

BEST PRACTICES FOR PROSECUTION
 MATT WIESE, PROSECUTING ATTORNEY
 MARQUETTE COUNTY, MICHIGAN

RURAL BUILDING BLOCKS WEBINAR TRAINING
 WEDNESDAY, JULY 16, 2014

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 - Email comments to liz@praxisinternational.org
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Poll question:
What is your role in your CCR?

A. Prosecutor

B. Law Enforcement Officer

C. Community Advocate

D. Systems Advocate

Other—chat it in...

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Making Victim Safety a Central Feature of the Criminal Justice System's Response to Domestic Violence

1. Change How We Think About The Violence
2. Change How People Act on Cases
3. Change How We Network & Communicate with each Other

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Making Victim Safety a Central Feature of the Criminal Justice System's Response to Domestic Violence

4. Develop Written Policies that Include Community Based Advocacy Programs
 - Vertical Prosecution
 - Working with Community Based Advocates
 - Develop Written Policies that Include Community Based Advocacy Program

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Making Victim Safety a Central Feature of the Criminal Justice System's Response to Domestic Violence

5. Create Direct Confrontation of Offender-Hold Offender Accountable
6. Evaluate the Intervention From the Standpoint of How it Impacts Victims
7. Design the Intervention in a Way that Addresses Harm Done to Children
8. Intervene in a Way that Does Not Cause More Harm to Victim Safety

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The distinct and collaborative roles of the system-based and community-based advocate in working to enhance prosecution

- Written Policy
- MOU
- Standardized Practices
- Standardized Forms
- Implementing Institutional Changes
- Focus on Process not Personalities

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How prosecutors work with law enforcement and advocacy agencies to enhance safety for women while holding offenders accountable

- Identify Key Practices to be Achieved
- Develop a Consistent Message
- Identify Roles and Responsibilities
- Incorporate Community Based Advocates into the Process
- Don't Compromise the Integrity of Community Based Advocates

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Example:
Key practices in prosecution charging decisions

- Request and consider a wide range of information
- Evaluate the history, context, and severity of violence
- Consider harm to children and use of children as instrument of abuse
- Evaluate risk and lethality factors
- Charge with attention to victim safety, including safety of victim defendant
- Understand factors related to victim availability to the prosecution process
- Evaluate prior incidents and convictions
- Consider options in declining cases
- Engage and collaborate with victims in making charging decisions
- Communicate charging decisions and respond to inquiries

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Example:
Key practices to evaluate risk & lethality factors by including attention to

- Stalking
- Strangulation
- Threats to kill the victim
- Threats of suicide
- Forced sex or pressuring for sex
- Serious injury to victim
- Weapons
- Violence outside the home
- Aggression toward interveners
- Threats to family, coworkers or victim's new partner
- Abuse of or killing of animals
- Damaging victim's property
- Violence during pregnancy or shortly after giving birth
- Hostage-taking or restraint
- Acts exhibiting extreme hostility toward the victim

See handout: [Practitioner's Guide to Risk and Danger](#)

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Example:
Key practice evaluate prior incidents & convictions

- Review prior recent incidents & charge if sufficient evidence:
 - Against the same victim
 - Against another victim
- Evaluate prior convictions to determine possible enhancements
 - Use flexibly to serve both victim safety & offender accountability

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How to build a case that reduces reliance on battered women's testimony in the aftermath of the Crawford Decision

- Forfeiture of Confrontation Right by Wrongdoing
- 5th Amendment Requires Production of the Witness to Satisfy the Confrontation Clause
- Once Produced; Hearsay Statements Should be Admissible
- Balance Victim Safety
 - vis-à-vis
- Offender Accountability

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How to build a case that reduces reliance on battered women's testimony in the aftermath of the Crawford Decision

“The old fashioned way, like we did before Crawford. By conducting a thorough and complete investigation, including accurately recording the nature and circumstances of all witness statements, and documenting and gathering all available evidence.”

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Reviewing policy

- Underlying principles and philosophy
- Criteria and procedures
- Monitoring and supporting compliance

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Principles and philosophy

- Adhere to an interagency approach and collective intervention goals
- Build attention to the context and severity of abuse
- Recognize that most domestic violence is a patterned crime requiring continuing engagement
- Seek sure and swift consequences
- Messages of help and accountability
- Reduces unintended consequences and the disparity of impact

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Agree Upon & Define Your Policy

The Any County District Attorney's Office has a **zero tolerance policy** on domestic violence.

Zero tolerance means the district attorney's office will not drop cases when factors indicative of danger are present.

Those factors include but are not limited to:

- Severe injury to a victim resulting in hospitalization
- Threats to kill a victim
- Strangulation
- Defendant with a history of many police encounters

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Agree Upon & Define Your Policy

The Our County District Attorney's Office has a **no-drop policy** on domestic violence.

No-drop means prosecutors should pursue cases for which there is strong evidence, even when victims refuse to cooperate.

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Criteria and procedures

- Decrease reliance on memory
- Account for how victims use violence
- Recognize and guard against retaliation by offender towards victim
- Document the pattern and history of abuse
- Reinforce a swift, timely response
- Recognize that batterers use children to control adult victims
- Recognize that the adult victim parent is critical to the welfare of children
- Victim notification and advocacy

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Monitoring & compliance

- Link to next points of intervention
- Specify the how, when, and with whom for information-sharing
- Track practitioner compliance and exceptions
- Ensure compliance and address non-compliance
- Continuing education and training
- Establish a process of record sharing and external monitoring

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Questions?

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- Maren Woods, Praxis Rural TA Program Manager maren@praxisinternational.org

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