

National Family Violence Legislative Resource Center

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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? 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). It should be emphasized, however, that men commit the vast preponderance of *sexual* violence (Hines & Saudino, 2003; Tjaden & Thoennes, 2000).

In some jurisdictions, however, law enforcement may be 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." Another explanation is that the women were in fact more likely to be the actual perpetrators. 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. When they do contact the police, it may be because they feel confident that the perpetrator will indeed be arrested.

Children are 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 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 (Drozd & 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, (Gaudioso, 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, covering 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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