, my answer was that I did not
14 recall, but, yes, we did have meetings and the others
15 were conducted via telephone.

16 Q. Okay. Earlier there was also a line of
17 questioning about how you might have been involved in
18 the change of the law. Were you ever involved in any
19 meetings with the City regarding changing the law?

20 A. I did not have a meeting as such, but through
21 the information that I would gather from like the
22 newspapers and such, I wanted to learn how that law had
23 changed and affected us.

24 Q. Just to clarify, you mean, you, personally,
25 right?

1 A. Yes.

2 Q. I want to ask you about the display of
3 merchandise provision. Are you allowed -- well, strike
4 that. How do you understand -- actually, strike that,
5 too.

6 What is your understanding of how you may or
7 may not display merchandise, according to the law?

8 A. I told you that my understanding is that you
9 have to show it, but you can show what you have in your
10 hands, not the rest that you have separate. So that is
11 what tends to be misinterpreted.

12 Q. Okay. Regarding your losses in 2013, the year
13 that you said was -- not a great year for vending, how
14 did that come about?

15 MS. GLASSER: Object to the form.

16 THE WITNESS: That came about because we
17 were not allowed to show the products that we
18 had, so we lost those products, and this occurs
19 mainly in the two most important dates, which
20 is Mother's Day and Valentine's Day.

21 BY MS. MURRAY EDENFIELD:

22 Q. So have you been told on Mother's Day or
23 Valentine's Day that you are not allowed to display your
24 merchandise, besides what you can hold in your hands?

25 A. That's right.

1 Q. Have you ever stopped vending for any period of
2 time?

3 A. Yes.

4 Q. When was that?

5 A. The previous year.

6 Q. Meaning, 2013?

7 A. Yes.

8 Q. And how did that affect your business?

9 A. You can imagine.

10 Q. Why don't you explain to me how it affected it?

11 A. Monetarily, and time that I lost, a lot of
12 circumstances that were lost, and that's what I want
13 them to take into consideration, the loss that I have
14 suffered. Not that I'd be reimbursed, but just for me
15 to be allowed to work freely, for us to have the
16 opportunity to work freely, to be helped -- for you to
17 help me.

18 Q. And why was it that you stopped vending when
19 you did?

20 A. The business was not producing, because I was
21 being limited to that. So it was just causing a lot of
22 losses. There was one year when I was practically not
23 working in Hialeah.

24 Q. Again, that's because -- and why is that?

25 A. Because of the limitations and the problems in

1 the lawsuit.

2 Q. And was there heightened enforcement at that
3 time?

4 A. There were some officers who would enforce that
5 and some who wouldn't.

6 Q. And the officers who were enforcing it, were
7 they doing it more in 2013?

8 A. Yes.

9 Q. Okay. You said earlier that you haven't had
10 any problems with the ambulatory requirement. I'm going
11 to do that again, sorry.

12 You said earlier that you haven't had problems
13 with the ambulatory requirement. Do you know if that's
14 true for all vendors?

15 A. I answered that like in a personal manner, but
16 some of them tell me that, but we would have to contact
17 them to have more information.

18 MS. MURRAY EDENFIELD: Okay.

19 MS. GLASSER: I have a few more follow-up
20 questions for you, just a few.

21 REDIRECT EXAMINATION

22 BY MS. GLASSER:

23 Q. You just said that you stopped vending for
24 one -- practically a year, right?

25 A. That is, selling out on the streets, there.

1 Q. When exactly was that?

2 A. This past year. I was not selling right there
3 on the street.

4 Q. So for most of 2013, you did not sell on the
5 street? Is that what you're saying?

6 MS. MURRAY EDENFIELD: Object to the form.

7 THE WITNESS: On that area. So it was very
8 hard for me to do that in Hialeah, so I had to
9 move to other areas. I was referring to
10 Hialeah.

11 BY MS. GLASSER:

12 Q. So you still did vend, just not in Hialeah?

13 A. Yeah.

14 Q. Okay. Where did you vend?

15 A. In Miami Lakes.

16 Q. Full-time?

17 A. No.

18 Q. Less than you were vending when you were
19 vending in Hialeah?

20 A. Yes.

21 MS. MURRAY EDENFIELD: Object to the form.

22 BY MS. GLASSER:

23 Q. Why?

24 A. I don't know.

25 Q. You just decided to not vend as much as you had

1 in Hialeah?

2 MS. MURRAY EDENFIELD: Object to the form.

3 THE WITNESS: The thing is that I could say
4 that I lost my clients, you know, the route
5 that I had.

6 BY MS. GLASSER:

7 Q. Okay. And when did that period end, when you
8 stopped or re-started vending in Hialeah?

9 A. Towards the end of last year, that's when I
10 started, again, selling steadily in Hialeah.

11 Q. Okay. And has business picked up in Hialeah
12 for you?

13 A. A little.

14 Q. Yeah, in the last several months?

15 A. Yes.

16 Q. Did you attend a City Council meeting at the
17 beginning of 2013 --

18 A. Yes.

19 Q. -- regarding this amended ordinance?

20 A. Yes, I was there.

21 Q. Did you speak at it?

22 A. Yes.

23 Q. Do you recall seeing a presentation with
24 pictures?

25 A. Yes.

1 Q. And of the pictures that show big displays of
2 merchandise by vendors outside in Hialeah? Do you
3 recall that?

4 A. Of fruit.

5 Q. Fruit vendors?

6 A. Yes.

7 Q. And did some of those show boxes and other
8 materials placed on the ground?

9 A. Yes.

10 Q. And you remember seeing in some of the photos
11 there were cars parked on the swale and other areas for
12 people to stop and make purchases?

13 A. Yes.

14 Q. In 2013, did you sell at all in the City of
15 Hialeah on the streets?

16 A. I don't remember.

17 Q. You don't remember if you or others selling for
18 you sold in Hialeah in 2013, on Mother's Day or
19 Valentine's Day?

20 MS. MURRAY EDENFIELD: Object to the form.

21 THE WITNESS: With some minor problems,
22 but, yes, some -- there were some sales.

23 BY MS. GLASSER:

24 Q. Okay. And other than those two days, did you
25 sell at any other points in 2013 --

1 MS. MURRAY EDENFIELD: Object to the form.

2 BY MS. GLASSER:

3 Q. -- in Hialeah?

4 A. I don't recall exactly.

5 Q. Okay. But it's possibly you did?

6 A. Yes.

7 Q. And would you have any documents that would
8 reflect that?

9 A. You can even check with the cameras that they
10 have in Hialeah. You can see through those cameras if
11 they can see me there selling.

12 Q. No, I know that. I'm asking if you have any
13 documents at all, whether it's photos, receipts, any
14 type of papers, warnings, anything that would show that
15 you were vending on the streets in Hialeah in 2013?

16 A. I don't remember.

17 Q. Okay. My final question is, so I'm clear, you
18 said there was a decline at some point in 2013 in your
19 sales in Hialeah, right?

20 A. Of the people to whom I would sell products.

21 Q. And the amount of money you would make, right?

22 A. Yes.

23 Q. But that has since picked up, increased,
24 towards the end of 2013 or the beginning of 2014?

25 A. That's right.

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MS. GLASSER: Again, I don't have anything further. Thank you.

MS. MURRAY EDENFIELD: We'll read.

(Thereupon, the deposition was concluded at 4:40 p.m.)

DEPONENT

Sworn to and subscribed before me this _____ day of _____, 2014.

NOTARY PUBLIC

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CERTIFICATE OF OATH

STATE OF FLORIDA :
SS
COUNTY OF MIAMI-DADE:

I, NIEVES SANCHEZ, Notary Public for the State
of Florida at Large, do hereby certify that SILVIO
MEMBRENO personally appeared before me and was duly
sworn on the 13th day of March, 2014, who is _____
personally known to me or __X__ produced HIALEAH
VENDING LICENSE as identification.

WITNESS my hand and official seal in the City
of Miami, County of Miami-Dade, State of Florida, this
17th day of March, 2014.

NIEVES SANCHEZ

Notary Commission Number EE 116849
My Notary Commission expires 8/1/2015

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REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA :
SS
COUNTY OF MIAMI-DADE:

I, NIEVES SANCHEZ, Notary
Public for the State of Florida at Large, do hereby
certify that I was authorized to and did report the
deposition of SILVIO MEMBRENO; and that the transcript
is a true and complete record of my stenographic notes.

I further certify that I am not a relative,
employee, attorney, or counsel of any of the parties,
nor am I a relative or employee of any of the parties'
attorney or counsel, nor am I financially interested in
the action.

DATED this 17th day of March, 2014.

NIEVES SANCHEZ

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BAILEY & SANCHEZ COURT REPORTING, INC.
28 West Flagler Street, Suite 555
Miami, Florida 33130
(305) 358-2829

March 17, 2014

Silvio Membreno
C/O: Claudia Murray Edenfield, Esq.
Institute for Justice Florida Chapter
999 Brickell Avenue
Suite 720
Miami, Florida 33131

RE: Membreno vs. City of Hialeah

Dear Mr. Membreno:

The transcript of your deposition, taken in the above-styled cause on March 13, 2014, is at my office awaiting your examination and signature. PLEASE TELEPHONE BEFORE COMING IN so that we may arrange a convenient time.

Please be advised that unless I hear from you by April 17, 2014, I will forward the original of your deposition to the deposing attorney, as though you had read and signed your deposition.

IN THE EVENT a copy of the transcript is being sent to the witness by counsel, kindly instruct the witness to make any changes thereto on a separate sheet of paper and refer to the page number and line number which corresponds to the change desired. DO NOT MAKE THE CORRECTIONS ON THE TRANSCRIPT. If you have any questions, please call.

Very truly yours,

NIEVES SANCHEZ
Court Reporter

cc: Jennifer Glasser, Esq.

Page 1

1 IN THE CIRCUIT COURT OF THE
2 11TH JUDICIAL CIRCUIT IN AND FOR
3 MIAMI-DADE COUNTY, FLORIDA

4 GENERAL CIVIL DIVISION

5 CASE NO: 11-33223 CA 25

6 SILVIO MEMBRENO and
7 FLORIDA ASSOCIATION OF
8 VENDORS, INC.,

9 Plaintiffs,

10 vs.

11 THE CITY OF HIALEAH, FLORIDA,

12 Defendant.

13

14 DEPOSITION OF SERGIO VELAZQUEZ

15

16 FRIDAY, MARCH 14, 2014
17 1:15 p.m. - 4:55 p.m.

18

19 501 PALM AVENUE
20 HIALEAH, FLORIDA

21 - - -

22

23 REPORTED BY: ALEXANDER E. REIF, CSR
24 NOTARY PUBLIC, STATE OF FLORIDA

25

Page 3

1 - - -
2 I N D E X
3 - - -

4 WITNESS: DIRECT CROSS REDIRECT RECROSS

5 SERGIO VELAZQUEZ

6 BY: MS. EDENFIELD 5
7 BY: MR. PEARSON
8 BY: MS. GLASSER
9 BY: MS. BRAVO

10 - - -

11

12 E X H I B I T S

13 NUMBER	14 DESCRIPTION	15 PAGE
14	PLAINTIFF'S RE-NOTICE OF DEPOSITION EXHIBIT H2-1	11
15	PLAINTIFF'S PLAINTIFF'S AMENDED COMPLAINT EXHIBIT H2-2	15
16	PLAINTIFF'S AFFIRMATIVE DEFENSES TO PLAINTIFF'S AMENDED COMPLAINT EXHIBIT H2-3	15
17	PLAINTIFF'S PLAINTIFF'S FIRST SET OF INTERROGATORIES EXHIBIT H2-4	15
18	PLAINTIFF'S PLAINTIFF'S SECOND SET OF INTERROGATORIES EXHIBIT H2-5	16
19	PLAINTIFF'S PLAINTIFF'S FIRST REQUESTS FOR ADMISSION EXHIBIT H2-6	16
20	PLAINTIFF'S PLAINTIFF'S SECOND REQUEST FOR ADMISSIONS EXHIBIT H2-7	16

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Page 2

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1	PLAINTIFF'S EXHIBIT H2-8	PLAINTIFF'S FIRST REQUEST FOR PRODUCTION	16
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Page 5

1 TESTIMONY OF SERGIO VELAZQUEZ
 2 TAKEN FRIDAY, MARCH 14th 2014
 3 - - -
 4 P R O C E E D I N G S
 5 - - -
 6 Deposition taken before Alexander E. Reif,
 7 certified shorthand reporter and notary public in and
 8 for the State of Florida at large, in the above cause.
 9 - - -
 10 Thereupon,
 11 SERGIO VELAZQUEZ
 12 having been first duly sworn or affirmed, was examined
 13 and testified as follows:
 14 THE WITNESS: I do.
 15 DIRECT EXAMINATION
 16 BY MS. EDENFIELD:
 17 Q. Good morning. Please state your name for the
 18 record.
 19 A. Sergio Velazquez.
 20 Q. What is your position with the City?
 21 A. Chief of Police.
 22 Q. Okay. Have you ever had your deposition taken
 23 before?
 24 A. Yes.
 25 Q. Okay. Just in case, I'm going to go through a

Page 6

1 couple of preliminary things, background things, that you
 2 should know for our session here today.
 3 Make sure that you always answer with yes, no;
 4 no uh-huh's or huh-uh's, no shakes of the head or nods,
 5 because it needs to be verbal for him to be able to take it
 6 down for him to type it for the transcript.
 7 Let's both make sure we're not talking over one
 8 another. This is a problem that I have more than anyone,
 9 so be sure to let me finish my question, and I'll let you
 10 finish your answer. Again, for his benefit -- for Alex's
 11 benefit -- so that he can take it down well for the
 12 transcript.
 13 If you don't understand one of my questions,
 14 please let me know. I'm happy to rephrase my question.
 15 But if you answer a question that I ask, I will assume
 16 that you understood; is that fair?
 17 A. Yes.
 18 Q. Okay. Great. I also wanted to ask, do you
 19 understand that you have been designated as the City's
 20 representative for this deposition?
 21 A. Yes, I understand.
 22 Q. Do you understand that your answers will be
 23 representative of the City's answers when I ask you
 24 questions?
 25 A. Yes.

Page 7

1 Q. To that end, any time I say the word "you" or
 2 "your" I am referring to the City unless it's really
 3 obviously a personal question.
 4 Like initially I'm going to be asking you about
 5 your background and that sort of stuff. But if I'm
 6 asking you about policy, unless I state otherwise I'm
 7 asking regarding the City of Hialeah. So when I say you
 8 or your that's what I mean.
 9 If you're unclear at any point, if I'm asking
 10 you on behalf of the City, please let me know and I'll be
 11 happy to clarify; is that fair?
 12 A. Yes.
 13 Q. Okay. So, Chief Velazquez, please tell us what
 14 you do at the City?
 15 A. I am the Chief of Police for the City of
 16 Hialeah in charge of public safety for the city.
 17 Q. Now, you say you're in charge of public safety,
 18 does that mean you are one of several chiefs, or are you
 19 the chief and you are also in charge of public safety?
 20 A. I am the Chief of Police, okay. There's only
 21 one Chief of Police.
 22 Q. Okay. And so when you say that you were in
 23 charge of public health and safety what does that mean?
 24 A. I didn't say public health and safety.
 25 Q. Forgive me.

Page 8

1 A. Public safety. Anything to do with police
 2 services for the City of Hialeah, enforcement of state
 3 statutes, city ordinances. We follow our oaths that
 4 encompass us as police officer.
 5 Q. Okay. Would you mind taking me through a normal
 6 day of yours, how that would look?
 7 A. Each day is different. That's a difficult
 8 question to answer. Because depending on what -- I
 9 don't understand exactly what you said. What do you
 10 mean by normal day?
 11 Q. Thank you for clarifying that for me. I'm happy
 12 to restate the question so you can understand it.
 13 Whom do you supervise?
 14 A. I supervise the police department with the
 15 help of my staff and everything that encompasses the
 16 police department, also support services.
 17 Q. Okay. What do you mean by support services?
 18 A. Communications division. It's also part of
 19 one of my duties overseeing -- share that with the
 20 fire department.
 21 Q. What is the communications division?
 22 A. Where the emergency and non emergency calls
 23 are received for service.
 24 Q. Okay. And you mentioned your staff, who are
 25 they?

Page 9

1 A. I have three majors, six or seven commanders,
 2 and a legal advisor.
 3 Q. Is that it?
 4 A. Yes.
 5 Q. Would you please state their names for me?
 6 We'll go one by one for the three majors.
 7 A. Major Fuente (sic), Major Nazario, Major
 8 Flowers.
 9 Q. And Major Nazario is N-a-z-a-r-i-o?
 10 A. Yes.
 11 Q. And the six or seven commanders?
 12 A. Commander Amago, District 1; Commander
 13 Rodriguez, District 2; Commander Gonzalez, District 3;
 14 Commander Lehara.
 15 Q. I'm sorry. Can you slow down? Is that all
 16 right?
 17 You said Amago, District 1; Rodriguez, District
 18 2?
 19 A. Correct. Commander Gonzalez is District 3.
 20 Q. Okay.
 21 A. Commander Lahera is District 4. Commander
 22 Escarra is District 5. And Crime Suppression Section
 23 is Commander Ruiz (sic) the Personal Compliance Bureau
 24 is Commander Clavijo.
 25 Q. Is that C-l-a-v-i-j-i-o?

Page 10

1 A. J-o.
 2 Q. Oh, okay. And you said you have a legal
 3 advisor?
 4 A. Yes.
 5 Q. Who is that person?
 6 A. Ms. Hillah Mendez.
 7 Q. J-i-l-a or H-i-l-a.
 8 MS. BRAVO: Double L.
 9 BY MS. EDENFIELD:
 10 Q. Okay. H-i-l-l-a-h Mendez?
 11 A. Uh-huh.
 12 Q. Thank you.
 13 Okay. Do you your majors, commanders, and legal
 14 advisors report back to you about what's happening sort
 15 of at the ground level of the police force?
 16 A. Yes.
 17 Q. What sorts of things do they report to you
 18 about?
 19 A. They report crime trends. They report
 20 personnel issues, staffing issues, equipment,
 21 depending on what division. It's an array of things,
 22 you know.
 23 Q. Okay. And without revealing anything that you
 24 may have discussed with the attorneys in this case, why
 25 were you the one who was selected to have the most

Page 11

1 knowledge today -- actually, I'm going to reword that
 2 question.
 3 Without divulging anything that you may have
 4 spoken about with your attorneys, why were you selected
 5 to be the City's representative today?
 6 MS. GLASSER: Object to form.
 7 THE WITNESS: I didn't ask why.
 8 BY MS. EDENFIELD:
 9 Q. That's another thing actually that I didn't
 10 cover with you. Ms. Glasser will probably be objecting a
 11 few times during this deposition, and feel free to answer
 12 unless she instructs you not to.
 13 A. Understood.
 14 Q. So, I'm going to hand to you -- let's mark this
 15 Exhibit H2-1.
 16 (The referred-to document was marked as
 17 Plaintiff's Exhibit No. H2-1)
 18 I'm handing you what's marked H2-1 -- a
 19 document marked H2-1. Can you take a look at that
 20 for me; do you recognize this document?
 21 A. Just give me a few minutes to review it,
 22 please.
 23 Q. No problem.
 24 A. Reviewed.
 25 Q. All right. I neglected to ask you, is there any

Page 12

1 reason that you wouldn't be able to testify truthfully
 2 today?
 3 A. No.
 4 Q. Thanks. It's just a house keeping matter.
 5 So, you've reviewed this document marked H2-1;
 6 do you recognize this document?
 7 A. I've seen it before, yes.
 8 Q. You have seen it before. When have you seen it
 9 before?
 10 A. Within the last few weeks.
 11 Q. Okay. Are you familiar with the list of topics
 12 located on page two of this document in front of you?
 13 A. When you mean familiar, what do you mean by
 14 that?
 15 Q. Have you ever read them before?
 16 A. Yes.
 17 Q. Do you understand what this document is?
 18 A. Yes.
 19 Q. What is it?
 20 A. It's a notice of deposition -- re-notice of
 21 deposition.
 22 Q. That's right.
 23 So, as to each of these topics located on page
 24 two of H2-1, do you have knowledge regarding these
 25 topics?

Page 13

1 A. Yes, I do.

2 MS. GLASSER: Object to form.

3 BY MS. EDENFIELD:

4 Q. Is there any one of these topics that you feel

5 unprepared to answer questions about?

6 A. Can you repeat the last question?

7 Q. Absolutely.

8 Are there any of these topics that you feel

9 unprepared to answer questions about today on behalf of

10 the City?

11 A. I feel I am prepared to answer them.

12 Q. All of them?

13 A. Yes.

14 MS. EDENFIELD: Is this the person with the

15 most knowledge for the City?

16 MS. GLASSER: I think he said, I feel I am

17 prepared.

18 BY MS. EDENFIELD:

19 Q. Oh, I'm so sorry. I thought you said you felt

20 unprepared.

21 A. No, I didn't say that.

22 MR. PEARSON: I misheard it the same way.

23 BY MS. EDENFIELD

24 Q. Okay. So, you do feel prepared to answer

25 questions on all of these topics today?

Page 14

1 A. Yes.

2 Q. Please tell me -- again, excluding any of the

3 content of the conversations that you had with your

4 attorneys -- please tell me what you did to prepare for

5 today's deposition?

6 A. I reviewed certain paperwork that was

7 provided from the law department.

8 Q. Okay. What documents have you seen related to

9 this case?

10 A. I've seen the one you presented.

11 Q. Okay.

12 A. I reviewed the city ordinance.

13 Q. The new ordinance or the old ordinance -- I'm

14 sorry. Let me rephrase that.

15 The vending ordinance; is that what you mean?

16 A. Correct.

17 Q. The vending ordinance was amended in January of

18 this year; is that right?

19 MS. GLASSER: Object to form. You mean last

20 year?

21 MS. EDENFIELD: You're absolutely right.

22 Sorry.

23 BY MS. EDENFIELD:

24 Q. Did you review the vending ordinance as amended

25 in January of 2013?

Page 15

1 A. Yes.

2 Q. Okay. What else?

3 A. The other form I reviewed, but I don't

4 remember exactly unless they're in front of me. I

5 couldn't name them for you.

6 Q. Okay. Did you perhaps review the amended

7 complaint in this case?

8 A. Do you have a copy of this?

9 Q. Absolutely. I'll mark it H2-2 and this will be

10 H2-3.

11 (The referred-to document was marked as

12 Plaintiff's Exhibit No H2-2)

13 (The referred-to document was marked as

14 Plaintiff's Exhibit No. H2-3)

15 MS: EDENFIELD: I already gave you a copy of

16 the answer, right?

17 MS. GLASSER: Yeah.

18 BY MS. EDENFIELD:

19 Q. All right. So that's H2-3 -- sorry. There's

20 going to be a bunch of them.

21 We're going to do this one H2-4. This is H2-5.

22 This is H2-6. This is H2-7. This is H2-8. This is

23 H2-9. This will be H2-10.

24 (The referred-to document was marked as

25 Plaintiff's Exhibit No. H2-4)

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1 (The referred-to document was marked as

2 Plaintiff's Exhibit No. H2-5)

3 (The referred-to document was marked as

4 Plaintiff's Exhibit No. H2-6)

5 (The referred-to document was marked as

6 Plaintiff's Exhibit No. H2-7)

7 (The referred-to document was marked as

8 Plaintiff's Exhibit No. H2-8)

9 (The referred-to document was marked as

10 Plaintiff's Exhibit No. H2-9)

11 (The referred-to document was marked as

12 Plaintiff's Exhibit No. H2-10)

13 Okay. I'm going to hand you a stack of

14 documents marked H2-2 through H2-10 -- I'm handing

15 you a stack of documents through H2-2 through H2-9.

16 Please let me know if you've seen any one of these

17 before today?

18 A. When you mean seen, are you asking if I

19 reviewed prior to this?

20 Q. I'm asking if you have reviewed any of these

21 prior to this deposition today?

22 A. I have not reviewed H2-2.

23 Q. Okay.

24 A. I have not reviewed H2-3.

25 Just as a clarification --

Page 17

1 Q. Sure.

2 A. When you mean reviewed, is it something that

3 I took possession and read completely to prepare for

4 this, or is it you mean something that in my meetings

5 with the City we discussed generally?

6 Q. I don't want to know whether you discussed

7 generally in your meetings with the attorneys.

8 What I do want to know is if you have looked

9 over these documents. You don't have to have read it

10 completely, but if you have seen it in the past and

11 reviewed it either in representation for this deposition

12 or related to the case.

13 And if you're more comfortable explaining how

14 much of it you've read, that's totally fine. I won't

15 hold you to knowing every single thing in these documents

16 anyway.

17 A. I'll give you my definition of review because

18 this is where I'm having a problem here so I can make

19 sure I'm answering your question accurately.

20 There are certain documents that were

21 forwarded to me that I did print out and go through

22 each page of them, you know.

23 There are other documents where I brought

24 certain segments but in general discussion -- and

25 that's why I'm having -- and those that I reviewed

Page 18

1 page by page I don't -- my recollection, even though a

2 lot of the wording is the same on it, does not jog my

3 memory saying either one is actually the one I took

4 possession of and read line by line on this.

5 Q. I understand. So why don't you go through one

6 by one and let me know if you have seen it or if you have

7 -- for each one why don't you tell me the extent to which

8 you have seen that document before today.

9 And, again, please be sure not to divulge any of

10 the communications you've had with the attorneys.

11 A. In reference to document H2-4 there are

12 portions of this document that I have seen.

13 Q. Okay. What portions?

14 A. What I recollect that stands out are the

15 exhibits.

16 Q. Okay. Have you seen all of the exhibits before?

17 A. I've seen Exhibit C. I'm assuming that when

18 we have Exhibit C on this side it pertains to the

19 following page?

20 Q. That's correct. And you're pointing to the left

21 side and the right side of the page?

22 A. Right. To my left it states Exhibit C, and

23 to the right, for instance, Exhibit C has an e-mail.

24 Q. So, you have seen the e-mail labelled Exhibit C

25 in H2-4 before?

Page 19

1 A. Yes.

2 Q. How about Exhibit D?

3 A. Exhibit D that consists of page one, two, and

4 three?

5 Q. Yes.

6 A. Yes, I have.

7 Q. Okay. Have you seen Exhibit E before in H2-4?

8 A. Yes, I have.

9 Q. Okay. Thank you. Now, we're going onto H2-5.

10 A. I have seen H2-5.

11 Q. Okay. Also, just to clarify, it's perfectly

12 acceptable to either say you don't remember or you're not

13 sure. That's totally fine with me too.

14 Have you seen the document marked H2-6 before?

15 A. I'm reviewing it right now. What stands out

16 in this document, again, is Exhibit B.

17 Q. Okay. Have you seen the document marked H2-7

18 before?

19 A. Some of the content in Exhibit A is familiar,

20 but I don't recall exactly, you know. But some of the

21 content I read in the past.

22 Q. Have you seen the document marked H2-8 before

23 today?

24 A. Possibly. I don't know.

25 Q. Okay. Have you seen the document marked H2-9

Page 20

1 before today?

2 A. It's a possibility I reviewed it. Some of

3 the language seems familiar.

4 Q. Okay. Thank you for looking over those.

5 A. Can we take a bathroom break, if you don't

6 mind?

7 Q. Of course.

8 (A brief recess was taken)

9 BY MS. EDENFIELD:

10 Q. Okay. So, we have reviewed a few documents, and

11 you said that you've seen some and haven't seen others.

12 Have you seen any other documents other than the

13 ones that I have showed you in preparation for today's

14 deposition?

15 MS. GLASSER: Object to form.

16 THE WITNESS: When you mean other documents,

17 what do you exactly mean?

18 BY MS. EDENFIELD:

19 Q. Have you seen other studies or e-mails or legal

20 documents that are related to this case?

21 A. What legal documents do you mean? For

22 example, like the type of documents that you presented

23 to me as the different exhibits?

24 Q. That could be part of it. Also, it may be

25 ordinances. You did mention the ordinance earlier that

Page 21

1 you had seen that?

2 A. Correct. I reviewed the city ordinances,

3 correct.

4 Q. Have you seen any state statutes in preparation

5 for today's deposition?

6 A. Any state statute pertaining to the vendor --

7 I'm familiar with the ones that apply, so no need to

8 review anything of the state statute, if that's what

9 you're asking me.

10 Q. Okay. Did you speak with any other people in

11 preparation for the deposition today?

12 A. By other people, you mean by the law

13 department?

14 Q. Besides the law department.

15 A. No, I did not.

16 Q. Okay. Are you familiar with what this case is

17 about?

18 A. Yes, I am.

19 Q. Can you tell me what your understanding is of

20 what this case is about, please?

21 A. There were certain city ordinances that an

22 individual by the name of Silvio Membreno and it's --

23 part of the knowledge comes from my being in the City

24 Counsel meeting when the ordinances were -- the new

25 ones were enacted.

Page 22

1 With regards to what the prior ordinances

2 were, they felt they were unlawful, for use of a word.

3 So an action has been brought up against the

4 City.

5 Q. When you said that they felt that it was

6 unlawful, what do you mean?

7 A. I'm using the word "they" referring to

8 Mr. Membreno, and I know he's been represented by

9 legal counsel.

10 Q. Okay. How long have you worked with the City?

11 A. I've been employed with the City since

12 November of 1991.

13 Q. Did you start out as chief?

14 A. No, ma'am.

15 Q. What did you start out doing for the City?

16 A. I started out as a police officer patrolman,

17 served in various ranks up to my appointment to chief

18 on April 1st of 2012.

19 Q. Were you appointed chief or elected?

20 A. It's an appointed position by the Mayor.

21 Q. Did the current mayor appoint you?

22 A. Correct, yes.

23 Q. As a patrolman, what did you do?

24 A. Answer calls for service and additionally,

25 you know, proactive in the duties of a police officer,

Page 23

1 traffic enforcement, enforcement of Florida state

2 statutes.

3 The Hialeah Police Department has always been

4 very oriented in community service types of

5 enforcement. So, basically if we get called, we go

6 and see what services we can provide or what referrals

7 we need to do.

8 Q. How long were you a patrolman?

9 A. The majority of my career has been in the

10 Uniform Patrol Division and in various ranks.

11 So, patrolman and then I was promoted to -- I

12 think in 1998 was my promotion to sergeant in which I

13 continued my service in the Uniform Patrol Division.

14 And then the same thing as when I served as a

15 lieutenant in the Uniform Patrol Division.

16 As a commander I was in charge of one of the

17 district's stations being on the southern end of the

18 City, District 1. As also being the commander I was

19 in charge of the Training Division, and then from

20 there I was appointed to deputy chief under Chief

21 Overton.

22 Q. You said that at some point you were commander

23 of the Training Division?

24 A. Yes.

25 Q. Was that simultaneously with being commander of

Page 24

1 District 1?

2 A. No, ma'am.

3 Q. How many years were you commander of the

4 Training Division?

5 A. From September of 2010 until December of

6 2011.

7 Q. And what did do you in that position?

8 A. The administrative handling of the training

9 in the division which entailed the overseeing of the

10 required certifications for a police officer, the

11 overseeing of policies that were written, make sure

12 that we were in conformance with FDLE regulations.

13 Q. What sorts of certifications are there for

14 police officers that you oversaw?

15 A. What do you mean by certification?

16 Q. Well, you said you oversaw certifications. Does

17 that just mean while somebody is becoming a police

18 officer?

19 A. No, ma'am. A police officer goes through the

20 initial training phase which is done and certified by

21 required hours of the State of Florida in the school

22 that has that type of certification.

23 What we maintained there was an officer

24 within every four years has to have a minimum of 40

25 hours of mandatory retraining of certain topics

Page 25

1 mandated by Florida Department of Law Enforcement.
2 In addition to that we conduct firearms
3 qualifications and taser qualifications and taser
4 requalifications, defensive tactics, an array of
5 different training courses that we will maintain to
6 offer inservice training.
7 Q. So, it's sort of the continuing education for
8 police officers; is that right?
9 A. Part of it, yes.
10 Q. Okay. While you were in the Training Division
11 -- while you were the commander of the Training Division
12 were there ever any training programs related to street
13 vendors?
14 A. No, ma'am.
15 Q. Who in your command would be in charge of policy
16 memos related to street vendors?
17 A. Policy is from the office of the chief.
18 Q. Okay. Your office?
19 A. Correct. Depending on who's the chief at the
20 time, and he can delegate that to any one of his staff
21 members.
22 Q. Do you assign who writes the memos based on what
23 topic it is?
24 A. You can have an array of people who author
25 it, but the final approval to be determined as policy

Page 26

1 would be authorized by whoever is the chief of police
2 at that time.
3 Q. Got you. So, is what you're saying that in
4 order to issue a memo either the chief would write it or
5 someone at the chief's designation would write it, and
6 then it would have to go through the chief for final
7 review before it was disseminated; is that right?
8 A. If it's -- well, let me clarify it a little
9 bit for you.
10 If it's a policy that governs the full
11 department, then it's a policy that is going to need
12 the authorization and the approval of ultimately the
13 Chief of Police.
14 But within their own respective divisions
15 each major has the authority to issue memos and
16 directives and govern certain policies that affect
17 just their section.
18 Q. Okay. You said that you were familiar with the
19 subject matter of this case and described for us a little
20 bit about what that is. Are you familiar -- I'm going to
21 say that differently.
22 Have you ever seen a street vendor in Hialeah?
23 A. All the time.
24 Q. Are you familiar with what they sell?
25 A. They -- I've seen them sell an array of

Page 27

1 products.
2 Q. Okay. Like what?
3 A. Flowers, peanuts, churros, vegetables, the
4 list can go on and on.
5 Q. Okay. And in your experience seeing street
6 vendors throughout Hialeah, what are the ways that they
7 vend?
8 MS. GLASSER: Object to form.
9 BY MS. EDENFIELD:
10 Q. You can go ahead and answer.
11 A. When you mean the ways they vend, can you
12 elaborate a little bit on that?
13 Q. Absolutely.
14 In your experience seeing street vendors
15 throughout the City what method to they use to vend?
16 A. What I've seen is from them carrying their
17 goods, going out to traffic lanes when traffic stops.
18 Sometimes when traffic is not stopped they're still
19 there, and I've seen them set up displays on
20 sidewalks, in front of vehicles to vendor property.
21 I've seen them as early as this morning. To
22 give you an example, I was driving through East 10th
23 Avenue between the area of East 17th Street and 21st
24 Street and two vendors sat on each side of the road, a
25 pickup truck vending different produce and then

Page 28

1 numerous boxes set up along the sidewalk plus a chair
2 displaying their merchandise.
3 That's generally the way that I've seen them
4 display their merchandise to sell the merchandise.
5 Q. The ones on 10th you were talking about, those
6 are fruit vendors, right?
7 A. Those are fruit vendors.
8 Q. Okay. Do you know plaintiff Silvio Membreno?
9 A. What do you mean by know?
10 Q. Have you ever met him?
11 A. I have seen him, and it was the date of the
12 counsel meeting when he identified himself as who he
13 was.
14 Q. Okay. So, we're going to be talking about three
15 different laws today. Two of them were amended as we
16 discussed earlier at the beginning of 2013.
17 Are you familiar with the laws that are at issue
18 in this case?
19 A. Yes. I have reviewed them, and I've been
20 familiar for years with the laws.
21 Q. Would you please describe the laws that are at
22 issue in this case for us?
23 A. Do you describe by statute numbers, by
24 ordinance number or --
25 Q. However you prefer.

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1 MS. GLASSER: Object to form.
2 THE WITNESS: Would I be able to review the
3 ordinance statute?
4 BY MS. EDENFIELD:
5 Q. Of course. That's a great idea.
6 I'm going to hand you what we've marked as
7 Exhibit H2-11.
8 (The referred-to document was marked as
9 Plaintiff's Exhibit No. H2-11)
10 Is the document marked H2-11 the ordinance
11 that you reviewed in preparation for today's
12 deposition?
13 A. Yes.
14 Q. Okay. In this case our clients are challenging
15 two of the provisions in this ordinance. The first is
16 18-302 and the second is 18-304.
17 Were you involved in the amendment of these
18 ordinances?
19 A. What do you mean by involvement?
20 Q. Were you involved in discussions related to the
21 amendments that took place on January of 2013 of sections
22 18-302 and 18-304 of this ordinance?
23 MS. GLASSER: Objection to form. And also to
24 the extent that you're asking for discussions
25 with his attorneys regarding this deposition I'm

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1 going to instruct you not to answer as
2 attorney-client privilege. Beyond that you can
3 answer.
4 THE WITNESS: Repeat again.
5 BY MS. EDENFIELD:
6 Q. No problem.
7 Of course except for what you may have discussed
8 with the attorneys related to this case, were you
9 involved in discussions relating to the January 2013
10 amendments to sections 18-302 and 18-304?
11 A. When you say discussions, is it discussions
12 with the law department or --
13 Q. I mean were you ever consulted about the
14 amendments to 18-302 and 18-304?
15 MS. GLASSER: Object to form. Again, same
16 objection.
17 Do you mean during the amendment process or
18 about the amendments in general?
19 MS. EDENFIELD: I don't understand your
20 question. Sorry.
21 MS. GLASSER: It's -- if you understand it,
22 you can answer. I'm just objecting to the form.
23 BY MS. EDENFIELD:
24 Q. If you need to take a break at any time please
25 let us know.

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1 A. No, I'm sorry. Sometimes things are
2 happening and I have to stop and --
3 Q. I completely understand. I'll rephrase it.
4 Did you ever offer your input regarding the
5 amendments to 18-302 and 18-304?
6 MS. GLASSER: Object to form.
7 THE WITNESS: I'm trying to figure out my
8 timeline here. That's why I'm thinking.
9 BY MS. EDENFIELD:
10 Q. No problem.
11 A. I know I did discuss it. I did have a
12 discussion when it came up with the law department.
13 Q. Did you ever discuss it with anyone else?
14 A. No. My discussion was what I read in my
15 input with the law department.
16 Q. Okay. From the City's understanding, why were
17 there amendments made to the vending code of the City of
18 Hialeah?
19 A. To address certain concerns that were brought
20 up by the legal action against the City.
21 Q. What concerns were purported to be addressed by
22 the amendments?
23 A. On which -- are we referring to a specific
24 one that you just pointed out again?
25 Q. I'm referring to the amendments generally.

Page 32

1 MS. GLASSER: Object to form.
2 BY MS. EDENFIELD:
3 Q. If you're more comfortable, we can take it one
4 by one.
5 A. I would prefer that.
6 Q. No problem.
7 In the City's understanding why was section
8 18-301 amended in response to this litigation?
9 A. In my understanding as we go through 18-301,
10 it is to bring up the concerns that was brought up by
11 the parties concerning what is crossed out here on
12 this ordinance.
13 Q. Okay. And when you say what is crossed out,
14 would you mind reading it for the record?
15 A. I'm reading 18-301. Am I just reading what
16 is crossed out?
17 Q. Right. When you say what's crossed out here,
18 they don't know what here is, so you got to --
19 A. Right. What's crossed out in Exhibit H2-11
20 of page two under 18-301, definitions.
21 The portion that is crossed -- I guess lined
22 out-- to be omitted, which refers to the old language
23 versus the new language.
24 Q. Okay.
25 A. And that continues to the top of the same

Page 33

1 exhibit, page three.

2 Q. What is the City's understanding as to the

3 difference in the definition after the amendment was made

4 to the vending ordinance in January of 2013?

5 A. Can you restate the question?

6 Q. Absolutely.

7 What is the City's understanding as to the

8 difference between the previous definition of peddlers

9 and itinerate vendors under 18-301 and the definition of

10 peddlers and itinerate vendors after the January 2013

11 amendments?

12 A. Here what's being removed is to the wording:

13 All retail, wholesale, and/or service providers, when

14 conducting business other than from an inspected

15 building constructed and maintained in accordance with

16 the South Florida Building Code and all applicable

17 life safety codes.

18 And they're switching over to: Persons going

19 from place to place for the purpose of selling or

20 offering for sale, any goods, merchandise, or wares

21 for immediate delivery of the goods, merchandise, or

22 wares at the time the order is taken, whether or not

23 using a wagon, pushcart, or other vehicle. This

24 definition does not include delivery of any item

25 previously ordered, the sale of items along delivery

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1 routes, solicitation of orders by sample where the

2 goods are not delivered at the time the order is

3 taken, or food truck operators.

4 Q. Would the City agree that the definition of a

5 peddler or itinerant vendor includes peddlers or

6 itinerant vendors for using push carts or other vehicles?

7 MS. GLASSER: I'm just going to object to

8 this line of questioning as he's not a corporate

9 rep on 18-301. That was not one of the topics

10 but -- so it's not in his capacity as a corporate

11 rep.

12 MS. EDENFIELD: I understand what you're

13 saying. Is it okay if he answers?

14 MS. GLASSER: If he knows he can answer.

15 We'll see how far it goes along.

16 THE WITNESS: You mean a reference on this

17 301 to pushcarts? What was the question on that?

18 BY MS. EDENFIELD:

19 Q. I'm asking if the City's understanding is that

20 the definition of peddler or itinerate vendor includes

21 peddlers or itinerate vendors who are using pushcarts or

22 other vehicles?

23 MS. GLASSER: Same objection.

24 THE WITNESS: I don't have the answer for you

25 on that.

Page 35

1 BY MS. EDENFIELD:

2 Q. Okay. You said that you are very familiar

3 with -- well, I don't want to put words in your mouth.

4 Did you tell me earlier that you were familiar

5 with these ordinances from the time that you were a

6 patrol officer?

7 MS. GLASSER: Form.

8 THE WITNESS: Yes. As a patrol officer we

9 also enforced, you know, and had knowledge of the

10 City ordinance which pertains to our function

11 that we'll encounter in our duties.

12 BY MS. EDENFIELD:

13 Q. So, what was your understanding as to a patrol

14 officer of the prohibition of stopping or standing still

15 that was included in section 18-302 of the ordinance?

16 MS. GLASSER: Are you asking -- I'm sorry --

17 about the old ordinance?

18 MS. EDENFIELD: Uh-huh.

19 MS. GLASSER: Because I'm going to object on

20 that. He's also not here to -- you already took

21 a corporate rep on the old ordinance.

22 MS. EDENFIELD: We put in the notice that we

23 were asking about the difference, so I want to

24 know what his understanding was of it before so I

25 can ask about the difference.

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1 MS. GLASSER: Okay. But I'm just saying he's

2 not going to have the familiarity necessarily to

3 answer that because he did not study the

4 differences between the two.

5 If he can answer he can answer, but he's not

6 a rep on the differences.

7 MS. EDENFIELD: He's not a rep on the

8 differences between the old ordinance and the new

9 ordinance?

10 MS. GLASSER: He can discuss the new

11 ordinance but in detail to the extent he knows

12 it's fine, but I don't want to go into detail of

13 what the old ordinance was.

14 MS. EDENFIELD: I wasn't planning on going

15 into detail. I just need the foundation that he

16 understands what was changed.

17 MS. GLASSER: Okay. On those sections,

18 right?

19 MS. EDENFIELD: Exactly. On 18-302 and

20 18-304.

21 MS. GLASSER: Okay.

22 BY MS. EDENFIELD:

23 Q. So, I was asking as a patrol officer --

24 A. Yes.

25 Q. -- as a patrol officer what was your

Page 37

1 understanding of section 18-302?
2 MS. GLASSER: I'm going to object because
3 18-302 as a patrol officer we're talking about
4 how many years ago was that. You're not asking
5 the difference. You're asking what he understood
6 as a patrol officer 15 years ago.
7 MS. EDENFIELD: But if I'm going to ask the
8 difference, I have to know that he has an
9 understanding of what it said before.
10 MS. GLASSER: You can ask him that, but
11 you're asking what the difference is.
12 MS. EDENFIELD: But I want to have an
13 understanding of what he believes it said before
14 and what he believes it says now and how those
15 are different. I'm not --
16 MS. GLASSER: So, what he understands now as
17 to the differences between the two and what his
18 understanding is now as to how it was enforced is
19 fine, but I don't want to go back to what his
20 understanding 15 years ago was of an ordinance
21 that's not in existence.
22 MS. EDENFIELD: Okay. No problem. I'll ask
23 it differently.
24 BY MS. EDENFIELD:
25 Q. Are you familiar with what section 18-302 said

Page 38

1 before the amendments that took place in January of 2013?
2 A. Yes.
3 Q. What did section 18-302 say before the
4 amendments that took place in January of 2013?
5 A. As my understanding as a patrol officer when
6 I was enforcing it, that's in the content that you're
7 asking?
8 Q. That's a very good question. I'm asking the
9 City's understanding of what section 18-302 prohibited
10 before the amendments that took place in January of 2013?
11 MS. GLASSER: Do you have a copy of that one?
12 MS. EDENFIELD: It's H2-11.
13 MS. GLASSER: No. That's the current one,
14 right?
15 MS. EDENFIELD: Yeah, but it's the amendment.
16 MS. GLASSER: Oh, it's the crossed out part.
17 THE WITNESS: That's what it was - the
18 understanding - before except the crossed out
19 part.
20 BY MS. EDENFIELD:
21 Q. So, before the January 2013 amendments to
22 section 18-302, what was the City's understanding of what
23 was prohibited by this section?
24 A. Your question pertains to part of this
25 ordinance that's stricken before -- what was the

Page 39

1 understanding prior?
2 Q. Exactly.
3 A. Okay. As it states here, they're not
4 supposed to stop in one location unless they were
5 doing business.
6 Q. Okay. After the amendments in January of 2013
7 to the vending ordinance what is the City's understanding
8 of what is prohibited by section 18-302 of the vending
9 ordinance?
10 A. It's an expansion in a more clear direction
11 in what the vendor should or should not be doing to
12 classify him as a vendor.
13 Q. You said it was an expansion. How is the
14 amended ordinance section 18-302 an expansion of 18-302
15 pre-amendment?
16 A. It's being more specific in the language
17 usage of how -- what can be done or what cannot be
18 done.
19 Q. So before the amendment what is the City's
20 understanding of what could not be done?
21 A. As stated in the ordinance, that you cannot
22 just stand in one location unless you were conducting
23 a business transaction.
24 Q. And now what is the City's understanding of what
25 is prohibited by section 18-302 post-amendment?

Page 40

1 A. That they can be at a location as long as
2 they're not doing any of the prohibition that's stated
3 there as obstructing traffic, delaying, or interfering
4 with the sidewalk.
5 So just by merely being there it is not a
6 violation. Before, they had to be engaged in some
7 sort of business transaction.
8 Q. Is the City's understanding of the ordinance
9 section 18-302 after the January 2013 amendments that
10 vendors are allowed to stay in one location indefinitely?
11 MS. GLASSER: Object to form.
12 THE WITNESS: What do you mean by
13 indefinitely?
14 BY MS. EDENFIELD:
15 Q. After the amendments to section 18-302 that
16 happened in January of 2013, are vendors in the City of
17 Hialeah allowed to stay in one location to vend without
18 restriction as to whether they have to move?
19 A. When you mean location, okay, are you making
20 a reference to a specific -- let's say an intersection
21 that has four corners? Are you making a reference
22 that they can move around the corners or can be in one
23 corner and then have to move to another, or are you
24 making a reference that they can be walking up and
25 down, you know, the sidewalk? That's what I don't

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1 understand in that question there.

2 Q. I'm referring to the word "location" in the

3 ordinance. And so, I'm actually trying to figure out

4 what the City thinks is one location.

5 So, what does the City think is one location

6 after the amendments to section 18-302 that occurred in

7 January of 2013?

8 A. They can be at -- let's take an example.

9 We'll use the corner of West 4th Avenue and 49th

10 Street, one of the most popular corners for vendors.

11 They can be in that location as long as they

12 are not set up as a business, they're not set up with

13 all their goods on the grounds, and their vehicles are

14 not in any violation of the ordinance.

15 So, they can be there as long as they want to

16 be there. And we always have to take into account and

17 make sure they're not blocking the sidewalk, they're

18 not interfering with traffic, so on and so forth.

19 Q. Is the location referred to in 18-302 after the

20 2013 amendments to the section? Does that word

21 "location" mean one intersection?

22 A. I wouldn't narrow it down to one

23 intersection. It's whatever place that person is

24 being at. Location changes with all the other factors

25 affecting it. It's not a physical address that we're

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1 naming.

2 Q. So, I'm going to refer you to the portion of

3 18-302 that now says: No peddler or itinerant vendor

4 soliciting or conducting sales on foot can permanently

5 stop or remain at any one location on public property.

6 What does the City mean by prohibiting peddler

7 or itinerant vendors from soliciting or conducting sales

8 on foot from permanently stopping or remaining at any one

9 location on public property?

10 A. There is no prohibition of them being at a

11 location for any extended amount of time as long as

12 they're not interfering with the pedestrian traffic,

13 with the issue of them setting up their goods and all

14 of that.

15 So, if a vendor is on West 4th Avenue from

16 49th to 48th and if none of the other factors that

17 will concern us because of the obstruction of the

18 sidewalk, of the traffic issues -- all those issues

19 are the ones that affect not only the peddler's safety

20 but also the pedestrian and the vehicular traffic --

21 then there is no issue of him being there, okay.

22 The purpose is to make sure that the peddler

23 has an understanding that he cannot set up in a fixed

24 location to which is public property and then cause

25 the other issues I've just named.

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1 Q. Would you please explain to me what you mean by

2 fixed location?

3 A. Fixed location is when that vendor - peddler

4 - takes a portion of either the sidewalk or the street

5 or the swale area and makes that his own location for

6 the purpose of this is my spot and I'm here day in and

7 day out with all my flowers, whatever they're vending

8 at the time, all set up.

9 Q. I'm going to narrow this down so we can get rid

10 of the other factors that you were discussing because I

11 think those are pertinent and we'll definitely get to

12 those, but I'm going to isolate it for us. I want to get

13 this fixed location thing down.

14 Let's talk about a vendor who is, for example,

15 on the swale which is public property, right?

16 A. Correct.

17 Q. Can you describe what a swale is for me?

18 A. The portion of the right away that's owned by

19 the City.

20 Q. Swale is not a sidewalk though; is that right?

21 A. No, I don't think it's a sidewalk.

22 Q. Is a swale the grassy area on the other side of

23 the sidewalk from the street?

24 A. Correct, yes.

25 Q. If a vendor is holding his merchandise in his

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1 hands, has no other merchandise, is not on the sidewalk

2 but is rather on the swale, and is otherwise not

3 obstructing right-of-way, is that vendor allowed to stand

4 in place for more than 30 minutes?

5 A. If there's no other concerns and the vendor

6 is standing there and once again he's not causing a

7 problem, okay, but the problem does come in -- and

8 that's an unrealistic example. They don't stand in

9 one location for 30 minutes. So, you're asking me for

10 a question that really is not realistic in what

11 happens with a vendor or our vendor contacts.

12 The scenario you just described -- having

13 major motor transportation here we see this vehicle

14 and that's who they cater to, it is unreasonable that

15 scenario you just posted to me because I don't see it

16 happen.

17 If he's just standing there, it would be like

18 me as a normal citizen just standing there because I

19 want to stand there. But as a vendor with a bucket

20 he's not going to any sales. He's not going to do

21 anything.

22 So that's unrealistic to even put a time

23 frame on it because it doesn't occur. The vendors are

24 out there actively trying to sell their merchandise.

25 They want, you know, people to see it.



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1 On the other side of it, if this vendor is
 2 always standing there for a long time, he's
 3 established that is his own, then there becomes the
 4 expectation that he is always there. So, now that's
 5 where it comes in.
 6 But once again, those are scenarios that do
 7 not play out with the person carrying his bucket
 8 because it's unrealistic. No one is going to in all
 9 practicality park their car and walk to them. The key
 10 to their sales is accessibility. Location, location,
 11 as it applies to anything.
 12 Q. Got you. I know this is tough because you're
 13 dealing with a room full of lawyers right now, and we
 14 deal in hypotheticals. And so the reason I'm giving you
 15 that hypothetical is because I understand that that's not
 16 a realistic scenario, but I'm trying really hard to
 17 narrow down what exactly the City means by location and
 18 by its prohibition on what I've understood to be a
 19 prohibition on standing still, on staying in one
 20 location.
 21 So, that's why I gave you that hypothetical.
 22 I'm not suggesting that that's probable. I'm suggesting
 23 that -- I'm giving it to you so that we can sort of flesh
 24 it out and see what location means.
 25 Would you mind turning to page four of H2-11 for

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1 me?
 2 A. Page four of the --
 3 Q. Of the ordinance that you have in your hand.
 4 A. Continuation of 18-302?
 5 Q. Exactly right.
 6 A. Okay.
 7 Q. So this section of the ordinance says: Nothing
 8 in this section shall be interpreted to authorize a
 9 peddler or itinerant vendor operating from a vehicle to
 10 stop or park in any one location --
 11 A. I'm sorry. I lost -- where are you at?
 12 Q. I'm sorry. I'm right up here. I'm in the
 13 middle of that big long paragraph at the top of page four
 14 where it says "nothing in this section". It starts
 15 towards your right.
 16 A. Okay.
 17 Q. It says: Nothing in this section shall be
 18 interpreted to authorize a peddler or itinerant vendor
 19 operating from a vehicle to stop or park at any one
 20 location on private or public property with such
 21 regularity and permanency such that would lead a
 22 reasonable person to believe the location is the vendor's
 23 fixed business location.
 24 So here we are coming upon that word location
 25 again. Regarding section 18-302 post-amendment, what

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1 does the City mean by such regularity and permanency that
 2 would lead a reasonable person to believe the location is
 3 the vendor's fixed business location?
 4 A. I think the best way to answer that is the
 5 example I cited to you earlier.
 6 Just this morning in my travels through the
 7 City you have a vendor set up that you can tell he's
 8 permanently at that location, that he has set up not
 9 only his truck with all his vending items but on the
 10 sidewalk with a chair.
 11 So if it comes to that, I think anyone living
 12 in that neighborhood or anyone driving through there
 13 -- normally the same type of people who drive through
 14 our main avenues -- when you see that person day in
 15 and day out that creates that same expectation that he
 16 is in a fixed location.
 17 So you have to look at the totality of
 18 everything surrounding the scenarios you post. This
 19 is easy. You drive by there -- the ways he's set
 20 up -- you drive there at 9:00 o'clock in the morning
 21 or at 5:00 o'clock and that vendor is there, you know.
 22 And those ones that do that cause the other
 23 problems that we try to prevent. For example, I've
 24 seen vehicles parked in the center turning lanes and
 25 scream out to the vendors this is what I want then the

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1 vendor walks over and now he's in the roadway stopping
 2 traffic, causing a hazard to himself. Then you have a
 3 vehicle that is stopped there causing another hazard.
 4 When it comes to sidewalk issues, when they
 5 personally set up, then you have people -- we have
 6 elders, people in wheelchairs that now you force them
 7 to go on the street to be able to get through.
 8 Or, you know, you have more of the other
 9 complaints we get of any obstructions from the
 10 elderlies and the people who walk through
 11 neighborhoods who complain about any obstructions on
 12 the sidewalk.
 13 And that's what I would refer to as
 14 addressing this. This is a prime example of what you
 15 have here.
 16 So, it's not only -- to answer your question
 17 -- it's everything else; the totality of the whole
 18 situation surrounding it.
 19 Q. Isn't it already illegal for a vendor to block
 20 the sidewalk?
 21 A. Yes.
 22 Q. Is it illegal based on something outside of this
 23 ordinance?
 24 A. For a vendor to block the sidewalk?
 25 Q. Or for anyone to block the sidewalk?



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1 A. What do you mean by blocking?
2 We have laws that prohibit vehicles that park
3 on the sidewalk, okay. I think that question is too
4 broad because it's -- all depending on the
5 circumstance your dealing with is what you apply the
6 applicable law to it. And that's why you have that --
7 this specific scenario we're speaking of, the
8 individuals are the vendors, so that is to address
9 this concern with them.
10 Q. I understand. Are there laws besides the vendor
11 ordinance that make it illegal for someone to run out
12 into the street in a hazardous manner?
13 A. Yes, there are.
14 Q. Are there laws outside of the vendor ordinance
15 that prevent a person from blocking the rights of way?
16 A. Once again, you're being too broad on that.
17 The scenario you presented before on pedestrians,
18 there are pedestrian laws that govern all of that.
19 But once again if you don't have the peddler
20 set up there, then the other things you just cited is
21 a result of when they set up in a permanent location.
22 Q. I understand but, again, hypothetical.
23 If a person, any person who is not a vendor
24 blocks the sidewalk for any period of time, is that
25 illegal outside of the vendor ordinance?

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1 MS. GLASSER: Object to form.
2 THE WITNESS: Once again, I have to answer
3 you have to be more specific.
4 Like I said, once again, you have
5 different -- the sidewalks are public.
6 And depending on what act you're doing, the
7 public -- everyone has a right to it. But
8 whatever function you're doing, it becomes other
9 issues, you know.
10 How can I say -- demonstrations. To give you
11 an example, if you have someone who wants to
12 stand in City Hall and walk back and forth and
13 say whatever he wants to say, that's perfectly
14 fine.
15 Once again, in the scenario that they are
16 taking over the sidewalk and people have to go
17 into the street or around, then we deal with
18 that.
19 And I'll go back to, you know, if we don't
20 regulate the peddlers, what they are doing is
21 they are creating this scenario of people
22 stopping. It's the root of what's causing the
23 problem.
24 Like you cited, if we have pedestrians that
25 are crossing illegally in the street or something

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1 then we will do whatever we need to do whether it
2 be more signs or traffic studies; sometimes
3 request proper signature and all of that signage
4 to regulate that, okay.
5 BY MS. EDENFIELD:
6 Q. And so if for a normal person who's not a
7 vendor, right -- well, who know who's normal.
8 For any person who is not a vendor, is it
9 illegal for them to obstruct the sidewalk?
10 A. What do you mean by obstruct? By them
11 standing there and having a conversation with someone
12 or by them setting up merchandise and obstructing?
13 I don't understand your question.
14 Q. Not necessarily merchandise. But if a person
15 set up a chair and boxes to sit on -- not to vend
16 anything from -- and put it on the sidewalk and sat there
17 day in and day out, would that be against the law?
18 A. That would be an issue we would address
19 definitely because once again that person has taken
20 possession of a sidewalk that is for use for everyone.
21 And if you're prohibiting other people from using that
22 sidewalk then we need to address that issue.
23 Q. And would you be able to address that issue of
24 someone obstructing the sidewalk day in and day out
25 independent of the vending ordinance?

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1 A. Yes.
2 Q. Okay. I want to go back to my hypothetical --
3 my unrealistic hypothetical admittedly because I'm really
4 still trying to get a grasp on -- I understand the
5 concerns you were mentioning about the other things that
6 a vendor might do that would be an issue for the City and
7 how that might stem from their vending.
8 But if a vendor was not obstructing the
9 sidewalk, was standing on the swale area, was holding a
10 bucket of let's say flowers and waited for customers to
11 approach him, how long could that vendor stand in one
12 location and stand in one spot?
13 A. It would be improper to just put a time on
14 it. Once again, you have to look at what is that
15 creating and to if we can establish if that vendor is
16 set up there as a permanent fixture, for lack of a
17 better word.
18 So, you have to -- everything that is done in
19 any statute interpretation with the state statute
20 ordinance there is a period of determining of getting
21 what has occurred, you know. It's everything, the
22 circumstances surrounding it, so you can form an
23 opinion. So, it's unfair to tell you five minutes,
24 three minutes, ten minutes, 20 minutes, you know.
25 Ask me if the vendor is standing there for 30



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1 minutes and he doesn't feel well, I will probably want
2 to approach him and say are you feeling well? Do you
3 need anything? So, it's too much of a vacuum of you
4 asking me to give you an opinion.
5 Q. So, what other factors go into determining
6 whether someone is a permanent fixture, as you said?
7 A. Well, the same thing I mentioned.
8 Are we using the same scenario as just
9 holding one bucket, or are we expanding to what I said
10 before depending on what he has set up, so on and so
11 forth.
12 Q. If a vendor wanted to hold a bucket of flowers,
13 stand in the swale and not block rights of way, what
14 would go into determining whether that vendor was
15 establishing a permanent business location?
16 A. Frequency of what the example you're giving
17 me. If now we have something occurring on a daily
18 basis and we're addressing it as a complaint, it's
19 constant so it has to be a period of observation. We
20 need to establish that.
21 We just don't arbitrarily go just because
22 you've been there 15, 20, 30 minutes. I think you
23 have to look at once again at what impact -- what
24 effect it's causing to come to that determination.
25 Q. So, if a vendor was standing in the swale with a

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1 bucket of flowers in his hand not obstructing the rights
2 of way and he was standing there every day during the
3 daylight hours for a week, would that be considered a
4 permanent business location?
5 A. Just based on that parameter you gave me I
6 would say yes because then he's creating -- we'll go
7 back to the other factors that you take to determine
8 that, okay.
9 We're not dealing about a highway, we're
10 dealing about locations that the city roads are mainly
11 travelled by the same residents that commute daily
12 through the City who live here.
13 So, the expectation if I am an individual who
14 lives or frequently drives through and I see this
15 vendor there in the same location day in and day out
16 without moving, which is unrealistic as I mentioned,
17 then I would figure if tomorrow I need to buy flowers
18 I know that guy is going to be standing there with his
19 bucket.
20 So, he's set up there. I have that
21 expectation that I will find him again. But like I
22 said, that's something that has to be evaluated with
23 all the circumstances around it.
24 Q. If a vendor is standing in the swale area
25 holding a bucket of flowers not obstructing the

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1 right-of-way, in order for the City to determine whether
2 that vendor is setting up a permanent business location
3 would the City look to the expectations of the
4 individuals who are passing by that vendor?
5 MS. GLASSER: Object to form.
6 BY MS. EDENFIELD:
7 Q. I can rephrase that if you want me to?
8 A. Please rephrase.
9 Q. Okay. No problem.
10 So, we are talking about the factors that we're
11 going to establish -- establishing whether or not a
12 vendor has a permanent business location.
13 Would one of the factors of determining whether
14 a vendor is establishing a permanent business location be
15 the expectations of people passing by or potential
16 customers?
17 A. I think I've answered that, but I'll expand
18 on it.
19 Because if you -- once again, if you have --
20 and I'm doing this very hypothetical question that you
21 have set up that I have to reenforce is unrealistic.
22 And if we're talking about a location -- and when you
23 mean location, a fixed location -- I am assuming that
24 he's standing in the exact same location every time
25 between let's say two palm trees that are three feet

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1 apart and I see him there day in and day out, then he
2 has set up a permanent business location there for
3 himself.
4 That's why I cited the example if you're a
5 commuter -- police officer while on his patrol duties
6 is seeing that individual there day in and day out,
7 he's established himself in that hypothetical
8 situation you presented.
9 So, I think if you are asking me, you know --
10 and pardon me for the police background -- are we
11 going to interview citizens and say do you believe --
12 no. I think we all are reasonable enough to be able
13 to establish that on all the other factors.
14 And we're going, once again, on the key
15 factors on everything involving these circumstances.
16 We call it the totality of all the circumstances as we
17 would evaluate any other situation we're involved in.
18 Q. Got you. So, forgetting the customers, because
19 I never got a yes or no. I just got an expansion.
20 If a vendor is vending from the swale area with
21 a bucket of flowers in his hand not obstructing the
22 right-of-way, in order to determine whether or not that
23 vendor has established a fixed business location you
24 would have to determine whether you expect for that
25 vendor to be there; is that right?

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1 A. Exactly. Based on your example that he's
2 there day in and -- you know, at the same location at
3 every time then that will come -- and I'll cite -- I
4 think the best way to cite it for you is there is one
5 vendor as West 4th and 49th and it's a seasonal
6 flower, okay, and that vendor sets up there and you
7 have that expectation he's always going to be there
8 because he's just doing that.
9 He sets up with his bucket, okay, and he
10 sells there, and he's very limited, okay. He's
11 established a clientele for that.
12 Q. Okay.
13 A. So he has set up a fixture. And I'll use
14 myself as an example because I have purchased from
15 him, you know. It's a very seasonal flower. You will
16 pull over to the side road and park, okay. And he's
17 there, okay. I have that expectation he's created
18 because of being there in that location, you know, not
19 to the example of, you know, he's there at the same
20 day selling those flowers, okay.
21 So we're going back. If you are in one
22 location selling the same product over and over and
23 you don't move from that little circle that would be
24 three feet or two feet, you have set up that
25 expectation, you know, of being there for any

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1 customer.
2 So that's -- he has set up a personal
3 business there.
4 Q. So, in setting up the expectation that you're
5 going to be there day in and day out; if a vendor does
6 set up that expectation that he's going to be there day
7 in and day out selling his product, does that violate the
8 newly amended section 18-302?
9 A. Now, are we still speaking on the same
10 parameters you gave me?
11 Q. Yes.
12 A. Then he's very limited. If he stands there
13 with his bucket in the same location day in and day
14 out, yes he has set up permanently there, okay. He's
15 not, you know being an active peddler and moving up
16 and down approaching cars, approaching different
17 people.
18 So, we know the only way I can go and have
19 this -- if I go there because he had set up at that
20 location and won't move from there, he's taken over
21 the two palm trees, for example.
22 Q. Okay. If a vendor -- let's use the example of
23 West 4th and 49th Street. If a vendor on West 4th Avenue
24 and West 49th Street walks around on one side of that
25 intersection and is not standing in the three foot radius

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1 you mentioned before but is rather walking along the side
2 of that intersection, is that person violating section
3 18-302 as amended in 2013?
4 A. By the content that you gave that he's
5 holding his bucket and he's moving from one area to
6 another, no, he's not.
7 Q. Well, I didn't say that he's moving from one
8 area to another, so that's -- how much does a vendor need
9 to move in order to not violate section 18-302 assuming
10 that that vendor isn't blocking rights of way and is
11 holding only a bucket of flowers in his hands.
12 A. We're not asking him that he -- we're not
13 telling the vendor you have ten feet, you have to move
14 not to violate the order. It is, once again, within
15 all the other circumstances that you take into account
16 to make that determination.
17 But the vendor's interpretation of this that
18 you must move 5 feet, 10 feet, 20 feet not to be in
19 violation -- you have to take all the circumstances
20 into account.
21 Q. I understand. So the circumstances that we
22 mentioned before other than the ones about displaying and
23 setting up sort of like an area of sales, the
24 circumstance we've discussed is the expectation that that
25 person is going to be there.

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1 If a vendor sets up an expectation that he's
2 going to be in one portion of the intersection of 4th and
3 49th, does that violate section 18-302 as amended in
4 2013?
5 A. When you mean he sets up that expectation,
6 what did he do to set up that expectation? That's the
7 part I'm missing here.
8 Q. If a vendor -- sorry. I know this is tedious.
9 I'm sorry.
10 A. No, no. I'm just trying to get exactly your
11 answer.
12 Q. I know. I just want to make sure that you know
13 that I know that it's tedious, and I'm sorry for that.
14 If a vendor walks up and down one portion of the
15 intersection of 4th and 49th Street --
16 MR. PEARSON: I'm sorry. I have to
17 interrupt. I understand, Chief, that sometimes
18 you have to text on your phone, but we shouldn't
19 have multiple people texting at the same time.
20 I'm sure you guys didn't do anything
21 improper, but just out of an abundance of
22 caution.
23 THE WITNESS: I was checking on a grow house
24 that's real near -- a grow house is a house that
25 has been turned into producing marijuana.

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1 MS. GLASSER: I don't think there's a problem
2 with him if they both want to -- they're not --
3 MR. PEARSON: Like I said, it's just out of
4 an abundance of caution.
5 MS. BRAVO: For my own professionalism.
6 MS. EDENFIELD: We never said that.
7 MS. BRAVO: I think that's the implication.
8 MS. EDENFIELD: That's not the implication.
9 MR. PEARSON: The implication is I'm a
10 paranoid attorney.
11 MS. GLASSER: You can text if you want. And,
12 Chief, clearly if you need to take your text or
13 response, feel free.
14 You can go ahead.
15 BY MS. EDENFIELD:
16 Q. If a vendor is walking along one portion of the
17 intersection at 4th and 49th Street holding a bucket of
18 flowers every day for a month and has thus set up the
19 expectation that that vendor will be there, is that
20 vendor violating section 18-302 of the City's vending
21 ordinance?
22 A. By him not being fixed, that he's walking
23 whatever distance he chooses, that anyone can either
24 see him at closer to West 4th or further away from
25 West 4th, that he's not standing aside and just

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1 holding a bucket waiting? No, that expectation has
2 not been set up.
3 There's different vendors that constantly
4 work the same general area, and there is no issues
5 with that. They are there trying to earn the
6 expectation.
7 Of course like I mentioned before, any vendor
8 is going to walk up and down and be at different
9 locations to go. The problem is when he just sets up
10 in one particular area, does it move, okay. That's
11 the difference.
12 Q. What is the City's interest in section 18-302?
13 A. What do you mean by the City's interest?
14 Q. What goal is the City trying to achieve by
15 allowing some vendors who walk within an intersection but
16 disallowing vendors who stop and don't move from one
17 specific spot?
18 A. Because --
19 MS. GLASSER: Object to form.
20 You can go ahead and answer.
21 MS. EDENFIELD: I'm sorry. Can I ask what
22 the objection was?
23 MS. GLASSER: Form.
24 MS. EDENFIELD: Was it confusing, like
25 compound or confusing --

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1 MS. GLASSER: I don't have to -- just form.
2 MS. EDENFIELD: Okay. I'm trying to --
3 MS. GLASSER: That's okay.
4 MS. EDENFIELD: I'm trying to clarify it for
5 you.
6 MS. GLASSER: He might have understood. I'm
7 just objecting to the form. I'm just preserving
8 that.
9 THE WITNESS: Can you repeat again, please?
10 BY MS. EDENFIELD:
11 Q. No problem.
12 What is the City's goal in allowing a vendor who
13 walks along an intersection but not allowing a vendor who
14 stays in one particular spot?
15 MS. GLASSER: Form.
16 THE WITNESS: Once again, when you have one
17 that stays in one location -- fixed, okay, then
18 you have all the other factors that whether
19 traffic is -- when the traffic is flowing, okay,
20 people want to see what's going on, so they'll
21 tend to slow down. We have then issues with
22 traffic. Versus one that is moving that comes
23 into an intersection, people have that
24 expectation -- or I shouldn't say expectation.
25 We know that a vendor is going to -- when he

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1 should come onto the roadway is when it's safe
2 for him as the statute -- the ordinance requires.
3 He does his vending to people then he comes off.
4 The other way you're setting up more of a
5 distraction of being in one area which causes all
6 the other issues we have.
7 As you realize, the City of Hialeah is a very
8 congested city. Our last census was 231,000
9 reported residents. During the day the
10 population even soars more. We are a major
11 thoroughfare between us and the airport -- our
12 roadways -- as you can see from all the
13 expansions going on.
14 So, the whole purpose of all of this is to
15 provide a safe environment not only for the
16 peddler but for the pedestrians as well as
17 vehicle traffic.
18 BY MS. EDENFIELD:
19 Q. So, is the City suggesting that it is safer for
20 a vendor to walk in and out of traffic than it is for a
21 vendor to set up in one spot and have customers come to
22 him?
23 MS. GLASSER: Object to form.
24 THE WITNESS: No, I did not suggest that.
25 BY MS. EDENFIELD:

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1 Q. You mentioned that the City's interests in
2 section 18-302 are to provide a safe environment for
3 pedestrian and vehicular traffic; is that right?
4 A. Correct, and pedestrians. I also take the
5 peddler into account, just so we're clear.
6 Q. I'm sorry?
7 A. I also take the peddler - the vendor - into
8 account.
9 Q. Of course.
10 If the City's interest are in a safe environment
11 for pedestrians, vehicular traffic, and for the peddler,
12 does that mean that the City thinks it is unsafe for a
13 vendor to remain in one location?
14 A. When you mean unsafe for a vendor, are you
15 saying for the actual person or everything else that I
16 mentioned that is the other concern?
17 Depending on the scenario you present is
18 where the concern comes.
19 Q. Good point. That was ambiguous towards the end
20 there.
21 So, if a vendor is remaining at one location,
22 does the City contend that it is unsafe for pedestrians,
23 vehicular traffic, or the vendor for him to do so?
24 MS. GLASSER: Object to form.
25 THE WITNESS: Once again, you're mentioning

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1 the vendor. And in that scenario the issue is
2 not the vendor because obviously he's to the
3 swale area and away from any other factors.
4 BY MS. EDENFIELD:
5 Q. I added in the vendor because earlier you said
6 we also are concerned about the vendor. That's why I
7 said that.
8 A. Correct, depending on which situation you're
9 presenting to me.
10 If we're back -- if we're clear to the
11 scenario of the fixed person in one location that
12 doesn't move, that has set up his business there --
13 because that's where everybody is coming to -- then we
14 have the other problems I mentioned to you. We have
15 the other safety issues concerning what that vendor
16 impacts.
17 Q. Setting the other stuff aside, and I'm going to
18 clarify what I mean by other stuff.
19 If a vendor is holding a bucket of flowers in
20 his hands not obstructing rights of way but is
21 established at one fixed location and is there with some
22 permanency, you know, every day for a month or something,
23 is that unsafe?
24 A. For who?
25 Q. For pedestrian or vehicular traffic?

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1 A. I answered that before. Because the
2 situation having that person at the fixed location
3 will cause to the traffic mainly.
4 For example, as we're using West 4th Avenue,
5 when you have traffic flowing, okay, that would
6 detract from people's attention if they're looking to
7 see what that vendor is selling, so now my focus is on
8 looking at the guy who is standing at one location
9 always there. That's where my focus will turn to, and
10 my focus will be away from driving, okay.
11 I'll expand a little bit further. If we have
12 -- which we've seen it in the past -- the person now
13 is in the left lane of traffic, you have the right
14 lane and the vendor is in the swale, now it sets up
15 the scenario that occurs.
16 They'll cut the other vehicle off to get to
17 where this guy is standing because I know he's going
18 to be there and I see what he has there versus the
19 other things that we've discussed.
20 The safety of the vendor is a concern, and
21 that's why we have all these laws also and these
22 ordinances. We have state statutes when they come
23 onto traffic for their protection also.
24 Q. So, taking your example of a person who's in the
25 left turn lane and goes all the way to the right hand

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1 side to buy something from a vendor who is stationary, is
2 it illegal for a person who is in the left hand lane of
3 an intersection to cut across all of the lanes of the
4 intersection for any reason?
5 A. Yes, it is. But the reason I mentioned that
6 is because if that vendor wouldn't be there, that
7 person would not see the need to do that if he wanted
8 that product.
9 Q. I'm hearing some -- forgive me -- conflicting
10 concerns. Because earlier you said that the City doesn't
11 want, for example, the fruit vendors on 10th to run into
12 street and deliver their product to a car, but I also
13 hear you saying that it could be safer for the vendor to
14 bring the product to the cars so that the drivers don't
15 cut across traffic to get to the vendor; is that right?
16 MS. GLASSER: Object to form.
17 THE WITNESS: No. You're taking my answers
18 out of content. When we spoke about the scenario
19 I gave you we were speaking about the vehicles on
20 East 10th Avenue with the food vendors.
21 The other examples I have given you are the
22 ones we keep speaking about on West 4th Avenue
23 with the flower vendors.
24 BY MS. EDENFIELD:
25 Q. So what exactly is the difference between those



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1 two scenarios?

2 MS. GLASSER: Object to form.

3 THE WITNESS: What do you mean by difference?

4 BY MS. EDENFIELD:

5 Q. A flower vendor on West 4th Avenue and a fruit

6 stand on East 10th Street, right?

7 A. Uh-huh.

8 Q. Is it street or avenue?

9 A. East 10th Avenue.

10 Q. Got it okay.

11 So, for a flower vendor on West 4th Avenue, it's

12 better for that vendor to go to the customer in the

13 street; is that right?

14 A. No --

15 Q. I'm sorry let me rephrase that.

16 For a flower vendor on West 4th Avenue, the City

17 is contending that it's safer for the vendor to come to

18 the customer than for the customer to come to the vendor;

19 is that right?

20 MS. GLASSER: Object to form.

21 THE WITNESS: No. What -- the scenarios you

22 presented, the areas, are two different areas,

23 West 4th Avenue -- and my answers have been in

24 the content as long as the peddler is respecting

25 the laws he needs to follow.

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1 You have a traffic control device, a red

2 light which at that time he can step into traffic

3 and conduct his transaction then step out of

4 traffic without interfering.

5 On the East 10th Avenue one there is no

6 traffic control device where they are; meaning,

7 that any time the travel lanes in the center --

8 those lanes are meant for turns. So if you park

9 there, you're obstructing -- you're committing a

10 violation, the person who does that.

11 So it's two different locations with

12 different principles governing each location.

13 BY MS. EDENFIELD:

14 Q. I understand -- or I think I do. Let me ask.

15 So, the different concerns that you're

16 mentioning for each location, you mentioned a traffic

17 control device.

18 Does that make those two scenarios different in

19 your consideration?

20 A. Yes.

21 Q. Is a stop sign a traffic control device?

22 A. Yes, it is.

23 Q. So, if a fruit vendor established some sort of

24 stand on his truck next to a stop sign in the parking

25 area near a stop sign and waited for customers to stop at

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1 the stop sign -- forget the fact that he has a stand.

2 If he went into the street while his customers

3 were at the stop sign, would that be acceptable to the

4 City?

5 A. As long as when he's conducting that

6 transaction he's not, once again, interfering with

7 traffic, interfering with other vehicles.

8 I have never in my 22, 23 years in the City

9 seen a vendor operate off a stop sign because most

10 people who approach a stop sign want to take a quick

11 look and make that turn if they don't run the stop

12 sign or do a rolling stop.

13 So, once again, it's a scenario that does not

14 present themselves, and vendors know that. That's why

15 they don't set up along stop signs.

16 Q. Are you saying that vendors don't want to block

17 the intersection or block the view, or is it that they

18 don't think it would be lucrative to sell there because

19 the customers aren't going to really stop?

20 MS. GLASSER: Object to form.

21 THE WITNESS: I can't speak for the vendor,

22 but that's what common sense would dictate. If I

23 don't have customers shopping for my product or

24 I'm able to approach that customer to attempt to

25 sell my product, then why I would be there?

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1 Location, location. It's business.

2 BY MS. EDENFIELD:

3 Q. What makes people more likely to stop in the

4 middle of 10th Avenue than at a stop sign for a vendor?

5 MS. GLASSER: Object to form.

6 THE WITNESS: I don't know what makes it more

7 likely, but I know the reason they stop is

8 because that vendor is currently set up, and they

9 stop there to purchase from them. If the vendor

10 wouldn't be there, they wouldn't stop.

11 BY MS. EDENFIELD:

12 Q. Earlier you mentioned that a big difference

13 between a flower vendor at West 4th Avenue and a fruit

14 vendor on East 10th Avenue is that there's a traffic

15 control device at West 4th Avenue; is that right?

16 A. And I'll be more specific; a red light

17 signal, a traffic signal.

18 Q. If there was a stand off the side of the road

19 near a red light --

20 A. Excuse me?

21 Q. If there was a stand -- a fruit stand off the

22 side of the road in an area or an intersection that had a

23 traffic light, would it be safer for the person who had

24 the fruit stand to go into the intersection and deliver

25 their fruits to the customers in their cars?



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1 MS. GLASSER: Object to form.
2 THE WITNESS: When you say a fruit stand does
3 that mean they have personally set up the fruit
4 stand at the swale?
5 BY MS. EDENFIELD:
6 Q. Yes.
7 A. And you're asking me if it would be safer for
8 the vendor to come into traffic?
9 Q. During the red light, right.
10 A. During a red light.
11 We'll go back to the other issues I have
12 addressed that it's not only on that scenario. You're
13 having here two things that we have spoken about. One
14 being a permanent location being set up that distracts
15 the motorist so on and so forth, everything that we
16 have spoken about, okay.
17 That in itself, okay, that's what confusing
18 me here. Because if you are telling me that that
19 vendor, okay, that he obeys the traffic control device
20 and he does what he's supposed to and goes into the
21 roadway -- there's a hazardous period any time you go
22 into the roadway. But as long as he follows that, it
23 lessens the hazard you have. So, I don't see where
24 the problem would be.
25 When you want me say if common sense would

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1 dictate -- if I'm in a stand and I don't move from it
2 and I'm not exposing myself, of course it's going to
3 be safer, but that's not what we're dealing with.
4 We're dealing with -- that's what we don't
5 want because of other factors of having that permanent
6 fixed location set up.
7 Q. Okay. I want to show you a couple more
8 documents.
9 A. Can we take a bathroom break?
10 Q. Of course. No problem.
11 (A brief recess was taken)
12 BY MS. EDENFIELD:
13 Q. All right. We've been talking about some of the
14 City's policy about -- we've been talking a lot about the
15 City's policy about vendors in the street.
16 I believe you mentioned that you have seen the
17 document that I am handing to you which is labelled
18 H2-12.
19 (The referred-to document was marked as
20 Plaintiff's Exhibit No. H2-12)
21 MS. GLASSER: Is this going to relate to the
22 topics within?
23 MS. EDENFIELD: Yeah, it is.
24 BY MS. EDENFIELD:
25 Q. Have you seen this before?

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1 A. Yes, I have.
2 Q. Are you familiar with the content of this
3 document?
4 A. Yes, I am.
5 Q. What is the document in front of you?
6 A. It's a memorandum to Deputy Chief Edward
7 Beyer from that time Rafael Granado, who was an
8 assistant city attorney, dated January 21st, 2003.
9 Q. Is Deputy Chief Beyer still around Hialeah?
10 A. No. He retired quite a few years ago.
11 Q. What is this memo regarding?
12 A. It's dealing with peddler, vendor sales.
13 Q. Okay. Is this reflective of the policy before
14 January of 2013 regarding vendors conducting business in
15 the street in Hialeah?
16 MS. GLASSER: I'm just going to put my
17 objection on the record. We already went through
18 this with the first corporate rep and same
19 question.
20 THE WITNESS: Can you repeat the question?
21 BY MS. EDENFIELD:
22 Q. No problem. Does this memorandum reflect the
23 City's policies on vendors selling in the streets in
24 Hialeah before January of 2013?
25 A. Yes.

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1 Q. How have the City's policies changed from what
2 is reflected in this memo after the January 2013
3 amendments?
4 MS. GLASSER: Object to form.
5 THE WITNESS: This policy reflects, like you
6 stated, prior to the amendments the change, but
7 they are enumerated one, two, three, and four.
8 And for example, number two is part of the
9 old ordinance and number three has been expanded.
10 18-304 and 18-306 is no longer part of the new
11 ordinance as reflected from January of 2013.
12 BY MS. EDENFIELD:
13 Q. So, looking at H2-12, number one, where it says
14 conducting business without displaying a city issued
15 identification card on their person -- their of course is
16 referring to vendors -- is that still something that a
17 police officer would order a vendor to stop doing?
18 MS. GLASSER: Object to form.
19 THE WITNESS: When you mean order to stop
20 doing, is that asking me if they're not
21 displaying their card what action the police
22 department will take?
23 BY MS. EDENFIELD:
24 Q. Well, I'm just getting the language from the
25 memo itself.

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1 So, it says a police officer shall advise,
2 instruct, and order peddlers or itinerant vendors to stop
3 doing the following, right?
4 I'll phrase it this way. Is this still the
5 City's policy to require vendors to display a city issued
6 identification card on their person?
7 A. Yes.
8 Q. Now I'm going to number two.
9 Is it still the City's policy to prohibit
10 vendors from standing in one location except when
11 actually involved in the completion of the sale
12 transaction with a member of the public and then for no
13 more than ten minutes?
14 A. No.
15 Q. Is it still the City's policy that walking back
16 and forth 10 or 20 feet and returning to sell at the same
17 location or street corner repeatedly is not permitted?
18 A. No, it's not.
19 Q. Is it still the City's policy that placing
20 materials, merchandise, or equipment on public or private
21 property while offering to sell merchandise is
22 prohibited?
23 A. Number three is addressing two issues here,
24 public and private. And with the new ordinance
25 revisions there are requirements for public and

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1 requirements for private.
2 Q. And those requirements are different, the ones
3 for public property and the ones for private property; is
4 that right?
5 A. Correct.
6 Q. Is it still the City's policy that violations of
7 city codes do not carry criminal penalties and are not
8 offenses for which the person may be arrested?
9 A. Correct.
10 Q. Is there currently a system in place to issue
11 citations for civil violations?
12 MS. GLASSER: Object to form.
13 THE WITNESS: By which entity? By the police
14 department?
15 BY MS. EDENFIELD:
16 Q. By any entity of the City of Hialeah?
17 A. What was the question again? Will you
18 restate it?
19 Q. Sure.
20 In the memo it says: Although police officers
21 have the power and authority to issue citations for civil
22 violations, the system is not in place for police
23 officers to physically issue warnings and citations at
24 this time.
25 My question is whether that has changed?

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1 A. There is a system in place for the -- there
2 is a system in place where certain police officers are
3 trained to issue civil violations when it comes to
4 civil notices and violations when it comes to city
5 ordinances.
6 Here it clarifies that also a traffic
7 violation is considered a civil violation, which
8 officers have always had the authority to issue a
9 citation of.
10 Q. You said only certain people are employed to
11 issue citations. Can you explain that?
12 A. Certain officers from the police department
13 that have been trained to issue that. They are from
14 the CEU -- Communication Enhancement Unit. That's
15 what it stands for. We have so many abbreviations
16 that I have to think of. They go on and on and on.
17 Q. So, the officers in the Community Enhancement
18 Unit, they're the only ones allowed to issue citations
19 with regard to what?
20 A. To the City of Hialeah ordinance violations.
21 Q. Okay. So, anything that is in the code of
22 ordinances can only be -- I'm going to say that one
23 differently.
24 If something is prohibited by the city
25 ordinances, then only Community Enhancement Unit police

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1 officers can issue citations for those violations; is
2 that right?
3 A. I need you to narrow it down. That was very
4 broad. City ordinance -- there is a book that is as
5 thick as that binder that they even don't have the
6 authority to address everything there; just when it
7 comes to certain items where they have been trained
8 and have the knowledge to act on it.
9 Q. What items are those?
10 A. They handle commercial vehicles unlawfully
11 parked in a residential. They -- there's an array of
12 items that all don't come to list (sic) which is
13 listed on a form where they follow. I'm just
14 referring to you the common one.
15 They also investigate complaints of illegal
16 structures to refer to the property department.
17 There's an array of things that they -- abandoned
18 vehicles, abandoned boats, properties which the --
19 they're not maintained properly because they're
20 abandon.
21 There is an array of things. The name of the
22 unit -- it's basically our officers that work hand in
23 hand with our code enforcement unit and our licensing
24 unit.
25 Q. So, the name suggests it's more of a community

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1 based unit where they're dealing more with members of the
2 community; is that right?
3 A. Addressing those types of issues.
4 Like I said, in the police department an
5 array of different complaints for costs of service
6 come in which encompasses all of that, commercial
7 vehicles, illegal structures, vendor issues. It's
8 numerous issues that they deal with.
9 Q. So, the Community Enhancement Unit does deal
10 with vendor issues; is that right?
11 A. Yes, ma'am.
12 Q. Are they the only police officers who are
13 allowed to deal with vendor issues?
14 A. When you mean by vendor issues, if it's a
15 code enforcement issue in the sense of issuing a civil
16 notice or civil violation, yes.
17 When if you're referring to vendor issues
18 when it comes because they're in violation -- if an
19 officer observed a violation which is arrestable
20 governed by state statute and county ordinance, any
21 police officer has the authority to act on it.
22 Q. Does any police officer have the authority to
23 issue a warning to vendors for violations of city code
24 provisions?
25 A. If they have the knowledge of it, our

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1 officers can issue a warning. But what I mean by
2 warning is it is not the same type of warning issued
3 by the Code Enforcement Unit which is a civil notice.
4 Our course of practice has been if they
5 observed a violation, they document it. If immediate
6 action needs to be taken -- because it could be a
7 safety issue or an array of things -- or if not, they
8 will write a report and refer it to one of the CEU
9 officers.
10 Q. Got it. So if I'm understanding correctly --
11 well, actually let me ask you this question first.
12 You said any officer with the knowledge, what do
13 you mean by knowledge? Is there training or something
14 like that?
15 A. The reason I use the word knowledge is
16 officers have the initial training from the academy
17 from all the Florida state statutes so on and so forth
18 as required by their certifications.
19 Then as depending on what county you work
20 with, then you have a set of county ordinances then
21 you also have the ones that -- the city ordinance.
22 So, not at all levels they have the same
23 knowledge base, you know. We have the patrol
24 officers, you know. They can range from six months of
25 experience to 20 years.

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1 So, when I make reference to that, is if they
2 don't -- the particular officer who was summoned to
3 handle the situation due to a complaint or action --
4 if he doesn't know exactly all the content or the
5 mechanics of that, then that's why you have the first
6 line of supervision, and we have also the ability to
7 at any time contact the officers at the CEU unit for
8 any clarification or guidance.
9 Q. So, is it safe to say that the Community
10 Enhancement Unit police officers are the experts in the
11 areas that's under that unit?
12 A. They're the most knowledgeable in the ones
13 that deal with the issues that I've mentioned.
14 Q. You mentioned experience as perhaps one of the
15 factors that would determine whether or not an officer
16 has knowledge about the city codes. Are there any other
17 factors that would contribute to an officer having
18 knowledge of city codes?
19 MS. GLASSER: Object to form.
20 THE WITNESS: What do you mean by other
21 factors?
22 BY MS. EDENFIELD:
23 Q. I'll ask that question clearer.
24 Are there any trainings for Hialeah police
25 officers about the city codes?

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1 A. The ones as an officer is going through his
2 FTO training program, there's at that time the
3 opportunity. The officer is trained and reviewed by
4 the training officer on issues that arise that are
5 practical in his job performance, the daily issues.
6 Your average officer is not going to know in
7 depth of the code of the City of Hialeah and all the
8 ordinances that pertain to it. But they do have all
9 the working based knowledge of the common issues that
10 come up, not only with a peddler but with commercial
11 vehicles parked in private property. Even when it
12 comes to violations with some of our restaurants where
13 their licenses in operation with the sale of liquor
14 and food and so -- the common things that they deal
15 with.
16 Q. So it is safe to say that officers might have a
17 varying degree of knowledge about the issues relating to
18 the Community Enhancement Unit?
19 MS. GLASSER: Object to form.
20 THE WITNESS: I don't understand the
21 question.
22 BY MS. EDENFIELD:
23 Q. Is it safe to say that officers who are not
24 members of the Community Enhancement Unit have varying
25 degrees of knowledge when it comes to vendor issues?

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1 A. Yes.

2 Q. Who are the officers in the Community
3 Enhancement Unit?

4 A. Presently you have Detective Andres Gutierrez
5 and you have Officer St. Germain and most recently we
6 had Detective Frank Caldara who retired.

7 Q. Oh, he did?

8 A. Yes, he did.

9 Q. When did he retire?

10 A. If memory serves me correct, January 31st.

11 Q. So Detective Gutierrez and is it Officer St.
12 Germain or --

13 A. Officer St. Germain.

14 Q. Or does she have another title? I'm sorry.

15 A. Officer St. Germain has been with the
16 department probably for 30 plus years I want to say.
17 She's around that mark. And she likes the designation
18 of being called officer.

19 Q. Okay.

20 A. You know, they are -- when you designate
21 somebody as detective it is because they are involved
22 in investigations so on and so forth and which Andres
23 Gutierrez and which Frank Caldara and which
24 St. Germain is. She likes it like that.

25 Q. She prefers officer?

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1 A. Uh-huh.

2 MS. BRAVO: I didn't know she was part of the
3 detective unit.

4 THE WITNESS: Our Community Enhancement Unit
5 falls under the crime suppression unit just for
6 organizational purposes, but they do their
7 investigations when it comes to involvement with
8 code issues even involved with homestead
9 exemptions, frauds, and all of that so.

10 BY MS. EDENFIELD:

11 Q. Okay. So, Detective Gutierrez and Officer
12 St. Germain are currently the only police officers in the
13 City of Hialeah Police Department who can issue citations
14 for violations of the vending ordinance; is that right?

15 A. Yes.

16 Q. Have they issued citations for violations of
17 section 18-302 or section 18-304 since January of 2013?

18 A. Yes.

19 Q. Do you know how many?

20 A. No.

21 Q. How do you know that they've issued citations?

22 A. Because I have reviewed reports they have
23 submitted.

24 Q. What kind of reports are you referring to?

25 A. Some are reports of the actions they have

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1 taken. I as the Chief of Police I review -- I should
2 call it more of a spot check on all the units -- what
3 they're doing, what their function is. And I reviewed
4 it from an array of -- from all the units.

5 Q. Are these generalized reports, or are they
6 reports specific to each citation?

7 A. When I mean reports I also mean by that is --
8 what I mean by that is, it could be what we call an
9 offence incident report or it could be a copy of a
10 civil citation that they have issued.

11 Q. Do you choose which reports you review, or are
12 reports flagged for you by other members of the police
13 force?

14 A. No. They're not flagged for me.

15 Q. Okay. How do you choose which reports you
16 review?

17 A. Depending on what interest I want to look
18 into. I could be reviewing reports for robbery. I
19 could be reviewing reports from our accident division.
20 I check on everything.

21 Q. So as a matter of course, are each of the
22 divisions required to file incident reports or incidents
23 reports? Is that what you call them?

24 A. The question is too broad when you say each
25 division, I don't --

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1 Q. They're incidents reports, right?

2 A. Incident report. An incident report is not
3 filed by a division. It's filed by an officer who
4 took some sort of action. An incident report could be
5 a crime report. It could be an information report.
6 Information is what I would refer to as a civil
7 assist; that he went and did something. It's
8 documenting the actions done on a particular
9 situation -- incident.

10 Q. I just want to make sure. I-n-c-i-d-e-n-t
11 report, right?

12 A. Yes.

13 Q. Not I-n-s-t-a-n-t report, right.

14 A. No.

15 Q. So an incident report can be even informational
16 or criminal or about a citizen assist; is that what you
17 said?

18 A. Yes.

19 Q. The reports that you mentioned you reviewed that
20 revealed to you that the CEU unit had issued citations to
21 vendors for violations of section 18-302 and 18-304, were
22 those reports informational reports?

23 A. Some were informational, some were warning
24 notices.

25 Q. What's a warning notice?

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1 A. The form they use to document a violation of
2 a city ordinance being -- and that could be the same
3 thing I mentioned before. It could be for a
4 commercial vehicle parked at a residential, an array
5 of items there are listed.
6 Q. Is a warning notice the same thing as a notice
7 of violation?
8 A. It is documented a violation, and they're
9 taking the action of documenting that warning.
10 Q. Do you know if on the top of the paper it would
11 say warning notice or notice of violation?
12 A. Off memory right now I don't.
13 Q. Between January 2013 and January 2014 did
14 Detective Caldara issue any notices of violation for
15 violations of section 18-302 or 18-304?
16 A. Yes, ma'am.
17 Q. Do you know how many he issued?
18 A. No.
19 Q. In terms of total number of notices of violation
20 issued for violations of section 18-304 or 18-302 after
21 January of 2013, is that number less than 50?
22 A. I could not give you a number at this time.
23 Q. Could you give me a range?
24 A. No, ma'am. I would be speculating.
25 Q. Is it more than five?

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1 A. Definitely more than five. More than one for
2 sure.
3 Q. That's fair.
4 Do you remember any particular notice of
5 violation issued for violations of sections 18-304 or
6 18-302 since January of 2013?
7 A. No, I don't.
8 Q. Do you have a general idea of what they would
9 issue the citations for?
10 A. For the violation of the ordinances of the
11 numbers that you have stated.
12 Q. So, what would a vendor have to do to get a
13 notice of violation for violating section 18-302?
14 A. If they don't comply with the section.
15 Q. In what way would that have to not comply with
16 the section?
17 MS. GLASSER: Object to form.
18 THE WITNESS: Do you want to take it section
19 by section or --
20 BY MS. EDENFIELD:
21 Q. Uh-huh.
22 A. 302?
23 Q. That will be good.
24 A. They can be in violation of stepping into
25 traffic, not observing the regulations. They could be

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1 displaying their goods in violation of the ordinance
2 as stated there.
3 Q. Okay. This is section 18-302?
4 A. Yes, ma'am.
5 Q. What do you mean display their goods in
6 violation of section 18-302?
7 A. As stated right here, the requirements of the
8 public property and the private property. If the
9 officer issuing a warning noticed that violation then
10 that's what he would issue it under.
11 Q. Would you describe to me what that would look
12 like in practice?
13 MS. GLASSER: Object to form.
14 THE WITNESS: Describe what would look like
15 in practice?
16 BY MS. EDENFIELD:
17 Q. I'm sorry. You said it was right there and you
18 read a portion of 18-302, but I'm trying --
19 A. Right. Saying displaying goods, merchandise
20 -- I think the same examples that we have noted for
21 example on East 10th Avenue with the fruit vendor.
22 That's a prime example of anything to that
23 nature.
24 Q. When you're referring to the fruit vendor on
25 10th Avenue, I'm going to hand you an exhibit marked

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1 H2-13. This is not necessarily the exact vehicle. But
2 would you describe to me what you're looking at there?
3 (The referred-to document was marked as
4 Plaintiff's Exhibit No. H2-13)
5 A. It's a car -- actually it looks like the rear
6 of a pickup that has a sign that says Coco Frio, and
7 there's numerous produce in the vehicle, and there's a
8 few boxes on the sidewalk.
9 Q. The photo that we're looking at marked H2-13, is
10 that what you would consider to be a typical fruit
11 vending setup in Hialeah?
12 MS. GLASSER: Object to form.
13 THE WITNESS: When you mean typical are you
14 referring to the vehicle or of the boxes on the
15 floor?
16 BY MS. EDENFIELD:
17 Q. Let's discuss the vehicle.
18 Can you describe to me how the fruit is set up
19 on the vehicle?
20 MS. GLASSER: Object to form.
21 THE WITNESS: From the black and white
22 picture here there is numerous fruits set up on
23 the vehicle, some hanging from what I can see
24 around the vehicle.
25 BY MS. EDENFIELD:



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1 Q. Have you ever seen a setup like this in Hialeah?

2 A. Yes.

3 Q. Where might you have seen a setup like this in

4 Hialeah?

5 A. As early as this morning on East 10th Avenue

6 between 21st and 17th -- actually this is a little bit

7 of a better setup because the other one I had noticed

8 had a lot more boxes set up on the sidewalk.

9 Q. You mentioned that on 10th Avenue somebody was

10 sitting with a chair. Does the chair itself violate

11 section 18-302?

12 MS. GLASSER: Object to form.

13 THE WITNESS: When you mean just having a

14 chair there is a violation of this?

15 BY MS. EDENFIELD:

16 Q. If a vendor who is selling his wares in Hialeah,

17 has a chair and sits in it occasionally throughout the

18 day while he is selling, is that in and of itself a

19 violation of section 18-302?

20 MS. GLASSER: Object to form.

21 THE WITNESS: Once again, you have to take

22 the totality of the situation of the

23 circumstances.

24 If you have the truck in a permanent fixed

25 location, when you have the chair there because

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1 that is a permanently fixed location then they

2 are once again in violation.

3 BY MS. EDENFIELD:

4 Q. Who determines whether a vendor is violating

5 section 18-302?

6 A. When you mean who determines, who has the

7 final determination or -- I don't understand because

8 in every process there's different steps that are

9 taken.

10 Q. We've talked a lot today about assessing factors

11 to decide whether a vendor is in violation of section

12 18-302.

13 Who is the person who needs to assess those

14 factors to decide whether a vendor is in violation of

15 section 18-302?

16 MS. GLASSER: Object to form.

17 THE WITNESS: The best way that I can answer

18 your question is for example, if we send one of

19 our CEU officers into this and based on his

20 training and knowledge of his dealing with the

21 vendors and all of that. If he would determine

22 it is a violation then he would take whatever

23 action is allowed as a warning or as a fine.

24 And ultimately anything that is fined, there

25 is a form for that authority who hears that form

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1 to make the final determination if they wanted to

2 appeal it.

3 So, it doesn't stop at the level of the

4 officer issuing the citation or the warning

5 notice.

6 BY MS. EDENFIELD:

7 Q. Okay.

8 A. Like any other judicial process whether it be

9 we arrest someone based on the circumstances -- the

10 totality of the circumstances then it proceeds to its

11 course of action and process.

12 Q. Is it fair to say that as an initial step a

13 police officer determines whether the totality of the

14 circumstances, as you say, creates a violation of section

15 18-302?

16 MS. GLASSER: Object to form.

17 THE WITNESS: A police officer -- once again,

18 depending on the officer and his level of

19 training, if an officer is sent to this call then

20 he has to do the proper observations.

21 If he's not well versed in all of that, you

22 have your next level - your supervisor - who has

23 more experience in dealing with all of this. And

24 if further guidance is needed, that's why we have

25 the ECU officers that we can contact.

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1 And if all of that they do determine then the

2 correct course of action could be taken. As we

3 mentioned before, we can -- the officer who has

4 the authority to issue the civil citations for

5 ordinance violations can document a report and

6 refer it to the CEU officers for follow-up and

7 further investigation.

8 BY MS. EDENFIELD:

9 Q. So, putting aside the appeals process, are the

10 CEU officers the ones who have the ultimate say as to

11 whether a vendor is violating section 18-302.

12 A. No, I didn't say that. I said they're the

13 ones who have the most knowledge.

14 But if the circumstances and the officer has

15 the knowledge and he determines that there is a

16 violation, then at that point, you know, a report can

17 be written, referred to them. They can issue a

18 citation or we can refer down to code enforcement

19 licensing for whatever action needs to be taken.

20 So, they do make that determination. I'm

21 addressing it from the point that you gave me, that we

22 don't have the knowledge base and he's there and he's

23 made a proper observation and so on and so forth.

24 And let's also address the point that any

25 report that is written at the level of patrol officer

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1 or so on and so forth, it has to be the final approval
2 that lies within a supervisor, whether it be this type
3 of a code violation or it could be anything; a crime
4 and so on and so forth.
5 Q. The CEU officers would not be considered
6 supervisors of other non CEU officers; is that right?
7 A. That's correct.
8 Q. Ultimately whose call is it whether to issue a
9 citation for violations of section 18-302 or section
10 18-304?
11 A. When you're saying violation are you saying a
12 civil notice violation that they discussed?
13 Q. Correct.
14 A. The two police officers who have that
15 training and authority are the two that I mentioned
16 currently before we had Detective Caldara who had
17 retired.
18 Q. And ultimately whose decision is it whether to
19 issue a warning to vendors for violations of section
20 18-302 and sections 18-304?
21 A. The policy that's been in effect. Our first
22 line of action on a city code violation is issue a
23 warning, educate, guide them into what needs to be
24 done.
25 And then if we need to proceed to the next

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1 step, that's when we go into the other possibilities
2 we have. But I've always been -- it is through
3 compliance and through education and cooperation.
4 Q. How do police officers educate vendors about
5 complying with sections 18-302 and 18-304?
6 A. They're provided that. If they have any
7 questions, they refer to licensing.
8 Q. Who's provided what?
9 A. The officers. We have provided the current
10 ordinances on this, and they have knowledge of it -- a
11 general working knowledge of it. And the key to this
12 is on any encounter you refer them to where they were
13 licensed at.
14 If you're asking me a question about
15 buildings, I'm going to send you to the building
16 department. I have a general knowledge but even for
17 me -- even if you're talking about experts and all of
18 that -- I have a working knowledge of everything in
19 the police department.
20 I have very good working knowledge of
21 accidents and so on and so forth. If I need very
22 specific guidance of questions, I turn to my traffic
23 homicide experts and get from them further
24 information.
25 The same works on any subject matter we're

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1 dealing with.
2 Q. So, the officers are provided with the
3 ordinance; is that right?
4 A. Yes. They've been provided it in the past.
5 Q. And it is then up to them to determine what
6 constitutes a violation of that ordinance; is that right?
7 MS. GLASSER: Object to form.
8 THE WITNESS: Yes, as I have answered
9 previously.
10 BY MS. EDENFIELD:
11 Q. I want to go back for a moment and talk about
12 the safety considerations that we were discussing before
13 we took a break.
14 Is it the City's position that the setup
15 depicted in H2-13 is less safe than a vendor on a street
16 corner with a traffic light who goes out into the traffic
17 during a red light to sell his wares to his customers?
18 A. The question you're asking me I cannot answer
19 based on a picture that only shows me the rear of a
20 truck. Location is important. The streets we're
21 talking about is important.
22 So based on this I cannot answer your
23 question.
24 Q. What about the location is important?
25 A. Where it's situated - the vehicle, what's

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1 around the vehicle. I don't know how many lanes you
2 have here. I don't know where this is at, you know.
3 All I have here is a car parked on the side. That's
4 all.
5 So to address -- to do a comparison, I don't
6 have the other information for what you're asking me
7 based on this picture.
8 Q. Does the City's ordinance differentiate between
9 location or lanes of roads when regulating whether or not
10 a vendor can be in one location for a fixed period of
11 time?
12 A. There is. On the city ordinance they are
13 more specific on certain locations with the overpass
14 and so on and so forth that you cannot -- so, that is
15 detail there.
16 But the one you're asking me that I presented
17 to you on West 4th Avenue is a scenario that I know
18 where the traffic lanes are, what controls the
19 traffic, and what's around there. And I can basically
20 tell you that for any intersection or most of the
21 streets in the City after being here for 23 years, but
22 with this I cannot give you my evaluation on that.
23 Q. I totally understand that. This was more of an
24 example, like a guide so we all know what we're talking
25 about, although I think we all did before when we were

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1 talking about 10th.

2 What I'm asking though is that you mentioned

3 that you can't determine from H2-13 whether it is or is

4 not safer than other vendor's setups because you're

5 unfamiliar with where they are located, you don't know

6 how many lanes there are in that portion of the road, you

7 don't know whether there's a traffic control device; is

8 all that right?

9 A. Yes.

10 Q. Does the ordinance in section 18-302

11 differentiate between vendors who are at intersections or

12 vendors who are on two or three lane roads, or does it

13 differentiate based on location as you just mentioned?

14 MS. GLASSER: Object to form.

15 THE WITNESS: What the ordinance tells you is

16 what should not be done to prevent the hazard --

17 why we don't want these particular things done to

18 prevent that hazard.

19 The examples that I have given you are the

20 ones that says on all circumstances you have to

21 take the totality of all the situations of what's

22 being evaluated, okay.

23 And what else can I say on that? It's --

24 BY MS. EDENFIELD:

25 Q. Does section 18-302 regulate different vendors

Page 102

1 differently based on the totality of the circumstances?

2 MS. GLASSER: Object to form. If you

3 understand, you can answer.

4 THE WITNESS: Can you reword that question

5 and expand on it?

6 BY MS. EDENFIELD:

7 Q. I'll tell you one at a time.

8 Again, you mentioned that it's difficult for you

9 to determine whether H2-13 is safer than any other vendor

10 setup because you're not sure -- you need more details

11 about --

12 A. Right. Because I don't believe you want me

13 to assume. Because if I could assume this is in a

14 fixed location and you have vehicles driving by and

15 they're going to slow down and stop, that can cause an

16 accident.

17 So, I can assume all those things. That's

18 why I wanted a more concrete example for how do I base

19 that.

20 Q. That's totally fair.

21 What I'm trying to understand though is those

22 things that you need to determine whether or not this is

23 safer than any other situation, I'm trying to figure out

24 whether those are accounted for in the ordinance. So

25 I'll ask the question this way.

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1 Does 18-302 regulate vendors differently

2 depending on their location?

3 MS. GLASSER: Object to form.

4 THE WITNESS: Unless allowed by the zoning.

5 BY MS. EDENFIELD:

6 Q. Other than that does it regulate vendors

7 differently depending on their location?

8 MS. GLASSER: Object to form.

9 THE WITNESS: When you mean by location,

10 okay, the ordinance is two roadways. When you

11 mean by location, is it because it's controlled

12 by a traffic control device, because -- all of

13 that.

14 Specifically that language, you don't have

15 that here. But the intent and the purpose of the

16 language is addressing all those issues where it

17 would cause a hazard. That's why we want to

18 prevent that.

19 So, I gave you examples of where you would

20 have a greater hazard depending on the location.

21 That's why I make a reference to a location.

22 BY MS. EDENFIELD:

23 Q. Does section 18-302 regulate all vendors in

24 Hialeah regardless of whether their location has a

25 traffic device?

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1 MS. GLASSER: Can you repeat that? I'm

2 sorry.

3 MS. EDENFIELD: Sure. No problem.

4 BY MS. EDENFIELD:

5 Q. Does section 18-302 regulate all Hialeah vendors

6 in the same way regardless of whether they are set up

7 near an intersection with a traffic light?

8 MS. GLASSER: Object to form.

9 THE WITNESS: You mean regulate the same way?

10 Are they all vendors regardless of location

11 required to follow vendor laws? If that's the

12 question, yes is your answer, okay.

13 BY MS. EDENFIELD:

14 Q. Okay.

15 A. What I have explained to you is the factors

16 that we -- examples.

17 Q. Right.

18 You mentioned that in an intersection like 49th

19 and 4th it would be unsafe for a vendor to be stationary

20 because people in cars driving by would look for that

21 vendor if he or she was stationary for any extended

22 period of time; is that right?

23 MS. GLASSER: Object to form.

24 THE WITNESS: Really what I said is the

25 hazard can be caused by him being stationary.

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1 That was my answer to that.
2 BY MS. EDENFIELD:
3 Q. And that hazard is that --
4 A. It could have an interference with traffic.
5 It could have an interference with pedestrians.
6 Q. But how?
7 MS. GLASSER: Objection. Asked and answered.
8 Ad nauseam.
9 THE WITNESS: I've answered numerous times
10 the same -- why I give you my reason. It doesn't
11 change.
12 BY MS. EDENFIELD:
13 Q. Well, I tried to paraphrase it and apparently I
14 was misunderstanding it, so I'm trying to get you to say
15 it again.
16 You have told me, right, in this deposition that
17 if a vendor is on the side of the road, the difference
18 between him walking around and standing in one spot is
19 that the person who is standing in one spot may cause a
20 traffic hazard by having people who are driving in cars
21 looking for that person who is standing stationary in one
22 spot; is that right.
23 MS. GLASSER: Object to form.
24 THE WITNESS: I think you're grouping two
25 things together what I've said. Can you repeat

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1 again?
2 I'm not understanding what you're asking me
3 because in every example I have given you I've
4 said as long as the one stepping into traffic is
5 doing the way it should be done, okay. That's
6 what we've addressed, and we want these rules
7 followed.
8 I don't really see the ordinance rules but
9 whatever also is governed by the state statutes.
10 Now your shifting in your question with the
11 one standing on the road. We were clear on the
12 one we just mentioned.
13 BY MS. EDENFIELD:
14 Q. If I understand what you're saying correctly is
15 that I'm including people who are unsafely in the road,
16 and that's not at all what I intended to do so I
17 apologize.
18 If a vendor is safely and according to the rules
19 going into the road during a red light, that sort of
20 thing, you believe that person to be safer for traffic
21 safety than a person -- a vendor who is standing on the
22 side of the road and wanting cars or people to come to
23 him; is that right?
24 MS. GLASSER: Objection. It's been asked
25 numerous times in the past few hours.

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1 MS. EDENFIELD: Again, I'm trying to clarify,
2 and I keep asking if that's what --
3 MS. GLASSER: No. You've asked him to answer
4 whether your paraphrasing of his testimony is
5 correct. So --
6 MS. EDENFIELD: That's right. And every time
7 I've asked that it's been no.
8 MS. GLASSER: But you have the transcript, so
9 we don't need to just sit here and reiterate his
10 testimony and ask whether your memory of his
11 testimony is correct.
12 If you have a specific question, go ahead and
13 ask him the question.
14 BY MS. EDENFIELD:
15 Q. If there is a vendor walking on the side of the
16 road on 49th and 4th and that vendor goes into traffic
17 during a red light to sell to customers, is that person
18 less of a traffic hazard than a vendor who is stationary
19 on the side of that road because customers don't have to
20 look for him?
21 MS. GLASSER: Object to form.
22 THE WITNESS: When you say stationary --
23 since you have brought different examples up --
24 are you once again speaking of the person who has
25 permanently set up on that location and the

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1 motorist and everyone else has the expectation it
2 will be in the same area at the same time?
3 BY MS. EDENFIELD:
4 Q. Yes.
5 A. Then my answer to that is as I said before,
6 yes.
7 Q. Couldn't motorists be looking for the person
8 walking around too?
9 A. Motorists could be doing anything beyond my
10 control. I don't know what they're looking for.
11 But if we are going back to what you said
12 before in a fixed location and he's always there,
13 okay, when he's not there then they're going to be
14 looking for him or looking to when he's there versus
15 the vendor who is moving then we don't have the same
16 factors.
17 Q. So if a motorist is approaching 49th and 4th
18 where he knows his vendor -- the vendor who sells him
19 flowers typically is always there walking around, is the
20 City's suggestion that that person would not be looking
21 for the vendor also?
22 MS. GLASSER: Object to form.
23 THE WITNESS: If that motorist knows since
24 that peddler always comes out to traffic when he
25 always stops at the light, why would he be

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1 looking for him?
2 BY MS. EDENFIELD:
3 Q. To buy flowers?
4 A. But he knows he's coming to him when he's
5 stopped.
6 Q. Do the vendors who walk into the intersection
7 during red lights, do they sometimes take a break on the
8 side of the road?
9 A. What do you mean by take a break?
10 Q. If a vendor is frequently at 49th and 4th for
11 example, would that vendor be guaranteed to be in the
12 street during the red light every time?
13 MS. GLASSER: Object to form.
14 THE WITNESS: I cannot guarantee anything. I
15 don't have control of the vendor.
16 BY MS. EDENFIELD:
17 Q. Have you ever seen a vendor who is on the side
18 of the road and who typically vends by going into the
19 road during a red light not go into the road during a red
20 light?
21 A. I couldn't answer either yes or no.
22 Q. Does the City have any interest in section
23 18-302 besides traffic safety?
24 MS. GLASSER: Object to form.
25 THE WITNESS: The City has an interest that

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1 the ordinances that are on the books including
2 zoning are followed, which is addressed here.
3 BY MS. EDENFIELD:
4 Q. When the City creates an ordinance it's supposed
5 to have some sort of interest, right, in having that
6 ordinance.
7 So, I'm not suggesting that -- like you said to
8 me that the interest is that the ordinance be followed.
9 But what I'm trying to figure out is the interest of
10 about why the ordinance was put in place in the first
11 place.
12 So, does the City have any interests in having
13 enacted section 18-302 besides the interest that we've
14 discussed today like the safety of pedestrians and
15 vendors and vehicular traffic?
16 MS. GLASSER: Object to form.
17 THE WITNESS: And I'll go back to the City
18 enacting their different ordinances because there
19 is a reason for that being the ones I have cited.
20 The ones not only going to vendors, we need to
21 regulate in the sense of which direction of what
22 is allowed and what is not allowed.
23 The City can take the position on this as
24 other cities have done that we want no vendors
25 because of the other issues, traffic issues,

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1 safety issues.
2 So, the City has attempted to find a medium
3 ground to satisfy all parties because we the
4 police department, we the City, view our vendors
5 our people who are out there trying to make a
6 living and working.
7 We want to work with them, but we want to
8 work within the parameters we have for the
9 reasons I have cited.
10 BY MS. EDENFIELD:
11 Q. Besides the reasons you have cited, are there
12 any other reasons for the existence of this law?
13 A. You're question is so broad. I think I've
14 answered it so --
15 MS. GLASSER: I'm going to object to the
16 form.
17 BY MS. EDENFIELD:
18 Q. The problem is you haven't answered it. So,
19 I've said --
20 MS. GLASSER: Object to your commentary. You
21 asked and he's answered.
22 MS. EDENFIELD: He hasn't answered the
23 question.
24 BY MS. EDENFIELD:
25 Q. So, what I'm asking is besides the things that

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1 you have already said -- besides the reasons you have
2 already said for the existence of the law, does the City
3 contend that there are any other interests in this law?
4 THE WITNESS: Not that I'm aware of.
5 BY MS. EDENFIELD:
6 Q. Thank you.
7 Is the City aware of any evidence that section
8 18-302 advances the purported interest of vehicular
9 pedestrian and vendor safety?
10 MS. GLASSER: Object to form.
11 THE WITNESS: Can you restate that?
12 BY MS. EDENFIELD:
13 Q. Sure.
14 Is the City aware of any evidence that section
15 18-302 advances the City's interest in public safety in
16 any way?
17 MS. GLASSER: Same objection.
18 THE WITNESS: Excuse me one second.
19 MS. EDENFIELD: No problem.
20 MS. GLASSER: Do you have any idea of how
21 much longer you're going to be?
22 MS. EDENFIELD: I have a few more hours in
23 me.
24 MS. GLASSER: A few more hours? I don't
25 think the chief is going to stay a few more hours

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1 on a Friday night.
2 MS. EDENFIELD: Okay. We can continue this
3 on Monday.
4 MS. GLASSER: Not Monday. I'm not good
5 Monday. We can pick another date if you need to
6 continue.
7 MR. PEARSON: Do you know what days you have
8 next week?
9 MS. GLASSER: No, I don't.
10 You think it's going to be about two more
11 hours you said?
12 MS. EDENFIELD: I need another four.
13 MS. GLASSER: I think that's unreasonable.
14 We've already had three, and you've already had
15 our first corporate rep. So, I don't think that
16 to go through this you need over seven hours.
17 MS. EDENFIELD: I don't need over seven
18 hours.
19 MS. GLASSER: Yeah, you do. You said you
20 need at least four more. We've been here over
21 three.
22 MS. EDENFIELD: I'm on page two of my six
23 page outline. I mean this has been --
24 MS. GLASSER: I'm not going to have him take
25 a two full day deposition.

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1 MS. EDENFIELD: It's not a two full day -- we
2 tried to move this earlier and you --
3 MS. GLASSER: No, no. I'm talking about the
4 number of hours, not that it's over two days. I
5 don't have the problem with that if you need to.
6 But I don't see any reason for a seven plus
7 hour deposition. We're going through the same
8 things over and over and over again, and we're
9 dealing with just the past year.
10 You've already taken a full corporate rep
11 depo of the City. It's your second --
12 MS. EDENFIELD: I have but it's a full new
13 ordinance.
14 MS. GLASSER: It's not -- there's been two
15 sections or three sections that have changed
16 we've gone through.
17 MS. EDENFIELD: Well, I've gone through one
18 law out of three. Yet at any rate --
19 MS. GLASSER: If you need more than four
20 hours, I think we're going to have to take that
21 up with the Judge.
22 MS. EDENFIELD: I don't need more than four.
23 I need four.
24 MS. GLASSER: Well, we might have to take
25 that up. We'll see.

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1 MS. EDENFIELD: What do you mean you'll see?
2 Is it --
3 MS. GLASSER: We'll have to check your
4 schedule and ours, and we'll get back to the
5 date.
6 MS. EDENFIELD: Let's set a date here.
7 MR. PEARSON: The notice said it would
8 continue from day to day.
9 MS. EDENFIELD: Of course. It always says
10 that.
11 MR. PEARSON: Right. I understand if Monday
12 doesn't work, but we don't want this postponed
13 indefinitely either.
14 MS. GLASSER: It's not going to be postponed
15 indefinitely, but I can't commit to a date right
16 now with his schedule and my schedule.
17 MS. EDENFIELD: Well, we all have our
18 calendars in front of us. Let's check out our
19 schedules and see what's available.
20 MS. GLASSER: I can't do that right now.
21 MS. EDENFIELD: Why?
22 MS. GLASSER: Because I can't. I'm not going
23 to. I will call you and we'll --
24 MS. EDENFIELD: You're not going to doesn't
25 mean you can't. You have your calendar in front

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1 of you.
2 MS. GLASSER: Claudia, I have part of my
3 calendar with me. I don't have everything, and I
4 need to get back to it, and I'm sure the chief
5 cannot determine as he sits here this moment when
6 he's been gone the whole day from his office what
7 day is going to work for him.
8 So, there's no reason you need to know this
9 second, is there?
10 MS. EDENFIELD: Yes, there is because the
11 last time it took you three months to give me a
12 date for a deposition.
13 MS. GLASSER: No, no, no. That's what you
14 think, but we'll get back to you with a date.
15 MR. PEARSON: Are you going to postpone your
16 motion for summary judgment hearing?
17 MS. GLASSER: We can talk about that.
18 MS. EDENFIELD: We did talk about it at one
19 point and --
20 MR. PEARSON: Listen, I'm not trying to make
21 it harder than it needs to be. Claudia, I don't
22 want to speak out of turn here but --
23 MS. EDENFIELD: It's all right. Go for it.
24 MR. PEARSON: But if you're -- obviously I
25 think you can understand our concern that we feel

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1 we need the deposition transcript from the full
 2 deposition in time to use during the hearing.
 3 So if you're willing to postpone that
 4 hearing, I think that might change our tone a
 5 little bit.
 6 MS. GLASSER: Well, I don't know what's going
 7 to change your tone at all, but I will consider
 8 it. I have to talk it over with the client. I'm
 9 not saying we're not available. I just can't
 10 give you an answer right now as to a date. I'm
 11 not saying it's going to be indefinite. I
 12 understand it needs to be soon.
 13 MS. EDENFIELD: All right. So why don't we
 14 say that you guys will send us over a date by
 15 close of business on Monday?
 16 MS. GLASSER: We will reschedule a date on
 17 Monday. That's fine.
 18 MS. EDENFIELD: Excellent.
 19 MR. PEARSON. All right then.
 20 MS. GLASSER: Are you stopping now, or are
 21 you --
 22 MS. EDENFIELD: No. Do you want to keep
 23 going until 5:00? We can stop now too if you
 24 want to. Yeah, he's done. Okay.
 25 MS. GLASSER: Okay.

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1 THE WITNESS: We'll stop now.
 2 MS. EDENFIELD: All right. Well, we'll see
 3 you at some undetermined other time.
 4 COURT REPORTER: Are you ordering that now,
 5 or are you just going to wait until it's
 6 completed?
 7 MS. EDENFIELD: We'll order now.
 8 COURT REPORTER: Counsel, did you want to
 9 order a copy of that?
 10 MS. GLASSER: Please.
 11 (Witness excused)
 12 (The deposition was concluded at 4:55 p.m.)
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Page 119

Certificate of Oath

1
 2
 3 STATE OF FLORIDA)
 4 COUNTY OF BROWARD)
 5
 6 I, Alexander E. Reif, Notary Public in and
 7 for the State of Florida at Large, certify that the
 8 witness, Sergio Velazquez, personally appeared before
 9 me and was duly sworn on March 14th, 2014.
 10
 11 WITNESS my hand and official seal this
 12 14th day of March, 2014.
 13
 14
 15
 16 
 17
 18 Alexander E. Reif, CSR
 19 Notary Public, State of Florida
 20 Commission No. FF 60888
 21 Expires October 7th, 2017
 22
 23
 24
 25

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R E P O R T E R A C K N O W L E D G E M E N T

1
 2
 3 STATE OF FLORIDA)
 4 COUNTY OF BROWARD)
 5
 6 I, Alexander E. Reif, Certified Shorthand
 7 Reporter and Notary Public in and for the State of
 8 Florida at large, do hereby certify that I was
 9 authorized to and did report said deposition in
 10 stenotype; and that the foregoing pages are a true and
 11 correct transcription of my shorthand notes of said
 12 deposition.
 13
 14 I further certify that said deposition was
 15 taken at the time and place hereinabove set forth and
 16 that the taking of said deposition was commenced and
 17 completed as hereinabove set out.
 18
 19 I further certify that I am not attorney
 20 or counsel of any of the parties, nor am I a relative
 21 or employee of any attorney or counsel of any party
 22 connected with the action, nor am I financially
 23 interested in the action.
 24
 25 The foregoing certification of this
 transcript does not apply to any reproduction of the
 same by any means unless under the direct control
 and/or direction of the certifying reporter.
 Dated this 14th day of March, 2014.

 Alexander E. Reif, CSR
 Notary Public - State of Florida

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DEPOSITION ERRATA SHEET

1
2
3 Assignment no: 103587
4 Case: Silvio Membreno and Florida Association of
Vendors, Inc., vs. The City of Hialeah, Florida
5
6 I, Sergio Velazquez, declare under penalty
7 of perjury that I have read the entire transcript of my
8 deposition/examination under oath taken in the
9 captioned matter or the same has been read to me, and
10 the same is true and accurate, save and except for
11 changes and/or corrections, if any, as indicated by me
12 on the deposition/examination under oath errata sheet
13 hereof, with the understanding that I offer these
14 changes as if still under oath.
15
16 Signed on the ___th day of _____, 20__.
17
18 _____
19 Chief Sergio Velazquez
20
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24
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Page 123

DEPOSITION ERRATA SHEET

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3 Page No. ___ Line No. ___ Change to: _____
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6 Page No. ___ Line No. ___ Change to: _____
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12 Page No. ___ Line No. ___ Change to: _____
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20 Reason for change: _____
21 Page No. ___ Line No. ___ Change to: _____
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23 Reason for change: _____
24 SIGNATURE: _____ DATE: _____
25 Sergio Velazquez J#: 103587

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DEPOSITION ERRATA SHEET

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23 Reason for change: _____
24 SIGNATURE: _____ DATE: _____
25 Sergio Velazquez J#: 103587

DEPOSITION ERRATA SHEET

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1 have you done anything further from the last time we were
2 here to prepare for this deposition?
3 A. No.
4 Q. All right. Let me just get right into it.
5 I'm going to ask you to please look at the
6 exhibit marked H2-9.
7 Are you familiar with the exhibit marked H2-9 --
8 pardon me, I meant H2-10.
9 Are you familiar with the exhibit marked H2-10?
10 A. Familiar that I've seen it before or --
11 Q. Do you know what it is?
12 A. It's documents from LexisNexis.
13 Q. Are you familiar with Florida statute 337.406?
14 A. Yes.
15 Q. Is that what's in front of you right now?
16 A. I'm familiar with the one that we read from
17 the Florida state statute. If that's an exact copy of
18 it, then I'm familiar with it.
19 Q. Okay. And what does this statute prohibit or
20 allow?
21 MS. GLASSER: Object to form.
22 THE WITNESS: Which part do you want me to
23 answer first, what does it allow or prohibit?
24 BY MS. EDENFIELD:
25 Q. In the City of Hialeah's opinion what does this

Page 129

1 statute say?
2 MS. GLASSER: Object to form.
3 THE WITNESS: This is a statute that governs
4 the use of the state roads.
5 BY MS. EDENFIELD:
6 Q. Does it prohibit vendors in Hialeah from vending
7 on state roads?
8 MS. GLASSER: Object to form.
9 THE WITNESS: Can you expand on that
10 question?
11 BY MS. EDENFIELD:
12 Q. Is it the position of the City that this statute
13 regulates peddlers or itinerant vendors in the City of
14 Hialeah?
15 A. We're dealing here with after the amendments
16 to the ordinances from that point forward?
17 Q. Yes.
18 A. And then your question is if we use this, we
19 enforce this statute from that date forward?
20 Q. No. My question is does the City of Hialeah
21 believe that this statute governs vendors in Hialeah?
22 MS. GLASSER: Object to form.
23 THE WITNESS: From the enactment of after
24 February 2013 that's the period we're discussing
25 when you're asking me my opinion on this?

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1 BY MS. EDENFIELD:
2 Q. I'm asking you the City's opinion and -- let me
3 ask you this. Did the amendments of January 2013 to the
4 vending code, did they alter this statute in any way?
5 A. No. A city ordinance cannot supercede a
6 state statute.
7 Q. That's right.
8 So, it doesn't matter one way or another whether
9 it's before or after, but the subject of this deposition
10 is after January 2013.
11 So, in that time does the City believe that this
12 statute applies to peddlers or itinerant vendors within
13 the City of Hialeah?
14 MS. GLASSER: Object to form.
15 THE WITNESS: There's a provision in the
16 statute that allows the City to regulate and
17 license the vendors on state roads.
18 BY MS. EDENFIELD:
19 Q. Does the City believe that this statute
20 prohibits peddlers or itinerant vendors in the City of
21 Hialeah from vending on state roads?
22 A. I just answered that question.
23 Q. No, you didn't. Your response was that the City
24 is allowed to license them.
25 My question is does the City believe that this

Page 131

1 statute prohibits vendors from selling on state roads in
2 the City of Hialeah?
3 A. That statute itself gives us the authority to
4 enforce it on state roads, okay. But also it gives a
5 provision that we can have our own ordinances to
6 govern the peddlers on state roads, and that's allowed
7 for in this statute.
8 Q. What type of enforcement on state roads does the
9 statute allow for?
10 A. When you mean by enforcement, is it what
11 penalties?
12 Q. Well, you just said that the statute authorizes
13 the City to enforce this statute on state roads.
14 And I'm asking what you mean by enforce on state
15 roads?
16 A. If they're in violation of any of the
17 provisions here within a state road within the City of
18 Hialeah, we may enforce.
19 Q. What would constitute a violation of the
20 statute?
21 A. What is spelled out there in the statute.
22 Q. Why don't you tell me the City's understanding
23 of that?
24 A. I think here's where -- do you want the
25 City's interpretation of what is clear there on the

Page 132

1 statute; what if it's being done?
2 Failure to prohibit the use of right-of-way
3 in this manner will endanger the health, safety, and
4 general welfare of the public by causing distractions
5 to motorists. It's telling you what can and cannot be
6 done.
7 Q. Okay. Does that mean that vendors in the City
8 of Hialeah are not allowed to vend on state roads?
9 MS. GLASSER: Object to form.
10 THE WITNESS: No, it does not mean that.
11 BY MS. EDENFIELD:
12 Q. What does it mean?
13 MS. GLASSER: Object to form.
14 THE WITNESS: In the vending ordinances that
15 we have, we're regulating them, which this
16 statute gives us the authority to regulate.
17 So we have -- we're regulating it, so we are
18 allowed to do that. We're not prohibiting them
19 to use the state road for vending.
20 BY MS. EDENFIELD:
21 Q. Does the City believe it could prohibit vendors
22 from selling on state roads without enacting a city
23 ordinance that says that?
24 MS. GLASSER: Object to form and the scope.
25 It's well beyond what we're here on.

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1 MS. EDENFIELD: No, it's not.
2 MS. GLASSER: Whether the City could do
3 something that it hasn't done?
4 MS. EDENFIELD: Yes. Because I'm trying to
5 figure out what the City believes that this
6 ordinance is allowing you to do.
7 He's telling me that ordinance is allowing
8 the City to enact ordinances that regulate
9 vendors, and I'm on board with that.
10 What I'm trying to get at is if it's --
11 besides enacting a law, what the City believes
12 this statute actually says. And I don't think
13 I've received an answer on that yet.
14 MS. GLASSER: I think he's answered it many
15 times, but that's not what you just asked.
16 You asked if the City believes it could do
17 something that it hasn't done here, so I'm going
18 to object.
19 MS. EDENFIELD: No. The City has done that,
20 but okay.
21 BY MS. EDENFIELD:
22 Q. Does the City believe that according to this
23 statute vendors are not allowed to sell on state roads in
24 Hialeah?
25 A. I've answered that already. That's my

Page 134

1 answer.
2 Q. Does the City -- have police officers ever told
3 vendors in the City of Hialeah that they are not allowed
4 to sell on state roads?
5 A. At what time frame are you speaking about?
6 Q. At any time.
7 MS. GLASSER: Object to form.
8 Again, we're here on this deposition
9 post-amendment which is January 2013.
10 MS. EDENFIELD: Once again, I'm trying to
11 establish the foundation. I'm asking about how
12 things have changed, and I need to establish a
13 foundation.
14 MS. GLASSER: So, you're asking ever? So,
15 20 years ago?
16 MS. EDENFIELD: Right. If that's --
17 MS. GLASSER: Object to form.
18 BY MS. EDENFIELD:
19 Q. Okay. You can go ahead and answer the question.
20 A. Let me make sure I understand your question.
21 You want a comparison prior to 2013 and
22 what's being done after 2013?
23 Q. Is it different?
24 A. Yes.
25 Q. Did the policies relating to this statute change

Page 135

1 in January of 2013?
2 A. Yes.
3 Q. Okay. How did they change?
4 A. We are letting the city ordinance govern us
5 when enforcing the peddler on state roads.
6 Q. So, before January 2013 the City did tell
7 vendors that they couldn't sell on state roads, and that
8 changed in 2013?
9 A. Yes, as the memo you produced from the
10 assistant city attorney at that time to Deputy Chief
11 Beyer or Captain Beyer, whichever the memo states.
12 Q. But that memo was from 2003?
13 A. Okay. You asked me to compare the two
14 periods. I just did.
15 Q. Are you saying that that memo says that vendors
16 cannot sell on state roads?
17 A. No. That memo is saying one of the ones we
18 can't enforce on state roads because prior to 2013
19 there was no provisions in here in the ordinances to
20 cover the state roads.
21 Q. Can you clarify that for me? I'm not sure I'm
22 understanding what you're saying.
23 A. Which part would you want me to clarify?
24 Q. You said this didn't used to govern on state
25 roads. I don't know what "this" means?

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1 A. This -- I said city ordinances.
2 Q. Okay. So, let's get you a copy of the city
3 ordinances which I believe is a document marked H2-11.
4 Are you telling me that before January 2013 the
5 City didn't have any ordinances relating to state roads,
6 but after 2013 they do?
7 MS. GLASSER: Object to form.
8 THE WITNESS: Prior to the updated ordinances
9 the licenses that were issued in the paperwork
10 stated in which locations they could not vend
11 which covered state roads.
12 After 2013 that is no longer in effect. The
13 paperwork that they're given -- the vendors and
14 peddlers -- does not have any prohibitions
15 against any of the state roads.
16 BY MS. EDENFIELD:
17 Q. Why did that change?
18 A. Clarification on the state statute that once
19 we are governing it then we don't enforce the state
20 statute since it gives us the choice.
21 And I'm referring to the state statute
22 337.406.
23 Q. So, because the City has chosen to regulate
24 vendors, statute 337.406 no longer applies within the
25 City; is that right?

Page 137

1 MS. GLASSER: Object to form.
2 THE WITNESS: When no longer applies, we're
3 no longer using data as one of our enforcement
4 statutes along state roads or any road.
5 BY MS. EDENFIELD:
6 Q. So, if a vendor within the City of Hialeah
7 wanted to vend on a state road, would that be prohibited
8 after January 2013?
9 A. No.
10 Q. When was that decision made?
11 A. The one you just asked me? The question?
12 Q. When was the decision made to stop enforcing
13 337.406 in prohibiting vendors to sell on state roads in
14 Hialeah?
15 A. It was no longer enforced by the police
16 department after the enactment of the new ordinances.
17 Q. When was the decision made to stop enforcing it
18 after the new ordinances were enacted?
19 MS. GLASSER: Object to form.
20 THE WITNESS: What are you looking for, a
21 specific date? Because I believe I just answered
22 that.
23 After this was enacted.
24 BY MS. EDENFIELD:
25 Q. So, in the instance that ordinance was enacted

Page 138

1 the decision was made to stop telling vendors they
2 couldn't sell on state roads; is that right?
3 A. What do you mean by the instance?
4 Q. Was there a meeting convened to discuss whether
5 to tell vendors in Hialeah that they could not sell on
6 state roads?
7 MS. GLASSER: Object to form.
8 THE WITNESS: Okay. You just lost me.
9 Because our discussion was that at the meeting
10 they are allowed to do it.
11 Now you're saying that there was a meeting
12 they didn't allow it -- to tell them they didn't
13 allow it. You threw me off there.
14 Can you --
15 BY MS. EDENFIELD:
16 Q. No. I used the word whether.
17 So, was there a meeting convened to discuss
18 whether to enforce a prohibition on vending on state
19 roads against vendors in Hialeah?
20 MS. GLASSER: Object to form.
21 THE WITNESS: There were discussions
22 concerning the changes in the ordinance.
23 BY MS. EDENFIELD:
24 Q. Between whom?
25 A. The law department and the police department.

Page 139

1 Q. How many meetings?
2 A. I don't recall.
3 Q. Were the law department and the police
4 department the only ones present at those discussions?
5 A. I don't recall.
6 Q. Who was present from the law department?
7 A. I don't exactly know who it was, but
8 generally my meetings with anything of the law
9 department is with Mr. Grodnick.
10 Q. I'm going to go ahead and mark this as H2-14.
11 This is a random request, but can I ask what a 29 is in
12 police parlance?
13 (The referred-to document was marked as
14 Plaintiff's Exhibit No. H2-14)
15 A. It's a robbery.
16 Q. Okay.
17 If you can look for me here you'll notice that
18 at the bottom these are marked with what we call bates
19 stamps, so I'm going to be referring to -- within this
20 I'm going to be referring to those page numbers.
21 If you could look at the page marked R2-001067.
22 MS. GLASSER: Can I have a moment to look
23 through the composite exhibit?
24 MS. EDENFIELD: Sure.
25 MS. GLASSER: What page was it that you

Page 140

1 wanted him to look at?

2 BY MS. EDENFIELD:

3 Q. Are you guys done?

4 A. I'm ready.

5 Q. We are on R2-001067.

6 A. R2-001067, yes.

7 Q. Can you tell me what this is -- what this

8 document is?

9 A. It's an e-mail which consists of page one of

10 two, two pages.

11 Q. Are you familiar with the recipients and senders

12 of this e-mail chain?

13 A. Yes.

14 Q. I'm going to refer to the middle e-mail sent on

15 January 28th, 2013 at 11:25 a.m.

16 It says there: But I will defer to Chief

17 Velazquez based on the Mayor's comments at our last

18 meeting.

19 Do you know what meeting that is referring to?

20 A. What refers to the last meeting, miss?

21 Q. Uh-huh.

22 A. No.

23 Q. You don't know whether you were present?

24 A. I'm not saying I don't know if I was present.

25 I don't recall back in 2013. I have numerous meetings

Page 141

1 with the Mayor.

2 Q. Did you have any meetings with the Mayor without

3 counsel present?

4 MS. GLASSER: Object to form.

5 THE WITNESS: In regards to the flower vendor

6 issues?

7 BY MS. EDENFIELD:

8 Q. Right.

9 Did you have any meetings with the Mayor in or

10 after January 2013 regarding the flower vendors without

11 counsel present?

12 A. Not that I recall.

13 Q. Did you ever discuss the vendors in or after

14 January 2013 with the Mayor?

15 A. I'm sure we did, yeah.

16 Q. What was the substance of those discussions?

17 A. It's the -- in general it was the -- that I

18 recall -- was the course of action that we're going to

19 proceed on.

20 Q. And what is that course of action?

21 A. It is the approach that we take of always

22 warning first, educating, and trying to resolve any

23 issues they have.

24 The Mayor, the administration is very

25 receptive to our vendors. And it's more working with

Page 142

1 them to getting compliance and what we want done and

2 followed, especially after the new enactment that all

3 the changes came through.

4 That's been the core of the conversations.

5 Q. Did the policies about working with the vendors

6 change in January 2013?

7 A. We've always tried to work with the vendors

8 and see the course of action. When we had had any

9 violations it has always been warn, warn.

10 And when allowed by law and there was no

11 compliance, then there has been an arrest situation.

12 But it's always been the approach of a

13 warning regardless of these ordinances or prior ones.

14 Q. Do those warnings increase around Valentine's

15 Day?

16 A. It's relative to the demand when there has

17 been traditionally certain days that stand out in the

18 year, Valentine's Day, Mother's day, where you have a

19 larger amount of people come into the City and try to

20 vend their products so -- and those occasions of

21 course we have noticed more, so then we address if any

22 vending violations need to be addressed.

23 Q. What do you mean by violations?

24 A. By violations, what we're discussing here;

25 the city ordinances or the state statutes.

Page 143

1 Q. So, around Valentine's Day there was increased

2 enforcement of the ordinances?

3 A. Due to the increase of vendors coming in they

4 are not familiar with the requirements, so obviously

5 it's like anything else.

6 When the season peaks for it when do you have

7 the most enforcement of lobster regulation? During

8 lobster season. That's when people buy more lobsters.

9 Here when -- it tends to have more people who

10 tend to look for the occasion for the flowers more

11 than usual -- the volume -- you know.

12 So then that's where you have the opportunity

13 of more vendors coming to vend their product, and

14 thus, you know, we only enforce according to if any

15 violations are there and not just because it's the

16 season.

17 Q. Is it department policy to send around an e-mail

18 before Valentine's Day to explain the vendor policy to

19 police officers?

20 A. Traditionally, yes, it's done simply because

21 that's where we get the most issues.

22 Q. Does an e-mail like that go around on any other

23 day relating to vendors?

24 A. No.

25 Q. If you could turn to page R2-001092. That

Page 144

1 document goes for three pages.

2 A. This is the one that has the heading of Ruiz,
3 Hubert?

4 Q. That's right.

5 A. Tuesday, February 12, 2013, 11:22?

6 Q. Exactly.

7 A. Okay.

8 Q. Is this the policy e-mail that goes around
9 yearly about the vendors?

10 MS. GLASSER: Object to form.

11 THE WITNESS: I can say this is the one that
12 went on 2013, but I cannot make that blanket
13 statement.

14 This is the same one that goes every year.

15 BY MS. EDENFIELD:

16 Q. Okay. And can you identify for me who the
17 sender of this e-mail was?

18 A. It's Ruiz, Hubert; first name is Hubert.
19 He's the commander in charge of the crime suppression
20 section.

21 Q. Why was he the one to send this e-mail and not a
22 CEU officer?

23 A. Because he is the supervisor. The CEU
24 officers are under his authority.

25 Q. Pardon me. I didn't mean CEU.

Page 145

1 If you look in the first paragraph of this
2 e-mail.

3 One of the underlined sentences says: When
4 coming in contact with an illegal vendor the first time
5 you shall warn, dismiss, and document the encounter.

6 Do you see that?

7 A. Yes.

8 Q. What does illegal vendor mean there?

9 A. A vendor that would be in violation of the
10 city ordinances or in violation of any of the Florida
11 state statutes there that we can enforce.

12 Q. Okay. If you look down with me under common
13 problems/violation.

14 It's says: A business owner allows a person to
15 set up shop on his property - only the licensed
16 business/employees can vend at the actual business
17 location?

18 Do you see that?

19 A. No, I lost you.

20 Q. No problem. It's one of the bullet points under
21 common problems/violations.

22 MS. GLASSER: The third bullet point.

23 MS. EDENFIELD: Exactly.

24 BY MS. EDENFIELD:

25 Q. What does that bullet point mean?

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1 A. That the persons authorized to conduct
2 business on the premises are the actual business
3 that's licensed for that premise.

4 Q. Around Valentine's Day do business owners set up
5 displays outside of their stores selling wares?

6 A. What do you mean by business owner? Specific
7 to --

8 Q. Brick-and-mortar business owners. So, owners of
9 stores in the City.

10 A. Owners of stores. And the question was
11 again?

12 Q. No problem.

13 Around Valentine's Day do store owners in the
14 City of Hialeah set up displays outside of their store?

15 A. For specific Valentine's Day products?

16 Q. Yes.

17 A. The problems we have encountered during
18 Valentine's Day is that other individuals which is not
19 part of the business come and set up on the business
20 to vend to sell Valentine's Day products, okay.

21 The business is when they operate out of
22 their normal scope of selling from within the store,
23 they are required to obtain their required permits.

24 For example, I'll give you one that just
25 happened this weekend where I received a complaint of

Page 147

1 a tire place at West 12th Avenue and 50th Street on
2 Saturday that they had merchandise set up outside. I
3 sent someone there to investigate, and they had the
4 proper permits for the City to conduct that business.

5 So, whenever they operate with that they are
6 required to have any permits that will govern that.

7 Q. Have you ever seen a flower shop set up a
8 display outside their store around Valentine's Day?

9 MS. GLASSER: Object to form.

10 THE WITNESS: I'm going to go into recent
11 memory.

12 I remember handling a complaint with a flower
13 shop or selling flowers outside, and it was
14 addressed by them having to bring, you know,
15 their flowers back in because they were outside
16 on the sidewalk.

17 BY MS. EDENFIELD:

18 Q. Was that around Valentine's Day?

19 A. That one was back in December of this year
20 when we have a large tradition in the City of Hialeah
21 with the church.

22 It's a large event on December 16th and 17th,
23 and we've addressed that problem when we received a
24 complaint that a flower shop had set up outside their
25 flowers, so they were asked to bring them inside.



Page 148

1 Q. Who complained?

2 A. My recollection was another business that

3 also sold flowers complained on that flower shop.

4 Q. Are there more flower shops setting up displays

5 outside around Valentine's Day than at other times of the

6 year?

7 A. I could not give you an accurate answer on

8 that. I don't have the information for that on hand.

9 Q. If a flower shop wanted to sell flowers from a

10 display outside their store, could they pull a permit and

11 do that?

12 A. If it's allowed by their zoning, they would

13 go through the permitting requirements. And if it was

14 not allowed, they would not issue a permit.

15 Because the sidewalk is the City, and you

16 don't want that obstructed so --

17 Q. What if it's not on the sidewalk?

18 MS. GLASSER: Object to form.

19 THE WITNESS: I'm trying to picture if it's

20 not on the sidewalk, where would it be?

21 Are you saying in the back of the store, in

22 front of the store?

23 BY MS. EDENFIELD:

24 Q. Maybe in a parking spot.

25 So if a store wanted to -- I mean, you are

Page 149

1 saying that some stores are allowed to set up outside

2 when they pull permits, right?

3 A. If there's a permit that governs that,

4 correct. If they're issued one.

5 Q. Okay. And so are you saying that the permitting

6 is dependent on whether or not they are zoned for that?

7 A. Any type of permit would need to be approved

8 by zoning, and they look at all of that so --

9 Q. Okay. Wouldn't they not need to pull a permit

10 if they were already zoned for that?

11 MS. GLASSER: Object to the scope of the

12 question. We're not dealing with all the zoning

13 ordinances now, but you can answer for now.

14 THE WITNESS: They're licensed to be a flower

15 shop.

16 And, once again, that is not giving them the

17 authority of the use of the sidewalk. They're

18 governed to operate within their structure.

19 BY MS. EDENFIELD:

20 Q. Right. But you were saying that -- earlier you

21 said that the permit would depend on whether they were

22 zoned for it.

23 If they were zoned for selling outside, they

24 wouldn't have to pull a permit, right, to sell outside?

25 MS. GLASSER: Object to form.

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1 THE WITNESS: I think you're getting into a

2 real technical aspect because of the different

3 zonings rules that -- you know, I'm not familiar

4 with all of them, okay.

5 So, like I said, if a store owner wants to do

6 something out of ordinary, then it is a process

7 to follow. Maybe it's not even allowed, okay.

8 So, in that content.

9 If it is allowed, I'm sure the rules

10 governing it and all of that and temporary --

11 there's been many things that have been given

12 temporary permits, as I told you with the example

13 I gave on Saturday.

14 BY MS. EDENFIELD:

15 Q. So, a store owner could apply for a temporary

16 permit to set up shop outside even if they're only zoned

17 for selling indoors; is that right?

18 MS. GLASSER: Object to form and beyond the

19 scope of what he's here for and beyond the scope

20 of the topics listed in your notice of

21 deposition.

22 MS. EDENFIELD: It's something he brought up,

23 and I'm following up on it.

24 MS. GLASSER: But I let him go a little bit,

25 and you can spend all your time doing this but --

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1 MS. EDENFIELD: I'm perfectly capable of

2 figuring out how I can spend my time.

3 MS. GLASSER: But it is limited to the topics

4 here.

5 MS. EDENFIELD: He brought it up, and I'm

6 following up on it.

7 MS. GLASSER: Okay.

8 BY MS. EDENFIELD:

9 Q. Please go ahead and answer.

10 A. Could you repeat the question?

11 MS. GLASSER: We're not going to go beyond

12 this on this topic.

13 MS. EDENFIELD: Thank you.

14 (Question was read back by court reporter)

15 MS. GLASSER: Same objection.

16 THE WITNESS: That's something if it's

17 governed by zoning laws or the permitting law if

18 it's allowed.

19 BY MS. EDENFIELD:

20 Q. If the zoning board allows it; is that right?

21 A. I didn't say zoning board. Whatever the

22 zoning laws are.

23 Q. How do they determine what's permitted or not

24 permitted?

25 MS. GLASSER: Object to form.

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1 BY MS. EDENFIELD:
 2 Q. Or who determined what's permitted?
 3 A. Zoning department.
 4 Q. So, is your response to the previous question
 5 that if the zoning department allows it, then yes?
 6 A. If it's within what they can allow.
 7 Q. Okay. I'd like to turn to -- I'm going to ask
 8 for Exhibit H2- -- I believe it's H2-10, the ordinances.
 9 A. Are we done with this exhibit?
 10 MS. GLASSER: H2-10 is the state statute.
 11 BY MS. GLASSER:
 12 Q. Okay. So then 11.
 13 I'm going to ask you several questions now about
 14 18-304. Are you familiar with this section of the
 15 ordinance?
 16 A. Yes.
 17 BY MS. EDENFIELD:
 18 Q. What is the amended law regarding the display of
 19 merchandise for street vendors?
 20 A. The amended law has a provision for
 21 permission on private property to store their goods.
 22 Q. What about the display of merchandise, what is
 23 the law related to the display of merchandise in Hialeah
 24 for vendors?
 25 A. It is addressing the display in the storage

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1 of any public right-of-way including the sidewalk or
 2 swale.
 3 Q. Does it prohibit the display of merchandise?
 4 A. Yes.
 5 Q. What do police officers tell vendors that they
 6 can or cannot do related to the display of merchandise?
 7 A. What they cannot do is what's stated here.
 8 Q. They can't display any merchandise then; is that
 9 right?
 10 A. On the right-of-way, on the sidewalk, on the
 11 swale. Correct.
 12 Q. If they have their merchandise inside of a
 13 vehicle and would like to display it that way, may
 14 vendors leave their vehicle doors open?
 15 A. No.
 16 Q. Why not?
 17 A. That causes a hazard because of having open
 18 doors you're taking more space and all of that.
 19 Q. What if it's a van door that slides open, and
 20 does it require more space to be open?
 21 A. If the van is just being set up there so they
 22 can open the door and display, that's prohibited.
 23 Q. What about it is prohibited?
 24 MS. GLASSER: Object to form.
 25 THE WITNESS: Of using the van just parked

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1 there as its display, which is -- I don't know
 2 how much more I can expand on it. To me it's
 3 pretty clear.
 4 If you have your van there like you
 5 described, you open the door and that's the
 6 purpose you have parked there to display all of
 7 your goods, then that's what's prohibited.
 8 BY MS. EDENFIELD:
 9 Q. So the act of displaying is prohibited, not just
 10 the parking there; is that right?
 11 MS. GLASSER: Object to form.
 12 THE WITNESS: Correct.
 13 BY MS. EDENFIELD:
 14 Q. I'm handing you the exhibit marked H2-13.
 15 Is that display in violation of 18-304?
 16 A. The boxes on the sidewalk or just what's
 17 being displayed on the vehicle?
 18 Q. Just what's being displayed on the vehicle.
 19 MS. GLASSER: Object to form.
 20 THE WITNESS: To be able to answer that you
 21 have to look at the circumstances.
 22 Just by you showing me a picture that is a
 23 picture of a vehicle that's parked there with an
 24 individual standing there, that's not even enough
 25 for me to make that determination.

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1 The only one that I see is a clear cut
 2 violation are the items on the sidewalk.
 3 BY MS. EDENFIELD:
 4 Q. So, are you saying that in certain circumstances
 5 this display would be allowed?
 6 A. If the person just parked there and got out
 7 of their vehicle and went inside a house and they are
 8 legally parking their vehicle there, that's allowed.
 9 Q. So, is the distinction between what is allowed
 10 and what is not allowed whether or not the person is
 11 trying to sell their items?
 12 MS. GLASSER: Object to form.
 13 THE WITNESS: To be able to make a
 14 determination -- if we have a violation, you have
 15 to have an observation period to make that
 16 determination.
 17 Just by coming up on that vehicle at that
 18 time -- I don't know what happened before. I
 19 don't know what's happening.
 20 So, like we mentioned on the last deposition
 21 we had, it is the totality of the whole
 22 circumstances as any situation we're
 23 investigating or approaching.
 24 I'll give you an example. We have tractor
 25 trailers that are not allowed in residential.

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1 And we come up to it, but they're there for an
 2 hour which the law provides. So, just by seeing
 3 them the moment that we arrived is not sufficient
 4 to act upon it.
 5 BY MS. EDENFIELD:
 6 Q. So, you have to determine how long the vendor
 7 has been there in order to determine whether they're
 8 violating section 18-304; is that what you're trying to
 9 say?
 10 MS. GLASSER: Object to form.
 11 THE WITNESS: No.
 12 What I said is the totality of the
 13 circumstances of everything that I described.
 14 You just cannot base it on one thing. It's
 15 everything that we have spoken to make a
 16 determination.
 17 BY MS. EDENFIELD:
 18 Q. So, you're saying that -- like for section
 19 18-302 -- in order to determine whether a vendor is
 20 violating section 18-304 you need to assess the totality
 21 of the circumstances; is that right?
 22 A. Correct. Based on what you're showing me
 23 here on a picture; if you want me to form an opinion
 24 on just a picture.
 25 Q. Where in section 304 does it say totality of the

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1 circumstances?
 2 MS. GLASSER: Object to form.
 3 THE WITNESS: That specific wording, no it's
 4 not there.
 5 But that's what I'm using to describe to you
 6 how we can determine if there's a violation of
 7 the law of the ordinance, okay.
 8 You have to have a period to be able to
 9 determine if you have any violations of that.
 10 Because for all practical purposes based on
 11 this picture this individual could have been
 12 flagged down if she was lawfully driving down the
 13 street, flagged down by a pedestrian who wanted
 14 to buy some pineapple.
 15 If at that time she pulled over and the two
 16 boxes were obstructing where she needed to get,
 17 she put them on the sidewalk, she conducted her
 18 transaction, she returned the boxes back and
 19 continued her way.
 20 Do I have a violation of that? No, I don't.
 21 Can we have a bathroom break?
 22 MS. EDENFIELD: Sure.
 23 (A brief recess was taken)
 24 BY MS. EDENFIELD:
 25 Q. Can you describe for me a circumstance under

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1 which a vendor could be violating section 18-304?
 2 A. We can flip the same example.
 3 Let's say we have this vendor who's parked at
 4 that location for the sole purpose of selling his
 5 products who's established that is his vending
 6 location which is obstructing the sidewalk. So,
 7 that's the other side of it.
 8 Then after you have that, you know, those
 9 things I pointed out that you see that, then we'll
 10 have to look into the ordinance to see -- we'll have
 11 violations there because they have established that it
 12 is a permanent business location, his goods are being
 13 displayed on the sidewalk.
 14 Q. What do you mean by business location?
 15 A. He's established -- the person has
 16 established the public parking there as his fixed
 17 location where you can find him all day, day in and
 18 day out selling her products or his products.
 19 Q. If this person -- if the vendor that we're
 20 looking at in H2-13, if that person drove up to that
 21 location -- let's say it's a public parking spot -- to
 22 vend and stayed there for ten minutes -- accepting the
 23 boxes, right -- is that person violating 18-304?
 24 MS. GLASSER: Object to form and asked and
 25 answered.

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1 THE WITNESS: The example you're giving me --
 2 the example you're giving me of the person
 3 stopped there, gets outside of their vehicle,
 4 it's fixed in that location and it's not moving,
 5 there's a lot of factors.
 6 That's why we have gone through this. I
 7 think the same picture also on a lot on the last
 8 session we had and we made those same points and
 9 explained all of that.
 10 BY MS. EDENFIELD:
 11 Q. Well, before we were talking about section
 12 18-302.
 13 I'm trying to figure out if a person is not
 14 stationary, if they can even violate section 18-304.
 15 Can they?
 16 MS. GLASSER: Object to form.
 17 THE WITNESS: You're saying they're not
 18 stationary?
 19 BY MS. EDENFIELD:
 20 Q. Right.
 21 A. If they're not stationary, they're not parked
 22 in one location. Then there's no violation because
 23 they're moving, correct?
 24 Q. I'm referring to section 18-304 which is the
 25 prohibition on display of merchandise.

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1 The section doesn't say anything about stopping
 2 or standing. It only discusses a prohibition on
 3 displaying merchandise.
 4 I'm trying to figure out how vendors could
 5 possibly violate that section because I keep hearing from
 6 you that it depends on whether they've been there for a
 7 while or it depends on the totality of circumstances.
 8 So, if a vendor has not established a permanent
 9 vending location as discussed in 18-302 -- which is a
 10 prohibition on that -- if a vendor who has not
 11 established a permanent vending location but is
 12 displaying goods with the intent of soliciting sales, is
 13 that person in violation of section 18-304?
 14 MS. GLASSER: Object to form.
 15 THE WITNESS: So I can understand this.
 16 You're example to me is they're not being set
 17 up, they're fixed?
 18 BY MS. EDENFIELD:
 19 Q. Right.
 20 A. Okay. Just by mere display if there's a
 21 violation?
 22 Q. Right.
 23 A. No. Just by mere display there's not a
 24 violation.
 25 Q. Can I turn you to section 18-304.

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1 If you would look in the second paragraph -- not
 2 the one that's scratched out but the second paragraph
 3 that begins, any inventory of goods.
 4 About two thirds of the way down it says: The
 5 peddler or itinerant vendor soliciting or conducting
 6 sales on foot may display with the intent of the
 7 soliciting sales only as much of the goods, merchandise,
 8 or wares as the peddler or itinerant vendor can carry on
 9 the peddler or itinerant vendor's person.
 10 Do you see that?
 11 A. The paragraph under the crossed-out one?
 12 Q. No. Two under the crossed-out one. The
 13 paragraph starts with, any inventory of goods.
 14 A. Okay. Okay. Go again.
 15 Q. So, about two thirds of the way down that it
 16 says: The peddler or itinerant vendor soliciting or
 17 conducting sales on foot may display with the intent of
 18 soliciting sales only as much of the goods, merchandise,
 19 or wares as the peddler or itinerant vendor can carry on
 20 the peddler or itinerant vendor's person.
 21 Do you see that?
 22 A. Yes.
 23 Q. Actually on that copy it's marked.
 24 Do you see where that portion is?
 25 A. Down here?

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1 Q. Uh-huh.
 2 A. Okay.
 3 Q. What does that mean?
 4 A. What was your question?
 5 Q. The portion that we were just discussing.
 6 A. Okay. Here.
 7 Q. What is the City's understanding as to what that
 8 section means?
 9 MS. GLASSER: Are you talking about -- which
 10 sentence? Because you said it's marked on his,
 11 the one we're talking about.
 12 So, which sentence is it? Just so that we're
 13 clear for the record.
 14 MS. EDENFIELD: The one that I read three
 15 times - the peddler or itinerant vendor
 16 soliciting or conducting sales on foot may
 17 display with the intent of soliciting sales only
 18 as much of the goods, merchandise, or wares as
 19 the peddler or itinerant vendor can carry on the
 20 peddler or itinerant vendor's person.
 21 MS. GLASSER: Okay.
 22 BY MS. EDENFIELD:
 23 Q. What is the City's understanding as to what that
 24 sentence means?
 25 A. To what the person -- how can I explain

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1 something that's obvious to me. That's my difficult
 2 part is getting the explanation that you would
 3 understand.
 4 How can I explain this to you?
 5 Q. How do you explain it to vendors?
 6 A. We haven't had any problems with explaining
 7 it to vendors. It is the one -- every time I'm
 8 explaining something to you, you don't understand,
 9 okay.
 10 That's why I'm trying to see how I can -- we
 11 haven't had any complaints with vendors, any
 12 interpretation of the law, or anything like that.
 13 Based on this picture and this
 14 interpretation, it would be common sense for anyone
 15 that if you're trying to sell all these products you
 16 cannot carry that on yourself.
 17 So, that's why we don't have an issue as long
 18 as -- there is no issue as long as the person is not
 19 violating what is all fixed, set up there permanently,
 20 so on and so forth.
 21 So, it's very common that you see this type
 22 of vehicle or other vendors who haven't set up in a
 23 permanent location, that they drive through the
 24 neighborhoods and they're flagged down, then they will
 25 pull over to the side not interfering with traffic,

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1 vend their products, and then they continue.
2 So, that is not a violation. That's the best
3 I can explain it to you not using the language here in
4 the common sense approach of how it's done.
5 Q. We talked at the last deposition a lot about the
6 difference between vendors at say 49th and 4th Avenue and
7 vendors on East 10th Avenue.
8 A vendor like the ones that operate on 4th and
9 49th where the vendors are walking into traffic when
10 there's a red light -- are you familiar with that?
11 A. Yes.
12 Q. Okay. Are those vendors allowed to have a
13 display of merchandise beyond what they're holding in
14 their hands?
15 MS. GLASSER: Object to form.
16 THE WITNESS: Can you explain to me what you
17 mean by display of merchandise?
18 Are they setting them up on the swale, on the
19 sidewalk, on a parked vehicle over their hood
20 or --
21 BY MS. EDENFIELD:
22 Q. If a vendor has his vehicle parked in a parking
23 spot and has a door of his vehicle open with the flowers,
24 for example, inside, is that person allowed to leave that
25 van there with the door open displaying the merchandise

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1 while he is conducting a sale?
2 MS. GLASSER: Object to form.
3 THE WITNESS: For me to answer that you need
4 to expand on what's the purpose, you know,
5 because it does provide that they can store their
6 items in that van -- or the vehicle --but the
7 example you gave before was a van with a door
8 that's a sliding door that doesn't interfere with
9 anything.
10 So, if he's using that van for the purposes
11 of storing what he cannot carry, then it's not
12 displaying, okay.
13 So, you have to try to establish what is
14 being done.
15 BY MS. EDENFIELD:
16 Q. So, the determination of whether or not it
17 violates section 18-304 hinges on whether or not the
18 purpose of the open door is to display; is that right?
19 A. Is he there displaying or is he storing his
20 goods because he cannot carry?
21 It would be -- it's very simple. If you have
22 flower vendors, okay. They sell their bunches for \$5,
23 \$10, whatever the price is, there's a limited amount
24 that they carry in a bucket.
25 So, it's not unreasonable to expect that

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1 they're going to have it stored in a vehicle. That's
2 not unreasonable. That's allowed, okay. There's not
3 a problem with that.
4 If now the purpose is for using that vehicle
5 as setting up a display, you know, and then once again
6 you have to expand on the parameters and where is he
7 parked.
8 There's some parking that won't even allow,
9 you know -- you can't even say if he's -- if the
10 person is displaying because of the way the vehicle is
11 parked depending on the street and what location.
12 So, there are many factors that need to be
13 taken into consideration to make a determination from
14 an enforcement side.
15 Q. Is it important to that determination whether
16 you can see the merchandise from the public street?
17 A. To me that question is too vague. You have
18 to be more specific. And the factors that I keep
19 telling you surrounding it.
20 There is some parking areas, you know, some
21 vans depending which side they have the door is
22 unlawfully parked in a sense that he's facing traffic,
23 and that's the only door he can have open, and that
24 individual is in the process that he's actually
25 vending his flowers, he goes out when he needs to, he

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1 comes back when he needs to, he sold his flowers, now
2 he needs to restock his inventory, he went to his van,
3 picked up his inventory, conducted his sales as he was
4 doing before, then I would consider that as the
5 purpose that he has with the door open to display
6 them. He's storing them as an inventory, right.
7 To enforce it you have to look at everything
8 surrounding to make the correct determination.
9 Q. So, are you telling me that to determine whether
10 a vendor is violating section 18-304, a police officer
11 must determine whether that vendor is displaying or
12 storing?
13 MS. GLASSER: Object to form and asked and
14 answered.
15 THE WITNESS: I've answered that already.
16 Whatever your interpretation is that's beyond my
17 control.
18 BY MS. EDENFIELD:
19 Q. That's not an answer to the question.
20 She can object to it, but you still have to
21 answer it?
22 A. I already answered it.
23 Q. Did you answer it yes?
24 MS. GLASSER: Object to form.
25 THE WITNESS: I answered your question

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1 already.

2 BY MS. EDENFIELD:

3 Q. If a flower vendor is storing his merchandise on

4 the hood of his van, is that permissible?

5 MS. GLASSER: Object to form.

6 THE WITNESS: I haven't still seen a van that

7 you have a hood that you can store any flowers

8 on. They're normally very short and very steep.

9 I've never seen it.

10 BY MS. EDENFIELD:

11 Q. If a flower vendor stored his flowers in a

12 vehicle and left the vehicle door open all day while he

13 was vending, is that a violation of section 18-304?

14 MS. GLASSER: Object and asked and answered.

15 THE WITNESS: I've answered the same

16 question. We're going around in circles on the

17 same issue.

18 BY MS. EDENFIELD:

19 Q. We're not going around in circles.

20 I'm asking you more specific questions, and

21 whether or not she objects to the question you still have

22 to answer.

23 You're not answering.

24 MS. GLASSER: He has been answering.

25 And until it gets to the point where it's

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1 closely approaching of harassing him because

2 you're asking him the same question over and over

3 --

4 MS. EDENFIELD: I'm not asking the same

5 question over and over again.

6 MS. GLASSER: Excuse me --

7 MR. PEARSON: Are you instructing him not to

8 answer?

9 MS. GLASSER: Excuse me.

10 MS. EDENFIELD: I'm not asking the same

11 questions over and over --

12 MS. GLASSER: I'm talking. Let me finish

13 what I'm saying for the record, and then you can

14 speak.

15 You have gone through at least 50 scenarios

16 with tiny little nuances of hypothetical

17 situations in a theoretical world, if it's on the

18 trunk or the -- whatever.

19 He's answered and he's given an answer as it

20 depends, and we've gone through this. We went

21 through this last week. We're going through it

22 again, so I am going to instruct him.

23 I'll let you go a little bit further, but

24 then I'm going to instruct him not to answer any

25 further because it's getting abusive.

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1 MS. EDENFIELD: As you mentioned, there are

2 nuances that are different for each question. I

3 am continuing to get answers that are not

4 responsive to my questions.

5 Every time that you have objected it

6 becomes - well, I've already answered that

7 question when he hasn't answered the questions.

8 And it's not abusive. I'm trying to get an

9 answer out of him. And nothing that I have done

10 is improper.

11 MS. GLASSER: He has answered --

12 MS. EDENFIELD: No, no. Now I am talking and

13 now you stop until I finish, okay, for the

14 record.

15 So, he has not answered these questions. I'm

16 going to keep asking him. And if you instruct

17 him to not answer the questions that he has not

18 yet answered, then we will absolutely take this

19 to the Judge.

20 Because it is inappropriate for you to tell

21 me how to conduct my deposition in a completely

22 non-abusive way and trying to get answers out of

23 your witness.

24 MS. GLASSER: No, it is. And you can take it

25 to the Judge. That's fine. If that's your

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1 decision.

2 But I'm not going to let him sit here hour

3 after hour after hour and listen to every

4 hypothetical situation you can come up with and

5 ask whether this is a violation, whether that is

6 a violation, whether this is a violation.

7 MS. EDENFIELD: Why is that a problem?

8 That's absolutely what I am trying figure out in

9 this deposition is how the City is enforcing it

10 because I'm unclear on it.

11 MS. GLASSER: Okay. But it's not your

12 lawsuit. You're not the plaintiff.

13 You can be unclear, but we already had your

14 plaintiff testify that he's not unclear on it.

15 So --

16 MS. EDENFIELD: That's inappropriate for you

17 to be saying during this deposition.

18 MS. GLASSER: No, it's not.

19 MS. EDENFIELD: It absolutely is.

20 MS. GLASSER: No, it's not.

21 MS. EDENFIELD: And it is neither here nor

22 there whether or not the plaintiff understands

23 one way or another. Because what he is telling

24 you and what I am hearing right now are two

25 totally different things, and I am hearing things

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1 that aren't reflected in the code.

2 So, I'm trying to figure out how the City is

3 enforcing this vending law when it's clear as day

4 in the code but apparently it's not clear as day

5 in the City's mind.

6 So, I'm trying to figure out what actually

7 the City is trying to do here.

8 MS. GLASSER: Okay. And you've asked him how

9 they're enforcing it. If that's what you're

10 trying to get, ask him how they're enforcing it.

11 He's answered that and he's answered the best

12 he can of your hypothetical situations, which

13 have been quite repetitive.

14 So, you can go on a little bit further, and

15 then I'm going to instruct him not to answer.

16 But he has been answering completely.

17 BY MS. EDENFIELD:

18 Q. How does the City think vendors should display

19 their merchandise in order to comply with section 18-304?

20 A. As stated in the section that you just cited.

21 Q. So, if a peddler or itinerant vendor conducting

22 sales on foot displays anything other than what he is

23 holding in his hands, does that violate section 18-304?

24 A. Which section are you reading from?

25 Q. The section you just cited, section 18-304.

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1 A. Your question is that they should only be

2 displaying what they can carry on themselves; is that

3 the interpretation as a peddler?

4 (Question was read back by court reporter)

5 If they're displaying items that are not on

6 themselves, is that violation of the ordinance?

7 Q. That is my question.

8 A. Yes.

9 Q. You mentioned that there are some vendors who

10 have displays like what is depicted in H2-13 on their

11 vehicles and they drive around the City of Hialeah and

12 wait to get flagged down by customers.

13 Is that how the City of Hialeah expects vendors

14 to sell?

15 MS. GLASSER: Object to form.

16 THE WITNESS: That -- you're saying that

17 particular -- if this vendor, how they expect to

18 sell?

19 I gave you an example of how they normally

20 conduct business that's not in violation versus

21 parked there, fixed, using that area as a fixed

22 location. Then that's what we don't want as the

23 City of Hialeah.

24 There's no issue with the vendor who is

25 driving around trying to vend his products when

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1 he's flagged down he pulls over to the side, does

2 not interfere with the traffic flow then the

3 transaction is conducted then he continues on his

4 way; when we're dealing with this specific

5 example as this fruit vendor.

6 BY MS. EDENFIELD:

7 Q. But is it the intent of the City that vendors

8 sell by roving around the City?

9 MS. GLASSER: Object to form.

10 THE WITNESS: Which type of vendors?

11 BY MS. EDENFIELD:

12 Q. Vendors from vehicles.

13 A. From vehicles. What the City does not want

14 is they do not want them to park in one location

15 permanently setting up as their permanent business

16 location.

17 Q. But is it the intent of the City that they sell

18 in a roving manner?

19 MS. GLASSER: Object to form.

20 THE WITNESS: I'm trying another way -- I

21 feel I've answered your question already, and I'm

22 trying to think of another way that I can

23 rephrase it to see if you understand.

24 Because we're telling you what is allowed and

25 then what's not allowed. Then it's open to how

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1 you want to interpret it.

2 BY MS. EDENFIELD:

3 Q. It's not open to interpretation as to how I want

4 to interpret it. You were telling me what is allowed and

5 what isn't allowed.

6 What I am asking you is the intention of the

7 City as to how vendors vend. So, I understand that some

8 things are allowed and some things are not allowed.

9 What I'm asking is, is it the City's intent that

10 vendors with vehicles rove around the City to vend?

11 A. Correct. The City does not want them

12 stationary in one location making a fixed location as

13 their business location because it brings the other

14 problem of obstructing the sidewalk, littering,

15 obstruction of traffic, and all the other examples

16 that I have cited.

17 Q. Is it the City's contention that it is safer for

18 vendors to rove around than to remain in one location?

19 MS. GLASSER: Object. Asked and answered.

20 THE WITNESS: I think we went intensively on

21 the last session on those same issues, and I

22 answered that numerous times.

23 BY MS. EDENFIELD:

24 Q. Is it the City's contention that it is safer for

25 vendors on foot to display only what they are carrying in

Page 176

1 their hands?

2 MS. GLASSER: Object to form.

3 THE WITNESS: When you're saying safer on

4 foot, in comparison to?

5 BY MS. EDENFIELD:

6 Q. In comparison to -- I'm asking about the display

7 of merchandise, okay.

8 What I'm asking is, does the City think it is

9 safer for vendors to display only what they are carrying

10 in their arms versus displaying in places other than what

11 they're carrying in their arms?

12 A. Safer for the vendor themselves or -- that's

13 where I don't understand your question because we had

14 -- on the last deposition we had last Friday we spoke

15 about the issues that are brought upon when they set

16 up displays, okay. Two different things we're

17 comparing here.

18 So that -- we already visited that whole

19 area, and I gave you an extensive explanation on that.

20 Q. We did not visit that area. What we talked

21 about was the stationary -- the requirement that they not

22 be stationary. What I am asking is about the display of

23 merchandise, okay.

24 What I am asking is whether it is the City's

25 position that it's safer for vendors not to display their

Page 177

1 merchandise?

2 A. Safer for who?

3 Q. For anyone.

4 A. For inclusive to the vendor?

5 Q. Yes.

6 A. That requires two different answers.

7 I cannot just give you a yes or a no.

8 Q. Okay. What are those two different answers?

9 A. Very simple.

10 Of course there is an inherited danger if you

11 go onto traffic and you don't follow the traffic laws.

12 That could be a danger for the vendor if the vendor is

13 not operating the way they should be, okay. That's

14 why we addressed those issues.

15 Second of all, if we just have displays there

16 for the motorist, public, and for the pedestrian then

17 that in itself becomes distraction for motorist or an

18 obstruction for a pedestrian then that could be in

19 danger there.

20 Q. Assuming that this display is not obstructing

21 traffic or any city right-of-way, is it the City's

22 position that it is unsafe to display merchandise?

23 MS. GLASSER: Object to form.

24 THE WITNESS: If you're telling me that the

25 display is in an area where they're not

Page 178

1 obstructing pedestrian traffic, then obviously

2 that wouldn't be an issue.

3 Obviously we're not going to allow a display

4 in traffic because that's going to disrupt

5 traffic, so that makes that portion of the

6 question invalid.

7 Then if you are setting up displays and the

8 motorists attracts their attention, then that has

9 the potential for being a hazard for the

10 motorists that start paying attention to those

11 displays instead of the roadway.

12 BY MS. EDENFIELD:

13 Q. Now, assuming a vendor is only displaying what

14 he can carry on his person, could it be unsafe for a

15 passing motorist to be looking for a vendor?

16 MS. GLASSER: Objection. I believe that was

17 asked and answered last Friday.

18 THE WITNESS: Yes, it was. I answered that.

19 You can go to the last deposition. It's been

20 answered already.

21 BY MS. EDENFIELD:

22 Q. She said she believes it was asked and answered

23 but --

24 A. I'm sure. You asked it many different ways

25 last time.

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1 Q. You still have to answer.

2 A. I answered already.

3 MR. PEARSON: That's not an answer.

4 THE WITNESS: That is my answer.

5 BY MS. EDENFIELD?

6 Q. That's your answer?

7 A. Yes.

8 Q. Does the prohibition on display of merchandise

9 apply on private property as well?

10 A. There is prohibitions, yes.

11 Q. What are those prohibitions?

12 A. If it's being stored on private property, it

13 must be stored with the prior written approval of the

14 property owner within the contents of the building or

15 shed erected, kept or maintained pursuant to code in

16 the area lawfully designated for storage and out of

17 the public's view.

18 Q. All right. You responded with a provision about

19 storage, and I'm asking about display.

20 A. When it comes to display on private property,

21 okay, then it's governed by the zoning rules of the

22 private property, whatever covers that.

23 What I mistakenly was referring to was the

24 storage on the private property.

25 Q. Are you saying that prohibition on the outside



Page 180

1 display of goods does not apply to private property?

2 MS. GLASSER: Objection.

3 THE WITNESS: 18-304 is clearly defining if

4 they're going to be storing on private property,

5 they need permission.

6 And if you're going to be setting up a

7 display for sale on private property, then that

8 in itself is governed by the zoning laws and all

9 of that for the private property to make sure

10 they conform to whatever is allowed and not

11 allowed to be done.

12 Like the examples you gave before of displays

13 being done on private property. If you have

14 parking spaces and all of that on private

15 property, they're designated parking spaces. And

16 if you start selling your merchandise there, then

17 you're limiting parking spaces. Of course that

18 is another issue, and then you have the public

19 safety issue, so on and so forth.

20 BY MS. EDENFIELD:

21 Q. I understand that your answer is that zoning

22 laws govern that -- that being the display on private

23 property.

24 What I am asking is whether section 18-304 also

25 governs that?

Page 181

1 A. Public right-of-way including the sidewalk or

2 swale. There's no mention on no inventory of the

3 goods displayed for private property there.

4 Q. The portion of this law that we were discussing

5 earlier where it says: The peddler or itinerant vendor

6 soliciting or conducting sales on foot may display with

7 the intent of soliciting sales only as much of the goods,

8 merchandise, or wares as the peddler or itinerant vendor

9 can carry on the peddler or itinerant vendor's person.

10 The part that's marked on the exhibit.

11 A. Okay.

12 Q. Does that prohibition differentiate between

13 public or private property?

14 A. There is no specific mention there with what

15 you just said of anything that says private property.

16 Q. If a vendor wants to store his wares on private

17 property, does he have to ask for written permission from

18 the property owner?

19 A. Yes. It's noted there on 18-304.

20 Q. And does it note anywhere in 18-304 that that

21 written permission needs to be notarized?

22 A. I don't remember reading that, but let me

23 verify that again.

24 Q. Okay.

25 A. No.

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1 Q. Since on-foot vendors can only display goods

2 that they can carry on their person, how does the City

3 expect vendors to attract new customers?

4 MS. GLASSER: Object to form.

5 THE WITNESS: The City is regulating what

6 they can and cannot do for the reasons stated.

7 How that individual vendor is going to

8 attract new customers, that's his own business

9 practice.

10 The same thing we would do for any other

11 store that's out there. We don't tell them how

12 to attract new business. That's not our

13 business.

14 BY MS. EDENFIELD:

15 Q. How does the City expect customers to know what

16 vendors are selling if vendors can display only what they

17 can carry on their person while vending on foot?

18 MS. GLASSER: Object to form and scope.

19 THE WITNESS: That was the individual -- how

20 can I properly word this for you?

21 That's not the City's expectation of how he

22 needs to do business. That's the individual's

23 choice.

24 The one who's doing the business who chose to

25 be a peddler, how he needs to conduct his

Page 183

1 business to make his business profitable. I

2 think that's beyond the City's scope.

3 BY MS. EDENFIELD:

4 Q. Are you aware of what happens to flowers when

5 they're shut up in a car all day?

6 MS. GLASSER: Object to form and to scope.

7 He's not here as an expert on flowers and

8 their life expectancy.

9 BY MS. EDENFIELD:

10 Q. That is true.

11 Please go ahead and answer.

12 A. Out of common sense we will know all of

13 what's going to happen to anything that's been in a

14 vehicle and closed -- the doors are closed, and we

15 know temperature out in South Florida.

16 But, once again, those are the risks that the

17 individual takes in the sense that's the business that

18 he chose to conduct, and he has to prepare themselves

19 to properly have their product.

20 If you are in the car wash business, you have

21 to make sure you have water to wash cars.

22 If you are in a product like flowers, then

23 you must take what precautions you need to take so

24 your product becomes -- stays fresh as long as it

25 does, for lack of a better word.

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1 But that's the individual's choice. And any
2 individual who decides to do that, it's their choice.
3 I've seen flower vendors -- the ones who walk
4 up and down the street -- who have a sprayer and
5 constantly refresh their flowers.
6 So, whatever measures the person selling that
7 product that needs to do to protect their product,
8 that's up to the individual.
9 I think in the example that you just gave,
10 you know, no one expects for someone to put the
11 flowers in and close the windows -- of course. Keep
12 your doors closed and vent your vehicle. It's common
13 sense that dictates that.
14 But that's a problem that the vendor needs to
15 address.
16 MS. GLASSER: And just do be clear for the
17 record, the last line of questions I'm objecting.
18 When I said scope, it's beyond the scope of
19 what this witness is here to testify on with
20 respect to serving as a corporate rep for the
21 City of Hialeah.
22 So, in the extent to the answer, those are
23 not answers on behalf of the City of Hialeah.
24 BY MS. EDENFIELD:
25 Q. The last time we discussed -- during the last

Page 185

1 deposition -- or the beginning of this deposition last
2 Friday we discussed the interests that the City has in
3 section 18-302.
4 So, before I get objections or answers from you
5 about -- these next few questions haven't been asked and
6 answered. It's not true because I'm about to ask you
7 about the interest the City has in section 18-304;
8 meaning the prohibition on display of merchandise.
9 So, what interests does the City have in section
10 18-304?
11 MS. GLASSER: Object. Asked and answered
12 today.
13 THE WITNESS: The City's interest is clearly
14 outlined in the first two pages of the ordinance
15 which encompasses everything that is after as to
16 the ordinances are written to be able to meet
17 those interests as outlined there.
18 BY MS. EDENFIELD:
19 Q. Does the City have any interest in section
20 18-304 outside of what is outlined in the whereas
21 clauses?
22 A. No.
23 Q. Does the City have any evidence linking section
24 18-304 to those interests?
25 MS. GLASSER: Objection. Asked and answered.

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1 That's what we've been going through all day.
2 All day.
3 MS. EDENFIELD: No, it's not.
4 MS. GLASSER: That's what he has been
5 testifying to all day.
6 MS. EDENFIELD: I have not asked this
7 question. It has not been asked and answered.
8 MS. GLASSER: You haven't asked it in those
9 words.
10 MS. EDENFIELD: Well, then I'm asking in
11 those words now.
12 MS. GLASSER: You've asked him multiple
13 times, and he's gone through the safety, and he's
14 gone through the concerns of the boxes along the
15 roadways, et cetera, et cetera. Those --
16 MS. EDENFIELD: You just admitted that I have
17 not asked this question, so please stop objecting
18 to that.
19 MS. GLASSER: No. I said you haven't asked
20 it in those specific words. You tend to ask the
21 same questions --
22 MR. PEARSON: This is the first time she's
23 asked --
24 MS. GLASSER: Excuse me. I'm talking.
25 MR. PEARSON: You're restating what she said.

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1 MS. GLASSER: I'm talking.
2 MR. PEARSON: She's never asked for evidence
3 before.
4 MS. GLASSER: Excuse me. This is evidence.
5 He's testifying.
6 MR. PEARSON: She's asking him what --
7 MS. GLASSER: You're not -- she's taking the
8 deposition. I don't need to hear your objections
9 or --
10 MS. EDENFIELD: You can talk to me, okay.
11 MS. GLASSER: Right. But he's talking so --
12 MS. EDENFIELD: And listen to what I am
13 telling you --
14 MS. GLASSER: No. Excuse me.
15 I was responding to a question and a
16 statement and a directive from your partner here,
17 so I don't want to be rude and not respond to
18 him.
19 Now you're asking a question.
20 MS. EDENFIELD: The thing that I am telling
21 you is that I have not asked this question. You
22 just admitted that I have not asked this
23 question.
24 MS. GLASSER: No. Perhaps you did not
25 understand me. I wasn't admitting that you

Page 188

1 didn't ask this question.
 2 To be clear, you didn't ask this question in
 3 those specific words. You've asked this question
 4 numerous times throughout last Friday and today.
 5 MS. EDENFIELD: That is false.
 6 MS. GLASSER: I understand you believe so,
 7 but the record speaks for itself.
 8 MS. EDENFIELD: No. It's not that I believe
 9 so.
 10 And every time you're objecting to asked and
 11 answered, your witness is not answering the
 12 question, and I have the absolute right to ask
 13 the question that I have never asked before in
 14 the course of this deposition.
 15 So, I'm going to ask it again and --
 16 MS. GLASSER: Again is correct.
 17 So, we will go forward for right now, but I'm
 18 telling you --
 19 MS. EDENFIELD: Thank you for your permission
 20 to go forward on questions that I have not yet
 21 asked.
 22 MS. GLASSER: You have asked that.
 23 And I'm going to instruct him after we go --
 24 I'll let him go a little bit further in case you
 25 somehow missed his answers.

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1 But this has been asked and answered and
 2 asked and answered repeatedly.
 3 Go ahead. You can answer if you would like
 4 to answer that question.
 5 BY MS. EDENFIELD:
 6 Q. The question again was, does the City have any
 7 evidence linking section 18-304 to its purported
 8 interests in section 18-304?
 9 A. It is all that we have discussed concerning
 10 these ordinances is the evidence. What we have
 11 brought up, the issues I have brought up, we referred
 12 to the traffic studies, to everything we have
 13 discussed answers that.
 14 Q. We haven't discussed the traffic study.
 15 A. Yes, we did.
 16 The last time it was brought up. We didn't
 17 discuss it in length, but it was brought up and I
 18 cited it as one of my reasons for the answers that I
 19 was giving you.
 20 Q. So, beyond the traffic study, are there any
 21 reports or studies that the City contends the evidence,
 22 the link between the law, and the interest advanced by
 23 the law?
 24 MS. GLASSER: What was the question, reports
 25 or studies?

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1 MS. EDENFIELD: Right.
 2 THE WITNESS: In reports you have what's been
 3 presented to you with the violations that have
 4 been observed since January 2013.
 5 BY MS. EDENFIELD:
 6 Q. Besides the violations, the traffic report, does
 7 the City have any other evidence linking section 18-304
 8 with the interests?
 9 MS. GLASSER: Object to form.
 10 THE WITNESS: Any other than what has been
 11 discussed for the last two days, no.
 12 BY MS. EDENFIELD:
 13 Q. Okay. Let's go ahead and talk about the traffic
 14 report. You have in front of you the document marked
 15 H2-15.
 16 (The referred-to document was marked as
 17 Plaintiff's Exhibit No. H2-15)
 18 Are you familiar with this document?
 19 A. Yes. I've seen it in the past.
 20 Q. What is it?
 21 MS. GLASSER: Can he have a moment to read
 22 through it?
 23 MS. EDENFIELD: Sure.
 24 BY MS. EDENFIELD:
 25 Q. Have you had enough time to look it over?

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1 A. Yes.
 2 Q. Okay. What is the document that is in front of
 3 you?
 4 A. City of Hialeah peddlers and vendors traffic
 5 assessment dated January 7th, 2013.
 6 Q. And what is that document?
 7 A. This is a traffic study, and it was done by
 8 Richard Garcia & Associates.
 9 Q. Have you seen it before today?
 10 A. Yes, I have.
 11 Q. Is this the study to which you've been referring
 12 to throughout this deposition?
 13 A. Yes.
 14 Q. Please point me to the portion or portions of
 15 this study that the City contends support its interest in
 16 sections 18-302 and 18-304.
 17 MS. GLASSER: Object to form.
 18 THE WITNESS: Can you rephrase your question?
 19 BY MS. EDENFIELD:
 20 Q. Sure.
 21 What portion of this study is evidence that
 22 sections 18-302 and 18-304 actually advances the interest
 23 that the City has in 18-302 and 18-304?
 24 MS. GLASSER: Object to form.
 25 THE WITNESS: The City uses a complete study



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1 to support its conclusion.

2 BY MS. EDENFIELD:

3 Q. What conclusion?

4 A. In the enactment of the ordinances that we

5 have been discussing concerning the vehicular and

6 pedestrian traffic issues.

7 Q. What about the vehicular and pedestrian traffic

8 issues?

9 A. I'm trying to find a word for you so you can

10 understand it because to me it's all the evidence

11 presented in the study that helps support the opinion

12 that help generate the ordinances in the way we wanted

13 to regulate our peddlers.

14 I don't know how much more I can make it

15 clearer to you.

16 Q. Pretend I can't read.

17 What evidence is there in the study that

18 supports the relationship between the laws and the

19 interests in the law?

20 MS. GLASSER: Object. Asked and answered.

21 He's already answered the whole thing.

22 THE WITNESS: I've answered your question

23 already.

24 BY MS. EDENFIELD:

25 Q. Can you describe to me the evidence in the

Page 193

1 study?

2 MS. GLASSER: Object to form.

3 Do you want him to read it to you?

4 BY MS. EDENFIELD:

5 Q. Have you read the study?

6 A. I have.

7 Q. Do you know what the conclusions are in the

8 study?

9 A. I would have to refresh my memory. I read it

10 back then, but I know the road was of Hialeah because

11 I've been here 23 years. I know our traffic issues.

12 I know our accidents. I review it monthly, our

13 concerns to make sure we address the issues that are

14 causing the accidents, the intersections that we have

15 our major problems, so on and so forth.

16 And I would like to point out a lot of this

17 data, the copies you provided me, the print is blurred

18 and very hard to read.

19 Q. I apologize about that.

20 A. And recommendations are clearly defined in

21 section four starting on page 18. That's

22 recommendations based on the study.

23 It's black and white. I don't know what

24 further explanation I can give you.

25 Q. Okay. So, under section 4.2 on page 18 -- which

Page 194

1 is readable in your copy; is that right?

2 A. Under four - recommendations - you have

3 section 4.1, section 4.2.

4 Q. This section is readable though on your copy; is

5 that right?

6 A. Yes, it is.

7 Q. It's under section 4.2 under recommendations.

8 It says: The restriction of peddlers and

9 itinerant vendors that should be considered by the City

10 of Hialeah are as follows - limited access facilities,

11 under freeway underpass structures, state arterial

12 roadways or similar, school zones, medians.

13 Do you see that section?

14 A. Yes.

15 MS. GLASSER: Object to form. I don't think

16 you read it completely.

17 BY MS. EDENFIELD:

18 Q. You see the section, right?

19 A. I see section 4.2.

20 Q. Okay. Does the study recommend prohibiting

21 display of merchandise?

22 A. If you look at section 4.1, safety measures.

23 As we have discussed previously, most of your

24 vendors are going to be in high traffic areas so they

25 can have greater exposure for their products.

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1 So, if these are your highest traffic areas,

2 these are the areas that are more prone for traffic

3 accidents. When I say traffic accident, I don't only

4 mean vehicular, but pedestrians also hit.

5 So if we have now displays of merchandise

6 that will deter from the attention of the drivers and

7 the pedestrians, then that hazard increases.

8 Q. So, does the study recommend that the City

9 prohibit the display of merchandise?

10 MS. GLASSER: Objection.

11 THE WITNESS: I just believe I answered that

12 for you with the explanation I gave you when I

13 explained 4.1, and you have to interpret --

14 they're in the business of doing traffic studies,

15 and that's what they did.

16 A licensed professional engineer based on

17 this recommendation on data and is licensed by

18 the State. So, now, he's telling these are the

19 problems you're going to have.

20 As a responsible government, then we need to

21 do whatever is within our power to try and

22 alleviate those problems.

23 As I -- when I'm confronted with a problem, I

24 can have a study on something and then the course

25 of action to arrive to that is my course of



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1 action based on information provided to me.

2 BY MS. EDENFIELD:

3 Q. Does the study discuss whether the display of

4 merchandise poses a safety risk in the City of Hialeah?

5 A. The study does not specifically state display

6 of merchandise because of this or any other thing.

7 The study is giving you a guidance on why

8 they should be -- whether we should have regulations.

9 Then as the knowledgeable government that we have as

10 the Mayor and the counsel -- they all live in the City

11 of Hialeah -- know what's practical for the City of

12 Hialeah and know what's observed there regularly --

13 I've given my answer already.

14 Q. So, that was your complete answer to that?

15 A. Yes.

16 Q. Does the study discuss the movement of vendors

17 around the City?

18 A. No.

19 When you mean by movement, vehicular or the

20 pedestrian/vendor?

21 I should have clarified that before because

22 of movement. Are we talking about the mobile vendors

23 in a car or the ones that work the intersections?

24 Q. Does the study discuss either of those?

25 A. The studies give me recommendations of why we

Page 197

1 should regulate vendors because of the traffic study

2 in itself of its conclusions.

3 Q. You answered my question, but then you

4 distinguished in a way that made me think --

5 A. Right.

6 Q. -- that one of those was discussed in the study.

7 But neither is discussed in the study, right?

8 MS. GLASSER: Object to form.

9 THE WITNESS: The study does specifically

10 mention the peddlers and your vendors on section

11 4.1 recommending that they should be regulated.

12 And the purpose of the study was for the

13 vendors and the peddlers.

14 BY MS. EDENFIELD:

15 Q. I understand.

16 But it doesn't discuss the movement of vendors,

17 whether in a vehicle or on foot; is that right?

18 A. What the study is discussing is all the

19 observations of traffic within the City, the issues,

20 the main arteries, and all of that.

21 So, they go hand in hand. We're not doing a

22 study here on trucks going through the City.

23 The purpose of the study was commissioned for

24 the vendors.

25 Q. I understand what the purpose of the study was.

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1 But does the study discuss specifically the

2 movement of vendors around the City whether by foot or in

3 a vehicle?

4 MS. GLASSER: Object to form.

5 Do you have a specific section you want him

6 to look at?

7 MS. EDENFIELD: No.

8 THE WITNESS: If you need me to read the

9 whole study -- like I said, it's been a while

10 since I've read all of it, but I'll give you an

11 overview of the purpose of the idea, okay.

12 The study is commissioned to give us

13 recommendations on why we should regulate them.

14 So, it's taking into account what the vendors do,

15 and the impact is on the vehicular traffic.

16 So, that's why the study is studying all the

17 areas of traffic -- of the vehicular traffic of

18 the impact that it's going to have.

19 I just don't understand how I can explain to

20 you the purpose of it.

21 BY MS. EDENFIELD:

22 Q. I'm not asking the purpose. That's what I'm

23 confused about because you keep telling me the purpose.

24 What I'm asking is are you aware of any instance

25 in this study that discusses the movement of vendors

Page 199

1 around the City by foot or in a vehicle?

2 MS. GLASSER: And he's answered that.

3 Asked and answered.

4 MS. EDENFIELD: He answered it but then he

5 qualified it in a way -- like I explained before

6 -- that made me believe that maybe at some point

7 in the study one of them is discussed.

8 So, I'm trying to figure out if that's the

9 case.

10 MS. GLASSER: Is there a question?

11 BY MS. EDENFIELD:

12 Q. You're sticking to the other answer then, right?

13 A. No. I'm trying to explain to you. I don't

14 know how -- I have no control of how you understand

15 it.

16 Q. Okay. You said earlier that the study

17 recommends regulating vendors.

18 Isn't it true that the study recommends

19 regulating vendors only at certain locations?

20 A. I'm going to refer back to page 18.

21 Is that the section you're referring to?

22 Q. Yes. The section you pointed me to.

23 MS. GLASSER: Is that section four that

24 you're talking about.

25 MS. EDENFIELD: Uh-huh.

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1 THE WITNESS: Page 18, recommendations. 4.1
2 has the recommendations.
3 BY MS. EDENFIELD:
4 Q. That vendors be regulated at certain locations;
5 is that correct?
6 A. Certain locations -- these locations are
7 places where the traffic volumes are high, speeds are
8 high, and the concern for public safety are greater
9 through the increased exposure of these conditions.
10 Q. Okay. I'm handing you the document marked
11 H2-16.
12 (The referred-to document was marked as
13 Plaintiff's Exhibit No. H2-16)
14 Do you know what that document is?
15 A. It's an application to obtain a business tax
16 receipt.
17 Q. Okay. Is that the application that vendors are
18 given if they want to be a street vendor in Hialeah?
19 A. Yes.
20 Q. Has that changed since the amendments in
21 January 2013?
22 A. I would need to see the other one to refresh
23 my memory.
24 Q. Okay. Was this provided to the vendors at any
25 time after the amendments of January 2013?

Page 201

1 A. What was provided?
2 Q. Was this application for business tax receipt
3 provided to vendors?
4 A. That's provided by the license department
5 when they come in to get a vending license.
6 Q. Did the City ever send a letter around to the
7 vendors after the January 2013 amendments?
8 MS. GLASSER: Object to form.
9 THE WITNESS: What do you mean by a letter?
10 I know what's a letter. But content, purpose --
11 BY MS. EDENFIELD:
12 Q. I'm handing you what has been marked as Exhibit
13 H2-17.
14 (The referred-to document was marked as
15 Plaintiff's Exhibit No. H2-17)
16 Did the City send this letter to vendors?
17 A. Yes.
18 Q. When did the City send around that letter?
19 A. I don't have an exact date when they sent it.
20 Q. Estimating is fine.
21 A. I'm sorry? I know after the new law was
22 enacted.
23 Q. How soon after?
24 A. Like I said, I don't have a date.
25 Q. Was it a month after?

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1 MS. GLASSER: Object to form.
2 THE WITNESS: I don't have a date for you.
3 BY MS. EDENFIELD:
4 Q. I understand you don't have a date. I'm asking
5 you to approximate.
6 A. I'm not going to make something up.
7 Q. Was it a year after?
8 MS. GLASSER: Object.
9 THE WITNESS: I already answered you. I'm
10 not going to make something up.
11 BY MS. EDENFIELD:
12 Q. Okay. If you would look at this exhibit marked
13 H2-14. If you could turn to page R2-001069.
14 Can you tell me what that document is?
15 A. This is a -- the heading on it has Bravo,
16 Lorena. And it's from Frank Caldara in an e-mail that
17 was sent Wednesday January 30th, 2013.
18 If we're looking at the same document, that's
19 the one.
20 Q. Okay. Yes.
21 MS. GLASSER: And just for the record, is
22 this a composite exhibit, or are you referring
23 now to a certain page of this document.
24 MS. EDENFIELD: I referred to a page of it.
25 MS. GLASSER: Okay.

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1 BY MS. EDENFIELD:
2 Q. Actually, can I have you turn to page 00167?
3 It's a couple before that.
4 Do you know what this document is?
5 A. It's an e-mail from Frank Caldara to
6 Ms. Bravo dated January 28th, 2013.
7 Q. Are there other e-mails on this page?
8 What I mean to ask is it's a chain of e-mails;
9 is it not?
10 A. Yes, it is.
11 Q. The middle one on page 067 from Lorena Bravo to
12 Frank Caldara - cc: St. Germain, on January 28th, 2013?
13 A. Yes.
14 Q. First, who is Lorena Bravo?
15 A. Assistant city attorney.
16 Q. Okay. She says here: The ordinance has been
17 translated to Spanish and will be made part of the packet
18 handed to prospective peddlers. We will also be mailing
19 our letter with the ordinance and translation to
20 currently licensed peddlers.
21 MS. GLASSER: I think -- just a correction
22 for the record. It says, we will be mailing
23 'out' a letter, not 'our' letter.
24 MS. EDENFIELD: Okay.
25 BY MS. EDENFIELD:



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1 Q. Do you see that?
2 A. Yes.
3 Q. Would you say the letter was mailed then around
4 January 8th, 2013?
5 MS. GLASSER: Object to the form and asked
6 and answered. He's already said he doesn't know.
7 THE WITNESS: I'm not going to speculate.
8 Although this e-mail is dated January 28th, "we
9 will also be mailing out" doesn't tell me when
10 they did it.
11 So, once again, I don't have the information
12 to answer your question. I don't.
13 Q. Can you turn please to 1083.
14 A. Okay.
15 Q. In the middle e-mail on that page which is from
16 Lorena Bravo to Frank Caldara.
17 It says: Yesterday I had a conversation with
18 the Mayor about the peddlers. He asked for a new
19 procedure to be implemented. When an officer (code or
20 otherwise) questions a peddler to assess permission to
21 park or store on private property (as required by the new
22 ordinances), he should instruct the peddler to file the
23 written authorization with the City by taking it to the
24 License Division where it will be stamped as received and
25 placed in a file. In that way, the peddler will be able

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1 to show any other officer who requests to see the written
2 authorization a copy of the stamped one on file for the
3 specific location.
4 Was the policy outlined here implemented at the
5 Mayor's behest?
6 MS. GLASSER: Before you answer, I'm going to
7 object to the form of the question. I don't
8 think it characterizes completely what this and
9 to whom the e-mail went.
10 You can answer if you know.
11 THE WITNESS: Can you repeat the question?
12 BY MS. EDENFIELD:
13 Q. Sure.
14 I'm referring to the middle e-mail from Lorena
15 Bravo to Frank Caldara and others.
16 In it Ms. Bravo says, the Mayor asked for a new
17 procedure to be implemented where peddlers had to file
18 their written authorizations with the City.
19 Are you familiar with that policy?
20 A. Yes.
21 Q. Was that policy implemented at the behest of the
22 Mayor?
23 A. It's reflective there that it was.
24 Q. I'm asking you as a city representative.
25 A. Yes, it was. It was a policy to establish

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1 how we are going to obtain to be a standard as any
2 policy is to follow from when we have something that
3 we-- for example, this is specifically speaking about
4 the letter of the authorization on private property.
5 The steps that need to be followed for that.
6 Q. Does it say anywhere in the city ordinance that
7 the written authorization has to be filed with the City.
8 MS. GLASSER: He has to go in another -- what
9 time do you have to be there?
10 THE WITNESS: 2:15.
11 MS. GLASSER: You have to be there at 2:15?
12 THE WITNESS: I can be here until 2:15.
13 MS. GLASSER: Okay.
14 THE WITNESS: I moved all my schedule to be
15 able to try and accommodate this.
16 BY MS. EDENFIELD:
17 Q. I appreciate it.
18 A. What page are we on? Oh, we're making
19 reference to 18-304.
20 The vendor must provide proof to
21 authorization upon request of a code inspector (sic).
22 Q. Does it say in there anywhere that the vendor
23 has to file the written authorization with the City?
24 A. They need to provide proof. It's not the way
25 it is spelled out in the e-mail. It is not spelled

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1 out here.
2 The e-mail is discussing a procedure that is
3 to be established so he can go ahead and have this,
4 which is very simple.
5 You know, we want the vendor to -- once he
6 shows us a letter that is stamped by the City where it
7 would -- and it ends right there. We question it.
8 So, it's a uniform procedure that anyone can
9 follow to establish that we have compliance with
10 18-304.
11 Q. Okay. Does the City allow the behaviors
12 prohibited by 18-302 and 18-304 for some vendors?
13 MS. GLASSER: Object to form.
14 BY MS. EDENFIELD:
15 Q. I can ask it differently if you prefer.
16 Does the City allow Christmas tree vendors and
17 fireworks vendors to remain stationary?
18 A. Those vendors go through a different process
19 as these vendors do not do the same, okay.
20 For the Christmas, they are set up on private
21 property then there's a permitting approval that goes
22 even through counsel approval to set up for those
23 specific time spans, and they have to meet all the
24 regulations to be able to do that that's required.
25 Q. If they meet all the regulations, are Christmas

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1 tree vendors and firework vendors allowed to remain
2 stationary?
3 MS. GLASSER: Object to form.
4 THE WITNESS: How can I answer this one for
5 you?
6 Do they set up their product which is a
7 Christmas tree, numerous of them, so people can
8 have a selection in one location? Yes, they do.
9 We also regulate the fireworkers -- I'm sorry
10 the ones that do the fireworks.
11 But if you have an individual now who's
12 carrying his fireworks and he's vending up and
13 down the street, then he must follow 18-302 and
14 304, those provisions.
15 The other ones are also regulated and they
16 pass a fire inspection because of the products
17 they have.
18 BY MS. EDENFIELD:
19 Q. Do Christmas tree vendors and fireworks vendors
20 who are remaining in one location to sell for the
21 permitted period, do they pose any less threat to public
22 health or safety than do the other vendors we've been
23 discussing?
24 MS. GLASSER: Object to form.
25 THE WITNESS: Two different types of class of

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1 vendors, okay.
2 BY MS. EDENFIELD:
3 Q. Okay.
4 A. The one you just noted goes -- will be set up
5 in a parking lot at a designated area with the
6 requirements set forth to operate safely within that
7 area.
8 Q. What requirements are set up so that they can
9 operate safely?
10 A. They submit a site plan. They must also have
11 approval from the location.
12 And if it meets all of those requirements,
13 then they are licensed to be able to have that.
14 Q. Why aren't --
15 A. And usually also when you're talking about
16 these type of vendors, they're set up. There's many
17 -- you have great visibility. You have a certain
18 location, and the designated parking area or the
19 private property is allocated for that.
20 Q. Why aren't they a distraction to drivers?
21 MS. GLASSER: Object to form.
22 THE WITNESS: It goes back to where they're
23 set up. They're not up close on the sidewalk or
24 close thereafter.
25 All these locations have certain setbacks and

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1 regulations that must be met for them to operate
2 and for them to be allowed in that fixed
3 location.
4 BY MS. EDENFIELD:
5 Q. Could a regular vendor set up in a location like
6 that?
7 MS. GLASSER: Object to form.
8 What do you mean by regular vendor?
9 BY MS. EDENFIELD:
10 Q. Could another vendor that we've been
11 discussing -- not the Christmas tree and fireworks
12 vendors, but a vendor who is subject to the prohibitions
13 established in 18-302 and 18-304.
14 Could one of those vendors set up in the same
15 way that a Christmas tree or fireworks vendor sets up?
16 A. Under these provisions of 304, no.
17 Q. Has the City denied any applications for vendor
18 permits after the amendments in January 2013?
19 A. Pertaining to these two sections?
20 Q. At all.
21 A. To any vendor?
22 Q. The peddlers or itinerant vendors.
23 A. No.
24 MS. GLASSER: He's really got to run. It's
25 2:10. He has a 2:15 meeting.

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1 MS. EDENFIELD: Okay.
2 MS. GLASSER: Are you able to wrap it up?
3 MS. EDENFIELD: I mean if you have to go, go
4 for it.
5 MS. GLASSER: What did you say?
6 MS. EDENFIELD: I said if he has to go, he
7 can go ahead and go.
8 MS. GLASSER: Okay. So we're done?
9 MS. EDENFIELD: If he has to go, yeah.
10 MS. GLASSER: All right. So this concludes
11 the deposition. Thank you, Chief.
12 MS. EDENFIELD: We didn't say that.
13 MS. GLASSER: Yeah, you did.
14 MS. EDENFIELD: No. He has to go --
15 MS. GLASSER: Right.
16 MS. EDENFIELD: -- and I have to look over my
17 stuff and decide if I'm done.
18 MS. GLASSER: That's what I asked you.
19 MS. EDENFIELD: I'm not sure yet. And if he
20 has to go --
21 MS. GLASSER: I understand.
22 But I need to know if you have any further
23 questions. I mean, we've produced him now again.
24 So are you done, or do you have more
25 questions?

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1 MS. EDENFIELD: I don't know the answer to
 2 that at this time.
 3 MS. GLASSER: Well, we're not bringing him
 4 back another time.
 5 MS. EDENFIELD: You can go ahead and go if
 6 you have to go.
 7 MR. PEARSON: Hold on a second. Are you guys
 8 reading or waiving?
 9 MS. GLASSER: Reading.
 10 MS. EDENFIELD: Thank you very much for your
 11 time.
 12 (Witness excused)
 13 (Deposition was concluded at 2:15 p.m.)
 14
 15
 16
 17
 18
 19
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 21
 22
 23
 24
 25

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1 R E P O R T E R A C K N O W L E D G E M E N T
 2
 3 STATE OF FLORIDA)
 4 COUNTY OF BROWARD)
 5
 6 I, Alexander E. Reif, Certified Shorthand
 7 Reporter and Notary Public in and for the State of
 8 Florida at large, do hereby certify that I was
 9 authorized to and did report said deposition in
 10 stenotype; and that the foregoing pages are a true and
 11 correct transcription of my shorthand notes of said
 12 deposition.
 13
 14 I further certify that said deposition was
 15 taken at the time and place hereinabove set forth and
 16 that the taking of said deposition was commenced and
 17 completed as hereinabove set out.
 18
 19 I further certify that I am not attorney
 20 or counsel of any of the parties, nor am I a relative
 21 or employee of any attorney or counsel of any party
 22 connected with the action, nor am I financially
 23 interested in the action.
 24
 25 The foregoing certification of this
 transcript does not apply to any reproduction of the
 same by any means unless under the direct control
 and/or direction of the certifying reporter.
 Dated this 19th day of March, 2014.

Alexander E. Reif
 Alexander E. Reif, CSR
 Notary Public - State of Florida

Page 213

1 Certificate of Oath
 2
 3 STATE OF FLORIDA)
 4 COUNTY OF BROWARD)
 5
 6 I, Alexander E. Reif, Notary Public in and
 7 for the State of Florida at Large, certify that the
 8 witness, Sergio Velazquez, personally appeared before
 9 me and was duly sworn on March 19th, 2014.
 10
 11 WITNESS my hand and official seal this
 12 19th day of March, 2014.
 13
 14
 15
 16 _____
Alexander E. Reif
 Alexander E. Reif, CSR
 Notary Public, State of Florida
 Commission No. FF 60888
 Expires October 7th, 2017
 21
 22
 23
 24
 25

Page 215

1 DEPOSITION ERRATA SHEET
 2
 3 Assignment no: 108303
 4 Case: Silvio Membreno and Florida Association of
 5 Vendors, Inc., vs. The City of Hialeah, Florida
 6
 7 I, Sergio Velazquez, declare under penalty
 8 of perjury that I have read the entire transcript of my
 9 deposition/examination under oath taken in the
 10 captioned matter or the same has been read to me, and
 11 the same is true and accurate, save and except for
 12 changes and/or corrections, if any, as indicated by me
 13 on the deposition/examination under oath errata sheet
 14 hereof, with the understanding that I offer these
 15 changes as if still under oath.
 16
 17 Signed on the ___th day of _____, 20__.
 18 _____
 19 Chief Sergio Velazquez
 20
 21
 22
 23
 24
 25



DEPOSITION ERRATA SHEET

1
 2
 3 Page No. ___ Line No. ___ Change to: _____
 4 _____
 5 Reason for change: _____
 6 Page No. ___ Line No. ___ Change to: _____
 7 _____
 8 Reason for change: _____
 9 Page No. ___ Line No. ___ Change to: _____
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 11 Reason for change: _____
 12 Page No. ___ Line No. ___ Change to: _____
 13 _____
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 15 Page No. ___ Line No. ___ Change to: _____
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 17 Reason for change: _____
 18 Page No. ___ Line No. ___ Change to: _____
 19 _____
 20 Reason for change: _____
 21 Page No. ___ Line No. ___ Change to: _____
 22 _____
 23 Reason for change: _____
 24 SIGNATURE: _____ DATE: _____
 25 Sergio Velazquez J#: 108303

DEPOSITION ERRATA SHEET

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 3 Page No. ___ Line No. ___ Change to: _____
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 18 Page No. ___ Line No. ___ Change to: _____
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 20 Reason for change: _____
 21 Page No. ___ Line No. ___ Change to: _____
 22 _____
 23 Reason for change: _____
 24 SIGNATURE: _____ DATE: _____
 25 Sergio Velazquez J#: 108303



RG&A

Richard Garcia & Associates, Inc.

City of Hialeah Peddlers and Itinerant Vendors Traffic Assessment



January 7th, 2013

Engineer's Certification

I, Richard Garcia, P.E. # 54886, certify that I currently hold an active Professional Engineers License in the State of Florida and am competent through education and experience to provide engineering services in the civil and traffic engineering disciplines contained in this report. In addition, the firm Richard Garcia & Associates, Inc. holds a Certificate of Authorization # 9592 in the State of Florida. I further certify that this report was prepared by me or under my responsible charge as defined in Chapter 61G15-18.001 F.A.C. and that all statements, conclusions and recommendations made herein are true and correct to the best of my knowledge and ability.

PROJECT DESCRIPTION: City of Hialeah – Traffic Assessment

PROJECT LOCATION: City of Hialeah Limits

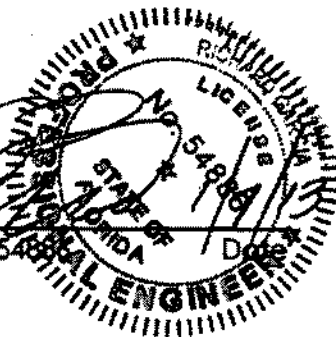

Florida Registration No. 54886

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Appendix A: Traffic Counts A
Appendix B: Crash Data B



Executive Summary

The purpose of this study is to provide the City of Hialeah with guidance in developing and maintaining a Peddles and Itinerant vendor's rules and regulation within the City of Hialeah, Florida. The documentation found herewith was obtained from published or available Information provided to the public from government agencies such as the Florida Department of Transportation (FDOT), Florida Department of Highway Safety and Motor Vehicle (DMV), University of Florida (UF) Florida Pedestrian & Bicycling Safety Resource Center, City of Hialeah and Miami-Dade County.

The study area was primarily within the limits of the City of Hialeah. The focus of this study was the principal arterials and limited access facilities (freeways).

An arterial road, or arterial thoroughfare, is a high-capacity urban road. The primary function of an arterial road is to deliver traffic from collector roads to freeways, and between urban areas at the highest level of service possible. As such, many arterials are limited-access roads. These roadways have specific access points and are generally referred to as "Freeways."

In traffic engineering hierarchy, an arterial road delivers traffic between collector roads and freeways. Arterial roads will often have few intersections, traffic signals and median openings, spaced at intervals sufficient apart as to promote safety and traffic flow.

The majority of the roadways within the City of Hialeah that would be subject to regulation of Peddlers and Itinerant Vendors would consist of Freeway Ramp Terminals and Arterials.

This report consisted of the following data collection as follows:

- Traffic Counts
- Crash Data

Traffic counts are regularly collected by several governmental agencies for various public purposes such as determining the level of service (LOS), analyzing future traffic growth and determining public safety to name a few. Traffic counts are taken at different location within roadway segments. These locations are referred to as "Caunt Stations". Within the City of Hialeah, the greatest traffic count stations are maintained by the FDOT and Miami-Dade County.

As such, the following is a sample of traffic counts stations that were obtained fram FDOT:

- NW 54th Street / Hialeah Drive (AADT: 20,000)
- NW 74th Street / 21st Street (AADT: 30-40,000)
- NW 103rd Street / 49th Street (AADT: 40-55,000)
- NW 122nd Street / 68th Street (AADT: 20-30,000)
- Okeechobee Road (AADT: 45-60,000)
- Palm Avenue (AADT: 20,000)
- NW 42nd Avenue / LeJeune Rd. (AADT: 35,000)
- NW 57th Avenue / Red Rd. (AADT: 40,000)

Similarly, crash data was obtained from FDOT. Roadway crashes are documented by police on twa distinct forms, the short form and the long farm. The short form is for crashes that da not invalve any injury ta persons and that have an estimated value of the damage ta be less than five hundred dollars. Likewise, the long form is for crashes that either involve an injury or have greater than five hundred dollars of property damage.

For the reasons described above, the FDOT only compiles crash data an "Lang Form" or crashes that are severe in nature. These crashes are campiled with locations that exceed an expected number of crashes based on traffic volume (i.e. exposure) and quantity (number of crashes) on a "High Crash Location List". This list is further divided into Segments and Intersections.

Within the City of Hialeah, various locations have been identified as "High Crash Lacaions". Some of these locaions are as fallows:

- Amelia Earhart Park
- Palm Avenue
- 4th Avenue, 8th Avenue, 12th Avenue
- 16th Avenue, 24th Avenue, 47th Avenue
- 44th Place
- 9th Street
- 29th Street
- B7th Avenue
- 68th-122nd Street
- 103rd Street

In addition to the above, other more general crash statistics were gathered such as:

- 2011 Florida Traffic Crash Statistics
- 5 Year Crash History (By County)^{1st}
- 5 Year Alcohol Related (By County)^{1st}
- 5 Year Fatality History (By County)^{1st}
- 5 Year Alcohol Related Fatality (By County)^{2nd}
- 5 Year Motorcycle Fatality History (By County)^{2nd}
- 5 Year Commercial Vehicle History (By County)^{1st}
- 5 Year Comm. Veh. Fatality History (By County)
- 5 Year Bicyclist Fatality History (By County)
- Teen Driver & Passengers Killed (By County)^{1st}

Of particular interest is the fact that Miami-Dade County had the highest crash and fatality statistics in five (5) of the above 9 categories and second highest in the state in two (2) of the above. That is, Miami-Dade County has the highest or second highest crash and fatality history in the state of Florida. This provides more than ample justification for extraordinary use of Peddler and Itinerant Vendor regulation on high traffic volume roadways and freeway ramps.

The following recommendations are being provided based on the data collection and engineering judgment. The data collection was primarily based on published traffic counts and crash data. However, our local knowledge at the City of Hialeah and the prevailing geometric and operating characteristic was also taken into consideration.

In order to maintain and improve safety conditions within the roadways of the City of Hialeah, we find Peddlers and Itinerant Vendors should be regulated at certain locations. These locations are places where the traffic volumes are high, speeds are high and the concern for public safety are greater due to the increased exposure of these conditions.

The restriction of Peddlers and Itinerant Vendors that should be considered by the City of Hialeah are as follows:

- Limited Access Facilities (Expressway Ramps/Intersections)
- Under Freeway Underpass Structures
- State Arterial Roadways or Similar (Intersections)
- School Zones (Intersections or Mid-Block)
- Medians

Limited Access Facilities include the Intersections and ramps to freeways. These pose a particular safety risk due to their transition from a freeway to Arterial Street and have both high approach speeds and traffic volumes.

Under Freeway Underpass Structures includes areas under shade that can have visibility limitations and also have a propensity for high volume of traffic. These higher traffic volumes have an increase in exposure to public safety.

State Arterial Roadways or Similar includes roadways that have been designated on the State Highways System (SHS) and other City and County Roadways that have similar traffic volumes, characteristics and operating or safety conditions.

School Zones may include both designated School Speed Zones and areas surrounding schools without a designated School Speed Zone.

Medians include both raised and painted portions of the roadway that is designed to channelize and separate traffic in one or two directions. These traffic control devices are not intended for the stonioning of peddlers and their goods and pose the risk of injury due to the flow of traffic on two sides and their limited size. These

medians are generally located on higher volume roadways increasing the exposure to public safety.

The above locations have an area of influence. This area of influence is approximately 300 feet and is the area where motorist, cyclist and pedestrians have to make the most decisions. Therefore, the above locations should be restricted to the area of influence.



1 Introduction

The purpose of this study is to provide the City of Hialeah with guidance in developing and maintaining a Peddles and Itinerant vendor's rules and regulation within the City of Hialeah, Florida. Although some or all of the documentation provided herewith is within the City of Hialeah and Miami-Dade County limits, it may not be limited to within city limits. For example, other nearby areas may be experiencing traffic and pedestrian conditions that may also occur within the city based on similar traffic characteristics. Therefore, these examples can be used as a surrogate in the City of Hialeah.

The documentation found herewith was obtained from published or available information provided to the public from government agencies such as the Florida Department of Transportation (FDOT), Florida Department of Highway Safety and Motor Vehicle (DMV), University of Florida (UF) Florida Pedestrian & Bicycling Safety Resource Center, City of Hialeah and Miami-Dade County. Please note UF information was provided by FDOT funding.

2 Study Area / Description

The study area was primarily within the limits of the City of Hialeah. The focus of this study was the principal arterials and limited access facilities (freeways).

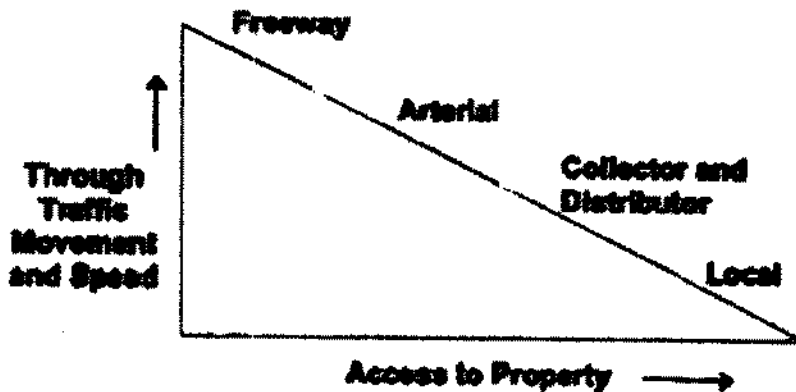
2.1 Roadway Facilities



An arterial road, or arterial thoroughfare, is a high-capacity urban road. The primary function of an arterial road is to deliver traffic from collector roads to freeways, and between urban areas at the highest level of service possible. As such, many arterials are limited-access roads. These roadways have specific access points and are generally referred to as "Freeways."

In traffic engineering hierarchy, an arterial road delivers traffic between collector roads and freeways. Arterial roads will often have few intersections, traffic signals and median openings, spaced at intervals sufficient apart as to promote safety and traffic flow.

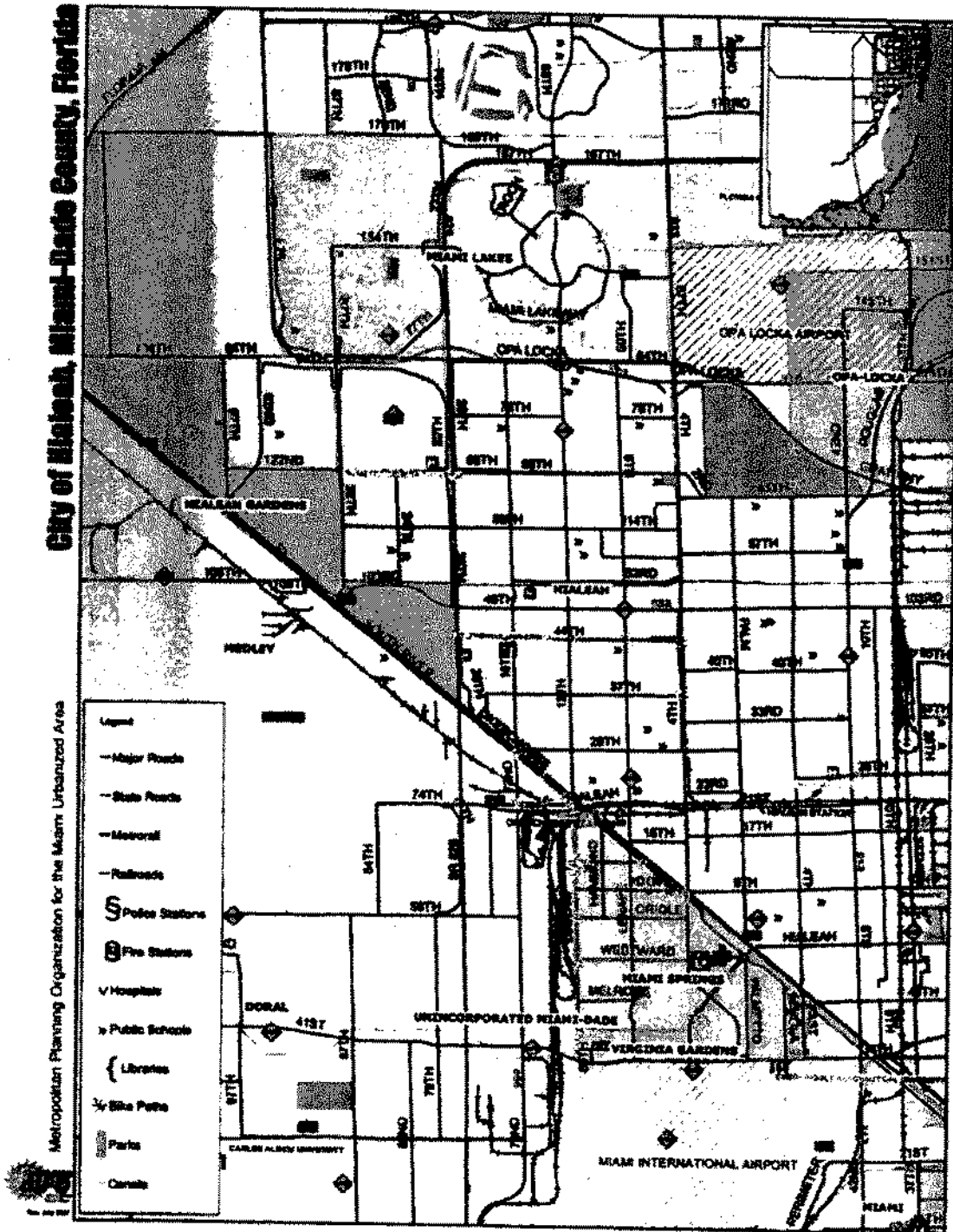
The basic hierarchy comprises freeways, arterials, collectors, and local roads. The related concept of access management aims to provide access to the adjacent properties; thus, ensuring traffic flows freely and safely.





Many traffic engineering manuals describe Arterials as being either principal or minor. Both classes serve to carry longer-distance flows between important centers of activity. Arterials are laid out as the backbone of a traffic network and should be designed, operated and maintained to support the highest level of service (LOS and safety. This includes but is not limited to regulating "Peddlers and Itinerant Vendors", in an effort to maintain the LOS and public safety.

Figure 1: Study Area





2.2 Roadway Conditions

This section of the report identifies the current operational and geometric characteristics of the roadways within the study area. The hierarchy of roads categorized the roads according to their functions and capacities.

The majority of the roadways within the City of Hialeah that would be subject to regulation of Peddlers and Itinerant Vendors would consist of Freeway Ramp Terminals and Arterials.

2.2.1 Freeway Ramp Terminals

At the top of the hierarchy are limited access roads or freeways which include most toll roads. These roads provide largely uninterrupted travel, often using partial or full access ramp terminals. These ramps have high traffic volumes and high or transitioning travel speeds. As such, these ramp terminals require the highest level of regulation. In fact, the FDOT regulates driveways placement within these freeways as "Limited Access Right-of-Way".

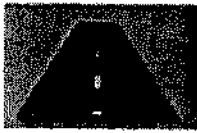
2.2.2 Principal Arterials

Principal Arterials are major through roads that are expected to carry large volumes of traffic. Arterials are often divided into major and minor arterials, and rural and urban arterials.

2.2.3 Local/Collector Roads

Collector Roads, collect traffic from local roads, and distribute the traffic to the arterials. Traffic using collectors are generally shorter in trip length. At the bottom of the hierarchy are local road. These roads have the lowest speed limit, and carry the lowest traffic volume.

3 Data Collection



This section of the report contains the data collection performed. As previously mentioned, the data collection was obtained from published or available information provided to the public from government agencies such as the Florida Department of Transportation (FDOT), Florida Department of Highway Safety and Motor Vehicle (DMV), University of Florida (UF) Florida Pedestrian & Bicycling Safety Resource Center, City of Hialeah and Miami-Dade County. Please note UF information was provided by FDOT funding.

The data collection was further categorized as follows:

- Traffic Counts
- Crash Data

3.1 Traffic Counts

Traffic counts are regularly collected by several governmental agencies for various public purposes such as determining the level of service (LOS), analyzing future traffic growth and determining public safety to name a few. Traffic counts are taken at different location within roadway segments. These locations are referred to as "Count Stations". Within the City of Hialeah, the greatest traffic count stations are maintained by the FDOT and Miami-Dade County.

As such, several traffic counts stations were obtained from FDOT and are contained in Appendix A as follows:

- NW 54th Street / Hialeah Drive (AADT: 20,000)
- NW 74th Street / 21st Street (AADT: 30-40,000)
- NW 103rd Street / 49th Street (AADT: 40-55,000)
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- Okeechobee Road (AADT: 45-60,000)
- Palm Avenue (AADT: 20,000)
- NW 42nd Avenue / LeJeune Rd. (AADT: 35,000)
- NW 57th Avenue / Red Rd. (AADT: 40,000)



3.2 Crash Data

Crash data was obtained from FDOT. Roadway crashes are documented by police on two distinct forms, the short form and the long form. The short form is for crashes that do not involve any injury to persons and that have an estimated value of the damage to be less than five hundred dollars. Likewise, the long form is for crashes that either involve an injury or have greater than five hundred dollars of property damage. It is therefore considered that short form crashes are not very severe in nature and are often referred to as "fender benders".

For the reasons described above, the FDOT only compiles crash data on "Long Form" or crashes that are severe in nature. These crashes are compiled with locations that exceed an expected number of crashes based on traffic volume (i.e. exposure) and quantity (number of crashes) on a "High Crash Location List". This list is further divided into Segments and Intersections.

Some of the results of the crash data have:

"During 2011 there were 920 alcohol related/suspected fatalities in Florida resulting from motor vehicle traffic crashes. The holiday season is a particularly dangerous time. Nationally, in December, approximately 30 percent of all fatalities in motor vehicle traffic crashes involve alcohol-impaired drivers."

Within the City of Hialeah, various locations have been identified as "High Crash Locations". Some of these locations are included in Appendix B as follows:

- Amelia Earhart Park
- Palm Avenue
- 4th Avenue, 8th Avenue, 12th Avenue
- 16th Avenue, 24th Avenue, 47th Avenue
- 44th Place
- 9th Street
- 29th Street
- 87th Avenue
- 68th-122nd Street
- 103rd Street

In addition to the above, other more general crash statistics were gathered such as:

- 2011 Florida Traffic Crash Statistics
- 5 Year Crash History (By County) ^{1st}
- 5 Year Alcohol Related (By County) ^{1st}
- 5 Year Fatality History (By County) ^{1st}
- 5 Year Alcohol Related Fatality (By County) ^{2nd}
- 5 Year Motorcycle Fatality History (By County) ^{2nd}
- 5 Year Commercial Vehicle History (By County) ^{1st}
- 5 Year Comm. Veh. Fatality History (By County)
- 5 Year Bicyclist Fatality History (By County)
- Teen Driver & Passengers Killed (By County) ^{1st}

Of particular interest is the fact that Miami-Dade County had the highest crash and fatality statistics in five (5) of the above 9 categories and second highest in the state in two (2) of the above. That is, Miami-Dade County has the highest or second highest crash and fatality history in the state of Florida. This provides more than ample justification for extraordinary use of Peddler and Itinerant Vendor regulation on high traffic volume roadways and freeway ramps.



3.3 Pedestrian Operation & Safety

Street peddling provides an important service to residents and continues to operate as an economic option for entrepreneurs. The variety of street trades has ranged from the peddling of food items, produce, and flowers; scrap paper, as well as other items and merchandise, fix-it services, and entertainment.

However, roadway safety to the vendor, pedestrian and the motoring public is of vital concern. Roadway traffic safety refers to methods and measures for reducing the risk of a person using the road network being killed or seriously injured. The best-practiced roadway safety strategies focus upon the prevention of serious injury and death crashes in spite of human fallibility (which is contrasted with the old road safety paradigm of simply reducing crashes assuming road user compliance with traffic regulations).

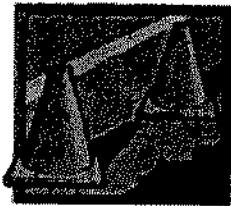
As such, the City of Hialeah should consider the restricting Peddlers and Itinerant Vendors on high volume roadways and intersections, freeway ramps and school zones to within 300 feet. These locations have the greatest exposure to injury, have the greatest distraction to drivers and require a higher degree of decision making from drivers, peddlers, cyclists and pedestrians.

4 Recommendations

The following recommendations are being provided based on the data collection and engineering judgment. The data collection was primarily based on published traffic counts and crash data. However, our local knowledge of the City of Hialeah and the prevailing geometric and operating characteristic was also taken into consideration.

4.1 Safety Measures

In order to maintain and improve safety conditions within the roadways of the City of Hialeah, we find Peddlers and Itinerant Vendors should be regulated at certain locations. These locations are places where the traffic volumes are high, speeds are high and the concern for public safety are greater due to the increased exposure of these conditions.



4.2 Restrictions and Locations

The restriction of Peddlers and Itinerant Vendors that should be considered by the City of Hialeah are as follows:

- Limited Access Facilities (Expressway Ramps/Intersections)
- Under Freeway Underpass Structures
- State Arterial Roadways or Similar (Intersections)
- School Zones (Intersections or Mid-Block)
- Medians

Limited Access Facilities include the intersections and ramps to freeways. These pose a particular safety risk due to their transition from a freeway to Arterial Street and have both high approach speeds and traffic volumes.

Under Freeway Underpass Structures includes areas under shade that can have visibility limitations and also have a propensity for high volume of traffic. These higher traffic volumes have an increase in exposure to public safety.

State Arterial Roadways or Similar includes roadways that have been designated on the State Highways System (SHS) and other City and County Roadways that have

similar traffic volumes, characteristics and operating or safety conditions.

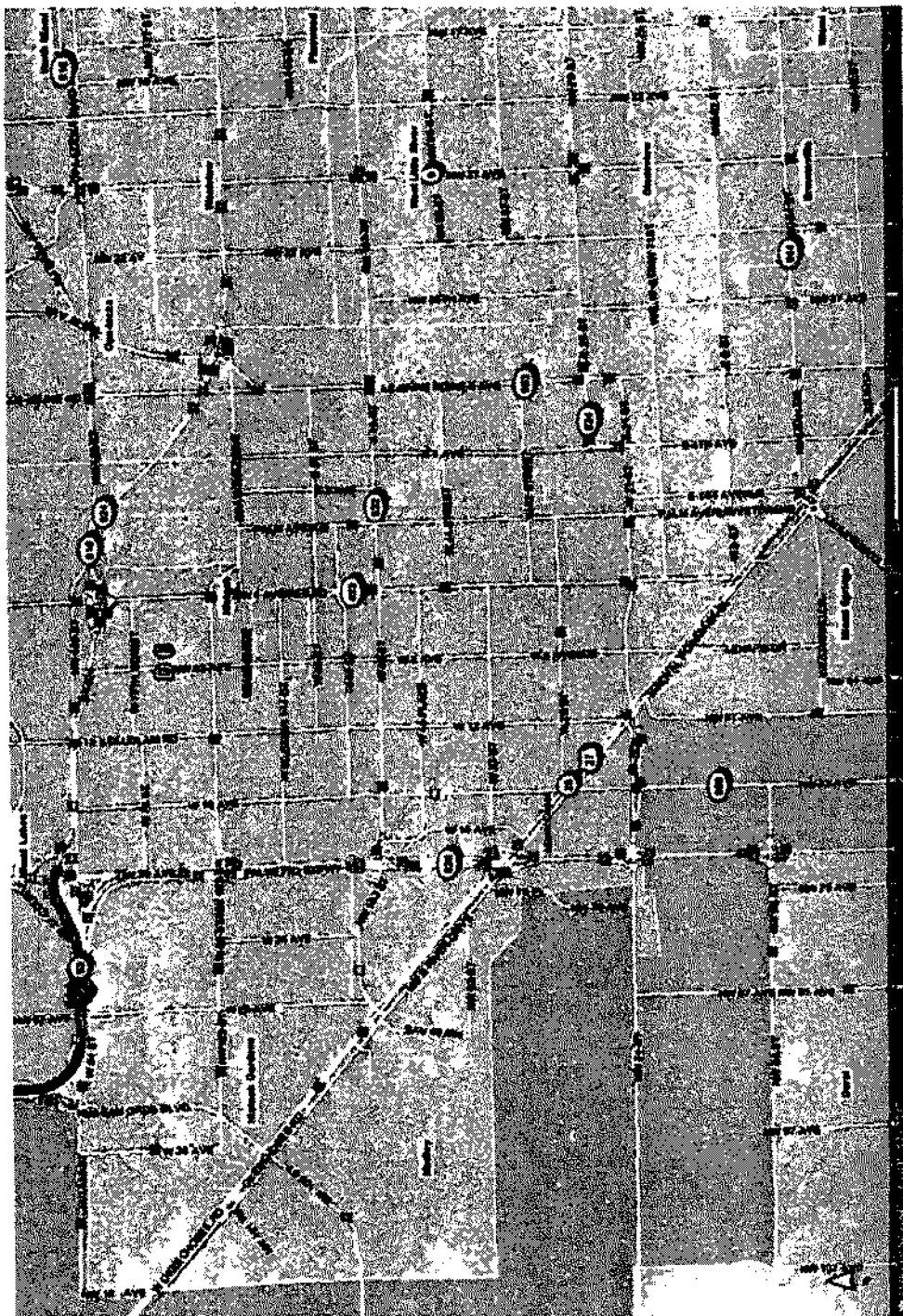
School Zones may include both designated School Speed Zones and areas surrounding schools without a designated School Speed Zone.

Medians include both raised and painted portions of the roadway that is designed to channelize and separate traffic in one or two directions. These traffic control devices are not intended for the stationing of peddlers and their goods and pose the risk of injury due to the flow of traffic on two sides and their limited size. These medians are generally located on higher volume roadways increasing the exposure to public safety.

The above locations have an area of influence. This area of influence is approximately 300 feet and is the area where motorist, cyclist and pedestrians have to make the most decisions. Therefore, the above locations should be restricted to the area of influence.

Richard Garcia & Associates, Inc.

Appendix A: Traffic Counts



FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

ROUTE: 8285 - SR 844/NEALEAN DR, 200' W SE 8 AV(NEALEAN)

YEAR	AADT	DIRECTION 1	DIRECTION 2	*E FACTOR	D FACTOR	T FACTOR
2011	18000 C	E 8800	W 9100	9.00	55.10	3.50
2010	18800 C	E 10000	W 9800	8.88	54.08	3.80
2009	18300 C	E 8800	W 9800	8.99	53.24	3.80
2008	21000 C	E 10000	W 11000	8.09	55.75	4.80
2007	24000 C	E 12000	W 12000	8.01	54.34	3.60
2006	20400 C	E 10500	W 9900	7.87	54.72	3.40
2005	23500 C	E 10000	W 13800	8.80	53.80	6.30
2004	22100 C	E 9600	W 12500	9.00	53.30	6.30
2003	22300 C	E 9800	W 12800	8.80	53.40	6.70
2002	19800 C	E 8800	W 11000	8.80	52.30	4.70
2001	15400 C	E 9700	W 9700	8.20	59.50	6.40
2000	22000 C	E 10500	W 11500	8.20	53.10	4.60
1999	20000 C	E 9800	W 10800	9.10	52.70	3.00
1998	21800 C	E 9800	W 12000	9.10	52.70	4.00
1997	20400 C	E 8400	W 12000	8.10	54.80	3.60
1996	21200 C	E 9700	W 11500	6.80	51.10	4.10

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *E FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K10 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

ITE: 0535 - SR 934/NW 74 ST CONNECTOR, 200' W NW 57 AV

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	40500 C	E 21000	W 19500	9.00	55.10	10.50
2010	35000 C	E 18000	W 17000	8.98	54.08	9.50
2009	40000 C	E 20000	W 20000	8.99	53.24	8.40
2008	40000 C	E 20000	W 20000	9.09	55.75	9.60
2007	41000 F	E 20500	W 20500	8.01	54.34	6.60
2006	41000 C	E 20500	W 20500	7.97	54.22	6.88
2005	40000 S	E 19500	W 20500	0.80	53.80	2.40
2004	40000 F	E 19500	W 20500	9.00	53.30	12.00
2003	40000 C	E 19500	W 20500	8.80	51.40	7.50
2002	40000 C	E 19500	W 20500	9.80	52.30	7.10
2001	40000 C	E 21000	W 19000	8.20	53.50	8.20
2000	38500 C	E 17500	W 19000	8.20	53.10	7.80
1999	39000 C	E 19500	W 19500	9.10	52.70	8.30
1998	38000 C	E 19500	W 18500	9.30	52.70	6.70
1997	37000 C	E 18900	W 18500	9.10	54.30	6.50
1996	33000 C	E 16500	W 14500	8.50	53.10	8.50

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K50 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 07 - MIAMI-DADE

ITE: 0536 - SR 536/NW 74 ST/E 21 ST, 400' W PALM AV(HIALEAH)

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	25000 C	E 15000	W 14000	9.00	55.10	10.30
2010	30000 C	E 15500	W 14500	5.95	54.05	10.30
2005	25500 C	E 13500	W 12000	5.99	53.24	7.70
2008	26500 C	E 13500	W 13000	9.09	55.75	8.10
2007	30000 C	E 15000	W 15000	8.01	54.34	5.10
2005	25500 C	E 14000	W 14000	7.97	54.22	10.30
2005	37500 C	E 18000	W 19500	8.80	53.40	4.90
2004	37500 C	E 18000	W 19500	9.00	53.10	4.50
2003	32000 C	E 17000	W 15000	0.80	53.40	8.80
2002	34000 C	E 17000	W 17000	5.80	52.30	7.10
2001	33500 C	E 16500	W 17000	5.10	53.50	5.50
2000	36000 C	E 17500	W 15500	8.20	53.10	7.00
1995	31500 C	E 16000	W 15000	9.10	52.70	12.40
1995	34500 C	E 18000	W 14500	9.30	52.70	5.70
1995	30500 C	E 17000	W 13500	5.10	64.50	6.50
1995	32000 C	E 18000	W 14000	8.50	53.10	8.50

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK. PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 97 - MIAMI-DADE

ROUTE: 1216 - SR 932/NW 103 ST, 400' E OF W 16 AVE (RIALEAH)

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	54500 C	E 26500	W 29000	9.00	55.10	3.60
2010	48500 C	E 25500	W 23000	8.98	54.09	3.60
2009	35000 C	E 27500	W 27500	9.99	53.24	3.30
2008	58500 C	E 29000	W 29500	9.09	55.75	1.90
2007	59000 C	E 28500	W 30500	8.01	54.34	2.00
2006	57000 C	W 27500	W 29500	7.97	54.22	2.30
2005	57000 C	E 29500	W 27500	9.80	53.80	6.80
2004	43500 C	E 22000	W 21500	9.00	53.30	6.90
2003	51000 C	E 25000	W 26000	8.80	53.40	4.90
2002	50500 C	E 24000	W 26500	9.80	52.30	5.00
2001	43000 C	E 20500	W 22500	8.20	53.50	3.40
2000	50500 C	W 24500	W 26000	8.20	53.10	7.40
1999	45500 C	E 22900	W 23000	9.10	52.70	4.40
1998	57000 C	E 28000	W 29000	9.30	52.70	3.40
1997	49000 C	W 23000	W 26000	9.10	64.50	4.90
1996	44500 C	E 24000	W 24500	8.50	53.10	7.90

AADT FLAG: C - COMPUTED; E - MANUAL ESTIMATE; F - FIRST YEAR ESTIMATE
 S - SECOND YEAR ESTIMATE; T - THIRD YEAR ESTIMATE; W - UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION STATISTICS OFFICE
2011 HISTORICAL AADT REPORT

COUNTY: 97 - MIAMI-DADE

RTE: 2530 - SR 512/WW 103 ST, 360' E W 3RD AVE.

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	41500 C	E 15500	W 22000	9.00	55.10	3.90
2010	43500 C	E 21000	W 22500	8.98	54.05	4.00
2009	45500 C	E 24000	W 25500	8.95	53.24	2.80
2008	51500 F	E 24000	W 27500	5.05	55.75	2.20
2007	52500 C	E 24500	W 28000	8.01	54.14	2.80
2006	46500 C	E 23000	W 23500	7.97	54.22	3.90
2005	52000 C	E 23500	W 28500	8.80	53.80	5.50
2004	49500 C	E 23500	W 26000	5.00	53.30	7.10
2003	47000 C	E 22500	W 24500	8.90	53.40	5.10
2002	49000 C	E 23500	W 25500	9.00	52.30	4.30
2001	46500 C	E 22000	W 24500	8.20	53.50	4.70
2000	43000 C	E 20500	W 22500	5.20	53.10	5.20
1999	45000 C	E 23500	W 25500	8.10	52.70	4.20
1998	51500 C	E 27000	W 24500	9.30	52.70	3.40
1997	47000 C	E 22500	W 24500	5.10	64.50	4.50
1996	44500 C	E 21500	W 23000	8.50	53.10	7.90

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
*K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K10 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL ADT REPORT

COUNTY: 07 - MIAMI-DADE

ROUTE: 0112 - SR 932/NW 101 ST, 200' W E 8 AV (HIALEAH)

YEAR	ADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	38500 C	E 18500	W 20000	8.00	55.10	4.10
2010	40500 C	E 20000	W 20500	8.98	54.98	4.10
2008	39000 C	E 18500	W 20500	8.99	53.24	2.10
2008	41000 C	W 20000	W 21000	9.09	55.75	2.00
2007	44000 C	E 22000	W 22000	8.01	54.34	2.80
2006	43500 C	E 21500	W 22000	7.97	54.22	4.10
2005	43500 C	E 22000	W 21500	8.80	53.80	6.10
2004	42000 C	E 21500	W 20500	9.00	53.30	8.10
2003	41500 C	E 20000	W 21500	8.80	53.40	8.00
2002	45000 C	W 22500	W 22500	9.80	52.30	3.20
2001	41500 C	E 20000	W 21500	8.20	53.50	5.40
2000	41000 C	E 20500	W 20500	8.20	53.10	3.10
1998	40000 C	E 18500	W 21500	9.10	52.70	4.00
1988	38000 C	E 19500	W 18500	6.80	52.70	3.40
1997	41500 C	E 19500	W 22000	8.10	64.90	4.90
1988	37500 C	E 17500	W 20000	8.50	53.10	7.80

ADT FLAGS: C - COMPUTED; E - MANUAL ESTIMATE; F - FIRST YEAR ESTIMATE
 S - SECOND YEAR ESTIMATE; T - THIRD YEAR ESTIMATE; X - UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K10 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

SITE: 7074 - NW 122 ST- 300 FEET EAST OF NW 92 AVE

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	17700 F	E 8900	W 8800	9.00	53.10	3.90
010	17900 C	E 9000	W 8900	8.98	54.08	4.00

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK. PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

ITE: 7054 - GRANTWY DR/WW 122ND ST 500 FT WEST OF LUDLAM (MILANOE)

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	31000 F	E 16000	W 15000	8.00	55.10	5.80
10	31000 C	E 16000	W 15000	8.98	54.08	4.60
2009	44500 C	E 23000	W 21500	8.99	53.24	5.70

AADT FLAGS: C - COMPUTED; E - MANUAL ESTIMATE; F - FIRST YEAR ESTIMATE
 S - SECOND YEAR ESTIMATE; T - THIRD YEAR ESTIMATE; X - UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K10 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 07 - MIAMI-DADE

ITE: 7041 - W 68TH ST/NW 122ND ST 200 FT EAST OF W 26TH DRIVE

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	27000 F	E 13500	N 13500	9.00	55.10	3.90
2010	27000 C	E 13500	N 13500	8.98	54.08	4.00
2009	31500 C	E 16500	N 15000	8.99	53.24	2.80

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K10 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

SITE: 0109 - SR 25/US-27/ONECHOBBE RD, 1000' NW NW 103 ST

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	44000 C	E 21300	W 22300	9.00	55.10	15.60
2010	41500 C	E 21000	W 22500	8.98	54.08	15.70
2009	36000 C	E 17500	W 18500	8.99	53.24	11.30
2008	40000 C	E 19500	W 20500	9.09	53.75	10.70
2007	43000 C	E 21000	W 22000	8.01	54.34	11.00
2006	39500 C	E 19000	W 20500	7.97	54.22	15.30
2005	43000 C	E 22000	W 23000	8.80	53.80	1.90
2004	46000 C	E 22500	W 23500	9.00	53.30	1.90
2003	40000 C	E 19500	W 20500	8.80	53.40	14.60
2002	41500 C	E 20000	W 21500	9.80	52.30	13.20
2001	38000 C	E 19000	W 19000	8.20	53.50	16.10
2000	37500 C	E 18500	W 19000	6.20	53.10	16.10
1999	17000 C	E 18000	W 18000	9.10	52.70	11.70
1998	24000 C	E 17000	W 17000	9.30	52.70	16.00
1997	31500 C	E 14000	W 13500	9.10	64.30	21.60
1996	29000 C	E 15000	W 14000	8.50	53.10	22.30

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K10 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 97 - MIAMI-DADE

SITE: 5252 - SR 25/US-27/OKNECHOBKE RD, 200' SE W 12 AV(HIALEAH

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	58500 C	E 29500	W 30000	9.00	53.10	14.10
2010	57000 C	W 29000	W 29000	8.99	54.09	14.30
2009	58000 C	E 29500	W 29500	8.99	53.24	15.60
2008	41000 C	W 22000	W 19000	9.09	55.75	17.90
2007	41500 C	W 20000	W 21500	8.01	54.34	19.10
2006	20400 C	W 10500	W 9900	7.97	54.22	16.60
2005	29000 C	W 16500	W 12500	8.80	53.80	9.50
2004	23000 C	E 12500	W 10500	9.00	53.30	6.40
2003	32500 C	W 16500	E 16000	8.80	53.40	18.30
2002	31000 F	W 14000	W 17000	9.80	52.30	17.00
2001	30000 C	W 13500	W 16500	8.20	53.50	19.10
2000	45500 C	W 23000	W 22500	8.20	53.10	15.80
1999	43000 C	E 20000	W 23000	9.10	52.70	11.70
1998	38500 C	E 20500	W 18000	9.30	52.70	14.00
1997	41000 C	W 19000	W 22000	9.10	64.50	21.40
1996	40000 C	E 18500	W 21500	8.50	53.10	22.30

AADT FLAGS: C - COMPUTED; E - MANUAL ESTIMATE; F - FIRST YEAR ESTIMATE
 S - SECOND YEAR ESTIMATE; T - THIRD YEAR ESTIMATE; X - UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 07 - MIAMI-DADE

RTE: 7016 - PALM AVE 50 FT NORTH OF W 51ST STREET

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	18000 C	N 8800	S 9200	9.00	35.10	5.80
2010	21000 F	N 10500	S 10500	8.98	34.08	4.60
2009	21000 C	N 10500	S 10500	8.99	33.24	5.70

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK. PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

STS: 2550 - SR 553/LE JEUNE RD., 200 FT NORTH OF NW 79 ST

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	34500 C	N 17500	S 17000	9.00	55.10	5.70
2010	35500 C	N 18000	S 17500	8.98	54.08	3.80
2009	36500 C	N 17500	S 15000	8.99	53.24	3.20
2008	33500 C	N 17500	S 16000	9.09	55.75	3.50
2007	39500 C	N 19000	S 20500	8.01	54.34	4.70
2006	34500 C	N 18000	S 16500	7.97	54.22	7.20
2005	40000 C	N 19500	S 20500	8.80	53.80	5.50
2004	39000 C	N 19500	S 19500	5.00	53.30	9.00
2003	37000 C	N 19500	S 17500	8.80	53.40	5.00
2002	41000 C	N 21500	S 19500	9.80	52.30	4.30
2001	38500 C	N 20500	S 18000	8.20	53.50	5.70
2000	39000 C	N 20500	S 18500	8.20	53.10	4.30

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARD. PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 57 - MIAMI-DADE

ROUTE: 0030 - SR 553/LEJEUNE RD, 100' N HW 37 AVE. CONNECTOR

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	Y FACTOR
2011	16400 C	N 5600	S 7500	9.00	55.10	5.70
2010	17500 C	N 9300	S 8200	8.95	54.09	3.50
2009	17300 C	N 9100	S 8200	5.99	52.24	3.20
2008	17400 C	N 5100	S 5300	9.09	55.75	3.50
2007	15200 F	N 7000	S 8200	5.01	54.34	4.70
2006	15200 C	N 7000	S 8200	7.97	54.22	7.20
2005	45000 F	N 23000	S 23000	8.80	53.80	5.50
2004	46000 C	N 23000	S 23000	5.00	53.30	9.00
2003	33500 C	N 17500	S 15000	8.50	53.40	5.00
2002	16000 C	N 15000	S 19000	9.80	52.30	4.30
2001	43000 C	N 21500	S 21500	8.20	53.50	5.70
2000	19000 C	N 19500	S 19500	8.20	53.10	4.30
1999	10000 C	N 18000	S 20000	9.10	52.70	4.40
1998	33500 C	N 17000	S 16500	9.30	52.70	6.10
1997	34300 C	N 17500	S 17000	9.10	64.50	4.20
1995	32500 C	N 16500	S 16000	8.50	53.10	7.30

AADT FLAGS: C - COMPUTED; E - MANUAL ESTIMATE; F - FIRST YEAR ESTIMATE
 0 - SECOND YEAR ESTIMATE; Y - THIRD YEAR ESTIMATE; X - UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 07 - MIAMI-DADE

SITE: 2551 - SR523/WAVE/RED RD 200' N OF W 65 ST/GRATIOMY DR.

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	43000 C	N 21500	S 21500	9.00	55.10	5.80
2010	44500 C	N 21500	S 23000	8.98	54.08	4.60
2009	37000 C	N 17500	S 19500	8.99	53.24	5.70
2008	34500 C	N 17000	S 17500	9.09	55.75	5.70
2007	34000 C	N 16500	S 17500	8.01	54.34	5.50
2006	32500 C	N 16000	S 16500	7.97	54.22	5.20
2005	32500 C	N 14500	S 15000	8.60	53.80	5.50
2004	37000 C	N 18500	S 18500	9.00	53.30	7.80
2003	33500 C	N 16500	S 17000	8.50	53.40	5.70
2002	37000 C	N 18500	S 18500	9.80	52.30	7.70
2001	36000 C	N 17500	S 18500	8.20	53.50	5.30

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

ROUTE: 5371 - SR 823/RED RD, 200' S W 42 ST(HIALEAH)

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	37500 C	W 18000	S 19500	9.00	55.10	5.80
2010	38000 C	W 19000	S 19000	8.98	54.08	4.60
2008	43000 C	W 21500	S 21500	8.99	53.24	5.70
2008	42000 C	W 21000	S 21000	9.09	55.75	5.70
2007	42000 C	W 20500	S 21500	8.01	54.34	3.50
2006	42500 C	W 21000	S 21500	7.97	54.22	5.20
2005	39000 C	W 18000	S 21000	8.80	53.80	5.50
2004	38500 C	W 18000	S 20500	9.00	53.10	7.80
2003	39000 C	W 19500	S 19500	8.80	53.40	5.75
2002	40500 C	W 20000	S 20500	9.80	52.30	7.70
2001	42500 C	W 20000	S 22500	8.20	53.50	5.30
2000	43000 C	W 21000	S 22000	8.20	53.10	8.80
1998	43000 C	W 21000	S 22000	9.10	52.70	3.60
1998	44500 C	W 23000	S 21500	7.80	52.70	2.10
1997	41000 C	W 20000	S 21000	9.10	54.50	2.40
1996	42500 C	W 20500	S 22000	8.50	53.10	2.60

AADT FLAGS: C = COMPUTED; K = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

ROUTE: 0324 - SR 823/RED RD. 200' N SR 934/W 21 ST (SIALKHAM)

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	18900 C	N 9900	S 9000	8.00	55.10	4.10
2010	25000 C	N 12500	S 12500	8.98	54.08	4.10
2009	29000 C	N 14500	S 14500	8.99	53.24	10.40
2008	29500 C	N 14500	S 15000	9.09	55.75	10.50
2007	32000 C	N 15500	S 16500	8.01	54.34	2.00
2006	29500 C	N 14500	S 15000	7.97	54.22	2.20
2005	25500 C	N 12500	S 13000	8.00	53.80	10.30
2004	26500 C	N 13000	S 13500	9.00	53.10	10.30
2003	26500 C	N 13500	S 13000	8.80	53.40	7.60
2002	28000 C	N 14000	S 14000	9.00	52.10	4.50
2001	25000 C	N 12500	S 12500	8.20	51.50	6.20
2000	27500 C	N 13500	S 14000	8.20	53.10	3.90
1999	20500 C	N 14500	S 14000	8.10	52.70	4.40
1998	38500 C	N 20000	S 18500	9.30	52.70	2.10
1997	33000 C	N 16000	S 17000	9.10	44.50	2.40
1996	35000 C	N 17000	S 18000	8.50	53.10	2.60

AADT FLAGS: C - COMPUTED; E - MANUAL ESTIMATE; F - FIRST YEAR ESTIMATE
 S - SECOND YEAR ESTIMATE; T - THIRD YEAR ESTIMATE; X - UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

ITE: 7048 - NW 136TH ST 0.5 MILE WEST OF 16TH AVE/97TH AVE

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	15700 F	E 8000	W 7700	9.00	55.10	3.90
2010	15900 C	E 8100	W 7800	8.98	54.08	4.00
2009	15000 C	E 7300	W 7700	8.89	53.24	2.80

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK. PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
 TRANSPORTATION STATISTICS OFFICE
 2011 HISTORICAL AADT REPORT

COUNTY: 87 - MIAMI-DADE

ITE: 7031 - GRATIGNY DR/68TH ST 100 FEET WEST OF NW 57TH AVE

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2011	22500 C	E 11500	W 11000	9.00	55.10	5.80
2010	22000 F	E 10500	W 11500	8.98	54.08	4.60
2009	22500 C	E 10500	W 12000	8.98	53.24	5.70

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
 S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; X = UNKNOWN
 *K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK. PRIOR YEARS ARE K10 VALUES

Richard Garcia & Associates, Inc.

Appendix B: Crash Data

Julie L. Jones
Executive Director

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Rick Scott
Governor

Pam Bondi
Attorney General

Jeff Atwater
Chief Financial Officer

Edurn Puigman
Commissioner of Agriculture

November 15, 2012

Dear Reader,

Thank you for your interest in the 2011 Florida Traffic Crash Statistics Report. The Department of Highway Safety and Motor Vehicles is committed to providing the safest possible driving environment for the millions of residents and visitors that travel in our beautiful state each year.

This report is compiled from long form traffic crash reports submitted by state and local law enforcement agencies. This year's report is a condensed version due to several factors including the change in the crash form. We are currently working on a dynamic web portal that will have all the information usually contained in the Traffic Crash Statistics Report in real time, available 24 hours a day for you to query in the spring of 2013. Therefore, this will be the last static report the Department will publish.

The 2011 crash statistics show a positive trend in decreases in fatalities on our roadways and in some instances to historic lows.

- Fatalities as a result of traffic crashes on Florida roadways decreased between 2010 and 2011 by almost 2% going from 2,444 to 2,400 respectively.
- Over the past six years, fatalities have dropped every year from 2005 with 3,533 to 2011 with 2,400, which is a 32% reduction.
- State Mileage Death Rate (the number of deaths per 100 million miles traveled) is 1.25 deaths per 100 million vehicle miles traveled in 2011, which is the same as last year and is the lowest since the rate has been calculated.
- Motorcyclist and passenger fatalities increased between 2010 and 2011 by approximately 18% from 383 to 451 respectively.
- Bicyclist fatalities increased between 2010 and 2011 by almost 58% from 76 to 120 respectively.
- Fatalities of teen drivers and passengers increased between 2010 and 2011 by 7% from 144 to 154 respectively.

As stated previously, we had a new crash form and many data elements changed. This change is for the better, as we are now capturing more, detailed data than in years past. This has caused a change in several definitions of data collected. Therefore, there may be significant increases/decreases in certain data elements, including alcohol related and drug related fields.

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While we are encouraged that total crashes and total fatalities are down, there are other categories that have increased and there is still much to be done to change that. Traffic crashes are largely avoidable, and those that result in personal injury or loss of life are too often the unacceptable result of poor preparation and decision making. We are focused on utilizing partnerships in enforcement and education to change driving behaviors and save lives. Should you need additional information or assistance with this report, please contact us at crashfacts@flhsmv.gov.


Allie L. Jones
Executive Director

2011 Florida Traffic Crash Statistics

	2010	2011	% Change
Traffic crashes	235,461	227,998	-3.17%
Drivers involved	338,112	334,809	-0.98%
Average crashes per day	645	625	-3.17%
Mileage Death Rate (per 100 million VMT)	1.25	1.25	0.00%
Fatal crashes	2,261	2,214	-2.08%
Fatalities	2,444	2,400	-1.80%
Injury crashes	124,847	117,903	-5.56%
Injuries	195,104	181,654	-6.89%
Property damage only crashes	108,353	107,883	-0.43%
Alcohol Related/Suspected crashes	17,748	17,067	-3.84%
Alcohol Related/Suspected fatal crashes	746	828	10.99%
Alcohol Related/Suspected fatalities	794	892	15.87%
Alcohol Related/Suspected injury crashes	7,825	8,262	5.58%
Alcohol Related/Suspected injuries	12,168	11,816	-2.89%
Alcohol Confirmed Crashes		10,008	
Alcohol Suspected Crashes		7,059	
Drug-related/Suspected crashes	1,236	1,995	61.41%
Drug-related/Suspected fatalities	106	190	79.25%
Drug-related/Suspected injuries	957	1,556	62.59%
Pedestrian crashes	7,894	7,039	-10.83%
Pedestrians killed	499	497	-0.40%
Pedestrians injured	7,290	6,194	-15.03%
Bicycle crashes	4,925	5,013	1.79%
Bicycle riders killed	76	120	57.89%
Bicycle riders injured	4,600	4,632	0.70%
Other non-motorist Crashes		1,886	
Other non-motorist killed		7	
Other non-motorist injured		357	
Motorcycle crashes	7,484	8,621	15.19%
Motorcyclists killed	350	418	18.00%
Motorcycle passengers killed	33	38	15.15%
Motorcyclists injured	6,686	7,194	7.60%
Motorcycle passengers injured	725	776	7.03%
Teen crashes	26,848	28,176	4.95%
Teen Drivers Killed	80	91	13.75%
Teen Passengers Killed	64	63	-1.56%
Teen Drivers injured	10,563	8,842	-16.29%
Teen Passengers Injured	7,980	6,968	-12.68%

County Data

2011 Florida Traffic
Crash Statistics

5 Year Crash History

COUNTY	2007	2008	2009	2010	2011	COUNTY	2007	2008	2009	2010	2011
ALACHUA	4,247	4,415	4,465	4,148	4,180	LEON	5,733	5,561	5,046	5,118	4,929
BAKER	298	302	278	281	269	LEVY	442	410	411	402	400
BAY	2,575	2,549	2,867	2,948	3,069	LIBERTY	93	69	75	75	73
BRADFORD	370	397	311	303	202	MADISON	288	321	279	302	303
BREVARD	4,549	4,909	4,750	4,673	4,369	MANATEE	4,074	3,777	3,876	3,897	4,066
BROWARD	26,981	26,417	25,957	26,233	25,218	MARION	3,941	3,559	3,321	3,422	3,793
CALHOUN	99	95	103	103	103	MARTIN	1,361	1,370	1,437	1,465	1,213
CHARLOTTE	1,695	1,514	1,485	1,540	1,319	MIAMI DADE	15,700	15,076	14,744	14,641	14,121
CITRUS	963	941	981	954	1,000	MONROE	1,409	1,281	1,307	1,264	1,250
CLAY	1,483	1,595	1,574	1,539	1,399	NASSAU	666	647	569	596	613
COLLIER	2,473	2,222	1,953	1,904	1,796	OKALOOSA	2,026	1,779	1,924	1,867	2,093
COLUMBIA	830	1,035	926	990	1,180	OKNECHOBEE	396	398	337	349	311
DE SOTO	343	284	282	279	266	ORANGE	18,089	16,712	16,092	17,090	19,121
DEKALB	129	140	130	111	128	OSCEOLA	3,004	2,810	2,795	3,141	3,062
DUVAL	15,348	14,771	14,102	13,431	12,500	PALM BEACH	14,674	13,831	13,398	13,410	11,540
ESCAMBIA	4,755	4,419	4,637	4,522	4,310	PASCO	6,263	6,042	5,780	5,576	5,610
FLAGLER	792	695	715	716	680	PINELLAS	13,228	13,685	13,669	13,450	10,880
FRANKLIN	96	82	99	81	89	POLK	6,957	6,446	5,980	5,579	5,198
GADSDEN	700	592	557	534	439	PUTNAM	1,104	978	885	744	742
GILCHRIST	138	127	122	113	128	SANTA ROSA	1,419	1,186	1,363	1,318	1,401
GLADES	151	128	146	120	109	SARASOTA	3,452	3,201	3,225	3,621	3,710
GULF	99	100	82	78	75	SEMINOLE	2,895	2,717	2,574	2,440	3,190
HAMILTON	153	216	192	188	201	ST. JOHNS	1,936	1,635	1,709	1,220	1,744
HARDEE	358	297	293	289	309	ST. LUCIE	2,393	2,288	2,336	2,210	2,169
HENDRY	352	300	270	230	360	SUMTER	846	729	672	720	712
HERNANDO	1,698	1,493	1,424	1,386	1,542	SUWANNEE	418	472	376	429	442
HIGHLANDS	789	673	635	656	689	TAYLOR	332	294	293	204	191
HILLSBOROUGH	22,613	20,162	18,168	17,480	18,027	UNION	115	103	101	113	106
HOLMES	155	144	138	156	174	VOLUSIA	6,113	5,709	5,685	5,811	6,233
INDIAN RIVER	1,366	1,292	1,153	990	900	WAKULLA	260	263	277	242	213
JACKSON	535	542	519	469	515	WALTON	671	602	597	597	700
JEFFERSON	198	172	171	132	170	WASHINGTON	198	204	192	168	243
LAFAYETTE	59	60	36	57	107	UNKNOWN	20	-	5	10	7
LAKE	2,571	2,619	2,491	2,540	2,436	STATEWIDE	256,206	243,342	235,778	235,461	227,898
LEE	6,211	5,188	4,916	4,970	4,418						

Highest

County Data

2011 Florida Traffic
Crash Statistics

5 Year Alcohol Related/Suspected Crashes

COUNTY	2007	2008	2009	2010	2011	COUNTY	2007	2008	2009	2010	2011
ALACHUA	332	328	299	242	277	LEON	417	404	343	305	352
BAKER	46	44	37	50	41	LEVY	58	45	57	47	54
BAY	426	426	391	379	377	LIBERTY	18	9	13	12	11
BRADFORD	45	61	33	31	28	MADISON	24	41	38	35	32
BREVARD	667	635	554	497	411	MANATEE	543	445	398	305	282
BROWARD	1,597	1,714	1,513	1,424	1,187	MARION	311	350	270	215	265
CALHOUN	19	24	28	24	20	MARTIN	217	201	212	162	164
CHARLOTTE	183	148	154	134	94	MIAMI	1,381	1,408	1,207	1,388	1,709
CITRUS	177	135	130	111	109	MONROE	208	216	214	192	186
CLAY	199	231	183	155	121	NASSAU	114	107	81	64	44
COLLIER	330	308	280	258	266	OKALOOSA	343	277	293	263	247
COLUMBIA	118	137	111	107	96	OKEECHOBEE	62	55	61	51	28
DE SOTO	48	42	32	31	37	ORANGE	1,352	1,373	1,304	1,091	934
DEKALB	20	26	20	20	17	OSCEOLA	241	258	243	205	81
DUVAL	1,368	1,356	1,166	1,056	1,047	PALM BEACH	1,311	1,254	1,715	1,123	1,023
ESCAMBIA	701	594	553	470	519	PASCO	555	544	477	417	406
FLAGLER	94	94	104	79	87	PINELLAS	1,443	1,390	1,223	1,198	1,114
FRANKLIN	26	19	24	17	26	POLK	631	672	585	474	418
GADSDEN	81	100	98	69	50	PUTNAM	139	125	129	109	85
GILCHRIST	25	34	19	18	11	SANTA ROSA	194	169	198	170	151
GLADES	18	19	9	15	9	SARASOTA	472	437	390	382	313
GULF	24	26	27	13	20	SEMINOLE	449	442	384	290	278
HAMILTON	20	26	22	20	14	ST. JOHNS	282	235	277	156	217
HARDEE	30	34	33	29	27	ST. LUCIE	265	253	214	183	204
HENDRY	67	41	44	35	18	SUMTER	60	61	68	52	47
HERNANDO	196	173	132	110	69	SUWANNEE	56	69	56	45	53
HIGHLANDS	88	81	73	79	61	TAYLOR	51	45	45	36	42
HILLSBOROUGH	1,925	1,788	1,422	1,363	1,424	UNION	20	21	19	15	11
HOLMES	20	22	16	17	18	VOLUSIA	726	755	684	641	513
INDIAN RIVER	183	161	137	112	88	WAKULLA	48	63	63	31	44
JACKSON	62	75	62	38	51	WALTON	120	97	108	85	94
JEFFERSON	22	23	29	22	20	WASHINGTON	26	31	28	16	26
LAFAYETTE	7	11	10	7	6	UNKNOWN	1	-	1	1	1
LAKE	305	296	275	236	194	STATEWIDE	22,823	22,259	20,625	17,748	17,067
LEE	715	685	617	521	570						

HIGHEST

County Data

2011 Florida Traffic Crash Statistics

5 Year Fatality History

COUNTY	2007	2008	2009	2010	2011	COUNTY	2007	2008	2009	2010	2011
ALACHUA	57	42	30	26	27	LEON	22	31	29	36	37
BAKER	6	12	13	12	12	LEVY	15	9	13	14	14
BAY	35	22	28	18	24	LIBERTY	4	2	2	1	
BRAOFORO	11	8	7	7	9	MAOISON	20	9	10	2	
BREVARD	99	81	54	65	72	MANATEE	58	55	37	44	40
BRDWARD	253	228	189	179	160	MARION	66	87	61	73	62
CALHOUN	4	3	5	3	7	MARTIN	26	30	33	27	28
CHARLOTTE	30	24	28	21	26	MIAMI-DADE	310	271	280	246	244
CITRUS	23	23	33	25	17	MONROE	21	20	23	21	19
CLAY	27	15	16	14	18	NASSAU	27	21	16	21	12
COLLIER	54	34	39	42	40	OKALOOSA	25	26	21	20	22
COLUMBIA	28	36	26	25	31	OKEECHOBEE	14	9	14	13	8
OE SOTO	7	9	9	4	8	ORANGE	186	170	142	130	129
DDIE	8	3	4	3	8	OSCEOLA	52	55	50	34	46
DUVAL	166	120	114	110	90	PALM BEACH	206	198	151	123	3
ESCAMBIA	64	63	38	36	49	PASCO	99	88	79	75	64
FLAGLER	16	31	16	23	22	PINELLAS	114	114	104	96	112
FRANKLIN	2	3	3	6	2	POLK	106	133	94	85	92
GADSDEN	14	25	13	11	8	PUTNAM	23	20	20	22	16
GILCHRIST	6	11	3	4	4	SANTA ROSA	25	15	27	21	22
GLADES	3	13	5	2	7	SARASOTA	61	42	40	41	37
GULF	6	2	6	2	3	SEMINOLE	48	42	23	32	48
HAMILTON	4	6	7	8	8	ST. JOHNS	35	39	26	21	27
HARDEE	7	10	8	14	11	ST. LUCIE	44	33	38	29	22
HENDRY	14	17	16	10	9	SUMTER	26	17	21	23	18
HERNANDO	40	37	31	28	36	SUWANNEE	20	11	11	12	19
HIGHLANDS	24	21	16	19	11	TAYLOR	13	6	6	6	1
HILLSBOROUGH	183	182	141	153	151	UNION	4	5	6	6	1
HOLMES	3	6	4	4	7	VDLUSIA	108	109	94	105	63
INDIAN RIVER	23	26	23	26	30	WAKULLA	4	10	6	4	4
JACKSON	18	16	27	10	16	WALTON	22	17	18	28	17
JEFFERSON	7	8	6	6	8	WASHINGTON	10	12	6	7	6
LAFAYETTE	1	2	1	2	3	UNKNDWN	-	-	-	3	-
LAKE	58	61	43	40	46	STATEWIDE	3,221	2,983	2,563	2,444	2,400
LEE	106	77	80	65	75						

HIGHEST

County Data

2011-Florida Traffic Crash Statistics

5 Year Alcohol Related/Suspected Fatality History

COUNTY	2007	2008	2009	2010	2011	COUNTY	2007	2008	2009	2010	2011
ALACHUA	17	15	11	3	10	LEON	11	14	10	6	10
BAKER	3	1	6	8	8	LEVY	7	2	3	3	8
BAY	22	11	17	9	15	LIBERTY	1	1	1	1	1
BRADFORD	5	3	1	4	4	MADISON	4	4	5	-	4
BREVARD	49	30	24	27	32	MANATEE	26	25	17	18	14
BBOWARD	90	65	58	41	49	MARION	25	37	26	32	19
CALHOUN	1	2	2	3	2	MARTIN	11	13	13	8	5
CHARLOTTE	9	12	11	7	8	MIAMI	24	26	24	13	20
CITRUS	9	11	16	3	8	MONROE	9	7	14	14	8
CLAY	10	7	11	6	7	NASSAU	14	10	6	4	6
COLLIER	15	8	15	6	15	OKALOOSA	14	14	11	7	10
COLUMBIA	11	18	10	4	12	OKEECHOBEE	6	6	6	5	9
OE SOTO	3	5	5	2	3	ORANGE	76	77	66	62	54
ODJIE	3	2	3	1	2	OSCEOLA	26	23	17	10	16
DUVAL	78	46	49	52	43	PALM BEACH	73	79	62	31	42
ESCAMBIA	38	30	18	21	21	PASCO	40	36	28	26	19
FLAGLER	7	16	9	10	8	PINELLAS	40	51	45	42	51
FRANKLIN	1	1	3	2	2	POLK	43	38	33	27	30
GADSOEN	3	16	10	2	7	PUTNAM	8	10	11	14	10
GILCHRIST	2	5	1	-	3	SANTA ROSA	15	8	9	11	10
GLADES	2	6	1	-	1	SARASOTA	25	19	18	14	13
GULF	4	1	4	-	1	SEMINOLE	21	13	13	14	21
HAMILTON	1	5	6	6	4	ST. JOHNS	14	20	12	7	18
HARDEE	3	2	4	6	4	ST. LUCIE	14	12	13	3	8
HENDRY	4	12	5	3	1	SUMTER	7	6	4	3	4
HERNANDO	10	6	9	7	6	SUWANNEE	4	1	6	5	6
HIGHLANDS	5	5	3	7	7	TAYLOR	4	3	2	2	2
HILLSBOROUGH	87	77	62	54	67	UNION	-	4	3	1	1
HOLMES	-	2	3	1	1	VOLUSIA	31	49	32	32	3
INDIAN RIVER	9	9	6	6	6	WAKULLA	-	6	1	1	3
JACKSON	7	7	9	3	9	WALTON	7	9	8	7	11
JEFFERSON	2	2	2	2	3	WASHINGTON	3	4	-	2	1
LAFAYETTE	-	1	-	-	3	UNKNOWN	-	-	-	-	-
LAKE	22	20	16	13	11	STATEWIDE	1,244	1,169	1,004	794	920
LEE	39	24	25	20	25						

2011 Highest

County Data

2011 Florida Traffic
Crash Statistics

5 Year Motorcycle Fatality History

COUNTY	2007	2008	2009	2010	2011	COUNTY	2007	2008	2009	2010	2011
ALACHUA	7	3	5	1	2	LEON	3	3	4	4	3
BAKER	2	-	-	1	1	LEVY	1	1	-	2	1
BAY	4	6	6	3	5	LIBERTY	1	-	1	-	1
BRADFORD	4	-	-	-	1	MADISON	1	-	-	-	1
BREVARD	18	16	12	12	15	MANATEE	9	9	7	10	8
BROWARD	52	37	23	21	38	MARION	10	16	8	11	9
CALHOUN	-	1	-	-	1	MARTIN	1	1	3	3	3
CHARLOTTE	4	6	4	4	8	MIAMI-DADE	52	44	45	30	38
CITRUS	7	7	2	4	4	MONROE	5	5	8	1	1
CLAY	1	6	-	2	1	NASSAU	4	1	-	1	2
COLLIER	3	6	3	4	3	OKALOOSA	2	6	2	2	2
COLUMBIA	1	4	3	3	2	OKEECHOBEE	3	-	2	1	1
DE SOTO	-	-	1	-	1	ORANGE	31	28	25	19	31
ODJIE	1	-	-	-	1	OSCEOLA	9	11	10	3	8
DUVAL	30	23	18	20	14	PALM BEACH	31	34	18	23	19
ESCAMBIA	9	10	6	6	5	PASCO	18	15	7	13	18
FLAGLER	4	9	2	6	4	PINELLAS	26	27	24	24	26
FRANKLIN	-	-	-	1	1	POLK	14	17	9	11	19
GADSDEN	1	1	-	-	1	PUTNAM	5	1	1	1	1
GILCHRIST	-	1	-	1	1	SANTA ROSA	4	1	3	2	3
GLADES	1	-	1	-	1	SARASOTA	11	9	7	5	5
GULF	-	-	1	-	1	SEMINOLE	9	4	9	5	10
HAMILTON	-	-	-	-	1	ST. JOHNS	8	9	2	4	1
HARDEE	1	1	1	2	1	ST. LUCIE	4	6	4	2	7
HENDRY	-	1	1	-	1	SUMTER	3	2	2	5	1
HERNANDO	8	7	1	3	12	SUWANNEE	2	-	-	-	1
HIGHLANDS	3	7	2	2	3	TAYLOR	-	1	3	-	1
HILLSBOROUGH	27	31	27	23	34	UNION	-	1	2	-	1
HOLMES	-	-	-	-	1	VOLUSIA	23	30	22	24	17
INDIAN RIVER	3	3	1	4	4	WAKULLA	-	2	2	1	1
JACKSON	2	-	1	1	1	WALTON	2	2	1	3	1
JEFFERSON	-	-	-	-	1	WASHINGTON	1	2	1	1	1
LAFAYETTE	-	-	-	-	1	UNKNOWN	-	-	-	-	1
LAKE	8	8	9	4	6	STATEWIDE	517	502	376	350	413
LEE	23	20	14	11	15						

2nd HIGHEST

County Data

2011 Florida Traffic
Crash Statistics

5 Year Commercial Motor Vehicle History

COUNTY	2007	2008	2009	2010	2011	COUNTY	2007	2008	2009	2010	2011
ALACHUA	317	294	276	222	177	LEON	300	258	217	205	179
BAKER	28	29	31	34	13	LEVY	47	23	26	28	20
BAY	170	127	154	160	122	LIBERTY	16	7	8	2	6
BRADFORD	47	37	31	36	16	MADISON	34	48	31	33	21
BREVARD	311	328	341	301	196	MANATEE	302	250	217	232	159
BROWARD	1,905	1,659	1,470	1,463	1,212	MARION	360	308	301	253	207
CALHOUN	11	21	4	15	12	MARTIN	133	119	134	110	102
CHARLOTTE	144	95	84	90	88	MIAMI-DADE	2,899	2,733	2,419	2,389	2,076
CITRUS	52	49	52	39	33	MONROE	102	90	76	62	65
CLAY	99	88	72	96	62	NASSAU	75	82	64	73	67
COLLIER	231	174	119	109	85	OKALOOSA	101	83	100	81	66
COLUMBIA	91	105	91	105	100	OKEECHOBEE	58	55	43	47	25
DE SOTO	35	26	28	26	22	ORANGE	1,333	1,078	959	823	836
DEKALB	10	9	13	6	6	OSCEOLA	282	217	190	195	110
DUVAL	1,195	1,182	999	976	851	PALM BEACH	1,236	1,021	870	882	628
ESCAMBIA	234	203	177	158	127	PASCO	379	348	257	258	192
FLAGLER	70	58	62	64	42	PINELLAS	716	639	701	713	507
FRANKLIN	3	6	6	6	6	POLK	718	682	537	522	374
GADSDEN	67	54	44	71	34	PUTNAM	93	60	47	50	44
GILCHRIST	7	5	3	8	8	SANTA ROSA	93	65	84	61	44
GLADES	35	28	28	20	19	SARASOTA	286	204	170	186	162
GULF	5	7	8	3	5	SEMINOLE	198	152	135	128	140
HAMILTON	24	32	30	38	23	ST. JOHNS	180	159	148	126	108
HARDEE	45	60	31	36	40	ST. LUCIE	220	205	171	178	160
HENDRY	53	43	40	35	33	SUMTER	154	124	90	107	80
HERNANDO	123	90	91	74	98	SUWANNEE	40	49	39	35	33
HIGHLANDS	89	65	66	64	47	TAYLOR	27	24	22	19	19
HILLSBOROUGH	1,504	1,300	1,092	992	830	UNION	13	11	11	13	9
HOLMES	18	18	13	10	9	VOLUSIA	415	366	312	311	252
INDIAN RIVER	111	115	69	80	49	WAKULLA	15	8	12	12	7
JACKSON	66	59	47	52	36	WALTON	48	57	39	42	40
JEFFERSON	21	21	19	18	13	WASHINGTON	21	12	19	11	11
LAFAYETTE	9	6	8	4	4	UNKNOWN	4	-	-	-	-
LAKE	255	237	200	185	175	STATEWIDE	18,821	16,517	14,551	14,057	11,415
LEE	538	350	303	274	194						

Handwritten note: Highest

County Data

2011 Florida Traffic Crash Statistics

5 Year Commercial Motor Vehicle Fatality History

COUNTY	2007	2008	2009	2010	2011	COUNTY	2007	2008	2009	2010	2011
ALACHUA	10	7	5	5	5	LEON	-	4	-	6	1
BAKER	-	3	1	1	1	LEVY	2	-	3	1	1
BAY	-	-	2	2	2	LIBERTY	-	-	-	-	-
BRAOIFORD	2	1	1	-	1	MAOISON	4	3	1	1	1
BREVARD	6	5	4	3	4	MANATEE	7	8	2	2	1
BROWARD	22	19	15	23	10	MARION	9	12	8	7	6
CALHOUN	-	-	-	-	-	MARTIN	2	4	1	3	2
CHARLOTTE	3	1	3	1	2	MIAMI-DAOE	39	34	19	17	8
CITRUS	1	-	4	-	2	MONROE	1	1	4	2	2
CLAY	4	-	2	3	3	NASSAU	6	4	5	11	5
COLLIER	8	8	2	1	3	OKALOOSA	-	7	2	2	1
COLUMBIA	2	3	4	4	2	OKEECHOBEE	3	2	3	2	1
DE SOTO	-	3	2	1	2	ORANGE	23	16	13	7	11
DDXIE	-	-	3	1	1	OSCEOLA	9	10	6	6	4
OUVAL	16	14	9	9	8	PALM BEACH	27	20	12	11	11
ESCAMBIA	7	3	3	1	4	PASCO	7	10	8	8	4
FLAGLER	1	2	1	1	2	PINELLAS	7	9	2	4	5
FRANKLIN	-	-	-	-	-	POLK	26	34	12	13	4
GADSOEN	-	2	3	4	4	POTNAM	4	2	1	-	1
GILCHRIST	-	1	-	1	1	SANTA ROSA	4	-	4	1	1
GLADES	1	9	1	-	2	SARASOTA	11	2	3	2	1
GULF	-	-	-	-	1	SEMINOLE	1	3	-	3	4
HAMILTON	1	1	-	-	2	ST. JOHNS	1	6	1	5	6
HARDEE	-	2	1	2	4	ST. LUCIE	8	2	1	5	2
HENDRY	-	2	1	1	1	SUMTER	6	4	1	6	1
HERNANDO	5	2	5	1	1	SUWANNEE	2	-	3	3	1
HIGHLANDS	6	2	8	6	7	TAYLOR	1	-	-	2	1
HILLSBOROUGH	16	16	15	11	10	UNION	2	1	-	2	1
HOLMES	-	-	-	-	-	VOLUSIA	11	7	6	6	9
INDIAN RIVER	2	3	3	1	1	WAKULLA	2	-	-	1	1
JACKSON	2	1	1	-	3	WALTON	3	5	2	5	1
JEFFERSON	1	3	3	1	1	WASHINGTON	1	-	3	3	1
LAFAYETTE	-	-	-	-	-	UNKNOWN	-	-	-	-	-
LAKE	9	12	4	4	5	STATEWIDE	365	343	244	237	196
LEE	11	8	12	2	5						

County Data

2011 Florida Traffic
Crash Statistics

5 Year Bicyclist Fatality History

COUNTY	2007	2008	2009	2010	2011	COUNTY	2007	2008	2009	2010	2011
ALACHUA	5	4	3	-	-	LEON	-	3	-	1	-
BAKER	-	-	-	-	-	LEVY	-	-	-	-	-
BAY	1	-	3	1	2	LIBERTY	-	-	-	-	-
BRADFORD	-	1	1	-	1	MADISON	-	-	-	-	-
BREVARD	7	1	1	-	4	MANATEE	1	1	1	1	-
BROWARD	6	12	10	5	13	MARION	4	6	1	1	-
CALHOUN	-	-	-	-	-	MARTIN	-	6	1	-	-
CHARLOTTE	2	-	-	1	2	MIAMI-DADE	12	5	12	7	-
CITRUS	-	-	1	1	-	MONROE	2	1	1	3	-
CLAY	-	1	1	-	1	NASSAU	-	-	1	-	-
COLLIER	3	4	1	1	-	OKALOOSA	3	1	-	-	-
COLUMBIA	-	-	-	-	-	OKRECHOBEE	-	1	-	-	-
DE SOTO	-	1	-	-	-	ORANGE	14	9	6	4	-
DIXIE	-	-	-	-	-	OSCEOLA	1	1	-	2	-
DUVAL	10	4	4	7	6	PALM BEACH	10	8	11	4	-
ESCAMBIA	2	2	4	-	2	PASCO	4	2	4	5	-
FLAGLER	-	1	-	1	5	PINELLAS	4	10	10	2	-
FRANKLIN	-	-	-	-	-	POLK	3	3	3	2	10
GADSOEN	-	-	-	-	-	PUTNAM	-	2	1	-	-
GILCHRIST	-	1	-	-	-	SANTA ROSA	1	-	1	2	-
GLADES	-	-	-	-	-	SARASOTA	5	3	1	-	-
GULF	-	-	-	-	-	SEMINOLE	-	2	-	1	-
HAMILTON	-	-	-	-	-	ST. JOHNS	1	2	1	1	-
HARDEE	-	-	-	-	-	ST. LUCIE	1	2	-	-	-
HENDRY	1	2	-	-	-	SUMTER	1	-	-	-	-
HERNANDO	1	2	2	-	1	SUWANNEE	-	-	-	-	-
HIGHLANDS	-	-	-	1	-	TAYLOR	1	-	-	1	-
HILLSBOROUGH	6	4	6	11	7	UNION	-	-	-	-	-
HOLMES	-	-	-	-	-	VOLUSIA	3	3	1	4	-
INDIAN RIVER	-	-	1	1	2	WAKULLA	-	-	-	-	-
JACKSON	-	-	-	-	-	WALTON	-	1	-	-	-
JEFFERSON	-	-	-	-	-	WASHINGTON	-	-	-	-	-
LAFAYETTE	-	-	-	-	-	UNKNOWN	-	-	-	-	-
LAKE	2	-	1	2	-	STATEWIDE	121	118	99	76	120
LEE	4	6	4	3	5						

County Data

2011

Crash Statistics

Teen (15-19) Drivers and Passengers Killed by County

County		County	
Alachua	1	Lee	6
Baker	-	Leon	1
Bay	1	Levy	-
Bradford	-	Liberty	1
Brevard	4	Madison	-
Broward	12	Manatee	4
Calhoun	3	Marion	3
Charlotte	1	Martin	4
Citrus	1	Miami-Dade	14
Clay	-	Monroe	2
Collier	6	Nassau	1
Columbia	3	Okaloosa	4
DeSoto	-	Okeechobee	-
Dixie	-	Orange	4
Duval	3	Osceola	4
Escambia	3	Palm Beach	9
Flagler	2	Pasco	3
Franklin	-	Pinellas	3
Gadsden	1	Polk	8
Gilchrist	-	Putnam	2
Glades	1	Santa Rosa	3
Gulf	-	Sarasota	5
Hamilton	1	Seminole	3
Hardee	1	St. Johns	-
Hendry	1	St. Lucie	1
Hernando	2	Sumter	-
Highlands	-	Suwannee	2
Hillsborough	4	Taylor	-
Holmes	-	Union	-
Indian River	1	Volusia	3
Jackson	3	Wakulla	-
Jefferson	1	Walton	-
Lafayette	-	Washington	2
Lake	6	Statewide Total	134

HIGHEST

6	87000211	0.100	2.545	47th Ave	229	5847	1	102	146	Unknown at this time.	0	0	Unknown at this time.	979	LS887-042	MSAM-040E	UU	14.04137	2.74728
6	87000213	0.000	1.133	80th Ave	3129	3129	2	62	67	Unknown at this time.	0	0	Unknown at this time.	1380	LS887-043	MSAM-040E	UU	16.67536	2.74728
6	87000214	0.100	1.500	16th Ave	501	5487	0	38	74	Unknown at this time.	0	0	Unknown at this time.	1130	LS887-044	MSAM-040E	UU	11.98054	2.74728
6	87000215	0.000	1.988	37th Ave	242	3148	3	89	95	Unknown at this time.	0	0	Unknown at this time.	1248	LS887-045	MSAM-040E	UU	17.40589	2.74728
6	87000216	0.000	2.545	State Hwy 854	131	6808	1	70	82	Unknown at this time.	0	0	Unknown at this time.	1296	LS887-046	MSAM-040E	UU	6.48964	0.18833
6	87000219	0.000	2.387	Country Club Dr	121	2632	0	42	86	Unknown at this time.	0	0	Unknown at this time.	1124	LS887-047	MSAM-040E	UU	17.57608	0.18833
6	87000217	0.000	0.773	16th Ave	105	2800	1	40	79	Unknown at this time.	0	0	Unknown at this time.	871	LS887-048	MSAM-040E	UU	44.18654	2.74728
6	87000218	0.000	1.502	46th St	507	48073	0	43	41	Unknown at this time.	0	0	Unknown at this time.	1338	LS887-049	MSAM-040E	UU	4.04788	0.18833
6	87000214	0.000	1.800	44th Pl	94	1081	0	40	61	Unknown at this time.	0	0	Unknown at this time.	525	LS887-050	MSAM-040E	UU	43.6778	2.74728
6	87000216	0.000	2.000	28th St	219	2633	4	131	123	Unknown at this time.	0	0	Unknown at this time.	978	LS887-051	MSAM-040E	UU	38.28324	2.74728
6	87000217	0.000	1.187	41st St	104	59557	1	38	77	Unknown at this time.	0	0	Unknown at this time.	1079	LS887-052	MSAM-040E	UU	0.80287	0.18833
6	87000468	0.000	1.675	28th St	92	1415	0	55	62	Unknown at this time.	0	0	Unknown at this time.	1077	LS887-053	MSAM-040E	UU	35.43252	2.74728
6	87000444	0.000	0.870	17th St	191	9904	0	61	144	Unknown at this time.	0	0	Unknown at this time.	976	LS887-017	MSAM-040E	UU	20.12685	2.74728
6	87000468	0.000	2.415	21st Ave	180	4225	0	40	113	Unknown at this time.	0	0	Unknown at this time.	1078	LS887-080	MSAM-040E	UU	18.08939	2.74728
6	87000510	0.000	1.800	107th Ave	180	139099	0	68	112	Unknown at this time.	0	0	Unknown at this time.	1188	LS887-002	MSAM-040E	UU	0.80065	0.18833
6	87000511	0.000	2.800	137th Ave	126	39723	1	74	68	Unknown at this time.	0	0	Unknown at this time.	933	LS887-009	MSAM-040E	UU	1.37816	0.18833
6	87000524	0.000	0.462	16th St	327	4180	0	48	91	Unknown at this time.	0	0	Unknown at this time.	873	LS887-012	MSAM-040E	UU	42.54288	2.74728
6	87000527	0.000	1.040	Pennsylvania Ave	103	2156	0	26	86	Unknown at this time.	0	0	Unknown at this time.	1172	LS887-070	MSAM-040E	UU	41.91661	2.74728
6	87000600	0.000	1.378	8th Ave	120	3178	0	39	91	Unknown at this time.	0	0	Unknown at this time.	878	LS887-033	MSAM-040E	UU	21.83283	2.74728
6	87000624	0.000	2.052	120th St	115	43205	1	86	88	Unknown at this time.	0	0	Unknown at this time.	921	LS887-006	MSAM-040E	UU	1.13128	0.18833
6	87013000	1.900	2.887	State Hwy 854	243	78229	0	206	116	Unknown at this time.	0	0	Unknown at this time.	1173	LS887-077	MSAM-040E	UU	1.48882	0.18833
6	87028500	1.600	2.542	17th Ave	126	21391	0	49	94	Unknown at this time.	0	0	Unknown at this time.	874	LS887-014	MSAM-040E	UU	5.23765	0.18833
6	87028501	0.000	2.800	17th Ave	396	6205	2	135	110	Unknown at this time.	0	0	Unknown at this time.	878	LS887-013	MSAM-040E	UU	15.72788	2.74728
6	87028500	1.300	2.218	37th Ave	128	12861	2	36	101	Unknown at this time.	0	0	Unknown at this time.	1134	LS887-081	MSAM-040E	UU	10.37828	2.74728
6	87028501	0.000	0.800	37th Ave	120	12287	0	32	85	Unknown at this time.	0	0	Unknown at this time.	1191	LS887-083	MSAM-040E	UU	11.12965	2.74728
6	87028501	0.800	1.898	37th Ave	134	5177	0	94	111	Unknown at this time.	0	0	Unknown at this time.	1125	LS887-084	MSAM-040E	UU	21.51682	2.74728
6	87028500	0.000	1.000	37th Ave	156	9880	2	35	124	Unknown at this time.	0	0	Unknown at this time.	1257	LS887-038	MSAM-040E	UU	14.24782	2.74728
6	87028500	0.000	1.700	Midland Ave	126	1582	0	91	171	Unknown at this time.	0	0	Unknown at this time.	1061	LS887-064	MSAM-040E	UU	76.67307	2.74728
6	87028501	0.000	2.480	Midland Ave	176	5702	1	48	135	Unknown at this time.	0	0	Unknown at this time.	940	LS887-085	MSAM-040E	UU	11.79859	2.74728
6	87028501	2.600	3.846	Midland Ave	92	2823	1	38	65	Unknown at this time.	0	0	Unknown at this time.	862	LS887-066	MSAM-040E	UU	12.86239	2.74728
6	87028500	2.400	11.337	87th Ave	182	11257	0	53	144	Unknown at this time.	0	0	Unknown at this time.	1130	LS887-051	MSAM-040E	UU	0.78198	0.18833
6	87049500	0.800	2.887	7th St	227	7041	2	67	179	Unknown at this time.	0	0	Unknown at this time.	978	LS887-048	MSAM-040E	UU	15.41761	2.74728
6	87052008	2.800	5.234	March Luther King Blvd	182	24007	1	91	123	Unknown at this time.	0	0	Unknown at this time.	1170	LS887-081	MSAM-040E	UU	2.86412	0.18833
6	87053500	0.000	2.033	Flagler St	163	46050	3	112	95	Unknown at this time.	0	0	Unknown at this time.	1215	LS887-059	MSAM-040E	UU	1.568	0.18833

6	87063501	0.000	1.026	Flagger St	132	10811	2	49	97	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	860	LS887-060	MAHAM-DADE	UD	11.06159	0.18633
6	87064000	0.000	0.760	State Hwy 972	187	71629	0	27	164	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	913	LS887-078	MAHAM-DADE	UD	3.40206	0.18633
6	87064500	0.000	1.700	State Hwy 972	158	14684	0	97	98	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1177	LS887-080	MAHAM-DADE	UD	8.20806	0.18633
6	87065000	1.800	2.464	State Hwy 972	273	2807	1	79	213	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1137	LS887-081	MAHAM-DADE	UU	53.11854	2.74729
6	87064504	0.000	2.561	State Hwy 972	201	9659	1	131	331	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1238	LS887-082	MAHAM-DADE	UD	7.87193	0.18633
6	87064005	0.000	1.812	State Hwy 972	133	28621	0	85	89	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	883	LS887-083	MAHAM-DADE	UD	1.88868	0.18633
6	87067504	0.000	1.700	McFarlane Rd	108	1346	2	43	80	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	861	LS887-082	MAHAM-DADE	UD	46.53064	2.74729
6	87067504	1.700	2.500	Reynolds Dr	102	1195	0	22	86	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	911	LS887-084	MAHAM-DADE	UD	97.34868	0.18633
6	87067505	0.000	1.400	Miami Ave	116	1783	1	33	93	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	961	LS887-087	MAHAM-DADE	UU	37.10017	2.74729
6	87063501	0.000	1.917	3rd Pl	149	4860	0	49	121	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1031	LS887-028	MAHAM-DADE	UU	14.59208	2.74729
6	87077501	1.500	3.071	117th Ave	98	24384	1	78	48	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	870	LS887-054	MAHAM-DADE	UD	1.91881	0.18633
6	87180500	0.400	3.469	2nd Ave	900	4280	1	188	385	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1032	LS887-029	MAHAM-DADE	UU	94.57464	2.74729
6	87504501	0.000	1.500	22nd Ave	187	8725	0	69	122	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	873	LS887-018	MAHAM-DADE	UU	11.64258	2.74729
6	87504500	0.000	2.511	22nd Ave	117	4900	0	90	53	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	2075	LS887-020	MAHAM-DADE	UD	10.39529	0.18633
6	87511500	0.000	2.808	12th Ave	324	4850	1	155	385	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1188	LS887-026	MAHAM-DADE	UU	20.85746	2.74729
6	87522500	2.600	3.851	Dade Blvd	131	1238	0	43	103	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1234	LS887-056	MAHAM-DADE	UU	13.1853	2.74729
6	87580500	0.000	1.539	7th St	281	4985	1	61	211	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	977	LS887-049	MAHAM-DADE	UU	31.04837	2.74729
6	87580501	0.000	1.523	7th St	196	5108	3	69	151	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	875	LS887-050	MAHAM-DADE	UU	21.42881	2.74729
6	87671501	0.400	1.543	State Hwy 948	162	120211	0	69	124	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1129	LS887-076	MAHAM-DADE	UD	0.98828	0.18633
6	87A05800	0.000	1.201	Parsons Ln	146	818	0	43	114	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1083	LS887-074	MAHAM-DADE	UD	178.1641	0.18633
6	87A08018	0.800	2.100	22nd Ter	174	1674	1	20	157	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1754	LS887-021	MAHAM-DADE	UU	61.32888	2.74729
6	87A120E3	0.000	2.053	24th Ave	131	1237	0	67	83	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	924	LS887-022	MAHAM-DADE	UU	47.87135	2.74729
6	87A12721	0.700	1.848	Unimproved Street	81	2872	0	47	53	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1218	LS887-085	MAHAM-DADE	UU	27.08228	2.74729
6	87A13528	0.800	2.853	10th Ave	91	2170	0	39	87	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	872	LS887-023	MAHAM-DADE	UU	15.98284	2.74729
6	87A18079	0.000	1.351	Cowan Dr	233	3788	1	41	294	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1082	LS887-088	MAHAM-DADE	UU	52.0563	2.74729
6	87A18987	0.000	1.689	29th Ct	196	3799	0	47	157	Unknown at this time.	0	Unknown at this time.	0	Unknown at this time.	1136	LS887-078	MAHAM-DADE	UU	27.71148	2.74729

6	87054504	0.000	2.501		SW 24 ST	262	9558	0	143	101	Undersown at this time.	0	2009 Local Segments	481	15687-53	MEAR-DAD2	UD	7.71714	0.19063
6	87054505	0.000	1.612		SW 24 ST	150	39621	0	100	75	Undersown at this time.	0	2009 Local Segments	482	15687-54	MEAR-DAD2	UD	2.1448	0.19063
6	87054506	1.700	2.600		MANE HWY	115	1195	0	29	81	Undersown at this time.	0	2009 Local Segments	483	15687-55	MEAR-DAD2	UD	208.8265	0.19063
6	87054507	0.000	1.000		SW 24 ST	127	1783	1	39	81	Undersown at this time.	0	2009 Local Segments	484	15687-56	MEAR-DAD2	UD	39.25475	2.64061
6	87054508	0.000	1.917		HW 2 AVE	104	7189	0	40	79	Undersown at this time.	0	2009 Local Segments	485	15687-57	MEAR-DAD2	UD	14.83745	2.64061
6	87180509	0.000	3.483		HW 2 AVE	475	4365	1	136	262	Undersown at this time.	0	2009 Local Segments	486	15687-58	MEAR-DAD2	UD	28.15683	2.64061
6	87204510	0.000	1.500		HW 23 AV	180	8723	1	60	135	Undersown at this time.	0	2009 Local Segments	487	15687-59	MEAR-DAD2	UD	13.15015	2.64061
6	87204511	0.000	2.517		HW 21 AVE	124	4100	0	90	58	Undersown at this time.	0	2009 Local Segments	488	15687-60	MEAR-DAD2	UD	10.39263	0.19063
6	87231512	0.000	2.808		W 12 AVE	231	2428	0	140	117	Undersown at this time.	0	2009 Local Segments	489	15687-61	MEAR-DAD2	UD	38.15985	2.64061
6	87231513	2.700	3.851		OWNE AVE	143	6085	0	45	112	Undersown at this time.	0	2009 Local Segments	490	15687-62	MEAR-DAD2	UD	18.8054	2.64061
6	87280514	0.000	1.513		HW 7 ST	286	4985	1	79	276	Undersown at this time.	0	2009 Local Segments	491	15687-63	MEAR-DAD2	UD	34.05123	2.64061
6	87280515	0.000	1.513		HW 7 ST	286	4985	1	79	276	Undersown at this time.	0	2009 Local Segments	492	15687-64	MEAR-DAD2	UD	26.88449	2.64061
6	87280516	0.000	1.513		HW 7 ST	286	4985	1	79	276	Undersown at this time.	0	2009 Local Segments	493	15687-65	MEAR-DAD2	UD	566.1111	0.19063
6	87409518	0.800	2.100		Manorpe Way/Andalusia Ave/SW 22nd St	157	1474	1	25	136	Undersown at this time.	0	2009 Local Segments	494	15687-66	MEAR-DAD2	UD	74.82461	2.64061
6	87412025	0.000	2.053		W 24th Ave/HW 82nd Ave	110	1237	0	71	57	Undersown at this time.	0	2009 Local Segments	495	15687-67	MEAR-DAD2	UD	38.34251	2.64061
6	87416079	0.800	1.555		Ocean Dr	118	1708	1	47	287	Undersown at this time.	0	2009 Local Segments	496	15687-68	MEAR-DAD2	UD	54.12617	2.64061
6	87416087	0.000	1.100		Seabro St	161	3742	0	48	125	Undersown at this time.	0	2009 Local Segments	497	15687-69	MEAR-DAD2	UD	35.94317	2.64061

6	07120000	13.375	14.000	08 30 (0714 07 00)	037	00047	3	140	000	N/A	780725	N/A	700	08007-010	U-000	18.0000	7.1020	
6	07120000	17.377	18.147	08 30 (0714 07 00)	021	14746	0	70	000	See Comments - Within MS approach to provide MS part packet form. Provide number, name, age and minimum possible age limit. At District Ave. District 00 and 00 000 form. After signing and payment mortgage improvements.	1100000	N/A	700	08007-010	U-000	21.0000	9.3000	
6	07200000	4.500	5.000	08 00 (001400 07 00)	700	17770	3	300	000	See Comments		N/A	700	08007-011	U-100	3.0017	3.0000	
6	07200000	3.700	3.000	08 00 (001400 07 00)	310	10660	0	301	000	See Comments		N/A	700	08007-012	U-100	3.0007	3.0000	
6	07200000	1.700	2.000	08 00 (0714 00 00)	000	00071	4	200	000	See Comments		N/A	700	08007-013	U-000	7.0011	0.0075	
6	07200000	3.500	4.000	08 00 (0714 07 00)	037	13610	3	240	000	The program was under construction for most of the referenced three part period for which work data was submitted.		N/A	700	08007-014	U-000	3.0017	3.0000	
6	07200000	3.700	6.700	08 00 (0714 07 00)	000	17002	0	340	000	N/A		N/A	700	08007-015	U-000	3.0006	3.0000	
6	07200000	3.500	3.500	08 00 (07 00)	310	20070	3	000	000	Currently under study.		N/A	700	08007-016	U-000	3.0041	3.0000	
6	07200000	3.500	6.500	08 00 (07 00)	000	130740	0	300	000	Currently under study.		N/A	700	08007-017	U-000	3.0070	3.0000	
6	07200000	7.000	7.000	08 00 (07 00)	041	34000	3	307	000	N/A		N/A	700	08007-018	U-000	3.0700	3.0000	

6	07270400	28.600	1.1.208	28 048 953	304	344397	1	330	308	N/A	0	N/A	N/A	789	50501-028	MMMA-040E	U-097	2.08653	1.30588
6	07282000	1.206	1.306	28 953 (2300 AVE 2007)	462	00046	0	85	395	Currently under study	0	N/A	N/A	600	50501-030	MMMA-040E	U-200	13.30653	7.33378
6	07282000	3.017	4.237	28 953 (2300 AVE 2007)	608	24796	1	204	574	Currently under study	0	N/A	N/A	600	50501-061	MMMA-040E	U-028	6.82644	4.0475

2007 Segment classified as part of 2008 9% VCL
 2008 Segment is currently under study
 2009 Segment is currently under study
 2010 Segment is currently under study
 2011 Segment is currently under study
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 2100 Segment is currently under study



FDOT Florida Traffic Online (2011)

Zoom to

State Extent

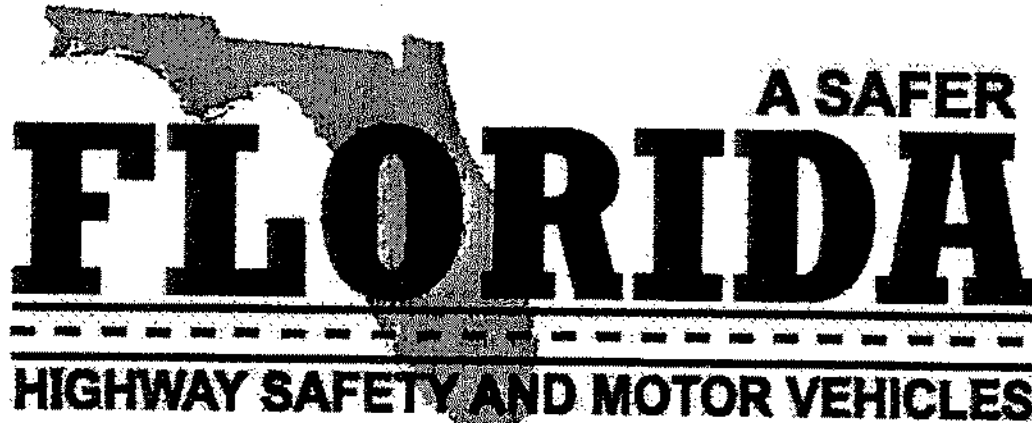
Map Date

Zoom to a City



LEGEND

- Selected Features
- Possible Traffic Monitoring Sites
- Temporary Traffic Monitoring Sites
- Toll Roads
- Interchanges
- Roads
- Rivers
- Lakes
- County Lines
- Airports
- Cities and Towns
- FDOT Urban Areas
- County Boundaries



Traffic Crash Statistics Report 2010

A Compilation of Motor Vehicle Crash Data From the Florida Crash
Records Database

Julie L. Jones
Executive Director

Our Mission: Providing Highway Safety and Security through Excellence in Service, Education and
Enforcement

www.flhsmv.gov

2010 FLORIDA TRAFFIC CRASH STATISTICS

	2009	2010	%Increase/decrease
Traffic crashes	235,778	235,481	-0.13%
Drivers involved	338,833	338,112	-1.29%
Average crashes per day	646	645	-0.13%
Mileage Death Rate (per 100 million VMT)	1.3	1.28	-4.33%
Fatalities	2,583	2,444	-4.64%
Fatal crashes	2,372	2,281	-4.68%
Injuries	197,214	195,104	-1.07%
Injury crashes	125,675	124,847	-0.66%
Property damage only crashes	107,731	108,353	0.58%
Alcohol-related fatalities*	1,004	794	-20.92%
Pending Fatal Blood Alcohol Content (BAC)	97	216	122.68%
Alcohol-related injuries	14,130	12,168	-13.89%
Alcohol-related crashes	20,085	17,748	-11.64%
Alcohol-related fatal crashes	821	746	-9.00%
Alcohol-related injury crashes	8,964	7,825	-13.00%
Drug-related fatalities	113	106	-6.19%
Drug-related injuries	977	957	-2.05%
Drug-related crashes	1,283	1,236	-3.66%
Pedestrians killed	482	499	3.53%
Pedestrians injured	7,876	7,290	-5.03%
Pedestrian crashes	8,248	7,894	-4.29%
Bicyclists killed	99	76	-24.00%
Bicyclists injured	4,376	4,800	3.95%
Bicycle crashes	4,774	4,925	3.16%
Motorcyclists killed	376	350	-6.91%
Motorcycle passengers killed	26	33	26.92%
Motorcyclists injured	7,435	8,686	10.07%
Motorcycle passengers injured	767	725	-5.48%
Motorcycle crashes	8,313	7,484	-9.97%
Teen drivers killed	80	80	0.00%
Teen passengers killed	73	64	-12.33%
Teen drivers injured	10,639	10,563	-0.71%
Teen passengers injured	8,653	7,980	-7.78%
Teen crashes	29,485	26,848	-8.94%

* The significant drop in alcohol-related fatalities is due to minor reporting of Blood Alcohol Content (BAC) by law enforcement agencies.

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Appendix

Florida Traffic Crash Reporting Form (Old Form)

Florida Traffic Crash Reporting Form (New Form)

The information contained in this Traffic Crash Statistics booklet is extracted from law enforcement agency long-form reports of traffic crashes in which a motor vehicle is involved. A law enforcement officer must submit a long form crash report when investigating:

- Motor vehicle crashes resulting in death or personal injury, or
- Motor vehicle crashes in which one or more of the following conditions occur:
 - Leaving the scene involving damage to an attended vehicle or property (Section 316.061 (1), F.S.), or
 - Driving while under the influence of alcoholic beverages, chemical substances, or controlled substances or with an unlawful blood alcohol level (Section 316.193, F.S.).

An investigating officer may report other traffic crashes on the long-form crash report. In particular, applicable statutes specify an officer's discretion to submit a long-form report in crashes where a vehicle is rendered inoperable to the degree that a wrecker is required to remove it from traffic. However, only those crashes that meet the criteria above are included in this report.

January 1, 2011, the Department began using a new and improved long form crash form. The data in this report comes from the previous long form crash report and the new long form crash report. In October of 2010, a few agencies began using the new crash report form. Both forms are attached to the end of this report.

The following terms are defined as they apply to the crash data presented in this publication. These definitions may differ from legal or other uses of the same terms.

Alcohol-related traffic crash	A crash involving a driver and/or pedestrian for whom alcohol use was reported (does not presume intoxication).
All-Terrain Vehicle (ATV)	A small open motorized vehicle with three or four wheels, designed for off-road use with a seat that is straddled and handlebars for steering.
Bicycle	A vehicle propelled solely by human power or a motorized bicycle propelled by a combination of human power and an electric helper motor rated at 200 watts or less (this term does not include a vehicle with a seat height less than 26 inches from the ground when the seat is adjusted to its highest position, or a scooter or similar device).
Bicyclist	The driver of a bicycle. A passenger on a bicycle is considered a vehicle passenger. A bicyclist is considered a non-motorist.
Commercial motor vehicle (CMV)	Means any motor vehicle or motor vehicle combination used on the streets or highways which: <ol style="list-style-type: none"> 1) has a gross, declared, or actual weight rating of 26,001 pounds or more; 2) is designed to transport more than 15 persons, including the driver; or 3) is transporting hazardous materials and is required to be placarded.
Driver	Unless otherwise indicated, the operator of a motor vehicle or bicycle. Driver data typically exclude uninjured persons presumed to have been operating hit-and-run, phantom, or properly parked vehicles.
Drinking driver	Indicates investigating officer's judgment on whether a driver was using alcohol. Codes include alcohol-under influence, alcohol and drugs-under influence, and had been drinking.
Fatal traffic crash	A traffic crash that results in one or more fatalities within thirty days of occurrence.
Harmful events	Identifies the first and subsequent harmful events for each vehicle in a traffic crash.
Injury	Hurt, damage, or loss sustained by a person as a result of a traffic crash. Definitions for the various injury levels are as follows:
Injury crash	A non-fatal traffic crash that results in one or more injuries.
Incapacitating injury	Any visible signs of injury from a crash and person(s) had to be carried from the scene.

Definition of Terms*(Continued)***2010 Florida Traffic
Crash Statistics**

Non-incapacitating injury	Any visible injuries such as bruises, abrasions, limping, etc.
Possible injury	No visible signs of injury but complaint of pain or momentary unconsciousness.
Total injury	The sum of possible, non-incapacitating, and incapacitating injuries.
Long form	Refers to a crash report prepared by a law enforcement officer where there has been a crash resulting in bodily injury, the death of a person or where a specified criminal offense has been committed.
Low Speed Vehicle	Any vehicle traveling between 1 and 10 mph that does not involve a bicycle.
Moped	A motor-powered cycle with a pedal-activated motor and a maximum of two brake horsepower.
Motor vehicle	Any motorized vehicle not operating on rails.
Motorcycle	A motor vehicle, with a seat or saddle for the driver's use, traveling with no more than three wheels in contact with the ground, excluding a tractor or a moped.
Motorcyclist	The driver of a motorcycle. A passenger on a motorcycle is considered a vehicle passenger.
Short form	Refers to a crash report in which the threshold of the long form does not apply. Therefore, a long form report is not prepared. In crashes where apparent damage is less than \$500, the law enforcement officer shall provide each party involved in the crash a driver exchange form prescribed by the state, to be completed by each party of the parties.
Traffic crash	A crash involving at least one motor vehicle on a roadway that is open to the public.
Traffic fatality	The death of a person as a direct result of a traffic crash within thirty days of the crash occurrence.
Vehicle and/or property damage only crash	Loss of all or part of an individual's vehicle and/or property resulting from a traffic crash not involving injury to a person.
Vehicle occupants	Drivers and passengers of automobiles, vans, trucks, buses, and motor homes.

**Safety Equipment Used
Injury Levels**

**2010 Florida Traffic
Crash Statistics**

TABLE 1* Comparative Safety Equipment Use By Drivers

	No Injury	%	Possible Injury	%	Non-Incapacitating Injury	%	Incapacitating Injury	%	Total	%	Injury Not Stated	%	Total
Safety Belt	67,250	32.45%	17,818	24.90%	7,759	21.43%	1,721	15.07%	87	8.45%	0.0	0.00%	
Belt and Bag-Deployed	17,512	8.45%	12,498	17.66%	11,035	30.49%	3,606	33.56%	282	27.38%	1.0	1.92%	
Belt and Bag-Not Deployed	111,771	53.92%	35,823	50.77%	13,910	38.43%	3,904	34.19%	128	12.43%	3.0	3.77%	
Not Using Safety Equipment	7,955	3.84%	2,406	3.40%	1,843	4.54%	751	6.56%	160	17.45%	0.0	0.00%	
Air Bag Only-Deployed	811	0.39%	871	1.22%	1,040	2.87%	736	6.47%	233	23.62%	0.0	0.00%	
Air Bag Only-Not Deployed	1,955	0.94%	892	1.26%	722	1.99%	444	3.89%	116	11.26%	0.0	0.00%	
Use Not Stated	21	0.01%	547	0.77%	91	0.26%	28	0.23%	4	0.39%	48.0	92.31%	

Comparative Safety Equipment Use By Vehicle Passengers

	No Injury	%	Possible Injury	%	Non-Incapacitating Injury	%	Incapacitating Injury	%	Total	%	Injury Not Stated	%	Total
Safety Belt	43,702	40.31%	12,308	39.17%	5,072	33.48%	1,243	25.51%	49	11.67%	2	3.69%	
Belt and Bag-Deployed	4,683	4.30%	3,486	10.16%	2,869	17.82%	1,006	20.99%	70	16.67%	0	0.00%	
Belt and Bag-Not Deployed	40,001	38.90%	13,117	38.59%	4,748	31.34%	1,330	27.29%	45	10.71%	1	1.82%	
Child Restraint	9,054	8.35%	1,847	5.43%	414	2.75%	108	2.18%	6	1.43%	1	1.92%	
Child Restraint-Bag Deployed	184	0.18%	88	0.26%	45	0.30%	8	0.16%	0	0.00%	0	0.00%	
Child Restraint-Bag Not Deployed	2,028	1.87%	492	1.45%	91	0.60%	18	0.37%	1	0.24%	0	0.00%	
Not Using Safety Equipment	7,478	6.90%	2,001	5.89%	1,475	9.74%	758	15.59%	142	33.81%	3	5.77%	
Air Bag Only-Deployed	234	0.22%	207	0.61%	294	1.74%	208	4.22%	61	14.52%	1	1.82%	
Air Bag Only-Not Deployed	998	0.92%	472	1.39%	359	2.37%	200	4.10%	45	10.71%	2	3.88%	
Use Not Stated	84	0.08%	24	0.07%	11	0.07%	3	0.10%	1	0.24%	42	80.77%	

TABLE 1A* Comparative Safety Equipment Use By Drivers and Vehicle Passengers

	No Injury	%	Possible Injury	%	Non-Incapacitating Injury	%	Incapacitating Injury	%	Total	%	Injury Not Stated	%	Total
Safety Belt	110,963	35.15%	29,822	28.56%	12,826	24.05%	2,988	18.20%	136	9.35%	2	1.92%	
Belt and Bag-Deployed	22,179	7.02%	15,952	18.23%	13,704	26.95%	4,840	29.69%	343	24.28%	1	0.90%	
Belt and Bag-Not Deployed	181,772	48.08%	49,040	45.81%	18,688	38.34%	5,234	32.11%	173	11.93%	4	3.85%	
Child Restraint	9,054	2.87%	1,847	1.76%	414	0.81%	108	0.84%	6	0.41%	1	0.96%	
Child Restraint-Bag Deployed	184	0.05%	88	0.08%	45	0.09%	8	0.08%	0	0.00%	0	0.00%	
Child Restraint-Bag Not Deployed	2,028	0.64%	492	0.47%	91	0.18%	18	0.11%	1	0.07%	0	0.00%	
Not Using Safety Equipment	18,431	4.86%	4,410	4.21%	3,118	6.07%	1,509	8.28%	323	22.31%	3	2.88%	
Air Bag Only-Deployed	1,045	0.33%	1,078	1.03%	1,304	2.54%	945	5.80%	294	20.28%	1	0.96%	
Air Bag Only-Not Deployed	2,953	0.94%	1,364	1.30%	1,081	2.11%	644	3.95%	161	11.10%	2	1.92%	
Use Not Stated	115	0.04%	371	0.34%	102	0.20%	31	0.19%	5	0.34%	90	88.54%	

* Both tables refer to Seat Belt Equipped Vehicles (SBEV) which include vehicle types: automobiles, vans, trucks, motor homes, and buses.

Buses seating over 15 passengers are no longer considered a Seat Belt Equipped Vehicle as they were in the past.

NOTE: In 2010, Florida experienced 1,450 traffic deaths of drivers and passengers in SBEV. The tragic rate of this, is 54%, or 777 of these people killed were not wearing seat belts.

**Safety Equipment Use/
Injury Levels**

2010 Florida Traffic
Crash Statistics

TABLE 1B Comparative Safety Equipment Use By Motorcyclists and Their Passengers

	No Injury	%	Possible Injury	%	Non-Incapacitating Injury	%	Incapacitating Injury	%	Fatal	%	Injury Not Started	%	Total
With Safety Helmet													
Driver	415	53.07%	840	54.44%	2,006	56.60%	1,148	49.40%	186	48.56%	0	0.00%	4,369
Passenger	57	7.29%	83	5.38%	167	4.71%	124	5.34%	10	2.61%	0	0.00%	211
SUBTOTAL	472	60.36%	923	59.82%	2,173	61.31%	1,272	54.74%	196	51.17%	0	0.00%	4,580
Without Safety Helmet													
Driver	212	27.11%	493	31.95%	1,088	30.70%	785	33.78%	122	31.85%	0	0.00%	2,368
Passenger	53	6.78%	70	4.54%	124	3.50%	104	4.48%	19	4.96%	0	0.00%	170
SUBTOTAL	265	33.89%	563	36.49%	1,212	34.20%	889	38.26%	141	36.81%	0	0.00%	2,538
Use Not Stated													
Driver	31	3.96%	50	3.24%	137	3.87%	139	5.98%	42	10.97%	1	100.00%	400
Passenger	14	1.79%	7	0.45%	22	0.62%	24	1.03%	4	1.04%	0	0.00%	11
SUBTOTAL	45	5.75%	57	3.69%	159	4.49%	163	7.01%	46	12.01%	1	100.00%	411
TOTAL	777	100.00%	1,486	100.00%	3,385	100.00%	2,135	100.00%	342	100.00%	1	100.00%	7,119

TABLE 1C Comparative Safety Equipment Use By Bicyclists and Their Passengers

	No Injury	%	Possible Injury	%	Non-Incapacitating Injury	%	Incapacitating Injury	%	Fatal	%	Injury Not Started	%	Total
With Safety Helmet													
Driver	38	9.69%	180	11.17%	322	14.35%	118	15.84%	8	10.53%	0	0.00%	566
Passenger	0	0.00%	1	0.06%	2	0.09%	0	0.00%	0	0.00%	0	0.00%	3
SUBTOTAL	38	9.69%	181	11.23%	324	14.44%	118	15.84%	8	10.53%	0	0.00%	569
Without Safety Helmet													
Driver	310	79.08%	1,388	86.16%	1,886	84.05%	617	82.82%	68	89.47%	0	0.00%	3,751
Passenger	15	3.83%	19	1.18%	20	0.89%	3	0.40%	0	0.00%	0	0.00%	47
SUBTOTAL	325	82.91%	1,407	87.34%	1,906	84.94%	620	83.22%	68	89.47%	0	0.00%	3,798
Use Not Stated													
Driver	16	4.08%	22	1.37%	13	0.58%	7	0.94%	0	0.00%	0	0.00%	18
Passenger	13	3.32%	1	0.06%	1	0.04%	0	0.00%	0	0.00%	0	0.00%	13
SUBTOTAL	29	7.40%	23	1.43%	14	0.62%	7	0.94%	0	0.00%	0	0.00%	31
TOTAL	392	100.00%	1,611	100.00%	3,240	100.00%	2,145	100.00%	76	100.00%	0	0.00%	7,168

* Injuries reported for motorcyclists and bicyclists include head and other bodily injuries.

NOTE: 4 percent of drivers of motorcycles in crashes that wore helmets were killed. 4.5 percent of drivers of motorcycles in crashes who did not wear helmets were killed.

NOTE: 2.3 percent of passengers of motorcycles in crashes that wore helmets were killed. 5.1 percent of passengers of motorcycles in crashes who did not wear helmets were killed.

NOTE: 1.2 percent of bicyclists in crashes that wore helmets were killed. 1.6 percent of bicyclists in crashes that did not wear helmets were killed. There were no bicycle passengers killed in 2010.

Safety Equipment Use
Injury Levels

2010 Florida Traffic
Crash Statistics

TABLE 1D INJURIES AND FATALITIES BY MISCELLANEOUS VEHICLES

	No Injury	%	Possible Injury	%	Non-Incapacitating Injury	%	Incapacitating Injury	%	Fatal	%	Injury Not Stated	%	Total
Bus*													
Driver	1,673	0.00%	177	10.33%	34	4.71%	11	2.08%	1	2.78%	0	0.00%	1,916
Passenger	11,034	81.98%	1,116	65.11%	341	29.76%	131	24.81%	6	16.67%	0	0.00%	12,628
SUBTOTAL	12,707	81.98%	1,293	65.43%	375	34.47%	142	26.89%	7	19.44%	0	0.00%	14,544
Moped													
Driver	71	0.53%	178	10.39%	405	35.34%	161	30.49%	14	38.89%	0	0.00%	829
Passenger	15	0.11%	16	0.93%	45	3.93%	9	1.70%	0	0.00%	0	0.00%	85
SUBTOTAL	86	0.64%	194	11.32%	450	39.27%	170	32.19%	14	38.89%	0	0.00%	914
All Terrain Vehicle													
Driver	93	0.69%	41	2.39%	147	12.83%	112	21.21%	10	27.78%	0	0.00%	403
Passenger	56	0.42%	32	1.87%	43	3.75%	44	8.33%	4	11.11%	0	0.00%	179
SUBTOTAL	149	1.11%	73	4.26%	190	16.58%	156	29.54%	14	38.89%	0	0.00%	582
Train													
Driver	93	0.69%	41	2.39%	147	12.83%	112	21.21%	10	27.78%	0	0.00%	403
Passenger	56	0.42%	32	1.87%	43	3.75%	44	8.33%	4	11.11%	0	0.00%	179
SUBTOTAL	149	1.11%	73	4.26%	190	16.58%	156	29.54%	14	38.89%	0	0.00%	582
Low Speed Vehicle													
Driver	63	0.47%	30	1.75%	51	4.45%	33	6.25%	0	0.00%	0	0.00%	177
Passenger	29	0.22%	7	0.41%	22	1.92%	13	2.46%	1	2.78%	0	0.00%	72
SUBTOTAL	92	0.69%	37	2.16%	73	6.37%	46	8.71%	1	2.78%	0	0.00%	249
Farm Labor Vehicle*													
Driver	1	0.01%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1
Passenger	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
SUBTOTAL	1	0.01%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1
Unknown Vehicle Type													
Driver	15	0.11%	66	3.85%	12	1.05%	6	1.14%	0	0.00%	46	100.00%	145
Passenger	354	2.63%	49	2.86%	25	2.18%	8	1.52%	0	0.00%	0	0.00%	436
SUBTOTAL	369	2.74%	115	6.71%	37	3.23%	14	2.66%	0	0.00%	46	100.00%	581
TOTAL	13,072	96.31%	1,408	72.19%	412	36.82%	156	29.83%	14	38.89%	0	0.00%	14,662

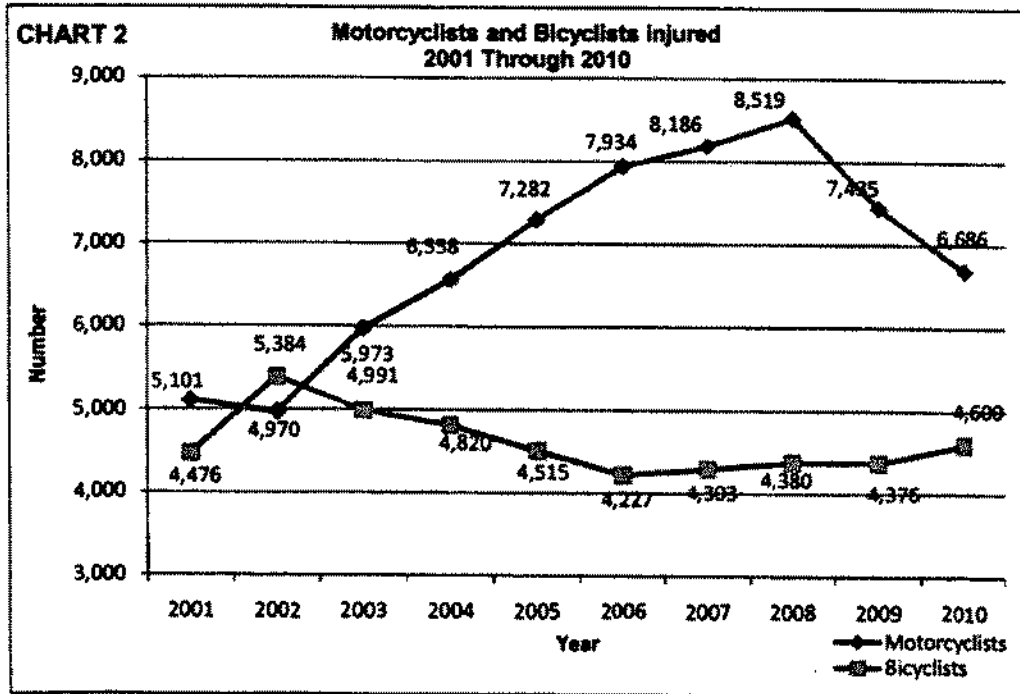
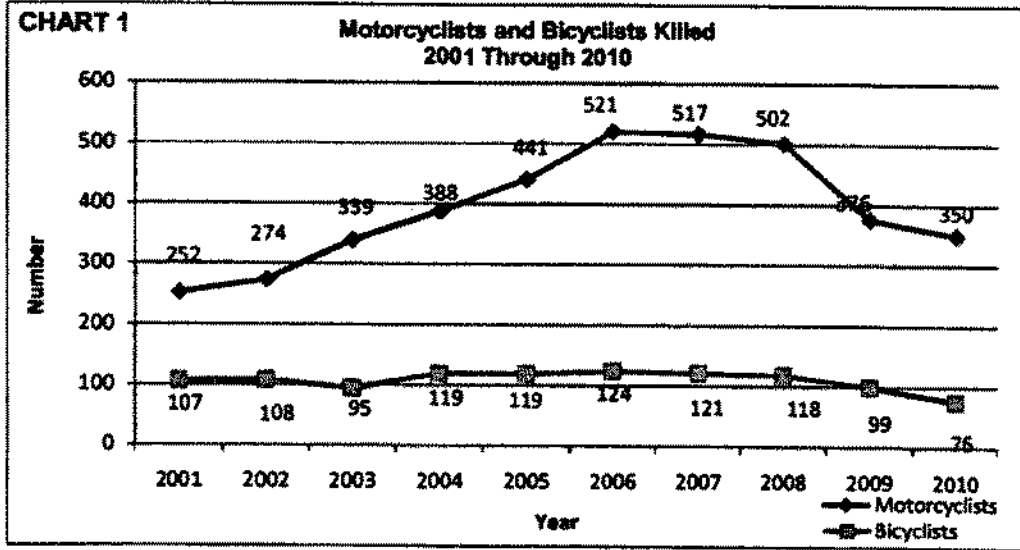
* Bus is included in miscellaneous vehicles for 2010

TABLE 1E SUMMARY OF INJURIES AND FATALITIES OF NON-MOTORISTS

Non-Motorist Type	No Injury	%	Possible Injury	%	Non-Incapacitating Injury	%	Incapacitating Injury	%	Fatal	%	Injury Not Stated	%	Total
Pedestrian	504	97.86%	2,508	99.96%	3,171	99.75%	1,598	99.63%	499	100.00%	38	100.00%	8,318
Other Pedestrian	1	0.19%	0	0.00%	3	0.09%	5	0.31%	0	0.00%	0	0.00%	9
Occupant of MV not in Transport	4	0.78%	0	0.00%	3	0.09%	1	0.06%	0	0.00%	0	0.00%	8
Occupant of Non-MV Transport	2	0.39%	1	0.04%	2	0.06%	0	0.00%	0	0.00%	0	0.00%	5
Unknown	4	0.78%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	4
TOTAL	515	100.00%	2,509	100.00%	3,179	100.00%	1,604	100.00%	499	100.00%	38	100.00%	8,334

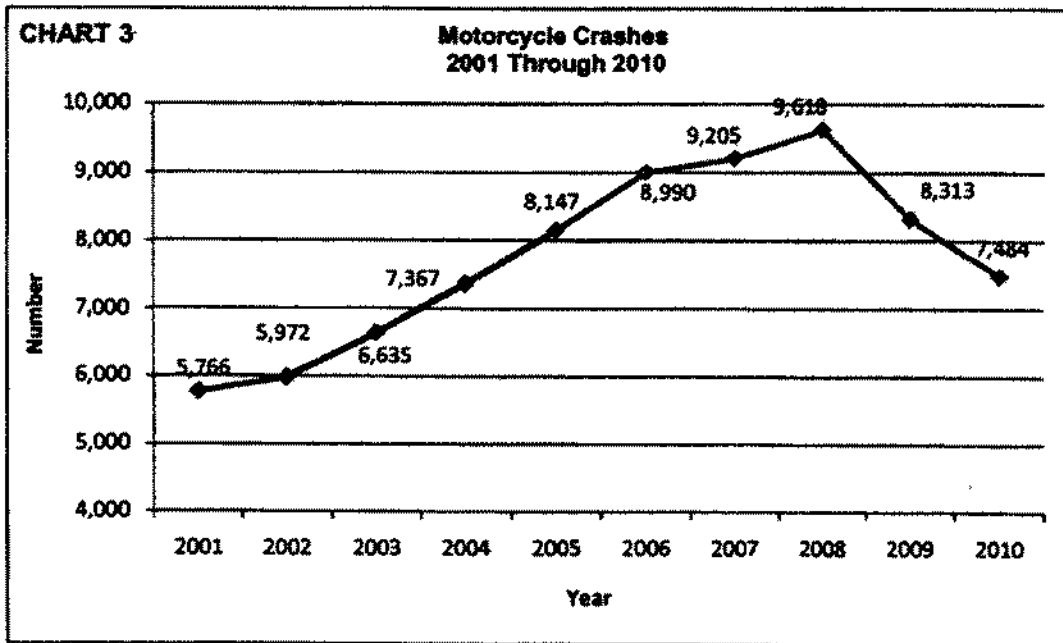
**Chart 1 & 2
Motorcyclists and Bicyclists**

**2010 Florida Traffic
Crash Statistics**



**Chart 3
Motorcycle Crash Trend**

**2010 Florida Traffic
Crash Statistics**



Age of Drivers in Crashes **2010 Florida Traffic
Crash Statistics**

TABLE 2 Crash Rates for Florida Resident Drivers in Crashes By Age Groups

Age Groups	Licensed Drivers	Drivers In All Crashes	Rate Per 10,000 Licensed Drivers	Drivers In Fatal Crashes	Rate Per 10,000 Licensed Drivers
Under 15	0	204		1	
15-19	737,845	26,848	363.97	217	2.94
20-24	1,273,230	43,007	337.78	388	3.05
25-29	1,362,495	34,732	254.91	345	2.53
30-34	1,273,013	29,150	228.98	250	1.96
35-39	1,275,833	27,608	216.40	248	1.94
40-44	1,363,920	27,217	199.55	233	1.71
45-49	1,476,014	27,928	189.21	260	1.76
50-54	1,406,732	23,823	169.35	221	1.57
55-59	1,250,095	16,718	149.73	197	1.58
60-64	1,160,283	14,551	125.41	150	1.29
65-69	935,943	10,016	107.02	120	1.28
70-74	719,638	6,940	96.44	102	1.42
75-79	545,313	5,366	98.40	89	1.63
80-84	412,310	3,878	94.06	79	1.92
85-89	226,610	2,016	88.96	37	1.63
90+	88,230	697	79.00	15	1.70
Unknown	0	2,875		17	
TOTAL	15,497,781	493,778	319.08	1969	1.31

NOTE: Drivers 15 to 19 years of age have the highest rate per 10,000 licensed drivers of crash involvement (363.97) and drivers 20 to 24 have the highest rate in fatal crashes (3.05).

TABLE 3 Crash Rates for Florida Resident Drinking Drivers in Crashes By Age Groups

Age Groups	Licensed Drivers	Drinking Drivers In All Crashes	Rate Per 10,000 Licensed Drivers	Drinking Drivers In Fatal Crashes	Rate Per 10,000 Licensed Drivers
Under 15	0	6		0	
15-19	737,845	610	8.27	23	0.31
20-24	1,273,230	2,264	17.78	100	0.79
25-29	1,362,495	1,880	13.80	97	0.71
30-34	1,273,013	1,429	11.23	69	0.54
35-39	1,275,833	1,106	8.67	39	0.31
40-44	1,363,920	1,161	8.51	39	0.29
45-49	1,476,014	1,269	8.60	47	0.32
50-54	1,406,732	1,012	7.19	39	0.28
55-59	1,250,095	637	5.10	29	0.23
60-64	1,160,283	417	3.59	17	0.15
65-69	935,943	227	2.43	9	0.10
70-74	719,638	88	1.22	6	0.08
75-79	545,313	62	1.14	2	0.04
80-84	412,310	43	1.04	1	0.02
85-89	226,610	8	0.35	0	
90+	88,230	9	1.02	0	
Unknown	0	122		2	
TOTAL	15,497,781	12,724	0.82	119	0.77

NOTE: Drivers 20 to 24 years of age who had been drinking had the highest rate per 10,000 licensed drivers of crash involvement (17.78) and the highest rate in fatal crashes (0.76).

*Does not include drivers of bicycles, mopeds, ATVs, or trains in "all crashes" and in "fatal crashes" categories on both tables.

*Does include all other motor vehicles, cars, vans, motorcycles, tractor trailers, buses, etc.

Selected Age Groups **2010 Florida Traffic Crash Statistics**

TABLE 4 **Crash Rates for Florida Resident Drivers in Crashes for a Selected Age Group (15 - 29)**

Age of Driver	Licensed Drivers	Drivers in All Crashes	Rate Per 10,000 Licensed Drivers	Drivers in Fatal Crashes	Rate Per 10,000 Licensed Drivers
15	67,112	345	51.41	8	1.19
16	119,455	3081	256.25	26	2.18
17	152,346	5414	355.38	46	3.02
18	185,206	8624	465.64	66	3.56
19	213,526	9404	440.41	71	3.33
20	239,207	9172	383.43	77	3.22
21	252,171	9253	368.83	75	2.97
22	261,796	8579	327.70	86	3.29
23	258,264	8142	315.26	76	2.94
24	261,792	7881	300.28	74	2.83
25	273,469	7527	275.24	80	2.93
26	273,603	7275	265.90	78	2.85
27	272,273	6852	251.66	77	2.83
28	275,963	6759	244.92	62	2.25
29	267,187	6319	236.50	48	1.80

NOTE: Drivers 18 years of age had the highest rate of crash involvement in all crashes (465.64) and in fatal crashes (3.56), for the age group of 15-29.

TABLE 5 **Crash Rates for Florida Resident Drivers in Crashes for a Selected Age Group (70 - 90+)**

Age of Driver	Licensed Drivers	Drivers in All Crashes	Rate Per 10,000 Licensed Drivers	Drivers in Fatal Crashes	Rate Per 10,000 Licensed Drivers
70	158,482	1,557	98.24	21	1.33
71	149,134	1,440	96.56	19	1.27
72	146,733	1,374	93.64	23	1.57
73	136,087	1,343	98.69	21	1.54
74	129,202	1,226	94.89	18	1.39
75	121,912	1,204	98.76	12	0.98
76	114,852	1,050	91.42	15	1.31
77	105,255	1,102	104.70	20	1.90
78	105,324	1,020	96.84	22	2.09
79	97,970	990	101.05	20	2.04
80	97,451	970	99.54	12	1.23
81	86,893	838	96.44	17	1.96
82	84,223	740	87.86	16	1.90
83	75,559	649	85.89	20	2.66
84	68,184	681	99.88	14	2.05
85	58,668	539	91.87	12	2.05
86	53,822	511	94.94	12	2.23
87	44,070	373	84.64	7	1.59
88	38,706	329	85.00	4	1.03
89	31,344	264	84.23	2	0.64
90+	88,230	897	79.00	15	1.70

NOTE: Drivers 77 years of age have the highest rate of crash involvement in all crashes (104.70) and drivers 83 years of age had the highest rate of involvement in fatal crashes (2.66), for the age group of 70-90+.

* Does not include drivers of bicycles, mopeds, ATVs, or trains in "all crashes" and in "fatal crashes" categories on both tables.

* Does include all other motor vehicles, cars, vans, motorcycles, tractor trailers, buses, etc.

Selected Age Groups

**2010 Florida Traffic
Crash Statistics**

TABLE 6 Crash Rates for Florida Resident Drinking Drivers
In Crashes for a Selected Age Group (15 - 28)

Age of Driver	Licensed Drivers	Drinking Drivers In All Crashes	Rate Per 10,000 Licensed Drivers	Drinking Drivers In Fatal Crashes	Rate Per 10,000 Licensed Drivers
15	67,112	3	0.45	1	0.15
16	119,455	44	3.68	2	0.17
17	152,346	73	4.79	0	0.00
18	185,206	205	11.07	11	0.59
19	213,526	285	13.35	9	0.42
20	239,207	329	13.75	18	0.75
21	252,171	526	20.86	20	0.79
22	261,796	482	18.41	20	0.76
23	258,264	464	17.97	21	0.81
24	261,792	483	17.99	21	0.80
25	273,469	406	14.85	23	0.84
26	273,603	412	15.06	24	0.88
27	272,273	388	14.25	25	0.92
28	275,963	373	13.52	14	0.51
29	267,187	301	11.27	11	0.41

NOTE: 21 year old drinking drivers had the highest involvement rate in all crashes (20.86) and the 27 year old drinking drivers had the highest involvement rate in fatal crashes (0.92)

TABLE 7 Crash Rates for Florida Resident Drinking Drivers
In Crashes for a Selected Age Group (70 - 90+)

Age of Driver	Licensed Drivers	Drinking Drivers In All Crashes	Rate Per 10,000 Licensed Drivers	Drinking Drivers In Fatal Crashes	Rate Per 10,000 Licensed Drivers
70	158,482	25	1.58	2	0.13
71	149,134	18	1.21	1	0.07
72	146,733	14	0.95	0	0.00
73	136,087	18	1.32	2	0.15
74	129,202	13	1.01	1	0.08
75	121,912	18	1.48	1	0.08
76	114,852	15	1.31	0	0.00
77	105,255	10	0.95	0	0.00
78	105,324	9	0.85	0	0.00
79	97,970	10	1.02	1	0.10
80	97,451	11	1.13	0	0.00
81	86,893	11	1.27	1	0.12
82	84,223	9	1.07	0	0.00
83	75,559	7	0.83	0	0.00
84	68,184	5	0.73	0	0.00
85	58,668	1	0.17	0	0.00
86	53,822	2	0.37	0	0.00
87	44,070	2	0.45	0	0.00
88	38,706	1	0.26	0	0.00
89	31,344	2	0.64	0	0.00
90+	88,230	9	1.02	0	0.00

NOTE: 70 year old drinking drivers had the highest involvement rate in all crashes (1.58) and the 73 year old drinking drivers had the highest involvement rate in fatal crashes (0.15).

* Does not include drivers of bicycles, mopeds, ATVs, or trains in "all crashes" and in "fatal crashes" categories on both tables.

*Does include all other motor vehicles, cars, vans, motorcycles, tractor trailers, buses, etc.

Table 8 Drivers Killed or Injured By Age Groups

Age	All Drivers Involved	% All	Killed	% Killed	Injured	% Injured
Under 15	302	0.09%	0	0	198	0.18%
15	391	0.12%	5	0.36%	152	0.12%
18	3,254	0.96%	8	0.57%	1,024	0.81%
17	5,812	1.72%	12	0.85%	1,902	1.50%
18	9,343	2.76%	26	1.85%	3,241	2.56%
19	10,281	3.03%	29	2.06%	3,718	2.94%
20	10,104	2.99%	32	2.28%	3,830	3.03%
21-24	37,297	11.03%	145	10.32%	14,021	11.08%
25-34	69,974	20.70%	290	20.84%	26,065	20.60%
35-44	60,144	17.79%	185	13.17%	21,920	17.32%
45-54	56,928	16.84%	202	14.38%	21,433	18.94%
55-64	37,158	10.99%	184	13.10%	14,331	11.33%
65-74	19,417	5.74%	130	9.25%	7,425	5.87%
75-84	10,408	3.08%	103	7.33%	4,235	3.35%
85-89	2,233	0.66%	27	1.92%	926	0.73%
90+	785	0.23%	18	1.14%	311	0.25%
Unknown	4,321	1.28%	11	0.78%	1,811	1.43%
Total	11,117	100%	1,403	100%	14,645	100%

Persons in Crashes by Age and Gender **2010 Florida Traffic**
Persons Killed **Crash Statistics**

TABLE 9 **Persons Killed**

Age Group	Drivers			Passengers			Bicyclists			Pedestrians		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
0-4	24	0	0	14	7	7	0	0	0	10	5	5
5-9	25	0	0	17	10	7	0	0	0	8	1	5
10-14	23	0	0	11	5	6	0	0	0	9	5	4
15	18	5	0	5	4	1	0	0	0	6	6	0
16	21	8	4	10	4	6	0	0	0	3	3	0
17	31	12	2	15	9	6	0	1	0	3	3	0
18	46	26	3	12	9	3	0	0	0	8	4	4
19	60	29	7	22	13	9	0	1	0	8	4	4
20	47	32	6	13	8	5	0	1	0	1	1	0
21-24	229	145	108	52	34	18	0	1	0	31	23	8
25-34	420	290	243	58	35	23	0	9	1	83	49	14
35-44	301	185	140	40	17	23	0	8	7	68	43	25
45-54	368	202	147	43	10	33	0	27	24	97	74	23
55-64	318	184	147	40	10	30	0	12	12	82	63	19
65-74	213	130	102	33	7	26	0	4	4	46	28	17
75-84	188	103	66	45	15	30	0	4	4	36	19	17
85-89	50	27	18	10	4	6	0	1	1	12	8	4
90+	35	16	12	4	4	0	0	0	0	7	6	1
Unknown	28	11	11	12	9	3	0	2	2	3	2	1

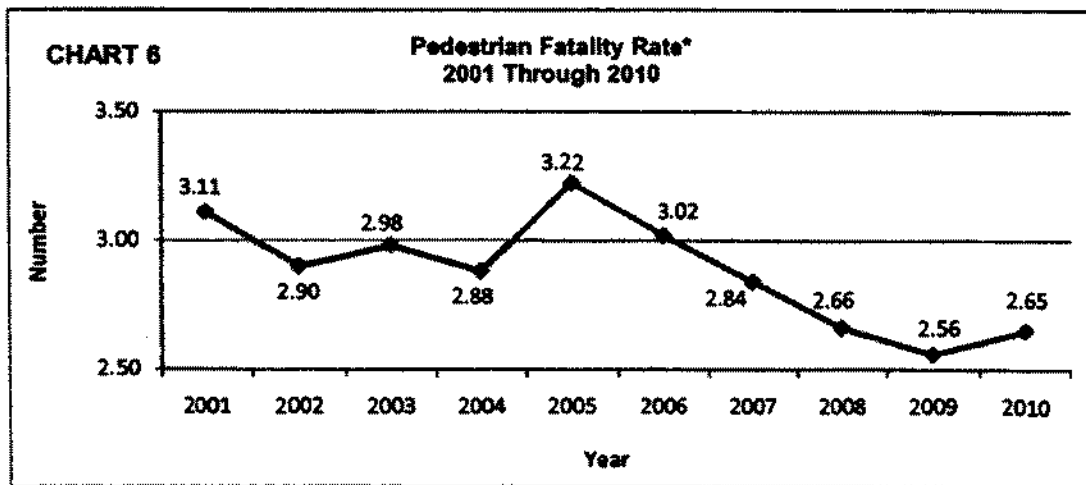
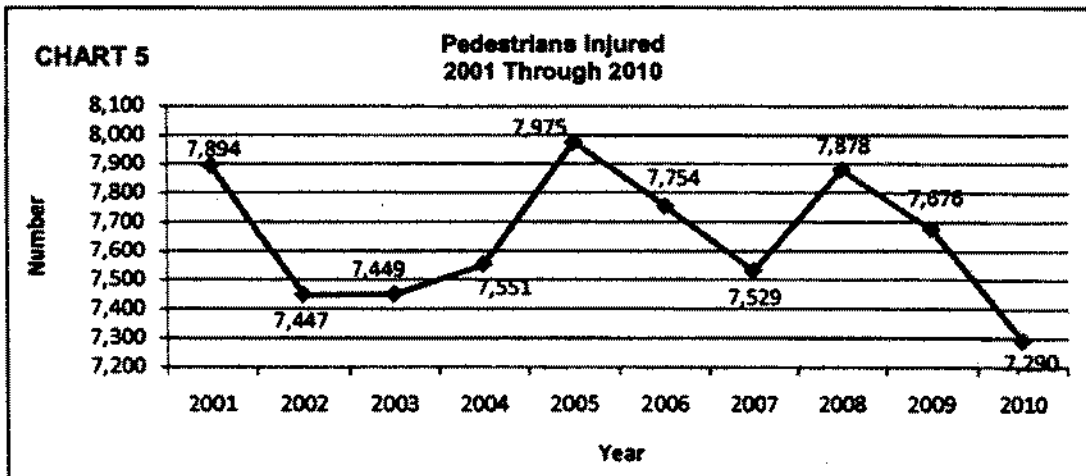
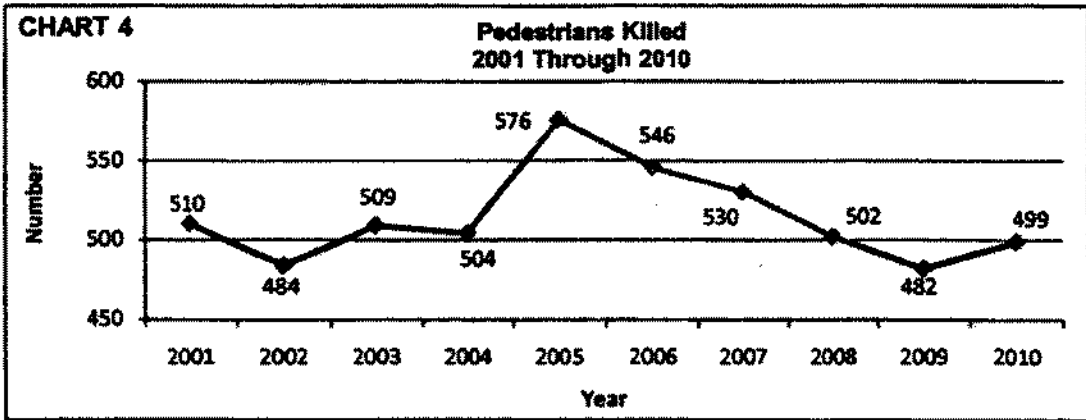
Includes persons riding motorcycles. Please see Table 11 for motorcycle specific data.
 Bicyclists are no longer categorized by "driver" and "passenger".

Persons in Crashes by Age and Gender **2010 Florida Traffic**
Persons Injured **Crash Statistics**

TABLE 10 **Persons in Crashes by Age and Gender-Persons Injured**

Age Groups	Drivers*			Passengers			Bicycle Riders**			Pedestrians						
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female				
	Injured															
0-4	3,885	12	6	3	3,877	1,859	1,618	0	16	10	6	0	180	111	68	1
5-6	4,444	36	29	7	4,003	1,831	2,072	0	135	90	45	0	270	167	102	1
10-14	5,516	150	107	42	4,536	1,878	2,560	0	361	319	72	0	441	272	168	3
15	1,877	152	82	60	1,260	469	761	0	114	89	25	0	151	85	65	1
16	2,711	1,024	461	543	1,416	538	880	0	102	85	17	0	167	109	57	1
17	3,788	1,902	676	1,026	1,842	848	894	0	98	75	21	0	158	98	60	0
18	5,432	3,241	1,570	1,670	1,908	773	1,133	0	109	62	27	0	176	98	77	1
19	5,726	3,716	1,837	1,881	1,754	737	1,016	1	105	86	19	0	149	78	70	1
20	5,701	3,830	1,878	1,954	1,823	678	946	1	107	77	30	0	141	80	60	1
21-24	20,146	14,021	6,577	7,443	5,184	2,332	2,651	1	392	305	87	0	549	333	211	5
25-34	35,471	26,066	12,673	13,392	7,906	3,461	4,315	0	653	542	110	1	948	600	342	4
35-44	29,058	21,920	10,880	11,039	5,561	2,104	3,457	0	818	476	140	0	962	626	334	2
45-54	28,690	21,433	11,015	10,418	5,292	1,678	3,524	0	610	737	173	0	1,145	721	424	0
55-64	18,388	14,331	7,358	6,972	3,758	1,027	2,731	0	476	400	76	0	623	480	342	1
65-74	10,690	7,425	4,022	3,402	2,606	652	1,654	0	186	161	25	0	473	243	227	3
75-84	6,207	4,235	2,307	1,928	1,572	385	1,167	0	82	67	15	0	316	171	147	0
85-86	1,411	926	471	455	380	94	286	0	11	9	2	0	84	34	60	0
90+	590	311	179	132	238	77	161	0	4	3	1	0	37	17	20	0
Unknown	4,580	1,611	888	473	2,544	1,034	1,495	15	95	77	15	3	110	70	36	4

*Includes persons riding motorcycles. Please see Table 11 for motorcycle specific data.
 **Bicyclists are no longer categorized by "driver" and passenger.



*Rate per 100,000 residents.

TABLE 11 Pedestrians in Crashes By Age and Person Drinking

Age Group	Number Pedestrians	Number Drinking	Percent Drinking
0 - 4	211	0	0.00
5 - 9	286	0	0.00
10 - 14	490	0	0.00
15 - 19	884	34	3.85
20 - 24	791	91	11.50
25 - 34	1,088	153	14.06
35 - 44	1,111	170	15.30
45 - 54	1,307	198	15.00
55 - 64	956	108	11.30
65 - 74	543	18	2.95
75 - 84	368	6	1.63
85 - 89	108	2	1.85
90+	48	0	0.00
Unknown	165	12	7.27
Total	8,356	788	9.43

TABLE 12 Bicyclists in Crashes By Age and Person Drinking

Age Group	Number Bicyclists	Number Drinking	Percent Drinking
0 - 4	13	0	0.00
5 - 9	136	0	0.00
10 - 14	401	2	0.50
15 - 19	558	9	1.61
20 - 24	521	15	2.88
25 - 34	705	51	7.23
35 - 44	673	67	9.96
45 - 54	963	118	12.05
55 - 64	516	43	8.33
65 - 74	190	3	1.58
75 - 84	62	4	6.45
85 - 89	12	1	8.33
90+	4	0	0.00
Unknown	218	10	4.63
Total	4,990	321	6.43

NOTE: Drinking is a major problem with pedestrians in crashes. 9.43% (788) of all pedestrians in crashes (8,356) had been drinking.

NOTE: Drinking is a problem with bicyclists in crashes. 6.43% (321) of all bicyclists in crashes (4,990) had been drinking.

Non-Motorist Behavior **2010 Florida Traffic
Crash Statistics**

TABLE 16 Pedestrians in Crashes by Injury Severity and Percent Drinking

Injury Severity	Number Not Drinking	Number Drinking	Percent Drinking
No Injury	515	37	7.16
Possible Injury	2,507	126	5.03
Non-Incapacitating Injury	3,179	250	7.86
Incapacitating Injury	1,604	208	12.97
Fatal Injury	499	161	32.26
Non-Traffic Fatality	14	4	28.57
Unknown	38	2	5.26
Total	11,396	748	6.57

TABLE 17 Bicyclists in Crashes by Injury Severity and Percent Drinking

Injury Severity	Number Not Drinking	Number Drinking	Percent Drinking
No Injury	393	27	6.67
Possible Injury	1,551	64	4.13
Non-Incapacitating Injury	2,173	137	6.30
Incapacitating Injury	714	69	9.66
Fatal Injury	71	22	30.99
Non-Traffic Fatality	2	1	50.00
Unknown	86	1	1.16
Total	7,090	311	4.39

TABLE 16

Year	Licensed Drivers	Registered Vehicles ++	Vehicle Miles*	Crashes	Non-Fatal Injuries	Deaths	Mileage Death Rate**
1991	12,170,821	11,184,146+	113,484	185,312	195,122	2,523	2.22
1992	11,550,126	11,205,298	114,000	198,174	205,432	2,480	2.18
1993	11,787,409	11,159,938	119,768	199,039	212,497	2,719	2.27
1994	11,992,578	11,393,982	120,929	208,183	223,458	2,722	2.25
1998	12,019,156	11,557,811	127,800	228,589	233,800	2,847	2.23
1996	12,343,598	12,003,930	129,637	241,377	243,320	2,806	2.18
1997	12,891,835	12,170,375	133,278	240,639	240,001	2,811	2.11
1998	13,012,132	11,277,808	138,680	245,440	241,863	2,889	2.11
1999	13,398,895	11,811,993	140,868	243,409	232,225	2,920	2.07
2000	14,041,846	11,948,485	149,857	246,541	231,588	2,999	2.00
2001	14,346,373	13,448,202	171,029	256,169	234,600	3,013	1.76
2002	14,604,720	12,989,278	178,680	250,470	229,611	3,143	1.78
2003	14,847,418	14,080,886	185,642	243,294	221,839	3,179	1.71
2004	15,007,005	14,512,284	198,722	252,902	227,192	3,257	1.68
2005	15,272,680	15,062,993	200,974	268,605	233,830	3,533	1.76
2006	15,491,878	15,612,181	203,783	256,200	214,914	3,365	1.65
2007	15,578,603	14,858,332	205,421	256,206	212,149	3,221	1.57
2008	15,556,658	15,966,287	198,494	243,342	199,857	2,983	1.50
2009	15,553,387	14,983,437***	196,402	235,778	197,214	2,563	1.30
2010	15,507,284	14,845,603	195,755	235,461	195,104	2,444	1.25

* in Millions

** Per 100 Million Vehicle Miles of Travel

+ Decrease Reflects Change in Accounting Method

++ Beginning in Year 1998, Does Not Include Count of Trailers with Tags

*** Beginning in Year 2010 a more accurate method of calculating motor vehicle registered was used

NOTE: All 1992 data in this publication has been updated from preliminary figures published in the Department of Highway Safety and Motor Vehicles Traffic Crash Data, 1992. Figures from the 1992 publication should not be used for year-to-year comparisons.

Holiday Traffic Fatalities

2010 Florida Traffic Crash Statistics

TABLE 17

HOLIDAY PERIOD		2006	2007	2008	2009	2010
New Year	Hours	96	96	96	96	96
	Fatalities	14	30	47	34	32
	Rate*	0.15	0.31	0.49	0.36	0.33
	Alcohol Related Fatalities	12	20	20	19	14
Memorial Day	Hours	96	96	96	96	96
	Fatalities	54	54	33	22	33
	Rate*	0.56	0.56	0.34	0.23	0.34
	Alcohol Related Fatalities	32	14	16	11	14
Independence Day	Hours	120	96	96	96	96
	Fatalities	48	38	34	30	28
	Rate*	0.40	0.39	0.36	0.31	0.29
	Alcohol Related Fatalities	27	17	16	17	14
Labor Day	Hours	96	96	96	96	96
	Fatalities	24	39	36	23	35
	Rate*	0.25	0.41	0.38	0.24	0.36
	Alcohol Related Fatalities	9	21	12	13	15
Thanksgiving	Hours	120	120	120	120	120
	Fatalities	48	46	52	30	38
	Rate*	0.40	0.38	0.43	0.25	0.32
	Alcohol Related Fatalities	29	18	24	10	16
Christmas	Hours	96	96	120	96	96
	Fatalities	45	35	41	26	24
	Rate*	0.47	0.36	0.34	0.27	0.25
	Alcohol Related Fatalities	17	15	14	9	8
All Days in Year	Hours	8,700	8,760	8,784	8,760	8,700
	Fatalities	3,405	3,261	2,983	2,593	2,444
	Rate*	0.39	0.37	0.34	0.29	0.28
	Alcohol Related Fatalities	1,089	1,244	1,169	1,004	784

* Fatalities Per Hour

Labor Day 2010 experienced the highest fatality rate per hour (0.36) with 29 people killed in the 96 hour holiday period. Forty-three percent (15) of these fatalities involved alcohol.

Traffic Crashes by Day of Week and Time of Day
2010 Florida Traffic Crash Statistics

TABLE 18
Motor Vehicle Crashes by Day of Week and Time of Day

Time of Crash Hour Beginning	Total		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Sunday	
	All	Fatal	All	Fatal	All	Fatal	All	Fatal	All	Fatal	All	Fatal	All	Fatal	All	Fatal
Midnight	6,527	98	702	9	542	7	524	3	2	2	3	288	6	2	2	2
1:00	4,770	45	485	7	355	12	425	3	374	14	100	3	174	23	3	25
2:00	5,203	94	523	10	378	4	433	2	365	11	405	5	321	26	23	23
3:00	3,824	93	391	8	287	7	293	5	386	12	378	11	271	11	36	30
4:00	3,067	53	338	8	257	6	293	5	383	11	425	8	313	5	36	22
5:00	3,095	63	411	8	357	6	206	10	545	6	438	5	586	13	50	52
Before noon	5,148	79	373	15	305	15	336	15	324	13	324	13	345	13	36	36
7:00	6,956	63	1,050	11	434	12	170	7	546	6	411	3	73	21	50	52
8:00	6,131	67	735	6	944	8	1,328	11	1,171	16	1,384	11	1,174	11	57	52
9:00	3,981	56	1,283	4	1,510	5	1,471	11	433	10	545	5	325	3	17	17
10:00	4,557	57	433	2	1,287	7	1,442	11	1,322	11	1,445	11	1,322	11	17	17
11:00	5,203	52	323	2	342	1	1,111	11	1,111	11	1,111	11	1,111	11	17	17
12:00	5,203	52	323	2	342	1	1,111	11	1,111	11	1,111	11	1,111	11	17	17
After noon	12,434	72	1,849	14	1,843	10	1,813	10	1,792	8	2,028	8	1,781	15	1,330	7
1:00	13,338	89	1,872	11	1,856	12	1,860	15	1,942	13	2,103	20	1,928	10	1,487	18
2:00	14,839	101	2,196	13	2,219	13	2,248	11	2,125	15	2,969	18	1,831	20	1,621	13
3:00	16,275	77	2,438	10	2,458	5	2,388	10	2,454	15	2,868	15	2,088	14	1,585	8
4:00	16,804	108	2,551	18	2,577	14	2,508	11	2,478	16	2,942	17	2,002	21	1,647	12
5:00	17,157	75	2,617	10	2,779	8	2,616	10	2,674	20	2,960	7	1,928	12	1,585	8
6:00	14,969	150	2,094	23	2,112	24	2,266	16	2,215	24	2,589	19	2,027	22	1,688	20
7:00	11,518	133	1,448	19	1,533	23	1,654	9	1,590	19	2,010	25	1,770	23	1,613	15
8:00	9,658	144	1,317	21	1,275	13	1,372	20	1,288	17	1,702	27	1,609	28	1,403	17
9:00	8,329	134	1,074	16	1,179	18	1,220	18	1,280	16	1,680	23	1,524	28	1,253	17
10:00	7,798	133	855	19	868	22	981	11	1,057	10	1,510	21	1,457	31	1,070	18
11:00	6,272	101	848	11	652	6	700	15	773	18	1,316	19	1,399	21	822	13
Not Stated	4,427	20	842	3	628	2	583	2	627	1	696	3	651	3	597	6

NOTE: Friday, during the 5:00 p.m. hour, had the highest number of all types of crashes (2,960). Sunday, during the 8:00 pm hour, had the highest number of fatal crashes (28).

**Contributing Causes*
New Crash Form**

**2010 Florida Traffic
Crash Statistics**

Contributing Cause	Type of Crash					
	Fatal	%	Injury	%	Vehicle and/or Property Damage Only	%
Followed Too Closely	1	0.68	90	1.91	73	2.61
Ran Red Light	5	3.42	107	2.27	64	2.29
Drove Too Fast for Conditions	4	2.74	128	2.72	129	4.61
Ran Stop Sign	1	0.68	60	1.27	28	1.00
Improper Passing	4	2.74	40	0.85	15	0.54
Exceeded Posted Speed	9	6.16	56	1.19	13	0.46
Operated MV in Careless or Negligent Manner	34	23.29	2,450	52.01	1,493	53.32
Wrong Side of Wrong Way	5	3.42	34	0.72	12	0.43
Failed to Keep in Proper Lane	10	6.85	141	2.99	87	3.11
Ran off Roadway	17	11.64	157	3.33	77	2.75
Disregarded Other Traffic Sign	2	1.37	6	0.13	2	0.07
Disregarded Other Road Markings	1	0.68	6	0.13	-	0.00
Over Correcting/Over Steering	9	6.16	84	1.78	59	2.11
Failed to Yield Right of Way	20	13.70	771	16.37	387	13.82
Swerved or Avoided: Due to Wind, Slippery Surface, MV, Object, Non-Motorist in Roadway, etc.	2	1.37	50	1.08	42	1.50
Operated MV in Erratic, Reckless or Aggressive Manner	5	3.42	41	0.87	11	0.39
Improper Backing	-	-	36	0.76	29	1.04
Improper Turn	2	1.37	122	2.59	71	2.54
Other Contributing Action	15	10.27	332	7.05	208	7.43
Total	144	100.00	5,711	100.00	3,892	100.00

*This table lists contributing causes of drivers in traffic crashes. There can be up to three contributing causes per driver.

Environmental Causes **2010 Florida Traffic
Crash Statistics**

TABLE 21 **Lighting Conditions at the Time of Crash**

Lighting Conditions	All Crashes	Fatal Crashes	Injury Crashes	Vehicle and/or Property Damage Only Crashes
Daylight	151,669	937	86,517	64,215
Dusk	8,115	44	3,305	2,768
Dawn	2,818	39	1,490	1,289
Dark	71,188	1,234	32,982	36,972
Unknown	3,671	7	553	3,111
Total	237,461	2,261	124,847	108,355

TABLE 22 **Road Surface Conditions at the Time of Crash**

Surface Conditions	All Crashes	Fatal Crashes	Injury Crashes	Vehicle and/or Property Damage Only Crashes
Dry	200,153	1,995	106,484	91,674
Wet	31,490	245	17,139	14,106
Slippery	975	7	542	426
Icy	81	1	27	33
Other	2,782	13	655	2,114
Total	236,481	2,261	124,847	108,355

TABLE 23

Vehicle Harmful Events	Type of Crash				Vehicle and/or Property Damage	
	Fatal	%	Injury	%	Only	%
Collision With MV in Transport (Rear-end)	199	6.88	76,022	31.56	28,970	25.83
Collision With MV in Transport (Head-on)	183	6.33	7,016	2.91	2384.00	2.13
Collision With MV in Transport (Angle)	510	17.64	43,212	17.94	17,857	15.92
Collision With MV in Transport (Left Turn)	139	4.80	13,739	5.70	5,200	4.63
Collision With MV in Transport (Right Turn)	5	0.17	1,981	0.82	1,138	1.01
Collision With MV in Transport (Sideswipe)	98	3.38	9,144	3.79	8,905	7.94
Collision With MV in Transport (Backed Into)	2	0.06	1,580	0.65	2,162	1.92
Collision With Parked Car	24	0.83	1,855	0.77	1,621	1.62
Collision With MV on Other Roadway	106	3.66	9,888	4.02	4,828	4.12
Collision With Pedestrian	112	3.88	1,253	0.51	71	0.63
Collision With Bicycle	64	2.21	4,224	1.75	234	0.20
Collision With Moped	7	0.24	152	0.06	19	0.01
Collision With Train	5	0.17	26	0.01	22	0.01
Collision With Animal	3	0.10	272	0.11	289	0.25
Collision With Fixed Object	479	16.57	21,447	8.90	12,361	11.02
Collision With Moveable Object On Road	13	0.44	702	0.29	1,129	1.00
Collision With Fixed Object Above Road	31	1.07	1,114	0.46	784	0.68
Ran Into Ditch/Culvert	66	2.28	3,002	1.24	1,517	1.35
Ran Off Road Into Water	26	0.89	325	0.13	268	0.23
Overturned	193	6.67	6,887	2.85	1,322	1.17
Occupant Fell from Vehicle	69	2.38	1,563	0.64	43	0.03
Tractor/Trailer Jackknifed	2	0.06	79	0.03	101	0.09
Fire	18	0.62	147	0.06	115	0.10
Explosion**	2	0.06	5	0.00	0	0.00
Downhill Runaway**	0	0.00	14	0.00	6	0.00
Cargo Loss or Shift	0	0.00	106	0.04	116	0.10
Separation of Units	2	0.06	45	0.01	52	0.04
Median Crossover	16	0.55	532	0.22	249	0.22
All Other	296	10.24	31,720	13.16	20,385	16.17
Total	2,800	100	240,472	100	108,134	100

* This table lists harmful events reported by the investigating officer for vehicles in traffic crashes. There can be up to four harmful events per vehicle.

** Occasionally, the number of crashes is so small that the percentage is less than one-hundredth of one percent and with only two decimal places, the percentage is reflected as 0.00.

Vehicle Harmful Events
New Crash Form

1041 Florida Traffic
Crash Statistics

Vehicle Harmful Events	Type of Crash				Vehicle and/or Property Damage	
	Fatal	%	Injury	%	Doll.	%
Overtum/Rollover	36	11.43%	434	3.80%	164	2.17%
Fire/Explosion	8	1.90%	5	0.04%	4	0.05%
Immersion	1	0.32%	1	0.01%	1	0.01%
Jackknife	1	0.32%	3	0.03%	5	0.07%
Cargo Equipment Loss or Shift	0	0.00%	13	0.11%	16	0.21%
Fell/Jumped From Motor Vehicle	1	0.32%	18	0.16%	0	0.00%
Thrown or Falling Object	0	0.00%	2	0.02%	7	0.09%
Ran Into Water/Canal	1	0.32%	8	0.05%	6	0.08%
Other Non-Collision	1	0.32%	79	0.69%	66	0.81%
Pedestrian	25	7.04%	133	1.17%	2	0.03%
Pedalcycle	7	2.22%	105	0.92%	2	0.03%
Railway Vehicle (train, engine)	0	0.00%	2	0.02%	0	0.00%
Animal	0	0.00%	44	0.39%	97	1.28%
Motor Vehicle in Transport	141	44.76%	8,617	75.54%	5,526	72.98%
Perished Motor Vehicle	7	2.22%	128	1.10%	143	1.89%
Work Zone/Maintenance Equipment	0	0.00%	10	0.09%	13	0.17%
Struck By Falling, Shifting Cargo or Anything Set in Motion by Motor Vehicle	1	0.32%	23	0.20%	60	0.79%
Other Non-Fixed Object with Non-Fixed Object, Non-Collision Fixed Object	1	0.32%	79	0.69%	117	1.54%
Impact Attenuator/Crash Cushion	0	0.00%	11	0.10%	13	0.17%
Bridge Overhead Structure	0	0.00%	1	0.01%	1	0.01%
Bridge Pier or Support	0	0.00%	3	0.03%	3	0.04%
Bridge Rail	0	0.00%	18	0.16%	12	0.16%
Culvert	2	0.63%	42	0.37%	26	0.33%
Curb	7	2.22%	53	0.46%	68	0.90%
Ditch	2	0.63%	66	0.58%	69	0.91%
Embankment	1	0.32%	27	0.24%	24	0.32%
Guardrail Face	10	3.17%	218	1.91%	208	2.75%
Guardrail End	0	0.00%	19	0.17%	12	0.16%
Cable Barrier	0	0.00%	4	0.04%	19	0.25%
Concrete Traffic Barrier	1	0.32%	206	1.82%	194	2.56%
Other Traffic Barrier	0	0.00%	12	0.11%	15	0.20%
Tree (standing)	32	10.16%	331	2.90%	173	2.28%
Utility Pole/Light Support	10	3.17%	128	1.12%	96	1.27%
Traffic Sign Support	1	0.32%	63	0.56%	51	0.67%
Traffic Signal Support	0	0.00%	4	0.04%	2	0.03%
Other Post, Pole, or Support	0	0.00%	38	0.33%	29	0.38%
Fence	3	0.95%	111	0.97%	97	1.28%
Mailbox	1	0.32%	34	0.30%	29	0.38%
Other Fixed Object (wall, building, tunnel, etc)	5	1.56%	124	1.09%	67	0.89%
Equipment Failure (blown tire, brake failure, etc.)	1	0.32%	16	0.14%	22	0.29%
Separation of Units	0	0.00%	2	0.02%	3	0.04%
Ran Off Roadway, Right	3	0.95%	86	0.75%	51	0.67%
Ran Off Roadway, Left	5	1.56%	53	0.46%	35	0.46%
Cross Median	1	0.32%	6	0.05%	3	0.04%
Cross Centerline	1	0.32%	7	0.06%	1	0.01%
Downhill Runaway	0	0.00%	2	0.02%	0	0.00%

*This table lists harmful events reported by the investigating officer for vehicles in traffic crashes. There can be up to four harmful events per vehicle.

**Occasionally, the number of crashes is so small that the percentage is less than one-hundredth of one percent and with only two decimal places, the percentage is reflected as 0.00.

**Vehicle and Truck
Information**

**2010 Florida Traffic
Crash Statistics**

Vehicle Type	Vehicle Types Involved In Crashes			
	Number of Vehicles			
	All Crashes	Fatal Crashes	Injury Crashes	Vehicle and/or Property Damage Only Crashes
(Sport) Utility Vehicle	2,480	32	1,428	1,020
All Terrain Vehicle	406	14	366	26
Automobile	231,647	1,789	151,773	78,085
Bicycle	4,881	72	4,490	299
Bus (driver + seats for 9-15)	338	2	199	137
Bus (driver + seats for over 15)	1,919	23	1,075	821
Cargo Van (10,000 lbs (4,536 kg) or less)	71	1	33	37
Farm Labor Vehicle	1	0	0	1
Heavy Truck	3,329	58	1,821	1,450
Light Truck (2 rear tires)	57,336	672	38,459	18,205
Other Light Trucks (10,000 lbs (4,536 kg) or less)	124	1	70	53
Low Speed Vehicle	178	1	181	16
Medium Truck (4 rear tires)	3,498	46	2,154	1,298
Moped	829	14	774	41
Motor Coach	5	0	1	4
Motor Home (RV)	194	2	125	67
Motorcycle	7,703	394	6,884	425
Other	4,205	37	2,764	1,404
Passenger Van	21,134	197	14,398	6,541
Train	37	4	18	15
Truck-Tractor (Cab)	2,984	82	1,533	1,349
Unknown Vehicle Type	150	2	124	24
Total	240,249	2,447	156,041	71,717

This Table combines the old long form crash report with the new long form crash report.