

RESEARCH INTO VIOLENT BEHAVIOR:
DOMESTIC VIOLENCE

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
DOMESTIC AND INTERNATIONAL SCIENTIFIC
PLANNING, ANALYSIS AND COOPERATION
OF THE
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FAMILY VIOLENCE RESEARCH AND DEVELOPMENT NEEDS
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TESTIMONY BEFORE UNITED STATES HOUSE OF
REPRESENTATIVES COMMITTEE ON SCIENCE
AND TECHNOLOGY

HEARINGS ON DOMESTIC AND INTERNATIONAL
SCIENTIFIC PLANNING, ANALYSIS AND
COOPERATION, FEBRUARY 15, 1978

Wife beating is a serious and widespread social and legal problem. In the past six years Brooklyn Legal Services has represented more than 3,000 women seeking divorces because of repeated serious violence by their husbands. From May 1976 through May 1977, 60% of our 600 women divorce clients had been beaten by their husbands on two or more occasions. Of the 360 beaten wives, at least 30% had been beaten when pregnant. The New York City Crisis Centers located in city hospitals handled more than 1000 cases in the period from July through December 1977. Of these cases 490 were battered wives and 2 were battered husbands.¹ Wife beating is not an urban problem only. It exists all over the United States, in all socio-economic classes. Brooklyn Legal Services has received requests for information on ways to aid battered wives from Texas Rural Legal Assistance, an Indian Reservation in Oregon and Montgomery County, Maryland. Battered wives support groups and shelters have been established

1. "Crisis Centers," The New York Times, Jan. 8, 1978, p.33, col. 1.

in Fairfax County, Virginia and Fairfield County, Connecticut, as well as in Rochester and Brooklyn, New York, San Francisco and Orange County, California.

Wife beating is a pattern of physical abuse of a woman by her present or former husband or male companion. It consists of repeated blows inflicted with intent to do harm. It is more serious than a verbal dispute or a single shove or slap. Threats and verbal abuse which were preceded by beating are part of the control of a wife by her husband which is basic to wife beating.

The term "battered wife" used here includes any woman assaulted or threatened by a man with whom she has been intimate or to whom she is or was married. A battered wife is uniquely dependent upon her attacker. She is bound to him legally, financially and emotionally. Typically, battered wives feel powerless to change their victimized condition. They are filled with self-blame, believing that their actions have caused the beatings they suffer. Battered wives are trapped by an unresponsive legal system which effectively leaves them remediless against the men who seek to control them. Their plight is worse than that of rape victims because battered wives are compelled to continue living with their abusers.

The legal system fails to protect battered wives from illegal attacks by their husbands. It is assumed that the battered wife is the guilty party, who has provoked, deserved and wanted the beating. Having no recourse under the law, the battered wife is therefore forced to flee and hide for her safety. As a result she is deprived of her liberty and property without due process of law. The offender is left at liberty in the comfort of his home and friends, his acts of violence not only excused and forgiven, but also condoned and reinforced. As a class battered women are denied the protections afforded other victims of crime. They are discriminated against by police, prosecutors and judges. As women victims of crime, battered wives are not believed. The statements of their husbands or male companions however are given presumptive credibility. Finally, battered wives are expected to keep their feelings and opinions to themselves and to accept their husbands' abuse. Thus, battered wives are denied the civil rights and civil liberties guaranteed to all citizens by the constitution.

There is no doubt among social scientists that family violence is prevalent. Wherever shelters for battered women are opened, they become filled to capacity almost immediately. It is therefore not necessary to fund further research into the extent of family violence. Research must be directed toward developing meaningful responses and effective prevention.

In 1967 Raymond I. Parnas theorized that domestic disputes are the prelude to most spouse murders and serious assaults. He believed that prompt and skilled intervention at the minor disturbance level might decrease the serious violent crime occurring among family members.² The 1973 study of domestic violence conducted by the Kansas City, Missouri, Police Department, and a 1974 study of conflict-motivated homicides and assaults in Detroit conducted by James D. Bannon and G. Marie Wilt support Parnas' hypothesis that murder and serious assaults are preceded by minor assaults.

The Kansas City Police Department found that they had responded to disturbance calls at the address of homicide victims or suspects at least once in the two years before the homicide in 90 percent of the cases, and five or more times in the two years before the homicide in 50 percent of the cases. They had responded once to disturbance calls at the home of victims or suspects in 85 percent of the aggravated assault cases, and five or more times to disturbance calls in 50 percent of these cases during the two years before the aggravated assault.³ Of the total

2. Parnas, 1967 Wis. L. Rev. 959.

3. Breadlove, et.al, "Domestic Violence and the Police: Kansas City," in Police Foundation, Domestic Violence and the Police, 23 (1977). [Addresses of multiple dwellings with many tenants were excluded from the analysis. No data were gathered on the number of disturbance calls which never resulted in violence.]

sample of cases studied, 42.3 percent involved physical force, but when the participants were either married or divorced the incidence of force rose to 54.4 percent. When the participants were common-law spouses, relatives, strangers or acquaintances, however, physical force occurred only 30.7 percent of the time. Another significant barometer of violence was the threat. When threats were made violence occurred in 53.9 percent of the cases.⁴ Of the 294 conflict-motivated homicides studied in Detroit, 90 (30.6 percent) involved family members.⁵ Sixty-two of these family murders were preceded by histories of conflicts.⁶

The police crime prevention function is not being developed. In spite of emphasis on more sophisticated responses to domestic disputes the average patrolman is failing to gather sufficient information to make a determination of the nature of the problem. There is no difference in the aid offered in cases of verbal disputes or physical assault. The spontaneous non-arrest

4. Id. 27.

5. Wilt and Bannon, "Conflict-Motivated Homicides and Assaults in Detroit," in Police Foundation, Domestic Violence and the Police, 37.

6. Id. 39.

practices described by Parnas have been extended by the patrolman, relying on official police department policy in favor of adjustment, to inaction in all cases of family assault. Arrests are not made when there has been violence, or when an injured wife requests to file a complaint. The mediation training for conflict resolution stresses neutrality, which in turn reinforces the wife beater's notion that he has done nothing wrong. Battered wives are made to share the blame for the injuries they have suffered, just as the rape victim has been held responsible for the crime committed against her. Thus, violence in the home escalates, because the victim has learned that the police will give no aid, and the offender knows that he will suffer no penalty.

A comparison of the effects of different types of police response is urgently needed. Two opposing tendencies are exemplified in the police training publications of the Law Enforcement Assistance Administration (LEAA) which stresses arrest avoidance and mediation,⁷ and the International Association of Chiefs of Police which urges that wife beating be treated the same as any other criminal assault.⁸

7. Bard, The Function Of The Police In Crisis Intervention and Conflict Management - A Training Guide, U.S. Dept. Of Justice, LEAA, National Institute Of Law Enforcement and Criminal Justice.(1974).

8. International Association of Chiefs of Police, Training Keys 245 and 246, Wife Beating and Investigation of Wife Beating, respectively (1976).

A third position is that no official policy is stated by the police agency, leaving the individual police officer to exercise unfettered discretion in response to family violence calls for police assistance. Analysis of the effects of each approach on subsequent violence among family members could be the basis of an informed choice of police policy alternatives which will reduce violence.

There were 2359 spouse murders in 1975 reported in the F.B.I. Uniform Crime Reports. This was 11.5 percent of the total number of criminal homicides committed in that year. "Romantic triangles and lovers quarrels" accounted for another 7.3 percent of the murders in 1975. The wife was the victim in 52 percent and the husband was the victim in 48 percent of the 1975 spouse murders.⁹ More than twenty years earlier, the same proportion of wife to husband victims was found in a sample of 100 spouse murders, 53 wives and 47 husbands were slain.¹⁰ A 1960's study of 200 women imprisoned in California found that 63 of these women had killed their husbands or "lovers."¹¹

9. 1975 Uniform Crime Reports 18-19.

10. Wolfgang, Patterns in Criminal Homicide, 212 (1958).

11. Ward et.al., "Crimes of Violence by Women," in 13 Crimes of Violence, 868 (Staff Report, U.S. National Commission on the Causes and Prevention of Violence [1970] (Hereafter, "13 Crimes of Violence").

Spouse murders have a greater social and economic cost than other homicides because the incarceration of the offenders makes orphans of their children.¹² A study of women in prison for murdering their husbands or companions should inquire into the history of their relationship with their victim, and who is caring for and supporting their children. This could document the hidden social and economic costs of the orphaned children of battered wives, as well as the potentially lethal consequences of wife beating.

Definitions of self-defense and victim provocation are being expanded to provide the basis for acquittal and light sentences when husband murders are committed by wives who have been the victims of years of wife beating. A wife's conviction for murdering her husband was reversed because the trial court failed to charge the jury that the defendant had no duty to retreat from an assailant in her own home.¹³ These defenses raise difficult problems for a society which seeks to deter murder by making it unrewarding and unnecessary.

12. cf. "Parents in Prison, Forgotten Children Find Home in School," The New York Times, November 17, 1977, p. 35, col. 1.

13. People v. Paxton, 47 Mich. App. 144, 149, 209 N.W. 2d 251, 253-54 (1973).

Analysis of spouse murders shows that wives tend to kill husbands who have a history of beating them, although husbands kill wives without provocation. Sociologist, Marvin Wolfgang, developed the concept of "victim-precipitated" homicides. He defines them as "those criminal homicides in which the victim is a direct, positive precipitator in the crime." The victim is the first person to use physical force against his eventual murderer.¹⁴ Applying this analysis to spouse murders, he found that 28 husbands and 5 wives were victims of victim-precipitated homicides, but in non-victim-precipitated homicides, 19 victims were husbands while 48 were wives.¹⁵ Wilt and Bannon found that husbands killed their wives after insulting their wives or ordering their wives to perform some task. These husbands attacked their wives because the husband felt their wives should accept insults passively, or because the husbands were not satisfied with the way their wives performed the tasks.¹⁶

14. M. Wolfgang, Patterns in Criminal Homicide 252 (1958).

15. Id. 260

16. G. Wilt and J. Bannon, "Conflict-Motivated Homicides and Assaults in Detroit," Domestic Violence and the Police 39-40 (Police Foundation 1977).

Wife abuse entails not only extreme physical punishment, but extraordinary degradation of the woman.¹⁷ A person whose sense of self-worth has been destroyed in this way is not deterred by the probability of punishment for murder. She may believe that she is worthless and deserves to go to prison. She may see prison as better than her present existence with its constant brutality. The woman who suffers in this way may be considered to be temporarily insane and therefore not guilty of murder. Each case must be evaluated so that it is clear that these defenses will succeed only when escape is practically impossible, or the offender is not capable of knowing the meaning of her act.

Ward, Jackson and Ward who conducted the California women's prison study drew two conclusions from their findings. The first is that "in order to prevent a major portion [one-third] of the criminal violence in which women engage, one would have to do something about unhappy [violent] marriages and love affairs." Secondly, they point out that there is a trend toward increased violence by women, which may be "accelerated as women become emancipated from traditional female role requirements."¹⁸

These theories have grave implications for increases in

17. Martin, Battered Wives, 1-8; 76-86; Wilt and Bannon, in Domestic Violence and the Police, 39-40 (Police Foundation 1976); Eisenberg and Micklow, 3 Women's Rights L. Rep. 144-45.

18. 13 Crimes of Violence, 907.

spouse murder resulting from husbands treating wives as objects of property. The traditional role of wife as servant who may be chastised by her husband is being rejected by women. If women are unable to get help from society to extricate themselves from such violent relationships, or to restructure these relationships, they may increasingly turn to violence as the only apparent resolution. When ultimately lethal confrontations take place between spouses it has been shown that either party could become the victim.

Society has an obligation to make this type of murder unnecessary, and to make the alternative of escape possible and rewarding. Meaningful responses to the needs of battered wives will save the lives of women and men. Studies have presented the patterns which precede spouse murder. Study is needed to determine the significant differences between those wife beating situations which result in murder, and those which are ended by other means. The various methods of peaceful resolution should be analyzed to determine their frequency and their efficacy for the family members. The patterns of conduct and relationships present in the histories of each of the violent groups should be compared with those of families in which wife beating has not existed. From the results, conclusions could be reached about the types of services and intervention which bring about the most effective, peaceful end to wife beating,

and which may prevent family violence. Policies can then be designed which will make homicide an unnecessary means of ending wife beating, and make life outside of prison satisfying enough to make murder unrewarding.

The relationship of murder victim and offender are carefully recorded. Antecedent incidents of wife beating are, however, subsumed under the general categories of violent crimes and offenses variously denominated: attempted assault; simple assault; aggravated assault or assault and battery; attempted murder, assault with intent to maim; and murder; harrassment; menacing; reckless endangerment; and criminal trespass. Commentators have noted that because the relationship of victim and offender are recorded for murder only, the true extent of serious wife beating is hidden in the criminal assault arrests and convictions.¹⁹

Police and prosecutors should be required to collect data on the nature of the offense charged, relationship of victim to offender, and police or prosecutor disposition. It will then be possible to ascertain the extent and seriousness of reported family violence. These data will also indicate the numbers of those seeking help to end the violence. and response they get from the legal system.

19. Eisenberg and Micklow, 3 Women's Rights L. Rep. 140-41; Jackson, "In Search of Equal Protection for Battered Wives," 1-2; Martin, Battered Wives, 10-11; 1975 Uniform Crime Reports, 18-21. The United States National Commission on the Causes and Prevention of Violence conducted its own survey in 1967 to ascertain the relationship of victim and offender in aggravated assault cases. United States National Commission on the Causes and Prevention of Violence, Staff Report, 11 Crimes of Violence, 206 [1970].

One of the major obstacles to ending violent relationships is the inability to obtain prompt court determination of alimony and child support rights and to effectively enforce court-ordered support and alimony. A ten-year study of court-ordered child support in an unidentified Wisconsin metropolitan county, showed that only 38% of husbands fully complied with the child support provisions of divorce judgments less than one year old. Forty-two percent failed to make any payments in the first year after judgment. As the age of the judgment increased to ten years, the number of fully compliant husbands dwindled to 13%, while the number of non-paying husbands grew to 70%.²⁰

A current study of child support compliance in ten Illinois urban and rural counties reveals that of judgments entered in 1965 56% were fully complied with and 20% were not at all complied with during the first year of the judgment. By the fifth year of the judgment, full compliance dropped to 37% and non-compliance rose to 33%. For judgments entered in 1970 there was full compliance with 43% and non-compliance in 33% of the cases during the first year. In the fifth year full compliance dropped to 18% and non-compliance rose to 65%.²¹

20. K. Eckhardt, "Deviance, Visibility, and Legal Action: The Duty to Support," 15 Social Problems 470, 473-74 (1968)

21. W. D. Johnson, "Default in Court Ordered Child Support Payments," to be published, 15 Conciliation Court Rev., March 1978.

These two studies should be augmented with more extensive data on default in court-ordered support payments. New methods of support enforcement should be tried. All support orders should from their inception be paid by payroll deduction order. This way support payments will be assured for as long as the man is employed, and payroll deduction orders will not stigmatize a man as one who has previously defaulted. In addition, men will be saved the emotionally stressful task of writing checks to their former wives.

Initial support orders should provide for payments retroactive to the date of commencement of the support proceeding. This relief would destroy the current advantage gained from delaying a hearing and thereby the court's determination of the prospective support award. Emergency public assistance grants could be repaid from the retroactive portion of the award.

Willful defaults in support payments are not penalized. The nonpaying spouse has interest-free use of the money he should be paying for the support of his wife and children. Those dependent on the payments often pay interest on money borrowed for living expenses. Arrears owed should be awarded with interest, counsel fees and court costs to deter support default and to save the recipients from additional loss.

The moving party in a support enforcement action may recover only the arrears accrued at the time of the commencement of the

proceeding. Arrears which accrue after the commencement of the enforcement action must be subject of a subsequent proceeding. The spouse who should be receiving support payments must bear the expense and burden of successive actions to recover all that is due under a support and alimony judgment.

Statutory provision should be made for amendment of the wife's papers on the date of the hearing or submission of the enforcement application to include any arrears accumulated since commencement of the action. This would also save court time by reducing the number of enforcement proceedings. Of course, husbands have always had the right to present evidence of payments made up to and including the date of the hearing.

A last suggestion for facilitating support enforcement is that attachment of the defaulting spouse's property be mandatory when arrears exceed \$1,000.00, and a payroll deduction order is impracticable. Men with valuable assets but little or no visible income from employment should not be insulated from judgments for arrears. Judges are reluctant to use their contempt powers to sentence a man to "alimony jail." Contempt is a questionable weapon, of limited success in getting the payments needed by the family. Attachment of assets has the advantage of producing income from sale or redemption. If battered wives can rely on support and alimony payments, they may become freer to leave husbands who fail or refuse to cease their assaults.

Finally, the most important aid to battered wives is a shelter where they can safely stay with their children. Shelters provide constantly available emergency refuge. Residents give emotional support by believing and understanding the problems of women fleeing violent husbands. Staff assist the women in obtaining welfare assistance, legal representation and medical treatment. Publicity about the existence of shelters gives battered wives knowledge that they have alternatives available in times of emergency. From this position of safety and strength women can determine if they want to try to reconcile with their husbands or if they want to start lives on their own.

Study is needed to learn alternative methods of shelter financing and operation. The present ad hoc system of one-year government grants results in too much staff time being spent to obtain future funding instead of serving resident needs. Technical assistance is needed in the areas of corporate organization and structure, zoning, renovation, building, health and safety code compliance, procurement and service agreements, labor relations, and police and community relations.

Analysis of existing federal programs is needed to find those which could provide assistance to individual battered women, and to shelters and other supportive programs. This information should be made available in a single publication, and the agency efforts coordinated to assure effective response to actual needs.

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