

TIPS FROM DAVID FOSTER FOR PATROL OFFICERS

DOMESTIC VIOLENCE CASES

1. Due to “Crawford” Case (if victim does not appear for court, usually can not use testimony) put as much detail in incident report as possible – emotional state – **WRITE IT ALL DOWN!** If something is blurted out (i.e. not said in response to a question), put what was said in the report and indicate that the victim just blurted it out.
2. If it is a serious case, record the victim interview on videotape. This will help insure that the victim can’t later claim that the police put words in her mouth, “forced” her to make a report, or threatened to take her kids if she didn’t claim that the defendant beat her up. In addition, it lessens the likelihood that she will recant later.
3. Turn on belt/unit recorder the minute you respond to a call and keep it on while you enter and talk with the victim and defendant. This will capture the screaming and noise of the scene, which is always a big contrast to a defendant all dressed up in a suit in court. When the Judge hears the things being said right after an assault, it helps up keep the defendant in custody.
4. If EMTs respond, put the name of the EMT in your report so the DA knows the name of the EMT to list as a witness and can order the EMT report.
5. Put the name of treating doctors and nurses in your report. If they take pictures of the victim at the hospital, put that detail in your report so the photos can be ordered. The DA needs the doctors’ and nurses’ names to list them as possible witnesses.
6. If there is a scuffle/fight with a defendant at the hospital, put the name(s) of the responding hospital security personnel in your report. They can help corroborate how the defendant behaved at the hospital and it doesn’t become just your word against the defendant’s.
7. Turn on the microphone in your unit after the defendant is placed in the back of your vehicle. Let it run the whole time back to the station. If you have a belt unit, turn it on while in the vehicle with the defendant. The defendant will often talk to himself or make threats against the victim for having called the police.

8. Leave your unit video camera running after you arrive on the scene. If you can park so that the camera is facing the door, even better. This will capture the state of the victim (physically and emotionally), as well as what she is saying and her demeanor (hysterical). It helps us get what she had to say in as an excited utterance and the judge can see how bad off the victim was in the minutes after the incident happened.
9. **PUT ALL RECORDINGS INTO EVIDENCE.** Do not leave them on the tape in your unit as they will be recorded over or destroyed.
10. Try to get contact information for a victim's parents or grandparents. "Who will be able to reach you when your perpetrator gets out of jail?" The DA needs the numbers of family members' whose phone numbers will not be changing or turned off.
11. Victims/witnesses can not be bonded out by perpetrators.
12. Take as many photos as possible and make sure the pictures come out. Disks are good. Bring a copy of the disc to grand jury and/or submit the disc with your report.
13. If possible, include print outs of prior reports with current report. CAD histories help.
14. If they both own something and one person trashes it there is no charge.
15. There are an increasing number of same sex couple incidents. They should be treated as any other domestic incident.
16. **NEVER** tell the victim that you are tired of responding to their location after a domestic, or ask them why they bother calling the cops if she's going to stay with him and never follow through after he is arrested.
17. If the victim is going to the hospital make sure they sign a medical release form listing the DA's office as an authorized party to receive the information.
18. Guidelines for warrants: immediate danger to victim or risk of flight. If you are seeking an arrest warrant 2 weeks after the incident, it is probably not going to be approved unless there have been threats made to the victim in the intervening time.
19. Warrants must be filed within 10 days after a defendant is arrested, but a copy of the arrest warrant, criminal complaint, and affidavit need to be turned over the DA as soon as they are signed by the Judge. Get to David Foster ASAP since arrest warrant cases are presented to the Grand Jury within 10 days.
20. No dual arrests.

21. Defendants ALWAYS say something. Put their comments into your report, even if it does not show guilt. They often say “I didn’t do anything” or “she did it to herself” or “I don’t know what happened”. Any statement locks the defendant into the situation and makes it so he can’t change his story later after seeing the State’s evidence. Defendants often change their story to self defense after seeing the pictures and hearing the testimony. His statement of “I didn’t do anything” or “I wasn’t even there” helps undercut a self-defense claim.
22. Describe physical affect of victims; “She is holding her arm,” “He is rubbing his leg,” “She complains that her throat hurts, she’s coughing, and her voice is raspy.”
23. Immigrants who are victims of DV can get “U” Visas if they assist prosecution. Catholic Charities will help with temporary Visas.
24. Remember, juries are used to seeing CSI so they expect thorough reports, pictures, and follow ups. Use your common sense as to whether items should be submitted to the lab for testing. For example, if there is a bloody knife (or a victim claims that the knife was put to bare skin even if you don’t see anything), it should be submitted for DNA testing.
25. If you get a subpoena from a defense attorney please let David Foster know. He will try to make it for the interview to make sure that the defense attorney asks proper questions.
26. David Foster can be reached at (505) 231-9125 or dfoster@da.state.nm.us. Do not hesitate to call or email with questions.