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Domestic Violence and the Female Victim: The Real Reason Women Stay!

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Abstract

The criminalization of domestic violence refers to efforts to address domestic violence through the passage and enforcement of criminal and civil laws. This article reviews the social science, legal, and criminal justice literature regarding interventions used to stop domestic violence. Theoretical foundations, effectiveness of police interventions, and the use of protective orders are addressed. Further explored are prosecution and victim advocacy, court responses, batterers' intervention as a condition of probation, and coordinated community responses to domestic violence. Implications are given for social work practice, along with basic information for assisting clients who are victims of violence in their own homes.

Introduction

Violence implies destruction, anger, and pain; while family suggests the qualities of caring, love, and joy. Domestic violence occurs at all familial levels—between couples, in parent-child relationships, sibling relationships, and oftentimes, dating relationships. Domestic violence is deeply rooted in the lives of many American families (English, Marshall & Stewart, 2003). Yet, closely interwoven are the words “family” and “violence”, even now.

Many female victims of domestic violence become victims of their own psychological realities (Hurley, Sullivan & McCarthy, 2007). Financial viability can be limiting for many female victims along with other barriers they face when attempting to flee safely from violent situations (Murray, 2008). While there are various types of domestic violence situations, here the focus has to do with violence directed toward females and the psychological impact many female victims experience throughout the court proceedings.

Theories abound regarding the negative social and economic consequences of domestic violence (Lehrner, & Allen, 2008; Bouffard; Wright; Muftić & Bouffard, 2008; Murrell, Christoff & Henning, 2007). Many of these theories are well grounded and built over time. They offer much, but unfortunately far exceed the scope of this paper. However to move out of the problem and into the solution, empowerment theory must be mentioned (Itzhaky, & Porat, 2005). This theory asserts that victimization is not something that happens to an individual because of personal characteristics, family of origin, or other outside distinctions. Rather, family violence can happen to anyone who has the misfortune of becoming involved with someone who seeks to maintain power and control over intimate partners or family members.

One of the most fundamental functions of any civilized society is the protection of its citizens from criminal victimization. During the past 20 years, there has been an explosion of knowledge about domestic violence, its prevalence, and its linkage with other social problems. Although a number of criminal and civil justice tools exist to stop abuse and hold batterers accountable for their behavior, no one tool has proven effective across all situations (Sartin, Hansen & Huss, 2006). Social workers need an understanding of both the tools that work best in specific situations, and the potentially dangerous consequences resulting from the use of these tools (Danis, 2003).

For years, the standard practices in most police departments was to treat domestic violence cases as “family affairs” (Stalans & Finn, 2006); and as such, do not become involved. Much of the resistance of law enforcement officials tied to the notion that privacy of homes is sacrosanct, particularly in homes socialized where men are dominant and women submissive. In this framework, the view of domestic violence may be as a struggle between men and women over limited resources and/or incompatible goals, housed within a society that teaches and sanctions the use of force by men against women. The feminist approach to domestic violence “holds that almost all male-on-female abuse is based on the patriarchal values of our society,” and that “these values are sanctioned by a culture in which male domination of women is both covertly and overtly reinforced” (Lawson, 2000, p. 20). Violence in domestic abuse is nothing more than a tool oftentimes used by men to control women. Many men in our society still support the notion that it is okay to use physical violence toward a woman if her behavior or freedom threaten his power or standing in the family hierarchy (Sartin et al., 2006). While studies suggest a recent shift toward egalitarianism between the sexes, many men continue to hold onto traditional attitudes. Such attitudes have ruled this country for decades, especially in the areas of family roles and decision-making (Taubman, 1986).

The Problem

During the past 20 years, the social science and criminal justice fields developed interventions designed to deter abuse and rehabilitate abusers so they will not abuse again. Central to these interventions has been the increasing role of the criminal justice system to enforce laws that regard the use of violence against one's intimate partner as a criminal act. Thus, domestic violence has moved from being viewed as only a social problem to also being viewed as a criminal justice mandate (Fleury-Steiner, Bybee, Sullivan, Belknap & Melton, 2006). The criminalization of domestic violence refers to efforts to address the issue of domestic violence through the passage and enforcement of criminal and civil laws (Buchbinder & Eisikovits, 2004).

Domestic and intimate partner violence occurs in epidemic proportions, affecting an estimated 6.2 million American women each year, causing injury that is more serious to women than car accidents, muggings, and rapes combined (Department of Justice (DOJ), 2008). It is estimated that at least 4 million women experience a serious assault by an intimate male partner during an average 12-month period. In fact, nearly 95 percent of domestic violence victims are women (DOJ, 2008). In consideration of these startling statistics, some of the most obvious questions flummox many in our legal system. Questions like: Why do women minimize their injuries? Why do they refuse to participate in the prosecution of their assailants? Why do they post bail for their abusers getting them out of jail? Why do they stay with or return to the men who abused them? To some, these questions appear to be simple questions with simple answers; however, stop if you will, for one minute, and seriously consider what female victims experience when they prosecute violent male partners.

Many of the initial aspects of victim reporting include situational, relational, and systems-level factors that influence battered women's use of either the police, prosecutorial, or court systems. It is interesting to note that Fleury et al. (2006) has examined how these factors each influence women's intentions to reuse these systems in the event of future violence. Fleury et al. (2006) reported employed women were more likely to want further involvement with these systems; felt supported by their communities; received information about services from the police; found case outcomes consistent with their desires; and, felt the criminal legal system treated them well. Victims were less inclined to intend to use the system in the future if they were legally or financially tied to their perpetrators; they had been assaulted again before the court case was closed; court proceedings had been cancelled at least once; or, they had been pressured rather than supported by the criminal legal system (Fleury et al., 2006).

If you were to visit any urban courthouse and sit in any courtroom on any given day, you would witness attorneys and public defenders celebrating dismissals when female victims fail to appear at a second court appearance. Police officers and prosecutors become frustrated and angered by a female victim who wishes to drop charges (Sandusky, 2001). Judges see hundreds of domestic violence cases a year. While it is the duty of the judge to be objective, judges are disgruntled when the victim fails to appear resulting in dismissal. It is easy to see how a judge might ponder their responsibility to keep the community safe versus victims' rights when victims fail to appear only to return later on a new charge with more severe signs of abuse. Other court workers feel that victims not following through waste their time and energy. All of these issues within the justice system hinder the speediness of the court process for cases of domestic violence making it difficult for victims who want the help of the court system to put an end to their abuse. Sadly, stakeholders within the legal system, prosecutors, police, judges, and social workers alike, oftentimes assert that the victim is to blame when a male assailant goes free.

Women with a history of domestic violence and multiple encounters with the legal system often feel police officers are unsympathetic or lack empathy (Stalans & Finn, 2006). They believe this is especially true if the woman is one who has failed to follow through with prosecution previously. Female domestic violence victims perceive that the police do not view domestic violence as they would other crimes, with a perpetrator and a victim. Notwithstanding these suppositions, professionals in the legal system know that battered women do have an interest in participating in the legal process, and obtaining a satisfying outcome. Abused female victims want to be free from harm from their intimate male abusers, as is evidenced by the number of cases appearing on court dockets each year. In Ohio alone, the Office of the Attorney General (OAG) (2007) reported that 73 percent of family violence victims are female. Additionally, females were 84 percent of spousal abuse victims and 86 percent of the abuse victims in non-spousal, but committed relationships (OAG, 2008). Furthermore, nationally there were 20,608 domestic violence cases filed in 2007, and 135,645 people received domestic violence services (DOJ, 2008). The cost of intimate violence exceeds \$5.8 billion each year, \$4.1 billion of which is for direct medical and mental health services (DOJ, 2008).

Many in the legal system fail to acknowledge the barriers that ultimately destroy women's will to follow through with prosecution (Murray, 2008). Unequivocally, the most significant factor that allows the violence perpetuated upon female victims to continue is that society still supports patriarchy, and the indoctrinated belief that men have the right to inflict abuse (i.e., physical, mental, financial, and sexual) on their female partners. Thus, directly linked to domestic

violence is sex role attitudes, along with power and control. Over the years, women have endured the intended and consequential impacts of this patriarchal system of authority, unfortunately remaining, in abusive relationships.

Direct Impact

There are a plethora of short and long-term costs that many female victims must consider when choosing whether to leave a violent relationship. For example, many women remain in abusive relationships to avoid retaliation toward them or their children (Murray, 2008). Studies show that the highest risk for serious injury or death from violence in intimate relationships is the point of separation, or at the time when the decision to separate is made (English et al., 2003). As many as 50 percent of all female victims of violent crimes report being fearful that male abusers will seek some form of reprisal if victims participate in prosecution. Revictimization of battered women occurred at 32 percent within 6 months after the assault gave rise to criminal justice intervention (DOJ, 2007). In many abusive situations, female victims attempt to mitigate the situation by talking it out with the male abuser, fighting back, or by trying to solve the problem by meeting their male partner's demands. When the abuse continues, many women become passive, or withdraw emotionally in order to reduce immediate danger. In the end, many choose to live in a life fielded with abuse, or commit suicide or homicide (Murray, 2008).

Unlike many victims of assault by strangers, but like other victims known to a defendant, victims of domestic violence may be reluctant witnesses (Felder & Blair, 1996). There are two primary reasons for their reluctance to serve as witnesses. Primarily, many women who sincerely attempt to prosecute find significant resistance to the charging of the abuser. National data reveals law enforcement classifies most domestic assaults as a misdemeanor notwithstanding evidence that the criminal conduct involved is more serious than many of the rapes, robberies, and aggravated assaults suffered by others (DOJ, 2008). Serious assaults, like domestic violence, are often charged as misdemeanors and abusers released on probation. Many victims of domestic violence conclude it is better to dismiss charges than be subsequently exposed to the abuser after the hearing is over. These victims learn early that a protective order does not guarantee their safety; rather, such an order is only a tool that holds the batterer accountable if or when he violates the order. Second, female victims often remain in violent relationships realizing that participation in prosecution is by no means a guarantee of their safety, nor will it change the behavior of the batterer (Murray, 2008).

Victims are acutely aware that the legal system will not protect them after the proceedings end. For the most part, in criminal proceedings, a temporary restraining order lasts only as long as the court proceedings. With little or no follow-up intervention by the court once the case ends, many female victims are harassed and pursued by their abusers again. A phone call by the male abuser indicating he is free and "nothing can happen to him" is petrifying to a female victim who comes to understand the legal system can only protect her for a minimal amount of time (Murray, 2008). Many female victims are more concerned with preventing future attempts on their life rather than vindicating the state's interest in penalizing the male abuser for breaking the law. Thus, female victim's interest in protecting herself at all costs runs contrary to the criminal justice system's interest of winning criminal convictions.

Another factor that prevents female victims from proceeding with prosecution is the female victim's financial reliance on the perpetrator's resources. Research reveals that it is typically not the paramount reason they terminate prosecution (Ford & Burke, 1987); although, the common belief is that battered women withdraw cooperation because of decisions to reconcile with the perpetrator. The victim's challenge is finding financial resources to survive day to day, and it is easier for some victims to value staying in an abusive setting versus sleeping on the streets. For many women, prosecuting the breadwinner may wreak economic ruin on the family. In the end, many female victims must consider the over-bearing expenses they must encounter when the perpetrator is no longer living in the home, or incarcerated for the offense. Thus, to the female victim it makes more sense to terminate prosecution and keep a roof over her head for the sake of herself and her children.

Finally, many times female victims encounter difficulties from their employers for taking so much time off work (Tebo, 2005). While some employers find it necessary to support female victims with respect to medical appointments, many employers are not accommodating and considerate to the needs of female victims when cases are strung out and continued at the whim of defense attorneys and prosecutors. Female victims oftentimes weigh moving forward with prosecution versus losing their job. Few stakeholders in legal system ever consider whether the female victim will still have a job after the proceedings end.

Strategies to Facilitate Victim Participation

As established earlier in this paper, one of the most fundamental functions of any civilized society is the protection of its citizens from criminal victimization. In the United States, the primary responsibility for protecting innocent people from those who would harm them rests with the criminal justice system. The effectiveness of this system relates

directly to the appropriate balancing of rights, roles, and responsibilities of the various participants within the system (Danis, 2006). A variety of strength and support for victims of domestic violence has expanded in the past two decades as community advocates have pushed police, prosecutors, hospitals, and social services agencies to respond to domestic violence. Additionally, many new policies and procedures for victim services and delivery have developed within governmental and quasi-governmental environments. Yet, maintaining a voice outside these systems is central to advocacy and affecting real and continued change. Advocacy requires that the needs of battered women, individually and as a class, come first. This purpose can conflict with the interest of the criminal justice system with its focus on arrest prosecution and sentencing (Sandusky, 2001).

For the most part, many of the women pose questions around how legally to get out of a violent situation without being physically hurt and financially strapped. Post-separation violence is an issue for a significant group of domestic violence survivors, and their children, leaving abusive relationships (Humphreys, 2003). Humphreys (2003) found 76 percent of the 161 separated women in the study initially suffered further abuse and harassment from their former partners post-separation. Much of the violence ceased after the first 6-12 months, often due to the woman moving. However, more than one-third (36 percent) of the women suffered continued post-separation violence. This article explored women's experiences of legal routes to protection and the effectiveness of the law in tackling the issue of post-separation violence. For many of the women in this study violence escalated over time. These women and their children were seriously at risk of harm. Poor law enforcement, the ineffectiveness of civil protection orders and inadequate prosecution and sanctions left these women (and their children) vulnerable to further assaults and harassment. In a follow-up study, Humphreys (2006) further found that child contact was a point of vulnerability for on-going post-separation violence and abuse.

Safety planning is critical, as social workers and legal professionals face the truth about judicial limitations and communicate those limits to clients. Clients must also be cautioned and clearly understand that a protective order does not guarantee safety. It is only a mechanism that holds the batterer accountable if he violates a protective order. In addition, caution must be given that participation in prosecution is no guarantee of victim's safety, or that prosecution will bring about behavioral changes in the batterer (Danis, 2003). Many women still fear for their lives after they have attempted to prosecute or leave their violent partners. Therefore the question becomes, can the legal system assist women in feeling safe once they have completed the process of prosecuting the perpetrator. The following are offered as solutions for many in the criminal justice arena to consider.

First, the legal system must become more sensitive to the female victim's reluctance of pursuing prosecution, especially if it invites more trouble down the road from her abusive male partner. Police officers, prosecutors, public defenders, judges, and probation officers should all consider relevant safety requirements for the female victim that will aid her in coming forward to prosecute, as female victims are at risk of violence before, during, and after prosecution of the perpetrator. Safety requirements for the victim are just as important as privileged communication between the attorney and his client. Safety requirements from all court personnel implies each and every party involved in court proceedings take measures to address all potential incidents of threats that may come to the female victim if she pursues prosecution. Policies that promote arrest, increase convictions, stricter sanctions, and protect the female victim from further contact with the assailant are effective only when they are uniformly and consistently applied by all stakeholders who have contact with the victim in the legal system, which also includes forensic nursing and medical personnel.

Second, heavy burdens should be placed on the police officers; to not only assist in the temporary protection order stage, but also, in obtaining information on availability of domestic violence and temporary shelters in the area, including phone numbers. Concomitantly, the police officer should also be responsible for follow-up calls after the case is disposed of in court. Furthermore, police officers need to be aware of abusers placed on probation for domestic violence, so that they will be better able to interact with the probation department, and assist the victim if the abuser violates the court order to stay away. These needs could be met if police departments established domestic violence units, similar to child abuse units currently within many departments. Such a unit could help in the facilitation process of those women who want to prosecute their perpetrators.

Third and finally, financial assistance or other forms of social service should be available when necessary for victims who successfully follow through with prosecution. Temporary shelters should be set up to not only shelter victims of domestic violence for short-term periods, but also assist them in transitioning from a two parent home to a one parent home when appropriate. Isomorphically speaking, much as care and attending to the needs of abused children, female victims of abuse should be provided ample resources to help them adjust and move on with their lives. Unfortunately, according to Gondolf and Fisher (1988), our institutions insufficiently respond to the battered woman. Since many agencies suffer from insufficient resources, options, or authority to make a difference, many are reluctant to take decisive actions. Thus, the coordination of resources and services to provide comprehensive resources for

battered women are necessary. Essentially, a female victim's contact with the court or another helping source should trigger and bring forth responses of the entire helping system (Gondolf & Fisher, 1988).

Conclusion

The authors have provided a glimpse of real life challenges for many women in violent relationships. Many victims' stories touch social workers and others, both professionally and personally. Professionals are encouraged to stand firm in the convention that to curtail violent acts against women, more needs to be done in the criminal justice system. Further, increased advocacy on behalf of victims, gives a continuing loud voice to this social ill and injustice. Regardless of victim status, domestic violence affects the lives of many women across the U.S. and remains one of the most prevalent issues of social injustice in our society today. The interest of our justice system must seriously consider the plight of the female victims, and how to protect them better from the hands of the male abuser. Whereas members of the legal profession cannot eliminate all domestic violence, with all of the court officers working together in harmony it could certainly put a major dent in the problem. Advocates can continue to affect positive change from outside the system as well. Remain cognizant of the fact that "victories" for defense attorneys and prosecutors in the courtroom must not come at the expense of placing female victims back in danger. Rather, the ultimate safety of the female victim should challenge us all to do not only what justice demands, but also provide ample support and a voice for female victims on the streets and inside the home. Continue to search and advocate for twenty-first century solutions to these Neanderthal-like problems.

References

- Bouffard, L. A., Wright, K. A., Muftić, L. R. & Bouffard, J. A. (2008). Gender differences in specialization in intimate partner violence: comparing the gender symmetry and violent resistance perspectives. *Justice Quarterly*, 25(3) 570-594.
- Buchbinder, E., & Eisikovits, Z. (2004). *Between Normality and Deviance*. *Journal of Interpersonal Violence*, 19(4), 443-467.
- Danis, F. (2003) The criminalization of domestic violence; what social workers need to know. *Social Work*, 48 (2), 237-246.
- Danis, F. (2006) The victim assistance field and the profession of social work. United States Department of Justice, *Office of Justice Programs OVC Bulletin*.
- English, D. J., Marshall, D. B. & Stewart, A. J. (2003). Effects of family violence on child behavior and health during early childhood. *Journal of Family Violence*, 18(1), 43-44.
- Felder, R. & Blair, A. K. (1996). At issue: Domestic violence. *ABA Journal*, 82(5), 76-82.
- Fleury-Steiner, R. E., Bybee, D., Sullivan, C.M., Belknap, J. & Melton, H.C. (2006) Contextual factors impacting battered women's intentions to reuse the criminal legal system. *Journal of Community Psychology*, 34 (3) 327-342.
- Ford, D. A. & Burke, M. J. (1987). *Victim-initiated criminal complaints for wife battery; an assessment of motives*. Paper presented at the Third National Conference for Family Violence Researchers. University of New Hampshire, Durham.
- Gondolf, E. & Fisher, E. (1988). *Battered women as survivors: An alternative to treating learned helplessness*. Boston, MA: Lexington.
- Humphreys, C. & Thiara, R. K. (2003) Neither justice nor protection: Women's experiences of post-separation violence. *Journal of Social Welfare & Family Law*, 25 (3), 195-214.
- Hurley, A. L., Sullivan, P. & McCarthy, J. (2007). The construction of self in online support groups for victims of domestic violence. *British Journal of Social Psychology*, 46 (4), 859-874.

- Itzhaky, H. & Porat, A. B. (2005). Battered women in shelters: internal resources, well-being, and integration. *Affilia: Journal of Women & Social Work, 20* (1), 39-51.
- Lawson, D. M. (2003). Incidence, explanations, and treatment of partner violence. *Journal of Counseling and Development, 81*, 19-33.
- Lehrner, A. & Allen, N. E. (2008). Social change movements and the struggle over meaning-making: a case study of domestic violence narratives. *American Journal of Community Psychology, 42*(3), 220-234.
- Murray, S. (2008). Why doesn't she just leave?: Belonging, disruption and domestic violence. *Women's Studies International Forum, 31* (1), 65-72.
- Murrell, A., Christoff, K. & Henning, K. (2007) Characteristics of domestic violence offenders: associations with childhood exposure to violence. *Journal of Family Violence, 22* (7), 523-532.
- Ohio Attorney General. (2007). *2007 Domestic Violence Reports* [Data files]. Retrieved on (December, 2008) from http://www.ag.state.oh.us/victim/dvp_reports.asp.
- Ohio Attorney General's Office. (2008) *Victims Rights Public Publication; Picking up the Pieces*. Retrieved on (December, 2008) from http://www.ag.state.oh.us/victim/dvp_reports.asp.
- Sandusky, J. (2001) *Working effectively with the police: A guide for battered women's advocates*. Battered Women's Justice Project.
- Sartin, R. M., Hansen, D. J. & Huss, M. T. (2006). Domestic violence treatment response and recidivism: A review and implications for the study of family violence. *Aggression & Violent Behavior, 1* (5), 425-440.
- Stalans, L. J. & Finn, M. A.. (2006). Public's and police officers' interpretation and handling of domestic violence cases: divergent realities. *Journal of Interpersonal Violence, 21* (9), 1129-1155.
- Taubman, S. (1986). Beyond the bravado: Sex roles and the exploitive male. *Social Work, 1*, 12-18.
- Tebo, M. G. (2005). When home comes to work. *ABA Journal, 91* (9), 42-47.
- United States Department of Justice. (2006). *National Crime Victimization Survey Resource Guide* [Data files]. Retrieved on (January, 2009) from <http://www.icpsr.umich.edu/NACJD/NCVS/>