

Police consider charges for not reporting domestic crime

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AMESBURY — The man was punching and throttling his girlfriend when his father came into the room. The father told his son to stop or he would call the police, but the son wouldn't.

The father returned a short time later and again threatened to call the police. This time, his son threatened him with a hatchet, and the father fled the room. The assault stopped when the man's sister entered the room.

The son was found guilty last month of assaulting his girlfriend and sentenced to 2 1/2 years in prison. Police then contemplated doing something unusual — charging the father for not calling for immediate aid.

But while police have been considering conspiracy or accessory charges, state law does not require witnesses to report domestic assaults.

"Until something is on the books where people realize they might be held accountable, the chances of that happening are not that great," said Mardi Chadwick, attorney for the Jeanne Geiger Crisis Center. "What's going to have to happen, unfortunately, is something tragic."

State law requires anyone at the scene of an aggravated rape, rape, murder, manslaughter or armed robbery to report the crime to police, "to the extent that said person can do so without danger or peril to himself or others." Harry Pierre, a spokesman for the Attorney General's office, said the law specifically says someone must have knowledge of the crime and be at the scene — just knowledge of the crime is not enough to require reporting, he said.

"People do know what an assault is, or people getting killed or getting robbed," Pierre said. "If you're at the scene of a crime, you probably know what type of crime is occurring."

While failing to assist someone in a domestic assault may open the door for civil lawsuits, Chadwick said, criminal charges are another story.

"This is the first one we've seen where we've had evidence pretty well documented that someone was present and failed to do something," Chadwick said. "Maybe they're not criminally responsible, but civilly responsible."

In general, people are not legally under the obligation to assist others in trouble, said Newburyport police Lt. Richard Siemasko. Amesbury Detective Robert Wile, who brought the charges against the son, said reporting assaults should be basic human nature.

"It comes down to common sense," Wile said. "If you can't do it, you've got no common sense, which means what good are you doing anybody?"

But, "You can't legislate morality or common sense," said Essex County District Attorney Jonathan Blodgett in a statement.

Salisbury police Chief David L'Esperance said the station's anonymous tip line is one way for people to report domestic assaults. Sometimes victims or witnesses are afraid for their safety, he said, and they will only report a crime if they can stay in the background.

But L'Esperance agreed that police have to rely on moral responsibility, rather than force reporting.

"The best thing we can do is strongly encourage people to call 911 and step up to the plate," L'Esperance said.

Chadwick said the Geiger Center tries to use all its resources after a domestic assault to prevent a second assault taking place. The Geiger Center is part of the Greater Newburyport Domestic Violence High-Risk Case Response team, which also includes area police and probation departments, and the various groups coordinate ways to stop assailants from striking again.

"What laws are on the books to hold people responsible?" Chadwick said. "The DA is open to thinking creatively about these cases."

For example, police might still be building a case against a person accused of domestic assault, so he can't be held after the attack, Chadwick said. But if he is on probation for a previous offense, like driving while under the influence of alcohol, he could be held for violating his probation, she said.

"It might not be enough to charge him with a crime ... but it will give the victim time to think while going forward and keeping her safe," Chadwick said.