Traditional and Innovative Police Responses to Domestic Violence

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When we discuss the police response to domestic violence, we acknowledge that few areas of policing have exhibited as much change and remain as controversial as does the police response to domestic violence. Partially due to the process of change as well as to the controversies, the particular style of policing used by different offices within a department and certainly between departments varies to a far greater extent than before. "Model" pro-intervention policies and practices exist in uneasy juxtaposition with a traditional non-activist response even if "official" policies read similarly. In this article, we will explore both the continuing themes of police response and the dynamics of change.

Traditional Policing

The traditional police response to domestic violence had several characteristics: few domestic violence cases were formally addressed by the criminal justice system, with the majority "screened out"; police avoided intervention in most cases resulting in a perfunctory job; and there was a strong, sometimes overwhelming, bias against arrests.

Case Screening

Researchers know that historically only a minority of domestic assaults among intimates resulted in the dispatch of police officers due to screening by victims and bystanders (lowered demand) and due to explicit police decisions.

While estimates varied widely, research generally confirmed that historically less than 10 percent of domestic violence incidents were ever reported to the police. Even at present, most research finds calls to the police regarding domestic violence remain atypical in most communities.

Furthermore, the minority that chose to call the police did not truly reflect the widespread nature of domestic violence. For example, non-participants (witnesses) who called had their own motivations (i.e., quieting noisy alterations rather than stopping actual violence). As a result, violence among acquaintances or strangers, more likely to be committed in public, was far more likely to be observed than those involving married or currently cohabiting adults. Neighbors and other bystanders tended not to report such occurrences since family disputes were often viewed from the stigma of being a "problem family" and/or viewed as an expected and annoying, or at times even entertaining, neighborhood distraction. However, when it was reported, it was more likely in lower socioeconomic neighborhoods where the close proximity of living made these situations more observable to outsiders and where there was a tradition of calling the police.

Victims had their own bias; middle- and upper-income victims of spouse abuse reported a far lower percentage of domestic violence cases to the police due in part to the social distance between the police and these communities, the shame at involving the police in family problems and the real factor of economic dependence of women without their own careers. Hence, while domestic violence appears to exist in all classes, even if more commonly in lower classes (Moore, 1996), violence in the higher economic groups was more likely to be handled by doctors, the clergy or other family members. The police were associated with crime control and the "lower" classes and were "known" to be organizationally unsympathetic to such complaints.

Reluctance to call the police occurred regardless of the severity of violence. One study reported that only 10 percent of cases involving serious injury were reported, not much different than among those with slight or no injuries. Another recent study of police and emergency room cases found that the most severe cases of violence resulted in demands for medical rather than police assistance. These "medical" cases were not customarily reported to the police. Clearly, the net effect was that traditionally police/citizen encounters were a rarity, being relegated to a small minority of potentially reportable incidents.

Of equal significance, police historically reduced their domestic assault caseloads even further. Cases were excluded by dispatcher call screening and the neutral technology of call prioritization. Thus, many assaults, even those constituting a felony by anyone's definition, were re-categorized as minor "family trouble calls." Consequently, the caller was discouraged from demanding a police response and instead diverted out of the system. They would be referred to social service agencies or incorrectly told that the police could not provide assistance for "marital" conflicts. If police intervention was still requested, dispatch would occur only when time permitted, often hours later. One study found, in a sample of cases, over two-thirds of domestic violence cases were "solved" without dispatch of officers. While formally condemned, this practice was unofficially accepted and well documented. While the police might be singled out for
their failure to protect victims of crime, this inattention was a reflection of the then generally pervasive lack of societal concern. At that time domestic violence was "known" to be a problem of the "lower classes" and minority groups, so no one seemed to care. The police could— and did—shortchange domestic violence victims without fear of adverse consequences.

Police Avoided Intervention

Research exploring police attitudes has consistently shown that most police officers, regardless of individual or department characteristics, historically (and to a lesser extent to this date) strongly dislike responding to domestic violence incidents. Several reasons explain this reluctance: organizational impediments to adequate performance; lack of sufficient/sophisticated training; cynicism as to efficacy of the response, a belief that such calls are not "real" policing; and finally, somewhat excessive worries over officer safety.

Organizational impediments. Until successful waves of reform legislation were enacted in the 1970s and early 1980s, virtually all states limited police arrest powers in cases of misdemeanor assaults, including domestic violence cases. Unless police actually witnessed the incident, they could not make a warrantless arrest. This single factor severely limited responses. Domestic violence assaults—abuse homicides—are typically misdemeanors. This remains true regardless of extent of injury or use of weapons. Due to this restriction on responding to misdemeanor assaults, few arrests and little effective action could be taken since most offenders retained enough self-control to avoid continuing to batter the victim in the officer's presence. As a result, many police believed that their role was peripheral, being restricted to a perfunctory, service-oriented call (to separate the parties) rather than actual law enforcement with arrest as a realistic outcome.

Another major organizational impediment to effective action, at least for large police departments, was that information systems historically did not effectively inform responding officers of an offender's prior history of assault. Because record systems were not well organized nor computerized, large departments often had little ability to differentiate between first offenders and hard core recidivists—unlike the "rap sheets" distributed for repeat offenders for felonies and certain other offenses. As a result, police tended to treat all offenses as isolated occurrences.

Finally, the number and distribution of these calls posed a significant challenge to police resources. Apart from traffic and code enforcement actions, domestic violence calls typically constitute the single largest category of complaints in many cities. Domestic violence typically occurs during the weekend evenings when other calls—including substance abuse related offenses such as drunk driving, bar fights, gang incidents, loud parties, crimes including breaking and entering, robberies and certain other assaults—put major organizational demands on police time.

Lack of training. Independently of organizational and legal issues, police also have not been well trained to cope with domestic violence incidents. In many cases, police had profound ignorance of the proper methods of handling domestic violence cases. In fact, in one sample, over 50 percent of the officers did not even know probable cause requirements for domestic violence related assault (Ford, 1987).

Police attitudes. It has long been known that police are cynical toward the public and the impact of their intervention, particularly in social service type calls (Manning, 1977). This attitude is especially relevant to domestic violence cases. Responses to traditional law enforcement and even code violations demand certain fairly routinized behaviors. In sharp contrast, the skills of handling a dynamic and potentially volatile intervention among intimates requires both specialized skills and a willingness to expend considerable effort. Neither are especially likely if the officer is cynical and believes no positive outcome is likely.

Officers quickly decide that, from their perspective, not all victims give a complete or honest account of the situation, thus reinforcing police tendencies to be wary and skeptical. This leads officers to define their role in domestic violence cases not in terms of "enforcing the law" but in terms of "handling the situation." Class issues reinforced such cynicism. Research has shown that when police confront members of the lower economic classes and/or minorities of any class, they often tend to act in a bureaucratic, impersonal, authoritarian fashion, and they are unlikely to show compassion toward victims. To some extent, this may be due to global racist and class assumptions about the lives and mores of those policed.

For example, many interviewed officers will readily state that violence is a "normal part of the lives of the lower class." The implication is that domestic problems are a logical outgrowth of this environment. Defining such behavior as "normal" in the participant's lives means that the officers become less willing to aggressively intervene in a cycle of violence and are more inclined to "manage" the dispute to avoid more "serious" public breaches of peace. From this perspective, it is far preferable to an officer to temporarily calm down a situation rather than to attempt to resolve underlying conflict or to treat violence as a criminal activity.

General cynicism is compounded by specific feelings of the police toward violence between intimates. Risking overgeneralization, they tended to believe that intervention in such affairs was not their proper responsibility nor even wholly appropriate. They tended to be uncomfortable with social-work tasks and greatly preferred law enforcement. An arrest of an offender for a domestic assault charge was simply a "garbage arrest" similar to "drunk and disorderly." It was even worse when no arrest resulted even if a potential crisis was diffused. This was of little value to an officer's self image as a "crime fighter" or, in fact, to his or her career where acts of heroism and/or "significant arrests" might distinguish the officer for promotion.
Fear of Injury. To this day, police view responding to "domestics" as being particularly dangerous. Many officer deaths and serious injuries have occurred during family violence calls. Anecdotal evidence of unprovoked attacks by offenders and "unappreciative" victims are legion among almost all departments.

This is explainable—almost no other source of injury is as unpredictable or as personally outrageous as being assaulted when responding to a call for help in a domestic case. Resistance might be expected from an offender; after all, "power" in what he may consider to be "his castle" is being externally challenged. However, officers say that when they try to interview the person they came to help, victims often "turn" against them or, at best, show no interest in pressing charges.

For many years, the FBI reinforced such beliefs by publishing annual reports to "show" that "disturbance calls" were among the most common sources of officer death. However, this has been seriously questioned. A 1988 report sponsored by the National Institute of Justice found rates of police injury were overstated by three times in prior FBI reports due to the then current practice of lumping together all "disturbance" calls (e.g., including "domestics" with gang fights, bar brawls, etc.). When this obvious disparity was removed, the rate of officer deaths declined markedly. Despite this report, police to this date emphatically believe that responding to domestic violence cases is very dangerous, especially if they have to make an arrest.

Police Did Not Make Arrests

Viewed in isolation and without knowledge of past practices, one might suppose a high rate of arrest for cases of domestic assault. After all, there is a known victim, usually with an apparent, often severe, injury. Since the offender is known, apprehension is relatively straightforward. Historically, such activism did not occur. Instead, the closer the relationship between victim and offender, the less likely an arrest would be made.

There are varied reasons for reluctance to arrest. Police departments generally discourage arrests for certain offenses since they force a further diversion of scarce resources, including not only the extra time spent by the officer, but also by booking sergeants, lock-up personnel, and the time needed for court appearances. In the past, it was difficult to operationally justify an arrest as it involved a low-status misdemeanor with relatively poor chances of conviction.

Many victim advocates have argued that the failure to arrest in domestic violence cases simply validates the claim that police do not care about female victims of violence (Lerman, 1981; Stanko, 1989; and Ferraro, 1989). Police researchers are generally less surprised. They note the inherent difficulties to face in making unpopular arrests, especially in the context of increasing demands on police with decreasing resources. Confronted with political pressure to handle an "epidemic" of drugs, drunk driving, street violence and other public disorder offenses, their role in less notorious crimes is defined by societal input and demand. Organizationally, past societal and consequently legal definitions of domestic violence as a misdemeanor impacted on the police interpretation of appropriate priorities in making arrests.

The above analysis also assumes implicitly that police departments disproportionately fail to make domestic violence arrests. This assumption has itself been debated. On the other hand, in a review of past research, Elliott (1989) found that arrest rates for non-family assaults were not significantly greater than rates for domestic assaults. Before reaching the conclusion that police are equally unlikely to arrest for stranger assault, a variety of other factors need to be considered such as seriousness of injury, and perhaps most importantly, whether the reason for failure to arrest in stranger assault (unlike domestic cases) is simply that in the majority of cases the assailant cannot be identified or located? Nonetheless, the result is that arrest is simply not an option exercised by the police with great frequency in any normal assault—absent very serious injury. In any case, in many police departments, stranger assaults may lead to arrests more often than violence among intimates. To justify this discrepancy, officers simply denigrated the extent of the injuries observed in a domestic case or the victim attitude and/or termed the incident a misdemeanor disturbance instead of a felony.

In contrast, we believe that victim preferences for arrest were often ignored far more often in domestic assault than in stranger assaults. In several studies conducted by the authors, we found that some departments clearly differentiated between incidents involving strangers, acquaintances, and intimates in their reporting and arrest practices. Using police reports (biased in their favor) and controlling for victim injury and victim preference for arrest, we found there was a far higher probability of making an arrest in stranger assaults (as much as 3.5 times more likely) with far fewer arrests in assaults between intimates. Not surprisingly, assault between acquaintances fell in the middle of this continuum, showing a clear inverse correlation between victim/offender relationships and the police decision to arrest. It is interesting that a content analysis of the reports confirmed that officers perceived domestic violence cases differently, and less seriously, than other assaults. This result was found in recent years after reform legislation had been passed actually favoring or mandating arrest in domestic violence situations (Buzawa and Austin, 1993; Buzawa and Buzawa, 1996).

When arrests have occurred. Historically, when arrests were made, they were not the result of a reasoned application of textbook law and procedure. In fact, research shows only a weak correlation between the extent of victim injury and other factors usually relevant to police decisions to arrest. Instead, in common with other relatively minor offenses, specific factors predominate in the decision to arrest: how the police and offender interacted, how police perceived the victim's conduct and police "organizational" issues.
Most studies appear to show that the primary influence of the offender on the officer's decision to arrest is what he does after the officer arrives. If disrespectful or still violent in the officer's presence, this implies a threat to the officer's ability to control the situation. Arrest then becomes a vehicle to assert police authority rather than to protect a victim from future assaults or vindicate her rights. The victim also directly or indirectly strongly influences arrest decisions. Her preference was critical since she was in the best position to state her rights and her cooperation was essential to successful prosecution. As a result, some studies have shown that victim preference was a de facto prerequisite to arrest.¹

Interaction with the victim also affects arrest rates in other, more troublesome ways. Police regularly judge the conduct of the citizens with whom they interact. This discretion is necessitated by their occupationally ambiguous and potentially dangerous environment. However, in the context of domestic violence, police may judge the victim's overall conduct inappropriate. For such cases, the officer may believe her injuries did not justify an arrest. When the victim lives with her assailant, arrests are less common because the police viewed the victim's conduct as "demonstrating" that she was not really seriously harmed while also limiting the probability that arrests would lead to successful prosecution. Similarly, arrests were unlikely if the victim acted in a manner which in some way offends the officers. Hence, if she was an "unfaithful spouse" or if she attacked the offender, officers seldom made arrests.

If the victim remained "rational," "undemanding" and very deferential to the police, in short a "good" woman, they awarded her preferences far more weight in the decision to arrest. Conversely, we found that when the victim was disruptive, intoxicated or verbally demanding or abusive toward the officers, she was virtually ignored. Finally, a few studies have reported the impact of organizational factors having no relationship to the offense itself and often unknown to the public. For example, arrests appear less likely to be made during particularly busy periods or at the end of an officer's shift.

Why Has Change Occurred?

After the existence of relatively stable policies of police inaction, sudden and profound change has swept departments throughout the country. Commencing with pioneer legislation enacted in 1977 in Pennsylvania, all states and the District of Columbia have passed domestic violence reforms. Arrests are encouraged for domestic assaults (or even "mandated" in many recent laws), new statutory specific "domestic violence" offenses were incorporated into the criminal code and were passed, and protective or restraining orders (TROs) became available. While many provisions merely encouraged police action, real impediments were removed. For the first time, most statutes allowed warrantless arrests for domestic violence related assaults even though unwitnessed by police. In conformity with this statutory direction, most departments officially changed their policies.

It would be simplistic to assert that any particular factor itself accounted for the shift in official policies. In part, this change was a logical extension of an overall trend to criminalize deviance. While illegal for many years, domestic violence and many other inappropriate actions had been tacitly tolerated because of failure to vigorously enforce existing laws. As society has become more conservative and punitive toward offenders, efforts to rehabilitate have been discredited while punitive solutions are emphasized. For example, drug offenders and youthful offender programs have been dropped or not adequately funded in favor of trying addicts as criminals and juveniles as adult offenders. Drunk drivers are being prosecuted at unprecedented rates. In this context, battered women advocates, policymakers and researchers have emphasized the criminal context of a domestic assailant's actions and deride as wholly inappropriate or sexist any attempt to promote conflict mediation or other actions short of formal arrest and prosecution. In this climate, it is not surprising that an abortive reform movement of the 1970s emphasizing conflict resolution and offender rehabilitation using specialized "crisis intervention units" was quietly abandoned in favor of arrest-oriented policing.

The orientation toward punishment is also due to the theoretical assumption that arrests will somehow "deter" future assaults. Deterrence theory suggests that a police action such as arrest may be justified even if a subsequent conviction is unlikely, if it deters the offender (or other potential offenders) from future assaults. Hence, the ability of the police to "shame" the offender or hold him to public scorn by arrest is potentially useful to modify future behavior. The societal good therefore became in itself a valid justification for making domestic violence arrests (Sherman and Berk, 1984).

It is interesting that academics, often staunchly liberal in other contexts, and many feminists failed to find anything distressing about using the police in this manner. While the police as an institution are often deeply mistrusted by these same people, they largely endorsed changes that increased police involvement in intimate disputes and family violence without allocating additional resources for training or even demanding a commitment from other institutions to prosecute and then hopefully rehabilitate some offenders. Evidence was ignored that suggested such statutes were used far more frequently against minorities and disadvantaged males than other offenders, and largely not at all against the middle-class, "respectful" or "respectable" white males.

Pro-arrest policies also address administrative concerns regarding public reaction and legal repercussions for inaction. As a result of publicity, political pressure on the police has shifted from the previous model of "let the police decide" to an environment where police decisions are rigorously questioned as to their motivations and sufficiency. Political pressure has become a major factor speeding the adoption of pro-arrest practices. Lawsuits have also proliferated addressing the more egregious failure of the
partner often results in immediate anger at having his control challenged. Arrest is perceived as a greater form of confrontation. A violent individual who resorts to abuse as part of a generally violent or criminal lifestyle will not be easily deterred by being locked up for a few hours and then released. Rather, he may become even further enraged, placing the victim in greater danger upon release. Similarly, contact with the criminal justice system may not be unfamiliar, and being arrested yet released after a short time becomes a relatively minor event.

For other offenders, the act of bringing the offender into the purview of the criminal justice system by whatever means (warrantless arrest by the police, arrest subsequent to a warrant or a summons to appear before a court official) may have some long-term effect in recidivism. The possible key may be the criminal justice system's ability to mandate rehabilitation. Hence, an arrested person's exposure to counseling to learn to control anger and substance abuse therapy may account for recidivism differences seen in some, but not all studies. At the same time, there does appear to be a population unresponsive to any type of intervention. This might necessitate incapacitation as it would for any other type of dangerous offender.

While the foregoing replication studies en masse and individually were subjected to a thorough methodological critique by Bowman (1992) and Zorza and Woods (1994), they do demonstrate the limited impact of one party's action taken out of context—the arrest made by the police. Clearly, arrest cannot be considered in isolation from other aspects of the criminal justice system or characteristics of the offender. Arrest without long-term involvement does not appear to work as intended. If arrested violators are released without prosecution, they often wrongly conclude that society simply does not care. If prosecutors do not assist victims, pressure ultimately develops for victims to "voluntarily" drop cases. Similarly, prosecutors may decide that they should not use scarce resources if judges fail to treat domestic violence as a serious crime or fail to sentence offenders. In any event, despite the frequent failure to examine the police effort in a systemic context and the lack of agreement as to the ideal police response, virtually all reform legislation and administrative directives have directed police to more aggressively use arrests. Many states now mandate arrest upon the occurrence of certain circumstances or upon violation of newly expanded protective orders (Hart, 1992; Buzawa and Buzawa, 1996).

Changes in Training

Another area of profound change has been the training given to new officers and in-service personnel. In response to statutory mandates and in recognition that materials were seriously out of date, departments throughout the country have rapidly shifted from curricula that emphasized the futility and danger of intervention to those that stress the essen-
tial role of the police within a coordinated program to handle domestic violence.

There is some evidence that real attitudinal change is taking place among those exposed to modern training materials. One experiment simulated how trained officers versus an untrained control group handled domestic incidents. The trained officers performed far more competently in handling the incident and in diffusing its emotional intensity (Buchanan and Perry, 1985).

However, it is presently unclear as to the long-term effect of exposure to training. Many analysts continue to believe that the subculture of policing is highly cynical, maintaining a cohesive and stable (and largely negative) view of their mission and the public that they serve. They say that police tend to dismiss out of hand the results of research that contradicts preconceived attitudes and instead rely on "street" experience. If this is true, then despite training, officers may quickly revert to preconceived attitudes and practices that can successfully circumvent legal and organizational requirements. Training may be overshadowed by: the contradictory pressures of the police organization's paramilitary structure, coupled with an inability to control officer conduct on the street; inability to provide rewards for appropriate behavior; and the retrograde informal "training" that new officers receive from cynical, hardened peers. Finally, many victim advocates believe that the social structure within American society is patriarchal. Unless the criminal justice system is subjected to continuing pressure, it will revert to patriarchal norms that diminish crimes against women. The result is despair about affecting long-term attitudinal change, reinforcing the belief that the only way to effect change is through even more political pressure, restrictive laws, and the potential of lawsuits.

Violence Against Women Act

Until relatively recently, it could reasonably be stated that the federal response to domestic violence was quite limited. While specific federal funding agencies such as the National Institute of Justice, Centers for Disease Control, and several others funded demonstration projects, experimental and evaluation research, there was little actual legislation that set forth what actions were expected by local law enforcement. This has markedly changed. In 1994, the Violence Against Women Act (VAWA), Title IV of the Violent Crime Control and Law Enforcement Act of 1994, provided extensive funds to local, state, and Indian tribal governments to develop and strengthen post-law enforcement and prosecution strategies to combat violence against women. In addition, money was expended for control of sexual assaults, with prime emphasis on enhancing the capabilities of local law enforcement.

Numerous direct grants were distributed to state and local agencies. In fiscal year 1995, $23.5 million were funded. Additional programs provided for enhancements to data collection between departments, e.g., setting up interjurisdictional files on offenders violating protective orders.

toll-free hotlines for victims to more effectively seek assistance from police and shelters in rural areas, and direct funding of programs for victims and batterers.

The Impact of Change

Clearly, there has been a broadening of the structural role of police in domestic violence cases. Increased support exists for formal organizational changes emphasizing proactive policing, especially the use of arrest. A more activist response in training is evident at the national, state and local levels.

What is more problematic is the actual change in "street-level" justice. Most research has examined either the classic patterns of police behavior or, if more recently conducted, the "new" policing. The latter, while having far greater potential to break a cycle of violence, has not reached its full potential. Many departments (and certainly individuals in almost all departments) still believe that the police role in the control of domestic violence should be quite limited. Unless trained, patrol officers remain equivocal about the proper police role in this field. While higher percentages than in the past may acknowledge that a crime has been committed, they remain deeply frustrated by the failure of intervention to lead to immediate change in a family. This often feeds cynicism and a desire to circumvent policies believed to be inappropriate.

Even without empirical data, a pattern may be emerging. Most high-level police officials now willingly embrace pre-arrest policies. However, this is met with various degrees of passive resistance from lower-level supervisors and line personnel. This is not surprising since police administrators historically have often tended to be more progressive (or at least politically responsive) than line personnel. The importance of this dichotomy is that the public often incorrectly assumes street-level behavior reflects the administrative goals and stated policies. In fact, substantial discretion is placed with the line officers. As such, they can be critical obstructions to implementing any new policy. Without attitudinal change, the imposition of new rules and laws sometimes leads to a subversion of policies.

Police literature suggests that in such cases, actual change may be problematic. Official rules, no matter how strict, are difficult to enforce when the usual measure of output—decisions to arrest/not-arrest—depends upon an officer's judgment as to proof of injury, probable cause and defenses (such as self-defense). This makes implementation uncertain and fraught with unexpected consequences. For example, one study found that when the Phoenix Police Department first tried to enforce a new presumptive arrest policy (e.g., a policy in which arrest was favored unless other factors overrode this presumed cause of action), the police were ignored, circumvented or changed almost beyond recognition (Ferraro, 1989).

The increased threat of arrest may also be used against the victim as in, "if we receive another call from this house, both of you will be arrested." This is not an idle threat. In fact, studies of mandatory arrest laws in both
Oregon and Connecticut found that, at least initially, dual arrest of both parties was very common.

It may be useful to look at what actually happened in one state when a new statute favoring arrest was enacted. Connecticut passed a new law mandating arrest for domestic violence in 1987. In 1989, the Connecticut State Police reported that over 10,000 family violence incidents led to arrests within a six-month period, a figure startlingly high—at least as compared to past practices. However, a study of the implementation of this new Connecticut statute reported that at that time, roughly 20 percent of arrests for family violence were "dual arrest" incidents and, if non-intimate family violence was omitted, about 35 percent of intimate violence involved dual arrest. This is especially troubling since for women it was usually the first arrest, even though 43 percent of the women arrested were previously identified in police reports as victims. Not surprisingly, a dual arrest significantly decreased chances of prosecution as victims were obviously effectively coerced to reconcile and mutually drop criminal complaints (Martin, 1994).

**Is Systemic Intervention the Answer?**

As a result of the acknowledged problems of trying to change police behavior in a systemic vacuum, a recent trend has been the development of centralized units of police, prosecutors and probation departments to cope with the problems presented by domestic abuse. "Demonstration" or "model" programs have been created in some jurisdictions such as Quincy, Massachusetts; Duluth, Minnesota; and San Diego and Santa Barbara, California. They start with a commitment to organizational excellence by the administrative heads of the affected police, prosecutors’ offices, the judiciary and probation departments. Insistence on following up cases is typically mandated by policy and by actual supervisory practices.

There is an attempt to change the attitudes of the officers and caseworkers as well. As such, an essential component is the development and use by both pre-service and in-service officers of modern training programs that emphasize actions required of officers and necessary coordination with other agencies such as shelters, victim advocates and prosecutors. Information systems are developed to directly link offender data, arrest warrants, and outstanding protective orders. Of perhaps equal importance, the phenomenon of victim attrition is directly addressed. Victim support personnel are assigned and/or coordinated by special assignment within prosecutors’ offices and somewhat less formally by nongovernmental victim-rights advocates. Offenders are sentenced to intensive probation, often with requirements to attend treatment and/or substance abuse programs.

Evaluation of the effects of such programs is in its early inception. It appears that the programs do seem to lessen subsequent violence among many offenders that are arrested. They probably also deter many others who now believe they may not only be arrested but also prosecuted to conviction if they abuse their mates. Many women with whom we have spoken also feel for the first time that society cares about their problems. As a result, they are much less willing to tolerate abuse of themselves or their children. Even agency personnel feel better about their role because of a tangible output and enhanced prospects for a satisfactory outcome.

In any event, there is certainly little doubt that such efforts pay off in terms of a dramatic increase in arrest rates of offenders. These arrests occur not only at far higher rates after an initial act of abuse but also for violation of a subsequent restraining order forbidding future abuse or even contact. A recent study has documented that 15.4 percent of all restraining-order defendants in one such model jurisdiction were arrested for violating these orders within six months of their issuance (Isaac, 1994) while others presumably violate the orders but are not reported. Another recent study conducted in Quincy, Massachusetts reported that in 1990, out of 663 male restraining order defendants, almost 50 percent re-abused the same victim within two years (Klein, 1994). In all of Massachusetts in 1992, over 6,000 individuals were arrested for violating restraining orders alone. Of these offenders, almost 1,000 entered probation.

This is a message of mixed news. In one sense, the police operate in such jurisdictions in the context of a system that refuses to abandon responsibility when faced with a particularly recalcitrant abuser. In short, our implicit assumption is that criminal justice intervention will dramatically affect the cycle of abuse. On the other hand, there is a core of abusers that are not, and apparently will not, be deterred.

In addition, we are concerned that there may be unintended consequences to victims, offenders, families, and agencies of efforts to rigorously and proactively implement systemic policies of control. These concerns are bolstered both by empirical evidence and observations arising from the Quincy research. In Quincy it has become apparent, from even cursory conversation with key actors in the criminal justice system, that implementation of laws designed to prevent domestic violence has already had substantial consequences, both intended and unintended. Most publicity, as it should, has gone toward the impact that aggressive enforcement has had on certain victims who are far quicker now to engage the system to stop abuse, and on the larger numbers of violent offenders who have either voluntarily stopped abuse or have been incarcerated. By every indication, the community is becoming markedly less tolerant of abuse, and agencies now see their efforts being rewarded through highly visible impact on some victims and their families. Although we readily acknowledge that society should and must aggressively intervene in domestic violence cases, we also must explore whether such intervention efforts lead to tertiary problems which may result in unanticipated consequences to the victim, the offender, the intervening agencies, and society in general.
Why Unanticipated Consequences Should Be Expected: A Profile of the Batterers

Along with Professors Hotaling and Byrne, and Andrew Klein of the Quincy district court, we are currently examining the process and outcomes of domestic violence abuse in the Quincy District Court (QDC). The QDC has been nationally recognized as a model in the Violence Against Women Act for its integrated response. Few jurisdictions have moved more aggressively to intervene in such cases. It has been featured on 60 Minutes and in numerous other television and radio programs and newspaper articles and has won a Ford Foundation “Innovations in State and Local Government Award” for its model domestic abuse program. Courts nationwide are currently attempting to emulate QDC. Quincy police arrest 75 percent of abusers when called to the scene of an incidence of domestic abuse. Model police crime scene investigations help ensure successful prosecution without requiring excessive victim involvement. The court itself issues 2,000 restraining orders per year in a jurisdiction of only 250,000 inhabitants. In contrast, in all of New York State in 1987, only 25,000 such orders were issued.

Their district attorney’s office has successfully prosecuted 70 percent of domestic violence arrestees. Most offenders are sentenced to probation which is strictly enforced. Each year, it sends about 100 abusers to the county’s House of Correction when they re-abuse their victims and/or fail to fulfill their various conditions of probation. Examination of the data in such a “model” setting is informative of the fundamental limits of a system mandating an aggressive criminal justice response. While the research is presently ongoing, data examined to date is certainly suggestive that a certain subset of domestic violence batterers (represented by those that are actually arrested) are a serious group of offenders, not easily deterred from future assaults and prone to retaliate.

Of 277 domestic violence batterers on probation in 1994, 208 of these offenders have been charged with violating probation. Thirty have been sentenced to the House of Correction with an average sentence of three months or less. Excluding defendants held without bail or those unable to meet bail, this represents the majority of QDC domestic violence post-trial commitments. In other words, community-based supervision (probation) is the “going rate” for domestic violence offenses.

We found that domestic violence batterers are the category of offenders most likely to fail scheduled drug/alcohol testing, with a non-compliance rate exceeding that of drunk drivers. Clearly, this group does not worry about consequences of failure to comply with court requirements. On a more global basis the vast majority (80 percent) of male batterers had substantial prior criminal records for unrelated and related crimes.

The number of prior crimes charged against them positively correlated with re-abuse over two years. Almost 50 percent of the abusers re-abused their victims over two years as measured by new arrests or the issuance of new restraining orders. Re-abuse correlated with abuser char-acteristics, not incident or victim characteristics, including whether or not the victim maintained the restraining order or dropped it before its legal termination date. In fact, we believe that any strategy for intervention presents some threat of unanticipated consequences against victims:

1. Increased violence and harassment. In certain circumstances, intervention has actually provoked further violence against partners. In at least two reported cases, abusers sentenced to jail have subsequently been indicted for trying to hire hit men to harm the abusers’ partners while they remained in jail (see Commonwealth vs. Phillips, 1994).

Another case was reported where an abuser, held without bail in jail for contacting his partner in violation of a restraining order, used jail phones to call her 228 times over the course of his ten-day stay awaiting trial for the original charges (Boston Globe, July 10, 1994).

2. Judicial intervention has itself been seized upon as a weapon. Deferred by criminal court and restraining orders from continuing physical abuse of their current partners, there seems to be a growing trend of abusers to seek new vehicles to continue abuse. Child protective agencies and probate courts report that abusers, who previously totally ignored their offspring, suddenly are suing for visitation and custody as a vehicle for abusing, harassing, punishing and even tracking down partners. Abusers are also reporting former partners to state protective agencies for allegations of child neglect and abuse, including ironically, the victim's failure to protect the child from his abuse.

Similarly, as discussed earlier, the number of abusers seeking restraining orders has increased every year as abusers see judicial offense as the best defense. In the 1980s, there were at most only 10 percent males seeking restraining orders. This proportion has grown to 20 percent (Annual Reports, Mass Trial Court, Boston, 1985–1994). In many cases, they are getting ex parte orders even if permanent orders are denied after the woman refutes allegations. Although reversed after the initial ten-day period, the effects of temporary orders on the woman and children are unknown. In a recent homicide case in Lynn, Massachusetts, it was revealed that the alleged murderer had secured two temporary restraining orders against the woman. He eventually stalked and shot her, wounding her and killing both her brother and new boyfriend (Boston Globe, December 13, 1995).

3. Use of batterer treatment programs to reinforce batterer’s behavior. Many treatment programs have reported that batterers form support groups among themselves and exchange ideas about new and more “effective” ways of victimizing the woman. There is some evidence that treatment could actually increase violence against victims (Harrell, 1991). Hence, clinical programs that might be expected to temper violent behavior might instead trigger new (often less sanctioned) forms of intimidation and harassment.
4. Harassment and stalking of victims. Harassment as a crime against domestic violence offenders who have left their abusive partners is becoming epidemic. One estimate is that up to 80 percent of offenses related to the new "anti-stalking offenses" arise out of domestic violence situations (Buzawa and Buzawa, 1996). In these cases, stalking becomes the best method of many offenders concerned about prosecution for actual violent episodes. Hence, in Quincy, a visitation center established so that abusive men could visit their children without endangering their children's mothers reported that one of the most common violations of visitation committed by these abusive men is that they illegally extract information from their children about their abused partner's location (Kelleher, 1995). As noted earlier, some abusers will even go so far as soliciting a friend to continue their abuse for them while in jail. Being incarcerated may be perceived by the inmate as insulating himself from further charges of abuse.

5. Victims are stigmatized. Victims have been subjected to differential treatment because of their battering. In several cases, women were fired from their jobs because they were endangering employee safety due to a restraining order they had in effect on batterers that stalked or harassed them at work.

6. Displacement to new victims. Frequently, when batterers are confronted with a victim willing to initiate criminal justice intervention, they may seek alternate victims who do not disclose abuse. Anger at criminal justice intervention may result in increased danger, not only to the victim but also to other family, friends, or co-workers. In fact, often batterers go to extraordinary efforts to track victims to shelters, friends' homes, or places of employment.

Unanticipated Consequences for Agencies

1. Displacement of Resources. An unintended consequence of enhanced enforcement of policies is that agencies may develop various means to limit demands imposed by these well-meaning policies and statutory directives. As noted earlier, stated policies are always considered discretionary and open to interpretation. To understand the consequences, it is critical to know what the stated policy is and how it is carried out. In some cases, police may simply ignore pro-arrest policies. In other departments, police screening of calls may limit organizational demands, even if statutes specify differently.

Although difficult to quantify, strains on resources have inevitably led to a de-emphasis by the police, prosecutors, and courts on other crimes. It has been theorized that police may downgrade or increase call screening on other calls to avoid mandatory processing of an assault. Further, laws in certain jurisdictions have increased local jail population. In addition, the violent nature of these new inmates has created new problems for staff at detention centers and jails. Examining the impact of agency costs solely from the narrowness of an eco-

onomic perspective parallels the error of focusing on arrest (Institute for Women's Policy Research, 1995). Diversion of resources from other priorities, dissipation of existing initiatives and demoralization of staff can be far more costly than economic costs. For example, mandatory arrest may raise concerns about contradictions with current community policing initiatives, especially in minority and low-income communities. In these communities efforts have been increased to improve citizen encounters, yet mandatory arrest policies have disproportionate impact there.

2. Violence against police and court personnel. Violence associated with domestic violence cases has seeped into the courthouse. Court officers now report increased violence inside the courtrooms. A graphic demonstration of this was recently filmed by PBS at a routine bail hearing on an alleged domestic assault in Quincy in order to obtain background tape for a documentary. They were astounded when the cameraman found himself filming the defendant assaulting a bevvy of court officers while screaming to his girlfriend, the alleged victim, "I love you."

Conclusions

We believe it is currently overly simplistic to state that the police do not care or are unresponsive to the needs of domestic violence victims. Many officers and departments now more actively attempt to intervene. They correctly perceive their job to protect the victim and maintain society's goal to prevent violence. However, it is also an overgeneralization to state that police currently do everything possible to handle this pervasive problem. There are clearly many instances where the police continue to respond, if at all, perfunctorily—with the goal of extracting themselves as quickly as possible.

Research instead should acknowledge and build upon the following observations. There has been an almost unprecedented rapid, profound change in policies on domestic violence. Only a decade or so earlier, most departments had explicit policies or guidelines directing officers to separate parties and exit the premises. Within a relatively short time span, official policies have recognized the official role of the police in stemming violence and have undertaken extensive efforts to change deeper, ingrained practices. Responding to prevailing social science research, federal pressure, lawsuits and political pressures from the battered women's movement, many departments have undergone at least two policy changes, including initially setting up crisis intervention/mediation-type efforts and now advancing a pro-arrest policy. These changes have also been reflected in official training materials that now more clearly define the police role in domestic violence intervention. Failure to acknowledge this sets up a "straw man" argument, allowing some writers to continue to critique the police for ideological or political reasons or out of ignorance of real changes.
Nevertheless, it is uncertain how extensive change has been on the street. Studies are contradictory. Some show major increases in rates of arrest and/or other indices of real change; others indicate an apparent resistance to change. We can understand that this may be very disheartening to advocates for battered women, who see the many failures of police intervention and are still on the firing line, helping victims cope with real crises. Being confronted with unresponsive, uncaring officers or departments not unexpectedly reinforces their negative image of the police.

However, those that study implementation of change will recognize that change occurs sporadically, often organization by organization and in some cases with wide gaps within an organization. Some officers readily change their attitudes and behavior immediately. Others are far more skeptical. Still others will never change their attitude but are forced by department pressure, or fear of liability, to begin to change. Finally, one might expect a residual category of officers who, until the day they retire, will always treat domestic violence as a low-priority item.

Street-level change appears sporadic, with some departments having “reformed” their policies to comply with legislative intent of revised statutes. We therefore strongly suggest that future research focus on those factors that have selectively led to change in some organizations while not in others.

The possibility of unintended adverse consequences to the victim and her family, the police, other agencies, and even the abuser should be explored to determine the extent and depth of such consequences and what methods could be pursued to limit negative impacts while preserving the recognized benefits of a proactive response. From this effort, we would anticipate even further growth of integrated programs with a better understanding of the diverse needs of the population of victims and batterers.

Many questions still remain to be answered—particularly the policy issue of the proper role of arrest, especially in the context of integrated programs. Other questions include:

- What “costs,” economic and otherwise, are incurred by departments that use arrest widely?
- Can the phenomena of “dual arrests” be alleviated?
- Can victim preferences in arrest decisions be further emphasized?
- Can aggressive arrest practices be successfully reconciled with competing initiatives of modern police administrators, including community policing (a policy that appears to deliberately make police less authoritative), which places an emphasis on responding to public disorder?

We also expect future research will address:

- How effective are recent initiatives focusing on an integrated criminal justice? Have we really found the best solution to domestic violence?

- What makes certain departments change? Is the most effective motive for agency change fear of adverse consequences (e.g., political pressure and/or lawsuits)? If so, are there other methods to effect the behavior of those agencies and officers who at date have refused to change? In such cases can a dynamic police executive implement rapid and profound organizational change simply through leadership? Is there a particular training scheme/orientation which is more effective than others at increasing the rate of change?

- Can measures of police accountability realistically be increased?

- Are particular characteristics of police organizations, or of the service population of their respective cities, conducive to rapid or slower rates of change?

We expect that few of these issues will be resolved conclusively in the near future.

Notes

1 Of course, the problem is that a victim's desire to arrest was itself usually insufficient. In fact, we found that while victim preferences were very important in Detroit, Michigan, in other departments this was not a factor. A study of Maryland departments found that approximately 75 percent of the responding officers could not even report what the victim's preferences were, let alone follow them.

2 Preliminary research in Quincy, Massachusetts (Buzawa, Hotaling, Klein & Byrne, 1996) indicates that prior criminal record may be the critical variable (as with other offenses), rather than social class or employment. If proven, policy implications may be easier to implement.

References


