



**STOP ABUSIVE AND
VIOLENT ENVIRONMENTS**

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SENT VIA REGISTERED MAIL

June 18, 2010

Office of Justice Programs
Office of the Chief Financial Officer
Information Quality Guidelines Request for Correction
810 7th St, NW
Washington, DC 20531

Dear Sir/Madame:

Stop Abusive and Violent Environments, Inc. (hereinafter referred to as "SAVE") respectfully submits this Request, under the Department of Justice's Information Quality Guidelines, for the correction of erroneous, misleading, and potentially harmful information currently being disseminated by the U.S. Department of Justice.

**STATEMENT THAT THE REQUEST FOR CORRECTION OF INFORMATION IS
SUBMITTED UNDER OJP'S INFORMATION QUALITY GUIDELINES.**

This Request for correction of information is being submitted under OJP's Information Quality Guidelines, as posted on the OJP website: http://www.ojp.usdoj.gov/about/info_quality.htm.

**REQUESTOR'S CONTACT INFORMATION, INCLUDING NAME, TITLE (IF ANY),
MAILING ADDRESS, TELEPHONE NUMBER, FAX NUMBER (IF ANY), E-MAIL
ADDRESS (IF ANY), AND ORGANIZATIONAL AFFILIATION (IF ANY).**

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THE NAME OF THE OJP REPORT OR DATA PRODUCT TO BE CORRECTED, INCLUDING THE DATE OF ISSUANCE OR OTHER IDENTIFYING INFORMATION, SUCH AS THE UNIFORM RESOURCE LOCATOR (URL) OF THE WEB PAGE.

Document Title: Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors, and Judges
Author: Andrew R. Klein
Document No.: 225722
Date Published: June 2009
URL: <http://www.ncjrs.gov/pdffiles1/nij/225722.pdf>

SUMMARY OF REQUEST

The Data Quality Act was enacted to assure and maximize the “quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.”¹ The Department of Justice guidelines state, “DOJ components will ensure disseminated information, as a matter of substance and presentation, is accurate, reliable, and unbiased. Objectivity is achieved by using reliable data sources, sound analytical techniques, and documenting methods and data sources.”² The OMB guideline likewise requires objectivity in both presentation and substance.³

Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors, and Judges (hereinafter referred to as *Practical Implications*), based on three sub-reports previously submitted to the National Institute of Justice, contains numerous one-sided statements, misrepresentations, false conclusions, and erroneous recommendations.

This Complaint documents how *Practical Implications* fails to adequately document its analytical methods and reveals how the report uncritically accepts the findings of poorly-designed, non-representative, unreliable, non-peer-reviewed, and unpublished studies that fail to meet minimum scientific standards.

Because the flaws are so numerous and systemic, it is impractical to highlight all of them within this Complaint. Therefore, the most serious errors are the focus of the present Request.

¹ Pub. L. 106-554, amending Paperwork Reduction Act, 44 U.S.C. §§ 3501 et. Seq.

² Department of Justice: DoJ Quality Information Guidelines.
<http://www.usdoj.gov/iqpr/dojinformationqualityguidelines.htm>

³ See e.g., OMB Guidelines V. 3. 67 Fed. Reg. at 8459.

DETAILED DESCRIPTION THAT CLEARLY IDENTIFIES THE SPECIFIC INFORMATION CONTAINED IN THE REPORT OR DATA PRODUCT FOR WHICH A CORRECTION IS BEING SOUGHT, AND AN EXPLANATION THAT DESCRIBES HOW THE INFORMATION IS INCORRECT OR FAILS TO MEET THE OMB, DOJ, OR OJP INFORMATION QUALITY GUIDELINES.

The *Practical Implications* report is non-compliant with the OJP Information Quality Guidelines because it:

- Does not employ sound analytical methods
- Relies heavily on biased crime statistics
- Affords inadequate attention to community surveys
- Reveals overt bias
- Contains false statements
- Makes erroneous conclusions

Furthermore, the report represents “Influential Information,” and therefore is held to a higher level of scrutiny. These points are discussed in the following sub-sections of this Request.

I. THE REPORT DOES NOT EMPLOY SOUND ANALYTICAL METHODS.

Valid conclusions are dependent on sound research. But the *Practical Implications* report fails to use sound analytical methods and relies on biased data sources.

- A. According to the DOJ guidelines, one important way to assure objectivity is to document the methodology of source documents. Unfortunately, the author of *Practical Implications* did not evaluate the scientific rigor or quality of any of the referenced studies.
- B. The report openly admits that it includes “less rigorous research reports” with “questionable” research findings.⁴
- C. Many of the report’s conclusions are based on studies with poor methodologies, i.e., do not rely upon representative samples, statistically equivalent control groups, or measurement instruments that are accurate, reliable, and valid.
- D. The *Practical Implications* report cites over 200 studies. But a cursory review of the study citations reveals that many (e.g., references no. 7, 11, 13, 17, 18, 19, 23, 24, 31, 33, 34, 37, and many others) have not been published in a professional peer-reviewed journal.
- E. Without identifying which sources are of “questionable” value and lacking description of the analytic methods, the conclusions of the report are suspect.⁵

II. THE REPORT RELIES HEAVILY ON BIASED CRIME STATISTICS

- A. *Over 250 scholarly studies show similar rates of partner violence committed by men and women, in both heterosexual and same-sex relationships.*⁶

⁴ *Practical Implications* at vi.

⁵ Department of Justice: DoJ Quality Information Guidelines.

⁶ Fiebert M. References Examining Assaults by Women on Their Spouses or Male Partners: An Annotated Bibliography. California State University, Long Beach. November 2009. <http://www.csulb.edu/~mfiebert/assault.htm>

- B. Research shows that for a variety of reasons, law enforcement data both underreport and introduce a pronounced gender bias in reported domestic violence rates.⁷ One reason is the differential willingness of men and women to report an incident of violence. As the report correctly states, “27 percent of women and 13.5 percent of men who were physically assaulted by an intimate partner reported their assault to law enforcement.”⁸
- C. The *Practical Implications* report relies extensively on crime reports and surveys that are inherently biased.

III. THE REPORT GIVES INADEQUATE ATTENTION TO SCIENTIFICALLY-VALIDATED COMMUNITY SURVEYS

- A. The Conflict Tactics Scale, developed 30 years ago, has been shown to have high levels of reliability and scientific validity.⁹
- B. Researcher Jennifer Langhinrichsen-Rohling has cited the Conflict Tactics Scale as one of the 10 most important developments in family violence research.¹⁰
- C. Revised versions of the Conflict Tactics Scale have been used in nationally-representative surveys conducted by the U.S. Department of Justice¹¹ and the Centers for Disease Control.¹²
- D. The Conflict Tactics Scale has been successfully used in over 250 scholarly studies conducted on a broad range of populations and in many countries. *These studies reveal similar rates of partner violence initiated by men and women.*¹³
- E. The *Practical Implications* report affords virtually no attention to scientifically-validated community surveys.

IV. THE REPORT REVEALS OVERT BIAS.

In places the *Practical Implications* report discusses domestic violence against women, but ignores domestic violence against men. Three examples illustrate this bias:

A. Emergency room treatment

The report refers to “several studies of women seeking hospital emergency room treatment.”¹⁴ The report says nothing about abused men seeking emergency room treatment.

⁷ Straus MA. The controversy over domestic violence by women: A methodological, theoretical, and sociology of science analysis. In Arriaga XB, Oskamp S (eds.): *Violence in Intimate Relationships*. Thousand Oaks: Sage. 1999.

⁸ *Practical Implications* at 5.

⁹ Straus MA et al. (1996) The revised conflict tactics scales (CTS2): Development and preliminary psychometric data. *Journal of Family Issues* 17:3.

¹⁰ Langhinrichsen-Rohling, J. (2005). Top 10 greatest "hits" important findings and future directions for intimate partner violence research. *Journal of Interpersonal Violence* 20(1), 108-118.

¹¹ Department of Justice. Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey. 1998. <http://www.ojp.usdoj.gov/nij/pubs-sum/172837.htm>

¹² Centers for Disease Control and Prevention. Physical Dating Violence Among High School Students --- United States, 2003. *Morbidity and Mortality Weekly Report*, May 19, 2006. Table 1. www.cdc.gov/mmwr/preview/mmwrhtml/mm5519a3.htm

¹³ Fiebert M. References Examining Assaults by Women on Their Spouses or Male Partners: An Annotated Bibliography. California State University, Long Beach. 2009.

<http://www.csulb.edu/~mfiebert/assault.htm>

¹⁴ *Practical Implications* at vi.

B. Nonfatal domestic violence

The *Practical Implications* report makes the claim that the highest victimization rates for nonfatal domestic violence are for Native American women, citing a report that only interviewed Native American women.¹⁵ But the report does not cite information on victimization rates among Native American men, even though such surveys have been conducted.

C. Systematic Abuse

The report discusses the issue of what it calls “systemic” abuse.¹⁶ The discussion highlights systemic abuse of women, but does not address the systemic abuse of men.

V. THE REPORT CONTAINS MISLEADING AND DEMONSTRABLY FALSE STATEMENTS.

Two examples of misleading or false statements follow:

A. Extent of Nonfatal Domestic Violence

The *Practical Implications* report states the annual rate of nonfatal domestic violence is 5.9 for females and 2.1 for males.¹⁷ As explained above, these are misleading statistics because they are based on crime surveys that carry an inherent bias.¹⁸

In contrast to these crime statistics, community surveys consistently show men and women are approximately equally likely to engage in intimate partner aggression.

- The most comprehensive compilation of the domestic violence research, consisting of a summary of over 250 scholarly studies, concludes, “*women are as physically aggressive, or more aggressive, than men in their relationships with their spouses or male partners,*”¹⁹
- One recent study by Centers for Disease Control researchers found half of all cases of domestic violence were mutual in nature. For one-way (non-mutual) violence, women were the initiators in 71% of such cases.²⁰
- Mutual aggression can sometimes escalate, placing both partners at risk of physical injury.²¹
- According to one meta-analysis, males represent 38% of persons who are injured by their intimate partners.²²

¹⁵ *Id.* at 1.

¹⁶ *Id.* at 4.

¹⁷ *Id.* at 1.

¹⁸ Straus MA. The controversy over domestic violence by women: A methodological, theoretical, and sociology of science analysis. In Arriaga XB, Oskamp S (eds.): *Violence in Intimate Relationships*. Thousand Oaks: Sage. 1999.

¹⁹ Feibert MS. References Examining Assaults by Women on Their Spouses or Male Partners: An Annotated Bibliography. California State University. November 2009. <http://www.csulb.edu/~mfiebert/assault.htm>

²⁰ Daniel J Whitaker et al. (2007) Differences in Frequency of Violence and Reported Injury Between Relationships With Reciprocal and Nonreciprocal Intimate Partner Violence. *American Journal of Public Health* 97:5.

²¹ Stith SM, Smith DB, Penn CE, Ward DB, Tritt D. (2004) Intimate partner physical abuse perpetration and victimization risk factors: a meta-analytic review. *Aggressive and Violent Behavior*. 10:65-98.

²² Archer J. Sex differences in aggression between heterosexual partners: A meta-analytic review. *Psychological Bulletin*, Vol. 126, No. 5, 2000. pp. 651–680.

B. Predictors of Reabuse

The *Practical Implications* report makes this gratuitous claim:

“Of course, the *most powerful predictor* of risk of domestic violence is gender. *All of the research* concurs that males are more likely to reabuse than females.”²³ [emphasis added]

This categorical statement is referenced by a *single* study that was never published in a peer-reviewed journal.²⁴ (It should be noted that *hundreds* of scholarly studies have examined the predictors and correlates of domestic violence.) Further review reveals the cited study did not examine the community-wide likelihood of reabuse among intimate partners. It only studied persons who were involved in the criminal justice system within a single jurisdiction, which obviously is not representative of the national population.

Based on the information reported previously in this Request, the *Practical Implications* report should state, “*Males and females are approximately equally likely to reabuse.*”

VI. THESE BIASED AND FALSE STATEMENTS LEAD TO ERRONEOUS CONCLUSIONS.

Not surprisingly, statements that are biased and/or false give rise to faulty conclusions. These are two examples:

A. Arrest

The *Practical Implications* report addresses the issue of arrest, making the unqualified claim that “arrest deters repeat abuse, whether suspects are employed or not.”²⁵ But that statement materially misrepresents the findings of the cited study, which actually concludes, “the use of arrest was *only occasionally associated* with statistically significant reductions in subsequent repeat offending”²⁶ [emphasis added].

Of greater concern, the report ignores studies that show arrest can *escalate* subsequent partner aggression and increase the risk of homicide. A Harvard University study of the effects of mandatory arrest found such policies were associated with a 54% increase in partner homicides.²⁷ One study found arrest was associated with *increases* of subsequent homicides among African-Americans.²⁸ A recent Duke University analysis concluded, “Mandatory arrest laws either increase female homicide rates or have no effect.”²⁹

²³ *Practical Implications* at 22.

²⁴ Puffett NK, Gavin C. Predictors of Program Outcome and Recidivism at the Bronx Misdemeanor Domestic Violence Court. Center for Court Innovation, 2004.

²⁵ *Practical Implications* at 11.

²⁶ Maxwell, C., J. Garner, and J. Fagan. *The Effects of Arrest on Intimate Partner Violence: New Evidence From the Spouse Assault Replication Program*. Research in Brief. Washington, DC: U.S. Department of Justice, National Institute of Justice, July 2001, NCJ 188199. <http://www.ncjrs.gov/App/Publications/abstract.aspx?ID=188199>

²⁷ Iyengar R. Does the certainty of arrest reduce domestic violence? Evidence from mandatory and recommended arrest laws. Cambridge, MA: National Bureau of Economic Research, June 2007.

²⁸ Sherman LW et al. The Variable Effects of Arrest on Criminal Careers: The Milwaukee Domestic Violence Experiment. *Journal of Criminal Law and Criminology*, Vol. 83, 1992, pp. 137–169.

²⁹ Points K, Richie C. Do mandatory and recommended arrest laws decrease female homicide rates? Duke University Institute of Public Policy. www.econ.duke.edu/dje/2008/Points%20Richie.pdf

Even more problematic is the report's recommendation: "Arrest should be the default position for law enforcement in all domestic violence incidents."³⁰ Such a categorical statement ignores the totality of the research on arrest for domestic violence, flaunts probable cause requirements of the Fourth Amendment (hence violating citizens' fundamental civil rights), and is inconsistent with Section 102 of the Violence Against Women Act which calls for a pro-arrest, not mandatory arrest policy.

B. Fatal Domestic Violence

The *Practical Implications* report claims, "To reduce female homicides generally, law enforcement must give priority to the *protection* of female intimate partners."³¹ [emphasis added].

But community surveys point to a substantially different conclusion: female-initiated aggression is the form of domestic violence most likely to lead to a woman's injury and death. As Centers for Disease Control researcher Daniel Whitaker writes, "A recent meta-analysis found that a woman's perpetration of violence was the strongest predictor of her being a victim of partner violence."³²

Hence, the correct conclusion should state, "To reduce intimate partner homicides, law enforcement must give priority to the reduction of female-initiated violence."

VII. THE REPORT REPRESENTS "INFLUENTIAL INFORMATION"

Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors, and Judges qualifies as "Influential Information" and therefore must conform to a higher quality standard.³³ This higher standard applies to information that the agency can reasonably determine will have a clear and significant impact at the national level and/or on important public and private sector policy decisions.

As the title itself indicates, the report is designed to be read by a broad audience: law enforcement personnel, prosecutors, and judges. Published under the imprimatur of the U.S. Department of Justice and readily available on the DoJ website, the report is likely to be used to as a basis for state legislation, law enforcement policies, and training programs funded by the federal Violence Against Women Act. As this letter is written, the reauthorization bill of the Violence Against Women Act is being drafted. A Google search on the report title, *Practical Implications of Current Domestic Violence Research*, yields over 38,000 "hits," revealing widespread dissemination and impact of the report.

³⁰ *Practical Implications* at 12.

³¹ *Practical Implications* at 3.

³² Whitaker DJ et al. (2007) Differences in Frequency of Violence and Reported Injury Between Relationships With Reciprocal and Nonreciprocal Intimate Partner Violence. *American Journal of Public Health* 97:5.

³³ *Id.* at V.3.b.ii. The standard requires "a high degree of transparency about data and methods to facilitate the reproducibility of such information by qualified third parties."

EXPLANATION THAT DESCRIBES HOW THE ALLEGED ERROR HARMS OR HOW A CORRECTION WOULD BENEFIT THE REQUESTOR.

Both the public and the requestor are adversely affected by the report's informational errors.

I. THE PUBLIC IS HARMED BY THE ERRONEOUS INFORMATION DISSEMINATED BY THE REPORT

- A. Domestic violence is a serious problem in our society. One in four young couples engage in some form of physical aggression each year.³⁴ Each year, about 1,500 homicides involving intimate partners occur.³⁵
- B. An Office of Management and Budget (OMB) assessment of abuse shelters funded under the federal Family Violence Services and Prevention Act gave a rating of "Not Performing: Results Not Demonstrated."³⁶
- C. One Department of Justice official has written, "We have no evidence to date that VAWA has led to a decrease in the overall levels of violence against women."³⁷
- D. Extensive empirical research points to the lack of effectiveness of many programs designed to curtail intimate partner aggression.³⁸
- E. One reason for the lack of effectiveness of domestic violence programs is they are based on erroneous assumptions and claims. As a National Academy of Sciences report noted, intimate partner violence programs have been "driven by ideology and stakeholder interests rather than by plausible theories and scientific evidence of cause."³⁹
- F. The faulty conclusions and recommendations contained in the *Practical Implications* report are likely to allow continued reliance on ineffective and even harmful programs, thus leaving citizens at risk of experiencing domestic violence.

II. THE REQUESTOR IS HARMED BY THE ERRONEOUS INFORMATION DISSEMINATED BY THE REPORT

Stop Abusive and Violent Environments (SAVE), a 501(c)3 organization, has demonstrated an ongoing commitment to promoting open, accountable, and ethical practices related to domestic violence programs. DOJ's dissemination of erroneous and misleading information about domestic violence contributes to widespread misperceptions about domestic violence and adversely undermines the efforts of SAVE to:

- A. Ensure that the public receives scientifically validated and factually accurate information on domestic violence, and
- B. Promote informed debate on the nature and causes of domestic violence so effective solutions can be implemented to reduce the incidence of domestic violence in our society and in our homes.

³⁴ Daniel J Whitaker et al. (2007) Differences in Frequency of Violence and Reported Injury Between Relationships With Reciprocal and Nonreciprocal Intimate Partner Violence. *American Journal of Public Health* 97:5.

³⁵ Department of Justice: Intimate Partner Violence in the United States, 2006

³⁶ ExpectMore.gov. www.whitehouse.gov/omb/expectmore/summary/10002150.2004.html

³⁷ Parmley A. Violence against women post VAWA. *Violence Against Women* Vol. 10, No. 12, 2004. p. 1424.

³⁸ Stop Abusive and Violent Environments: Why Have Domestic Violence Programs Failed to Stop Partner Abuse? Rockville, MD. 2010.

³⁹ Kruttschnitt C, McLaughlin BL, and Petrie CV (eds). *Advancing the Federal Research Agenda on Violence against Women*. Washington, DC: National Academy of Sciences, 2005, p. 6.

RECOMMENDATION FOR HOW THE INFORMATION SHOULD BE CORRECTED AND THAT DESCRIBES THE REQUESTOR'S POSITION FOR WHY OJP SHOULD ADOPT THOSE RECOMMENDATIONS.

Law enforcement personnel, prosecutors, judges, policymakers, and others will likely view the *Practical Implications* report as a credible and authoritative source of recommendations. But if the recommendations are biased and flawed, then the actions of the report's readers will be ineffective in stopping domestic violence. In some cases, e.g., mandatory arrest policies, such actions can actually cause harm to victims.

I. REMOVAL OF ERRONEOUS INFORMATION

Given the extent of the erroneous and misleading information, and due to the harmful policy implications that could arise from reliance on this report, SAVE respectfully requests that the *Practical Implications of Current Domestic Violence Research*, as well as its previous sub-reports, be removed from public purview until such time as every statement and conclusion made by the author is reviewed and verified by a scientifically-qualified and impartial third party, and all erroneous information is corrected or removed.

II. PUBLIC NOTICE OF REMOVAL

Given the likely adverse consequences of widely disseminating erroneous or misleading information about domestic violence, and the difficulty of identifying those members of the public and government agencies who have already received this information, the OJP should issue a public notice indicating that this report should not be relied upon. This notification should also be posted on its website for a sufficient period of time to reach visitors to the site who had previously accessed the erroneous information.

SUPPORTING DOCUMENTARY EVIDENCE, SUCH AS COMPARABLE DATA OR RESEARCH RESULTS ON THE SAME TOPIC, THAT WILL HELP IN EVALUATING THE MERITS OF THE REQUEST.

Two supporting policy reviews are attached to this Data Correction Request:

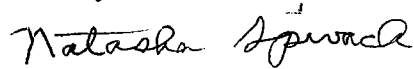
1. *Exhibit A*: National Family Violence Legislative Resource Center: Policy Statement on Family Violence. #1. Law Enforcement Responses.
2. *Exhibit B*: California Batterer Intervention Reform Committee: Pro-Arrest and No-Drop Prosecution Policies.

CONCLUSION

President Barack Obama has advised all federal department heads, “The public must be able to trust the science and scientific process informing public policy decisions” and called for “the highest level of integrity in all aspects” of the government’s involvement in science.⁴⁰ *Practical Implications of Current Domestic Violence Research* falls short of this standard, and has the potential to cause harm to persons at risk of domestic violence.

We look forward to receiving your timely response.

Sincerely,



Natasha Spivack
Director

Attachments:

Exhibit A: National Family Violence Legislative Resource Center: Policy Statement on Family Violence. #1. Law Enforcement Responses.

Exhibit B: California Batterer Intervention Reform Committee: Pro-Arrest and No-Drop Prosecution Policies.

cc:

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Office of Data Quality Assurance
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⁴⁰ The White House. Memorandum for the Heads of Executive Departments and Agencies. Subject: Scientific Integrity. March 9, 2009.

National Family Violence Legislative Resource Center

www.NFVLR.org

Policy Statement on Family Violence

Family violence, including intimate partner violence (IPV), continues to be a significant social problem in the United States and Canada. Although current policies have in many ways been enormously helpful, a convincing body of research indicates that they have in other respects been inadequate to our common efforts to reduce violence in our homes, and have sometimes compromised our civil liberties. We at the National Family Violence Legislative Resource Center are researchers, educators, victim's advocates, batterer intervention providers and mental health professionals who believe that the time has come to re-examine family violence public policy in the following areas:

#1: Law enforcement responses

The facts

Males disproportionately arrested - As a result of “zero tolerance” policies, arrests for IPV have increased substantially. Many involve first-time offenders rather than habitual recidivists, who have engaged in less severe forms of physical aggression (e.g., grabbing and pushing) with lesser consequences for victims (Apsler et al, 2002; Hamel, 2005; Kilzer, 2005; Mills, 2003). Although the percentage of women arrested has increased vis-à-vis men, the overwhelming number of IPV arrests involve a male perpetrator (e.g., 80% - 85% in California; California Department of Justice, 2002). These rates do not reflect the actual prevalence of IPV in the general population. Without question, men perpetrate by far the greater share of violent crimes (sexual assault, robbery, aggravated assault, simple assault) outside the home. Reports from the World Health Organization (Archer, 2006) also make it clear that in many countries around the world, particularly where women have little political or socioeconomic power, women represent the much larger share of IPV victims. However, the most reliable population surveys indicate that in Western industrialized democracies such as the United States and Canada, where they enjoy higher status, women engage in physical aggression at rates comparable to men (Archer, 2000; Fiebert, 2004; Straus & Gelles, 1990) and are as likely, or more likely, to be the initiators (DeMaris, 1992; Morse, 1995; Dutton et al., 1999; Straus, 1993; Williams & Frieze, 2005).

Is the disproportionate number of male arrests due to a bias among law enforcement agencies, or the fact that male victims are far more reluctant than female victims to call the police and therefore do not come to their attention? Previous research has supported both explanations. According to the National Violence Against Women Survey (Tjaden & Thoennes, 2000), police are 3 times more likely to arrest when a female victim calls, and the National Family Violence Survey found that men were 3 times more likely than women to be arrested themselves after calling the police (Kelly, 2003). An Edmunton, Ontario, study (Brown, 2004) found that charges were filed in 91% of cases involving injury to a female, but in only 60% of cases involving injury to a man. Shernock's (2005) analysis of over 2000 IPV incidents in Vermont revealed that men were categorized as perpetrators 3.2 times more often than women on the initial police report, but subsequently arrested 9 times more often. At issue is the extent to which this pattern of gender bias reflects flawed “dominant aggressor” guidelines and assumptions about IPV based on discredited sociopolitical theories of patriarchy. One such assumption is that only men combine physical aggression with emotionally abusive and controlling behaviors (e.g., putting the partner down, isolating them from family and friends; Jacobsen & Gottman, 1998). In fact, women are just as likely to emotionally abuse and control

their partners as are men (Coker et al., 2002; Kasian & Painter, 1992; Stets, 1991). Studies that have investigated the use of physical and non-physical abuse within the same relationships find that women perpetrate this pattern of abuse in large numbers, at rates comparable to males (Graham-Kevan & Archer, 2005; Hines & Saudino, 2003; Laroche, 2005), and in surprisingly high numbers even among couples in which the man has been mandated to batterer intervention (Stacey et al., 1994). Still, it should be emphasized that men commit the vast preponderance of *sexual* violence (Hines & Saudino, 2003; Tjaden & Thoennes, 2000).

Emerging research, however, suggests that law enforcement responses may be moving towards gender neutrality (Buzawa, 2006). In fact, law enforcement in some jurisdictions are biased in the other direction. In Buzawa and Hotaling's (2006) Massachusetts study, female suspects accounted for only 22 percent of all suspects in their sample, yet when controlled for incident characteristics the odds were almost 2½ times higher that when a female was labeled as the suspect she was arrested. Overall, 75.5 percent of female suspects were arrested compared to 55.7 percent in incidents involving male suspects and this was the case regardless of whether the victim-suspect relationship was adult partner, sibling, parent or child. The authors point out that police were less likely to help male victims, and suggest that the higher rates of female arrests may be due to the greater scrutiny of females as a whole, regardless of victim or perpetrators status, because police view IPV as a "women's issue." This is unfortunate. Male victims have traditionally been reluctant to call law enforcement because they fear not being taken seriously and, at times, of actually being arrested themselves (Buzawa & Austin, 1993; Cook, 1997; Fontes, 2006; Migliaccio, 2002). As a result, their victimization is less likely to come to the attention of the police.

Children Disproportionately Targeted - About 2/3 of domestic assaults typically do not involve intimate partner relationships. An area that is in great need of attention is the criminalization of youth. Almost all states encompass children in definitions of domestic assault, yet children are disproportionately targeted for arrest. Research by Buzawa & Hotaling (2006) reports that controlling for incident characteristics, *the odds are about 3½ times higher that sons, daughters and siblings will be arrested in a domestic violence incident compared to other domestic violence victims.* The odds of arrest in incidents involving adult partners are significantly lower compared to incidents involving other relationships. *Further, sons and daughters were more likely to experience injury in disputes with parents and were much more likely to be threatened with harm.* When they themselves were complainants about parents, police were less likely to arrest the suspect. From their perspective, it would appear that certain family members can use threats and violence and others cannot. Their victimizations were also minimized. When juveniles were victimized, they typically received fewer forms of assistance from the police as well. This is particularly troublesome since offenses against juveniles are already considered to be the most underreported to the police (Finkelhor, Wolak, & Berliner, 2001).

Victims' wishes discounted - Under pro-arrest policies, someone arrested for IPV may be prosecuted without the cooperation, and even with the active opposition, of the victim. Intended to protect those who are fearful of retribution by their assailants, these policies have had unfortunate consequences. Mandatory arrest has only moderate positive effects on rates of recidivism overall and actually increases recidivism among low SES populations and repeat offenders (Mills, 2003). When victims have a choice on whether to prosecute, they are more likely to call domestic violence hotlines and report further offenses to the police, and recidivism rates decrease (Dutton & Corvo, 2005; Hotaling & Buzawa, 2003; Kelly, 2003). The failure to follow victim preferences has led to decreased reporting for future acts of abuse as victims have learned that they are disempowered by the criminal justice system (Buzawa, Hotaling, & Byrne, 2006). Further, victims often correctly identify the most dangerous batterers and correctly doubt the ability of the criminal justice system to protect them. Thus, there may be an inherent conflict between victim interest and society's interests in identifying and adjudicating batterers (Hotaling & Buzawa, 2003).

Policy recommendations

Law enforcement ought to enforce domestic violence legislation equitably across relationships and independent of race, age, gender, and socioeconomic status. Primary aggressor guidelines should be revisited, to incorporate all the ways by which individuals attempt to dominate one another through coercive control, and not be simply judged by the comparative sizes of the parties involved. Arrests should be made when there is clear evidence of violence and reason to believe that the victim is in danger, in accordance with victim preference, and/or with consideration given to the criminal history of the involved parties. Whether arrested or not, many domestic violence offenders do not re-offend. In one study, 8% of perpetrators accounted for 82% of subsequent arrests (Maxwell et al., 2001).

The average family dispute may not be part of a battering syndrome. IPV over time tends to decrease, rather than increase (Morse, 1995; O'Leary et al., 1989). When the violence is less serious, resulting in no or negligible injuries, appears to be mutual or when culpability cannot be determined by the police, an alternative to arrest would be for both individuals to be further assessed by trained a family violence specialist before charges are made. When there is a clear victim, his or her wishes on whether or not to prosecute should be carefully considered.

#2: Interventions

The facts

Limited to "one size fits all" group treatment approaches – The psychoeducational, same-gender group treatment mandated by most states - in particular the "Duluth" model based on feminist theories of patriarchy (Pence & Paymar, 1993) - have been shown by research to be only marginally effective in preventing further acts of violence against victims (Babcock et al., 2004). This may be partly due to the inherent limitations of such a modality, which treats only one family member and downplays the importance of risk factors such as personality disturbance and substance abuse; but a major drawback is the lack of adequate training for batterer intervention providers. Many states do not yet have standards for batterer intervention programs, and one may be certified to conduct batterer intervention groups without any mental health background whatsoever (Maiuro & Eberle, 2005). Equally problematic are that many states *do* have batterer program certification and very rigid standards, many of which view IPV within the ideological lenses of victim advocates and other special interests, and disregard or outright prohibit crucial and relevant areas of inquiry such as group dynamics, child development, family systems, personality disorders and psychopathology (Dutton and Corvo, in press; National Institute of Justice, 1998; Santa Clara Probation Department, 1997). This directly contradicts current research suggesting the need for typologizing offenders, and that "not one size fits all."

Couples counseling, which has been shown to be at least as effective and safe as group treatment (Brannen & Rubin, 1996; Dunford, 2000; Fals-Stewart et al., 2002; Heyman & Schlee, 2003; O'Leary et al., 1999; Stith et al, 2004), is prohibited in many states, as is family therapy or restorative justice interventions that involve the extended family and community (Grauwiler et al., 2006). Such prohibitions are extremely misguided, because domestic violence is usually mutual, and its dynamics involve reciprocal negative interactions among both partners (Babcock et al., 1993; Burman et al., 1992; Cordova et al., 1993; Margolin et al., 1989; Ridly & Feldman, 2003; Telch & Lindquist, 1984). When only one person is treated, there is therefore an increased risk that the violence will begin anew.

Overwhelmingly target men- The disparity between the genders is even greater among the number of individuals mandated to BIP's than it is among those initially arrested. In some counties within the San Francisco Bay Area, for example, women account for less than 5% of individuals mandated to BIP's (Simmerman, 2002). To some extent, this is because a number of

programs will not accept women, but a more likely explanation is that violence by women is not taken as seriously. By not holding physically aggressive women accountable to the same degree as their male counterparts, we are in essence fixing only part of the problem, and untreated women are left to continue their abuse, both towards their partners and towards their children.. Equally problematic are states that mandate that *all* offenders convicted of domestic assault be sent to batterer treatment. Thus, there have been reported cases of children sent to such programs, including one involving a 12 year old who through a pot at her mother.

Policy recommendations

The use of batterer treatment programs is rather unique to domestic violence. To give a program targeted for one specific type of offense such as battering to a diverse range of offenders, some with prior records for a variety of both violent and nonviolent offenses, may not be the most effective use of resources. Further, by not establishing consistent sanctions and treatment programs across criminal offenses as well as differentially assigning sentences and treatment programs to offenders, we are creating inequity. The need to address the individual needs of offenders would begin to redress and appropriately intervene with socially acceptable programs for all populations of violent individuals. The current failure at finding great success with batterer intervention programs is in large part a result of the failure to more appropriately target the needs of the individuals assigned to such programs.

Interventions in IPV ought to be based on the facts of each case, and determined by an assessment conducted by a qualified mental health professional with an expertise in family violence, who understands the complexities of IPV and its various subcategories and can take into account the physical and emotional safety of all victimized parties. The term “batterer intervention,” which connotes work with chronic repeat offenders who exhibit a pattern of severe, systematic and unilateral abuse upon their victims, ought to be replaced with a term more inclusive of IPV in general – such as “domestic violence intervention” or “IPV intervention.” Group treatment would be mandated for individuals who are no longer with their victimized partner, when couples or family counseling is contraindicated, or when group treatment would be the most efficient way to help the client take responsibility for their abuse. Couples or family counseling should be considered the treatment modality of choice when both partners agree to it, and when it can proceed without compromising the safety of victims and children. Offenders who stand not to benefit from either group or couples/family interventions due to a mental health problem may need individual psychotherapy.

To conduct individual, couples or family therapy, one would be required to be a licensed mental health professional. Minimal educational requirements for facilitating psychoeducational batterer intervention groups would be a bachelor’s level degree in psychology or related field. Prospective facilitators would have to complete a training program in family violence, under the supervision of a mental health professional who is a certified batterer intervention provider as well as an expert in family violence. Training should include a didactic component as well as clinical field experience facilitating a group for at least 52 weeks, either with a co-facilitator present for all sessions or in conjunction with weekly consultation and supervision.

#3: Victim Services

The facts

Established organizations, such as the National Coalition against Domestic Violence and its state chapters, are geared towards helping women and disregard the needs of victimized men and their children. Out of nearly 2,000 domestic violence shelters in the United States, only a few accept male residents (Brown, 2006). Some shelters will assist the male victims who contact them, but usually by accident rather than design. Many states, including California, provide

funding under their health and welfare statutes for programs to help female IPV victims, but specifically exclude men (California, 2006). Prior to its reauthorization in December, 2005, the National Violence against Women Act (VAWA) did not provide for services for male victims. Even with its newly acquired gender-inclusive language, the law's primary focus is evident in its title, the Violence against *Women* Act.

Victimized males do not have access to services because of the assumption that they are only minimally impacted by IPV, if at all. This assumption, however, runs contrary to an overwhelming body of research evidence. A significant minority of IPV-related physical injuries, between 25% and 43%, are incurred by men (Archer, 2000; Laroche, in preparation; Mirrlees-Black, 1999; Straus, 2004; Tjaden & Thoennes, 2000), and men are the victims in nearly a quarter of intimate homicides (Rennison, 2003). Abusive women are sometimes bigger and stronger than their male partners and can physically overpower them; more likely than not, they make up for their smaller size by using weapons and assaulting when their partners are preoccupied, asleep or inebriated (Cook, 1997; Hines et al., in press; Mann, 1988; McCleod, 1984; Shupe et al, 1987). Because of cultural norms that require men to suppress feelings and that minimize female-perpetrated abuse, male victims are reluctant to verbalize fear of any kind, even when their lives are in danger (Cook, 1997; Hines & Malley-Morrison, 2001; Migliaccio, 2002). Nonetheless, the much higher rates of fear expressed by female victims cannot be ascribed merely to a greater ease in disclosing feelings; women are indeed at greater risk of suffering serious physical injuries. In addition, there is no doubt that, compared to men, women evidence higher levels of psychological symptoms and stress-related issues as a result of being physically assaulted (Anderson, 2002; Straus & Gelles, 1990; Vivian & Langhinrichsen-Rohling, 1994; Williams & Frieze, 2005.) There is evidence to suggest, however, based on clinical samples and findings from the National Violence Against Women Survey, that the impact of *emotional* abuse and control may be more comparable between the genders (Pimlott-Kubiak & Cortina, 2003; Vivian & Langhinrichsen-Rohling, 1994).

Policy recommendations

IPV victims include men and women, as well as child witnesses. Services should therefore be available everyone affected regardless of gender or sexual orientation. Like their female counterparts, victimized males often require refuge in the form of a shelter bed, and/or counseling and peer support, legal aid, and job placement services.

Priority should be given to providing services to the most traumatically affected victims, and women are overall more likely to suffer severe injuries, but there is simply no excuse for refusing any victim services based upon their gender. Although battered women's advocates have expressed concerns about placing male and female victims together in one facility, a co-ed environment can in fact be effective and safe, as evidenced by the Antelope Valley Oasis shelter in Southern California (Ensign & Jones, 2006). When victimized men are denied services, their children are also denied services.

#4: Family law and Family Violence

The facts

IPV assumed to be male-perpetrated - Many states now incorporate into their family law statutes guidelines that discourage or prohibit violent parents from obtain custody of their children (National Council of Juvenile & Family Court Judges (1994). These guidelines are good in theory, but when improperly applied may result in substantial harm to children and families. Advocates for mothers (Silverman et al., 2004) argue that many fathers who have perpetrated IPV and child abuse are able to manipulate the courts to their advantage and obtain primary custody of their children; and advocates for fathers (e.g., Leving & Dachman, 1998)

present the same argument regarding abusive mothers. However, research efforts to resolve this issue have been decidedly skewed, concerned almost exclusively with finding evidence of abusive *fathers* gaining custody (Kernic et al., 2005; Morrill et al., 2005; Silverman et al., 2004).

It is also the case that parents for whom there exists little or no empirical evidence of abuse have been denied custody and visitation of their children via restraining orders due to mere allegations, or when the documented abuse is minor or situational (Epstein, 1993; Heleniak, 2005; Pearson, 1997). More often than not, these cases involve fathers rather than mothers, because many family court mediators, evaluators, attorneys and attorneys and judges share in the general assumptions that men are rarely victims and women rarely the dominant aggressors of IPV (Dutton, 2005). And when children favor one parent over the other, the courts struggle to determine whether this due to alienating behavior on the part of the aligned parent, or estrangement as a result of the child experiencing or witnessing abuse at the hands of the non-aligned parent (Drozdz & Olesen, 2004; Johnston, 2001).

It has been well-established that children who have witnessed their parents physically abuse one another are at higher risk than other children for experiencing emotional problems, deterioration in peer and family relations, and poor school performance (Kitzmann et al., 2003; Wolak & Finkelhor, 1998). What is not often acknowledged is that they incur these problems regardless of the parent's gender, both in childhood (Johnston & Roseby, 1997; English et al., 2003) and adolescence (Fergusson & Horwood, 1998; Mahoney et al., 2003), and that there is a high correlation between perpetration of spousal abuse and child abuse for mothers as well as fathers (Appel & Holden, 1998; Margolin & Gordis, 2003; Straus & Smith, 1990). Violent mothers, in other words, are just as likely as violent fathers to directly assault their children if they have been violent towards their partner. Furthermore, correlational studies indicate that child witnesses to interparental violence are at equal, or greater, risk for becoming depressed, engaging in substance abuse and themselves perpetrating intimate partner abuse as adults when mother was the abuser (Kaura & Allen, 2004; Langhinrichsen-Rohling et al, 1995; Straus, 1992). In spite of this research evidence, violent mothers are rarely mandated to anger management or batterer intervention programs.

Abuse of restraining orders - A number of states have made it easier for individuals, including litigants involved in a custody dispute, to obtain restraining orders and orders of protection against a violent partner or ex-partner. Only five states now define IPV as physical assaults; in a majority of states, restraining orders are granted to plaintiffs who fear the possibility of physical harm, or merely express such a fear (RADAR, 2006). Temporary orders can be granted without a defendant being present or even notified, and extended at subsequent hearings without the usual burden of proof required in criminal matters (Epstein, 1993; Heleniak, 2005). Once a restraining order is in place, even minor violations by the defendant can result in incarceration. When there is a credible threat, such orders may be helpful in protecting victims and lessening the likelihood of escalated interparental conflict. Research, however, indicates that restraining orders are ineffective in preventing assaults by individuals with a history of chronic, severe battering (Mills, 2003). Too often, restraining orders and orders of protection are used as a means for one parent to punish and control the other, and obtain custody of the children.

IPV given greater priority than child abuse or other dysfunction - The focus on IPV should not detract from other problems that directly affect one's parenting abilities and are harmful to children, such as alcohol or drug abuse, or mental illness such as depression. Also minimized is direct child abuse, which is perpetrated at much higher rates than IPV and more often by mothers, (Gaudio, 2005; Sedlak & Broadhurst, 1996; Trocme, 2001), and is at least as detrimental to children as witnessing interparental violence (Kitzmann et al, 2003; Salzinger et al., 2002). In California, for instance, where psychoeducational group intervention is mandated for both child abuse and IPV, the number of IPV groups greatly outnumber those for offending parents, despite the fact that physical child abuse is far more prevalent than interparental violence (Straus & Gelles, 1990). There is evidence that verbal and emotional abuse directed by a parent against a child may cause the greatest damage (Dutton, 1998; English et al., 2003;

Moore & Pepler, 1998). Family violence is in fact a complex phenomenon, characterized by a variety of possible pathways of abuse, often reciprocal, sometimes initiated by the children; with stress a central mediator; the “battering dad” pattern is only one of many possible patterns of family violence, and far less prevalent than mutual IPV by parents who are both also abusing the children (Slep & O’Leary, 2005).

Policy recommendations

Increasingly, family court professionals are required to obtain specialized training in IPV theory, assessment and intervention. Such training should be conducted by qualified instructors who are familiar with the full range of family violence research, and not by narrow special interest groups such as battered women advocates or men’s rights organizations. A substantial part of the training ought to include a discussion of IPV subtypes and the spectrum of abuse (Babcock et al., 2003; Graham-Kevan, 2006; Holtzworth-Munroe & Stuart, 1994). For instance, research has shown that a great number of child custody cases with IPV involve one-time situational abuse, where the children are less likely to be further exposed once the parents have separated (Johnston & Campbell, 1993). Also crucial to any comprehensive training would be an in-depth examination of assessment procedures, including the use of proven, validated instruments (Austin, 2001; Nicholls et al., 2006), as well as established protocols for distinguishing between cases involving abuse, alienation and estrangement (Drozd & Olesen, 2004).

Children are traumatized in many ways, not only by having observed or experienced abuse. When the court system takes the extraordinary step to deny a parent visitation and custody of his or her child, it ought to be based on substantiated evidence, and the risk that a parent poses to his or her children due to their violence ought to be greater than the detrimental effects posed by an unwanted separation. The granting of restraining orders should be based on credible threats to the victim’s safety, not simply on their expressed level of fear.

#5: Prevention, Education and Outreach

The facts

Dissemination of misleading and false information - The shortcoming in IPV public policy with respect to law enforcement responses, intervention, victim services and family law, are largely attributable to the frequently misleading, and outright false, information currently available to policy makers (American Bar Association, 2006; National Coalition Against Domestic Violence, 2006; Dekeseredy, 2002; Kimmel, 2001). Not surprisingly, this misinformation also informs national and local public education, prevention and outreach efforts. Consequently, the public is given a distorted picture of IPV. The “face” of IPV, from informational posters and other materials, is typically a bruised and frightened woman, cowering in a corner with her children around her. Television specials and motion picture films on IPV very rarely feature male victims. Intervention and prevention programs in school settings focus on male-perpetrated dating violence (Cascardi & Avery-Leaf, 2000) in spite of the fact that female-perpetrated IPV is highest among adolescents and young adults (Laroche, 2005; Morse, 1995; Straus & Gelles, 1990).

Domination by special interests - The organizations responsible for advising legislators and other policy makers on IPV, including state domestic violence coalitions, for the most part represent the interests of abused women rather than those of all victims. These organizations justify their focus on women victims by citing data that skew the research in their favor. The website of the National Coalition against Domestic Violence (2006), for instance, states that 85% of IPV victims are female. Claims that 85% of intimate partner abuse is committed by males upon their female partners are based either on government studies reporting

the number of individuals arrested for spousal abuse, or on crime surveys. These sources of data are highly unreliable: The number of individuals arrested for spousal abuse does not reflect the actual numbers of perpetrators in the population; and crime surveys tend to inhibit honest disclosure by respondents, especially by men who, because of cultural conditioning, typically do not view violence directed against them by a female partner as a crime. The best designed studies, which encourage honest responses, almost without exception find that in intimate relationships men and women assault one another at approximately equal rates. (Dutton & Nicholls, 2005; Straus, 1999).

Policy recommendations

Family violence prevention, education and outreach ought to be gender-inclusive, and take into account the wealth of accumulated research evidence. To ensure that public policy will no longer be shaped exclusively by special interest groups, state domestic violence boards ought to include a broad representation of family violence-related organizations, among them treatment providers and other mental health professionals, victim advocates and shelter workers, child advocates, criminologists and research scholars. By increasing our knowledge base and assuring that we draw from a wider pool of experience and expertise, these changes should dramatically improve our abilities to effectively reduce family violence in our communities.

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Pro-Arrest and No Drop Prosecution Policies
 Lt. (Rt.) Richard Davis, California Batterer Intervention Reform Committee

In California, similar to most states, domestic violence can be quite different than the general population perception of an act of violence or the professional research perception of a battered victim that produces injured victims with broken noses and blackened eyes. In fact in California domestic “violence” is not “violence” it is “abuse.” Clearly, abuse can be in the eye of the beholder. California domestic violence law acknowledges that “abuse” can be a “threat” that produces a fear in someone that the abusive behavior “might” take place. Research documents, for a variety of valid reasons (much higher rates of injury, sexual assaults, and intimate partner homicides), women both fear and report domestic violence incidents to law enforcement far more often than men (Laroche, 2005; Stets & Straus, 1992; Tjaden & Thoennes, 2000). However, it is important to recognize that injuries, sexual assaults and homicides are results of aberrant behavior and not necessarily the cause.

In California “abuse” is defined as “molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party...” Clearly, in California, “abuse” includes but is not limited to “battering behavior.”

Battering and Family Conflict

Most researchers agree that a “batterer” is a family member or intimate partner who *with premeditation and malice aforethought repeatedly* uses coercion, force or physical assault to *manipulate and control* the behavior of another family member or intimate partner. Research documents that “batterers” *are* dangerous people and they should to be arrested (Mignon, Larson, & Holmes, 2002). Family conflict most often, but not always, occurs between family members or intimate partners *without premeditation or malice aforethought* and involves the use of threats and/or minor physical assault in a individual or isolated disagreement. Studies document that family conflict, “domestic violence” is common, yet it is often neither chronic nor severe (Hendricks, McKean & Hendricks, 2002; Laroche, 2005; Tjaden & Thoennes, 2000). The “family conflict” is often the result of the real or perceived misbehavior of others, difficult financial matters, jealousy, stress or personality disorders (Wallace, 2002). A review of California “domestic violence” laws and intervention programs reveal that there is little to no distinction between “battering” or “family conflict” despite the fact that the context, circumstances and consequences are almost always dramatically different.

The National Violence Against Women Survey documents that more than half of all physical assaults by intimates are relatively minor and consist of pushing, grabbing, shoving, slapping and hitting and that 1.3 million women and 834,732 men reported that were physically assaulted by an intimate partner in the 12 months preceding the survey (Tjaden & Thoennes, 2000, p. 10).

A June 2005 Department of Justice (DOJ) report, “Family Violence Statistics,” documents that family violence accounts for only 11% of all *reported and unreported* violence and that the majority of family “violence” *is simple assault* (Durose, et al, 2005). Studies document that the majority of victims report they *were not injured* in the physical assault (Tjaden & Thoennes, 2000, p. 41). Some of the millions of family members who engage in minor family conflict may

require law enforcement intervention. However, a growing number of DOJ studies document that many family's have discovered that mandatory arrests that ignore the *context* and *circumstances* of the incident, can have unintended detrimental effects on families (Eng, 2003). In California mandatory arrest and no-drop prosecution policies mandates that law enforcement officers and prosecutors *must ignore* the context, circumstances and consequences of the incident.

A False Premise

In all non-familial assault cases regardless of severity, law enforcement officers are trained to examine the *context* and *circumstances* of the individual incident. Officers are trained to listen to and understand the diversity of the *needs* and preferences of those who had been assaulted before they make a decision to arrest or to use a number of other criminal justice options. This use of officer discretion is at the core of judicious community policing in democratic societies (Sherman, 1992). It is universally agreed that fairness and impartiality are the essential foundational principals of a community policing (Trojanowicz & Bucqueroux, 1990).

The *indifference* of law enforcement officers towards domestic violence victims is *most often* the reason given for the draconic use of *mandatory* arrest policies that are found almost exclusively in domestic violence laws. *However, that premise is primarily based on widely told and believed anecdotal incidents that are not supported by data and less than a hand full of methodology flawed studies of varying rigor or range* (Avakame & Fyfe, 2001; Miller, 2004; Sinden & Stephens, 1999). The vast majority of law enforcement officers understand that arresting *some* domestic violence offenders is not only the right thing to do, sometimes arrest is essential for immediate cessation of violence and does provide for temporary victim safety (Buzawa & Buzawa, 2002; Davis, 1998; Sinden & Stephens, 1999).

Allegations by domestic violence advocates and many researchers suggest that law enforcement officers are reluctant to arrest men and male officers are indifferent to the plight of female victims. However, the architect of the Minneapolis Domestic Violence Experiment, Lawrence Sherman, (1992) documents that law enforcement officers do not make arrests in the majority of violent crimes, regardless of gender, in which the evidence can justify an arrest (Hendricks, McKean & Hendricks, 2003). While advocates proffer that there is data that documents law enforcement officers refuse to arrest domestic violence perpetrators, this criminal justice data, more often than not, does not include the *context, circumstances* and *victim preference* of these individual incidents. It would be presumptuous to believe that all victims, regardless of gender, should expect or want law enforcement officers to make arrests each and every time they have the authority to do so.

In approximately half the states arrest is now *mandated* regardless of how minor the assault, often ignoring the desire *and needs* of family's and despite the fact that the incident may have been a single isolated act of minor family conflict that is not commonly associated with battering behavior (Eng, 2003; Huntley, & Kilzer, 2005; Soler, 2007). In California arrest is mandatory for the violations of restraining orders, and preferred or pro-arrest for all other interventions.

A recent DOJ study documents that in states where officers have preferred [there is an allowance for discretion] arrest policies the odds of arrest in intimate partner incidents rose by 177% compared to states, where there are mandatory [no choice] policies, and arrest rose by 97%. (Hirschel, et. al., 2007).

A number of states, similar to California, have mandatory, preferred and pro-arrest policies (Archer et al., 2002, Uekert, 2000). All three of the above interventions, in conjunction or

individually, have dramatically increased the numbers “de facto mandatory” arrests because of the millions in federal grants that *encourage* arrest, training that emphasizes the importance of arrest, the expansion of the definition of “probable-cause” for arrest and the omnipresence of federal law suits for “failure to act,” i.e. make an arrest.” (Buzawa & Buzawa, 2002; Hirschel, et al., 2007; Hirschel & Dawson, 2003; Klein, 2004; Mignon & Holmes, 1995; Uekert, 2000; Wells & DeLeon-Granados, 2005).

In many agencies the preferred and pro-arrest policies have become conscious or unconscious de-facto mandatory arrest policies (Archer, et al., 2002; Davis, 1998; Sherman, 1992; Uekert, 2003). Further, it seems apparent that preferred and pro-arrest policies (guilty until proven innocent) can place unconscious representations of guilt in the minds of those in law enforcement before they arrive at the scene of the incident. This type of policy can be found nowhere else in the criminal justice system. And there is little doubt that law enforcement training that *always* uses “he” for the abuser and “she” for the victim will produce an implicit bias against males when officers attempt to determine who should be arrested (Davis, 1998; Gladwell, 2005); Groopman, 2007; Project Implicit, 2007).

The majority of domestic violence incidents, as both criminal justice data and general surveys document, are for (1) minor or misdemeanor crimes without injury and where the officers do not have the power of arrest, (2) victims family’s do not want an arrest to take place and (3) many incidents provide little to no evidence of who hit who first. *Initiation* of an assaultive event is important and *initiation* remains a central “probable cause” factor that must be considered concerning responsibility of guilt in the criminal justice system.

The Rise in Arrests for Females

In 1999 women accounted for approximately 35 percent of all domestic violence arrests in Concord, New Hampshire. In Vermont women accounted for 23 percent of all domestic violence arrests and in Boulder County, Colorado it was 23% (Goldberg, 1999). The number of women being arrested in California for domestic violence has dramatically increased since the introduction of mandatory arrest policies. In California, the number of males arrested for domestic violence has increased by 37% while female arrests increased by 446 percent. (Wells & DeLeon-Granados, 2005). This study also documents that the greatest rise has been in *conviction rates*. Convictions rose by 131% for males but by 1,207% for females. It is even greater for male Hispanics, 126% and for female Hispanics, 1,650%. This *conviction rate* clearly refutes the claim made by domestic violence advocates who believe, without any empirical studies or evidence-based data that the rise in female arrests is due to law enforcement officers not knowing “*who to arrest.*”

Further, national data documents that male victims are more than three times likely to be arrested in a dual arrests than females. This data disparity in *arrest* and *conviction* rates between males and females suggests that far more males than females are being arrested without proper probable cause (Hirschel, et. al., 2007; Wells & DeLeon-Granados, 2002).

Questioning Mandatory Arrest

The National Research Council study, “Advancing the Federal Research Agenda on Violence Against Women,” notes that there are dangers in not distinguishing between an act of violence, abuse or battering (Kruttschnitt, McLaughlin, & Petrie, 2004). The California mandatory,

preferred and pro-arrest arrest policies create a “one-size-fits-all” policy that makes no distinctions between the violence, abuse or battering.

The U.S. Department of Justice (DOJ) sponsored study, “Police Intervention and the Repeat of Domestic Assault,” documents that sometimes police intervention is necessary, however, the effect of arrest is too small to have policy significance (Buzawa & Buzawa, 2002; Felson, Ackerman, & Gallagher, 2005; Maxwell, Garner & Fagan, 2001,). In California advocates and legislators have decided that mandatory intervention policies will lead and the research results will follow. Hence, the citizens of California, for good or bad, are the research subjects. However, testing a hypothesis that may be as harmful for some as it may helpful for others is a clear violation of fundamental research ethics. “Virtually everyone agrees ... that researchers must strive to protect the safety of [all] people involved in a research project” (Macionis, 1997, p. 40). Chalk and King (1998 p. 296) clearly state that, “... states refrain from enacting mandatory reporting laws for domestic violence until such systems have been tested and evaluated by research.”

A recent National Institute of Justice sponsored study concludes that rigid mandatory interventions ignore the diversity of the victims needs and that often lack varied programs best suited for the many multifaceted and complex problems presented by offenders can actually cause more harm than good (Hotaling & Buzawa, 2003). Despite that evidence, many California district attorneys have mandatory “no drop” prosecution policies that have yet to be tested and evaluated (Gwinn, 2005). One of the most extensive reports to date concerning the “no-drop” prosecution policies concludes that research to date does not know if the no-drop policies increase or decrease victim safety and that no-drop prosecution actually disempowers victims once they enter the criminal justice system (Davis, Smith & Davies, 2001). A growing number of studies, including some sponsored by the National Institute of Justice, warn that public policy makers need to know that their policies and practices will not harm or endanger women (Davis, Weisburd & Hamilton, 2007; Davis, Smith & Davies, 2001; Dugan, Nugin & Rosenfeld, 2001; Eng, 2003; Finn, 2004; Hotaling & Buzawa, 2003; Huntley & Kilzer, 2005; Iyengar, 2007; Kruttschnitt, McLaughlin & Petrie, 2004; Sherman, 1992; Maxwell, Garner & Fagan, 2001; Wells & DeLeon-Granados, 2002). Unfortunately, that advice seems to have been ignored in California.

More troubling is that in California public policy makers seem unaware or unconcerned that many DOJ sponsored studies have already documented the dangers, up to and including homicides, of such mandatory policies (Davies, Weisburd & Hamilton, 2007; Dugan, Nugin, Rosenfeld, 2001; Iyengar, 2007;). The DOJ report, “Forgoing Criminal Justice Assistance: The Non-Reporting of New Incidents of Abuse in a Court Sample of Domestic Violence Victims,” found that for some family’s, mandatory intervention and *one-solution-fits-all* (Fagan, 1996) criminal justice policies can be more harmful than helpful (Hotaling & Buzawa, 2003). This study is just one of a growing number of studies that document the many unintended negative effects created by California mandatory arrest policies. Another DOJ study, “The Effects of Arrest on Intimate Partner Violence: New Evidence From the Spouse Assault Replication Program,” a far more extensive research study than the single Minnesota Domestic Violence Experiment, and it documents that officers and victims should have a *voice and choice* concerning arrest. This study documents that the majority of offenders discontinue their aggressive behavior without an arrest (Maxwell, Garner, & Fagan, 2001). The vast majority of advocates agree that a women’s right to choose is a newly found fundamental empowerment tool. Therefore it is difficult to understand how or why the same domestic violence advocates

support mandatory arrest and prosecution policies, both of which deny women their right of choice and victim empowerment. The Maxwell, Garner & Fagan study also notes that requiring arrest for every incident of “domestic violence” may reduce the resources of communities when they respond to chronic violent offenders and victims most at risk. Maxwell, Garner & Gagan believe that research needs to assess the benefits and costs of mandatory arrest *before* implementing mandatory arrest policies.

Outcomes

A significant DOJ sponsored study recently made available on the California Attorney General’s website documents that there is no statistically significant relationship between criminal justice response and victimization (Wells & DeLeon-Granados, 2005). The study also documents that an ever increasing number of women are being ensnared in a criminal justice system that is supposed to protect them and that women are being arrested, convicted, and incarcerated in numbers far higher than they were before the passage of a mandatory arrest law that was designed to provide for their safety (Wells & DeLeon-Granados, 2002, p. 21-22.) Again, that same study documents the *conviction* rate for females arrested is far higher than for males arrested.

This Wells & DeLeon study suggests, because of the high conviction rates for female offenders that the officers *are* following the letter of the law when arresting females. The much lower conviction rate for males arrested suggests that rather than following proper criminal justice “probable cause” concerning who *initiated* or is most responsible for beginning the abuse, officers are following California “dominant aggressor” arrest policy.

California law section 13701(b) mandates that officers “shall” ignore who *initiates* the assault and that it is more “significant” for officers to determine who appears to be most in “fear” of the abuse continuing. There seems little doubt that officers, regardless of gender, because of contemporary culture and U.S. Department of Justice sponsored “dominant aggressor training,” are being conditioned to view, before they respond to a call, that male’s as more “dominant” in all relationships than females. This “dominant aggressor policy” stands against traditional law enforcement training that finds when two people engage in assaultive behavior the person who *initiates the first assault* be held most responsible for the assaultive behavior, on its head.

The Violence Against Women Act has spent billions specifically on violence against *women*, yet with little money and no little to no changes in policy the nonfatal victimization rates for female relatives, friends and acquaintances and strangers has decreased by approximately the same rate as intimates.

Nonfatal violent victimization rate
Rate per 1,000 females age 12 or older

	Intimates	Other Relatives	Friends/acquaintances	Strangers
1993	9.8	3.3	15.8	15.4
2004	3.8	1.4	5.3	6.3

While the ultimate goal of VAWA is to reduce or minimize the domestic violence homicides of females the greatest drop in intimate partner homicide over the last couple of decades has been for males. White females continue to suffer from a higher rate of intimate

partner homicide than black females or males of either race (Rennison & Welchans, 2000). Despite the promise of advocates that VAWA would reduce homicides, there has been no statistically significant change in the intimate partner homicide victimization for white females. In fact, in 1995 the Bureau of Justice Statistics data documents that *the intimate partner homicide rate for all females began to rise again* (Bureau of Justice Statistics).

Recommendations

Concerning female offending a great many researchers now agree that “one-size-fits-all” intervention have proven to be harmful for women and that law enforcement officers and programs interventions must examine the *context* and *circumstances* of the individual incidents (Edelson, 1998; Swan, Gambone & Fields, 2005; Swan & Snow, 2002). We ask why so many advocates or public policy makers seem unable or unwilling to understand the same should be true for men. Regardless of gender, a growing number of DOJ studies document that mandatory arrest and no-drop prosecution are flawed “one-size-fits-all.” policies (Buzawa & Buzawa, 2003; Coker, 2001; Davis, 1998; Dugan, Nugin, Rosenfeld, 2001), Dutton, 2006; Eng, 2003; Fedders, 1997; Felson, 2002; Finn, 2004; Holder, 2001; Hotaling & Buzawa; Kelly, 2003; Mills, 1998) It is difficult to understand how or why so many advocates and public policy makers accept the “arrest” findings of the Minneapolis Domestic Violence Experiment while at the same time they ignore the fact that the author of that same study warned against the use of *mandatory arrest* (Sheman, 1992).

Mandatory arrest is seen by some critics as a dangerous and simple answer provided by public policy makers who believe that they must do *something* about domestic violence (Davis, 1998); Finn, 2004). The problem is that public policy makers have placed their policies ahead of the research. And worse still, many relevant 21st century research findings have yet to make their way into the hands and hearts of public policy makers despite the fact that many of them are available online (Clear & Frost, 2001).

Arrest is a reactive and not a proactive intervention and arrest is not a panacea for domestic violence. However, given the proper *context* and *circumstances* of an incident and listening to the preference those being abused, arrest can be a useful and necessary response by law enforcement (Hendricks, McKean, & Hendricks, 2003). This author’s recommendations are primarily based on the Hendricks, McKean and Hendricks’ college text:

- (1) The authority but not the mandate or expectation that officers always make arrests in witnessed and un-witnessed incidents should remain in place.
- (2) Mandatory arrest should remain in place for all incidents that result in severe injury or for offenders with a history of chronic violence regardless of relationships.
- (3) Mandatory arrest should remain in place for all felony cases. Felony cases most often include injuries and the use of weapons.
- (4) Officer discretion should be allowed for repeat calls or chronic complaints. Officers should always check their computer or with their dispatcher to see if there have been prior calls at the same address or for the same offender of victim. Officers should always check for outstanding warrants.
- (5) Officer discretion should be allowed for victim preference. This does not mean that officers should or must adhere to victim preference, only that victim preference should be considered within the *context* and *circumstances* of individual incidents.

- (6) Studies document that more often than not the offender is gone by the time law enforcement arrives. Officers should apply for arrest warrants where applicable.
- (7) In minor incidents where none of the above factors are met and there are no witnesses, officers should record all of the pertinent information and request a court date whereby both parties involved would be compelled to appear before a judge or a magistrate who can then determine the proper criminal or civil intervention. A list of criminal justice and social service agencies should always be provided to everyone involved.
- (8) Law enforcement agencies should have computer programs that document calls from chronically abusive couples. Maxwell, Garner, & Fagan, (2001) found a small number of chronically aggressive intimate partners predicted a high-rate of repeat offenders. Their follow-up interviews document that about 8 percent of victims reported a total number of incidents that represented more than 82 percent of the 9,000 reported incidents.

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