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A Problem-Oriented or Proactive
Approach to Domestic Violence

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ABSTRACT

The Purpose of this research is to address and explore the problem-oriented or proactive approach to domestic violence. Law enforcement understands the relevancy of this issue due to the sheer number of calls for service to address the issue of domestic violence, and the raw violence associated with these types of calls.

The information and method of inquiry to produce this policy research paper was obtained by researching articles, books, and various case studies. The conclusion and recommendations will be to insure that the victim, and the suspect are referred to other agencies which may help with the underlying problems and thus cut the number of repeat calls to the same location or family.

INTRODUCTION

The purpose of this research paper is to address and explore the problem-oriented or proactive approach to domestic violence. Problem oriented policing has caused law enforcement to take a closer look at the patrol officer and management positions.

Domestic violence laws have also presented various challenges to law enforcement agencies and their officers unlike many other laws they enforce. The extremely high emotional atmosphere associated with domestic violence situations, the raw violence displayed, the families destroyed, and the victim's frequent hesitation to prosecute or seek shelter all place a heavy burden on the officers sent to these disturbances (The Police Chief Volume 63).

In order to develop strategies to handle chronic problems, officer's roles are being expanded, as well as those of management. How can the proactive approach reduce the need for patrol officer's to respond to the same location or family over and over again? The intent of this paper is to focus on the possible ways we can reduce these types of repeated calls for service and better utilize department personnel.

The first step in problem-oriented policing is to move beyond just handling incidents or calls. It calls for recognizing and understanding that incidents are often merely symptoms of other underlying problems. This pushes law enforcement in two directions: (1) It requires that they organize the relationships between incidents(similarities of behavior, location, persons involved); and (2) It requires that they take a more in-depth interest in incidents by acquainting themselves with some of the conditions and factors that give rise to them, thus the officer must ask themselves " what action or assistance can I provide now to keep from returning here later"(Goldstein, Herman 1990).

The sources of information will come from books and articles published by expert authors and law enforcement officials. The intended outcome of this paper is a program that will focus on other aspects of effective policing and reducing domestic violence calls thus achieving better utilization of department personnel.

HISTORICAL AND LEGAL CONTEXT

Throughout history, law enforcement has tended to employ reactive techniques, that is, responding after a crime has occurred, rather than taking steps to prevent its occurrence. Problem-oriented policing, introduced as a formal concept by Herman Goldstein in 1979 following twenty years of research, recognizes that police work is, by definition, geared toward successful problem solving. Because the analysis of the problem is a critical aspect of problem-oriented policing, police officers are encouraged to think in terms of problems rather than incidents (The Police Chief Volume 62).

Problem-oriented policing requires that a situation be declared a problem only when the following conditions are met: the situation involves a group of similar incidents, it is of direct concern to the public, and it falls within the broad range of police function (The Police Chief Volume 62). Successful problem-oriented policing has four basic stages: scanning, which involves the identification of the problem; analysis, during which the relevant information about the problem are collected; response, which occurs when the problem is addressed; and assessment, in which responses are evaluated.

Goldstein has described three elements of problem-oriented policing that co-exist with the four stages. First, problems must be defined in very specific terms. Second, information about the problems must be collected from sources outside the police agency, not just from

internal sources. Finally, police agencies must engage in a broad search for solutions, including various alternatives to the criminal justice process.

Problem-oriented policing has as its foundation substantial law enforcement related research in the areas of police discretion, problem studies, management, community relations and effectiveness. The area most critical to the crime prevention process, of course, is effectiveness. Here, research on preventative patrol, response time and investigations has shown that simply reacting to incidents has, at best, limited effects on crime and public satisfaction (The Police Chief Volume 62).

It is important to integrate the ideas and proven record of problem-oriented policing to chapter five of the Texas Code of Criminal Procedure, which deals directly with the rights and responsibilities of peace officers. Chapter 5- Family Violence Prevention Act states the following: Art. 5.01- Legislative Statement: Family violence is a serious danger and threat to society and its members. Victims are entitled to maximum protection. Law enforcement and judicial officers shall protect the victim, without regard to the relationship between the alleged offender and victim. Art. 5.03- Family or Household Relationship Does Not Create an Exception of Official Duties. The family or household relationship between an alleged violator and the victim of family violence is not relevant to the duties of officers; duty is to prevent the commission of criminal offenses. Art. 5.04- Duties of Peace Officers: Duty is to protect any potential victim of family violence, enforce the law, and make lawful arrests of violators; the officer shall also advise any adult victim of all reasonable means to prevent further family violence, including giving written notice of the victim's legal rights and remedies and of the availability of shelter or other community services for family violence victims. Art. 5.045- Standby Assistance: Liability: At the discretion of a peace officer, the officer may stay with the

victim of family violence to protect the victim and allow the victim to take personal property of the victim or of a child in the care of the victim to a place of safety in an orderly manner. A peace officer who provides this assistance cannot be held civilly liable for any act that occurs because of the assistance, or any act that occurs because the officer chose not to provide the assistance. Nor can an officer be held civilly liable or criminally liable for the wrongful appropriation of any personal property by the victim. Art. 5.05- Reports and Records: A peace officer who investigates a family violence incident or who responds to a disturbance call that may involve family violence shall make a written report (Family Violence Incident Report) and each agency shall establish a department code for identifying and retrieving such reports as well as establishing procedures to inform their officers of protective orders. A certified copy of a protective order is valid as proof of the protective order. Art. 5.06- Duties of Prosecuting and Courts: Neither a prosecuting attorney nor a court may dismiss or delay any family violence criminal proceeding because a civil proceeding is pending or not; or require proof that a party is involved in a suit affecting the parent-child relationship or a dissolution of a marriage before proceeding with a grand jury presentation, etc. A prosecutor's decision to file a protective order should be made without regard to whether a criminal complaint has been filed. Art. 5.07- Venue for Protective Order Offenses: A criminal violation of a protective order can be prosecuted in either the county where the order was violated or from where the order was issued.

REVIEW OF LITERATURE OR PRACTICE

Many research projects dealing with the problem of domestic violence has been done and documented over the years, one of which was done in 1991 by The National Council of Juvenile and Family Court Judges. Recognizing the critical importance of legislation and with the generous support of the Conrad N. Hilton Foundation, undertook the challenge of drafting a

Model State Code on Domestic and Family Violence through its Family Violence Project. The Model Code was developed with the support and expert assistance of an advisory committee composed of leaders in the domestic violence field including judges, prosecutors, defense attorneys, matrimonial lawyers, battered women's advocates, medical and health care professionals, law enforcement personnel, legislators, educators and many more. Difficult choices and compromises were made during the three years of intense work (Model Code on Domestic and Family Violence 1994). Throughout the discussions and Code itself, due process and fairness were paramount. Family violence is a wrong that needs to be addressed in every state in the country. The key is community commitment to recognize, address and prevent such violence. Effective and enabling legislation is the cornerstone. The Model Code developed during the research provides a strong public policy statement of that commitment and a framework for eliminating the ravages of violence in families(Model Code of Domestic and Family Violence 1994).

Four main factors have caused many law enforcement agencies throughout the United States to change their policies and require arrests in domestic violence cases. These are persistent lobbying and information campaigns by battered women and their advocates, changes in state laws, research conducted in cooperation with law enforcement agencies and court decisions determining police liability for failure to protect domestic violence victims (The Training Key 1991). In the early 1980's the results of research in the Minneapolis Police Department also supported the adoption of policies requiring or encouraging arrests. The research design of the Minneapolis Domestic Violence Experiment applied only to misdemeanor domestic assaults. The police had been recently empowered by state law to make arrests in these cases, although they were not required to do so. For the experiment, a lottery selection determined which of three

responses police officers would use for each incident: arrest the suspect, send the suspect from the scene for eight hours, or provide some form of advice, which could include some form of mediation at the officer's discretion. The study found that, according to the victims, only 19 percent of the suspects who were arrested repeated the violence within the next six months, compared to 37 percent of those who received advice, and 33 percent of those who were separated (The Training Key 1991). Since arrest alone may not deter continued domestic violence, researchers and policymakers must consider which additional strategies are most effective, these may include procedures for providing victim's with protection, referral sources and information. The Denton Police Department general order number 90-2 titled Family Violence Guidelines provides written guidance for law enforcement members of their department. According to this policy and in compliance with chapter five of the Texas Code of Criminal Procedure in family violence situations, the officer has the responsibility and authority to render emergency aid, restore order, prevent the escalation of violence, investigate crime, effect arrests, and provide written notice to the parties involved of their rights under the law (Denton Police Department 1990).

DISCUSSION OF RELEVANT ISSUES

The primary issue to be addressed is an attempt to find other ways of dealing with families and the problems they have at home. To summarize we in law enforcement must ask ourselves: Where will we find the information craftspeople within the department to deal with the issue of a proactive approach to domestic violence. A few (often civilians) already exist, usually called analysts. The analysts are the people who identify sources of data relevant to an investigation, integrate the data in some useful way, apply various analytical methods to deduce relevant information from them, and then employ various methods of presenting the resulting

information to others in a meaningful way. Problem-solving policing demands that the skills of analysis be given a higher profile, more attention to the recognition afforded analysis as a basis for professional judgment in the fields of medicine, defense, and intelligence. The organization has to learn how to recruit and train people who can look at a problem and answer the following questions: What data would support analysis of this problem?, Where can we get the data?, How do we get the data?, How can we usefully integrate the data?. What kinds of analysis are needed?, What type of information technology will best help?, Who needs the resulting information?, In what form can they best use it (National Institute of Justice 1993)? Analytical skills should be regarded as an essential part of the problem-solving tool kit. As such, they probably should be taught to the patrol officers who will bear the major responsibility for identifying and solving problems. It is clear that the design and implementation of information systems should not be left to technologists. They are matters for strategists and managers. If these matters are neglected, they can undermine the best intentions of strategic reform.

In many departments these matters now are urgent. In some departments, however, debate about these issues is being conducted in the wrong quarters. In order for the full potential of the emerging strategies of policing to be realized, executives will have to ensure that their information support fits their policing strategy (National Institute of Justice 1993). The foregoing analysis leads to the question of what the unintended costs of arrest might be; that is, what is the cost benefit of the policy. We are all concerned with the costs of arrest for victims in terms of disruption to them and their families in an economic and social unit (after all arrest is not typically conducive to continued family life) and the potential for increased danger to the victim without appropriate and needed changes by the rest of the criminal justice system.

Victim preferences should be paramount, but the effect of a large number of domestic violence arrests upon the system should also be examined. Direct costs of a rigorously enforced arrest policy have not yet been estimated, but are likely to be very high. Sherman (1992b) estimates that in the United States police encounter four million acts of domestic violence annually (and as previously explained this is but a small fraction of the total number of assaults). If the rate of arrest were to increase by 40-50 percent significant police costs and human resources would need to be reallocated. It is for this reason that many other cases that are not related to domestic violence do not result in arrest, despite the existence of probable cause (Buzawa 1993).

In fact some research has suggested that the rate of arrests in stranger assaults approximates that of domestics (Sherman 1992a). In the light of shrinking police budgets, departments need to know how they can at the same time expend greater resources (Buzawa 1993).

Indirect costs to the criminal justice system are also likely to occur. The emphasis in modern policing is the service oriented “community policing” model. This term is generic but its core is that the police should enlist the active support of their service community by being seen in helping roles, not focusing on arrest. This is designed to rebuild trust between the poor and minority groups who often have had confrontations with the police (Buzawa 1993). Instituting policies of wholesale arrests of these people especially without victim support contradicts this philosophy and may set back police-community relations. Further community policing has involved a policy of attempting to “ demarket 911.” Citizens are encouraged to call other agencies for a variety of non-emergency problems, in part for financial reasons (Buzawa 1993). Given the costs of excessive use of arrest and its problematic value as a deterrent perhaps we

should consider alternatives. The methodological conceit of deterrence researchers may have indirectly promoted the tragic diversion of funds from rehabilitation programs and shelters that otherwise might have dealt more effectively with the causes and effects of violence for many types of offenders. Instead many such alternatives have scarcely been tried in the rush to make arrest the cornerstone of policy. In this context, education and training should better sensitize criminal justice professionals to the varied needs of victims and their preferences. Such training should increase the likelihood that organizational guidelines could be developed and individual decisions be based on a compassionate awareness of victim needs and preferences, rather than dogmatic organizational and legal constraints. Thus training and education could be harnessed in an attempt to attain greater compliance with the goal of assisting the victim (Manning, 1993). This is certainly not an untried or undocumented suggestion. To date research examining interdepartmental variations has noted the role of a variety of organizational variables, including how changes in training and education, policies, organizational commitment, and political climate affect arrest practices (Manning, 1993).

Second we should try the European approach of focusing on services for victims and offenders rather than giving primary attention to enforcement of victim's rights (Maguire & Shapland, 1990). A growing trend in Europe is the institutionalization of victim support (van Dijk, 1988), whereby funding for volunteer services comes from the central government. Maguire and Shapland (1990) report that in 1986, Great Britain gave 9 million over a three year period for victim support services; this transformed the organization from top to bottom. Third well planned and properly funded rehabilitation programs (including substance abuse) may dramatically decrease the need for arrests.

We recognize that there is nothing inherently incompatible between an arrest focus and these alternative measures; however the fact is that typically funding and training are maintained for only one effort. To the extent that our country pursues offender punishment beginning with a mechanistic use of arrest in cases where victims support and offender rehabilitation programs with far greater potential (Buzawa, 1993).

CONCLUSION/RECOMMENDATIONS

The purpose of this research paper is to explore and address the problem-oriented or proactive approach to domestic or family violence. The issue of domestic violence is applicable to all of us in today's society, the problem is not just a poor or lower economic status problem but is an issue that crosses all boundaries, race, religion, economic status. The problem must be addressed and dealt with so that women and men can feel safe in their own homes, the issue how can we use other means to assist families in their time of need?

Domestic and family violence is a frequently lethal problem that challenges society at every level. Violence in families is often hidden from view and devastates its victims physically, emotionally, spiritually and financially. It threatens the stability of the family and negatively impacts on all family members, especially the children who learn from it that violence is an acceptable way to cope with stress or problems or to gain control over another person. It violates our communities safety, health, welfare and economies by draining billions annually in social costs such as medical expenses, psychological problems, lost productivity and intergenerational violence (Model Code on Domestic and Family Violence, 1994).

Domestic violence must be reduced and prevented. When it occurs we must intervene effectively. Our best hope to do so requires strong public policy against domestic and family violence and begins with appropriate legislation to that end. Leadership, communication and

coordination are critical among legislators, government administrators, law enforcement, courts and their gatekeepers, attorneys, the medical and healthcare community, advocates and providers of services to victims, corrections and providers of treatment for offenders, educators, and volunteers (Model Code on Domestic and Family Violence, 1994).

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