

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Elwaine F. Pomeroy at
Chairperson

10:00 ~~a.m.~~ on March 12, 19⁸⁴ in room 514-S of the Capitol.

~~All~~ members ~~were present except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaines,
Hein and Werts

Committee staff present: Mary Torrence, Revisor of Statutes Office
Mike Him, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Representative Wanda Fuller
Representative Dorothy Nichols
Representative Robert Frey
Luis Mata, Wyandotte-Leavenworth County Legal Aid Society, Inc.
Elizabeth Taylor, Kansas Association of Domestic Violence Program
Lt. Lee Sipes, Topeka Police Department
John Brookens, Kansas Bar Association
Barbara Reinhert, Kansas Women's Political Caucus

House Bill 2713 - Grounds for arrest.

Representative Wanda Fuller, the prime sponsor of the bill, explained her main interest is discouraging domestic violence. She explained the bill. A copy of her handout is attached (See Attachment No. 1).

Representative Dorothy Nichols, one of the sponsors of the bill, appeared in support of the bill and on behalf of Oren K. Skiles, Ottawa Chief of Police. A copy of his letter is attached (See Attachment No. 2).

Representative Robert Frey, one of the sponsors of the bill, appeared in the capacity as chairman of the House Judiciary Committee to endorse and to answer questions of the committee. He reported the House committee received good support for the bill, and he commended the Kansas Bar Association and the person who requested the bill. Representative Frey stated this is something that will help women but will have a much broader application. The chairman discussed the placement of lines 43 and 44 of the bill and suggested inserting the lines as Subsection (c). Representative Frey was in agreement.

Luis Matta testified in support of the bill. A copy of his remarks and other material are attached (See Attachments No. 3).

Elizabeth Taylor appeared in support of the bill and stated this bill will help 95% of the cases reported this year.

Lt. Lee Sipes testified in support of the bill. He explained this does not just apply to one situation; it will help in bar fights, or street fights. They consider the most dangerous situations the police officers respond to are the domestic violence calls. The chairman inquired how would this affect the attitude of the officers. Lt. Sipes replied, this would give the officers a certain amount of confidence; they can leave that call and feel it is taken care of. Considerable committee discussion was held with him concerning probable cause. A committee member felt it is going to require some more education of police officers concerning what probable cause is.

John Brookens testified in support of the bill, and stated this bill gives the officer a tool that is very necessary.

Barbara Reinhert testified in support of the bill. She stated in addition to what everyone has said, if the legislature can approach this problem with giving police and the judge discretionary power and give more money for this program, maybe we can make a dent in this problem.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m. ~~noon~~ on March 12, 19⁸⁴

HB 2713 continued

Luis Matta explained this bill will require that there must be bodily injury. There is going to have to be some evidence like a broken nose or black eye. The chairman inquired, do you feel this will perhaps permit a break of the cycle of domestic violence, and make batterers realize that they do have a chance of being arrested? Mr. Matta replied, he feels this bill will help.

Senator Gaines made a conceptual motion to amend the bill by moving lines 43 and 44 to follow line 30 and make it Subsection (c). Senator Feleciano seconded the motion, and the motion carried. Following committee discussion, Senator Gaines moved that the bill be reported favorably as amended; Senator Winter seconded the motion, and the motion carried.

Senate Concurrent Resolution 1652 - Rejecting K.A.R. 10-18-1, juvenile offender information system.

Following committee discussion, Senator Feleciano moved to adopt the resolution; Senator Werts seconded the motion, and the motion carried.

Senate Concurrent Resolution 1656 - Rejecting K.A.R. 20-4-1, crime victims reparations board, attorney fees.

Following review of the bill, Senator Feleciano moved to adopt the resolution; Senator Werts seconded the motion, and the motion carried.

Senate Concurrent Resolution 1655 - Rejecting K.A.R. 10-12-2, dissemination of nonconviction history by KBI.

Staff was requested to draft a bill for the committee's consideration. Following committee discussion, Senator Werts moved to recommend the adoption of the resolution; Senator Feleciano seconded the motion, and the motion carried.

Senator Gaines moved to approve the minutes of February 14, 15, 16, 17, 20, 21, 22, 23, 24 and 27, 1984, Senator Werts seconded the motion, and the motion carried.

The meeting adjourned.

3-12-84

GUESTS

SENATE JUDICIARY COMMITTEE

NAME ADDRESS ORGANIZATION

NAME	ADDRESS	ORGANIZATION
Lee Sipes	Topeka	Topeka Police
Dorothy Alghols	OTTAWA	State Representative
Jim Cole	Boyle	KC DAA
Alvin Brooks	"	KBA
Luis Maria	KCK	Local Aid
Chris McKenzie	Topeka	League of Ks. Municipalities
Rep. Fuller	Wichita	St. Leg.
W. Sabar		AP
G. Snavely	Topeka	WU
R.D. Frey	Liberal	House of Reps.
M. Hawer	Topeka	Capital Journal
Jim Wilson	Lawrence	Senators Hearing
Barb Reupert	Topeka	KWPC
Elizabeth C. Taylor	Topeka	Ks. Am. Dem. Club Prog.
Kurt Martin	Johnson	American Government
James Everett	Johnson	American Government
Jim Lee	Johnson	American Government
Paul Case	Johnson	American Government
Scott Ellis	Johnson	American Government
Todd Bordenick	Johnson	American Government
Rita Taylor	Johnson	American Government
Larry Peterson	Johnson	American Government
Stanley Thompson	Johnson	" "
Ann Davis	Johnson	" "
Lorri Banning	Johnson	" "

GUESTS

3-12-84

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Polym. Willinger	Johnson, Ks	American Government
Debbie Ashida	Johnson, Ks.	American Government
Lejana Terrell	Johnson, Ks	American Government
Sammy Sherwood	Johnson, Ks	American Government
Evelyn Walters	Johnson, Ks	" "
David White	" "	" "
Ann Carter Begovic	Lawrence City, Michigan	Senator Steingard's office

3-12-84

Wife Abuse: The Facts

Attach. #1

The Problem

Violence against wives is a crime of enormous proportions. It occurs in families from all racial, economic, educational, and religious backgrounds. The police department in Norwalk, Connecticut, a city with a wide socio-economic range, receives the same number of wife abuse calls as the police department in Harlem, New York, a city of comparable size. Battered women with few economic resources are more visible because they seek help from public agencies; however, middle and upper class women also seek refuge and assistance, although more often in hotels and from private agencies.

Carolyn Barden and Jim Barden, "The Battered Wife Syndrome"

Each year 1.8 million wives are severely assaulted by their husbands, according to a 1976 national survey. Dr. Murray Straus, a principal researcher for this study, believes that this estimate substantially underrepresents the true extent of the problem.

Murray Straus, Richard Gelles, and Suzanne Steinmetz, *Behind Closed Doors: Violence in the American Family*

Violence against wives will occur at least once in two-thirds of all marriages, estimates researcher Maria Roy. Straus, Gelles, and Steinmetz estimate that 25 percent of wives are severely beaten during the course of their marriage.

Maria Roy, *The Abusive Partner*; Straus, Gelles and Steinmetz, *Behind Closed Doors*

In almost three quarters of reported spouse assaults, the victim was divorced or separated at the time of the incident. This finding suggests that battering may be more prevalent than currently estimated, since most incidence surveys limit their samples to married couples.

Department of Justice, *Report to the Nation on Crime and Justice*

Abattering incident is rarely an isolated occurrence; it usually recurs frequently. According to a 1982 survey of women in Texas, 19 percent of the women who were abused during the previous year, and 25 percent of the women abused during their lifetimes had been victimized at least once a week.

Raymond H.C. Teske and Mary L. Parker, *Spouse Abuse in Texas: A Study of Women's Attitudes and Experiences*

Battering tends to escalate in severity over time. Many of the injuries sustained by battered women require medical attention. More than one million abused women seek medical help for injuries caused by battering each year. Twenty percent of visits by women to emergency medical services are caused by battering. Twelve percent of the injuries sustained in reported incidences of battering in Minnesota required hospitalization.

Evan Stark and Anne Flitcraft, "Medical Therapy as Repression: The Case of the Battered Woman"; Minnesota Department of Corrections, *Data Summary Report*

Thirty percent of female homicide victims are killed by their husbands or boyfriends, according to an FBI report. Researchers Stark and Flitcraft found in their study that battering accounted for 25 percent of suicide attempts by women.

Federal Bureau of Investigation, *Uniform Crime Reports 1982*; Evan Stark and Anne Flitcraft, "Domestic Violence and Female Suicide"

Men commit 95 percent of all assaults on spouses, according to National Crime Survey Data from 1973 to 1977. In addition, the severity and extent of injuries incurred by men are insignificant and incomparable to those sustained by women.

Department of Justice, *Report to the Nation on Crime and Justice*

The Response

There are over 500 shelters in the country that offer emergency refuge and services to battered women and their children; it is estimated that these shelters provide only one quarter million beds annually for the several million women and children who need them. Data from the Minnesota Department of Corrections indicates that in that state alone, well-known for its extensive and innovative services for battered women, 65 percent of requests for shelter could not be met during 1981. My Sister's Place, a shelter for battered women in Washington, DC, has to turn away 7 families for every 1 they can accept.

Minnesota Department of Corrections, *Data Summary Report*

Recent federal cutbacks on funds for social services have forced many shelters to reduce their services or close their doors. Seventy-six percent of domestic violence programs have reduced their ser-

Attach. 1

vices and 79 percent are not able to meet the needs of battered women in their communities because of federal funding cutbacks on programs such as CETA, Title XX, VISTA, and CSA.

Center for Women Policy Studies, "Federal Budget Cuts Jeopardize Domestic Violence Programs: A National Survey Report"

Police rarely file reports on domestic violence and even more rarely arrest men for battering. During a 9 month period, Cleveland police received approximately 15,000 domestic violence calls. Reports were filed in 700 of these cases, and arrests were made in 460, or one out of every 32 calls.

Ohio Attorney General, *The Ohio Report on Domestic Violence*

Although over 33 percent of nonstranger assaults involved the use of guns, knives, bludgeons, or other weapons, and over 80 percent of the victims wanted the police to make an arrest, the assailant was arrested in only 41 percent of the cases. Most of the cases were prosecuted as misdemeanors rather than felonies.

Barbara Smith, *Non-Stranger Violence: The Criminal Courts Response*

Current research indicates that police should re-evaluate their common practice of temporarily separating husbands and wives following a violent incident. A recent study conducted by the Police Foundation found that there was a lower incidence of further violence when the batterer was arrested than when the police separated the parties, or informally mediated the conflict.

Lawrence Sherman and Richard A. Berk, *Police Response to Domestic Assault: Preliminary Findings*

Medical clinicians often fail to recognize women's injuries as a result of wife abuse. Abuse is identified in fewer than one out of 25 battery cases and, as a result, the medical response rarely addresses the cause of the problem. Treatment is usually symptomatic, limited to the dressing of wounds, setting of bones, and prescriptions for analgesics and tranquilizers. Often the patient is seen as the problem because of her repeated requests for help and failure to recover.

Evan Stark and Anne Flitcraft, "Medical Therapy as Repression: The Case of the Battered Woman"

All states and the District of Columbia have enacted legislation designed to protect battered women. Laws in the District and 43 states now enable battered women to obtain civil protection orders without initiating divorce or other civil proceedings, as previously required. Eleven states have enacted leg-

islation making spouse abuse a criminal offense separate from other types of criminal offenses. Thirty-three states have expanded police power to arrest in domestic abuse cases, and 29 states have appropriated funds for services for families suffering from violence.

Lisa Lerman and Franci Livingston, "State Legislation on Domestic Violence"

To date, no federal legislation has been enacted to address the problem of wife abuse, although at least one bill providing federal funds to shelters and other domestic violence programs has been introduced in Congress every year since 1978. As of January 1984, there were 140 cosponsors in the House of Representatives for the Family Violence Prevention and Services Amendment to the Child Abuse Prevention and Treatment Act, that would appropriate \$65 million over a three-year period to fund services for domestic violence victims.

Commenting on the need for passage of the Amendment, Congresswoman Barbara Mikulski states, "Being pro-family means providing this desperately-needed support to ensure that the institution of the family is free from violence. We must begin to break the cycle of violence now."

Barbara Mikulski (D.MD), November 17, 1983

Sources

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- Center for Women Policy Studies. "Federal Budget Cuts Jeopardize Domestic Violence Programs: A National Survey Report." *Response to Violence in the Family and Sexual Assault*, May/June 1983, pp. 1-4, 12-15.
- Federal Bureau of Investigation. *Uniform Crime Reports 1982*. Washington, DC: U.S. Department of Justice, 1982.
- Lerman, Lisa and Livingston, Franci. "State Legislation on Domestic Violence." *Response to Violence in the Family and Sexual Assault*, September/October 1983, pp. 1-3.
- Minnesota Department of Corrections, Programs for Battered Women. *Data Summary Report*. St. Paul, MN: Minnesota Department of Corrections, 1982.
- Ohio Attorney General. *The Ohio Report on Domestic Violence*. Columbus, OH: Bureau of Criminal Investigation, 1979.
- Roy, Maria, ed. *The Abusive Partner*. New York: Van Nostrand Reinhold, 1982.
- Sherman, Lawrence W. and Berk, Richard A. *Police Responses to Domestic Assault: Preliminary Findings*. Washington, DC: Police Foundation, 1983.
- Smith, Barbara E. *Non-Stranger Violence: The Criminal Court's Response*. Washington, DC: National Institute of Justice, 1983.
- Stark, Evan; Flitcraft, Anne; et al. "Domestic Violence and Female Suicide Attempts." Paper presented at the 107th Annual Meeting of the American Public Health Association, New York City, November 3-7, 1979.
- Stark, Evan and Flitcraft, Anne. "Medical Therapy as Repression: The Case of the Battered Woman." *Health and Medicine*, Summer/Fall, 1982, pp. 29-32.
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- Teske, Raymond H. C., Jr. and Parker, Mary L. *Spouse Abuse in Texas: A Study of Women's Attitudes and Experiences*. Huntsville, TX: Criminal Justice Center, 1983.
- U.S. Department of Justice. *Report to the Nation on Crime and Justice: The Data*. Washington, DC: Government Printing Office, 1983.

3-12-84
Attach. # 2

CITY OF OTTAWA



OREN K. SKILES
Director
G. A. DIAMOND, JR.
Deputy Director
FRED ESPINOSA
Deputy Director

P. O. Box 76
720 West Second
Ottawa, Kansas 66067
913-242-1700

DEPARTMENT OF PUBLIC SAFETY

March 9, 1984

Dorothy Nichols
229½ S. Main
Ottawa, KS

Dear Dorothy

Due to my being out of the state on Monday, March 12, 1984, I will not be able to testify on House Bill #2713. I would like you to know that I continue to support this bill, as I do feel it would be a most effective way for police to detour violence in domestic assault cases. I have read the study conducted by the Police Foundation in cooperation with the Minneapolis Police Department, on simple domestic assaults, and found the study to be interesting and concurrent with what I think findings would be in most police departments today. I think that this bill would definately help police in the state of Kansas to detour violence in assault cases.

As a Police Officer for twenty two years, I have found domestic assaults to be an extremely troubling area for Police Officers. As we handle domestic disturbances, we can be mediators and either leave the person there or have one leave for the evening. We have found both of these avenues as being unacceptable at times as we have had return calls occasionally. House Bill #2713 would give police officers another option to help with the domestic assault problem. I would urge the passage of this bill.

Thank you for presenting another option for police officers to take on domestic disputes.

Sincerely

Oren K. Skiles
Director

bb

Attch. 2

COMMENTS BY LUIS MATA, DIRECTOR OF THE WYANDOTTE-LEAVENWORTH COUNTY LEGAL AID SOCIETY, INC., CONCERNING HOUSE BILL NO. 2713

STATEMENT OF THE PROBLEM:

Under current Kansas law, as specifically set out in K.S.A. 22-2401, a police officer responding to a domestic violence call cannot make an arrest unless he has witnessed the assault, or unless he can predict that the violence will continue if the assailant is not arrested.

Since most of the assailing husbands will cease their violence when they realize that the police have been summoned, and will tell the police that the fight is over and that no more fighting will take place, the police officer responding to the call will find himself unable to arrest the husband or to remove him from the home. At best, the police officer will extract a promise from the offending husband to quit fighting with the victim--a promise which the husband will readily make. However, as soon as the police officer departs, the husband invariably resumes the assault, often with greater anger and violence towards the wife, who is punished for having called the police. This scenario, which occurs all too frequently, not only breeds disrespect for the law and the police, but contributes to the cycle of domestic violence which entraps many women and their children.

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THE SOLUTION TO THIS PROBLEM:

At the Wyandotte-Leavenworth County Legal Aid Society, Inc., our number-one priority is domestic violence cases. Approximately 35% of the cases that we handled in 1983 involved divorces where we documented domestic violence, or protection from abuse cases where the client had been a recent victim of domestic violence. Due to limited resources, however, we are forced to turn down about 50% of the domestic violence victims we interview. For these women who are not able to obtain a civil restraining order through our office or through private counsel, and who cannot afford to leave the home and seek safe shelter elsewhere, their only remaining source of assistance in preventing domestic violence will be the police officer who responds to the call for help.

When a battered wife calls the police, it is an act of desperation. She expects immediate response and protection. In interviewing our domestic violence clients, we find that the majority of them have called the police when they have been assaulted by their husbands. We also find that the police do make a good-faith effort to assist the victim by making the offending husband cool off, but that in most cases, the police will inform the victim that an arrest cannot be made since the assault did not occur in their presence.

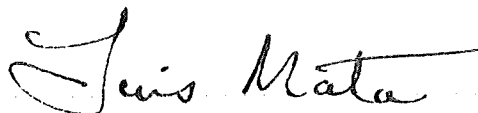
It is my opinion, from having interviewed many domestic violence victims and from talking to a number of police officers, that the police officer who arrives at the scene of

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a domestic violence assault wants to get involved, and assist the victim, but that he feels that he does not have the legal authority to make an arrest under our present statutes,

Amending K.S.A. 22-2401 so that an arrest can be made if the offender has intentionally inflicted personal injury to another person will not cure our current domestic violence crisis. But it will assist many victims who are currently unable to defend themselves from physical abuse. In this regard, I would like to mention that a recent study conducted in Minneapolis by the Police Foundation suggests that "arrest is the most effective way for the police to deter violence in domestic assault cases." I have attached a copy of the preliminary findings for your information.

Respectfully,



Luis Mata, Director
Wyandotte-Leavenworth County
Legal Aid Society, Inc.
905 North 7th Street
Kansas City, Kansas 66101
(913) 621-0200

Dated: March 12, 1984

Police Responses to Domestic Assault:

Preliminary Findings

(An Executive Summary)

by Lawrence W. Sherman+
Police Foundation and University
of Maryland, College Park

and

Richard A. Berk
University of California
Santa Barbara

*This paper was supported by Grant #80-IJ-CX-0042 to the Police Foundation from the National Institute of Justice, Crime Control Theory Program. Points of view or opinions stated in this document do not necessarily represent the official position of the U. S. Department of Justice, the Minneapolis Department, or the Police Foundation.

We wish to thank the Minneapolis Police Department for its cooperation, especially the police officers who volunteered to conduct the experiment. We also wish to acknowledge the work of Project Manager Nancy Wester and the data collection staff she supervised.

+Please direct all inquiries to Lawrence W. Sherman, Police Foundation, 1909 K Street N.W., Washington, D.C. 20006, (202) 833-1460.

A POLICE FOUNDATION WORKING PAPER

#

Abstract

Does punishment deter criminals? Or does it just make their behavior worse?

Nowhere is the debate over these questions more evident than in police responses to domestic violence. Some police, like labeling theorists in sociology, argue that arresting people for minor acts of domestic violence will only increase the seriousness and frequency of the violence. Some feminist groups, like some deterrence theorists, argue that arresting suspects of domestic violence will reduce the suspects' use of violence.

With the support of the National Institute of Justice, the Police Foundation and the Minneapolis Police Department tested these hypotheses in a field experiment. Three police responses to simple assault were systematically assigned: arrest, "advice" or informal mediation, and an order to the suspect to leave for eight hours. The behavior of the suspect was tracked for six months after the police intervention, with a variety of measures. Preliminary analysis of the official recidivism measures suggests that the arrested suspects manifested significantly less violence than those who were ordered to leave, and less violence than those who were advised but not separated.

Other interpretations of the results are possible. But if this one is correct, it suggests that police should reverse their current practice of rarely making arrests and frequently separating the parties. The findings suggest that other things being equal, arrest may be the most effective approach, and separation may be the least effective approach. Since other things are not usually equal, however, it would probably be a mistake to conclude that arrest should be mandatory in all cases of simple domestic assault.

The Policy Problem

For many years, police have been reluctant to make arrests in response to domestic violence, one of the more common situations they face. Parnas' (1972) qualitative observations of the Chicago police found four categories of police action in these situations: negotiating or otherwise "talking out" the dispute, threatening the disputants and then leaving, asking one of the parties to leave the premises, or (very rarely) making an arrest. Parnas offers ten different reasons why police avoid making arrests, one of which is an explicit labeling theory formulation: the offender, angered by his arrest, may cause more serious harm to the victim upon his return to the family home.

The reluctance of police to make arrests for this offense is reported in many other cities. Surveys of battered women who tried to have their domestic assailants arrested report that arrest occurred in 10% (Roy, 1977:35) or 3% (see Langley and Levy, 1977:219) of the cases. Surveys of police agencies in Illinois (Illinois Law Enforcement Commission, 1978) and New York (Office of the Minority Leader, 1978) found explicit policies against arrest in the majority of the agencies surveyed. Despite the fact that violence is reported to be present in one-third (Bard and Zacker, 1974) to two-thirds (Black, 1980) of all domestic disturbances police respond to, police department data show arrests in only 5 percent of those disturbances in Oakland (Hart, n.d., cited in Meyer and Lorimer, 1977:21), 6 percent of those disturbances in a Colorado city (Patrick, Ellis, and Hoffmeister, n.d., cited in Meyer and Lorimer, 1977:21) and 6 percent in Los Angeles County (Emerson, 1979).

The best available evidence on the frequency of arrest is the observations from the Black and Reiss study of Boston, Washington and Chicago police in 1966, reported in Black (1980:182). Police responding to disputes in those cities

made arrests in 27% of violent felonies and 17% of the violent misdemeanors. Among married couples (Black, 1980:158), they made arrests in 26% of the cases, but tried to remove one of the parties in 38% of the cases.

The apparent preference of many police for separation rather than arrests of the suspect has been attacked from two directions over the last fifteen years. The original attack came from clinical psychologists, who agreed that police should rarely make arrests (Potter, 1978:46; Fagin, 1978:123-124) in domestic assault cases, but who wanted the police to mediate rather than separate. A highly publicized demonstration project of teaching police special counseling skills for family crisis intervention (Bard, 1970) failed to show a reduction in violence, but was interpreted as a success nonetheless. By 1977, a national survey of police agencies with 100 or more officers found that over 70 percent of them reported a family crisis intervention training program in operation. While it is not clear whether these programs reduced separation and increased mediation, evaluations of some of them reported a decline in arrests (Wylie, et al., 1976), which many programs adopted as a specific goal (University of Rochester, 1974; Ketterman and Kravitz, 1978):

By the mid-1970s, police practices were attacked from the opposite direction by feminist groups. No sooner had the psychologists succeeded in having many police agencies treat domestic violence intervention as "half social work and half police work" than feminists began to argue police put "too much emphasis on the social work aspect and not enough on the criminal" (Langley and Levy, 1977:218). Widely publicized lawsuits in New York and Oakland sought to compel police to make arrests in every case of domestic assault, and state legislatures were lobbied successfully to reduce the evidentiary requirements needed for police to make arrests for misdemeanor domestic assaults. Some legislatures have even passed statutes requiring police to make arrests in these cases.

The feminist critique was bolstered by a study that suggested the seriousness of police interventions in these cases (Police Foundation, 1976). It found that in the two years prior to the occurrence of a sample of domestic homicides, police had intervened in disputes involving 85% of the victims at least once and in 54% of the cases five or more times. But it is impossible to determine from the cross sectional data whether making more or fewer arrests would have reduced the homicide rate after police intervention.

In sum, police officers confronting a domestic assault suspect faces at least three conflicting options, urged on them by different groups with different theories. The officers' colleagues might recommend forced separation as a means of achieving short-term peace. The officers' trainers might recommend mediation as a means of getting to the underlying cause of the "dispute" (in which both parties are implicitly assumed to be at fault). The local women's organizations may recommend that the officer protect the victim (whose fault, if any, is legally irrelevant) and enforce the law to deter such acts in the future. If the officers take sociology courses, they will conclude that labeling theorists imply mediation would be the response least likely to provoke further violence, with separation a mild label and arrest a severe label likely to engender secondary deviance. The officers' reading of the deterrence doctrine would be exactly opposite: arrest would cause the greatest discomfort, separation the next greatest, and mediation the least discomfort, so they should deter subsequent violent acts in that descending rank order of effectiveness.

The Original Research Design

In order to shed some empirical light on these conflicting recommendations, the Police Foundation and the Minneapolis Police Department agreed to conduct a

classic experiment. The design called for systematic use of arrest, separation, and some form of mediation, with a six month follow-up period to measure the frequency and seriousness of violence after each police intervention. The systematic use of these treatments, unlike a cross-sectional survey of police actions and subsequent violence, is much more effective in holding other factors constant. With sufficient numbers of cases, the social characteristics of the suspects in all three treatment groups should be very similar. The only difference between them should be due to the police actions, not to pre-existing differences in the average group tendencies to commit violence.

The design only applied to simple (misdemeanor) domestic assaults where both the suspect and the victim were present when the police arrived. The experiment included only those cases in which police were empowered (but not required) to make arrests under Minnesota state law: the police officer must have probable cause to believe that a cohabitant or spouse had assaulted the victim within the last four hours. Cases of life-threatening or severe injury, usually labeled as a felony (aggravated assault), were excluded from the design.

The predominantly minority female research staff was then supposed to contact the victims* for one long interview, and telephone followup interviews every two weeks for 24 weeks. The interviews were designed to measure the frequency and seriousness of victimizations caused by the suspect after the police interventions. We even planned to interview the offenders, although without much optimism about a high response rate. The research staff were also to gather data on offense reports or arrest reports that mentioned the suspect's names during the six month followup, as well as police cars dispatched for domestic disturbances to the victim's address.

* of whom 57% were white, 23% were black, and 18% were Indian in the randomized subset analyzed below.

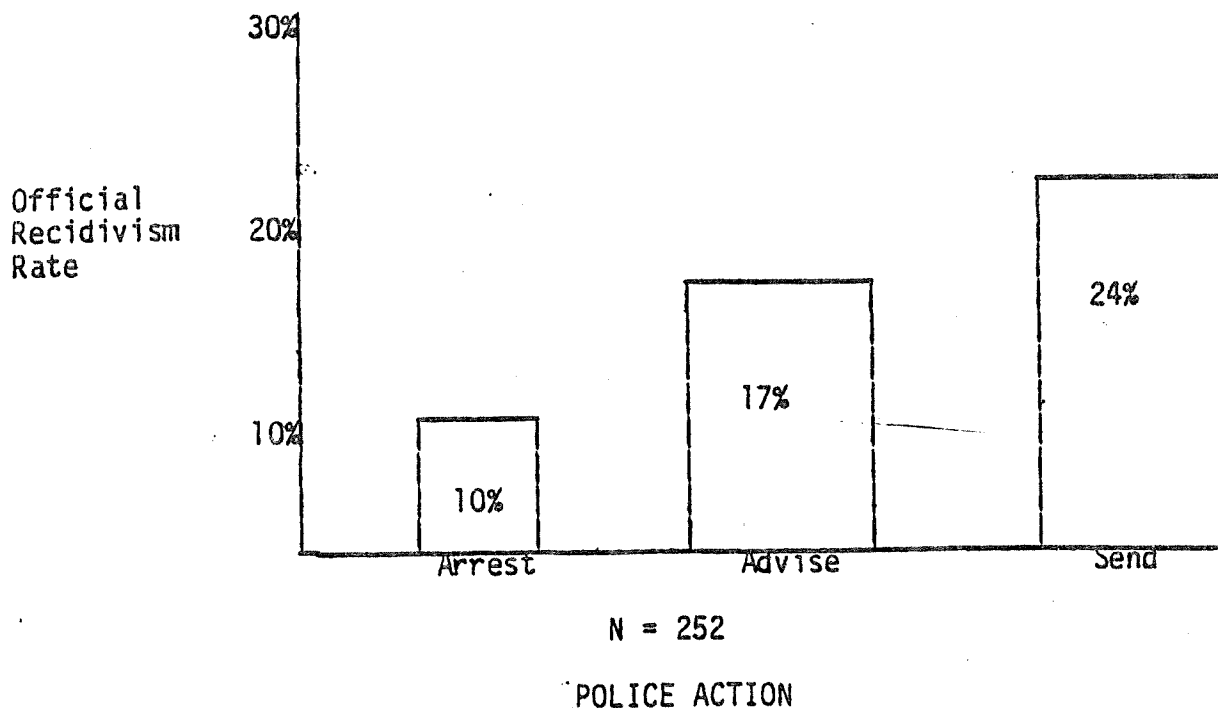
The implementation of the research design entailed slippage from some aspects of the original plan, but remained remarkably close to achieving the overall structure of the design.

Results

This preliminary analysis examines two of the possible outcome measures. One is a "failure" of the suspect to survive the six month followup period without having police generate a written report on the suspect for domestic violence, either through an offense report, an arrest report, or a subsequent report to the project research staff of a randomized (or other) intervention by study officers. A second measure comes from the initial interviews, in which the research staff asked the victims what happened when the couple was alone again without the police present.

TABLE 2

Six-Month Official Recidivism Rate For Domestic Violence Suspects By Police Action For Randomized Subset



The official recidivism or "failure" data demonstrate a strong difference between suspects arrested and suspects ordered to leave the residence for eight

hours, as Table 2 shows. The "sent" suspects were almost two and a half times more likely to generate a new official report of domestic violence than the arrested suspects, a difference that is statistically significant. The differences between advise and send, and between advise and arrest could have been obtained by chance. But additional analyses of these differences makes all of them close to being statistically significant.

An obvious rival hypothesis to the deterrent effect of arrest is that arrest incapacitates. If the arrested suspects spend a large portion of the next six months in jail, they would be expected to have lower recidivism rates. But the initial interview data show this is not the case: of those arrested, 43% were released within one day, another 43% were released within one week, and only 14% were released after one week or had not yet been released at the time of the initial victim interview. This much incarceration is nowhere close to eating up 60% of the time at risk of the send group, which is what would be required to explain away the differences as an incapacitation effect. We can therefore eliminate incapacitation as an explanation of the differences in six-month recidivism rates.

Discussion

How much should one make of these results? Several cautions are clearly required before reaching any policy conclusions, yet there are reasons to place some confidence in these results regardless of the cautions.

One caution is that this paper only presents two measures of recidivism. We have yet to analyze several other measures. One is the followup interviews of the victims, reporting the frequency and seriousness of the violence they suffered over six months, much of which may not have come to the attention of

the police. Another measure is the record of police cars dispatched to the victims' addresses for domestics or related calls for service over the six month followup period. Since all measurement is imperfect, multiple measures pointing to the same conclusions strengthen confidence in the conclusion. If these additional measures of six month recidivism show the same differences across police actions, then we can be much more confident that the differences are real. If they do not show the same pattern, then the interpretation of the results will become less certain. But since the first cut at the followup interview data shows the same pattern as the official recidivism data, we are optimistic that the measures will not be inconsistent.

A further caution is that the "advise" category is a catchall, done in different ways by different officers. Some of them give threats and leave. Others sit down and talk. Others refer the couple to counseling, women's shelters, or the police chaplain. Depending on how it is done, it is still possible that some advising may be more effective than arrest, or even less effective than send, in reducing the risks of subsequent violence.

Despite all the cautions, it is clear that the recidivism measure is lowest when police make arrests. And in many ways, it is the most important measure in the study. It is also the measure that has been used to evaluate most programs for reducing individual criminal behavior. So it is not totally incautious to assume that we do have some reliable differences in violence in the three categories.

What of the policy implications of these findings? We should be very cautious in jumping to policy recommendations from these data. Even when the analysis is complete, it will still only be one experiment. In the physical sciences, many replications--sometimes hundreds--would be needed before reaching a policy conclusion. Moreover, it is still possible that the other measures of recidivism may be inconsistent with the police report data presented here.

Nonetheless, public policy cannot always wait for perfect information, and must rely on the best available facts, even if they turn out later to be wrong. Whether by subsequent analysis of these data, or by subsequent replications, it is possible that further study could lead to different conclusions. Hence, policy-makers should never assume studies "prove" anything; studies merely provide one more piece of information.

This preliminary analysis apparently suggests that, other things being equal, police should arrest suspects for simple domestic assault rather than sending them out of the residence, or even (perhaps) advising the couple. This implication is weakened by all the cautions we have noted. But it is strengthened by the nature of the recidivism measure. Assuming that those offenders who are more aggressive to the police are also more aggressive to their spouses, these findings probably show how to deal with that most aggressive group of "tough cases." Even if the other measures show different patterns for the full range of offenders, these findings could still hold true for what are possibly the most serious cases. We can check this by analyzing the other measures while controlling for criminal records, sample size permitting.

Other things are not equal, of course. Police actions may always have different effects on different people, depending on the maze of factors that influence human behavior. Just as there is no replacement for a doctor's diagnostic judgment, there may be no replacement for a police officer's judgment. Both doctors and police can be wrong, but their use of judgment may be preferable to an automatic rule that applies to every case of lymphatic cancer or spouse assault.

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No matter how reliable these findings, there may still be cases in which arrest will backfire. We will try to say more about that in subsequent reports. But the last policy implication that should be drawn from this analysis is that arrests for simple domestic assault should be made mandatory. It may be reasonable to recommend from these findings that police should make more arrests and fewer sends. The data do not necessarily support a recommendation of always making an arrest.

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