

**DOMESTIC VIOLENCE RESPONSE:
VIDEO RECORDING INITIAL STATEMENTS TO INCREASE
PROSECUTION RATES**

by

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The Command College Futures Study Project is a FUTURES study of a particular emerging issue of relevance to law enforcement. Its purpose is NOT to predict the future; rather, to project a variety of possible scenarios useful for strategic planning in anticipation of the emerging landscape facing policing organizations.

This journal article was created using the futures forecasting process of Command College and its outcomes. Defining the future differs from analyzing the past, because it has not yet happened. In this article, methodologies have been used to discern useful alternatives to enhance the success of planners and leaders in their response to a range of possible future environments.

Managing the future means influencing it—creating, constraining and adapting to emerging trends and events in a way that optimizes the opportunities and minimizes the threats of relevance to the profession.

The views and conclusions expressed in the Command College Futures Project and journal article are those of the author, and are not necessarily those of the CA Commission on Peace Officer Standards and Training (POST).

DOMESTIC VIOLENCE RESPONSE: VIDEO RECORDING INITIAL STATEMENTS TO INCREASE PROSECUTION RATES

It is a typical Saturday night in Anytown, CA when police are dispatched to a domestic violence call. The reporting party lives in the apartment next door, and indicates she heard an argument that sounded physical, and believes the unemployed husband is intoxicated and slapped his wife. All is quiet when the two assigned officers arrive; but they see newspapers strewn on the floor, spilled beer in the kitchen and think an argument of some sort just occurred. Unfortunately, the officers only have the two involved parties as witnesses; one states it was a case of mutual combat. The other involved party agrees the argument was mutual but the physical fight was one-sided. She has a red mark on her face and is crying hysterically.

Although this specific story is fiction, this is an all too common scene in many domestic violence cases. In these cases, there are no independent witnesses, statements conflict, and the police find it difficult to determine who is believable and how the case might be proven in court. The answers to some of the questions might lie in looking to the emerging technologies to improve the response to domestic violence. One technology, the use of personal video recording devices, can help police capture the emotion of the incident and of the involved parties. Through this enhanced level of documentation, prosecuting attorneys will hold more batterers accountable, and keep more victims safe.

Impacts of Domestic Violence

To better understand how video technologies can improve the response to domestic violence, we'll first seek to understand the impacts of domestic violence, what is needed to build a better case, and how we can implement needed improvements to enhance victim safety through increased offender accountability.

Domestic violence has both economic and societal impacts. Violence against women is a significant public health problem in the United States, and is a societal issue that impacts people at many different levels (National Center for Injury Prevention and Control, 2003). The approximate 5.3 million victimizations a year result in 1,200 deaths and more than 2.6 million reported injuries (Bugarin & Nieto, 2003 & Black & Brieding, 2008). These victimizations result in eight million days of lost work productivity, and 5.6 million additional days of lost household work, valued at nearly \$1 billion. Another \$1 billion is lost in lifetime earnings from those who are murdered in DV related incidents. \$4.1 billion is associated to medical expenses to treat DV victims for a total economic impact of over \$5.8 billion annually. These figures do not take into account the cost of prosecution, incarceration, or treatment of offenders who are processed through the justice system in the United States (National Center for Injury Prevention and Control, 2003).

Understanding the frequency and severity of DV incidents makes the economic impacts easier to understand. The average annual rate of DV is 5.9 incidents per 1,000 people for women and 2.1 per 1,000 persons for males. In addition to the personal and economic impacts, DV calls comprise 15 to 50 percent of all law enforcement calls for service (Klein, 2009). These calls typically involve, at least, two officers and one to three hours of adjudication.

Reducing the occurrences of domestic violence through the application of emerging video technologies will lessen the impact of domestic violence, as fewer incidence equals lessened impact. More importantly, reducing the recurrence of domestic violence is essential to protect victims and hold batterers accountable for their actions.

Pros and Cons

Santa Clara County Assistant District Attorney Rolanda Pierre-Dixon, with more than 25 years of domestic violence prosecution and advocacy, believes that one of the ways to reduce occurrences of domestic violence is through the prosecution of cases. One of the challenges facing district attorneys is the standard for prosecution is much higher than the probable cause needed to make an arrest. Pierre-Dixon believes that one of the ways to bridge this gap and improve victim safety is through the collection of better evidence (R. Pierre-Dixon, personal communication on June 17, 2010).

Klein (2009) agreed with this assessment when he wrote that one of the challenges related to the prosecution of cases is evidence to corroborate the statements. He also believes that a lack of evidence is more likely to deter prosecutors from filing the case than it is juries from convicting, as the availability of evidence was not associated with an increased rate of conviction.

One of the ways this can be accomplished is through the extemporaneous video recording of the victim's statements. Pierre-Dixon believes this would have a positive impact on prosecutions, as juries have come to expect video and they would be able to hear and see initial statements firsthand and feel the emotion of the incident and prosecuting attorneys would benefit from viewing the video when deciding what charges to file. According to Pierre-Dixon, photos and audio recordings are good; however video recordings of the initial statements and of the crime scene bring the jurist into the scene and actually place them in the officer's shoes during that incident (R. Pierre-Dixon, personal communication, May 28, 2010).

Pierre-Dixon cautioned, however, that video could also be a dual-edged sword. The potential drawback to video is the potential loss of credibility if the video does not work or the

audio fails during key parts of the interview. Additionally, video systems can malfunction when officers were rely on them instead of taking detailed notes or writing as detailed of a report again leading to issues of credibility with the case. Defense attorneys will also latch on to the failure of the video equipment to create doubt in the minds of jurists. (R. Pierre-Dixon, personal communication, June 17, 2010).

Pierre-Dixon is not alone in her support of video evidence. Mike Mannion, manager of the visual evidence unit of the Manhattan, New York DA's office believes that video brings a crime scene to life in front of a jury in a manner unlike other evidence (Senn, 2005). Additionally, in a study from 2004, a prosecutor from San Diego encourages video recording of statements as a tool to reinforce a case to capture the essence of the situation to enhance acceptance of the facts of the case in the minds of judges and juries (Sullivan, 2004).

One concern from the victim's perspective is the uncomfortable feeling of being recorded. According to Perla Flores, Director of Safety and Support Services for Community Solutions – an organization that advocates for domestic violence and sexual assault victims – some victims might be uncomfortable being recorded so it is difficult to know if victims will support this technology. Many of the devices on the market today with a sustainable battery life or sufficient memory are not covert so the involved parties will know they are being recorded. If the devices became smaller as technology improved California Penal Code section 633 does allow police officers to record conversations in the course and scope of their duties (State of California, 2010). Therefore, in time, victims may not know they are being recorded and not have that uneasy feeling. Video recorded statements may also help build the victim's trust in the justice system, as their state of mind and exact statements will be accurately documented. This will ensure a victim's statements are documented in the context of the situation, especially in

situations where the victim speaks a second language. (P. Flores, personal communication, June 18, 2010).

Flores' noted situations when her clients express frustration that the police report does not accurately reflect what the victim recalls telling the officer at the time of the incident. Although it does not happen with great frequency, it erodes the victim's trust in the system when it occurs. Video recordings would help alleviate this concern. Officers could view it as they write their report and victims could view the statement at a later date if they had a concern about how the officer documented the statement (P. Flores, personal communication, June 18, 2010). This level of transparency will help build and maintain trust with law enforcement and the community in any situation where an involved party questions the accuracy of the statement in the report.

Next Steps

As Klein stated that the presentation of better evidence will result in better prosecution rates, the next question is how can we test the efficacy of this theory in a meaningful way? Penal Code 13701 requires officers to document all domestic violence incidents; the efficacy of personal video recorders could be tested in any environment that has a high volume of domestic violence cases (State of California, 2010). Research gathered both quantifiably and anecdotally would support or not support the hypothesis that the use of personal video recorders improves the prosecution of cases. One way to accomplish this is through pre- and post-project analysis where prosecution rates are examined prior to and after the implementation of the system. Therefore, any municipality or county that responds to a significant number of domestic violence calls could pilot the use of personal video recorders and evaluate their effectiveness.

Personal video recorders will make an immediate impact in domestic violence investigations, since better evidence will result in higher prosecution rates. It is natural for officers to want higher conviction rates; however, victims also support the prosecution of their batterers. In the study by Klein, 67% of victims in Chicago and 55% in California wanted their abusers prosecuted (2009). Unfortunately, because the technology is new, research has yet to be completed documenting the impact on prosecutions. Pierre-Dixon, with 25 years of domestic violence experience, was also unable to speculate on the potential impacts. It seems the question then becomes if the technology exists and victims desire prosecution, who will take the lead on this endeavor to test the efficacy of personal video recorders.

Conclusion

The impact of domestic violence is reduced through the reduction of its occurrence. Reducing its occurrence happens when prosecutors are able to keep victims safe by holding offenders accountable through the prosecution of cases. Many domestic violence cases are dependent on the quality of the statements; therefore, the use of personal video recorders will help attorneys, judges and juries have a better picture of what occurred.

Furthermore, victims desire prosecution in most cases, and prosecution mitigates further offense. The video recording of initial statements at the scene of domestic violence incidents will help improve the victim's feeling of safety through increased offender accountability. Agencies should consider adopting personal video recorders to aid in the documentation of initial statements at crime scenes. Once officers realize the benefit, it will become standard practice for most cases as the police work to keep victims safe and help hold offenders accountable. Personal video cameras are just another tool to help accomplish that goal.

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