

Child Witnesses & Domestic Violence Cases

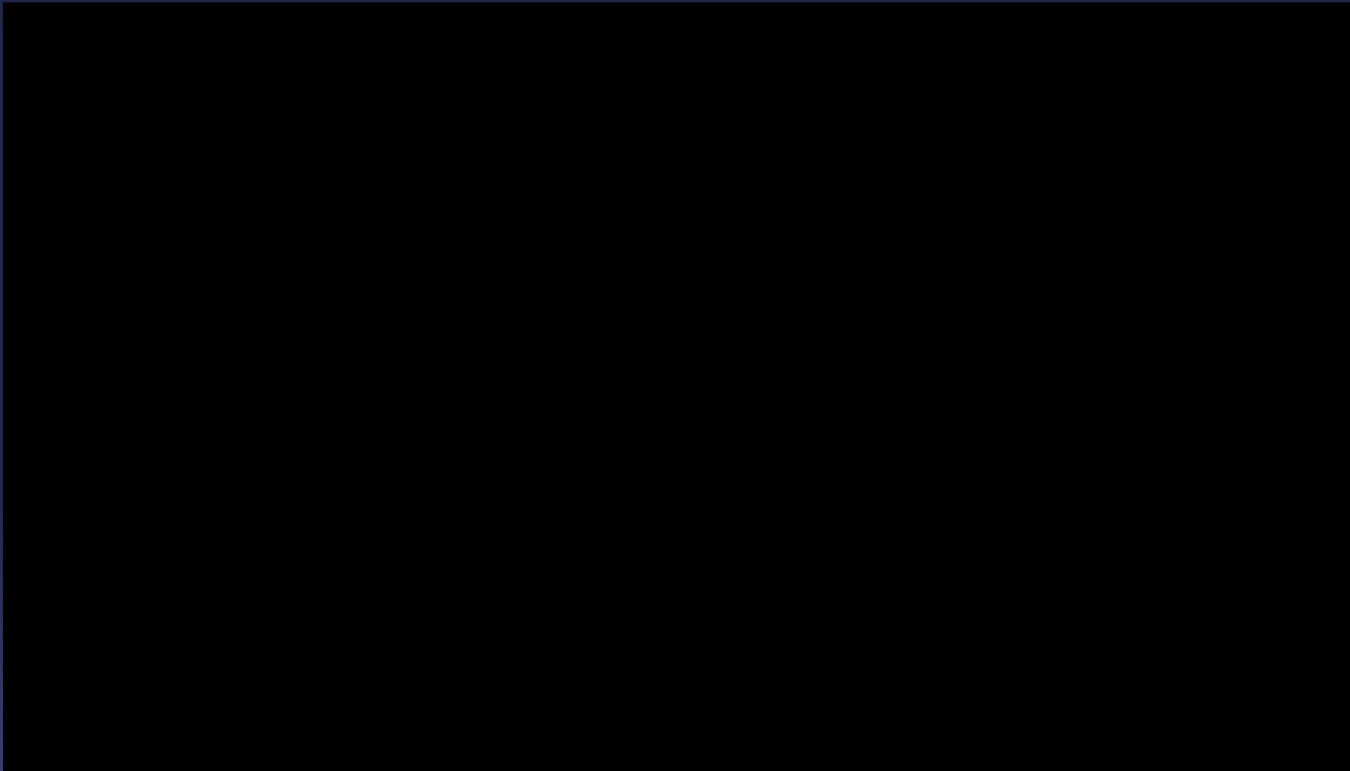
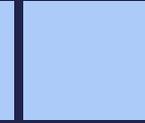
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911 Call For Service





Children and Domestic Violence

- According to U.S. government statistics between 3-4 million children ages 3-17 are at risk of exposure to domestic violence each year.
- 95% of those cases involve female victims at the hands of male partners, most often the children's mother.
- Children who grow up with abuse are expected to keep the family secret, sometimes not even talking to each other about the abuse.

Children as Witnesses

- Witnessing can mean seeing the actual incidents
- Witnessing can mean hearing threats or fighting noises from another room
- Children may also observe the aftermath of physical abuse such as blood, bruises, tears, torn clothing, and broken items
- Children may also be aware and able to describe the tension in the home such as their mother's fearfulness and actions when an abuser's car pulls into the driveway, etc.

Children's Behaviors Who Witness Domestic Violence

- Depending on the age and coping skills of individual children, length of and severity of abuse, various types of behavior will be exhibited
- Emotional responses include fear, guilt, shame, sleep disturbance, sadness, depression and anger (toward both the abuser for the violence and the victim for being unable to prevent it)
- Physical responses can include stomach or head aches, bedwetting, and loss of concentration (may also include physical injuries from trying to intervene in the violence)

Children's Behaviors Who Witness Domestic Violence

- Behavioral responses that can be exhibited include acting out, withdrawal, anxiousness to please or be loved, short attention spans, using violence to express themselves, increased aggression with peers, siblings, and mother, self-injuring behavior.
- May also include developmental delays in speech, motor, or cognitive skills, poor performance in school and attendance
- Children naturally identify with strength and may ally themselves with the abuser losing respect for the seemingly helpless victim. Disrespect for the victim and defiance can be seen in older children and teens.

What can be done?



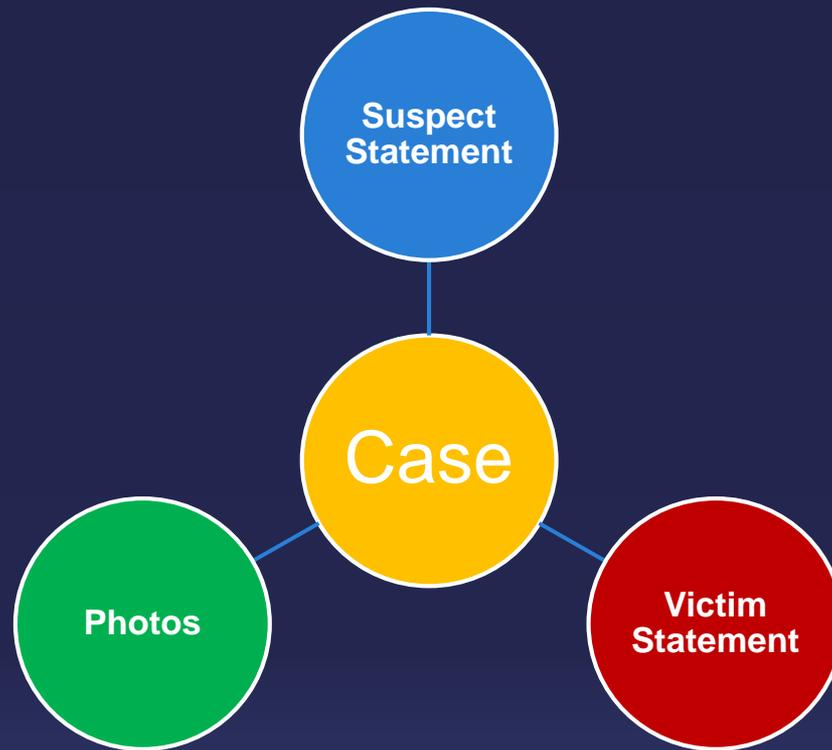
Protect Victims and Their Children by Building a Stronger Case



Historically domestic violence investigations have only scratched the surface of identifying the danger that looms for many victims.

Lethality assessment allows LE to look deeper into the dynamics of an intimate partner relationship and uncover any potential danger to raise the awareness in victims and triage resources for them.

How Have Police Investigated DV?



- Probable Cause May Be Enough To Arrest, But It Is Not Proof Beyond A Reasonable Doubt

Build a Stronger Evidence-Based Case



Build A Stronger Evidence Based Case

- Think beyond the injury and be able to describe the events and locations that led to the injury through photos. Photos from kids perspective.
- This may be our only opportunity to take these photographs.



Possible Charges Involving Children as Witnesses

- 13-1202 – Threatening or Intimidating
- 13-2802 – Influencing a Witness
- 13-2804 – Tampering with a Witness
- 13-2915 – Preventing the use of Telephone in an Emergency
- 13-3613 – Contributing to the Delinquency of a Minor
- 13-3619 – Permitting Life, Health or Morals of a Minor to be Imperiled by Neglect or Abuse

On-Scene Investigation

- **The officer(s) should conduct thorough interviews by:**
 - **Conducting complete interviews and obtain written statements as soon as possible.**
 - **Identifying, separating, and speaking with all witnesses, including children. (Age appropriate questions)**
 - **Interviewing each person in an area out of hearing range from each other and bystanders.**
 - **Utilizing lethality/danger assessment questions for victims of intimate partner violence to determine their level of lethality/danger and convey this information clearly to the victim.**

On-Scene Investigation

- Taking audio and/or video recorded statements of interviews, if possible.
- Using supportive interviewing techniques to ask about previous incidents, frequency, and severity. Allow parties to describe and explain without interruption before asking questions.
- Speaking with children separately from parents, if parents give their consent. Use age-appropriate techniques and document children's age(s). (Who, What, Where, When questions by Patrol for children under 12)
- Forensically Interview children ages 8yo and younger or if indications for older children that they are functioning at an 8yo or younger mentality. (Typically conducted mid-mornings for best results)
- Being alert of signs of neglect, trauma or abuse. Contact DCS if children are being abused as well as directly or indirectly witnessing abuse.
- Not telling the victim what action will be taken until all available information is collected.

On-Scene Evidence Collection

- **Officer(s) should collect and preserve all physical evidence necessary to support prosecution including evidence that substantiates victim's injuries, elements of an attack (i.e., weapons, torn clothing, etc.), and criminal damage. Record the crime scene thoroughly.**
- **Take photos of visible injuries as well as the crime scene. Photograph children who are present when considering neglect charges. Document and describe the photos in the report.**
- **Electronic evidence such as voicemails and text messages/photos, emails, social media posts etc. should be recorded, collected, or photographed as appropriate.**
- **Request and review a copy of telephone recordings (911 call) through a supervisor to impound as evidence, as appropriate.**
- **Follow up with victim, in person, to determine injury progression. Photograph newly visible and progressing injuries. Arrange for follow up with the victim if the original officer(s) will not be available.**

Document Domestic Violence Injuries

What is not known in many of our cases



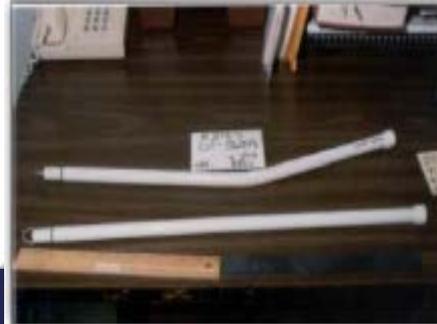
Many cases settle only knowing of this injury

Day of the assault

3 days later



Evidence



Injury and Corroborating Evidence



Injury and Evidence



Witnesses Are Valuable

- **Who called 911?**
- **Who else called?**
- **Who was present?**
- **Who did the victim text with?**
- **Who did the victim speak with immediately afterwards?
(before we got there)**
- **Lock witnesses into a statement.**

Medical Evidence

- **EMS Run Sheet**
 - **“Subjective Complaint: Multiple injuries to head, neck, torso, and limbs 2nd to an assault lasting 2hrs from 1400-1600 per Pt . Pt states she loss consciousness twice, unk duration, 2nd to being choked w/suspects hands around her neck. Comments: Also was dragged by her hair, hit w/fists to face, back and chest. Pt states she was tied up at wrists / ankles. Pt drove to address where EMS was called.”**
- **ER Records, Follow-up medical care, interviews with attending physician/charge nurse.**
- **Medical reports including Dr.’s notes from the Hospital, Primary Care Physician, Dentist, Urgent Care, Optometrist, etc., as applicable.**

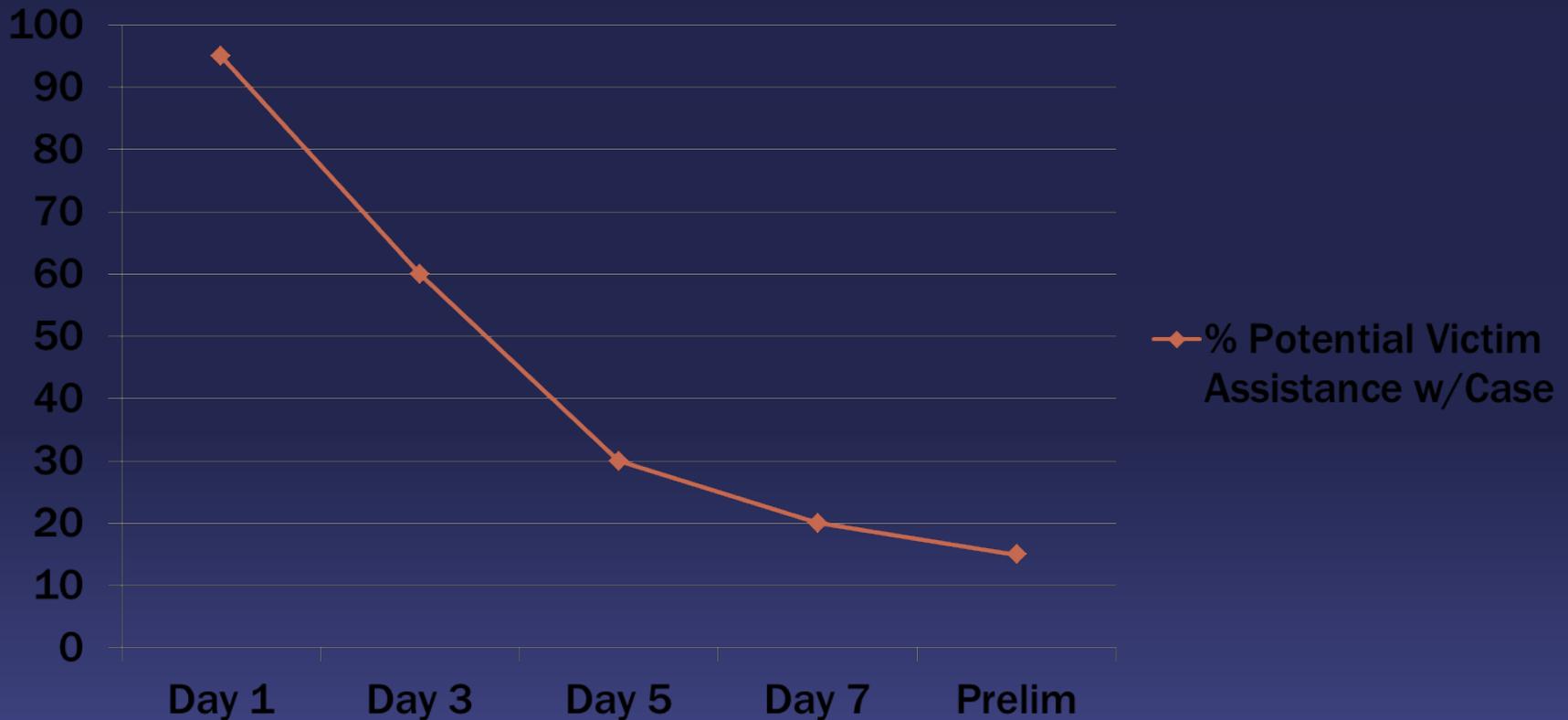
Follow-Up Investigation

- Conducting follow-up photography of injuries can make a huge impression for a case with a prosecutor and a jury.



When is the Victim most willing to aid with the case?

% Potential Victim Assistance w/Case



Confrontation Calls

- **One party consent calls can be all the evidence you have in an unwitnessed “he said/she said” incident**
- **Have the victim come into the station, advise them they will be recorded and have them call the suspect while recording the conversation**
- **Prep the victim prior to the phone call on what questions need to be asked (be direct)**
- **Do not have the victim make any promises or threats to the suspect**

Before Leaving the Scene

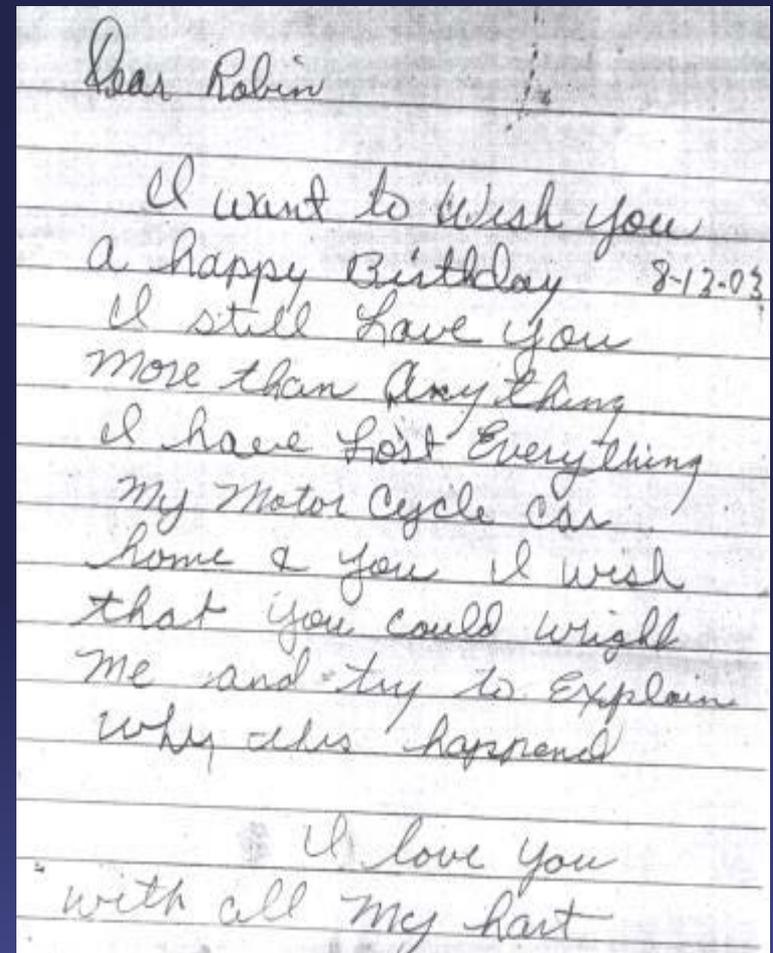
- The officer(s) should determine if there was anyone else that may have left the scene and needs to be contacted.
- The officer(s) should canvass the neighbors for additional witnesses.
- Check for a protective order to determine if firearms have been ordered to be removed per domestic violence statutory requirements for “cooling-off” period.
- Obtain consent from the victim to remove any firearms not utilized in the crime if no protective order exists. Victim may elect to keep their own firearms for protection. (Safekeeping hold lasts between 72 hrs. – 6 mos.)
- Ask about and document any information about prior incidents to establish a pattern or history of abuse.
- Make records checks on both parties in the dispute. Felony charges should be submitted if criminal histories elevate a misdemeanor to a felony given the number of prior misdemeanor convictions.

What Should Police Provide to the Prosecutor?

- **Original Report with all supplements**
- **Criminal history of suspect**
- **Print out of CAD 911 call**
- **Chronology of prior DV calls with both parties**
- **Suspect's contact record with this agency and criminal history**
- **Injury/Scene/Evidence Photos**
- **Medical documentation**
- **Recordings – 911, Victim/Suspect/Witness Interviews, Confrontation Calls**
- **New Evidence**

New Evidence

- Contact from jail – Letters or
 - Phone calls
- Violations of protective orders
- New crimes

A photograph of a handwritten letter on lined paper. The text is written in cursive and includes a birthday wish, a date, a list of lost items, and a request for help. The paper shows some signs of age and wear.

Dear Robin

I want to wish you
a happy Birthday 8-12-03
I still love you
more than anything
I have lost everything
my motor cycle car
home & you I wish
that you could wright
me and try to explain
why this happened

I love you
with all my hart

New Evidence

To: Whom it may concern:

ONLY IN case of my disappearance OR death
for some Reason, IT WAS ^{Lil} Benny GARZA
He's 34 yrs old, mexican, Black Hair Short to Head
mush tash on upper lip, tattoos Doel prints on Back of
neck & side neck, Has Bulldogs on Back in a  shape
& Has Garza on upper Back, & Bulldogs
on right upper chest, Benny GARZA Has
already Beaten me upon 5-7-02 & 1...

Cindy

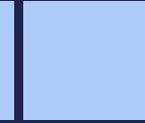
I'm Sorry For
Hitting you AND leaving
this way, I hit you
TO HARD, Please Forgive
me.

I DO love you

LOVE

DAVID - GIRLS.

The Prosecution Side



Is the Case Domestic Violence?

- **The CA is looking for documentation indicating that the victim:**
 - **Is the spouse or former spouse of the defendant.**
 - **Is the parent of a child of the defendant.**
 - **Is pregnant by the defendant.**
 - **Resides or resided in the same household as the defendant.**
 - **Is currently or was previously in a sexual or romantic relationship with the defendant.**
 - **Is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.**
 - **Is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.**

Call out for MCAO

In cases involving Homicide or very serious injury, or cases where a small child is involved, often the On-call Deputy County Attorney will be called to the scene.



Call Out

- Attend Briefing
- Walk Scene
- Observe Interviews

Charging Considerations

- **The prosecuting attorney must determine, from the available evidence, whether a reasonable likelihood of conviction exists. The following are general considerations established to assure that cases filed have a reasonable likelihood of conviction.**
- **Does the police report contain sufficient evidence (including foundation, recorded statements/911-calls and photos, if applicable) to support all elements of the crime?**
- **Are the witnesses credible (consistent), available, and competent to testify?**

Charging Considerations

- **Does the investigation as submitted provide all the documentation, scientific evidence, and witnesses or does it need to be “furthered” (i.e., referred back to police for additional information)?**
- **Are there any obvious defenses to the crime? If there are, does the available corroborating evidence overcome those defenses?**
- **Based on the nature of domestic violence cases, the likelihood of recidivism, and the ongoing danger to the victim and others, a domestic violence case will be charged (if it meets the criteria) even if the victim does not wish to proceed with prosecution.**

Preparing Children for Court

- **Have the child come to the office to meet you and the advocate. Take the child on a tour of the court. Don't discuss the case**
- **Have the child come back and this time talk about court/what happened. Be mindful of attention span. Therapy dogs may be helpful.**
- **On day of court, make sure child has strong support network.**
- **Forensic Training is very helpful.**

There is Hope!

- [Next Generation Boys](#)

Thank You!



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