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Domestic Violence

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Leadership Command College**

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ABSTRACT

Domestic violence is a way of everyday life for some, it not only affects the victim, but the community as well. Domestic violence invades coffee, breakfast, and the evening paper. Law enforcement, social workers, ministers, and medical personnel come to the aid of the victims. The police officer is usually the first person to see the broken bones, bruises, anger and fear on the victim. It is important that police agencies and their officers know how to deal with domestic violence cases. When a police officer responds to a domestic violence case, they have to determine the aggressor and if probable cause is present make an arrest. Arresting the aggressor sends a message to the community and to the aggressor, that domestic violence is wrong and will not be tolerated. Arrest is an important tool for the police officer on the scene, but is arrest effective tool in reducing domestic violence?

Law enforcement has not always been very active in domestic violence. In recent years law enforcement has made some reforms to correct this issue. A review of literature written by several authors was conducted and a survey was distributed to other small rural police departments. The review of literature and survey did not show that mandatory arrest policies had a lasting effect on domestic violence, while pro-arrest polices combined with other resources did have a lasting effect.

Arrest is an important component and should be used when probable cause is present. Still a police agency must train and educate their officers on domestic violence issues, and incorporate social workers, women's groups, ministers, the court system, and any other organization in their community that will assist the victims and help the aggressor.

Introduction

The home is a place where a person should feel safe and secure but instead has become a place of danger. A place where a person is assaulted not by a stranger off the street, but by someone they trust and love. Domestic violence is one of America's most complex social problems. There continues to be a debate about how to end domestic violence. Domestic violence does not discriminate against age, is not racist, and has no economic lines. Domestic violence is a crime!

The Texas Family Code today, defines Family Violence as an act by a member of the family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault, or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself. (Texas Family Code sec. 71.004)

Domestic violence has not always been viewed as a crime by law enforcement. Domestic violence was considered more of a private affair that should not be addressed or interfered with by the legal system. It was because of this belief that police officers were very reluctant to make arrests for domestic violence. (Snow 15) Police would normally separate the victim and abuser for a cooling off period or do nothing at all. Some police officers would make threats which were designed to prevent further calls to that address: "If we come back tonight we will arrest you both, or if you call us back here again, we will turn your children over to child protective service." (Jenkins & Davidson) Police officers feel that they are crime fighter's not social workers; they do not want to be arbitrators at the scene of domestic violence calls. Changes in policy, such as proarrest policies, are the results of the

women's movement in the 1970's that demanded the public take notice of the problem of domestic violence. The National Coalition Against Domestic Violence and advocacy groups had drawn attention to the do-nothing approach in domestic violence calls by police and the court system. (Snow 1997)

In the last few years, domestic violence has become a major concern for all levels of law enforcement. The case of Thurman versus City of Torrington (Connecticut) prompted police departments to change their arrest policies nation wide. Tracy Thurman lived in Torrington Connecticut and had just left an abusive marriage. The Thurman case left a huge impact on law enforcement. Thurman's husband would physically abuse her and after she separated from the marriage he continued to stalk her and even threatened to kill her at one point. Thurman continuously made reports of this nature to police. Thurman then made a call to the police and told them that her husband was attempting to break into her house. It took the officer 25 minutes to arrive at the scene.

When the officer did arrive he watched from his patrol car as Thurman was beaten and stabbed twelve times. Thurman was left partially paralyzed from this attack. Thurman sued and won a 2.6 million dollar law suit against the Torrington Police Department. This case changed law enforcement across the nation with new laws and policies in almost all police departments. (Jones 1994) Civil liability suits filed against police departments for their failure to provide protection resulted in a reexamination of policies involving domestic violence. (Roberts 110)

Now every state allows its police to arrest the abuser in misdemeanor domestic violence cases when probable cause is present and more than half the states have laws

requiring police to arrest on probable cause for at least some domestic violence cases. (Zorza Vol. 10, pg 66)

Domestic violence has become as serious a crime as any other crime, and is treated as one by The La Grange Texas Police Department. In rural departments, like the La Grange Police Department, the patrol officer has many roles: being the person who restores order at the scene, crime scene investigator and making the arrest if warranted.

Is arrest an effective deterrent of domestic violence? The method that will be used to determine this will be a survey of police departments, whose population is compatible to the City of La Grange. There will also be a review of literature to obtain information from previous research that has been conducted. The intended outcome of this research paper is to show that arrest is an effective deterrent to domestic violence, but arrest alone is not the answer. Domestic violence needs community response, involving social services, churches, and advocates.

This research paper will be used to assist the La Grange Police Department in adopting a proarrest policy that would help the victim, officer and the community. The La Grange Police Department will benefit from this by showing that by having effective policy officers will make an arrest where probable cause is present and promote a consistent and effective response to the investigation of domestic violence.

Review of Literature

Through times past, some religious beliefs upheld the right for the head of the household to use force against women if needed. The Old Testament explained and condoned such violence on the basis of women being the “source of all evil”. Such passages were interpreted by the male clergy to support the natural primacy of men. Marriage is believed to

be sacred contract between two people which no person should interfere with, even if physical abuse occurs. (Buzawa 26, 27) The rule of thumb allowed a husband to beat his wife with a rod or a stick, but could not use anything larger in diameter than his thumb. One 18th-century law gave a husband the right to beat his wife, but was confined to blows, kicks or punches in the back which did not leave marks. (Dobash, Dobash 40)

Law enforcement has not always been very active in domestic violence. Police officers have been very reluctant to arrest the offender in a domestic violence case. Victims were afraid of their offender and feared retaliation, and did not want the suspect in jail. Because of this, the victim would not cooperate and sign a complaint. Often times, officers did not see any probable cause present to make an arrest. Police officers were more likely to arrest when a victim demanded it, or the offender had insulted the officer, or some other factor was present. Police officers only had four categories of action to take; talking out the disputes, threatening the offender (with jail), asking either the victim or offender to leave the premises or make an arrest. The preference of separating the victim and offender or mediating with them rather than arresting the offender generated criticism of the police by feminist groups. The feminists argued that the police put too much emphasis in mediation and not enough on the legal aspects of domestic violence. (Sherman 1992)

Several studies have been funded by the National Institute of Justice. One such study was conducted by Criminologist Lawrence Sherman and the Minneapolis Police Department in early 1980. The purpose was to see how police should respond to misdemeanor domestic violence cases. This was the first controlled experiment to study the effects of arrest in domestic violence. "The experiment had one clear premise: that the primary goal of police

intervention was to reduce the risk of repeat violence against the same victim in the future”
(Sherman 10)

This experiment had three primary viewpoints that were identified in the debate over the best way to reduce violence to victims once the police were summoned. They were:

- 1) Send the abuser out of the home for a cooling off period
- 2) Police should mediate the disputes and not make any arrest
- 3) Make an arrest

These were only applied to misdemeanor domestic violence cases where both the victim and offender were present at the scene when the police arrived. The Minneapolis study showed that arrest and a night in jail for the suspect worked best and was more effective than just sending the suspect out of the home. The mediation portion showed the worst results and had twice as many repeat suspects arrested. (Sherman 12)

The study did show that arrest reduced the recidivism rate in domestic violence. The findings lead the Minneapolis Police Department to change its policy on domestic violence assaults. Minneapolis did not go to a mandatory arrest policy, but did require its officers to fill out a written report for the reason they did not make an arrest when probable cause was present. (Sherman 1992)

When the result of the Minneapolis study were made public, other police agencies across the nation began to implement some type of policies on domestic violence. Some agencies made it mandatory for officers to arrest; other agencies had a proarrest policy to arrest the offender when probable cause was present. Regardless of the policy adopted agencies introduced some type of policy for their department for officers to follow when handling domestic violence. State legislatures also began to adopt laws giving police officers

arrest powers even if the offense was not committed in their view. Since *Thurman versus Torrington*, law enforcement has changed the way domestic violence calls are handled. Agencies have implemented mandatory arrest policies and proarrest policies. State Legislatures across the nation recognize that domestic violence is a problem. Today most states allow police officers to arrest offenders without the offense being committed in their presence or view.

Tracy Thurman's case is not the only case of this nature. In Texas a police department was sued for their policy being gender biased. The City of Rockwall, Texas was the defendant in the case. In 1986 Gayla McKee reported to police that she had been assaulted by her boyfriend with whom she shared an apartment. He had also threatened to kill her. McKee had asked the two officers that arrived to arrest her boyfriend, but they refused. One officer even told McKee that she was inappropriately dressed. Another officer drove McKee fifty yards away from the scene and dropped her off at another apartment complex. McKee was then tracked down by her boyfriend and stabbed in the right leg. (Jones 65) Even though McKee's case was not upheld by the Supreme Court, it serves as an important reminder that the public perceives law enforcement by the way they conduct themselves.

The National Institute of Justice funded a replication experiment in 1986 and early 1987, held in six urban cities. The intent was to replicate the Minneapolis experiment, as well as to use variations of it, in Omaha (Nebraska), Milwaukee (Wisconsin), Charlotte (North Carolina), Metro-Dade County (Miami, Florida), Colorado Springs, (Colorado), and Atlanta (Georgia). (Buzawa, Buzawa 45) The results of the Atlanta study were never released.

The Omaha experiment was the only one that replicated the Minneapolis experiment and that was by design. It involved 330 cases. The Omaha Police Department had the

officers pursue an arrest warrant if the offender was not present at the scene. This method did deter the offender from domestic violence. The only way they all replicated the Minneapolis experiment was the way the officers were assigned arrest and no arrest treatments. (Sherman 1992 p16)

The Metro-Dade experiment had 907 cases which were examined to compare the arrest/no arrest outcomes. No evidence was found that counseling or arrest reduced domestic violence. The Metro-Dade study had four different treatments, arrest/no arrest, with counseling, or without follow up counseling. The no arrest showed 18% reported at least one subsequent incident of abuse, compared to 10% of the arrested group of offenders. Counseling did not show any reduction in arrest at all. (Sherman 1992 p138)

The Colorado Springs experiment had four categories; arrest of suspect with an emergency protection order, immediate counseling of the suspect with no arrest and with an emergency protection order, emergency protection order only, and giving advice with no arrest, counseling or protection order. This study revealed that arrest did not deter domestic violence.

In Milwaukee 1200 cases were studied in which the abusers were only subjected to a two hour arrest versus an overnight stay in jail. There was no difference in the effect of arrest after a six month follow up period, but arrest was a deterrent for the 30 day follow up interview with the victims. The Milwaukee data did show that arrest in the short run reduces the chances that a victim will be attacked again, but in the long run increases those chances. (Sherman 1992)

The Charlotte study consisted of 686 cases and included citation along with arrest, mediation, or separation. In Charlotte the entire patrol division participated twenty four hours

a day seven days a week. Omaha, Charlotte, and Milwaukee all showed that arrest increased domestic violence. The three cities did show that arrest was a deterrent for a short period of time, but escalated violence over a longer period of time. None of the measures in these three cities showed a six month deterrent effect. (Sherman 1992)

It is very controversial with many criminologists that arrest reduces the recidivism rate in domestic violence at all. Some criminologists believe that the experiments were not properly performed, citing the method did not take into account such things as the offenders race, age, education level, prior police record, poverty level and victim offender relationships. Arrest deters domestic violence in some cities and raises it in other cities. It seems that arrest reduces domestic violence in the employed, but raises it in the unemployed and arrest reduces domestic violence in the short run but can increase it in the long run. (Sherman 1992)

“What should the police policy and practice be, in the light of the available evidence on the effects of arrest interventions? Arrest in and of itself appears not to be the deterrent as it was once espoused to be in the original Minneapolis study. When combined with other criminal justice sanctions, however, and in combination with particular attributes of the offender, arrest may be a deterrent. Arrest might also be a general deterrent that, though not reducing violence among offenders, may reduce the likelihood of an initial battering because of the perceived likelihood that battering will result in arrest”. (Mederer & Gelles 1989)

Most police agencies across the nation have adopted some type of policy for domestic violence, whether it is a mandatory arrest policy or a proarrest policy. All 50 States have passed laws giving police the full powers of arrest in misdemeanor cases of domestic violence. (Buzawa, Buzawa 51) More agencies have incorporated domestic violence units in

their department. The officers in these units are specialized in domestic violence, and work with victim advocates. (Roberts 9)

Along with these policies officers now get continued training. The Texas Occupation Code states, “As part of the current training on family violence officers are required to have, the curriculum must include instructions in preventing dual arrests whenever possible and conducting a thorough investigation to determine which person is the predominant aggressor when allegations of family violence from two or more persons are received arising from the same incident.”(Sec. 1701.253) Arrest does reduce recidivism rate in some domestic violence cases, but not in others. This may be from the type of offender. If the offender has a criminal history then arrest is not going to deter domestic violence. If the offender has never been arrested then arrest will deter domestic violence. Arrest should be used where probable cause exists, to introduce the victim and the offender into the criminal justice system.

Method of Research

Is arrest an effective deterrent of domestic violence? It is Hypothesized that arrest reduces recidivism in domestic violence for a short period of time. If arrest is effective in deterring domestic violence then it is a tool that should be utilized. Most police agencies now have some type of proarrest policy.

A questionnaire survey was sent to 12 agencies in close proximity to the City of La Grange. These cities were picked due to the similar population size and cultural makeup of the cities. This survey was used to determine if agencies compatible to the City of La Grange are using mandatory or proarrest policies. The cities surveyed population ranged from 2000-6000. The survey asked eight specific questions regarding policies of the other departments.

Twelve agencies were contacted by fax. Only 58% responded to the survey. The survey will be analyzed to see if other agencies are using mandatory arrest, proarrest policies, or officer discretion and if these agencies feel that one policy is more effective than the other. The information acquired from the survey will be analyzed on several main points. The main points include population, department policy, officer discretion, subsequent training and the end result.

Findings

In the end, the resulting analysis of the information obtained from the survey showed that 100% of the respondents have adopted a proarrest policy. Fifty-seven percent of the respondents made allowances for officer's discretion. One hundred percent of the respondents provide additional specialized training to their officers on domestic violence issues. Seventy-one percent of the departments surveyed have indicated that arrests have effectively reduced the recidivism rate of domestic violence in their communities.

The literature reviewed showed that arrest did in fact reduce the recidivism rate in some cities over a short period of time. In other cities arrest escalated domestic violence. It seems that if the aggressor was already introduced into the criminal justice system and was not concerned about the outcome of the arrest then arrest was not a deterrent. If the aggressor perceived themselves as a pillar of the community, arrest was a deterrent.

Research also shows that many of the common myths about family violence are untrue. Victims of domestic violence do not remain in relationships because they like to be beaten. They do not have psychological disorders. They do try to leave abusers, sometimes successfully. The important myth shattered by this research is that law enforcement and judicial responses are useless. Pro-arrest policies combined with protective orders and other

judicial and community response have proved effective in the fight against domestic violence.

Conclusion

Before 1985 police did not want to make arrests in domestic violence cases. As of today all 50 states have implemented warrantless arrest policies. In recent years police departments have seen sweeping changes in domestic violence. The changes include mandated training, specialized police domestic violence units, and police and prosecutor response teams. Police now work with the victims and victim advocates to ensure victim safety and offender accountability.

The only tool police have in controlling unwanted behavior from citizens is the power to make an arrest. Without this power society would run amuck. The same goes for domestic violence cases. The power of warrantless arrest at the scene of domestic violence where probable cause is present is a tool that is needed for police to intervene. Adopting a proarrest policy does not mean a police department has won the battle. The police department still has to make sure that officers follow the policy consistently and in a non discriminatory manner in domestic violence cases. Police officers have to be trained to recognize the signs of abuse. They must be further trained in the investigation of domestic violence cases, and by training officers there is hope in changing the attitude of officers regarding domestic violence cases.

The purpose of this research paper was to see if arrest was effective in deterring domestic violence. It was hypothesized that it did reduce recidivism for a short period of time. The literature that was studied revealed that arrest did work for a short period of time in most cases, and in other cases arrest did not deter domestic violence. There are many variables to the reason why arrest did work some of the time and did not work at other times.

Arrest can be used as the first step in introducing the victim and the offender in the criminal justice system. By getting the victim to the support staff, counselors, and advocates it may change the victim's mind about being in an abusive situation.

By having a proarrest policy, the police department can insure the safety of the victim and prevent further violence. Also arresting the offender immediately after the act of violence is one way to correct the deviant behavior. (Buzawa & Buzawa 1990). The police officer can reduce a lot of stress felt by the victim by placing the burden of prosecution on the state. Such a policy not only serves the victim it will also serve the needs of the victim's family and friends.

Proarrest policies and additional education may also help to change the police officer's attitude and level of compassion. The police officer might think of a domestic violence call more as serious police work than as a nuisance call, as has been seen in the past. The policies can include a training phase for domestic violence. By training police officers in the investigation of domestic violence calls it can enable police officers to recognize the aggressor at a domestic violence scene. This would reduce the amount of arrest for "mutual combat" at domestic violence scenes.

"No one has the right to say you will do as I say, or I will hurt you!" (Monty Roberts)

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Appendix A

La Grange Police Department

Domestic Violence Survey

1. What is the population of your community that your Agency Serves? Yes or No
2. Does your department have a current policy on how domestic violence cases will be handled? Yes or No
3. If you have a policy is this policy mandatory arrest or proarrest when probable cause is present at a scene? _____
4. Does your policy allow for officer discretion to make an arrest when probable cause is present? Yes or No
5. Does your agency provide additional training to officers on domestic violence? Yes or No
6. Does your agency arrest the abuser when probable cause is present, even if the victim does not want to pursue charges? Yes or No
7. Do you feel that arrest reduces recidivism? Yes or No
8. In your personal opinion have you ever arrested the same abuser for domestic violence assault? Yes or No

Name and Rank of person completing survey: _____

Appendix B

April 29, 2003

Dear Chief,

I am currently enrolled in the Texas Law Enforcement Management Institute of Texas (LEMIT) course series, Leadership Command College. Part of the requirements for a successful completion of the course is the preparation of a research document.

My topic for research is Domestic Violence and will focus mainly arrest of the abuser to see if arrest reduces domestic violence.

I am attaching a survey that seeks information from your Department regarding your policy and arrest at domestic violence crimes.

Your completion of this questionnaire will assist me greatly in my efforts to research this topic.

I want to thank you in advance for your assistance and support of this project.

Sincerely,

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