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# Domestic Violence

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**Moderator: James Q. Wilson, Professor of Government,  
Harvard University**

**Guests: Barbara Hart, National Coalition Against  
Domestic Violence  
George Napper, Public Safety Commissioner,  
Atlanta  
Lawrence Sherman, University of Maryland**

**Your discussion may be assisted by familiarity with some of  
the central policy and empirical questions concerning police  
responses to allegations of spouse abuse.**



## Why Police Private Lives?

If a man wants to beat his wife or lover—or vice versa—shouldn't he be able to do so without the government getting involved? Isn't a man's home his castle?

For many centuries, the law allowed the male head of the house to use violence against his wife and children, who by law were regarded as the man's property or "chattels." The expression "rule of thumb" comes from an old legal doctrine that authorized a man to beat his wife with a stick, as long as the stick was no thicker than his thumb.

The letter of the law has changed over the past century. Men no longer have a legal right to act violently toward people with whom they live. But the spirit of the law remains ambivalent, reflecting the mixed feelings of many in our society. Many people, both rich and poor, still believe that family fights should remain a private matter. However, a number of developments in the 1970's and 1980's, including the feminist movement, and increased attention given to the rights and needs of victims, have placed greater pressure on the police to treat domestic assaults as seriously as they treat other assaults.

## How Serious Is the Domestic Violence Problem?

About one-fourth of all homicides and serious assaults are domestic. Minor violence, which usually precedes serious injuries, is far more pervasive. While it is hard to measure, "family" violence is probably the most widespread form of violence in the country and can occur in all social classes and income groups. The recent resignation of a high Federal official under pressure of publicity about his admitted wife beating illustrates both the presence of the problem among the well-to-do and the new morality that refuses to tolerate such conduct. Most of the cases to which police are called involve poorer people. Whether this is because lower income people are likelier to call the police, or because lower income people are likelier to be victims of family violence, or because of other factors, is unclear. In a study in Minneapolis, a city with about 5 percent unemployment, about 60 percent of the males in the households to which police were called were unemployed.

## What Do Police Usually Do?

Handling a violent domestic incident has never been an easy matter for police, and for years arrest was unusual so long as the police themselves were not assaulted or insulted. In the late 1960's the police became more involved in the conflict itself and tried to act as mediators or counselors. The U.S. Department of Justice provided funds to police departments to support training for police officers in techniques of counseling and mediation.

This program brought to you by the National Institute of Justice, James K. Stewart, Director. The series produced by WETACOM through a grant to the Police Foundation.

By the mid-1970's, however, the innovative mediation approaches came under criticism because, it was argued, they did not provide sufficient punishment for the spouse abuser and the child abuser. Advocates of victims demanded that police *arrest* offenders, and they filed lawsuits in New York City and elsewhere to enforce their demand. Although these suits had some impact, in 1984 a survey of big city police departments found that only 10 percent encouraged officers to make arrests in domestic violence cases, while 40 percent still encouraged mediation and 50 percent had no policy at all. If extreme action is desired, many police would rather not make an arrest; they prefer to order an informal separation or to tell the offender to leave the house for the night.

## Why Don't Police Make Arrests?

There are many possible explanations. One of the most important is that for many domestic violence incidents, the police have legal authority to make an arrest only if they witness the incident or if they have obtained an arrest warrant from a judge. This is because the law treats much domestic violence as a *misdemeanor*, a less serious offense. Only for *felonies*, the more serious offenses, may an arrest be made without a warrant or without witnessing the alleged criminal conduct. Only in 28 States are police allowed to make arrests in misdemeanor domestic violence cases in which they did not witness the disputed conduct.

Even where police can make arrests on their own authority, they are often afraid the arrest will backfire, producing more violence rather than less. They decide not to arrest out of fear that the offender will return to the victim and inflict even more harm.

In explaining why arrests in domestic violence cases are not more common, police also cite the frequent change of heart victims have the day after the assault and their refusal to cooperate with a criminal prosecution—both reasons for dropping the charges. Police argue that it is pointless to make an arrest if there will be no court-imposed punishment to produce a deterrent effect, and there often cannot be court-imposed punishment unless the victim cooperates.

Many police may consider the risk of injury to themselves if they make an arrest. Academics have taught, and most police believe, that domestic "disturbance" calls are among the most dangerous tasks police face. But recent statistics compel us to ask if that is true.

## How Dangerous Are "Domestics" for Police?

Many police *believe* that domestic calls are unusually dangerous, and this is why they may be reluctant to make arrests. The belief is based on old statistics showing frequent police deaths in "disturbance" calls of all types. A recent breakdown of those figures provided by the FBI showed that most police killed in disturbance calls were dealing with bar fights. The number actually killed in family quarrels was a much smaller fraction, and less even than the number of officers shot accidentally by other police officers. Thus, police face more danger from one another than from domestic calls.

## Why Do Many Groups Demand Arrests?

Historically, the demand that domestic assailants be arrested was based on retributive beliefs—that domestic violence is a serious crime and that prosecution and punishment are the morally appropriate responses. The call for more reliance on arrest policies was not seen as a means of deterring repeat violence or as a means of deterring other potential offenders. The philosophical debate about what response to domestic violence is most just cannot be settled by statistics or evidence. A mandatory arrest policy is resisted by many police because they believe that the police must decide how to handle each incident on a case-by-case basis. Moreover, police often do not believe that arrest is the appropriate handling of a domestic assailant, especially if there is evidence of the victim's verbal provocation of the assault.

One practical argument in favor of arrest is that it can provide leverage to get offenders into counseling programs, which many people believe to be an effective way to reduce future violence.

## The Minneapolis Experiment

A major experiment was recently conducted by the Police Foundation in Minneapolis to learn whether mediation, separation, or arrest works best at reducing subsequent violence against the victim. The premise was that police practice should be guided by knowledge about the actual effects of using one policy instead of another.

## Why Was the Experiment Done by Lottery?

The experiment was done by police officers who agreed to give up their discretion in domestic assault cases and to take whatever action was dictated by a random system of employing arrest in some cases, mediation in others, and so on. This method attempts to ensure that those arrested, those advised, and those ordered out of the house were roughly comparable in average age, education, income, rate of offending, percent black or white, and whether they were intoxicated. Otherwise, the police would have arrested only the most "serious" offenders, who might then have had the highest rate of repeat violence—not because they were arrested, but because they were unusually violent people.

## What Did Police Do?

Police practices varied somewhat from officer to officer. The arrests were probably the most consistent police action, with the offender spending at least one night in jail. Separation varied somewhat, because if the offender refused to leave the house, the officer was instructed to arrest him. Advice or mediation varied the most widely, because some officers put much time into it while others put very little. None of them received special training for the experiment, since the purpose was to test the "typical" police approach to advice or mediation.

## What Were the Results?

After the police completed their work on a case, Police Foundation researchers contacted the victims and attempted to interview them every 2 weeks for the next 6 months. The main focus of the interviews was to discover if the offenders had repeated their assault. Repeat violence was also measured by tracking, for 6 months, all of the official records of repeat contacts between police and offenders (or victims).

## What Were the Findings?

Under both methods of measurement, the arrested offenders were about half as likely to commit repeat violence as the nonarrested offenders. The official records showed that about 18 percent of *all* offenders repeated their violence, while only 10 percent of the *arrested* offenders repeated it. Findings from the interviews with victims were similar.

## How Believable Are the Findings?

The results of the experiment seem to indicate that a policy of arresting many or most domestic assailants will spare many victims from future violence. However, all social science research has limitations and leaves questions unanswered; this project is no exception. The main questions about the Minneapolis findings are whether the victims of arrested offenders were threatened and thereby discouraged from calling the police if they were attacked again (which would affect the official measurement) and whether the victims failed to tell the interviewers about the repeat violence. Another possibility is that the arrest policy discouraged victims from calling the police again because what they wanted from the police was emergency help and not to have their companions arrested and possibly prosecuted. Yet another possibility is that the arrested men were likelier to move out and possibly later to treat other women violently. Whether the findings of the Minnesota research will stand up will be known only after similar experiments elsewhere attempt to replicate its findings.

## Do the Findings Apply to Other Cities?

No one can say for sure. While there are reasons to think that "human nature" is the same in different cities, there are many factors that could alter the effects of arrest on domestic assailants. Most important is jail time; in Minneapolis the assailant stayed overnight. If other cities release the offender an hour or so after the arrest, he may indeed go home and inflict more violence. Another factor is ethnicity: the Minneapolis experiment had many black offenders (36 percent) and Native Americans (16 percent), but almost no Hispanics. Different ethnic groups may, for cultural reasons related to sex roles, respond differently to arrests for domestic violence. A third factor is the effect of the interviews, since in some cities the interviewer literally put the household under telephone surveillance during the 6-month followup; without that surveillance the benefits to the household might have been affected. A fourth factor that might alter the effects of arrest is the quality of mediation. Where a police department puts more effort into

mediation, or does it differently, mediation could conceivably be more effective than arrest.

### How Do Other Programs Work?

Atlanta's program employs a special unit, the Domestic Crisis Intervention Unit, to handle domestic violence calls. Police working in this unit receive extensive training in mediation and they use mediation in most simple assault cases, although they may arrest if it seems appropriate. In the Atlanta system, arrest is usual for felony cases but there is no strict arrest policy, the preference being to give police discretion in individual cases.

One strength of the Atlanta program is the provision for longer term treatment through a network of social service agencies working together. Social workers play an important role in the program, particularly in the follow up treatment. Referrals for treatment of offenders may come through court orders after arrest.

Even before the Minneapolis research was completed, in Duluth a policy of arresting all offenders had been mandated for half, and later all, police officers. The arrests were followed by a program involving police, prosecutorial, and judicial cooperation. The arrested offenders were almost always given counseling "treatment" of some sort, with various efforts made to ensure their attendance at the counseling sessions. Neither the Atlanta nor Duluth approaches were set up as an experiment to test their effects on repeat violence. Rather, they illustrate ways a community can mobilize extra resources to deal with domestic violence.

### How Much Influence Should the Minneapolis Experiment Have on Police Policy?

The problem with making policy on the basis of a single experiment is that further experiments could change the conclusions. Replications in other cities may show arrest works in some settings but not in others. They may even show that arrest does not work well except in the single Minneapolis experiment. One opinion is that no policy conclusions should be drawn from the Minneapolis experiment.

Others believe, however, that where there is no other information available, even one experiment should be taken as a guide to action: some research is better than no research. And since policy decisions on domestic violence cannot wait (unlike, say, building a dam), it may be better to use the research we have than to ignore it altogether.

Domestic violence is a crime, and the police have an obligation to treat it seriously and to act to protect victims—especially victims of repeated attacks. The Atlanta, Minneapolis, and Duluth approaches illustrate ways that police are attempting to respond to the needs of victims. Even if police were not moved to act against domestic violence because it is right to do so, the courts are applying powerful pressures. In June 1985, a Connecticut jury awarded \$2.3 million in damages to a woman who, after complaining repeatedly of violence inflicted by her husband, sued the Torrington Police Department for failing to arrest him.

Similar cases elsewhere are pending. The argument is that police are negligent in failing to arrest now that there is some evidence that arrest can have a deterrent effect.

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### Discussion Questions

1. Should the law interfere with family fights?
2. What advice would you give to a friend who has been beaten at home on a regular basis?
3. What is your police department's policy on misdemeanor domestic assaults? What should it be?
4. What should employers do about family violence committed by or against their employees?
5. What should neighbors do when they suspect domestic violence is going on?
6. What action should the legislature in your State take, if any, on domestic violence?

This study guide and the videotape, *Domestic Violence*, is one of 22 in the CRIME FILE series. For information on how to obtain programs on other criminal justice issues in the series, contact CRIME FILE, National Institute of Justice/NCJRS, Box 6000, Rockville, MD 20850 or call 800-851-3420 (301-251-5500 from Metropolitan Washington, D.C., and Maryland).

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