Violence Against Women: Synthesis of Research for Criminal Justice Policymakers

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This report is intended to synthesize the literature on violence against women for policymakers and program administrators at the Federal, State, and local levels who face challenging decisions about how society should respond. The first part of the report is devoted to educating policymakers about the methodological foundations on which magnitude estimates of violence against women are based. Because policies aimed at the prevention and amelioration of the consequences of this violence are inextricably linked to magnitude estimates, an understanding of the methodological intricacies that produce such estimates is essential to policymakers. The latter sections of the report review particular policy initiatives related to violence against women, including arrest for intimate partner violence, mandatory arrest policies, civil protection orders, and rape reform legislation. The report concludes with a synopsis of model antistalking and domestic violence statutes.

How We Estimate the Magnitude of Violence Against Women

Despite more than two decades of research, the magnitude of intimate partner violence against women is still frequently disputed. For many reasons, including the historical stigma attached to intimate partner violence, fear of retaliation from perpetrators, and other safety concerns, estimating incidence rates of this violence has always been a difficult task. Estimates of intimate partner violence against women cannot be appropriately discussed without giving adequate attention to the methodologies on which these estimates are based.

Uniform Crime Reports

The most enduring source of statistical information about violent crime in the United States is the Uniform Crime Reports (UCR) compiled by the Federal Bureau of Investigation (FBI). The UCR has collected information about criminal incidents of violence that are reported to the police since 1930. However, using police reports to estimate the incidence of violence between intimates and family members is problematic for several reasons. Perhaps the foremost reason is that a large percentage of these crimes are never reported to police. Based on comparisons with national survey data, it is estimated that only about 40 to 50 percent of crimes become known to police (Reiss and Roth, 1993). For the reasons stated at the beginning of this report, percentages for violent crimes committed by intimates and other family members may be much higher. In addition, except for the crime of homicide, the current UCR does not include information on the victim-offender relationship within its reports. Thus, it is not possible to determine the magnitude of violence against women by specific offenders, including assaults by intimates.

National Incident-Based Reporting System

In 1988 the FBI delineated data standards for its incident-based data reporting system (NIBRS), which many believe to be the most likely source of comparable State statistics on incidents of violence against women reported to police. Although NIBRS does not include a code for domestic violence offenses, it is possible to estimate intimate partner violence from NIBRS data because information on victim-offender relationships is collected for crimes against persons and robbery. Using this information, intimate and other family violence estimates can be calculated for any offense category. One problem with NIBRS, however, is that the coding scheme for

relationship categories does not include the relationships of ex-boyfriend/ex-girlfriend, child in common, or shared domicile. Thus, a significant proportion of intimate partner violence against women would be misclassified and ultimately not counted as such.

The NIBRS data collection method also has the major problem inherent in the UCR program. If victimizations are not reported to police, they are not counted in either data collection system. Because of this weakness, random-sample surveys of the population have begun to be used as the social science tool of choice for uncovering incidents of violence within families in general and against women in particular. However, as can be imagined, surveys that employ diverse methodologies and different definitions of violence have resulted in tremendously diverse estimates. As Carlson et al. (2000) summarize, estimates of how many women experience violence by an intimate partner annually range from 9.3 per 1,000 women (Bachman and Saltzman, 1995) to 116 per 1,000 women (Straus and Gelles, 1990). Further, the differences among survey methodologies often preclude direct comparison of studies. Only three large, nationally representative surveys have estimated annual rates of intimate partner violence: the National Family Violence Survey (NFVS), the National Crime Victimization Survey (NCVS), and the recently conducted National Violence Against Women Survey (NVAWS). Because of their methodological differences, each survey has yielded different estimates of intimate partner violence. While most intimate partner violence researchers are aware of the methodological differences inherent across surveys, few policymakers consider these differences when generalizing about incidence rates of violence against women. This has led to widespread confusion and controversy. To reduce this confusion for policymakers, the remainder of this section will discuss the methodological differences across these surveys and highlight some of the reasons for the diverse estimates of intimate partner violence.

The National Family Violence Survey

The NFVS was the first national survey devoted exclusively to estimating incidents of intimate partner violence. Its sample included only married or cohabiting couples and measured violence using the Conflict Tactics Scale (CTS) (Straus and Gelles, 1990). The introduction to the CTS asks respondents to "think of situations in the past year when you had a disagreement or were angry with a specified family member (husband, child, etc.)" and to indicate how often they engaged in each act included in the CTS. The list of acts covered in the CTS spans many tactics, including reasoning, verbal aggression, and physical aggression or violence. Physical violence as defined by the CTS index is often subdivided into two categories: minor violence and severe violence. These categories consist of the following acts:

Minor violence

- threw something;
- pushed, grabbed, or shoved; and
- slapped.

Severe violence

- kicked, bit, or hit with a fist;
- hit or tried to hit with something;
- beat up;
- choked;
- threatened with a knife or gun; and
- used a knife or fired a gun.

Estimates from the 1985 NFVS show a violence rate of 116 acts per 1,000 couples; almost 1 out of 8 husbands carried out one or more violent acts during the year of the study. The rate of severe violence perpetrated by husbands indicates that about 1.8 million women were beaten by their partners that year. The NFVS also estimates, however, that rates of violence perpetrated by wives against husbands are very similar to rates of violence perpetrated by husbands against wives. Herein lies one of the most frequent criticisms of the CTS methodology: that it measures acts of violence in isolation from the circumstances under which the acts were committed. As critics point out, the CTS ignores who initiates the violence, the relative size and strength of the persons involved, and the nature of the participants' relationship (Dobash et al., 1992; Saunders and Size, 1986). Straus and Gelles (1990) themselves, however, are quick to point out that the meaning behind these estimates is often misunderstood. They acknowledge that,

> To understand the high rate of intrafamily violence by women, it is also important to realize that many of the assaults by women against their husbands are acts of retaliation or self-defense. One of the most fundamental reasons why women are violent within the family (but rarely outside the family) is that for a typical American women, her home is the location where there is the most serious risk of assault. (p. 98)

A new version of the CTS, the CTS2, has been developed to address some of the methodological deficiencies of the original CTS (Straus et al., 1996). However, the CTS2 still does not permit researchers to account for the sequence of events that precipitate an act of violence. Thus, acts of aggressive violence still cannot be separated from assaults that were acts of self-defense (DeKeseredy and Schwartz, 2000).

The National Crime Victimization Survey

Sponsored by the Bureau of Justice Statistics (BJS), the NCVS is the second largest ongoing survey sponsored by the U.S. Government. Unlike the NFVS, which includes only married or cohabiting couples within its sample, the NCVS interviews all household members age 12 or older. To measure incidents of violence by intimate partners and family members, the NCVS asks the following questions after the general questions about acts of violence or theft:

- Other than any incidents already mentioned, has anyone attacked or threatened you in any of these ways:

  (a) With any weapon, for instance, a gun or knife?
  (b) With anything like a baseball bat, frying pan, scissors, or a stick?
  (c) By something thrown, such as a rock or bottle?
  (d) Include any grabbing, punching, or choking?
  (e) Any rape, attempted rape, or other type of sexual attack?
  (f) Any face to face threats?
  (g) Any attack or threat or use of force by anyone at all?

  Please mention it even if you are not certain it was a crime.

- Incidents involving forced or unwanted sexual acts are often difficult to talk about. Have you been forced or coerced to engage in unwanted sexual activity by:

  (a) Someone you didn't know before?
  (b) a casual acquaintance?
  (c) someone you know well?

If respondents reply in the affirmative to one of these latter questions, interviewers next ask, "Do you mean forced or coerced sexual intercourse?" to determine whether the incident should be recorded as rape or as another type of sexual attack.

To further cue respondents about incidents of victimization that are not committed by strangers, they are then asked,

- People often don't think of incidents committed by someone they know. Did you have something stolen from you OR were you attacked or threatened by:

  (a) someone at work or school?
  (b) a neighbor or friend?
  (c) a relative or family member?
  (d) any other person you've met or known?

The National Violence Against Women Survey

This survey was introduced as a survey on "personal safety" and respondents were queried about myriad issues, including rapes and physical assaults they had experienced as children and adults.

Unlike the inexplicit screening questions for rape used by the NCVS, the NVAWS obtained information on incidents of rape using the following behavior-specific questions:

- [Female respondents only] (1) Has a man or boy ever made you have sex by using force or threatening to harm you or someone close to you? Just so there is no mistake, by sex we mean putting a penis in your vagina.

- [For all respondents] (2) Has anyone, male or female, ever made you have oral sex by using force or threat of force? Just so there is no mistake, by oral sex we mean that a man or boy put his penis in your mouth or someone, male or female, penetrated your vagina or anus with their mouth.

- (3) Has anyone ever made you have anal sex by using force or threat of harm? Just so there is no mistake, by anal sex we mean that a man or boy put his penis in your anus.

- (4) Has anyone, male or female, ever put fingers or objects in your vagina or anus against your will or by using force or threats?

- (5) Has anyone, male or female, ever attempted to make you have vaginal, oral, or anal sex against your will, but intercourse or penetration did not occur?

The NVAWS measured physical assault by using a modified version of the CTS (Straus, 1979). Respondents were asked about assaults they had experienced as children and as adults using the following screening questions:

- When you were a child, did any parent, step-parent, or guardian ever . . . . [To measure assault as an adult, respondents were further asked:] Not counting any incidents you have already mentioned, after you became an adult, did any other adult, male or female, ever:

  (a) Throw something at you that could hurt?
  (b) Push, grab or shove you?
  (c) Pull your hair?
  (d) Slap or hit you?
  (e) Kick or bite you?
  (f) Choke or attempt to drown you?
  (g) Hit you with some object?
  (h) Beat you up?
  (i) Threaten you with a gun?
  (j) Threaten you with a knife or other weapon?
  (k) Use a gun on you?
  (l) Use a knife or other weapon on you? (Tjaden and Thoennes, 1998a)

Making Estimates of the NCVS and NVAWS Comparable

Clearly, the ways in which women are asked about their victimization experiences will influence the magnitude estimates obtained. Moreover, sampling differences and estimation procedures also affect magnitude estimates. It should be clear that published estimates of violence against women from each survey described in this report should not be compared without using

sufficient methodological modifications. Nevertheless, policymakers and researchers alike still frequently make these comparisons. It is the ubiquitous apples-and-oranges problem. When you ask, "How many women experience violence each year?" the answer you obtain is inextricably linked to survey methodologies. To facilitate comparisons across these three survey methodologies, exhibit 1 displays the key differences.

Exhibit 1. Factors That May Contribute to the Different Incidence Rates of Violence Against Women From the Three Instruments Used at the National Level and the Revised Conflict Tactics Scale 2

Methodology	National Crime Victimization Survey (NCVS)	National Violence Against Women Survey (NVAWS)	National Family Violence Survey: Conflict Tactics Scale (CTS)	Conflict Tactics Scale 2 (CTS2)
Sample	National probability sample of individuals age 12 and over. May result in lower estimates due to decreased risk of victimization for those age 12–18 and those 65 or older.	National probability sample of women 18 years of age and older.	National probability sample of married or cohabiting heterosexual couples 18 years of age or older. May result in higher estimates.	Not conducted at the national level at this writing.
Asks specifically about violence perpetrated by current and former intimate partners (e.g., husbands and boyfriends)	No. Asks about victimizations perpetrated by "friends" and/or "family members."	Yes. Asks about victimizations perpetrated by current and former partners.	Asks only about victimizations perpetrated by "current partner."	Asks only about victimizations perpetrated by "current partner."
Behaviors included in screening questions asking about violence	Were you attacked or threatened, attacked or threatened with any weapon, with anything like a baseball bat, frying pan, scissors, or a stick, by something thrown such as a rock or bottle, any grabbing, punching, or choking, any rape or sexual attack, any face to face threats, any attack or threat or use of force.	Threw something at you that could hurt, pushed, grabbed, or shoved, pulled your hair, slapped or hit you, kicked or bit you, choked or attempted to drown you, hit you with some object, beat you up, threatened you with a gun, threatened you with a knife or other weapon, used a gun, knife or other weapon.	Threw something at partner, pushed, grabbed, or shoved, slapped, kicked, bit, or hit with fist, hit or tried to hit with something, beat up, choked, threatened with a knife or gun, used a knife or fired a gun.	Threw something at partner that could hurt, threatened to hit or throw something, twisted partner's arm or hair, pushed or shoved, grabbed, slapped, used knife or gun, punched or hit, choked, slammed against wall, beat up, burned or scalded, kicked.
Asks behavior-specific questions about sexual assaults	No. Asks about "rape," "sexual attacks," and "unwanted sexual intercourse."	Yes. (E.g., asks specifically about types of unwanted sexual activity including "a man or boy putting his penis in your vagina," "mouth," or "anus").	No questions about sexual assaults are asked.	Asks nonbehavior-specific questions but includes acts of "sex," and "oral" and "anal" sex.

Exhibit 1 continued

Methodology	National Crime Victimization Survey (NCVS)	National Violence Against Women Survey (NVAWS)	National Family Violence Survey: Conflict Tactics Scale (CTS)	Conflict Tactics Scale 2 (CTS2)
Number of times respondent interviewed	Respondents interviewed multiple times, including bounding first interview. This has been shown to produce lower estimates.	Respondents interviewed only once.	Respondents interviewed only once.	Respondents interviewed only once.
Context of the survey	Questions asked in context of "crime survey." Since some may not view assaults by intimates as crimes, this may decrease estimates.	Questions asked in context of issues related to "personal safety."	Questions asked in context of "personal conflicts."	Questions asked in context of "personal conflicts."
Number of household members interviewed	Interviews all household members; this may prevent some respondents from disclosing incidents of violence perpetrated by other family members.	Interviews only one adult household member.	Interviews only one adult household member.	Interviews only one adult household member.
Identifies injuries resulting from violence	Yes	Yes	No	Yes
Identifies context of violence	Asks questions to distinguish acts of self-defense.	Asks questions to distinguish acts of self-defense.	Does not distinguish acts of self-defense.	Does not distinguish acts of self-defense.

Is it possible to compare incident rates across surveys? Yes and no. Because of the methodological differences across surveys, some comparisons using published estimates of intimate partner violence are invalid. For example, it is not valid to compare estimates of intimate partner violence generated from the NFVS, which interviewed only married and cohabiting couples, with estimates generated from the NCVS and NVAWS, which relied on national probability samples of women, regardless of marital status. After controlling for several sample differences, however, it is possible to make comparisons across the NCVS and NVAWS. Exhibit 2 displays estimates of violence against women from the NCVS and NVAWS when such factors as age of respondent are controlled. Compared with published reports from both surveys, general magnitude estimates of physical assault against women across surveys converge when the definitions of victim (e.g., female 18 years of age or older) and offender (e.g., lone male offender) are controlled. Estimates for rape from the NVAWS, however, are still significantly higher compared with the NCVS. This is not surprising given the more graphic behavioral-specific screening questions used by the NVAWS to uncover these victimizations. In addition, compared with the NCVS, the NVAWS results in a larger proportion of intimate-perpetrated rapes and physical assaults. Again, the more specific screening questions used by the NVAWS regarding assaultive behavior perpetrated by

husbands, boyfriends, and former intimate partners is certainly related to this finding (Bachman, 2000).

Exhibit 2. Annual Rate per 100 Women 18 Years and Older and Estimated Number of Victimizations of Rape and Physical Assault from the National Crime Victimization Survey (NCVS) and the National Violence Against Women Survey (NVAWS), 1995

	Rate per 100 Women	Estimated Number of Annual Victimizations	95% Confidence Interval
NCVS			
Rape	0.26	268,640	193,110 to 344,170
Physical assault	6.2	6,248,433	5,948,656 to 6,548,210
NVAWS			
Rape	0.87	876,064	443,772 to 1,308,356
Physical assault	5.8	5,931,053	5,605,801 to 6,250,565

For a more detailed description of the standardization procedures used, see Bachman, 2000.

Stalking

As noted in Carlson et al. (2000), the NVAWS has been the only national survey to attempt to measure the magnitude of stalking against women in the United States. Specifically, the NVAWS used the model antistalking code for States, developed by the National Institute of Justice, to define stalking as "a course of conduct directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof, that would cause a reasonable person fear, with repeated meaning on two or more occasions" (Tjaden and Thoennes, 1998a, p. 2). Using a definition of stalking that requires victims to feel a "high level of fear," the survey found that 8 percent of women had been stalked at some time in their life and that more than 1 million women are stalked annually in the United States. If a less stringent definition of stalking is used, such as one that requires victims to feel only somewhat frightened or a little frightened by their assailant's behavior, the lifetime prevalence rate increases from 8 percent to 12 percent and the annual stalking prevalence rate increases from 1 percent to 6 percent. For this latter operationalization, it is estimated that more than 12 million U.S. women are stalked annually.

Clearly, stalking represents a serious threat to women in the United States. While all 50 States and Washington, D.C., have passed antistalking legislation, virtually no States have the capacity to monitor the magnitude of these victimizations. Moreover, the NIBRS data collection effort does not include stalking as one of its crime categories.

Monitoring Violence Against Women

With the redesigned NCVS, we can now begin to monitor incidence rates of intimate partner violence over time. This is important because, historically, we have been able only to validly monitor intimate homicides over time. Intimate partner homicide refers to the murder or non-

negligent manslaughter of a person by his or her current or former spouse or current or former boyfriend or girlfriend. Recent data analyzed by the Bureau of Justice Statistics (Fox and Zawitz, 2003) for the years 1976 through 1999 indicate that the number of women and men murdered by their intimate partners has decreased over time. However, the decrease has been more significant for male victims killed by their intimate partners than for female victims. Moreover, those most vulnerable to being murdered by an intimate continue to be women. For example, in 1998, approximately 1,370 of the 1,830 victims of intimate partner homicide were women. Homicide data also indicate that the decline in intimate murder has been more significant for African-American populations than for whites, with the sharpest decrease occurring among African-American male victims.

Why have the rates of female-perpetrated homicide against their intimate partners dropped more in recent decades than the rates of male-perpetrated intimate homicide? Because a great deal of research has indicated that the killing of an intimate male partner by a woman often results from a culmination of ongoing violence against her, scholars have investigated whether factors that facilitate a woman's escape from an abusive relationship are related to this decline. For example, Browne and Williams (1989) discovered that States that had more resources for abused women, such as shelters and other services, had significantly lower rates of female-perpetrated partner homicide. They state, "By offering threatened women protection, escape, and aid, such resources can engender an awareness that there are alternatives to remaining at risk for further violent interactions" (1989, p. 91). These findings were supported by Dugan, Nagin, and Rosenfeld (1999), who found that cities with more services available to intimate partner violence victims, such as hotlines and legal services, had significantly lower rates of female-perpetrated homicide against male partners.

Gaps in Our Knowledge From Official Sources

Perhaps the most obvious gap in knowledge of magnitude estimates of intimate partner violence remains at the State level. States that comply with NIBRS standards have an adequate means to monitor intimate partner violence, yet they still record only incidents reported to police. Moreover, changes in rates of intimate partner violence over time using police reports may reflect changes in victims' willingness to report to police and/or actual changes in the incidence of intimate partner violence. Although it may not be fiscally possible to monitor intimate partner violence at State levels through annual victim surveys, it is important to begin to capture those victimizations not reported to police through periodic surveys.

At the national level, different research designs and samples will continue to produce disparate findings. Until agreed-on conceptual and operational definitions are used in research, the question of "how many" may continue to dominate in this field of study. This is unfortunate. Even the most conservative estimates of intimate partner violence indicate that it is a serious problem. Extant data sets, including the NCVS and the NVAWS, provide useful information on the epidemiology of the problem but do not illuminate questions of etiology. What is needed now are data sets that combine efforts at enumeration with efforts aimed at understanding and explaining intimate partner violence. To do this, data collection must also be theoretically guided so researchers can begin to build a knowledge base for understanding the correlates and causes of

intimate partner violence. In this way, policy aimed at preventing intimate partner violence will be more validly informed.

In addition to data from surveys such as the NCVS and the NVAWS, other types of data will continue to be needed, including surveys that measure less serious forms of violence used by couples in conflict resolution. Understanding assaults that respondents do not think of as "crimes" may be the most important information for purposes of primary prevention because these minor acts often lead to more serious assaults (Straus, 1998). In addition, qualitative data from clinical samples will continue to be valuable for providing insight into the contexts in which violence occurs. Narratives from the voices of victims can capture the nuances of contexts and uncover the enduring nature of violent relationships in a way that incidence and prevalence rates cannot.

Criminal Justice Responses to Assaults Against Women

The Efficacy of Arrest for Intimate Partner Violence

Only recently has the criminal justice system begun to treat intimate partner violence against women as a criminal matter appropriate for police and prosecutorial concern. As recently as 30 years ago, many jurisdictions viewed this type of violence as a private matter and a few even required victims of spousal assault to pay prosecutors a fee to adjudicate their batterer (Buzawa and Buzawa, 1996; Zorza, 1992). Beginning in the 1970s, however, significant lobbying by victims' rights groups in general and women's rights groups in particular began to erode the antiquated notion that intimate partner violence against women should remain behind closed doors.

In 1981, the first large-scale experiment to test the deterrent effects of arrest on batterers was conducted by Sherman and Berk (1984a, 1984b). The theoretical impetus of the Minneapolis Domestic Violence Experiment was guided by notions of specific deterrence. The primary research question driving the study was, "Does arresting a man who has assaulted his partner decrease the probability that he will assault her in the future compared to interventions which are typically used such as separating the parties?" The study required 51 patrol officers to randomly adopt one of three responses to situations in which there was probable cause to believe that domestic violence had occurred. They were either to separate the perpetrator and victim for 8 hours, advise them of alternatives that might include trying to mediate disputes, or arrest the abuser. Over a period of about 17 months, 330 cases were generated. The authors then evaluated the possible success of each various response in deterring recidivism. Recidivism was in turn measured by official arrest statistics and, when available, by victim interviews. Official arrest statistics revealed that 10 percent of those arrested, 19 percent of those advised, and 24 percent of those removed repeated the violence against their partners. From this, Sherman and Berk (1984a, 1984b) concluded that arrest provided the strongest deterrent to future violence and consequently was the preferred police response.

This pioneering experiment, along with significant lobbying work by feminist and women's organizations, generated policy changes in how the criminal justice system treated perpetrators of

intimate partner violence. Lawsuits brought against police departments for negligence and other civil claims were also instrumental in convincing law enforcement to treat violence against women by their partners like other crimes (Zorza, 1992). Today, virtually all States and Washington, D.C., have mandatory arrest policies for felony domestic assaults and warrantless arrest for unwitnessed domestic violence-related misdemeanor assaults. Mandatory arrest policies require police to detain a perpetrator when there is probable cause that an assault or battery has occurred or if a restraining order is violated, regardless of a victim's consent or protestations (Mills, 1998).

To test the validity of experimental findings, an important canon of science is replication. Accordingly, in the late 1980s, the National Institute of Justice (NIJ) funded replication-extensions of the Minneapolis experiment in six cities: Omaha, Nebraska; Milwaukee, Wisconsin; Charlotte, North Carolina; Colorado Springs, Colorado; Metro-Dade, Florida; and Atlanta, Georgia.[1] Unlike the original Minneapolis experiment, the published findings from these replication-extensions, which became known as the Spouse Assault Replication Program (SARP), have not uniformly found that arrest is an effective deterrent in spousal assault cases. In fact, the results are equivocal at best—findings range from arrest having no effect, to having a slight deterrent effect, and even to having an escalation effect on the probability of future violence.

Specifically, in Omaha, findings revealed that arrest was no more effective an intervention than either mediation or separation at 6- or 12-month intervals (Dunford, Huizinga, and Elliot, 1990). The Milwaukee study found that arrest led to a short-term deterrent effect and a decrease in violence, but only for groups who were employed, married, or white. Violence increased after arrest for groups who were unemployed, unmarried, high school dropouts, or African-American (Sherman et al., 1992). In Charlotte, researchers found that arrest did not deter recidivism any more than either advisement and possible separation or the issuance of a citation (Hirschel, Hutchison, and Dean, 1992). Similar to the Milwaukee finding for employment, the Colorado Springs study found that arrest had a deterrent effect on employed batterers but not on unemployed batterers (Berk et al., 1992). The Metro-Dade study found that arrest affected recidivism only marginally after 6 months (Pate and Hamilton, 1992).

In an attempt to systematically compare results across experimental sites, Garner, Fagan, and Maxwell (1995; see also Maxwell, Garner, and Fagan, 1999, 2001) examined the original SARP analyses in detail. While these researchers did find a modest effect for arrest in decreasing recidivism, they concluded that a minority of women were still victimized repeatedly by their intimate partners regardless of arrest.

Beyond arrest. The equivocal nature of the literature on arrest and intimate partner violence recidivism has led some researchers to investigate other factors that may interact with the condition of arrest. For example, Paternoster et al. (1997) examined whether the manner in which sanctions were imposed had an effect on intimate partner violence recidivism. Their research was motivated by a body of social psychological literature on a concept called procedural justice, which contends that conformity to group rules is as much or more due to fair procedure as it is to fair or favorable outcomes (for a review, see Tyler and Lind, 1992). A key proposition of

procedural justice is that adhering to fair procedures will cement people's ties to the social order because it treats them with fairness and worth and certifies their full and valued membership in the group. In this view, being treated fairly by authorities even while being sanctioned by them influences both a person's view of the legitimacy of group authority and ultimately that person's obedience to group norms (Tyler and Lind, 1992). Using the Milwaukee experiment data, Paternoster et al. (1997) found that when suspects perceived themselves as being treated fairly by the police, they were significantly less likely to engage in intimate partner violence in the future compared with those who perceived themselves as being treated unfairly. In fact, the effect of perceived fair treatment by police decreased the probability of offending for married and employed groups of offenders as well as the unmarried and unemployed (e.g., those with low stakes in conformity).

Others have called for research to examine whether victim empowerment influences recidivism (Mills, 1998). Although no study has controlled for the effects of victim empowerment while examining the impact of arrest on recidivism, one study examined the effects of victim empowerment in an experiment that tested the effects of mandatory prosecution (Ford and Regoli, 1993). Mandatory prosecution requires government attorneys to bring criminal charges against batterers. There is variability, however, in the extent to which victims are allowed to drop charges once they have been filed. As Mills (1998) explains, "A hard no-drop policy never takes the victim's preference to drop the charges against the batterer into consideration. A soft no-drop policy permits victims to drop the charges under certain limited circumstances (Cahn, 1992)" (p. 307).

In a randomized experiment in Indianapolis, Indiana, Ford and Regoli (1993) found that intimate partner violence recidivism differed by prosecution policy (drop versus no-drop). When victims filed charges under a drop-permitted policy and did not drop the charges, they were at the lowest risk for reabuse following adjudication compared with victims who were not allowed to drop charges. Victims in the drop-permitted condition who chose not to prosecute had the greatest risk of reabuse. Ford and Regoli (1993) believe that victims who choose to prosecute under a drop-permitted policy gain more security for themselves, which is derived from their ability to drop the charges and their decision to proceed regardless of their option to drop. They suggest that this power derives from three sources: using the possibility of prosecution as a bargaining chip, providing women a means of allying with others (including police, prosecutors, and judges), and providing women a voice in determining sanctions for the batterer.

Unintended consequences of mandatory arrest policies. Since mandatory arrest statutes have been implemented, several States have observed an increase in the number of incidents in which police arrested both the offender and the victim (dual arrests). For example, after mandatory arrest was adopted in a Minnesota county, 13 percent of the arrests in the first year were of victims; that figure rose to 25 percent the following year (Saunders, 1995). Data from the Kenosha Domestic Abuse Intervention Project indicate that after a mandatory arrest law went into effect in Wisconsin, women exhibited a 12-fold increase in arrests relative to the number before the statute; the number of men arrested doubled during the same time period (Hamberger and Potente, 1994). While some speculate that a portion of these arrests may be valid (Hamberger and Potente, 1994), others perceive more nefarious reasons for the increase in dual

arrests. As Saunders reports (1995), "Advocates suspect that a 'backlash' against new [mandatory arrest] policies has occurred among some officers because they resent limits placed on their discretion and have little sympathy for female victims to begin with. . . . Consequently, they may arrest victims on trivial charges or for violence used in self-defense" (p. 148). To decrease the probability of dual arrests, some States have incorporated language such as "primary aggressor" within their statutes. Other States have been more proactive. For example, Massachusetts law requires written justification for arresting both the offender and victim to reduce dual arrests (Mignon and Holmes, 1995).

There is a paucity of research investigating both the magnitude of dual arrests and the factors related to it. In one vignette study, Saunders (1995) found that police officers' propensity to arrest victims at the scene was related primarily to stereotypical beliefs. Police officers were more likely to arrest the victim depicted in a vignette if they believed that violence was justified in cases of infidelity. These officers were also less likely to believe that victims stayed in violent situations for practical reasons and they reported being less comfortable talking with victims in general. In another study, qualitative interviews with police administrators in Massachusetts revealed that dual arrests were more likely to occur in cases in which it was difficult to determine who was the primary aggressor and/or both parties used weapons or were injured, and when the victim assaulted a police officer (Mignon and Holmes, 1995). Clearly, more research is needed to examine the factors related to instances of dual arrest. To decrease the number of unwarranted dual arrests in the short term, some recommend that States enact primary aggressor laws that permit police to arrest *only* the party primarily responsible for the incident (see Hirschel and Dawson, 2000, for a more detailed discussion of these laws).

Given the inconsistent and sometimes deleterious consequences of mandatory arrest policies for intimate partner violence victims, some have called for a moratorium on them. For example, Mills (1998) stated, "I recommend that jurisdictions spend precious resources not on implementing mandatory policies but rather on developing programs that would provide tailored services to battered women. Toward this end, funds should be allocated to train law enforcement personnel to distinguish the fearful from those who can be empowered" (p. 316). Those who defend mandatory arrest and prosecution policies, however, have argued that victims of intimate partner violence are too helpless to make appropriate arrest or prosecution decisions or are too fearful to affirmatively decide to press charges (Hanna, 1996).

In sum, there is a great deal of ambiguity surrounding the question of how arrest affects the probability of men assaulting their partners. However, as the synthesis for law enforcement agencies written by Hirschel and Dawson (2000) demonstrates, the roles played by the police in both preventing violence and attending to its consequences are extremely complex. While the deterrent effect of mandatory arrest policies is far from clear, these laws serve other important functions including communicating to the community and to offenders and other household members that such violence will not be tolerated. More pragmatically, police intervention can also give the victim access to other support services.

Civil Protection Orders

Today, all 50 States offer victims of intimate partner violence some form of civil protection or temporary restraining order. For ease of presentation, this report will refer to them as civil protection orders (CPOs). While there is significant variability across States in the availability and the scope of relief provided, a CPO generally offers victims a temporary judicial injunction that directs an assailant to stop battering, threatening, or harming the woman and other family members and children. To obtain a CPO, statutes typically require victims to go through two steps. First, a victim obtains an order commonly referred to as an emergency order. These temporary orders are issued based on the victim's petition alone and usually expire after several weeks. At the time an emergency order is granted, the judge typically sets a date for a hearing on the second order of protection, usually referred to as the plenary or permanent order. The emergency order and notice of the plenary hearing must then be served on the respondent (assailant), who has an opportunity to attend the second hearing. If a permanent CPO is granted at the second hearing, it can generally remain in effect for 6 months to 1 year (Kinports and Fischer, 1993). In some jurisdictions, however, an order remains in effect permanently unless a petition to vacate the order is filed and granted (Harrell, Smith, and Newmark, 1993).

In theory, the advantages of a CPO, either in lieu of criminal prosecution or while awaiting criminal prosecution, include:

- An expeditious form of protection compared to a criminal hearing.
- A standard of proof based on the preponderance of evidence compared to guilt beyond a reasonable doubt standard.
- The protection of victims who are awaiting criminal prosecution or divorce or custody hearings.
- A form of early intervention in cases that do not yet fall within the purview of criminal statutes (Harrell, Smith, and Newmark, 1993).

If a batterer violates the CPO, the sanctions vary from being arrested and charged with civil contempt, criminal contempt, a misdemeanor of violating the order, or a combination of the three (Chaudhuri and Daly, 1992).

How effective are CPOs in protecting women? Unfortunately, only a few studies have investigated this question and most of these were conducted prior to the implementation of the Violence Against Women Act of 1994. One of the most ambitious assessments of CPOs was conducted in Denver and Boulder, Colorado, in 1991 by Harrell, Smith, and Newmark (1993). In this study, 350 restraining order cases were selected for examination. Methods included interviews with women 3 months after they obtained a temporary order and again 9 months later. Their reports of protection order violations were augmented by a search of court and police records for incidents during the year after the order. In addition, 142 men named in restraining orders were interviewed about the effects of the order and the consequences they anticipated should they violate

the CPO. To examine the implementation of the CPOs, data on court and police procedures for processing and enforcing the orders were gathered through interviews with criminal justice system personnel and court observation. In their sample, Harrell, Smith, and Newmark (1993) found that the history of abuse and violence experienced by the women seeking a temporary restraining order was extensive; 56 percent of the women reported that they had sustained a physical injury during the incident that led them to seek relief with a CPO.

Although both Denver and Boulder had procedures that helped women obtain CPOs—such as assistance with the forms and waivers of court fees for indigence—Harrell, Smith, and Newmark (1993) still uncovered several barriers to their acquisition. The first of these barriers was the complexity of filing the forms themselves. While a packet of instructions was available, they were complex and in English only. Only Denver had bilingual staff available to guide women through the process of completing the forms. Receiving a permanent order also proved difficult for many women; 40 percent of those who obtained temporary orders did not return for permanent orders. While the most frequently cited reason was that the man stopped bothering her, more than 40 percent of the women said the reason they did not return for the permanent order was because they were unable to get the temporary order served on their partner. Many steps could be taken to eliminate this obstacle, including informing women at the time of filing that they could return to court at any time and also encouraging sheriffs to assist women who cannot find their partners to serve the papers. In addition, one-third of the women reported that pressure from the man or fear of retaliation from the accused compelled her to drop the petition. Harrell, Smith, and Newmark (1993) suggest that temporary orders include explicit directions that coercion of the woman to drop the order is also prohibited. In addition, judges might spend time in the hearing reviewing steps the woman could take if she is being pressured by the man. Another obstacle involved lack of specificity on the order itself. For example, 30 percent of the women did not get something they needed in the order, including specifics about visitation by their partner with their shared children or provisions that he not be allowed at her place of work or her parents' house.

Harrell, Smith, and Newmark (1993) also found that calls to the police because of violations of CPOs were high, but arrest after such calls was rare despite the law making violations of the CPO a criminal offense. Only 59 arrests were made in the 290 incidents reported to the police. Not surprisingly, then, women's satisfaction ratings with the police response to violations plummeted compared with their satisfaction with the police response to the original incident that led to the CPO.

The primary recommendation offered by Harrell, Smith, and Newmark (1993) was that all parties involved, including victims, judges, and law enforcement, require education about what the order prescribes and proscribes. Victims need to understand how CPO violations can be reported to the court and police need further education regarding the correct response to violations.

Kinports and Fischer (1993) examined the efficacy of CPOs through a different method: by surveying domestic violence organizations nationwide that help battered women obtain protection orders. Similar to the findings by Harrell, Smith, and Newmark (1993), Kinports and Fischer

found that although the statutes themselves were generally protective of women's interests, there were serious problems with implementing CPOs. Along with specific implementation problems, a large proportion of service providers believed that women of color, women with few economic resources, and non-English-speaking women were particularly vulnerable to the barriers blocking access to CPOs. One of the most serious access problems identified by respondents was the lack of knowledge regarding the availability of protection orders to begin with. In addition, echoing the findings of Harrell, Smith, and Newmark (1993), the majority of respondents believed that many women had trouble completing even the "simplified forms" on their own and only 3 percent indicated that forms were available in a language other than English. As reported by Kinports and Fischer (1993), one respondent stated, "Almost all petitioners who have first tried to fill out their own papers without our assistance give up because of the volume of papers, the length of instructions, and an inability to fully understand the instructions" (p. 172). Other barriers to CPOs were logistical and included great distances to the courthouse, access to courts and judges during weekdays only, and the necessity to take time off from work or find babysitters for lengthy and often unpredictable periods of time.

Once a woman has been successful in obtaining a CPO, Kinports and Fischer's (1993) research found that enforcement of the order was the weakest link in the system. Almost half of the respondents described the enforcement procedures in their counties as poor or very poor, and only about 6 percent said that they worked well. Analysis of their survey data indicated several problems inherent in the enforcement process:

- Law enforcement officials were slow to serve emergency orders and often refused to arrest violators.
- Prosecutors were reluctant to press charges against those who violated CPOs.
- Judges imposed minimal sentences even on repeat violators.

The barriers to the enforcement of CPOs by these two studies have been found by other researchers as well (Chaudhuri and Daly, 1992; Gondolf et al., 1994).

Do CPOs protect women? In sum, the few studies that have been conducted have found that while protection orders were useful for preventing violence in some cases, they were less effective in preventing new incidents of violence from men who had long histories of violent behavior (Harrell, Smith, and Newmark, 1993; Keilitz, Hannaford, and Efkeman, 1997). When law enforcement officials were successful in intervening against violations of CPOs, however, women were protected against continuing violence.

To increase the efficacy of CPOs, Kinports and Fischer (1993) recommended the creation of coalitions or task forces to facilitate communication among the relevant constituencies to improve enforcement procedures for CPOs. Typically, these coalitions include representatives from the local domestic violence program, the police department, the prosecutor's office, the judiciary, and perhaps local hospitals and private attorneys. Their data indicated that jurisdictions

with such coordinated response systems had significantly fewer barriers to access to the courts, the procedures for obtaining CPOs, and the enforcement process. Kinports and Fischer (1993) concluded, "To a substantial degree, . . . the statutes themselves are fairly thorough and protective of women. The real challenge is much more difficult—to effect changes in the ways the legislation is implemented. To a large extent, that goal requires altering the attitudes of the officials charged with applying and enforcing the statutes" (p. 246).

Coordinated responses to violence against women across the domains of criminal justice, social services, and victim advocacy groups are increasingly being employed to both prevent and ameliorate the consequences of this violence (Worden, 2000). Unfortunately, there is extreme variability in how agencies have coordinated across communities. Some include limited partnerships between domestic violence programs and specific criminal justice agencies while others are comprehensive interventions run by nonprofit agencies (Hart, 1996). Moreover, these efforts have proven to be somewhat transitory in nature, depending, for example, on the availability of funds from external resources like the Office of Community Oriented Policing Services.

Research evaluating the extent to which coordinated community responses actually decrease rates of future violence compared to other discrete experiences such as arrest is limited. While some researchers have found no difference in recidivism rates for offenders sanctioned under coordinated efforts compared to more traditional sanctions (Steinman, 1991; Syers and Edleson, 1992), others have found that an accumulation of responses, as used by a coordinated community response effort, did reduce recidivism (Murphy, Musser, and Maton, 1998). Despite this paucity of empirical support linking coordinated community responses to lower recidivism rates, participants in local task forces and coalitions are seeking coordinated efforts with increasing frequency under the assumption that organizing a few elements of the community's response around a common objective (e.g., to prevent violence against women) will produce better results than creating new practices or programs.

Criminal Justice Responses to Rape and Sexual Assault Against Women

Less than two decades ago, most State rape statutes required that the victim promptly report her victimization to police, that the victimization be corroborated by other witnesses, that the victim demonstrate that she physically resisted her attacker, and that judges could provide cautionary instructions to the jury about the difficulty of determining the truth of a victim's testimony. Prior to reforms, most State statutes also narrowly defined rape as sexual intercourse with a woman, not one's wife, by force or against her will.

Beginning in the early 1970s, activism by various feminist groups and other civil rights groups led to a growing awareness about the antiquated nature of rape laws in this Nation. This awareness provided the impetus for the rape law reforms enacted by States that followed. By 1980, most States had passed some form of rape reform legislation. Although the nature and scope of rape law reforms varied significantly across jurisdictions (Berger, Newman, and Searles,

1991; Field and Bienen, 1980; Galvin, 1985; Soshnick, 1987), Horney and Spohn (1991) note four common reform themes:

- Replacing the single crime code of rape with a series of offenses graded by seriousness with commensurate penalties, usually gender- and relationship-neutral (e.g., including both rapes against males and females by both stranger and known offenders, including intimate partners).

- Changing consent standards by modifying or eliminating requirements that victims resist their attackers.

- Eliminating corroboration requirements.

- Enacting rape shield laws that place restrictions on the introduction of evidence concerning the victim's prior sexual conduct.

Today, most State sexual assault statutes are gender- and relationship-neutral. Consequently, most statutes have vastly changed the limited definition of rape that was once operationalized as "carnal knowledge [penile-vaginal penetration only] of a woman forcibly and against her will" (Bienen, 1980, p.174). One example that typifies the range of behaviors included in sexual assault statutes is provided by the definition of a sexual act in U.S. Federal Code (18 U.S.C. § 2245):

> (A) contact between the penis and the vulva or the penis and anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or (C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

The intended goals of rape law reforms have been somewhat diverse. Obviously, different reform groups had different agendas. In addition to changing the public's conceptualization of the crime of rape and of rape victims, rape law reformers intended to modify existing criminal justice practices. In general, it was hoped that legal reforms would serve a symbolic purpose by educating the public about the seriousness of all forms of sexual assault and would decrease the stigma and stereotypes associated with rape victims. It was hoped that reforms would eradicate the conditions thought to impede rape prosecutions, such as the ability of defense attorneys to use a victim's sexual history to impeach her character. The impacts of both the symbolic and the instrumental effects of reforms were intended to be complementary. For example, changes in public conceptions about what rape "really was" and who "really rapes" were expected to lead to more reports of rape to the police by victims. Simultaneously, jurors were expected to become more sensitive to both the victimization and stigmatization of rape victims. Consequently, it was hoped that rape reports, arrests, convictions, and rates of imprisonment (especially for nonstereotypical acquaintance rapes) would all increase (see generally Spohn and Horney, 1992).

Results of Rape Law Reforms

Have rape reforms achieved these goals? Surprisingly, little research has investigated the effectiveness of rape law reforms. Further, results of the studies that have been undertaken remain equivocal at best. For example, studies using data from the 1970s and early 1980s found that women raped by known offenders were significantly less likely to report their victimizations to police compared with women raped by strangers (Feldman-Summers and Ashworth, 1981; Lizotte, 1985; Williams, 1984). However, using data from the late 1980s, Bachman (1993) found that the victim-offender relationship no longer played a significant role in predicting the likelihood that a rape victimization would be reported to police. This finding was immediately attacked on statistical and conceptual grounds (Pollard, 1995; Ruback, 1993). As Ruback (1993) wrote,

> Given that Bachman's finding regarding the victim-offender relationship was not significantly different from prior studies and given the large body of evidence that the victim-offender relationship has been and continues to be important, it is premature to say that the victim-offender relationship does not matter. . . . A more reasonable statement, given the available data, would be that this relationship matters less than it did 15 years ago. (p. 278)

Using data from the redesigned National Crime Victimization Survey for 1992 through 1994, Bachman (1998) replicated her earlier work examining the factors related to police reporting behavior of rape victims. Consistent with her earlier finding (1993), she found that once other factors such as injury were controlled, the victim-offender relationship did not significantly predict the reporting of rape to police, even though a higher percentage of stranger-perpetrated rapes were reported to police. In addition, Bachman (1998) found that women who were raped by known offenders were more likely to report that an arrest had been made as the result of their reports compared with women who had been raped by strangers. This is a reasonable finding, given the greater likelihood of victims being able to identify known offenders compared with strangers and police thus being more likely to apprehend them. This finding is also supported by research by Kerstetter and Van Winkle (1990), who found that in a sample of 671 sexual assault complaints made to the Chicago Police Department, the accused was in custody in 62 percent of the acquaintance cases compared with only 31 percent of the stranger cases.

Do these results indicate that the victim-offender relationship is not important to a woman's decision to report a rape victimization to police or to the criminal justice system's response? It would be premature to conclude that the victim-offender relationship is not important, particularly given the fact that percentage differentials in reporting still exist across relationship categories at the univariate level. However, it would also be remiss to ignore the increasing propensity of women raped by men they know to bring their victimizations to the attention of authorities. Trend data from the NCVS before the redesign indicate that although police reporting rates for all rapes have increased since the survey began in 1972, reports to police by victims raped by nonstrangers have increased at a faster rate than reports made by victims raped by strangers (Bachman and Paternoster, 1994). Findings from prison inmate surveys lend support to this trend. Analyzing the victim-offender relationship of rape offenders incarcerated in State

prisons over a 10-year period, Bachman and Paternoster (1994) found that a significantly higher proportion of inmates incarcerated for rape in 1991 knew their victims compared with those incarcerated for rape in the early 1980s. Cumulatively, these findings appear to suggest that women who are sexually assaulted by known offenders may not be as reluctant to report their victimizations to police as they once were, and the criminal justice system may be treating acquaintance- and stranger-perpetrated rapes more equitably.

The backdrop behind which these findings are presented, however, is still troublesome. Less than one-quarter of the rape victimizations from the NCVS are ever reported to police, regardless of the victim-offender relationship. This dismal percentage underscores the difficult choice rape victims still face when deciding whether to report their victimization to authorities. Clearly, other barriers still prevent rape victims from making a report. Qualitative data are very informative in illuminating these barriers. For example, Wiehe and Richards (1995) found guilt and self-blame to be among the primary reasons why a sample of 236 victims of acquaintance rape did not report their victimizations to the police. As they report,

> Fear, guilt, and shame to a large extent account for their failure to report. Self-blame is a recurring theme in survivors' comments. . . . In some instances, the self-blame was seen reinforced by family or friends, who, on hearing of the assault, overtly or covertly blamed the victim for what occurred. "Why did you invite him to your apartment?" "Why did you go to his house?" "Were you drinking at the time?" These and similar questions, although on the surface appear to be asking for information, in essence are blaming the victim for what happened. (p. 30)

Another reason acknowledged by women for not reporting to police is the lack of confidentiality provided to rape victims who do report. For example, a recent survey suggested that women would be less inhibited about reporting a sexual assault if they could be assured that their names would not appear in the newspaper and that their anonymity would be protected (Kilpatrick, Edmunds, and Seymour, 1992). An obvious policy implication to eradicate this barrier would be legal statutes that guarantee a rape victim's right to confidentiality by prohibiting the news media from disclosing their names and addresses. However, because the U.S. Constitution guarantees defendants the right to a public trial and the right to face their accusers, this goal may never be realized, and it is unlikely that the media would take it upon themselves to provide such anonymity without being compelled to do so. A more likely avenue of change may lie in continued educational efforts to increase societal awareness about rape and to eradicate the persistence of rape myths that still exist in society.

Research examining changes in conviction and incarceration rates since reforms were implemented have also remained equivocal (Bachman and Paternoster, 1994; Spohn and Horney, 1992). In Michigan, for example, where the first and most comprehensive reforms were implemented, research has found increases in the number of arrests and convictions for rape but no change in the number of rapes reported to police (Marsh, Geist, and Caplan, 1982). In California, Polk (1985) found an increase in the probability that those convicted of rape would be sentenced to a State institution but no increase in clearance rates for rape or court filings. After

evaluating the impact of rape law reforms on reports of rape and on the processing of rape cases in six urban jurisdictions, Horney and Spohn (1991) concluded that "our overall finding was the overall lack of impact of rape law reforms. . . . [W]e have shown that the ability of rape reform legislation to produce instrumental changes is limited" (pp. 149–150). Bachman and Smith (1994), however, revealed a more positive picture of reform effectiveness. Using more refined data, such as age- (victims over 18) and gender-specific (male offenders and female victims) incidents of rape, they found increases in both conviction and incarceration rates of rape offenders at the national level and in three States they examined.

Using specificity regarding the age and gender of the rape victim when examining aggregate rape and sexual assault data is important. Most of the research investigating rape from the NCVS as well as data from police reports from single jurisdictions have included rapes of minors or rapes involving multiple offenders. This poses a serious interpretive problem. "Rape and sexual assault" as used by most jurisdictions and the NCVS includes such things as incest and other sexual offenses against minors in addition to other dissimilar offenses like sodomy against a male (Langan and Wolf-Harlow, 1994). In fact, a recent Department of Justice study concluded that police-recorded incidents of rape in three States showed that 44 percent of the victims were younger than 18 years old and two-thirds of violent sex offenders serving time in State prisons said their victims were younger than 18 (Greenfeld, 1997). In sum, using aggregate data that do not distinguish between these heterogeneous incidents can obviously affect the outcome measures under study, particularly when assessing the efficacy of rape reforms. Clearly, more research is needed that uses age- and gender-specific incidents of rape to more validly examine the efficacy of rape law reforms.

Coordinated Community Responses and Special Units for Sexual Assaults

Today, it is not uncommon for jurisdictions to have specialized units that respond to incidents of rape and other sexual assaults. These units have come to be known as sexual assault response teams (SARTs) and often include a coordinated response to the victimization with victim assistance workers, special prosecutors, and investigators. One recent addition to these teams is the use of sexual assault nurse examiners (SANEs) who typically provide expert testimony for the prosecution (Campbell and Boyd, 2000).

Although no evaluation studies of SARTs have been conducted, most researchers and advocates believe that such units will increase the criminal justice system's sensitivity toward sexual assault victims, thereby decreasing the trauma that has been historically associated with reporting a sexual assault to police. For example, the team approach used by many SARTs allows for vertical prosecution, which alleviates the need for a victim to repeatedly relive the trauma by describing the assault to numerous entities along the adjudication process.

Criminal Justice Responses to Stalking

The issue of stalking received national attention in 1989 with the shooting death of actress Rebecca Schaeffer by a man who had been following her for 2 years. Partly in response to this slaying, California passed the Nation's first antistalking legislation in 1990.[2] Prior to this

legislation, stalking was not considered a criminal offense in any State. Consequently, police had little power to arrest someone who behaved in a threatening way, even though such behavior caused the victim extreme distress. Although traditionally associated with celebrities, stalking was soon illuminated by the media as often a serious problem for women in general, many of whom were trying to terminate abusive relationships. Today, all States and Washington, D.C., have some form of legislation to protect victims of stalking (National Institute of Justice, 1996). These statutes generally define stalking as harassing or threatening behavior that an individual engages in repeatedly; the new antistalking laws were aimed at ending this pattern of harassment before it escalated to physical violence. Although State antistalking statutes vary greatly, they can generally be classified as either broad or narrow. A broad antistalking law prohibits conduct that causes mental distress and fear of physical harm. A narrow antistalking law requires a credible threat and some form of malicious or intentional conduct, such as following or harassing (Poling, 1994).

Many of the original antistalking statutes implemented by the States were criticized on constitutional grounds. For example, many critics noted that the new laws were vague and thus failed to comply with the 14th amendment's due process clause. Due process demands that criminal statutes must give people fair notice that their contemplated conduct is legally prohibited. Recognizing this criticism, Congress mandated NIJ, under the direction of the Attorney General, to develop a constitutionally sound antistalking law to serve as a model for State statutes. NIJ's report concluded that statutes would generally be found to be unconstitutionally vague when "forbidden conduct is so poorly defined that [persons] of common intelligence must necessarily guess at its meaning and differ as to its application, or it is so indefinite that it permits arbitrary arrests or discriminatory enforcement" (National Institute of Justice, 1996, p. 6). In addition, NIJ noted that antistalking statutes would also be found to be unconstitutionally broad when they reach activity protected by the first amendment, including the exercise of free speech or lawful assembly.

The model antistalking code for the States developed by NIJ defines stalking as a "course of conduct" (e.g., visual or physical proximity to a person) repeatedly (two or more occasions) directed at or toward a person that would cause a reasonable person to fear bodily injury to himself or herself or a member of his or her immediate family (National Institute of Justice, 1996, p. B1).

The model statute differs from several existing State statutes in several ways. First, to avoid being ruled as an "exhaustive list" of behavior, the model code does not list specific types of actions that could be construed as stalking. Second, to avoid being construed as requiring an actual verbal or written threat, the model statute does not use the language "credible threat." Third, it broadens the definition of "immediate family" beyond the traditional conception of the nuclear family. Fourth, it requires stalking conduct to be directed at a "specific person." The NIJ report also recommends that States consider creating a stalking felony to address serious, persistent, and obsessive behavior that causes a victim to fear bodily injury or death. To satisfy the "intent element" required by the model statute, NIJ also suggests that protection orders serve

as notice to a defendant that his or her behavior is unwanted and that it is causing the victim fear (National Institute of Justice, 1996, pp. B1–B3).

The Efficacy of Antistalking Statutes

Determining the efficacy of existing antistalking statutes is a difficult task. Ideally, to measure the effectiveness of an antistalking statute, one would first need to examine baseline rates of stalking behavior before the antistalking law was implemented in that jurisdiction and then monitor the change in stalking rates after implementation. This would be considered the experimental group. In addition, to control for the effects of factors other than the new laws that may be related to stalking behavior, research should simultaneously monitor stalking behavior in a demographically similar jurisdiction that did not implement antistalking statutes during the study period. This would be considered the control group. Only if rates of stalking decreased in the experimental group and not in the control group can the decrease validly be attributable to the effects of the antistalking laws. This research design is called a quasi-experimental design and is often used in evaluation research. Several factors, however, make it impossible to use this research design to examine the efficacy of antistalking statutes. Foremost of these is access to reliable base rates of stalking behavior. Since stalking behavior was not illegal prior to the passage of most antistalking laws, criminal justice agencies do not have data on the number of complaints, arrests, etc., for such behavior.

Other research designs, such as case process studies, can be used to examine the efficacy of antistalking laws. As the name implies, process studies detail the process and procedures in which a particular program or statute is implemented—in this case, such studies could concentrate on the way in which criminal justice agents are enforcing antistalking statutes and on their perceptions of the laws' effectiveness (Tucker, 1993). In addition, research should examine the efficacy of antistalking statutes from the perspectives of the victims themselves. Some of the research on CPOs has done this and is inextricably related to the effectiveness of antistalking statutes as well.

Model Domestic Violence Statutes

In 1991, the National Council of Juvenile and Family Court Judges, with a grant from the Conrad N. Hilton Foundation, drafted a Model State Code on Domestic and Family Violence. A multidisciplinary advisory committee that included judges, advocates, attorneys, law enforcement officers, health care professionals, and other citizens helped draft the statute. The model code in its entirety is too lengthy to be reiterated here; however, this section will outline its general components.

The model code compels law enforcement officers responding to family violence "to protect the victim and prevent further violence" by confiscating any weapon involved, transporting the victim and any child(ren) to a shelter or to a medical facility, assisting the victim in removing essential personal effects, and giving the victim adequate notice of his or her rights and available services. In addition, mandatory arrest is recommended for the "primary aggressor" in a felony or misdemeanor act of family violence. In determining the primary aggressor, the officer is

compelled to consider such things as prior complaints, the relative severity of injuries inflicted on each person, the likelihood of future injury to each person, and whether one of the persons acted in self-defense. This latter component is particularly important given the dual arrest trends observed in some jurisdictions (see above discussion). Mandatory arrest is also compelled for certain violations of orders for protection. The model code also spells out specific prohibitions and procedures for diversion, deferred sentencing, and conditions of probation and parole.

Virtually all of the problems inherent in some existing State procedures for issuing and enforcing CPOs are remedied in the model statute. For example, it is recommended that the following statements be printed in boldface or capital letters on the order for protection:

- "Violation of this order may be punished by confinement in jail for as long as (insert time period) and by a fine of as much as (insert amount)."

- "If so ordered by the court, the respondent is forbidden to enter or stay at the petitioner's residence, even if invited to do so by the petitioner or any other person. In no event is the order for protection voided."

These statements give unequivocal notice to the perpetrator of the potential consequences of violating an order. Because victims may relocate for a variety of reasons, the model code states that there is no minimum requirement of residency necessary to petition for an order.

Procedures for determining custody and visitation of any involved children are also delineated within the statute; these are directed not only to courts issuing orders for protection but also to courts hearing divorce, delinquency, and child protection cases. It clearly and unequivocally states, "In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that domestic or family violence has occurred raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence." In addition, the code compels courts to award visitation by a parent who committed family violence only if the court finds that adequate provisions for safety of the child *and the parent who is the victim* can be made.

Procedures for mobilizing prevention and treatment efforts are also delineated in the model code and include the creation of State advisory councils on domestic and family violence. Designated State agencies are given regulation responsibilities for such things as setting standards for health care facilities for procedures and curriculums concerning family violence and regulating intervention programs for perpetrators.

In its entirety, this model code is extremely comprehensive and illustrates how States can help protect victims in imminent danger and prevent future incidents of violence. However, as with the model antistalking statute drafted by NIJ, no empirical research has been conducted to determine the efficacy of this statute in preventing or ameliorating the consequences of violence against women.

Conclusion

Unlike the stereotypical stranger lurking in the bushes ready to pounce, it is clear from all empirical evidence that women are at greatest risk of violence from people they know and often love. We also know that certain subgroups of women are particularly vulnerable to violence, including women living under conditions of economic deprivation, young women, and women going through periods of separation from their intimate partners (Bachman, 2000). It is now time to combine efforts directed at monitoring the magnitude of violence against women with efforts at understanding the factors that predict and explain this violence. Without such data elements available on national surveys such as the NCVS, our efforts at understanding the etiology of violence against women will remain hampered and ineffectual.

How far have we come in preventing violence against women? Unfortunately, significant gaps still exist in our understanding of the efficacy of extant policies aimed at preventing and ameliorating the consequences of violence against women. The paucity of research that evaluates the effectiveness of these policies is undoubtedly related to the scarcity of research that evaluates the impacts of crime prevention in general. As such, much of the same recommendations that have been delineated more generally are applicable here. For example, some have called for the creation of a central evaluation office within the U.S. Department of Justice that would support scientifically rigorous evaluations of crime prevention initiatives (Sherman et al., 1997). In the short term, however, it is important for policymakers to take the initiative and stay informed about the most recent research findings on the efficacy of enacted policy and, perhaps most importantly, never forget that all abstract statutes in this area translate directly to women's lives.

Notes

1. The Atlanta, Georgia, study did not produce a final report.

2. See California Penal Code section 646.9 (West Supp. 1996).

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