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Immediate separation and monitoring of alleged perpetrators of domestic violence

Public Prosecutor of Marseille

Minister of Justice
France

Objectives and main features of the program

The Public Prosecutor of Marseille employs three main strategies in dealing with instances of domestic violence:

- Reprimand, as an alternative to legal proceedings; reserved for the least serious cases.
- Immediate judicial appearance, with committal order, for the most serious cases and/or those featuring repeat offenders.
- Appearance by written form, as a compromise solution, applied in cases where the presumed aggressor is referred to the Prosecutor and is assigned a date to appear before the criminal court.

As regards the last scenario, the Prosecutor may request that the judge responsible for civil liberties and detention place the suspect under probation. The ingenuity of the new procedures put into place by the Public Prosecutor of Marseille at the end of 2000, lies in the “appearance by written form-probation” option.

This procedural option is available for alleged domestic violence suspects with respect to whom an immediate appearance before the criminal court, which often involves provisional detention, is unnecessary, but who, nonetheless, needs to be separated from the victim. However, in physically separating the parties, it is unacceptable to force the victim to leave the family home.

Generally, the purpose of the program put into place by the Prosecutor is aimed at ensuring that the alleged aggressor leave the family residence, in order to ensure calm and to minimize the risk of a second incident taking place, while allowing the victim to safely remain in the family residence. The procedures aim at avoiding a repeat offence by offering immediate rehabilitation counseling to the alleged aggressor. The system is also aimed at ensuring that the victim has access to help. The new procedures are founded on a strong partnership between the Prosecutor of Marseille and local probation and victims assistance associations.



Operation of the program

1) Processing of the alleged domestic violence perpetrator

The investigation by the police or gendarmerie begins with the sending of the accused to the Public Prosecutor of Marseille. He is sent to the Prosecutor or one of his associates or substitutes and receives a date to appear before the criminal court. The delay for the hearing date is relatively short because it must take place within 6 weeks.

The Public Prosecutor formally requests that the judge responsible for civil liberties and detention place the accused under probation, and forbid him from returning to the family home or from communicating with the victim.

2) The carrying out of a rapid investigation

With the start of the process, the Prosecutor obtains the assistance of the *SPES* (*service provençal d'encouragement et de soutien*). A social worker meets with the accused in order to resolve the situation quickly. The goal is to determine whether the accused has access to lodging other than the family home (i.e. staying with family, friends...etc.). The social worker confirms the alternate lodging solution proposed by the accused and contacts the person who has offered lodging.

If the accused does not have an alternate lodging possibility, the *SPES* will offer lodging at a hotel and will cover the cost. In this way, probation with separation from family domicile is possible regardless of the accused's circumstances.

The social worker's report is sent to the judge responsible for civil liberties and detention.

3) Removal of the accused from the family residence and institution of probation

The judge responsible for civil liberties and detention imposes probation. The order prevents the accused from returning to the family home and from contacting the victim.

Probation follow-up is handled by *SPES*, which verifies that the accused is satisfying the obligations imposed on him; notably the prohibition against returning to the family residence. In order to accelerate the process, the accused is directed to *SPES*'s offices the day following the issuing of the probation order.

As of the first encounter, the probation officer sends the accused to meet with a psychologist. The *SPES* has psychologists who deal exclusively with perpetrator's of



domestic abuse. The purpose of this meeting is to inform the accused of the options available to deal with violent behavior and to direct him to medical services specialized in drug addiction and alcoholism.

With respect to the particular case where the accused must be put up at a hotel, the *SPES* has decided to cover up to 15 days. During his hotel stay the accused must, therefore, with assistance from the probation authorities, find a more permanent housing solution. He could, for example, try to find a lodging solution with family which wasn't available at the time of his initial processing. He could also opt for lodging at a hostel, or seek housing on his own. The goal is to ensure that a stay at a hotel remains an emergency solution.

The Prosecutor is informed of every incident which occurs during the probatory period.

A report covering the probation period is drafted and sent to the criminal court for the accused's court appearance.

4) Looking after the victim

From the start of the investigation, all parties involved in the judicial process pursue the interests of the victim. Where it is deemed to be necessary, the investigators, on their own initiative or on request from the Prosecutor, contact the *Service d'Aide Aux Victimes dans l'Urgence (SAVU)*. This organization is able to assist the victim at the police station and offer various services such as accompanying the victim to a third party or to a victim's aid association.

If the help of an emergency service is not needed, the investigators, on their own initiative or on request from the Prosecutor, send the victims to a specialized victim's aid association, "*SOS Femmes*" in particular.

The *SPES* contacts the victim at several key junctures in the process. At the start of the social work investigation, the social worker interviews the victim in order to gain information about the family situation. At the start of the probatory period, the probation officer informs the victim of the restraints and duties imposed on the alleged aggressor. In effect, just before the appearance of the individual before the criminal court, the probation officer interviews the victim to obtain, where relevant, additional information for the processing of the matter.



Results and evaluation:

This new program, put into place at the end of 2000, applies to a growing number of alleged perpetrators of domestic abuse. In 2002, 24 individuals were subject to this “appearance by written form-probation”; in 2003, 31 individuals were processed under the new measures.

In 2003, 8 alleged perpetrators were eligible for a hotel stay. Although the hotel stay does not apply to the majority of individuals placed on probation under the program, this number demonstrates the strength of the system. In the absence of the possibility of a hotel stay, the Prosecution’s case would be quite different and would involve the jailing of the individual or his return to the family home.

Repeat offences during the probation period are very rare, and few incidents occur during the period of the entire process.

The parties involved in the process agree that removal of the alleged abuser from the family home is valuable for several reasons: firstly, it puts an immediate end to the public order disturbance issue, and protects the victim while allowing them to stay in a familiar environment. Over the long term, those involved in the process have determined that separation, where timely, and brought about by preventing the alleged perpetrator from returning to the family home, interrupts the entire family routine and forces the family members to reflect on what has happened.

While not usually judicially ordered, the offer of psychological counseling is met with acceptance by the majority of alleged abusers. This is an important indicator of the prevention of repeat offences.

Consequently, after four years of implementation, results are quite positive. The increase in users of this option combined with few repeat offences during the process, demonstrates the importance and usefulness of the new procedures.



Prospects

The Public Prosecutor of Marseille is currently considering the possibility of improving the program in several ways:

- Case-by-case psychological evaluation of the accused in order to better tailor individual sentences. The effort toward achieving this is currently underway, so that it will be possible, in between the initial processing of the accused and his appearance before the court, to obtain an expert evaluation in order to determine the dangerousness of the accused and the chances that he will re-offend.

- This effort will be undertaken in cooperation with the help of a psychologist specialized in the area of domestic violence and trauma able to approach the matter in the “aggressor-victim” context, and able to evaluate the psychological impact of the events on the victim. Aside from the obvious difficulties related to the need to have a permanent roster of experts, this effort has been criticized by traditional battered women organizations. These views should be taken into account.

- The placement of the accused under probation involves his removal from the family home, and the prohibition on his communication with the victim. This may lead to a powerful rupture in the relationship between the accused and his children, even though a judge has yet to make any order affecting the family in the context of an ultimate separation order. Consequently, the Prosecutor aims to consider how the parent-child relationship can be protected during the process through visits carried out in a neutral and safe environment.

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