

# VIOLENCE:

## Courts strain for solutions in abuse cases

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### A lot of them are just scared'

Domestic-violence cases are extraordinarily complex.

In few other crimes are the victims so bound—emotionally, financially and otherwise—to their attackers.

Victims often tell the police one thing at first and tell prosecutors another thing later, hoping to get the charges dropped.

Prosecutors are left trying to decide whether victims are speaking of their own free will or are so locked into abusive relationships that they can't see clearly what's in their own best interest.

Many cases reviewed by The Free Lance-Star illustrate the maddening barriers prosecutors confront in all three localities.

In one case, for example, a Spotsylvania man gave his wife a swollen lip and bloody nose. "The victim's blood was all over the walls and floors," a deputy reported.

But the woman bailed her husband out of jail and changed her story. The result was a not-guilty finding at trial.

Victims skip court and obstruct prosecutors for a variety of reasons.

"A lot of them are just scared," said Eve, who asked that her full name not be disclosed. "He'll say, 'If you don't do this, it'll be worse next time.'"

Another obstacle for prosecutors is that police can't speak for victims at trial. They can describe a victim's bloody nose and a defendant's swollen knuckles. But the hearsay rule does not allow them to say what the victim told them the night of the jail call. Only the victim can do that, and if she won't take the stand, the judge likely will never hear her story.

Without a confession or witnesses—which are rare—prosecutors are generally out of luck.

"You really have to fight for the convictions," said Deputy Commonwealth's Attorney Eric Olsen, who prosecutes most of Stafford's domestic cases.

### Don't know what works best'

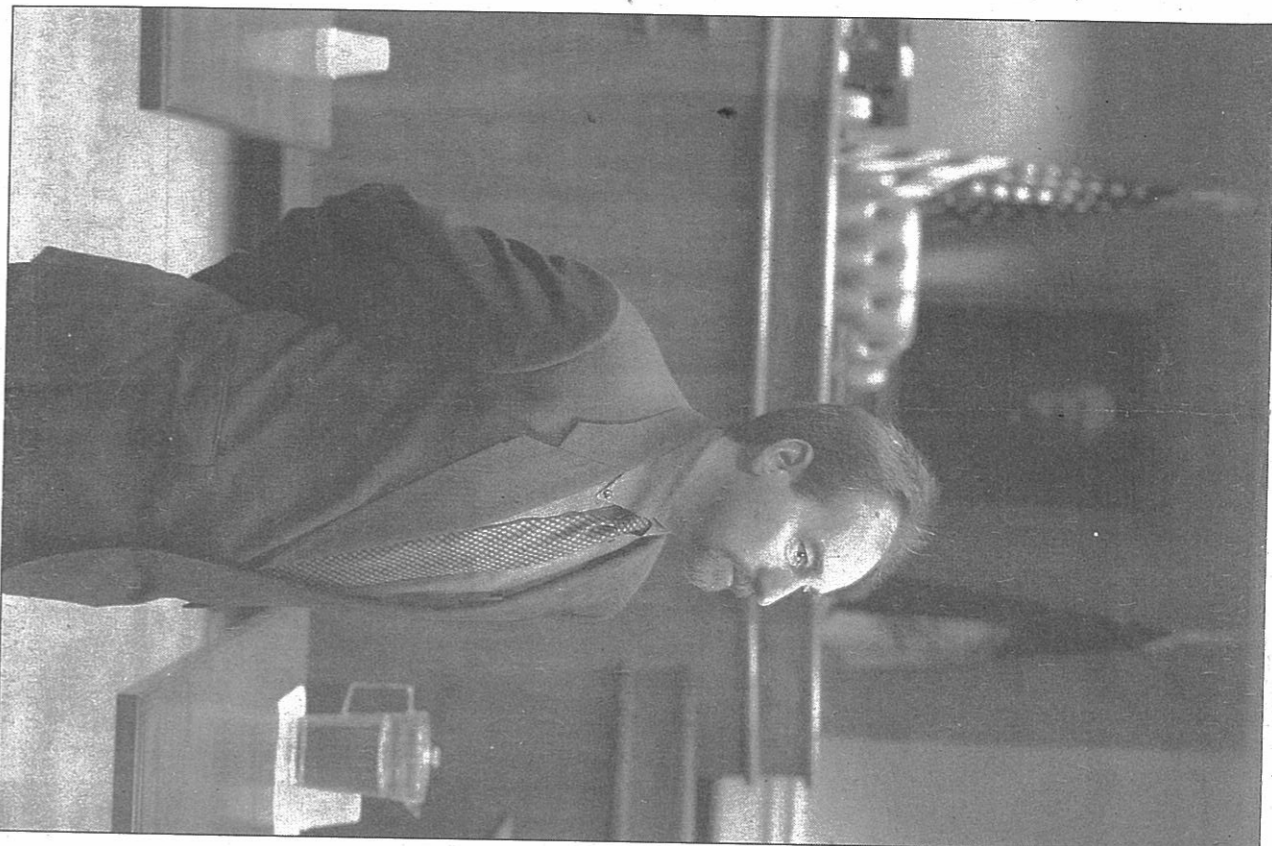
But no one can say whether convictions actually keep victims safe.

Even national experts are at a loss to say whether convictions are better than counseling-based deals at preventing future violence.

Research doesn't exist to say whether jail is more effective than treatment. And no one locally or nationally has studied repeat offenders enough to say which method works best.

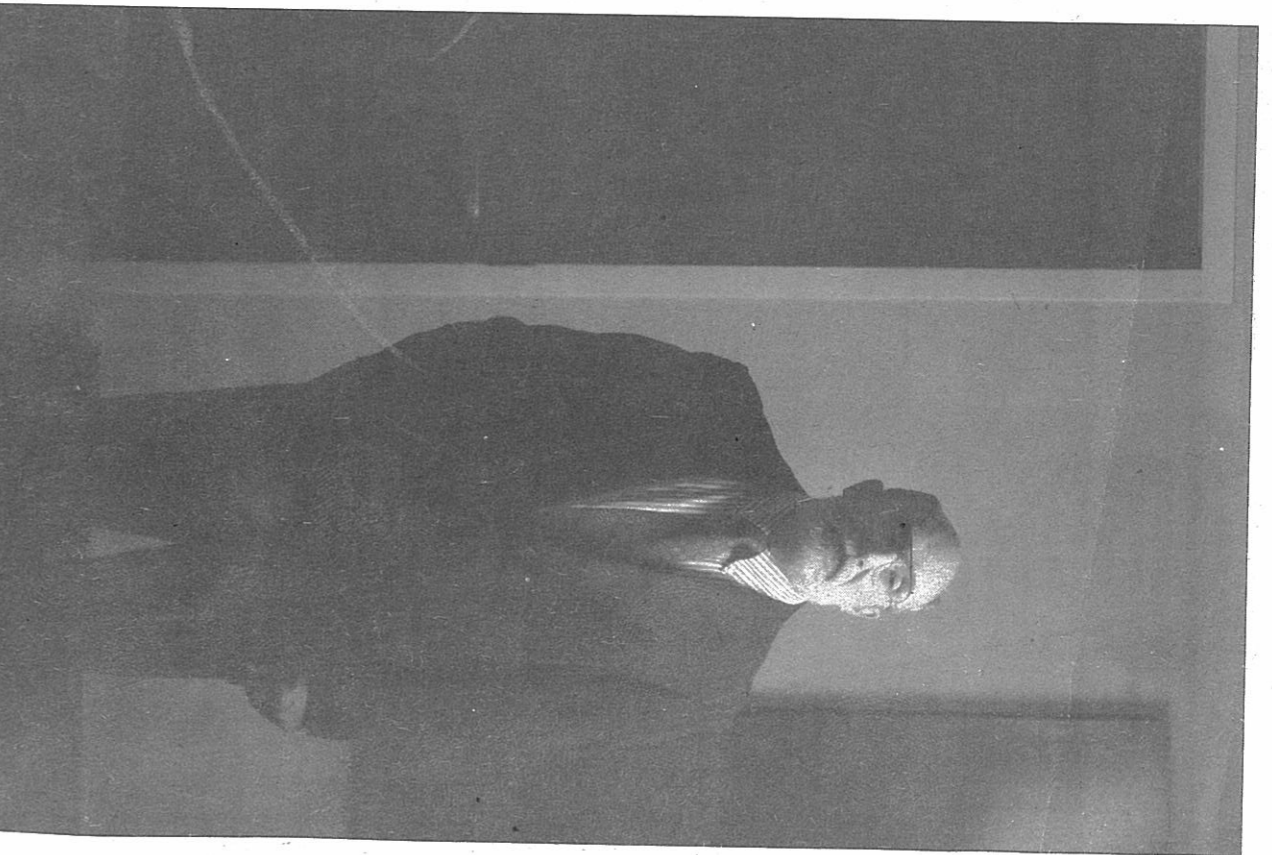
A national study of 7,500 batterers indicates that seven of 10 won't do it again. But no one knows which seven, and no one knows whether judicial intervention has an impact. And, the researchers acknowledge, their study could be flawed by victims willing to report repeat acts of violence.

"We just don't know what works best," said Joel Garner, a former research director for the S. Sentencing Commission who has studied domestic violence extensively.



Photographs by DAVIS TURNER / THE FREE LANCE-STAR

**Stafford County Deputy Commonwealth's Attorney Eric Olsen says prosecutors 'have to fight for convictions' in domestic abuse cases because the issues are so complex.**



**Spotsylvania Commonwealth's Attorney Bill Neely says victims often ask prosecutors to drop charges against abusers because of fear of what might happen to their families.**

### When courts intervene

	Guilty verdicts in domestic-violence cases	Not guilty/dismitted	First Offender deals	Not prosecuted	Total cases in 1999
Stafford	57%	14%	4%	20%	329
Fredericksburg	24%	22%	18%	36%	134
Spotsylvania	26%	20%	24%	27%	255

Note: Percentages do not always add up to 100 because the outcome of some cases is unclear. Source: Free Lance-Star analysis of 1999 domestic relations court files.

### Patterns of violence

	Defendant accused more than once
Stafford	27 percent
Fredericksburg	42 percent
Spotsylvania	27 percent

Note: Not always possible to determine defendant's history of violence from court files. Source: Free Lance-Star analysis of domestic-relations court files from 1999.

Stafford prosecutor Olsen said he believes in pressing forward whether injuries are severe or minimal. "What I tell the victim is that I'm trying to make sure it doesn't happen again, and the first part of that is going ahead and securing a conviction," Olsen said.

Fredericksburg Commonwealth's Attorney Charlie Sharp gets fewer convictions than Olsen but, statistics show, is not as inclined as Neely to strike deals.

"It really depends on the circumstance of each situation," Sharp said. "I mean, domestic violence can range from somebody just being pushed to somebody really being beaten up."

In all three jurisdictions, prosecutors profess to have "no-drop" policies, saying they don't drop charges just because victims ask them to.

But statistics indicate that victims have great power to control what happens to their abusers.

In Spotsylvania and Fredericksburg, the vast majority of 1999 cases—from 71 to 76 percent—resulted in either dismissals, not-guilty findings at trial or no prosecution at all. Things were different in Stafford, where a far smaller number of cases—about 38 percent—resulted in dismissals, not guilty findings or no prosecution at all.

Information provided by the Virginia Supreme Court shows Stafford's 57 percent conviction rate is high not just regionally

an assault took place. Sometimes, the accuser was trying to gain leverage in a divorce proceeding.

But often, they said cases were "nolle prossed," or not prosecuted, because victims failed to appear in court, changed their stories or threatened to lie.

### 'A feeling of cooperation'

The turning point in many cases occurs when prosecutors and victims meet face to face. The conversations can last three minutes or 30. They can take place in the courtroom moments before trial or in the attorney's office a week earlier.

By the time the meetings occur, it's common for victims to have forgiven their attackers or decided to let the transgressions slide. Weeks may have passed since the 911 call, and the honeymoon period—in which abusers behave sweetly—is likely under way.

Remorse, fear of prosecution, and relief at having vented anger all contribute to the honeymoon period, which can remind vic-

say—next helps explain why Stafford's conviction rate is more than double the rates in Fredericksburg and Spotsylvania.

Olsen said he starts by asking victims what they're afraid of. Often, it's seeing their partner go to jail.

"Most of the time, I can assure them that won't happen," Olsen said. "For many of the victims, that transforms that feeling of 'I don't want to go forward' to a feeling of cooperation."

Olsen said he then explains that he will do all he can to get a conviction and insist on truthful testimony.

"What I try to get across is, a year from now, two years from now, all he'll remember [if the charge is dismissed] is that she went to court and had this dropped," Olsen said. "It's important for that not to happen."

Olsen said he doesn't mention to the victim that a deal is a possibility, and that sets him apart from prosecutors in Fredericksburg and Spotsylvania. It also accounts for Stafford's higher conviction rate.

Sharp, the Fredericksburg prosecutor, said there's another difference: Unlike Stafford, Fredericksburg doesn't assign prosecutors specifically to juvenile and Domestic Relations Court.

So while Olsen consistently has handled domestic cases for more than a decade in Stafford, Fredericksburg spreads the duties among four prosecutors, making it hard even to

### 'What about the children?'

The appeal of second-chance deals to victims is that not much happens to their abusers, but they aren't entirely let off the hook, either.

For prosecutors, the deals let them mandate counseling without pushing reluctant victims to testify, taking weak cases to court, or jeopardizing batterers' jobs.

Called First Offender, these second-chance agreements require defendants to acknowledge the facts are sufficient for a conviction. In exchange, the courts agree to dismiss the charge after about a year as long as the defendant isn't arrested again. A judge must sign off on the deal.

Usually but not always, the defendant is ordered to complete at least one counseling program. The standard program, which lasts 21 to 24 weeks, teaches batterers techniques for keeping their hands off their loved ones. Spotsylvania and Fredericksburg prosecutors say the deals often are a better-than-nothing way of ensuring defendants face some consequences for hurting their families.

Nearly one in five, or 18 percent, of Fredericksburg defendants got First Offender in 1999, including a man court records say was convicted of beating his wife the previous year.

Fredericksburg prosecutor Sharp said he and his deputy prosecutors don't suggest First Offender deals lightly.

"My first reaction on all these cases is that a conviction [and] a suspended sentence" are appropriate, Sharp said.

He said he tries to talk reluctant victims into testifying, especially when they have children. "You can say, 'That's fine for