

FROM THE PROSECUTOR

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Investigating Domestic Violence

In law enforcement, some of the most frustrating and difficult cases to investigate are those related to domestic violence. All too often, an officer is called to a scene by a battered and frightened victim only to learn that days later, after the threat has been averted, the victim is back with the offender and no longer wants to pursue charges. The experienced officer knows that the threat is still looming and will only get worse over time. What is an officer to do to stop the violence? The answer is to prepare the case for an evidence-based prosecution so that the offender does not walk away with merely a slap on the wrist.

Evidence-based prosecution is when prosecutors seek and review all relevant evidence of an incident and the history of the parties involved in order to prepare a case as if the victim is uncooperative. In Domestic Violence cases this is especially important as these victims are often caught up in the cycle of violence and abuse.

Here are several essential things a street officer should do in preparing a domestic violence case for evidence-based prosecution:

1. The responding officer is often the first one on the scene. It is at this time the victim is usually the most cooperative. The victim will provide many non-verbal and verbal cues that could be of significant importance during trial before they have time to rethink their position. As such, the officer needs to be as detailed as possible when describing the victim's appearance and the demeanor of both the victim and the offender. Instead of stating that "the victim appeared to be upset," the officer should give a detailed statement such as: "The victim was crying and shaking and had trouble speaking. Responding Officer noted red marks on the victim's neck and on the right side of her head." This detailed description gives the jury a visual image they can hang on to and makes it more difficult for the victim to minimize or deny the incident.

2. Photos of everything including the crime scene, the victim, and the offender. These pictures often show a story that cannot be countered by a recanting or uncooperative victim. Photos showing overturned furniture, red marks on a victim's body, or an offender without any injuries can be vital during the prosecution of these cases at

trial. Again, these photos make it more difficult for a victim to minimize or dismiss the terror that was levied upon them on the night of the offense.

3. Get a written and/or recorded statement from the victim, witnesses, and the offender. These statements are essential when dealing with a hostile or recanting victim. They allow the prosecutor some insight as to the victim's state of mind at the time of the offense and allow the prosecutor to confront a victim with their own previous statements. Furthermore, these statements may be admissible at trial should the offender take steps to prevent the victim's cooperation. Statements from witnesses and the offender may corroborate information obtained from the victim or, at least, place the offender at the scene or establish the relationships between the parties. These statements are highly effective when used and often can be the difference between obtaining a conviction and the offender being acquitted.

4. Call EMS whenever possible. EMS is able to question the victim about the circumstances of the event for the purposes of medical treatment and is able to document the victim's injuries. Documenting the injuries is essential when dealing with a victim who is not helpful or who does not show up for trial because the statements are often admissible regardless of the victim's willingness to cooperate.

While these suggestions are not exhaustive, following these basic rules that support evidence-based prosecution helps to protect those that suffer at the hands of their abusers and helps to hold those same abusers accountable under the law.

SUMMIT COUNTY PROSECUTOR'S OFFICE FELONY DOMESTIC VIOLENCE CASES

— 2009 —

Total cases disposed - 388

Conviction rate - 95%*

*Roughly 50% of victims recanted or were uncooperative, but due to good police work and aggressive prosecution, the conviction rate was very high.