

DA action on Clayton domestic violence case snail-like

By Wil Morat
Staff writer

When convicted felon Roy Clayton murdered his son and shot his estranged wife in late 2005, he already had two cases pending in the El Dorado County District Attorney's office. Despite being two and four months old, both cases were still awaiting review in the DA's office the day of the murder.

Four months after an August domestic violence report was forwarded to the DA's office for review, the DA decided not to file charges based on "insufficient evidence."

The rejection notice was dated Dec. 28, 2005, one day after the murder, leaving the surviving victim with concerns about the enforcement of justice in EDC.

Linda Clayton, still recovering physically and emotionally, said the DA's office never followed up

on the Aug. 30, 2005 report of domestic violence she made to EDC Sheriff's deputies. The DA's office also hadn't filed charges for a separate drug-related arrest on Oct. 22, 2005.

"They missed the boat all the way around," Linda Clayton said. "I found out charges were never filed [in either case] after I got out of the hospital."

On the morning of Dec. 27, 2005, Roy Clayton entered his estranged wife's home just south of Placerville. He shot and killed his 26-year-old son, Royce, and turned the gun on his wife, Linda Clayton, shooting her five times. After two days of hiding, Roy Clayton was surrounded by authorities at a nearby home, where he committed suicide.

In the Aug. 30, 2005, domestic violence report, Linda Clayton alleged that Roy Clayton attempted to strangle her. A witness said

the parties engaged in "mutual combat."

On the morning of Sept. 5, 2005, a sheriff's deputy made the last unsuccessful attempt to contact Roy Clayton. Linda Clayton said she was never contacted by the DA's office regarding the case.

EDC DA Gary Lacy said his office sent out a follow-up on Sept. 13 to the sheriff's office for further investigation.

"The report was sitting in a holding file waiting for a response from the sheriff's department," Lacy said.

Lieutenant Marc Adams with the EDC Sheriff's Department said they keep a log to track follow-up requests received from the DA's office.

"We did not get a follow-up request on [the Aug. 30, 2005 incident]," Adams said. "I talked to the deputy [who took the initial report] and she did not get one

either."

Lacy said the timing of his office's decision not to file charges wouldn't have changed the outcome, citing the lack of evidence, and that the murder brought the case back to his attention.

"Once the name became known to me I knew the media would be asking questions," Lacy said. "I had our staff check our files to see what we had. It was apparent that we had not gotten a follow up [from the sheriff's department]."

The December murder wasn't the first chance the DA's office had to review files they may have had pending for Roy Clayton. On the morning of Oct. 22, 2005, Roy Clayton was arrested on charges unrelated to the domestic violence case when the EDC Sheriff's narcotics unit served a search warrant at his home in El Dorado.

Officers found two handguns, a

See DA FOLLOW-UP, page 18

DA FOLLOW-UP continued from page 3

modified M-16/AR-15 assault rifle, 28 pounds of marijuana and marijuana plants. As a convicted felon, it was illegal for Roy Clayton to be in possession of any firearm.

The report noted that as the narcotics unit entered the residence, Roy Clayton "fled the residence" armed with a loaded 9mm pistol before quickly surrendering to law enforcement.

The arresting officer asked the court to increase the bail amount to \$250,000 given that he felt Roy Clayton "was a flight risk and a danger to the public. Roy Clayton posted bail via Gold Country Bail Bonds the same day and was released.

Chuck Holland of Gold Country Bail Bonds said after appearing in court, Roy Clayton was informed that no case had been filed and the bail was exonerated on Dec. 16, 2005.

The law states if charges are not filed by an arraignment date, bail is returned and the suspect is allowed to roam free, although charges can still be filed within the statute of limitations.

Holland said these instances, referred to as "no case files" are common in EDC. He said his Amador County bail bond operation does as much or more business than his Placerville-based company, yet gets very few "no case files."

"If I get one or two 'no case files' [in Amador County] in a year's time, I'm surprised," Holland said. "Here [in EDC] I'm sometimes getting a dozen a month. It's something that's running rampant in this county."

Leanne McIntyre is the administrative legal secretary for the Amador County District Attorney's Office, and said cases are usually either filed or rejected within the prescribed 45-day window.

"[No case files are] not typical, especially not in cases where bail bond is involved," McIntyre said. "We flag those cases and get them to an attorney to review."

McIntyre said the Amador County DA's Office tracks files to make sure they don't let the bail exoneration date pass.

"Pretty much all the domestic violence suspects are arrested and given court dates within three days," McIntyre said. "When a report is filed with our office, we review regardless."

Dave LaBahn is the executive director of the California District Attorneys' Association in Sacramento and said the issue of timeliness is dependent on the safety factor and resources available.

"As a general rule you should make your case within the time [before bail is exonerated]," LaBahn said. "Most of these [no case files] are ones that aren't going to be filed anyway."

The high turnover at the EDC DA's office during the fall of 2005 may have contributed to a failure to file charges in a timely manner.

William Houle left the DA's office after ten years in October 2005, the fifth EDC deputy DA in a period of two-and-a-half months to find other employment.

"Staffing issues became a problem," Houle said. "[The cases] should have been filed but weren't."

Houle said it was clear that the DA's choice to reject charges for the Aug. 30, 2005 domestic violence incident just one day after the murder was an attempt to cover all the bases.

"It's undisputedly clear," Houle said. "It's management's job to monitor filings and how long they sit [awaiting review]."

Lacy admitted that the loss of deputy DAs affected the office's ability to prosecute cases in a timely manner, but said the type of caseload is also a factor.

"We're up to full staff now and still have a filing backlog," Lacy said. "It's not unusual. It can take us a couple of months. I would certainly say that [the loss of deputy DAs] had an effect."

Linda Clayton said she thinks the DA's office had plenty of opportunity to make a case.

"When they arrested him for [marijuana] growing and got him with guns, right there they could have gotten the story right," Linda Clayton said.

The loss of her son makes finding answers even more important, and Linda Clayton said she just wants to make sure this never happens again.

"How could they let Roy out of jail when he had a history of domestic violence, when he was found with guns, with an assault rifle?" Linda Clayton asked.

E-mail Wil at wmorat@vil-lagelife.com.