

DOMESTIC VIOLENCE

HEARINGS
BEFORE THE
SUBCOMMITTEE ON SELECT EDUCATION
OF THE
COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES
NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 7927 and H.R. 8948

TO AUTHORIZE THE SECRETARY OF HEALTH, EDUCATION,
AND WELFARE TO ESTABLISH A GRANT PROGRAM TO DE-
VELOP METHODS OF PREVENTION AND TREATMENT RELAT-
ING TO DOMESTIC VIOLENCE, AND FOR OTHER PURPOSES

HEARINGS HELD IN WASHINGTON, D.C.,
ON MARCH 16 AND 17, 1978

Use of the Committee on Education and Labor
CARL D. PERKINS, *Chairman*



57922-
57941

57928

FAMILY VIOLENCE: A Look at the Criminal Justice System

March 7, 1978

Jennifer Fleming, Director
Women's Resource Network

1 University Place
4025 Chestnut Street
Philadelphia, Pa. 19104

215/387-0420

Family Violence: A Look at the Criminal Justice System.

Victim stated the first argument started over a pack of cigarettes. Victim stated accused (her husband) held her against the bathroom wall by the hair and continued to beat victim with his right hand. Victim is six months pregnant at this time. Victim stated accused kept telling victim, "Bitch, you are going to lose that baby," and then accused would beat victim in the stomach again. After the assault in the bathroom, accused told victim to cook dinner. Victim stated that the accused picked up a butcher knife and put it to the victim's throat and told victim, "I am going to kill you and you know I can do it, too, don't you?" Victim answered, "Yes," and accused laid the butcher knife on the table and turned around and hit victim in the face with his fist and knocked victim to the floor. Then the accused sat down on the victim's stomach and put his knees on victim's arms so victim could not block any kicks from accused. Then accused started beating victim in the head, face, and stomach. The accused got to his feet and told victim to get up. Victim stated that she tried but was unable to do so and fell back to the floor. The accused started beating and kicking the victim and kicked over a chair on victim's stomach. Victim stated she blacked out. Victim stated when she regained consciousness the accused was still beating her.

4.1 Assault, Felonius, File #41,
Complaint #13626. July, 1974.
Washtenaw County Sheriff's Department,
Ann Arbor, Michigan

Statistics reveal that in New York State in 1973, there were almost 5000 rapes reported. Almost 3 times that number of wife abuse complaints went to family court. Unreported cases could perhaps double or triple that number. Husband-wife violence has been estimated to involve anywhere from 50% to 70% of American families.*

- 1 • In 1975 homicides within the family accounted for one fourth of all murders; more than half of these were spouse spouse killings.

Source: Crime in the U.S. - 1975 - The Uniform Crime Reports (Federal Bureau of Investigation; Washington, D.C.)

- 2 • In one study of 80 lower and middle-class families, University of Rhode Island sociologist Richard J. Gelles found that more than half described instances in which one spouse pushed, kicked or used some form of physical violence on the other. About 26% of his sample participated in husband-wife assaults regularly, ranging from a few times a year to every day.

Source: Gelles, Richard J. 1974 The Violent Home: A Study of Physical Aggression Between Husbands and Wives. Beverly Hills, California, Sage Publications, Inc.

- 3 • In a Kansas City study, police statistics showed that homicides due to marital violence had been preceded by at least one call to the police in 85% of the cases and five or more calls in 50% of these murders. The FBI says that 22% of all police fatalities occur while investigating domestic disturbance.

Source: 1977 Domestic Violence and the Police: Studies in Detroit and Kansas City. The Police Foundation, Washington, D.C.

- 4 • In Philadelphia, Pa., over 40% of those attempting to file criminal complaints with the district attorney are victims of marital assault.

Source: Philadelphia's District Attorney's Office.

- * Suzanne Prescott and Carolyn Lets. Battered Women: A Social and Psychological Perspective 1976. Unpublished.

- 5 • 22% of all police fatalities and 40% of police injuries occur as the result of responding to domestic disturbance calls. Since 1966, 157 officers have lost their lives responding to domestic disturbance cases.

Source: Crime in the U.S. - 1975 - The Uniform Crime Reports (Federal Bureau of Investigation; Washington, D.C.)

There can no longer be any doubt that wife beating is a major social and legal problem. However, most concerned individuals, groups and agencies have little or no knowledge as to how to create an effective institutional response. This is especially true within the criminal justice system which bears the major burden for enforcing the battered woman's right to protection from violence.

Just how effective are current procedures, and what can be done to increase the effectiveness of the criminal justice system in the area of family violence?

Law Enforcement:

Inadequate training, call overload, poor attitudes, and fear of injury often result in the rejection of the rule of law which makes it a crime to assault another person. Instead, call screening and arbitrary decision making often determine how effective the police response turns out to be. If there is enough of a neighborhood disturbance, if the use of a weapon is involved, or if there is serious injury, the battered woman will find the police more responsive. Without these variables, however, calling the police can be of little help.

The attitude that a man's home is his castle, that what goes on behind closed doors is private, and that battered women either provoke, deserve, or enjoy violence quite often plays a role in the police officer's inability to assist the victim of spousal assault.

In addition, the police are hampered by laws in most states which require them to witness an assault before an arrest can be made. In many localities, a "stitch rule" is in effect, whereby an officer will determine that a felony has been committed only if the victim requires a substantial amount of stitches at which time an arrest will then occur.

Even when an arrest does take place, however, the abusive spouse is usually released within a short period of time, having either raised bail or having been released on his own recognizance.

For these reasons, many battered women do not report their assaults. For those that do, the police response, even when sympathetic, remains essentially ineffective.

James Bannon, Executive-Deputy Chief of the Detroit Police Department says that "the reason that the police avoid domestic violence situations to the greatest extent possible is because we do not know how to cope with them." *

How can the police cope?

As the first person that arrives on the scene, the police officer faces the task of restoring order and when appropriate, making an arrest.

There is a serious question involved here regarding just how much of a social work function police should assume when intervening in a domestic disturbance. Is it an officer's responsibility to address the underlying causes of the problem or to simply defuse the situation? Should he try to avoid arrest or not?

Our position is that the officer should attempt to defuse the situation in a manner that is sympathetic to the victim, and take steps to reduce the possibility of injury to himself. (We are aware of the fact that many battered women will attempt to physically attack an officer who is intervening on her behalf. Our theory is that it becomes "safer" for the victim to attack the officer than the husband since she will once again be at the mercy of her attacker once the officer leaves. Attacking the officer becomes her way of "fighting back.")

Although it has been demonstrated that the majority of police work (85%) is actually social work, we do not believe that it is the function of the police to attempt to solve the problems that contribute to family dispute. Instead, we would like to see police training and consultation that would have the following results:

* 1975. Law Enforcement Problems with Intra-Family Violence.

1. Attitudinal changes that would result in the officer's awareness of the fact that when a wife beating has occurred, a crime has taken place, and there is a victim and a perpetrator.
2. Crisis intervention skills for defusion of the immediate conflict.
3. Reduction of police injuries.
4. A successful connection between the victim and a helping agency.

We see number four (4) as an important key. Some possible means of implementing this could be: police, social work teams that would respond to the initial call; family crisis intervention units that would be on call to back up the police, activated at the responding officer's discretion; cooperative working relationships between police departments and service providers, particularly grass roots groups which tend to be available on a 24 hour basis and usually have a sense of victim advocacy.

Some of these program ideas have already been initiated; police/social work teams and crisis intervention back-up specialists are in operation in various locations throughout the country. Information on current activities in these areas is available through the Law Enforcement Assistance Administration, U. S. Department of Justice.

Over the last ten years, there has been a significant amount of crisis intervention training for police departments in various localities. Known primarily as Family Crisis Intervention, police officers have been trained to defuse domestic disturbances. We feel that this training is useful, and it certainly is a basic prerequisite for an effective police response, but we see it as only a first step. There are some important gaps in the Family Crisis Intervention Training model that a more comprehensive training program should fill.

First, rather than attempting to reduce the number of arrests, police training should equip officers with the skills to determine whether an arrest is appropriate (are there internal injuries, etc.) and to conduct an appropriate investigation (interviewing witnesses, gathering evidence, etc.) Second, the training model should stress that wife beating is a crime and care should be taken to insure that training materials do not reflect traditional bias regarding the psychology of the battered woman.

Training should also provide officers with a basic understanding of the phenomenon of wife abuse, resource and referral information and information regarding substance, implementation and enforcement of any local wife abuse legislation.

The possibility of establishing special domestic disturbance squads within police departments should also be explored, although costs may be prohibitive. In addition, the importance of using female officers should be stressed since it has been demonstrated that male/female teams are more effective in intervening in domestic disturbance.

Any training model that is developed should be "transferable", that is, multiple copies of a training "package" should become available which, after brief training can be administered by local instructors and trainers to both in-service officers and recruits.

Women's Resource Network

National foundations have expressed serious interest in improving law enforcement's response to domestic violence. Grants have been made to WRN (a national training and consultation resource on family violence) by the Ford Foundation and the Rockefeller Family Fund. These funds will be used to develop a demonstration model for law enforcement effectiveness in Detroit and Philadelphia. Working in conjunction with experts in the law enforcement field, WRN hopes to test the validity of the training models described above, with the ultimate goal of developing a useful training tool for both law enforcement personnel and groups and organizations who seek to improve the police response to the problem.

Prosecutors

When the abused woman attempts to prosecute her spouse, she finds long delays, encouragement to drop charges and reluctance to issue warrants on the part of staff within district attorney's offices, reduction of charges from assault to harassment, lack of sympathy, and a general perception of her problem as trivial and unimportant. In addition, fear of retaliation by the husband leaves the battered woman reluctant to prosecute in the first place.

This fear must be well understood by those who come in contact with the victim. After all, if her husband has put her in the hospital for misplacing a pack of cigarettes, fear of serious injury or even death cannot be unfounded when she contemplates prosecuting him for assault. Even in situations where the victim is unnecessarily or inappropriately dropping charges, one needs to be aware of the psychological crippling that accompanies battering and its attendant lack of self-esteem, sense of powerlessness and emotional paralysis. The battered woman, living in terror and isolation has often become convinced that there is no way out even when avenues of escape appear before her.

Besides, many battered women have been through the prosecution process only to find that it does little good, if any, to follow through since the end result is generally not much more than a short non-reporting probation or an unenforceable agreement. In addition, abused women are often economically dependent on their husbands, and incarceration may mean a severe loss of income. So, there are a variety of factors that lead to withdrawal of complaints by abused wives, all of which combat the traditional belief that battered women drop charges because they have a neurotic need to be abused or they are all too willing to forgive and forget.

All of this does not mean however, that we should not encourage beaten wives to prosecute their spouses when appropriate. Changes need to occur that will insure an effective response when the severely battered woman seeks to prosecute her husband.

Training should be provided for the staff of district attorney's offices to insure that those persons coming in contact with battered women understand the "victim mentality". Where possible, privacy should be provided; interviewers should be sympathetic and helpful; complaints should be taken seriously; and attempts should be made to establish a case when appropriate.

In Philadelphia, the local shelter group operates a counseling service within the district attorney's office. This enables the victim to obtain appropriate assistance; relieves the staff of the D.A.'s office of the counseling function; and alleviates the case overload that usually exists at the beginning of the week.

We could see another important function that could be undertaken by local service providers in cooperation with district attorney's offices: screening. It may be possible that counselors could provide initial screening so that those women who turn to the

criminal justice system for help simply, because they do not know what else to do, could receive counseling and referral information. Civil remedies could be explored. Those women who are involved in serious batterings situations could be channelled through the criminal justice system with emotional support and back-up from the appropriate womens' groups. Counseling should reduce the victims' fear and isolation and the chances of her dropping the charges.

In addition, protection needs to be provided for the victim during the time that she is prosecuting. Red tape and delays need to be reduced.

Perhaps, as in Philadelphia, special units should be established within district attorney's offices to handle domestic violence cases.

Courts

As mentioned before, incarcerating an abusive spouse is certainly not the answer in many cases of wife abuse. If the husband is working and the wife is dependent on his income, then it may serve to add to her problems rather than reduce them. Many abusive men are not working, however and in this instance incarceration may serve as a deterrent. Even in the case of the working spouse, temporary incarceration, for a weekend, for example, could save lives and property, particularly when the abuse is severe. Another purpose that incarceration serves is to provide the wife with enough space and relief to develop her resources to move to change her situation.

Alternatives to incarceration need to be explored. Mandatory counseling is a possibility. Kathy Saltzman of the York Street Center points out:

"Past experience both with men who were forced to receive counseling as well as those who sought counseling voluntarily would seem to indicate some potential for success in certain cases."

(Program Summary: Methodology. York Street Center, Denver, Colorado.)

Another area for exploration is the establishment of diversionary programs where the defendant is tried and convicted,

and incarcerated only if he violates the terms of his parole. Violation, however, should result in certain and immediate incarceration. All too often, the thrust of the courts is towards reconciliation, the assumption being that family violence is a social rather than a legal issue. The fact is, however, that these assumptions allow a battering husband to believe that he essentially has the right to assault his wife. Since the vast majority of reconciliation agreements are violated within a short period of time, steps need to be taken that will afford the victim some relief from the violence, that if allowed to continue, will inevitably escalate to unavoidable and tragic consequences.

Conclusions:

Changing the response of the criminal justice system rests on a number of variables. First, funds need to be made available through the appropriate agencies (LEAA, etc.) Second, cooperation between law enforcement personnel and service providers must be established on an on-going basis. Policemen cannot be social workers, but if the cycle of violence is to be broken, they must be concerned and they must care. With help from those who have been committed to working on the battered woman problem, the criminal justice system can do much towards freeing the battered woman from her prison of fear, pain and isolation.

This does not mean that we think the police and the courts should solve the family violence problem. There are no easy answers. Improving the response of the criminal justice system must go hand in hand with improved social services, increased resources for the battered woman and better attitudes on the part of the public at large.

But, even more important, we must realize that the real solutions to family violence lie not so much in what we do to mop up the damage after the fact, but in what we do to prevent it.

We must look at our tendency to glorify violence; at our marriage laws which even today relegate women to a secondary and dependent role; at the historical roots of violence against women; at the legal, cultural and societal sanctions for wife beating. And we must find ways for both men and women to realize their potential as independent, strong, self-confident, creative human beings, capable of developing relationships based on equality and mutual respect.

APPENDIX:

Immediate areas of concern re: funds for family violence programs within the Law Enforcement Assistance Administration.

1. Several women's groups working on family violence have unsuccessfully applied for Community Anti-Crime funds. Can these groups receive technical assistance from the Community Anti-Crime Program that would enable them to develop proposals that will conform with present guidelines particularly by the April 31st 1978 deadline?

2. Can the family violence allocation be increased? There have been over 1000 requests for guidelines which would indicate a problem of mammoth proportions.

3. Are there any plans within LEAA to conduct research that would identify those factors that contribute to family violence so that appropriate prevention programs could be developed?

4. Does the office of Juvenile Justice have any plans?

5. What is the Office of Technology Transfer planning on doing?

6. How can grass roots community groups assure that there are family violence courses in Law Enforcement Education Program colleges and universities?

END