

HITTING BACK AT DOMESTIC VIOLENCE

INTRODUCTION

Every man, woman, and child has the right to live their lives without the fear of abuse. Domestic violence is defined as physical abuse committed by a spouse, former spouse, fiancé, cohabitant, or a boy/girlfriend. Further, it has been suggested that the relationship between the defendant and the victim, not the crime itself, defines domestic abuse. Therefore, in its broadest sense, domestic violence includes threats as well as acts of violence against a victim by a family member or an intimate partner. While a wide range of relationships and crimes may fall into the domestic violence definition, women are the most visible and common victims. As the 2010/2011 San Diego County Grand Jury (Grand Jury) learned, more than 80% of women seen in emergency rooms for violence-related injuries are there as the result of an assault by an intimate partner. The cost of domestic violence-related medical care and lost productivity in the U.S. approaches \$23 billion a year.

Twelve-thousand women are killed annually in the United States because of domestic violence. In 2010, seven of those mothers, sisters and wives were residents of San Diego County.

When the murder of a 19-year-old student at San Diego City College became another grim statistic of domestic violence, allegedly at the hands of her estranged husband, the Grand Jury decided to investigate what is being done in San Diego County to keep victims safe from the perpetrators of such heinous crimes.

INVESTIGATION

The Grand Jury conducted an investigation into domestic violence issues in San Diego County (County). The Grand Jury wanted to become familiar with the various resources available to domestic violence victims, including how to help victims break the cycle of violence which ruins lives, erases childhood innocence, destroys families and places a huge financial burden on society. The Grand Jury interviewed individuals from:

- The Family Justice Center
- The Family Justice Initiative
- The District Attorney's Office
- The City Attorney's Office
- The San Diego Police Department
- The San Diego County Probation Department
- The San Diego Domestic Violence Council
- The San Diego Volunteer Lawyer Program
- Satellite Tracking of People (global positioning system electronic monitoring company)

In 2009, 17,000 cases of domestic violence were reported in the County. The vast majority were investigated by local jurisdictions, with the more egregious cases referred to the District Attorney (DA). The DA's office reviewed about 6,000 cases and brought charges in 2,800. These

unnerving numbers confirm that most abusers are not arrested, very few are prosecuted and even fewer are convicted.

One of the basic self-preservation tools available to domestic violence victims is the temporary restraining order (TRO). About 500 TROs are issued each month, an indicator of the magnitude of the problem in the County. TROs are in effect for only 21 days and expire if not served on the alleged perpetrator within five days of issuance. The San Diego County Sheriff's Department's instructions note that the time to complete the paperwork to file a TRO may take from 4 to 6 hours at the court facility. The actual forms can be at least 30 pages. Fortunately, help is available to complete the forms at the court house and from various victims' groups; however, for some victims this daunting task stops them from pursuing this avenue of relief.

The Grand Jury was disturbed to learn that many domestic violence victims ask to withdraw their applications for restraining orders. Without a support system, victims frequently return to their abuser for transportation, housing, and financial and emotional support. This legal process is largely a "do-it-yourself" exercise with most victims unprepared to act due to a lack of resolve.

DISCUSSION

Comprehensive education in several areas can help. Victims often blame themselves because they have been conditioned by their abuser to believe they deserve the abuse. Victims must learn not to be embarrassed by their predicament and accept there is no excuse for abuse. Additionally, neighbors, friends, and relatives must learn to step-up and report, even anonymously, suspected abuse to the authorities. On the broadest level, everyone needs to shed the "I don't want to get involved" mindset and dial 911 if they hear or witness abuse.

Among the domestic violence prevention programs in need of bolstering are those created for the abuser. A 52-week batterer's recovery program or individual counseling sessions strive to reduce abuse and hold the abuser accountable. The federal Department of Justice and others are studying the efficacy of such programs. One obvious problem with gauging the worth of the programs is there are few consequences provided by law if abusers do not complete the 52-week program.

Experts believe that even if immediate physical needs are met by shelters, many victims return to the abusive situation because they have no hope of controlling their future. If a probation officer requested that high-risk offenders wear a global positioning system (GPS) device, the GPS would alert the victim by cell phone or pager of the abuser's presence within a certain distance. GPS monitoring has not been used in domestic violence situations because of the initial and continuous monitoring expense, and fear of civil litigation should a unit fail. However, such an early warning might provide enough time for the victim to escape an attack and may offer a modicum of certainty in an uncertain life.

One bulwark against domestic violence is the City of San Diego's Family Justice Center (FJC), which provides a "one-stop shop" where more than 100 victims per month may:¹

- Receive counseling

¹ www.familyjusticecenter.org

- Make a police report
- Have injuries documented
- File a restraining order
- Obtain
 - Clothing (for everyday wear and job interviews)
 - Childcare
 - Food
 - Emergency housing
 - Housing for pets
 - Locksmith service
 - Internet service
 - Immigration assistance and interpreters

The FJC, under the aegis of the San Diego City Attorney’s Office, opened in 2002 with nearly 30 agencies providing services. It used a “high-risk team” approach with collaboration and risk assessment among members. In 2004, control of the FJC was transferred to the Mayor’s Office. In 2009, the City Attorney’s Office and several other agencies dropped out of the program, severely reducing its effectiveness.

With nearly 85% of the FJC’s clients being referred by its officers, the San Diego Police Department (SDPD) recognized the need for and value of a robust FJC. In 2010, the SDPD took responsibility for managing the program and once again, the FJC is recognized as a national model.

Other organizations and volunteers are dedicated to assisting victims of domestic violence, including the San Diego Domestic Violence Council. The Council supports a confidential and bilingual 24-hour hotline and is comprised of many agencies and hundreds of individuals. The San Diego Volunteer Lawyer Program assists at the FJC, the YWCA and courthouses. The Legal Aid Society can provide an advocacy team during court proceedings upon request of a domestic violence victim.

FACTS AND FINDINGS

Fact: Thousands of San Diegans are abused physically and/or emotionally by a domestic partner each year. Worse yet, in a continuing cycle of abuse, some have been murdered.

Fact: Few abusers are held accountable for the pain and suffering they inflict.

Fact: A significant number of victims have neither the will nor the support to use all the tools available to them. Even if they use the available tools, protection from the alleged abuser is inadequate.

Fact: If a victim comes forward, individuals and several agencies can provide assistance.

Fact: The Family Justice Center is a remarkable example of the help available when community resources are coordinated and focused.

Fact: For many reasons, victims rarely follow through to request a permanent restraining order.

Fact: GPS monitoring for abusers is not used to capacity because of the cost and potential civil liability.

Finding 01: The Grand Jury determined the use of GPS monitoring for high-risk offenders could be an effective tool, as it is with high-risk sex offenders on parole or probation, to improve victims' safety.

Finding 02: Many victims lack the resolve and/or have little confidence in themselves to reject the abuser.

Finding 03: Under current law it is difficult to hold abusers accountable for completing domestic violence intervention programs.

RECOMMENDATIONS

The 2010/2011 San Diego County Grand Jury recommends that the San Diego Police Chief direct the Family Justice Center to work with the District Attorney, other local police agencies, non-profit organizations, the County Sheriff and local state legislators to draft legislation that:

- 11-66:** Protects from prosecution and/or civil action the manufacturers and users of GPS monitoring systems designed to prevent domestic violence.
- 11-67:** Requires abusers to pay for and wear GPS devices when sentenced to do so.
- 11-68:** Requires offenders to pay for and attend intervention programs.
- 11-69:** Provides appropriate consequences for offenders who fail to complete mandatory domestic violence intervention programs.
- 11-70:** Streamlines the process to obtain a temporary restraining order.

The 2010/2011 San Diego County Grand Jury recommends that the San Diego County Chief Administrative Officer:

- 11-71:** Direct the Health and Human Services Agency to assess the adequacy of the services the County provides to victims of domestic violence, and assure that all agency staff are aware of the Family Justice Center and its services.

COMMENDATIONS

The 2010/2011 San Diego County Grand Jury commends:

The San Diego Police Department for assuming control of the Family Justice Center.

The Volunteer Lawyer Program and the Legal Aid Society for providing their services at several venues that assist domestic violence victims.

Jerome's Furniture and SeaWorld for making the environment at the Family Justice Center inviting and comfortable.

All other non-profit organizations that dedicate their efforts to help domestic violence victims.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall

address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

| <u>Responding Agencies</u> | <u>Recommendations</u> | <u>Date</u> |
|--|-------------------------------|--------------------|
| Chief, San Diego Police Department | 11-66 through 11-70 | 8/31/11 |
| Chief Administrative Officer, County Of San Diego | 11-71 | 8/31/11 |