

The Light & Champion (Center, TX)

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Domestic Violence – Part 4

(Editor's Note: This is the fourth of a six-part series on the 'epidemic' of domestic violence in East Texas and across the United States. This is a personal account of an area woman – we call Gail Davenport, to protect her identity – and her battle against the obstacles she faces daily. Today's story deals with the law and how it comes into play with this problem.)

By John Krueger, Editor

As with any act illegal act, prosecution and the ability to put the person responsible for committing the act behind bars is important. But to a victim of domestic violence, there are many ways that victim may react after the crime that can affect the outcome of the case – and ultimately how the victim spends the rest of his or her life.

And, unfortunately, sometimes it is the things that the victim doesn't do, for whatever reason, that can prolong the affect of the attack and allow the perpetrator to go free, because by not acting immediately, it may mean the trail of evidence grows colder for law enforcement. This can make the job of those enforcing the laws harder, although not impossible.

At the same time, the way law enforcement approaches each case can also have a lasting affect on not only the person accused of the crime, but also will go a long way as to how the victim survives and moves on after the case is investigated and, if tried, after a verdict is rendered.

TAKING AWAY SELF WORTH

Like many other domestic violence victims, Gail Davenport had many foreign emotions and sensations running through your body after her reported domestic violence assault on June 30, 2005. And, like many before – and after – because of the way she had been so psychologically 'beat down' during her relationship with her alleged attacker – she was ashamed of her feelings and didn't know if going to the authorities was the correct thing to do.

“Looking back at the entire situation, I think when someone like myself goes through a relationship of progressively worse mental and physical abuse, she is 'beaten down' so much during the relationship that her self esteem and self worth is taken away; you feel that nobody will ever believe you,” Davenport said in an interview recently. “I think back to my situation: I met a man and he was charming, handsome and witty when we first met. Then as time went on he became increasingly controlling – in small ways at first – and then the situation turned from controlling to abusive.

“And, to be honest, I think it’s the psychological abuse that affects women more than anything. Without even realizing it, you start believing you are as worthless as the abuser has told you that you are, your self-confidence is shot. You begin to think that that particular relationship you’re in is what ‘relationships’ are supposed to be like. You think that is it and you have to accept it and you become trapped more and more without even realizing it.” She said her boyfriend would act like a caring, loving boyfriend for a while, before suddenly turning to ‘his other side’ and control and mentally abuse her more. And, she said, because she loved him, she wanted it to work.

“Without knowing it, he slowly alienated me from my family and friends,” Davenport stated. “He slowly ‘pulled me’ away from the people in my life that I felt the most comfortable with by making me feel guilty.”

THE SETUP AND ATTACK

What Davenport didn’t realize was that the scenario was setting her up for an attack and a situation in which she felt there was no where to turn for help.

After her alleged attack, she turned to her daughter for help. But because she had been psychologically ‘beaten down’ and her daughter felt threatened as well, turning to the authorities wasn’t an option.

“I think there is a misconception with most people that after you are in a domestic violence situation that you can just forget about it and move on,” Davenport explained. “But I later found out I was suffering from not only depression, but Post Traumatic Stress Disorder (PTSD) and brain damage, and it wasn’t just something I could forget about. I was affected by a life-altering crime and whether I accepted it or not, my life was going to be different from that day forward.

“And until I began to realize what I had actually went through – which didn’t happen overnight – and that I was permanently affected, I couldn’t figure out what was wrong.” “I think probably almost all victims of domestic violence relationships and attacks suffer from PTSD and don’t realize it. Their friends and family think they can just ‘pick up the pieces’ and move on – well that’s simply not the case.”

And that’s where the support and love of friends and family comes in.

“Those people closest to the victim of domestic violence need to do everything they can to understand what that person is going through so they can truly help them.”

Like many before her, Davenport didn’t go to law enforcement the authorities right away. So there was no physical evidence taken; no immediate statements taken; no photos of bruises taken; no signs of petechia on her body that could be documented.

“I’ll admit it, I should have gone to the police,” Davenport said. “But when you’re beaten down psychologically and you have a man who has ‘control’ over your life and he threatens to ‘cut you into a million pieces and spread you all over (the county)’, you take his words at face

value.

“But does that mean when you do go to the police you should be treated any different? Absolutely not.”

BUILDING A CASE

Shelby County District Attorney Lynda K. Russell said she sees cases like Davenport’s all the time. And she agrees that the longer the victim waits before going to law enforcement does hurt the case.

“It’s important for someone in a domestic violence case to go to police, the sheriff’s office, or a woman’s shelter as soon as possible so evidence can be documented,” Russell stated. “The longer the woman waits, the more difficult the case may be. That’s not to say there can’t be a case built, but there are two things that make the case stronger: the woman reporting it as soon as possible and then following through and pressing charges, testifying and getting a way from him.”

Russell agrees with Davenport that there are psychological scares after an abusive relationship. But the woman has to realize that there is always somewhere to turn.

“A victim in a domestic violence case has to go to law enforcement or a woman’s shelter and truly want to end the situation,” Russell said. “But to end it and to help us present a case she must follow through and not want to go back into the situation. But, unfortunately, many times the victim will end up right back in the same situation again because she doesn’t follow through.”

Gail B. Strack, Assistant City Attorney in the City of San Diego, has been one of the leaders in the country in trying to make a difference for victims of domestic violence. She has spoken at national conventions presented by the Office of Victims of Crime; a national organization helps such domestic violence victims in many ways; through guidance and with financial support.

Strack agrees that for law enforcement to build a stronger case, victims’ willingness to go to authorities as soon as possible helps.

“If we’re going to prove a case of domestic violence without the victim’s participation, we need to recreate that crime in the courtroom so the judge and jury can feel, see and hear it for themselves; and we do that through documentation,” Strack said. “We document through photographs, police reports and video tapes. Video taping and audio taping the victim, especially in a strangulation case, is critical because now we can document her voice changes. If she’s feeling fear, you can see and hear it in a video tape.”

Strack said that first responders and law enforcement personnel should obtain as much physical evidence as possible to build a stronger case.

TRAINED OFFICERS

And it's key for law enforcement officers to be trained when they respond to domestic violence cases so everything is well documented.

“Very often a victim’s first view of the criminal justice system is the law enforcement officer who responds to the scene of the crime,” said Joe Brown, Director of the Community Oriented Police Services Office at the U.S. Department of Justice. “It is critical that this officer be well-trained and informed about victims’ rights and services. If this officer does not refer the victim to appropriate assistance and compensation programs, that victim may never receive the help needed to heal.”

According to information released by the National Office for Victims of Crime, “The significance of law enforcement’s role in responding to crime victims cannot be overemphasized. Law enforcement officers interact more often with crime victims than other professionals in the criminal justice system. The way that victims are treated by dispatches, the first officers arriving at the scene of the crime, and detectives investigating the case shapes their expectations of how they will be treated throughout the justice process.

“It is critical that every law enforcement professional who interacts with crime victims, either in person or over the telephone, know how to respond in a sensitive and effective manner. “As the first responder to most reported crimes, the law enforcement agencies must ensure that victims are treated with sensitivity and are provided essential information and emergency assistance in the immediate aftermath of victimization, the organization urges.”

State and federal laws mandate victims’ rights that law enforcement must fulfill. They generally include the right to information about rights and crime victim compensation, and, in most states, referrals to victim services; the right to protection from intimidation and harm, including aggressive enforcement of anti-stalking and restraining orders; the right to regular updates on the status of the investigation; and the right to notification when the accused is released from custody.

STILL STALKED

There are many, however, that wait before going to the authorities, such as Davenport did. In the weeks and months after her attack, the abuser was still stalking her. Davenport said, “I finally realized he was not going to stop and this was not going to end unless I went to the police. If I didn’t, I knew eventually they would be taking my body out in a body bag. So, terrified of what he would do when he found out, I still moved ahead and went to the police station and filed a report of the earlier assault and the incident of stalking that happened the night before.”

NOT RESPONDING

She couldn't understand why her body wasn't responding. After trips to several physicians and tests, it was found that she suffered from depression, PTSD and brain damage from the strangulation. These, too, were crucial to her case.

However, Davenport said she did not feel that law enforcement personnel in Nacogdoches treated her as the victim. She said that this made it hard for her to press forward in the case. "There were times when I felt like 'the accused' by the way I was treated," Davenport said of the Nacogdoches County County Attorney's Office. "It was as if I had to 'prove myself' over and over to them.

"In my opinion they didn't thoroughly investigate the case and that's why no formal charges were brought against the man who strangled me."

Davenport said that because she was suffering from PTSD and the fact that her future was changed with her brain damaged – which was documented by a physician – it made it even harder for her, as a victim, to work toward closure.

"Law enforcement officers and district attorney offices need to take each case individually and really think about the victim in each and every case," she explained. "My life was changed forever on that night. And regardless if I came to them the next night or four months later, there was evidence in my case that I felt could be used to convict the man who attacked me. Yet today he walks the street. That means he could do the same thing to someone else because he thinks he can get away with it. Or, he could attack me again. That is something I have to live with every day."

SOME JUSTICE

Davenport waited until November 2005 to come forward to press charges. And she, not the alleged perpetrator, was put through a series of tests by law enforcement to give her accusations credibility, she says.

"I felt like the accused and that made me feel even worse. It was like I was a victim all over again," she said. "I realize I should have come forward earlier, but I'm not sure the officers and district attorney's office that I went to for help, helped me as much as they hurt me – mentally."

Ultimately, a protective order was obtained by a district judge against the man Davenport said strangled her that night.

"A protective order is a judge's ruling that a crime was committed," she said. "Yet no charges were brought against the man who attacked me," she stated. "The City of Nacogdoches and the County Attorney of Nacogdoches County stated in a report to Austin that they investigated the incident and could find no evidence of a crime.

"But I'd like to know what their definition of 'investigation' is. If the judge had enough evidence to issue the protective order and state that a family violence assault occurred why

not the county attorney? Every victim deserves to be protected by police and the judicial system. My life has been changed and justice should have been served.

“And, not only was that the way my case was handled wrong, in my opinion, it ultimately meant I was involved with the justice system and its agencies for over a year. This complicated my recovery and the process of healing from the violent crime committed against me.”

Davenport said she urges victims of domestic violence to get out of their situation; to seek help because there are options and places to go for a better life. She also urges victims to go to law enforcement agencies as soon as possible so as much evidence as possible can be obtained. Davenport states, “I want them to find help. Their situation is not going to miraculously improve no matter what they do or don’t do. I want them to know above all else, ‘It is not your fault!’”

She also feels that all law enforcement agencies need to have additional training and for law enforcement agencies to treat each case on an individual basis, even if the victim has come forward in the past and dropped charges.

“This time it might save their life,” she said of officers’ reaction. “Don’t make the mistake of not giving her the benefit of the doubt because that man could kill her next time. It has happened before. Don’t let that woman die in vain.”

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John Krueger, Editor, The Light & Champion, Office Ph: (936) 598-3377, Cell Ph: (936) 332-9332, Fax: (936) 598-6394, Email: editor@lightandchampion.com