

## **An Overview of Victims of Domestic Violence: Improving Law Enforcement Response to Domestic Violence to Prevent Revictimization**

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### **Abstract**

This paper provides an overview of law enforcements response to domestic violence, rising rates of recidivism in domestic violence, due to lack of proactively responding to the concerns of domestic violence victims. A systematic protocol of responding to domestic violence calls has resulted in increasing levels of repeated violence. The purpose of the study was to present the need for law enforcement to improve their responses and procedures, beginning when the response is made, and during the prosecution phase. This study combined both the quantitative and qualitative methods, which provide data suggesting significant prosecution rates consistent with reducing the reoffending of domestic violence offenders.

**Keywords:** domestic violence, law enforcement, recidivism, prosecution

### **Introduction**

This chapter contains a literature review that is focused on domestic violence situations and services provided for victims. A focus on how domestic violence has evolved throughout the years and how laws have revolutionized common practice in law enforcement agencies are discussed in the literature review. Law enforcement, domestic violence attorneys, and victim services' advocates can serve as role models in order to prevent recidivism. Specific areas covered in the literature review include (a) myths and barriers encountered, (b) preventative measures, (c) current laws and policies directly related to domestic violence, and (d) stricter enforcement of prosecuting offenders. Advantages, disadvantages, and issues with current research are discussed.

### **History of Domestic Violence**

Domestic violence has been a persistent occurrence in the American population that continues to cause concern. According to Canfield (2007), the feminist movement brought attention to women in hope of ending the violence against them. Feminists endured many problems in the 1960s and 1970s with domestic violence that showed prevalently in the literature. For domestic violence victims, the support for women victims was diminished. Further, Canfield (2007) suggested that during the feminist movement, policymakers in state and local governments spoke negatively toward feminism. The women's movement offered two goals regarding domestic violence: to provide safety for women and to address legal concerns that allowed women to feel subordinate, therefore enabling the offenders to batter the victims (Bailey, 2009).

Feminists believed the problem was best defined as general inequality (Canfield, 2007), and feminist views could be understood as seeking to define equality. Social feminists defined patriarchy as a system that held the male of the species higher than the female species. With this in mind, men had power, or superiority, over women. Examining women as victims of domestic violence, and then arresting the male offender eliminated the financial stability to which a woman was once accustomed (Canfield, 2007). Researchers have raised questions about domestic violence as a learned behavior that cannot be related to genetics, alcohol or drug use, and stress (Kruger & Valltos, 2002). Domestic violence, for the most part, will follow a cycle and continue in a reoccurring pattern (Kruger & Valltos, 2002).

As Hirschel, Buzawa, Pattaavina, and Faggiani (2007) discussed, in the 1970s lawsuits were targeted at law enforcement agencies for not providing adequate protection to female victims of domestic violence. This led to a pro-arrest preferred method of handling these

cases. In the 1970s and 1980s, after legislature changes were implemented, arrests of domestic violence offenders rose from 7% to 15% (Hirschel et al., 2007). When domestic violence laws were criminalized, law enforcement agencies were directed to be proactive in combating this crisis (Whetstone, 2001). During that time, the preferred law enforcement response to domestic violence cases was predicated upon certain factors, such as organizational structure, management culture, approach to policing models, and what the community deemed important (Whetstone, 2001).

Previous research findings show that domestic violence was considered a private family matter (Whetstone, 2001). According to Adelman and Morgan (2006), the overwhelming issue for law enforcement was to maintain public order, and not domestic violence cases, which were thought to be private disputes. A recurrent theme in the literature for law enforcement agents' responses in the 1970s was characterized as law enforcement officers viewing domestic violence as a private affair, and therefore, if it was not life threatening, it was treated as a civil matter (Whetstone, 2001). Further, Martin (1997) illustrated that most department policies demoralized arrest procedures and encouraged separation or counseling. Arrests were made only in cases of serious bodily injury, death, or a reoccurring event.

Research, historically, had been directed towards and focused on the victim, with little attention directed at the offender (Coulter & VandeWeerd, 2009). It was not until the 1970s that attention was directed at offender treatment. In the 1980s, sanctions such as court-mandated counseling were imposed, which could assist in rehabilitation or punishment of the offender. According to Coulter and VandeWeerd, the key to counseling

was to focus on the offender accepting responsibility for his or her behavior and not transferring blame to the victim.

In 1977, Los Angeles became one of the first cities to create a domestic violence unit. Case law in the 1978 *Bruno v. Codd* suit involved 12 battered women who were seeking a lawsuit against the police department for damages stemming from the insufficient police response to their reports of abuse (Catania, 2005). Further, Catania (2005) suggests that critical to the cause was the 1987 case, *Thurman v. City of Torrington*, in which the court awarded a victim of domestic violence \$2.3 million, citing that police would not arrest the offender in the case.

Most notably, in 1998, a woman named Patty Prickett established a police station in West Los Angeles with funding from the Violence Against Women Act. Prickett's intentions were to (a) educate officers, (b) assist victims in acquiring services, (c) increase the arrests of offenders, and (d) prosecute those offenders. These relevant contributions to domestic violence case law, coupled with a Minneapolis study in which researchers evaluated the effectiveness of police responses to domestic violence calls, established stricter laws for those directly relating to battered individuals (Catania, 2005). Future literature will provide a vision for other law enforcement agencies to emulate and achieve successes.

A recurrent theme in existing literature is how law enforcement took a stricter and tougher stance on domestic violence laws in the 1980s. Huge milestones were reached in domestic violence cases, including legal protection orders and rights of victims through civil entitlements (Frantzen & San Miguel, 2009). With the current study's emphasis on Florida, it was noted that Florida also enacted stricter laws on domestic violence. Twenty-one states

enacted mandatory arrest policies in 2004 (Frantzen & Miguel, 2009). The system now treated domestic violence as a public issue and not a private one (Jones & Fowler, 2009).

Evidence about progress in prosecuting domestic violence cases has grown significantly in providing the best possible legal remedies for victims (Hanna, 1996). The dismissal of cases has decreased and more jurisdictions have imposed sanctions on the handling of domestic violence cases (Hanna, 1996). Questions about victim participation, which may not be the best solution for the victim, had been raised. Hanna further stated that victim participation would not always be necessary if the focus would shift to attaining a more prosecutable case, instead of relying on the victim to cooperate or testify.

### **Theories of Domestic Violence: Feminist, Social Learning, and Learned Helplessness**

Research on theories of domestic violence and how law enforcement agencies were criticized in the early 1970s stemmed from the women's movement and the feminist theory of domestic violence. Law enforcement agents' attention was directed toward ignoring intervention techniques and leaving the issue a private matter (Sherman & Berk, 1984). Feminist theory has provided gender differences regarding perceptions of less powerful women, creating the concept of power over women (Kuennen, 2010). Further, the feminist approach demonstrates domestic violence as the male maintaining control in the family.

Social learning theorists suggested that a person learns how to deal with violence because of an immediate reaction to one's own violent behavior. A person was either rewarded or punished for actions of violence, according to the designations of social learning theory (Danis, 2003). No single theory is a total explanation for domestic violence and why it occurs, but exploring these theories contributed to the background of the current research.

According to Walker (1979), learned helplessness is a psychological theory that illustrates a victim losing the ability to predict what will happen in the future. Learned helplessness is best described when visualizing three components: (a) knowledge of what is about to happen, (b) expectation of what will happen, and (c) reacting or behavior toward an event (Walker, 1979). During previous domestic violence incidents, the offender now realizes that he has lost the control over the victim. The rage of the offender is much more violent now and the victim needs to be aware of this situation.

This, then, leads to the theories of domestic violence not utilized in this study, which are exchange theory, subcultural theory, and resource theory. Utilizing the exchange theory, Emery, Jolley, and Wu (2010) suggested that the decisions of victims of domestic violence are associated with a cost-benefit assessment. The subcultural theory, sometimes called social theory, exists by observing external factors within the offender's environment. Two examples would be stress and family characteristics. According to Women Magazine (2011), resource theory is defined as occurring when women are dependent upon the spouse or offender for economic support, as the male may be the sole provider.

### **The Minneapolis Study**

As Newbold and Cross (2008) discussed, numerous lawsuits were filed in 1981 against law enforcement agencies for inadequate arrests of offenders in domestic violence cases. These lawsuits sparked the Minneapolis Study, which was funded by the National Institute of Justice. Newbold and Cross (2008) further stated that the purpose of the study was to determine the effectiveness of law enforcement responses to domestic violence offenders who would continue to reoffend. In 1984, the Minneapolis Study's results showed that arrested offenders were less likely to reoffend. The Minneapolis Study's researchers

concluded that arrest was the most adequate response to domestic violence cases (Sherman & Berk, 1984).

Evidence from the Minneapolis Study led to 33 states adopting legislative guidelines that encouraged arrest; six states enacted mandatory arrest policies (Sherman & Berk, 1984). The first state in which mandatory arrest protocol was adopted was Oregon in 1977, prior to the Minneapolis Study (Jones & Fowler, 2009). Another study was conducted by Ford (1985), which developed the pro-arrest policy. The results were dramatic increases in the arrests of domestic violence offenders, and initially, law enforcement officers were receptive to the changes.

In Minneapolis, this experiment resulted in policy development that did not make the arrest of a domestic violence offender mandatory but required the law enforcement officer to complete a written report explaining why an arrest was not made. The Minneapolis Study further led to the allocation, by the Office of the Attorney General, of available funds that supported pro-arrest protocols (Jones & Fowler, 2009). Consequently, congressional support grew and policy changes were made for domestic violence victims.

Johnson, Luna, and Stein (2003) asserted that subsequent studies relevant to the Minneapolis Study could not be duplicated. Three comparative studies were compiled in Milwaukee, Omaha, and Colorado Springs that showed the arrest of the offender replicated a lower recidivism rate. The replicated study additionally showed that those offenders who were unemployed reoffended more often (Johnson et al., 2003).

### **Current Laws Pertaining to Domestic Violence in Florida and Abroad**

Florida's model policy for domestic violence has a reference to best practices for law-enforcement agent response to domestic violence calls. This policy was enacted in 1999 for

the purpose of improving law enforcement agents' responses to domestic violence calls according to Florida State Statutes (State of Florida, 1999). Research further showed that law enforcement changes could (a) reduce domestic violence rates, (b) improve the safety of the victim, and (c) procure a more stringent prosecutable rate for the State Attorney's Office (State of Florida, 1999). Agencies in Florida were encouraged, but not mandated, to adopt the policy. However, in order to receive any federal funding through the Violence Against Women Act (VAWA), agencies had to adopt at least parts of the policy (Hirschel et al., 2007).

At the scene of a domestic violence incident, the law enforcement officer must offer the victim medical treatment, if necessary. The law enforcement officer must also provide the victim a listing of shelters in the area, if needed. Documentation is given to the victim in the form of a handout titled *Notice of Rights and Remedies*. This notice includes information on injunctions for protection (restraining orders). Whether an arrest is made or not, the report must include a record of assessment or treatment of physical injuries given, legal rights and remedies given, and written or taped statements received from the victim and any witnesses. The report must be sent to the nearest domestic violence center within 24 hours (Florida State Senate, 2010).

In Florida, victims of domestic violence constantly chose to not prosecute or file formal charges against the offender, but police were mandated to arrest the offender (Frantzen & San Miguel, 2009). Florida statutes have mandated arrests; if no arrest was made but evidence existed to prove an altercation took place, documentation of the incident was mandatory (Florida State Senate, 2010). The decision to arrest does not require victim consent. Further, a primary aggressor had to be determined in order for an arrest to be made. In a domestic violence case, a law enforcement officer will not be held liable in a civil

case for the arrest of the offender if the officer acted upon the state statutes in good faith (Florida State Senate, 2010). Relevant research has indicated that when a woman leaves her batterer, she must recognize that the financial position she was once accustomed to will be diminished (Jones & Fowler, 2009). This could force her and her children into poverty. If the offender was the primary wage earner and is incarcerated, bills may not be paid.

Unfortunately, in the past several years, members of the court system have enacted changes to the Sixth Amendment, which provides the offender the right to confront his or her victim. Even if the victim chooses not to prosecute or pursue charges, the offender still has the right to address his or her accuser (Kuennen, 2010). Researchers examining why women refused to testify cited the court case *Crawford v. Davis*, in which the Sixth Amendment was challenged, with the result that initial statements made by the victims could not be admitted to court unless the victim was unavailable or the defendant had been given many opportunities to cross-examine the victim (Bailey, 2009). Many times, victimless prosecutions are based on 911 tapes and law enforcement statements that would be used in court instead of the victim being called to relive the incident. This court case resulted in limited victimless prosecutions but did not completely abandon the notion. Based on the Confrontation Clause of the Sixth Amendment, a defendant has the right to confront the person or people accusing him. According to McKinstry (2006), many experts suggested that 80% to 90% percent of domestic violence victims would recant the allegations with a confrontation, based on fear of the offender.

In *Crawford v. Davis*, the victim of a domestic violence incident called 911 and told the police dispatcher she was being beaten by her boyfriend. The offender was subsequently arrested after the responding officers confirmed her account of what happened. During the

trial, the responding officers were the only witnesses who appeared in court, along with the 911 tapes. Since the victim was not present, the responding officers' testimonies and the 911 tapes were the only evidence admitted into the court proceedings. The offender was found guilty, and it was determined that the 911 tapes were considered testimonial and could be entered as evidence (McKinstry, 2006).

It was further suggested by Bailey (2009) that victims' concerns about testifying in court are based on three issues: (a) the legal system might ignore the victim as prosecutors direct their attention toward their own agendas, (b) fearing lack of limits on direct contact with the offender, and (c) women feeling subordinate. Additionally, Bailey (2009) suggested three reasons that women do not testify in domestic violence cases: (a) lack of resources, (b) no protection from the batterers, and (c) negative interactions with the criminal justice system.

According to Jones and Fowler (2009), victimless prosecutions were obvious when the offense is homicide. Considerations are made when children are victims of a crime. Another strong support for victimless prosecutions is the principle that, when the victim has been threatened by the offender, it could seem to her that she will be threatened again if she is willing to testify in the presence of her batterer. When the state attorney's office has reviewed the case, the State may have to proceed with prosecution, even if the victim refuses to cooperate, depending on the seriousness of the case. Prosecutors can proceed with the case, regardless of the victim's cooperation. In essence, the prosecution is representative of the state officials' decision to proceed with the case or not (Jones & Fowler, 2009).

### **Procedures in Brevard County for Offenders of Domestic Violence**

When an offender is arrested for domestic violence in Brevard County, Florida, he or she will be incarcerated with no bond and will not be released until after seeing a judge. In the hearing before the judge, the judge will determine the offender's bond amount, depending of the offender's criminal history. The judge is supposed to automatically issue and impose a "No Contact Order" for the offender with the victim until the case is concluded. One exception is made for the offender to pick up some personal belongings, but this is only accomplished in the presence of a law enforcement officer. Prior to the offender being released from jail, the victim is notified, so arrangements can be made for safety of the family (Assistant State Attorney for Brevard County, personal communication, February 8, 2011).

When the case goes to trial, normally the prosecutors will mandate an anger-management class for the offender. Most cases are not sent to trial for several months and may be continued for up to a year. The initial "No Contact Order" is still in effect, and if the offender violates it, the offender could be incarcerated for violation of the judge's pre-trial release order. The contention is that the injunction or "No Contact Order" will protect the victim from further violence. Although the injunction is only a piece of paper, it might have psychological effects for the victim as an internal assurance (Fischer & Rose, 1995).

Researchers at the local state attorney's office determined a domestic violence case could take several months before going to court or being dismissed. Several litigation factors are considered in the decision to file the case or file a "Notice of No Information," which will dismiss the case without a trial (Brevard County Assistant State Attorney, personal communication, February 8, 2011). These considerations included (a) no reasonable chance of succeeding at a trial, which might be due to lack of victim cooperation, lack of witnesses,

or lack of visible injury; (b) concern for the victim's safety; and (c) if the defendant has pled guilty (Brevard County Assistant State Attorney, personal communication, February 8, 2011).

### **Current Services for Domestic Violence Victims**

Services are available to victims of domestic violence, depending on the law enforcement agency and their budgeting guidelines. In New Westminster, Canada, a domestic violence unit within the police department was established with emphasis on family violence (Wilson, 2009). Victim advocates, law enforcement domestic violence unit agents, and the state attorney's office work hand in hand to support the victim with money, housing, childcare, food, and clothing, which falls under the directive of Violence Against Women's Act (VAWA, 1984).

According to Tummala-Narra and Liang (2009), domestic violence programs could be empowering, but they could become disempowering if women's voices and demands were not heard and addressed. The focus of programs between 1986 and 1996 was directed towards battered women. Since that time, the government's direction has shifted from general feminist views to more agency-specific goals.

In Florida, a domestic violence hotline can be contacted that is supported by the Florida Coalition Against Domestic Violence (FCADV). FCADV leaders provide education, training, and support to local domestic violence shelters and programs. FCADV was founded in 1977 and 14 shelters were opened. Today, FCADV staff provides assistance to over 42 domestic violence centers (FCADV, 2010). FCADV leaders cooperate conjunctively with Florida government leaders to introduce public policy and monitor current laws regarding domestic violence.

In 1977, Florida became the 34th state to enact legislation for compensating victims, the Florida Crimes Compensation Act (Friedsam, 1984). This act has two requirements: claimants had to suffer from a serious financial hardship, and the claim had mandated exclusion of a class based on the relationship with the offender. The second requirement still incorporated the belief that the victim had done something wrong to provoke the offender and was not a true victim.

President Obama and Vice President Biden have recently shown interest in coordinating efforts to improve legal protection for victims of domestic violence (White House Conference, 2010). This support encourages victims to continue to prosecute offenders and to regain financial independence through utilizing many programs and services that are available to them. Support for domestic violence victims throughout the continental United States varies among states. Each state has funding to provide for domestic violence services, which most receive from the Violence Against Women Act.

The Violence Against Women Act of 1984 was directly focused on (a) keeping streets safe for women, (b) having safe homes for women, (c) equality in the legal system, (d) funding for training programs, (e) reduction in domestic violence and stalking offenses, (f) better protection for immigrant women, and (g) improvement of the existing laws for domestic violence (Hyunkag & Wilke, 2005). The VAWA administrators also supported education, training and pro-arrest policies.

Another program created by President Obama is the Affordable Care Act, which is funding designated for women who are victims of abuse, with strict guidelines for the housing authority to evict perpetrators of domestic violence, while at the same time ensuring the victims have suitable housing available to them (White House Conference, 2010). The

president further illustrated the importance of enforcing protective orders and establishing an agreement with the American Bar Association to provide free legal services to victims of domestic violence.

One faith-based community program was introduced in Winston-Salem, North Carolina, which offered counseling on domestic violence chaired by a domestic violence counselor or advocate. Discussions in focus groups were conversations about faith and strengthening family values. Advocates from the domestic violence shelter were encouraged to speak with the victims to offer services if needed (Jones & Fowler, 2009).

The Department of Justice Office on Violence Against Women (2010) has resources among many different types of national domestic violence organizations funded by the Violence Against Women Act. A few include the (a) Family Violence Prevention Fund, (b) International Association of Chiefs of Police, (c) Legal Resource Center on Violence Against Women, and (d) National Clearinghouse for the Defense of Battered Women. These programs and services provide assistance for victims of domestic violence throughout the United States, not just Florida.

Researchers supported the Department of Justice Office on Violence Against Women in the development of the National Advisory Committee on Violence Against Women. This committee has been directed to provide recommendations to the Department of Justice on how the nation responds to domestic violence (Department of Justice Office on Violence Against Women, 2010). This program emphasizes interventions for children and teenagers who may witness or are themselves victims of domestic violence, dating violence, and sexual assault. The goal of this program is expert collaboration among law enforcement professionals and advocates in attempts to share information on developments in providing

solutions to prevent domestic violence (Department of Justice Office on Violence Against Women, 2010).

In a study conducted by Hyunkag and Wilke (2005) regarding funding involvement from the Violence Against Women Act, the researchers suggested that adequate funding strengthened the interest of the victims to work more efficiently with law enforcement officers and prosecutors. These researchers also concluded that domestic violence incidents had been steadily declining. Regarding funding of domestic violence programs of importance, the governor of Maine, in 2006, announced more than \$1,000,000 was established for organizations that assist victims of domestic violence. This funding helped support community-based programs that aided in the deterrence of domestic violence. Governor Baldacci of Maine reported that more than 50% of their homicides were related to domestic violence incidents (U.S. Fed News Service, 2006).

### **Preventative Measures for Combating Domestic Violence**

An ongoing question exists regarding ways to stop the violence against women. Research conducted by Brown (2006) suggested that women needed to speak openly about abuse, which may raise awareness of the problem. Researchers have raised questions about law enforcement officers who administer an investigation that is not thorough, and this inadequate response enabled the offender to commit further incidents of violence (Robinson & Chandek, 2000).

Recent studies have shown that the government has to provide better training, improve a more stringent working relationship with law enforcement personnel, and ensure some state attorneys' positions are dedicated exclusively to handling domestic violence cases and no other crimes (Fletcher, 2010). Weinstein (2008) found that (a) one in four U.S.

women would become a victim of domestic violence, (b) one in six would become a victim of rape or attempted rape, and (c) one in twelve would encounter stalking. Weinstein (2008) added that almost 5.8 million incidents of domestic violence would develop every year, which could lead to almost two million injuries and 1,300 deaths a year from domestic violence.

Findings of earlier studies generally agreed with encouraging the criminal justice system leaders to participate with the victims and witnesses of domestic violence cases (Robinson & Cook, 2006). In 2006, studies showed that only one-fifth of offenders were prosecuted in crimes against women, which might suppose a belief that the only witnesses in these cases were the victims, and therefore, the victim is crucial in prosecution of domestic violence cases. Robinson and Cook (2006) also suggested that victims tended to withdraw their testimony for a variety of reasons such as (a) inadequate communication, (b) delays from the legal system, and (c) dismissal of victims' concerns.

A Brooklyn, New York, attorney initiated a study in an effort to combat domestic violence (Hynes, 2010). The researcher concluded four practices would reduce domestic violence: (a) stringent prosecution of offenders; (b) support for the victims, including shelters and legal assistance; (c) education for batterer prevention; and (d) a separate domestic violence court, dedicated to domestic violence cases (Hynes, 2010). The number one experience for a victim of domestic violence is the feeling of isolation from society (Hynes, 2010). In 2008, federal data from the National Crime Victimization Survey indicated there were 552,000 crimes committed against women (Hynes, 2010). These data indicate that violence against women is down 53% since 2007. However, domestic violence still exists.

### **Prosecution of Offenders and Victims' Concerns**

Critical to this research is the fact that 73% of domestic violence incidents go unreported. Catania (2005) accounted for this rate because of the victim's belief about the inadequacy of the legal system. The procedure required the victim to fill out a police report and testify in a case that may or may not go to court. Catania suggested that state and local procedures needed to use one judge, one courtroom, one victim advocate, and one prosecuting attorney for consistency.

Failure of the legal system is evident in interviews with women, which were conducted by psychologist Mary Ann Dutton (Tuerkheimer, 2004). For the victim, comprehending suffering gave light to the initial comprehension of what a woman experienced. Even nonphysical abuse, such as psychological degradation and humiliation, can be devastating for a victim. Both can be perceived as a form of abuse, but are not recognized under criminal law.

Victims' concerns include (a) the right to be informed, (b) the right to be present, and (c) the right to be heard. Herman (2010) stated that many victims wanted to know what their legal rights were, and they wanted to know when court proceedings would occur. The release date of the offender is especially important information for victims to know. In Brevard County, the victim signs a Victim Notification Card, which allows her to be notified upon the offender's release. Additionally, in some states there is a computerized notification system that alerts the victim upon an offender's release (Herman, 2010).

The right to be present is equally important, as previously the victim was not given the opportunity to view the court proceedings. Watching arguments by the prosecutors and defense can help a victim put concerns into perspective. Requiring the victim to sit in the

hallway until she is called to testify serves no purpose, and only establishes a negative perception of the criminal justice system in the victim's mind (Herman, 2010).

Finally, the right to be heard is relevant, as the victim may want to notify the prosecutor of her wishes. Maybe she would like to negotiate a plea bargain or decline to prosecute. The right of the victim to consult with the prosecution and to provide an impact statement at the beginning of the proceedings allow the victim to be heard (Herman, 2010).

### **Preventing Recidivism**

Wyatt and Craig (2010) suggested the need for a victim impact program. This program encompassed ten areas: (a) accountability, (b) domestic violence, (c) child abuse, (d) drug addiction, (e) driving under the influence, (f) property crimes, (g) sexual assaults, (h) hate crimes, (i) crimes against the elderly, and (j) homicide. Individuals who have been victims of crimes understand what it feels like when a perpetrator commits a crime but later learn that the offender was a career criminal. The You Have the Power (YHTP) program was created in 1998 and incorporated victim impact from all ten of these crimes, as the program goal was for the offender to visualize the impact of all crimes, regardless of his or her specific charges.

Mills (1998) pointed out that mandatory arrest is distinguished from pro-arrest as depicting the victim's wishes. This prosecution requires the government attorneys to pursue charges against the offender, even if the victim wishes no further prosecution of the offender. Mills further suggested that empowerment received by the victim is due to direct law enforcement intervention with the victim. Direct intervention of police assistance has proven that recidivism rates were reduced. The offender's fear of prosecution might lessen reoffending.

Coulter and VandeWeerd (2009) suggested that, although treatment programs were in effect for offenders, the rate of attrition and recidivism is very high. Recidivism rates show that 20% to 30% of males will reoffend. With such high rates, new directives must be implemented. As previously noted, programs typically have been focused on interventions for violence, but other factors may need to be evaluated, such as substance abuse during commission of the crime (Coulter & VandeWeerd, 2009).

One such intervention program was introduced in Hillsborough County, Florida in 2009. After the offender is sentenced, he or she enters a batterer's treatment program, where initial screening is originated. The screening process begins with a structured interview-type process, which includes the offender's demographics, childhood history, drug abuse, and history of violence (Coulter & VandeWeerd, 2009). At the conclusion of the screening process, a staff evaluation and recommendation determines what level of treatment is necessary, from level one to level three, the most severe. Level one consists of an 8- to 12-week educational program. Level two is a 26-week educational program. The level three program has to be administered only by licensed mental health professionals.

The effects of alcohol or drugs in contributing to recidivism are supported by current research literature. In recent research, Hirschel, Hutchinson, and Shaw (2010) suggested that alcohol plays a significant role in recidivism. These results were collected through data from batterer treatment programs. Additionally, 40% of the batterers fail to comply with all the provisions of the intervention program or fail to complete it. Hirschel et al., further indicated that a previous history of domestic violence by the offender would increase the likelihood of the offender committing repeat offending. This study had two pertinent findings: decision-making of the law enforcement officer was unaffected if

alcohol or drugs were involved, and alcohol and/or drug use are contributing factors in recidivism.

### **Mandated Training in Law Enforcement Agencies**

The Florida Department of Law Enforcement requires that law enforcement officers must attend mandatory domestic violence training every four years. Lee, Park, and Lightfoot (2010) indicated that domestic violence victims will consult law enforcement assistance 80% of the time, but only after the first domestic violence incident has been reported. Contact for assistance was especially prevalent when the victim suffered a severe physical injury. Not only physical injuries are important, but also psychological injuries needed to be identified on the scene. Lee et al., asserted that training on understanding impairments, such as physical limitations and functional limitations, that have resulted from the abuse are important aspects that should be identified by law enforcement personnel.

Training is essential for new law enforcement officers and it begins in the police academy. According to the Florida Basic Recruit Training Program (FDLE, 2017), which consists of 770 hours of training, domestic violence protocol was taught to the recruits for forty hours. Recruits receive training in the following subject matter: (a) explanation of Victim's Rights brochure, (b) pro-arrest policy in Florida, (c) dating violence, (d) when to photograph injuries, (e) understanding of circumstances when a law enforcement officer would make an arrest, (f) when an arrest is not necessary, and (g) what paperwork is necessary to complete a domestic violence packet (FDLE, 2017). The ultimate question for a victim is whether this is sufficient training to evaluate properly the circumstances involving a domestic violence case.

### **Advantages of Pro-Arrest Policies**

Attention should be directed towards police liability in making arrests in law enforcement cases of domestic violence. According to Frantzen and San Miguel (2009), law enforcement liability falls into four areas: (a) domestic violence statutes, (b) confiscation of firearms, (c) the 911 emergency calls for service, and (d) other conduct that results in liability under Section 1983, which constitutes a federal legal avenue for victims to file civil damages against law enforcement. With this in mind, law enforcement officers have a tremendous amount of civil issues to contend with, as well as criminal statutes to decipher, when handling domestic violence calls.

In many states, officers have been mandated to conform to the mandatory arrest policies within their jurisdictions. Lutze and Symons (2003) indicated that law enforcement officers were instructed to make arrests, but only if probable cause existed. Prosecutors were mandated to conduct an aggressive prosecution; and punishment was to consist of incarceration, followed by treatment. According to Jones and Fowler (2009), all states allowed law enforcement officers to make a warrantless arrest when they had established probable cause for an arrest relating to domestic violence.

In creating this provision for law enforcement to make warrantless arrests, no-drop policies were created, which required all prosecutors to criminally prosecute domestic violence cases, even when the victim refused to cooperate (Jones & Fowler, 2009). A lackadaisical attitude regarding dropping domestic violence cases resulted when the victim would not cooperate, sending a message to the batterer that it was acceptable behavior to batter the victim. Eventually, what started to occur were dual arrests, as law enforcement could not establish who the primary aggressor was.

### **Disadvantages of Pro-Arrest Policies**

In 2007, 19 states contended to contribute to the statutory requirements of warrantless arrests in domestic violence cases (Hirschel et al., 2007). Of the 19 states, 42.1% had primary aggressor laws. Seven of the 19 states had mandatory arrest laws, and only one state had a preferred arrest law. This identified each state's interpretation of mandatory arrest, preferred arrest and pro-arrest laws, which resulted in the arrest of 37% of the offenders (Hirschel et al., 2007).

Another disadvantage of mandatory arrest and "no drop" injunctions was seen in New York. These orders are commonplace within the legal system in New York, creating concerns with divorce rates. The underlying issue is that the victim may not have even called in the original domestic violence complaint, but a neighbor called instead. A mandatory no contact order was issued to the offender, without the consideration of whether or not the victim felt afraid (Ayoub, 2009).

Those states that had a higher arrest rate were parallel to those with supporting legislative procedures and general public opinion. States that do not enforce mandatory arrest policies may not see domestic violence as a priority. Hirschel et al., (2007) elaborated further that states with a more ambitious legislature may also have additional funding allocated to implement and support domestic violence programs in their states. Substantial funding support is received from the Violence Against Women Act (VAWA). This funding can be used to generate domestic violence investigators and domestic violence units.

Relevant research also was concerned with domestic violence cases that proceeded to prosecution. Domestic violence cases revealed issues with evidentiary concerns, victims

unwilling to testify due to fear, and many legal proceedings that take an enormous amount of time (Friedman & Shulman, 1990). Further, domestic violence was still considered by some to be a private matter and, therefore, should not be in the public eye (Schuster & Proppen, 2010).

### **Concerns with Current Research**

A recurrent theme in the literature is information regarding domestic violence and statistical data concerning characteristics of domestic violence, what interventions work, if they work, and psychiatric profiles (Chiu, 2010). One such proposal in the literature is a public access database called the Scarlet Letter proposal. This database would be maintained by state and local governments and contain records of all protection orders that are listed in that state. For example, if a woman is contemplating a new relationship with a man, she can access the database to ascertain if the person she is considering has ever had a final protection order issued to him. This, in turn could potentially extricate her from getting involved (Chiu, 2010).

Further research in the area of the Violence Against Women's Act regarding funding of programs will certainly need to address domestic violence not just for women as victims, but for men, who can also be victims. The Office of Legal Counsel (Department of Justice Office on Violence Against Women, 2010) has mandated that prosecutors be allowed access to whatever means necessary to protect the victims of domestic violence, including those of same-sex relationships.

An approach for future research is the ability to recognize that multiple factors might be contributing to domestic violence. According to Roberts (2002), early intervention, treatment for offenders and victims, and government support of assistance

programs will help generate family values back into our society. The question is to identify which programs and services can best help those in need. In research conducted in 2004 by the National Institute of Justice, it was determined that over 7,700 requests for assistance went unmet, partly due to shortage of funds (Roberts, 2002). Further, legislative funding is necessary to assist the victim outside of the volatile relationship to which he or she is accustomed.

In conclusion, the history of domestic violence was discussed as it related to the Minneapolis study. Domestic violence once was considered a family matter but is now a law enforcement concern. Current laws in Florida are the basis for this study, as they relate to procedures in Brevard County. Prosecution of offenders and victims' concerns are part of a coordinated effort with the State Attorney's Office and the Brevard County Sheriff's Office. Finally, training in domestic violence for law enforcement professionals and domestic violence attorneys is mandated, and according to the Florida Department of Law Enforcement Basic Recruit Curriculum, domestic violence training is required in the police academy for all new recruits (Florida Department of Law Enforcement, 2017). Every four years, the curriculum is evaluated and updated for accuracy (Florida Department of Law Enforcement, 2017).

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