



Legal Advisor

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JERRY HILL
STATE ATTORNEY

DOMESTIC VIOLENCE REVIEW

By: Jennifer LaFountaine

Unfortunately, domestic violence is more prevalent than society would like to believe. Florida Department of Law Enforcement statistics reveal that in 2002, there were 121,834 domestic violence incidents reported in Florida. In Polk County alone there were 4,627 domestic violence incidents. These numbers are staggering and they beg the question, How can we as law enforcement officers and/or prosecutors make a difference in this area that so many believe is still a family matter best kept behind closed doors?

To begin, what does the Florida Legislature consider to be domestic violence? Domestic violence is defined in Florida Statute 741.28(2) as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

"Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single

dwelling unit. Florida Statute 741.28(3)

Given the relationship dynamics between the victims of this crime and their perpetrators, it is easy to see and understand why a large amount of domestic violence incidents go unreported and if reported, why victim participation wanes throughout the investigation and prosecution process. In fact, by the time the case reaches the State Attorney's Office, an overwhelming majority of victims have already become uncooperative in the pursuit to hold their attackers accountable. Because of this, it is vital for law enforcement to be very thorough in their investigation of domestic violence allegations in order to assist with the prosecution of these abusers, even when the victim refuses to cooperate.

Florida Statute 741.29(2) clearly lists the procedures to be followed when an officer investigates a domestic violence case, but there are additional steps that can greatly as-

IMPORTANT BARTOW

TELEPHONE NUMBERS:

Switchboard	534-4800
Misdemeanor Intake	534-4928
Misdemeanor	534-4926
Domestic Violence	534-4986
Victim Assistance	534-4989
Felony Intake	534-4987
Felony	534-4964
Investigations	534-4804
Violation of Probation	534-4803
Child Abuse/Neglect	534-4857
Homicide Division	534-4959
On Call Pager	819-1526
Worthless Checks	534-4874
Juvenile Division	534-4905
FAX	534-4945

WITNESS MANAGEMENT:

Misdemeanor/Traffic	534-4021
Felony	534-4020

Inside this issue:

Domestic Violence Review ...continued from page 1	2
Employee Birthdays	2
Domestic Violence Review ...continued from page 2	3
LEO News	3
TOP COPS	3
From the Courts	4

MARCH 2004

DOMESTIC VIOLENCE REVIEW

Special Projects:

30th -Brad Copley

Felony Intake:

8th -Joe McCarthy

Scoresheets

25th -Kristin Williams

Investigations:

18th -Dan Butler

Computer Services:

9th -Brenda Edenfield

Felony:

14th -Leslie Lasseigne

19th -Mitch Ladner

20th -LouAnn Lango

23rd -Tammy Furlong

Homicide:

21st -Paul Wallace

Misdemeanor Intake:

13th -Lori Gordon

Domestic Violence

2nd - Mary Cloudman

5th -David Molloy

Juvenile

3rd - Alan Burns

31st -Luci Douglas

Lakeland SAO:

20th -Linda Taylor

Winter Haven SAO:

11th -Melissa Shaw

Highlands SAO:

26th Gene Malpas,

29th -David Ward



Jennifer LaFountaine is an Assistant State Attorney in the Domestic Violence Section. In addition to her case load, she also serves as the Domestic Violence Division Chief. Jennifer has been with this office since October 2002.

sist the State Attorney's Office in making the case such as taking photographs of the victim in order to document and preserve any visible injuries. Please keep in mind, some injuries may take 24-72 hours to become clearly visible. Also, photograph and document the crime scene. These pictures and descriptions can help the jury see the condition of the home after the attack took place. For example, many abusers not only beat on the victim but they punch holes in the walls, rip out telephones, turn over or break furniture, all of this can assist the jury in visualizing the scene.

Another important tool for prosecutors is to conduct thorough interviews of not only the victim but also of all witnesses, including the children in the home. Always conduct these interviews outside the presence of the abuser. If you are interviewing a child, do so outside the presence of both parents. They may be hesitant to say too much, but typically children are the greatest source for the truth as to what is transpiring in the home. Also, be sure to get the name, address, and contact numbers for every witness. In regards to the victim, please get a contact person and number because generally after you speak with them they move or even go into a shelter and then it is extremely diffi-

cult to find them at that point. Further, they may not want to have someone trying to reach them where the abuser is located for fear of further violence.

Additionally, when you are documenting the victim and witness statements, clearly document their demeanor upon your arrival, such as was the person hysterical, crying, hesitant, etc. This information can explain to the jury the victim's state immediately after the attack as well as assist the state in securing the admission of statements made to you under the excited utterance exception to the hearsay rule. Remember, the more detail the better!

Next, be sure to obtain written statements from everyone. These can be used at trial to refresh a witness's memory and/or impeach their testimony. Also, if the victim receives medical attention, ask the victim to sign a release of the hospital records. This can cut down on time spent in obtaining the records and assist the state if the victim later becomes uncooperative. As far as the suspect is concerned, document everything he or she says because these statements or admissions can be used at trial. Keep in mind, the trial is not going to be for a while so document everything to help you recall the incident and for the state to evaluate the case.

Also, please secure the 911 call, if one was made. Indicate the name of the reportee and the name of the operator. Every little bit helps the State Attorney's Office, so that we do not have to become the investigator and can strictly focus on prosecuting the abusers.

Further, seize any evidence that is at the scene. For example, if hair clumps have been ripped out, any blood-stained clothing, any weapons that were used, be sure to collect them.

Finally, if children are present or otherwise involved, you must report this to The Department of Children and Families. Please indicate you

Happy Birthday!

DOMESTIC VIOLENCE REVIEW



Winter Haven:

Paul Goward has been chosen out of 66 applicants to be Winter Haven's new Chief of Police.

According to a recent article published in *The Ledger*, Goward began his 33 years in law enforcement as a patrol officer; then rose to deputy police chief in Wichita, Kansas. For the past nine years he has served as chief of police in Horry County, South Carolina. Goward begins his duties as Winter Haven's Chief of Police in early April.

Lakeland:

Charles Thompson has been named Lakeland Police Department's new Director of Administrative Services. He began his duties with the department in February 2004. Director Thompson comes to Lakeland after having served more than 25 years with the Miami-Dade Police Department.

During his career, he has received numerous awards for his professionalism and dedication to the Miami-Dade Police Department. He is a Vietnam-era veteran of the United States Army and a proud father of a 17-year-old daughter.

On behalf of the State Attorney's Office, we would like to welcome Chief Goward and Director Thompson to the Tenth Judicial Circuit. We wish you both well on your new assignments. If we can be of assistance, please do not hesitate to contact us.

have done so on your report to prevent repeat communication.

One last piece of advice: Whenever you respond to the scene of a domestic violence call, be sure to inform the suspect and the victim that the State Attorney's Office makes the decision to bring charges and not the victim. Defendants and victims are always under the delusion that the victim has control over the decision and that is false. By informing them of this fact, it may alleviate any further harm or harassment to the victim once the case is indeed picked up by the state.

In conclusion, being very thorough can only assist the prosecutor in making the best case possible against an abuser who takes comfort in knowing the person they terrorize is not going to follow through with a case and they again reinforce their

dominance and control over that victim. Domestic violence calls are extremely stressful to you as officers because of their very nature, as well as knowing that a majority of the time your tireless efforts fall on thankless victims who will more than likely return to the abuser. However, take comfort in knowing your efforts in securing the evidence the state needs can help the fight against domestic violence even without a victim. By prosecuting defendants even when the victim backs out we as society send a clear message to the abuser that domestic violence will not be tolerated. While we may not always win, we can still assist the fight to end domestic violence.

"Never believe that a few caring people can't change the world. For, indeed, that's all who ever have."
Margaret Mead

Top Cops

I would like to take a moment to recognize Officer David Brooks of the Bartow Police Department for his work in the Jerry Sanders / Sexual Battery case. Officer Brooks was very accessible, promptly returned my phone calls and was always available to answer any questions I had about the case. He took the time to go through and explain the DNA evidence to me and located additional reports which were very important to the case. In a jury trial, the defendant was found guilty as charged, was adjudicated guilty and sentenced to 30 years Florida State Prison.

Assistant State Attorney Rey Ojeda,
Special Prosecution

I would like to take a moment to recognize Polk Detention Deputy Bob Easthom and Haines City Police Department's Detective Brannon Sheely.

DD Bob Easthom was the case filing agent in a Resisting with

Violence case which occurred at the jail earlier this year. He came in to see me for trial preparation and testified on his own time, while he was on vacation. Although he had never testified in court before, he did a fantastic job of narrating what the digital video captured and helped us all to understand the procedures at the South County Jail.

Detective Sheely of the Haines City Police Department was the sole witness in a recently tried case. The detective spotted a vehicle being illegally driven by the defendant through an intersection in Oakland. His quick thinking in the field, his knowledgeable presence in court, and his professional demeanor on the stand helped us convince the jury of the defendant's guilt. We were able to get a 30 month prison sentence for a habitual D.W.L.S. offender.

Assistant State Attorney Torie Avalon,
Felony Division 5



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124 South 9th Avenue
Wauchula, FL 33873
Phone: (863) 773-6613
Fax: (863) 773-0115

Highlands County

411 South Eucalyptus
Sebring, FL 33870
Phone: (863) 402-6549
Fax: (863) 402-6563

Polk County

P.O. Box 9000, Drawer SA
Bartow, FL 33831-9000
Phone: (863) 534-4800
Fax: (863) 534-4945

Child Support Enforcement

215 N. Floral Avenue
Bartow, FL 33830
Phone: (863) 519-4749
Fax: (863) 519-4759

Lakeland Branch Office

930 E. Parker Street, Suite 238
Lakeland, FL 33801
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...FROM THE COURTS...

DEFENDANT'S ACTIONS SUPPORTED CARJACKING CONVICTION

The defendant was charged with carjacking. At his trial, the evidence showed that he approached the victim, who was sitting in her car with the door open in a parking lot. He stood twelve inches from her and twice said "don't get nervous." The victim testified that because she felt threatened, she jumped out of the car, pushed the defendant aside, and ran away. The

defendant then got in the car and drove away. The defendant was convicted as charged. On appeal, the Fourth District affirmed, holding the evidence was sufficient to establish the element of "putting in fear" was established. *Williams v. State*, 29 FLW D166 (Fla. 4th DCA Jan. 7, 2004).

OFFICERS COULD DETAIN DRIVER WHILE PURSUING PASSENGER

The defendant was charged with possession of a firearm by a convicted felon and filed a motion to suppress evidence. The facts on which the motion was based were that an officer stopped the vehicle the defendant was driving for failure to come to a stop before turning at a red light. While the officer was writing a citation, he noticed the passenger fidgeting as though he was trying to conceal something. He stopped writing the citation and frisked the passenger. During the frisk the passenger ran away. The officer gave chase while another officer detained the defendant and caught the passenger just as he was about to jump into a pond. Next to the pond, the officer

found a bag of drugs which the passenger had thrown down. He arrested the passenger and returned to the vehicle which he searched, finding more drugs. As a result, he searched the trunk of the car and found the firearm. The trial court denied the motion, and the defendant was convicted as charged. On appeal, the Fifth District affirmed, holding that the continued detention of the defendant during the chase for the passenger was reasonable, that the search of the passenger compartment was a valid search incident to arrest, and that the search of the trunk was justified by the discovery of drugs in the passenger compartment. *Brown v. State*, 29 FLW D234 (Fla. 5th DCA Jan. 16, 2004).

OFFICERS WAITED A SUFFICIENT TIME BEFORE ENTERING

The defendant was charged with possession of cocaine, cannabis, and LSD and filed a motion to suppress. The facts on which the motion was based were that officers went to an apartment rented by the defendant's girlfriend to serve a search warrant. An officer knocked hard and announced police presence to serve the warrant. No one responded, but the officer heard footsteps in the apartment. He again knocked and announced the reason police were there. There was still no re-

sponse. The officers then used a sledge hammer on the front door in order to gain entrance. The time from first knock to the use of the sledge hammer was approximately fifteen seconds. The trial court denied the motion, and the defendant was convicted as charged. On appeal, the Fourth District affirmed, holding that the fifteen seconds was long enough to avoid any statutory or constitutional knock and announce violation. *Hernandez v. State*, 29 FLW D258 (Fla. 4th DCA Jan. 21, 2004).