

Legal Advisor

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VICTIM ASSISTANCE	534-4861
FELONY INTAKE	534-4987
FELONY	534-4964
INVESTIGATIONS	534-4804
VIOLATION OF PROBATION	534-4803
CHILD ABUSE / NEGLECT	534-4857
HOMICIDE DIVISION	534-4959
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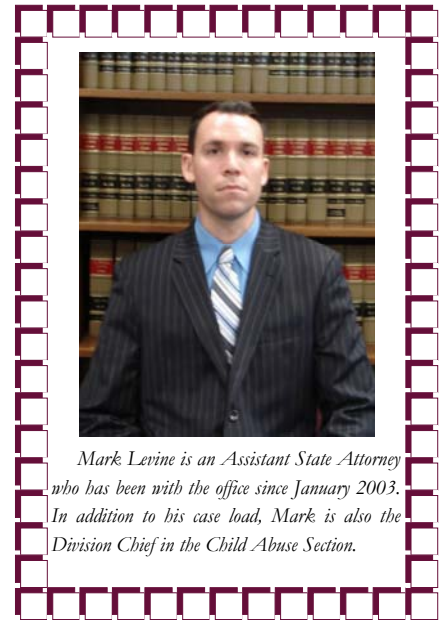
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TIPS AND ADVICE FOR NEW LAW ENFORCEMENT OFFICERS

By Mark Levine

Usually, the first time that an Assistant State Attorney reviews a criminal case at the State Attorney's Office is when the ASA reads the complaint affidavit or arrest affidavit with the accompanying reports. That is why detailed report writing is so important. It can affect filing decisions, potential plea offers, upgrading or downgrading charges and many other decisions central to the handling and final resolution of a case either through plea negotiations or a trial.

A detailed report will help focus attention on the important facts and issues of a case, as well as what potential evidence is available or what investigatory leads may be available to help put together the prosecution and presentation of a criminal case. As simple as it sounds, every criminal offense is comprised of certain elements that the State must prove beyond a reasonable doubt. The evidence available in



Mark Levine is an Assistant State Attorney who has been with the office since January 2003. In addition to his case load, Mark is also the Division Chief in the Child Abuse Section.

any given case must be utilized to establish each element and to prove each element beyond a reasonable doubt.

The more detailed a report, the more possible evidence and information can be used by the filing Assistant State Attorney and then later by the trial Assistant State Attorney who receives the case. This will assist the ASA in making critical decisions about how to proceed with the criminal prosecution.

IDEAS FOR DETAILED REPORTS

The following are just a few basic suggestions that can make an impact on how a case is ultimately filed and handled. Through solid and detailed report writing and the potential for accompanying photographic evi-

dence, our pursuit of justice and protection for the good people of the Tenth Circuit can be more easily achieved, making the community a safer place to raise our families.

1. PROVIDE FULL WITNESS / VICTIM INFORMATION

In addition to including obvious information like name, address, phone numbers, dates of birth, etc., please also provide, where appropriate and available, other contact information such as relatives' phone numbers, close friends' phone numbers, cell phone numbers, places of employment and work phone numbers.

The more contact phone numbers and information that is made available, the easier it will be for the trial assistant to actually get in touch with important witnesses and victims

to discuss matters such as potential plea offers, and upcoming hearing or trial information. Obtaining this information at the beginning can save a considerable amount of time spent trying to locate victims or witnesses and trying to obtain contact information later. This in turn can help allow trial attorneys to have the information and contacts necessary to make informed plea offers and determine the availability of critical witnesses and victims for hearings or trial.

2. SUPPLEMENTAL REPORTS

Once the initial report is complete and submitted to the State Attorney's Office, there might still be more information or evidence obtained through further investigation or leads. Submitting a supplemental report can be the perfect opportunity to notify the State Attorney's Office

about the existence of more information or evidence in a case. This can bring to light the strengths or weaknesses of a case early on in the process which can help the State Attorney's Office efficiently handle a case with the pursuit of justice being the ultimate goal.

3. PHOTOGRAPHS

“A picture is worth a thousand words.” Although it sounds like a cliché, a picture can be a very valuable piece of evidence. What better way to document facts or evidence, than with actual pictures of important issues or elements of a case. A picture can show first hand how a crime scene appeared, how badly injured someone was as a result of being attacked, or it can show the carnage and aftermath of a drunk driver who has plowed into an innocent victim stopped at a red light.

Two quick examples of how a picture can help in the presentation of a case:

1. Aggravated Battery Case: The defendant is charged with smashing a bottle across a victim’s forehead that resulted in great bodily harm or permanent disfigurement.
 - Victim’s Statement: He smashed a bottle across my forehead causing a large gash. Part of the broken bottle fell to the ground.
 - Defendant’s Statement: I pushed him away. I did not have anything in my hands. It was self defense.
 - A picture of the victim’s bloody forehead with the gaping wound or a picture of the victim with thirty fresh stitches in his forehead illustrates the extent of the injury and the likelihood that a deadly weapon caused the injury as opposed to the defen-

dant simply pushing the victim with his hands in self defense.

- A picture of the jagged, broken top half of the bottle laying on the ground with blood splatter on the jagged edges illustrates the final resting location of the deadly weapon used to commit the offense and documents exactly where the broken bottle came to rest.
2. Burglary Case: The defendant is charged with breaking into a house through the front door with the intent to commit a battery on an ex-spouse inside that residence by choking the victim around the neck. No independent witnesses. Victim was the only witness present for the commission of the crime.

Without any pictures, the case may be difficult; there may be little or no corroborative evidence of the burglary to back up what the victim says happened.

Now, imagine a picture was taken by the initial responding officer or deputy that captured the front door with pry marks and a damaged lock. Also imagine a picture of the victim’s neck that contains fresh red fingernail scratches and scrapes around the neck area. Now the case is stronger because the pictures captured some of the aftermath of the defendant’s crime, independent of the victim’s statement..

THINGS TO REMEMBER:

WRITE LEGIBLY

Although the majority of law enforcement agencies are now using some form of computerized report writing system, there are some documents that are still handwritten. These documents may include, but are not limited to, traffic citations, complaint/arrest affidavits, police/supplemental reports, etc. The documents are then submitted to the SAO and the information is entered into our system by intake clerks. For this reason, it is imperative that our data entry clerks be able to read the information on these documents. This task has become increasingly difficult to accomplish. Please make sure that all pertinent information is not only **included** in these documents, but also that it is **legible**. This includes:

- Officer's Name
- Officer's ID #
- Officer's Badge #
- Agency Name
- Agency Report Number
- Charge (s)
- Statute Number (s)

LEO NAMES

When submitting traffic citations, complaint/arrest affidavits, police reports or supplemental reports, officers should sign these documents with their given name. Each police department sends us a list of officers, ID numbers, and badge numbers. This list usually lists your given name, not your nickname. When intake clerks put this information into our system, they may not know that Officer "Buck Smith" is actually Officer William R. Smith. It would be most helpful if you could sign your given name instead of your nick name, even first and middle initials with the last name would help.



PROMOTIONS & NEW HIRES

In February, the Polk County Sheriff's Office announced several promotions. Those are:

Department of Detention

- Captain Markennis Calhoun - Intake and Records Bureau
- Lieutenant Thomas Laurell - TBA
- Sergeant James Dort - Inmate Intake Section

Department of Law Enforcement

- Major Mike Pruitt- Special Operations Division
- Captain James Elensky- BCI
- Lieutenant Steve Perkins - MTEP in NE
- Sergeant Angela Sockwell- MTEP in SE
- Sergeant Ian Floyd- MTEP in NW

Office of Business Affairs

- Director Bill Ward - Information Technology
- Ms. Katy McArthur - Purchasing Supervisor

PCSO also announced **30 NEW HIRES!** Those are:

- Andres Marin - D/S - NE
- Michael Dion - Animal Control / D/S
- Jason Varnadore - D/S - NE
- Kenneth Deweese - D/S -NW
- Sean Jones - D/S - SW
- Steven Furman - D/S - SW
- Michael Hammersla - D/S - NW
- David Sackett - Telecommunicator/D/S

- David Perkins - Detention Support Specialist/Detention Deputy - SCJ
- Trevor Atkinson - Detention Support Specialist/Detention Deputy - SCJ
- Wayne Chase - Detention Support Specialist - SCJ
- Tanya Armendariz - Food Service Specialist - SCJ
- Pearl Dion - Telecommunicator
- Arriel Haggins - P/TCrime Scene Tech.
- Brigitte Budka - Telecommunicator
- Willie Anderson - PROCAP Data Specialist
- Angela Hobbs - Customer Service Assistant - SW
- John Elliott - Budget Coordinator
- Melissa Haslett - Telecommunicator
- David Rounds - Deputy Director of Central Services
- Catherine Steele - Clerical Assistant
- Athena Warlen - P/T Clerical Assistant
- Christina Brown - Crime Analyst I - BSI
- Monica Villanueva - Clerical Assistant
- Monica Gautney - HR Coordinator
- April Dotson - Records Specialist
- Rajiv Patel - Sheriff's Service Officer
- Londann Merrick - Telecommunicator
- Jennifer O'Riley - Customer Service Assistant - BSI
- Theresa Ewell - Training Clerk

On behalf of the State Attorney's Office, we would like to congratulate each of you on your new positions.



Hardee County

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 Office

930 E. Parker Street
Suite 238
Lakeland, FL 33801
Phone: (863) 499-2596
Fax: (863) 499-2650

Winter Haven Office

Gill Jones Plaza
3425 Lake Alfred Rd. 9
Winter Haven, FL 33881
Phone: (863) 401-2477
Fax: (863) 401-2483

...FROM THE COURTS...

OFFICER MAY ASK FOR CONSENT TO SEARCH AFTER ENDING DE- TENTION.

The defendant was charged with possession of alprazolam and filed a motion to suppress. The facts on which the motion was based were that an officer noticed a car with a partially obscured tag and pulled it over. The defendant who was the driver told the officer that she was taking her passenger to the hospital. In response to this the officer called an ambulance which transported the passenger. After this the officer told the defendant she was free to go but asked for permission to search her car. The defendant consented, and during the search the officer found the alprazolam. The trial court granted the motion, but on appeal the Fifth District reversed, holding that the officer could legally ask for permission to search after he had ended the detention of the defendant. *State v. Sosa*, 31 FLW D1775 (Fla. 5th DCA June 30, 2006).

DOG ALERT ON BICYCLE DID NOT JUSTIFY SEARCH OF RIDER.

The defendant was charged with possession of marijuana and filed a motion to suppress. The facts on which the motion was based were that after an officer stopped the defendant who was riding a bicycle, a police dog was brought to the scene. The dog alerted on the handle bar and the seat of the bicycle, and based on that the officer searched the defendant, finding a bag of marijuana in his front left pocket. The court denied the motion, and the defendant was convicted as charged. On appeal, the Fourth District reversed, holding that the dog's alert on the seat and handlebars did not provide probable cause to search the defendant. *Rehm v. State*, 31 FLW D1817 (Fla. 4th DCA July 5, 2006).

DAMAGE MUST BE WILLFUL TO ESTABLISH CRIMINAL MISCHIEF.

The defendant was charged with

aggravated assault and criminal mischief. At his trial, the evidence established that after spending a New Year's Eve drinking and fighting at a bar, the defendant fired two shots from a revolver as he was driving away from the bar. A witness testified that the first shot was not aimed at anything in particular but that the second shot was aimed straight at a man standing nearby. However, the shot missed the man and hit a car. The defendant testified that he fired the first shot straight up into the air and that his second shot was accidental. He was convicted as charged. On appeal, the Second District affirmed the aggravated assault conviction but reversed the criminal mischief conviction, holding that the evidence did not establish that the defendant willfully damaged the car. *Stinnett v. State*, 31 FLW D2142 (Fla. 2d DCA Aug. 11, 2006).

OFFICER HAD THE RIGHT TO ASK FOR IDENTIFICATION.

In this Polk County case, the defendant was charged with driving without a license, possession of cocaine, and resisting an officer without violence. He filed a motion to suppress evidence. The facts on which the motion was based were that after learning that a passenger in the defendant's car was wanted on outstanding warrants, officers located the car and stopped it. One officer asked the defendant for identification and ordered him to remain in the car. The defendant produced an identification card but got out of the car while it was being run. He refused the officer's orders to get back in the car and had to be restrained. Cocaine was later found in the area where the struggle took place. The court denied the motion, and the defendant was convicted as charged. On appeal, the Second District affirmed, holding that because the defendant's car was lawfully stopped, the officers could ask him for identification even though he was an innocent driver. *Lanier v. State*, 31 FLW D2200 (Fla. 2d DCA Aug. 18, 2006).