Family Violence: The critical role of advocates in family violence cases for both prosecutors and victims

by Sarah M. Buel, Clinical Professor, University of Texas School of Law, Austin

Advocates, victim coordinators and support staff have dramatically improved the quality of services to domestic violence victims throughout Texas and the country. Kind words of support and appropriate referrals can make all the difference in the victim’s perception of the courts and judicial system. It was a secretary in the New Hampshire welfare office who took the time to tell me, “You don’t deserve to be abused,” and write down the address where I could apply for the CETA job training program. That seemingly small gesture got me off welfare, into a job with Legal Aid, and on my way to putting my life back together without being terrorized. Smart prosecutors appreciate that advocates can be indispensable to virtually every aspect of case handling, particularly if they are empathetic.

PRE-TRIAL, advocates can serve as a liaison with the victim, handling everything from the initial phone contact and safety planning to thoroughly explaining the trial process. The likelihood of achieving convictions and victim safety are greatly enhanced when prosecutors use trained advocates to conduct comprehensive intakes, which include the entire history of abuse, dynamics of the current relationship (financial, children, employment, etc.), the individual victim’s reasons for staying with the abuser (to counter the excuse when raised by the defense attorney), any unsympathetic or conflicting information about the victim, and other relevant matters. This information will be crucial at trial, particularly if the victim is later reluctant to fully disclose or recants.

If the victim presents with visible injuries, the advocate or support staff can take photographs to document the abuse, which greatly increases the likelihood of a plea or a guilty verdict if the case goes to trial. Given that the number one reason victims return to their abusers is a lack of money, we must also determine the immediate financial needs of the victim and children. Local churches and social service agencies may be able to assist while a welfare application is pending, and the Attorney General’s Crime Victim’s Compensation Division (800/983-9933) can now provide about $1000 within 48 hours for emergency victim needs (to avoid utilities shut-off, eviction, foreclosure, etc.). Since TANF in Texas provides just $188 per month for a family of three, it is also essential that we provide information regarding job training and employment options. The local domestic violence shelter can usually assist with brochures and the most helpful referrals.

The advocate will also want to teach the victim how to collect evidence in her case. Without specific instructions to the contrary, victims may destroy incriminating materials such as the perpetrator’s letters from jail, answering machine tapes with threats or pleas to drop the case, and torn or bloody clothing from the incident. In a number of offices, advocates have developed a short Case File Checklist, used to ensure that we have the full police incident report, medical records, photographs, case chronology, witness list and other crucial documents.

The advocate can also ensure that the victim is subpoenaed to the prosecutor’s office instead of the courtroom, thereby reducing the likelihood of witness tampering on the day of trial. With regard to PROTECTIVE ORDERS, the advocate or support staff can provide information about possible remedies.
what will happen in front of the judge, what to do if the batterer violates the order and any assistance needed to complete the forms. Extensive safety planning should also be competed along with the protective order, alerting the victim to the children's safety needs as well as her own.

**AT TRIAL**, the advocate can stay with the victim, greatly minimizing the fear and intimidation she may understandably feel when having to face the perpetrator. It will be necessary to again discuss essential safety issues on her job, at home, at church and for the children's school. Whether the case is won or lost, the defendant may be particularly vengeful as he loses control of the victim. Since some victims will reunite with the batterer post-trial, we will want to discuss safety planning while living with or without the abuser. For example, alert them that if a fight starts in the kitchen, they should make every attempt to leave that room. Due to the access to knives, it has proven to be one of the most dangerous rooms in the house. Similarly, if the batterer keeps a gun in the nightstand by the bed, the victim will want to stay out of the bedroom in a fight. The presence of a weapon increases the chances of someone getting killed or seriously harmed.

During the **SENTENCING** phase, the advocate or support staff can ensure that the victim impact statement is in the file and presented to the court, especially in those cases in which the victim chooses not to speak. At this time, we will want to provide information and referrals to the victim, even if this was done earlier. She may feel safer to access community services with a conviction telling the abuser that his behavior will not be tolerated.

**POST-TRIAL**, advocates remind victims that we are here to protect them and want to know if

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**Electronic monitoring can help protect family violence victims**

*by Rob Peebles, Associated Texans Against Crime, Dallas*

Family violence is an enormous problem. In 1997, there were 181,773 reported incidents of family violence in Texas, 2 percent more than in 1996. To put this in perspective, reported incidents of family violence in Texas outnumber car thefts by 75 percent. But these figures include only reported abuse. According to a 1990 study, more than 600,000 women are physically abused in Texas each year. Even when the victim reports abuse, there are no perfect solutions. Those accused of Class A and B misdemeanor family violence are generally bonded out. Protective orders, while offering legal recourse, provide no physical barrier. In addition, those convicted of family violence and sentenced to jail can accumulate good time at a 3-to-1 rate in some counties. That means a convicted abuser can be freed from supervision in 120 days. Probation can be ordered for up to three years with a number of conditions imposed, including enrollment in professional counseling. Yet there is nothing to stop a probationer from attacking his victim if he is intent on further abuse.

Electronic monitoring (EM), however, can provide an extra layer of protection for family violence victims. Unlike protective orders and probationary conditions, EM provides no physical barrier, but the technology is proving itself to be an effective tool. Applying EM to family violence situations is similar to its traditional applications. That is, a transmitter bracelet is placed on the offender's ankle and a receiver/dialer is installed in his home. A monitoring center determines whether or not the signal is being received. Therefore, if a probationer on EM is not at home during the period specified, the lack of an electronic signal triggers a violation. The set-up under a family violence program is similar, but the victim maintains a receiver unit in her home as well. Under this set up, a violation is also triggered if the offender comes near the victim's residence. The violation immediately alerts the victim and the monitoring center. The center then notifies the police. The victim is also equipped with a "panic button" for use in any emergency. The victim's and offender's receivers, plus a tightly scheduled curfew, are necessary for a successful family violence EM program. That is because it is the offender's receiver unit that electronically confirms the ankle bracelet is in place and in good repair. Properly applied, the extra layer of security provided by EM can serve as meaningful deterrent to recurring abuse or threats.

In a real-world application, the Dallas County Community Supervision and Corrections Department maintains a family violence EM program in addition to its traditional EM operations. Virtually all of the family violence offenders placed into its EM program are referrals from the county's domestic violence court. These include probationers and defendants on bond. However, some felony court judges are beginning to use the program. The department recently reviewed 31 offenders who were assigned to their family violence EM program during a 10-month period. Most were probationers. The population averaged about two family violence offenses each. More than half of the offenses were violations of protective orders. Participants remained on EM for about an average three-and-a-half months, although individual stays varied widely. Some offenders were monitored over the entire period. Of these 31 cases, 21 were concluded "successfully." Only two of the 10 "unsuccessful" cases failed for reasons related to family violence. Only one offender attempted to make physical contact with victim. That individual was driving through the parking lot of the victim's apartment when his ankle bracelet triggered the receiver unit inside the residence. The signal alerted the victim and the monitoring center. The center immediately contacted police who arrived in time to detain the offender before he reached the victim's apartment.

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any further problems develop. Perhaps more than any other function, safety planning with every victim contact is essential. Not only do we want to know if the victim is physically safe, but also if she is having her mail stolen or utilities shut off or if family members are being harassed, all of which can be part of the perpetrator’s witness tampering efforts. The on-going safety planning provides the victim with an action plan for how to stay alive, specifically designed for the type of stalking, harassment, and abuse present in her case. It is important for the advocates and support staff to be fully knowledgeable about community resources, ensuring that the victim’s other problems are also addressed, decreasing the reasons that may force her to return to the batterer. The Attorney General’s Crime Victim Compensation Division can provide domestic violence personal safety plans and brochures on obtaining a protective order and stalking, in both English and Spanish.

Victim advocates and support staff can also assist by participating in the local family violence council or task force, ensuring that prosecution-related victim issues receive attention. Often, advocates are the key links between the local battered women’s shelter, law enforcement, community agencies and the prosecutor’s office. Without their tenacious advocacy, many more domestic violence victims would lose their lives in Texas. From Cindy Court in Beaumont and Jane Parker in Austin, to Elva Gonzalez in San Marcos and Arturo Muñoz in Laredo, we are truly blessed in this state with outstanding advocates, victim coordinators and support staff whose patience and commitment to service make all the difference for abuse victims.

**Electronic monitoring can help protect family violence victims...**

Certainly the program is not perfect. In nine instances, the victim either lost phone service or disconnected the equipment. This probably reflects the victims’ attempts to reconcile, despite instructions that there should be no contact between them. The bottom line, however, is that EM can help in many family violence situations. Our organization believes that monitoring family violence offenders is one of the most productive EM applications developed to date. Ultimately, today’s radio signal technology will be replaced with global positioning satellite systems. GPS will allow full time tracking as opposed to knowing if the offender is “in or out.” GPS will also let the probation department program “no entry zones” to alert them when the offender enters a pre-defined area. This application offers enormous potential. Prosecutors of family violence cases who find themselves uncomfortable with probation or bond for certain offenders may want to educate their local judges about EM applications for family violence cases. The cost of the equipment is more expensive than traditional EM, but generally runs less than $10 per day. It is Dallas’ experience that at least part of this expense can be recouped from offenders. Another cost is the labor-intensive nature of family violence EM. For example, probation officers must train both the victim and the offender how to use the equipment. It is our hope that counties will allocate resources to EM and other projects that can help stop the cycle of stalking and abuse.

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