



OFFICE OF THE STATE ATTORNEY, TENTH JUDICIAL CIRCUIT

Legal Advisor

SOME REMINDERS FROM JUVENILE COURT

BY DEB OATES



JERRY HILL
STATE ATTORNEY

IMPORTANT BARTOW

PHONE NUMBERS:

Switchboard	534-4800
Misdemeanor Intake	534-4928
Misdemeanor	534-4926
Domestic Violence	534-4986
Victim Assistance	534-4989
Felony Intake	534-4987
Felony	534-4942
Investigations	534-4804
Violation of Probation	534-4870
Child Abuse/Neglect	534-4857
Homicide Division	534-4959
On Call Pager	819-1526
Worthless Checks	534-4879
Juvenile Division	534-4905
FAX	534-4945

WITNESS MANAGEMENT:

Misdemeanor/Traffic	534-4021
Felony	534-4020

TIME LIMITS IN JUVENILE COURT:

Special time limits apply to the filing and trying of juvenile cases. Any juvenile arrested and taken into detention must have his trial within 21 days or be released from detention. An exception exists in the case of a juvenile charged with a capital, life, or first-degree felony or a second-degree felony that involves violence to persons. That juvenile can have his time in detention extended 9 days for a total of 30 days in detention. This extension is obtained pursuant to a motion by the State showing good cause that the nature of the charges requires additional time for prosecution. F.S. 985.215 (5)(c)(g).

The point system used by the Department of Juvenile Justice to determine whether a juvenile will be held in detention allows only those with serious charges or a long record to be held. Neither the State Attorney's Office nor the juvenile court want a juvenile, who otherwise meets detention criteria, to be released because he has not had a trial prior to the expiration of the 21-day detention time limit. At a juvenile's detention hearing, future arraignment, pretrial conference and trial dates are set within the 21 days allowed. This means that arraignments are usually set within one week of the juvenile's detention. In order for the State to file charges and successfully prosecute juvenile arrest charges, it is absolutely necessary that arrest reports arrive at the State Attorney's Office within three working days of the detention of the juvenile. We recognize these time constraints require extra effort on the part of law enforcement and appreciate your work in helping us try cases successfully and in a timely manner.

A REMINDER ON CONFIDENTIALITY AND

RELEASING RECORDS

Confidentiality of juvenile records is covered in Florida Statute 985.04. Law enforcement may release the name, photograph, address, and crime or arrest report of a juvenile IF the juvenile either was taken into custody for a felony charge or is found by the court to have committed three or more misdemeanors. The key words here are 'taken into custody for a felony.' Juveniles who have a notice of appearance or a complaint affidavit filed on them can only have information released if there is the required prior misdemeanor record.

The offense report may ALWAYS be released by a law enforcement agency to a victim of a crime. Many agencies refuse to release reports to the victims but F.S. 985.04(6) specifically okays the release to victims without regard to any confidentiality issues. There is no longer a requirement that the juvenile defendant's name and address be blacked out of the report before release to a victim. Victims should be advised that the information in

INSIDE THIS ISSUE:

PAGE:

...CONTINUED... SOME REMINDERS FROM JUVENILE COURT	2
SAO BIRTHDAYS	2
FROM THE COURTS	2
FROM THE COURTS	3
LEO NEWS	3
TOP COP	4
E-MAIL COMES TO THE STATE ATTORNEY'S OFFICE	4
SUPPORT STAFF PERSONNEL	4

SOME REMINDERS FROM JUVENILE COURT



Deb Oates is an Assistant State Attorney and the Juvenile Division Director of the State Attorney's Office. She joined the office in March 1985.

the report is confidential and should not be revealed to any outside party except as necessary to pursue legal remedies, generally in a civil case.

DISRUPTION OF SCHOOL CHARGES:

Florida Statute 877.13 (1)(a) states

1. It is unlawful for any person:

a. Knowingly to disrupt or interfere with the lawful administration or functions of any educational institution, school board, or activity on school board property in this state.

This statute has been used largely to charge a student when he misbehaves at school. The State Attorney's Office has always followed the policy that misbehavior alone is not enough to convict under this statute. This is true even when teaching must be stopped or an administrator or School Resource Office must be called to control the student. School discipline or sanctions are the proper way to handle any behavior that does not rise to the level of a disorderly conduct or some other criminal charge.

The courts have followed this policy in a recent ruling that states the act done by the student must have been one done as a deliberate act "to create a disturbance." It must be done with the specific "intention that his behavior impede the successful functioning of the school." *S.W.W. vs. State of Florida*, 833 So. 2d 877 (2003). As most would agree, few

students who are acting up, whether it be fighting, throwing a tantrum or being loud in class, are doing it with the express intent to disrupt the daily functioning of their school. This student just wants to act out.

The best policy is to file a disorderly conduct charge if the misbehavior rises to that level, battery or affray if they apply, or any other criminal offense that is committed. There have been charges filed in this county because a student refused to obey a teacher, would not sit down and do his work, or would keep other students from doing their work. Each of these should have been referred for school discipline only—not filed as a criminal charge.

SCHOOL OFFICIALS AS VICTIMS:

This is a special reminder that officers need to include the home address and phone numbers of teachers and school officials who are victims of or witnesses to crimes. Especially during the summer months and during school holidays, having only a school address and phone number can create a problem. Juvenile court goes on, time limits are expiring and cases are tried throughout the year. If the reports do not include the home information, witnesses cannot be served and cases that are important to school personnel may be lost.

Any attorney in the juvenile division will be happy to answer any questions you may have regarding juvenile cases that you are working or about juvenile law in general.

SAO Birthdays

JUNE BIRTHDAYS:

Hardee County:

Maggie Avalos, 5th

Child Support Enforcement:

Brittany Stafford, 10th

Sandra Smith, 17th

Felony:

Wayne Durden, 13th

Rey Ojeda, 10th

Misdemeanor Intake:

Francisco Rivera, 21st

Misdemeanor:

Allison Poncy, 1st

...FROM THE COURTS...

DETECTIVE'S PROMISES LED TO SUPPRESSION OF CONFESSION

The defendant, a juvenile, was charged with burglary and criminal mischief and filed a motion to suppress his confession. The facts, as the court found them to be, on which the motion was based were that after the burglary, a detective went to the defendant's home and promised that if the defendant confessed, no charges would be filed and the case

would be handled administratively. The defendant then confessed. The trial court denied the motion, and the defendant was convicted as charged. On appeal, the Fourth District reversed, holding that a confession is not freely and voluntarily given if it has been elicited by direct or implied promise. *E.C. v. State*, 28 FLW D859 (Fla. 4th DCA Apr. 3, 2003).

...FROM THE COURTS...

HOW TO GET A REFUSAL TO TAKE A GUN SHOT RESIDUE TEST INTO EVIDENCE

The defendant was charged with murder and filed a motion *in limine* to prevent the state from introducing the fact that she had refused to take a gunshot residue test into evidence. The facts on which the motion was based were that the defendant's husband was shot in front of his office. He was taken to a hospital where he was declared dead. When the defendant came to the hospital, an officer asked her to take a gunshot residue test. The officer did not tell her whether the test

was mandatory or permissive or that her failure to take it could be used as evidence against her. The defendant declined to take the test. The trial court granted the motion, and on appeal, the Supreme Court affirmed, holding that because the defendant was not told of the adverse consequences of not taking the test, her refusal did not demonstrate a consciousness of guilt. *Menna v. State*, 28 FLW S340 (Fla. Apr. 24, 2003).

DEFENDANT'S TAKING OF PURSE WAS NOT ROBBERY

The defendant was charged with robbery by sudden snatching. At his trial, the evidence established that the victim and a friend were sitting on a park bench which was partially surrounded by bushes. The victim put her purse on the bench next to her. The victim and her friend heard a rustling in the bushes, and the friend then noticed the defendant running away. The victim looked to see what was happening and only then noticed that her purse was

gone. The friend gave chase and saw that the defendant had the purse. The defendant was convicted as charged, but on appeal, the Fourth District affirmed, holding that the defendant was not guilty of robbery by sudden snatching because the purse was not on the victim's person and the victim was not aware of the snatching until after it had been accomplished. *Brown v. State*, 28 FLW D960 (Fla. 4th DCA Apr. 16, 2003).

BOLO BASED ON ANONYMOUS TIP DID NOT JUSTIFY STOP

In this Polk County case, the defendant was charged with possession of methamphetamine and filed a motion to suppress. The facts on which the motion was based were that the sheriff's office received an anonymous tip that there was a disturbance at a trailer park involving a man armed with a gun. A dispatcher sent a deputy to the scene telling the deputy the description of the man but not the source of the information. The deputy located the man who was the defendant and after patting him down, found the methampheta-

mine. The trial court denied the motion to suppress, and the defendant was convicted as charged. On appeal, the Second District reversed, holding that even though the deputy had no way of knowing that the information might be unreliable, the fact that the source of the dispatch was an anonymous tip made the information the deputy received insufficient to support a reasonable suspicion of criminal activity. *Young v. State*, 28 FLW D927 (Fla. 2d DCA Apr. 11, 2003).

LEO

NEWS...

The Polk County Sheriff's Office held their annual Awards Ceremony on Thursday, May 22, 2003. The following are some of the significant awards that were presented.

MERITORIOUS SERVICE MEDAL

- Kathy Edwards
- Major Dale Tray

MARSHALL ANDERSON AWARD

- D/S/S Eugene Speener
- D/D Jeffrey Spurlock

PURPLE HEART

- Sgt. Larry Traylor

MEDAL OF VALOR

- Lt. Michael Schoch
- D/S Russell Hilson
- D/D John Hall

MEDAL OF HONOR

- Lt. Richard Holland
- D/S Craig Powers
- D/S Shawn Stephenson
- D/S Johnnie Thomas

MEMBERS OF THE YEAR:

CIVILIAN OF THE YEAR

- Steve Howard

DETENTION DEPUTY OF THE YEAR

- Nick Harville

DEPUTY SHERIFF OF THE YEAR

- John Conover

The State Attorney's Office would like to say congratulations to all these dedicated men and women.

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

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

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

CHILD SUPPORT ENFORCEMENT
215 N. Floral Avenue
Bartow, Florida 33830
Phone: (863) 519-4749
Fax: (863) 519-4759

LAKELAND BRANCH OFFICE
930 E. Parker St., Suite 238
Lakeland, Florida 33801
Phone: (863) 499-2596
Fax: (863) 499-2650

WINTER HAVEN BRANCH OFFICE
Gill Jones Plaza
3425 Lake Alfred Rd. 9
Winter Haven, Florida 33881
Phone: (863) 401-2477
Fax: (863) 401-2483

LEGAL ADVISOR STAFF

Jerry Hill, Publisher
jhill@sao10.com
Chip Thullbery, Managing Editor
cthullbery@sao10.com
Michael Cusick, Content Editor
mcusick@sao10.com
Lorena Diaz, Graphic Design
ldiaz@sao10.com

The "Legal Advisor" is published by:
Office of the State Attorney
Tenth Judicial Circuit
P.O. Box 9000, Drawer S.A
Bartow, Florida 33831-9000

For comments or suggestions, contact us at the above e-mail addresses.

TOP COPS

DEPUTY DEB DOMBROSKI serves as a bailiff currently assigned to Judge Ralph Artigliere for whom she maintains an efficient docket and an orderly courtroom. In addition to her security duties, Deputy Dombroski is often called upon to provide assistance to the State Attorney's Office with emergencies that arise in open court. Recently, Deputy Dombroski played a vital role in an investigation involving a mother who had encouraged her child to come to court unannounced to recant allegations of Capital Sexual Battery made against her stepfather who had confessed to the crimes. When the child did in fact perjure herself before the Court, the State Attorney's Office began an immediate investigation. Because the mother and a coconspirator aunt had accompanied the child to court, and because the circumstances required that the suspects not know of the ensuing investigation, it was necessary to have someone run interference. Deputy Dombroski, while managing the busy Friday morning docket, was successful in keeping the mother and aunt separated from the child and unaware of what was going on. Deputy Dombroski made the jury deliberation room available to the State Attorney's Office and remained on watch throughout the lunch hour after which the child was taken into protective custody. Her efforts ensured that the suspects were led to believe that the investigation was limited to a Department of Children and Families inquiry and that they remained ignorant of its criminal aspect. As a result, a controlled phone call that was later placed to the mother from the child was successful and the mother was arrested as a Principal to Perjury in a Capital Proceeding among other charges. The State Attorney's Office is grateful for the services of this top cop.

E-MAIL COMES TO THE STATE ATTORNEY'S OFFICE

You can now reach all State Attorney's Office personnel by e-mail. The address for each individual is the first letter of their first name, the individual's last name followed by @sao10.com, all in lower case. For example if you wanted to contact

Jerry Hill, his address is jhill@sao10.com. If you have any problems contacting personnel from our office by e-mail, please contact Brian Moore in Computer Services at 534-4602.



Pictured above is the Support Staff for Felony Divisions 1, 2, 3, 4 and 5. Pictured on the front row from left to right are Rebecca Wiggins (F-2), Debi Patrucco (F-1), Cindy Rhoden(F-2), Amy Tolley (F-1), and Cari Daniels (F-5). Pictured on the back row from left to right are Cheryl Hooks (F-3), Melody Stratton (F-4), Tammy Furlong (F-4), Debbie Willis (F-5), Kim Stip (F-3) and their Unit Coordinator Debbie Colson.