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Domestic Abuse Arrests Aren't Optional in N.Y.

By Kathianne Boniello

When a bank is robbed, law enforcement doesn't give the teller a choice as to whether a suspect should be arrested.

That's the way it used to be in domestic violence cases, area prosecutors and police said.

In the past, a police officer responding to a family violence case might have asked a victimized spouse if he or she wanted their abuser arrested.

"It shouldn't be on their shoulders any more than it should be on the bank teller's," Dutchess County Senior District Attorney Marjorie Smith said. "It isn't a personal thing; it's the People of the state of New York vs. the bad guy."

The heavy choice many domestic violence victims used to have to make – whether to have arrested an abuser they may depend upon financially or have children with – was removed 10 years ago.

That's when the state's mandatory arrest law came into effect. The law says that in certain family offenses, including assault, harassment, reckless endangerment, disorderly conduct and other crimes, the perpetrator gets arrested automatically.

"For years, domestic violence was a family problem," Smith said. Arresting the offenders "brings it home. It's just a very rude awakening for some of these guys. Some of them will get it the first time; some of them get it after they are put on probation. Some of them go on to another victim."

New York is one of 23 states and Washington D.C. that have mandatory arrest laws for domestic violence cases, according to the National Conference of State Legislatures.

Mandatory arrests, while increasing the number of domestic violence-related arrests, also have made law enforcement more aware of how complex such cases can be.

Ulster County District Attorney Donald Williams said the law has resulted in more prosecutors and police officers getting domestic violence training.

“The most important thing to remember is the tragedy that can occur when these cases are not monitored closely,” Williams said. “We’ve come a long way in recognizing that this type of behavior is not something private, it is indeed a crime.”

Mandatory arrest has also made prosecuting such cases easier.

“It helps with the investigation at the scene because no longer does the officer need to make that decision about whether an arrest should be made,” he said. “It has removed that area of discretion.”

History Documented

The law also means many repeat offenders have a concrete history with law enforcement that can be used in court, Smith said.

“When you can say in court that a person has been arrested 14 times,” she said, “it works.”

Some victims may be reluctant to call police for help if it means the offender will be arrested, but Ulster County Sheriff’s Office Capt. Harry VanVliet said an arrest can bring help.

“We need to lift the cloud that once the arrest is made, the police are gone,” he said. The mandatory arrest “hopefully benefits that victim in many ways, not just in the arrest of the identified aggressor but in notification of the family violence task force.”

An arrest can also give a victim time to get help, services and/or get to a shelter, VanVliet said.

The state’s Victim Information and Notification Everyday system alerts the public when an offender is released from prison.

Sgt. Frank LaMonica of the Dutchess County Sheriff’s Office said despite mandatory arrest laws, some victims still don’t reach out.

“We go to the same residences many times and the abused person will say nothing happened,” he said. “Even if they don’t want an arrest, they should really call on somebody. If they don’t, they wind up getting constantly abused.”

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