



Assault / Family Violence / Domestic Abuse

Assault cases evoke strong emotional reactions – at the heart of an assault allegation is an injured person. However, the criminal laws have multiple definitions for “injury” and a range of punishment for each type of injury. The ranges include:

Class C Misdemeanor - “offensive contact”

Class A Misdemeanor - “bodily injury”

Third Degree Felony - “against Public Servant or 2nd Family Member Offense”

Second Degree Felony - “Aggravated”

First Degree Felony - “Aggravated with deadly weapon or of a Public Servant”

“Domestic Violence” cases are Assault offenses, but are based on an intimate relationship between the parties. The label “Domestic Violence” serves a legal purpose for the prosecutor to enhance the punishment – either now or in the future. However, the “Domestic Violence” label also serves a psychological purpose for the prosecutor. “Domestic Violence” allegations evoke strong emotional reactions, play to a bias against the “abuser,” and foster a belief that the jury ensures the “abuser” does not get away with the bad act. The prosecutor’s use of the “Domestic Violence” label empowers the jury to save the alleged victim. In trial, the prosecutor may even attempt to get a jury to distinguish “bar-room brawls” from “domestic violence” – creating a perception the first may be acceptable sometimes, but should never tolerate even the mere allegation of “domestic violence.”

However, under the law, both instances are the same, and the prosecutor has the same burden in both – to prove the criminal case beyond a reasonable doubt.

Sometimes these cases arise from mere allegations; allegations that may prove false. The accuser may have motivations for making false claims – marital instability or as leverage in a divorce proceeding or child support actions. And sometimes, it may have just been a man and a woman having a loud argument and a neighbor called the police, and the police decided someone had to go to jail to quiet the disturbance.

Allegations of Assault or “Domestic Violence” can wreak havoc on the home, personal life, and jeopardize employment. Furthermore, these cases very rarely end at the courthouse – they can have long-lasting effects well into the future.

A person accused of this crime will benefit from the assistance of an experienced attorney – one who has interviewed witnesses involved with this type of crime and one who has tried a large number of these cases.