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# **RESPONSE TO DOMESTIC VIOLENCE IN A PRO-ACTIVE COURT SETTING**

## **EXECUTIVE SUMMARY**

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Justice Service (NCJRS)

## ACKNOWLEDGMENTS

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The success of this project depended on the huge commitment made by many of our students and staff. Many were exceptional in their efforts. Data collection was led by Robin Smith whose abilities included extraordinary skill at obtaining victim cooperation for interviews, maintaining high standards for data collection, and demonstrating tireless patience and perseverance to continually monitor all the details associated with such a large scale project. We are also grateful for the excellent work of those students who worked with her: Renee Dion, Michelle DeLuca, Paul Basile, D.J. Quigley, Chris Finneral, Kevin Cardonne, Dennis Febles, Todd Ahern, Lynn Malatesta, Cheryl Crooks, Joe Espinola, Bob Sojka, James Murphy, Toby Plourde, Eric Goyette, Isabel Deno, Jason Barber, and Joe Shields.

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## OVERVIEW OF THE REPORT

Beginning in 1986, the Quincy District Court (QDC) initiated what has been described as one of the nation's first, and most comprehensive, pro-active domestic violence programs. The court's aggressive, pro-intervention strategy has been recognized in recent years as a national model to be emulated by other jurisdictions searching for an integrated system-wide response to the myriad of problems that typically get clustered together as "domestic" incidents (e.g. addiction, assault, abuse) by local police, court and corrections administrators.

Clearly, the QDC's full enforcement environment offers a unique setting for a research study that purports to test essential elements of a deterrence-based response to domestic violence. With the support of the National Institute of Justice, we began a project in 1995 to examine the workings of this court and its impact on the lives of victims.

Four broad descriptive goals guided the direction of this project. There were also several specific objectives associated with each of these goals which are discussed at length in the chapters comprising the Final Report. However, it is important to keep in mind that the overriding purpose of this report was fourfold. First, we wanted to describe, as accurately as possible, the workings of the primary components of this model jurisdiction in its response to domestic violence. Specifically, we wanted to use official records to determine: (1) what the police actually did when called to a domestic violence incident; (2) decisions made by the prosecutor's office and the court in their handling of these incidents; (3) how many victims talked to a victim advocate; and (4)

how many offenders received batterer treatment and/or were incarcerated.

Second, we wanted to know about the types of incidents, victims, and offenders seen in a full enforcement jurisdiction to determine if the types of cases coming to attention in such a setting looked similar to cases reported in studies from other jurisdictions. We were also interested in knowing whether victims and offenders had the same profile characteristics as reported in other research, and especially whether the modal offender was a first-time defendant or had a more extensive criminal record.

Third, we interviewed victims to hear directly about their experiences with a model court. We wanted to know how they felt they were treated by the criminal justice system and how satisfied they were with the response to their situation. We were also interested in finding out whether victims felt their safety was enhanced by the actions of the police, prosecutors, and courts. Most importantly, we were concerned about whether victims would use the criminal justice system again for a similar problem in the future.

Fourth, we wanted to examine how well this model jurisdiction worked in preventing re-victimization. Since a major stated goal of the QDC is to protect victims from re-abuse, we looked at a variety of data sources for evidence that victims' lives were actually safer as a result of court intervention.

Research on domestic assault has focused on the issue of deterrence in the context of an admittedly flawed criminal justice system. In most jurisdictions, the majority of domestic violence offenders have not been effectively sanctioned. Until passage of the Violence Against Women Act (VAWA) in 1994, there was no systematic nationwide effort to criminalize domestic violence or to encourage victims to file restraining orders. The

criminal justice approach however remains highly inconsistent. While many individual police departments have recently instituted pro-active arrest oriented policies in response to statutory instructions or administrative directives, often such efforts receive little encouragement or reinforcement from prosecutors or the judiciary. Today, truly integrated responses to domestic violence offenders are the exception rather than the rule.

The Quincy District Court (QDC), which serves eastern Norfolk County, along Massachusetts' South Shore, initiated an aggressive pro-intervention system in 1986. The QDC was nationally recognized as a model for its integrated response by the Violence Against Women Office and the National Council of Juvenile and Family Court Judges. In fact, The Violence Against Women Office designated the QDC as a national training site for all states receiving Violence Against Women Act grants.

Data used in this report come from a sample of domestic violence cases in the QDC. The QDC serves eastern Norfolk County, along Massachusetts's South Shore, an area of about 100 square miles. The total population of towns within the Court jurisdiction was 246,818 as of 1990 (U.S. Census, 1990).

The Court has jurisdiction for all juvenile and adults charged with any misdemeanor or felony, provided the punishment for the felony is limited to a maximum misdemeanor punishment ( 2-1/2 years in the County House of Correction). In Massachusetts, approximately 98% of all adult criminal charges are prosecuted in District Courts, like the QDC, with misdemeanor punishment (Supreme Judicial Court, 1996). Defendants arrested or summonsed into court for a felony are also arraigned in District Courts like Quincy, although they are prosecuted in Superior Courts. The vast majority of domestic violence cases in

Massachusetts are currently prosecuted in District Courts unless the offense involves a homicide or extraordinary injuries.

### **III. METHODOLOGY**

#### **Study Design**

This project only focused on male-to-female violence. This distinction was made as this is the definition utilized by the Violence Against Women Act where the assumption is made that there are unique aspects to these relationships that distinguish them from other types of domestic assault. Further, while domestic violence legislation includes a number of relationships which all vary among states, all statutes include male-against-female violence. Data used in this report are based upon domestic violence cases that resulted in an arrest and arraignment before the Quincy District Court during a 7-month study period. All consecutive arrests for domestic violence involving male defendants and female victims that occurred between June, 1995 and February, 1996 were initially examined for inclusion in our final sample. From that pool, we eliminated all cases involving defendants and primary victims who were under the age of 17, cases involving same-sex relationships, and cases involving male victims and female defendants. The final sample is composed of 353 cases of male-to-female domestic violence. It can also be described as a population, since it includes every case in this category of incidents which occurred during the study's data collection period.

All but 3 of the 353 cases came to the attention of the study as the result of arrest (three

victims went directly to court). Consequently, this sample cannot examine factors that affect the decision to arrest in this jurisdiction. However, the police departments in the towns served by the QDC use presumptive arrest policies in responding to domestic violence and, it is estimated that, 70-75% of all calls to police result in arrest (provided by the Chief Probation Officer in the QDC at the time of the study, Andy Klein). We are reasonably confident that our sample represents a full spectrum of this jurisdiction's male-to-female violence and abuse cases which come to the attention of the criminal justice system.

Even so, the representativeness of this sample of all male-to-female domestic violence cases seen by the QDC over the course of 7 months cannot be fully determined. First, little is known about cases that did not result in arrest following calls for assistance. Second, even though cases in this sample do not show much variation in numbers or on key characteristics on a month-to-month basis, there may be seasonal variations in the nature of cases that came to the attention of the criminal justice system. Third, and perhaps most importantly, our sample size does vary from analysis to analysis due to the availability of data from the primary sources used in this study, i.e., official records and self-report surveys. Consequently, we are often reporting results from a subsample of offenders and victims, which raises questions about the generalizability of the study findings.

### **Data Sources**

To facilitate our study objectives, information was needed from multiple sources and perspectives covering data from significant periods of time both before and after the occurrence of the incident that led to its inclusion in our sample. In addition to procuring these data, an additional challenge was to link together information from several sources into one coherent data file.

Sources of data used in this study are described below.

**1. Offender's Criminal History Data.** The Quincy District Court's Department of Probation, provided criminal biographies for all 353 defendants in the sample. For this research each defendant's criminal activity was analyzed both prior to the study incident and for 1-year subsequent to that incident. These records contain all criminal charges filed against a defendant by any Massachusetts Court during his lifetime, the dates of occurrence and court locations of each charged offense, as well as the defendant's age at time of first offense.

**2. Civil Restraining Order Data.** In September, 1992, the State of Massachusetts implemented the Registry of Civil Restraining Orders: the first statewide, centrally computerized record keeping system on restraining orders. This registry is primarily designed to provide the police and courts with accurate and up-to-date information on the existence of active orders. The Quincy District Court Department of Probation provided information from this registry on the number and type of civil restraining orders taken out in Massachusetts against all 353 defendants both before the occurrence of the study incident and for a 1-year period following the study incident.

**3. Prosecutor's Office/District Court Data.** The QDC Department of Probation also provided us with information on all 353 defendants concerning prosecutorial charges. For each defendant in our study information was provided on up to three domestic violence related charges for our study incidents and any additional non-domestic violence related charges. This information enabled us to compare police charges to prosecutor charges on their number, severity and type and to understand the link between prosecution charges and court handling of cases.

**4. Data on Study Defendants and Batterer Treatment Programs.** Some study defendants had to enroll in a batterer treatment program as a condition of probation. In an effort to determine

which study defendants attended treatment and whether or not they completed such treatment, we contacted the Directors of the two batterer treatment programs which serve the Quincy District Court. The Directors of these two programs gave us the names of those 86 defendants in our study who attended batterer treatment and their treatment completion status at the end of our study period.

**5. Police Incident Reports.** A key data source used in this study were the police reports for the study incidents from the seven departments served by the QDC. These reports were used to measure the officer's perspective and actions taken about the incident, what the call for service involved, characteristics of the incident, socio-demographics of the participants and their narrative description of the incidents and their stated response.

We were able to retrieve police reports and/or police intake forms for 89% (317 of 353) of the study incidents.

**6. The Victim Survey.** In addition to official criminal justice system data concerning our study incidents, we felt it was important to also capture the perspective of the victims on the study incidents and their handling. Consequently, we wanted to talk directly to victims involved in these incidents.

Because one of the chief aims of the survey was to tap into the victim's perspective about experiences with the criminal justice system, victim interviews did not take place until approximately 12 months after the occurrence of the study incident. Our use of a 1-year time-frame was dictated to us by the fact that we had to wait until victims passed through contact with the prosecutor's office and court and our interest in self-reports about re-offending behavior 1-year after the study incident. However, this clearly had a severe effect on our response rate.

We were able to complete usable surveys with 118 victims in this study. Five victims who initially agreed to participate consequently “broke-off” the interview in the first 10-15 minutes, completing less than 20% of the survey items, and were considered “refusals”.

For the purposes of interpreting the results of this study, it is important to recognize that we only completed interviews with 35% of eligible study respondents. However, a more important question is the extent to which those who completed the survey are different from both “refusals” and those women we were unable to locate. For most comparisons, we could not find major differences between victims according to their status on our survey. We were originally concerned that those victims we did not interview were involved with more dangerous men or in more serious domestic violence incidents. But this does not appear to be the case. Those who completed the survey were, in fact, more likely to have been in incidents involving severe violence and the use or threat of guns and knives and were abused by men whose criminal histories were as extensive as offenders whose victims did not complete the survey.

### **III. SUMMARY, DISCUSSION, AND POLICY**

#### **IMPLICATIONS**

##### **Summary of Findings**

**I. Domestic Violence incidents in this study were serious criminal events.**

Despite being labeled as misdemeanors, in this jurisdiction:

- 71% of incidents involved the use of violence.

- 10% of victims experienced a serious injury in the incident including broken bones, broken noses, internal injuries, lacerations, and loss of consciousness.
- An additional 27% experienced moderate injuries involving bruises, swellings, and joint soreness.
- In 16% of incidents, a weapon other than hands or feet was used by the offender. Weapons included firearms, knives, blunt objects, and motor vehicles.
- Almost 70% of victims interviewed felt that they were going to be seriously injured in the incident.
- More than 1 of 5 victims (22%) felt they needed medical attention as a result of the incident.

**II. The majority of domestic violence incidents in this study did not involve alcohol or drugs nor did it occur between individuals living together in private settings .**

- According to police reports, the offender was under the influence of alcohol or drugs in only about 36% of incidents.
- Even though 73% of incidents took place in the victim's household, the victim was not living with the offender in over half of these incidents.
- Close to half of the study incidents (47%) were witnessed by at least one other person. Forty-three percent of incidents in which there was a witness involved a child under the age of 18.

**III. The majority of offenders in this study had prior contacts with the criminal justice system for a wide variety of criminal behaviors.**

- Only 15.6% of offenders had no prior juvenile or adult criminal record.
- 84.4% were previously arrested.
- 54% had 6 or more prior criminal charges.
- 14% of study offenders had 30 or more criminal charges.
- 59% had prior crimes against person charges with an average of 3.10 charges per defendant.

- Over 28% had at least one restraining order issued before the study incident.
- 60% had criminal charges before the age of 21 and 90% by age 35. Only 10% were over 35 when they first entered the criminal justice system.

In short, the profile of the batterers in this full enforcement court is one with a history of lengthy prior involvement with the criminal justice system.

**IV. Despite long histories of victimization, the majority of victims tried a variety of strategies to end the violence.**

We found that the majority of victims of physical abuse had a lifetime history of victimization experiences. For example:

- Many victims had lengthy prior histories of physical and sexual abuse victimization.
- The victims in this study had 6-10 times the rate of child physical abuse compared to the general population, 36% were victims of child sexual abuse, and 36% were in prior violent adult relationships.

However, our data did not support the model of passive women who somehow contributed to their victimization. In fact:

- Almost 3 of 4 victims in this study had called the police on or a prior occasion about the same offender.
- Victims tried a variety of self-defense tactics, but most of the time, these tactics increased offender violence.
- Even moving away from a violent husband/partner did not guarantee safety. Less than half the victims were living with the offender at the time of incident, but 3/4s of victimizations occurred in their homes.
- 68% of victims called or contacted the police themselves in this incident.

**V. The offender's restraining order history proved a reliable marker for other criminal activity and future violence. The use of civil restraining orders was not discouraged**

**in this jurisdiction and orders were enforced by the criminal justice system.**

- Offenders who had an active restraining order out at the time of incident were almost twice as likely to re-offend against the same victim within the one year follow up period.
- Conversely, those who sought out different victims had a significantly greater number of restraining orders and greater number of prior alcohol/drug charges.
- Those who had restraining orders taken out against them in the past by more than 1 female were 13 times more likely to re-offend against a new, different victim.

This jurisdiction generally enforced and did not displace restraining orders. Specifically:

- There did not appear to have been inappropriate diversion of cases from civil restraining orders to the criminal justice system.
- When previously obtained restraining orders were breached, there was aggressive enforcement and criminal charges were filed by police or prosecutors in accordance with state law and policies.

**VI. An analysis of re-offenders confirmed a subset of offenders deeply committed to a criminal life style.**

- Official data identified re-victimization in about 1 of every 5 victims. Victim survey data showed a re-victimization rate of 49.2% compared to 22.1% in official data.
- Re-offenders were more likely to have used a weapon in the original incident.
- Re-offenders were more likely to have been involved in incidents where the victim did not call the police.
- Offenders who sought out new female victims had a significantly greater number of prior restraining orders and greater number of prior alcohol/drug charges.

**VII. Police in this jurisdiction acted in a manner consistent with the pro-active goals of the QDC.**

- Police in this jurisdiction did not undercharge cases. We found no evidence of this being a jurisdiction with a paper policy of making arrests without an actual commitment to do so.

- Police did not simply use non-domestic violence charges of disorderly conduct or resisting arrest, but rather multiple and specific domestic violence charges were filed.
- Victims reported that police regularly took a variety of actions, in addition to arrest. These included providing referrals for obtaining temporary restraining orders, transporting victims and children, and providing assistance in getting medical care.
- Police actions did not appear to discriminate based on victim's race, use of alcohol or drugs, relationship of offender, criminal history, or presence of children. Police behavior primarily was in response to the actual incident, not the ascribed victim's qualities.
- Police often, but not always, appeared to take efforts to pursue arrest for absent offenders in sharp contrast to common practices in other jurisdictions.

#### **VIII. Victims were largely satisfied with the police.**

- 82% of victims stated that they were "satisfied" with the police response.

Our analysis of victim satisfaction reveals several key factors:

- While most victims were satisfied, those victims not wanting arrest were more likely to be dissatisfied.
- Victim satisfaction appeared related to whether the victim was informed of her rights and advised about obtaining a restraining order.
- The inability of the criminal justice system as a whole to prevent future abuse rather than the actual police performance significantly impacted victim satisfaction with the police even if they had little real ability to prevent re-abuse.
- Not surprisingly, dissatisfied victims were primarily assaulted by more chronic offenders - those with an average of 18.9 prior charges.

Police in this jurisdiction have largely functioned as part of a coordinated criminal justice response. However, the system does not appear to prevent recidivism among "hard-core" re-offenders.

**IX. Prosecutors and their staff of victim advocates performed their duties in a manner consistent with the objectives of the ODC, however, their overriding mission to support prosecution may conflict with victim preferences.**

While the gross number of criminal charges pursued by the prosecutor was slightly lower than that received from the police, the differences appeared to be consistent with review procedures by competent criminal lawyers:

- Prosecutors lessened the number of charges in cases that had difficult to prove evidentiary requirements such as those that required a finding of specific criminal intent, like intent to commit murder.
- Prosecutors increased the number of charges related to concrete offenses, e.g. violation of restraining orders, assault with a dangerous weapon, and charge enhancements.
- The data on prosecutorial action in this court was inconsistent with reports from other jurisdictions that the prosecutor is part of a "funnel" which inappropriately screens out cases brought by aggressive police departments.

Victims perceived a gap between their interests and those of the prosecutors. How wide was this gap, and why did it exist? To some extent, it started with differential expectations about the need for the criminal justice system's continued involvement with the victim:

- A majority were either ambivalent or opposed to even talking to the prosecutor about their cases.
- This opposition was related to differences between a full enforcement policy and victim preferences which included 37% of victims wanting charges dropped or the case not go forward, and an additional 14% wanting charges lowered.
- While most victims stated that prosecutors increased their safety, in about 9% of the cases, victims felt that contact with the prosecutor jeopardized their safety.

- 65% of victims were satisfied and 34% dissatisfied with prosecutor's actions.

**X. Victim advocates are used and appreciated.**

- Victim advocates, organizationally placed in the prosecutor's office, appeared to be routinely used by prosecutors as an integral part of the prosecutorial team.
- 81% of victims were "satisfied" in their contacts with victim advocates.
- Victims reported confusion about whether victim advocates primarily supported organizational goals, e.g. prosecution of offenders, or tried to increase victim's authority within the system, e.g. was she acting as a true "victim advocate" as opposed to "an assistant prosecutor".

As a result of the above, we also can say that the prosecutor's office, including the victim advocates, largely performed as expected in providing an integrated response and did not marginalize domestic violence cases. However, while victims were primarily satisfied with the prosecutor's office, there was more ambivalence in victim sentiment than was evident in victim evaluation of police.

**XI. The courts largely upheld the domestic violence related mission of the ODC. However, high case loads affected rapid and aggressive targeting of high risk offenders.**

- The judiciary used discretionary powers in an explainable manner. The large number of cases that were continued without a finding, nolle processed, or dismissed, disproportionately involved those offenders least likely to recidivate.
- Judicial discretion implicitly acted to prioritize the more high-risk cases for judicial intervention.
- While explainable in the context of a misdemeanor charge, many offenders who presented a serious continued threat to victim safety based on past criminal behavior were released on personal recognizance or bail.

- Resource allocation of scarce judicial time remains a problem.
  - The QDC, as a district court with a general docket of civil and criminal cases, operates with scarce resources in terms of number of judges and the ability to quickly process criminal cases to completion.
  - There was a lengthy time between arraignment and initial case disposition (6 months on average).
  - Ultimate efficacy, of even a well run system, is limited by overloaded dockets.
  - Court delays were of particular importance since the majority of recidivists in this study re-offend within one month of arraignment leaving courts with little capability to prevent further victimization during the most crucial time period.

**XII. Victims had more ambivalence toward "the courts" than to the police or prosecutor.**

- 53% thought courts increased their "sense of control".
- 40% said they felt "embarrassed " about having to go to court.
- 39% said they were made to feel safer because of the actions of the court.
- Only 3 factors were related to positive levels of victim satisfaction with the court:
  - Perceiving the court experience as increasing personal safety.
  - Feeling the court experience motivated her to no longer tolerate a violent relationship
  - Feeling that the court gave a sense of control in the relationship.

Why the harsher evaluation of the court? Perhaps the reality is that victims ultimately assessed the judiciary as the key decision maker in the criminal justice system. From this perspective, if the violence did not end, then the courts were to a larger extent blamed. For that reason, those victims who were abused by chronic criminal offenders and those who were

subsequently re-abused remained likely to be less satisfied with court actions.

### **XIII. Victims are often capable of assessing their danger.**

There is a developing policy consensus favoring mandatory arrest and prosecution of all offenders. To some extent, this relies on an implicit belief that victims of domestic violence are not capable of (and should not even be asked to) assess the future risk presented by an offender.

We largely did not find this to be true.

- Women's fears of offenders were accurate. Despite aggressive intervention by a full enforcement criminal justice system, the pattern of future offenses in many cases had not been broken. From victim accounts, almost half reported another instance of abuse or violation of a restraining order.
- Women who thought they would be seriously injured in the study incident were almost 3 times more likely to be re-victimized.
- Women who thought they were in need of medical attention as a result of the incident were one and a half times more likely to be re-victimized.
- Women who described offender violence over the course of the relationship as having become more severe and frequent were almost two and a half times more likely to be re-victimized than women who reported no discernable pattern of violence.
- Women in controlling relationships were almost twice as likely to be re-victimized.
- Victims who feared serious injury were almost 3 times more likely to be re-victimized.
- Victims who felt that going to court was going to reduce their ability to bargain with the offender were also more likely to be re-victimized.
- Victims called the police for a variety of reasons other than just arrest.
  - 16% of victims did not want arrest.
  - Victims not wanting arrest were women who usually had not called the police

before and/or were less likely to have called the police themselves about the study incident.

- Victims who left the offender during the first year after the study incident were twice as likely to be re-victimized.

**XIV. Many victims did not report re-offending to the criminal justice system.**

- Victim skepticism about the criminal justice system did not explain non-reporting of re-offending.
- A greater proportion of victims who did not want an arrest in the original incident reported re-victimization to authorities.
- Victims reported both serious and not as serious re-victimization. They were more likely to report new violations of restraining orders than actual violence.
- Failure to consider victim preferences may discourage future use of the criminal justice system by victims who wanted the criminal justice system to do more as well as those who wanted it to do less out of fear of offender retaliation.
- Victims who wanted more serious charges filed in the initial incident were 6 times more likely not to have reported subsequent re-victimization
- Those who felt contact with the criminal justice system decreased their safety were over 2-1/2 times less likely to have reported future incidents.

As a result, we reach the conclusion that except in cases where danger is apparent, or a chronic offender is involved, the criminal justice system should try to follow informed victim preferences and not assume that a universal response is appropriate.

**XV. The only significant predictors of re-offending were prior criminal history and age at first offense.**

- The majority of re-offending occurred prior to initial disposition of study incident
- The majority of offenders not prosecuted or prosecuted without subsequent court supervision did not commit new violent offenses in the study period.
- The majority of offenders receiving probation did commit new violent offenses during the study period.

- Completing batterer treatment had no significant impact upon re-offending behavior.

## **Discussion**

### **I. We believe a coordinated domestic violence response was largely achieved. Victims and offenders dealt with agencies in this jurisdiction with shared goals and apparent resources to carry these out.**

In this jurisdiction, criminal justice agencies and the court functioned as an integrated unit with the apparent purpose of ending repetitive violence.

#### **A. Recidivism Reduction is Problematic**

We found that despite aggressive enforcement, recidivism rates remained quite high especially within the first month after arrest, but before the formal court processing of cases. However, many offenders seen in this court appeared to have been extensively involved with law enforcement and the courts, often from their teen years.

In addition, it is possible that the highly publicized coordinated response of the criminal justice system and courts has deterred many potential offenders, especially those who had not been exposed to the criminal justice system before as defendants. This may be the reason why this offender population is dominated by a high number of hard-core recidivists.

#### **B. Other measures of the impact of intervention including levels of victim satisfaction may be more beneficial.**

Prior evaluations of criminal justice interventions in domestic violence, by design, typically focused upon one type of recidivism, usually violence against the same victim.

However, there are many other important outcome measures including victim satisfaction with case processing, her perceptions of well being and negative consequences such as his adoption of alternate forms of abusive behavior, i.e. stalking, other non-specific harassment, or violations of restraining orders.

At least from the perspective of victims themselves, the impact of aggressive enforcement in this court appeared favorable. As a group, most victims were highly satisfied with the actions of the system and each of the component organizations. From this perspective, a key goal of the system has been achieved. This is true despite the fact that at each stage of the case many victims did not initially want aggressive criminal justice action. In fact, many victims responded consistently that they wanted neither arrest nor prosecution.

**C. The system issued and enforced restraining orders.**

Civil restraining orders, if effective, are the lowest cost method of trying to prevent repeat violence. Their issuance directly empowers a victim because it is initiated by her extensive involvement; she also does not need agency assistance in starting the process.

What she does need is a system that enforces the restraining orders with their violation being a separate offense even prior to commission of further acts of violence. We believe that this system functioned in a manner that enforced the efficacy of restraining orders. By enforcing the breach of restraining orders prior to new violence, it is highly likely that many acts of further violence by this cadre of offenders was prevented and many, if not most, potential offenders were deterred.

**D. Scarce criminal justice resources were by impact, if not by express policy primarily targeted toward the most serious offenders.**

As described earlier, in the QDC system, the police arrest, prosecutors charge, and the courts sentence most offenders. Judges ultimately screened out many cases via deferred sentencing that involved first time offenders and those who appeared not to have strong likelihood to recidivate. Is this the most efficient use of scarce resources? Not necessarily. There is some inherent inefficiency when there is no attempt to differentiate between high and low risk offenders early in the processing stage.

**II. Were any unintended consequences observed?**

**Victim non-reporting**

Two groups of victims were most likely to have reported fear as a result of criminal justice intervention or to believe that future intervention might not be in their interests: those involved with the most serious offenders and those whose offenders were new to the criminal justice system. Each of these subsets brought special concerns.

**1. High non-reporting of subsequent incidents and intimidation of victims**

We did find a number of victims who may have been intimidated and/or been the victim of retaliation. Not surprisingly, those victims most likely to be deterred from future use of the criminal justice system were those who accurately determined that they were in greater danger of retaliation.

**2. Victim deterrence in low risk cases**

In another population subset, the victims who were least likely to want formal

intervention, were involved with the least serious offenders. This group of victims really wanted limited, and less coercive, assistance, e.g. offender substance abuse counseling, dispute mediation, or help in shifting the balance of power in a relationship. The system needs flexibility to handle these cases.

The foregoing types of victims, those with the most serious and those with the least serious offenders or who do not wish formal intervention were most likely not to report future occurrences of abuse. For this reason, a blunt criminal justice policy of mandatory arrest and no-drop policies through conviction may not always serve the individual needs of victims.

## **Policy Implications**

### **A. Police**

While police performance was highly regarded, there are a number of policies and practices that might be considered on a case by case basis.

First, our research shows that victim risk of injury is quite high - certainly higher than typical misdemeanor type offenses. As such, police should prioritize domestic violence calls to provide a rapid response whenever possible. Further, when someone other than the victim calls, the police should treat these calls with seriousness since this research indicates the odds are 2-1/2 higher that such cases will involve a major injury to the victim compared to cases in which the victim calls police herself.

Second, the standard police incident form may not be adequate for the needs of successful case prosecution. We believe they should require that certain kinds of

information be gathered. For example, victim arrest preferences should be solicited and their reasons for or against arrest explained in the police report. If victim preferences are not going to be honored, because of policy requirements for arrest, or because the officer reasonably suspects imminent violence, the reasons for this should be entered in the report and stated to the victim. Specifically, a detailed police report form including the specific acts of violence, harassment, and stalking involved, whether children or others were present and might have been at risk, and ancillary acts of property damage would help prosecutors to develop more comprehensive charging. In this manner, the police would enhance their role in an overall system focusing resources on an identifiable target group of the most violent offenders. In general, we believe that much more information could be obtained with a specific domestic violence form to be given to victims by responding officers.

Third, police in this jurisdiction already track those offenders not present to make a subsequent arrest. Our research did demonstrate that as a group, those offenders who left the scene had twice the number of past criminal charges and twice the recidivism rate of those present when police arrived. Therefore, these findings strongly suggest that high priority should be given to offenders who left the scene before police arrival, and even more significantly, to those fleeing offenders with lengthy criminal records (who may know they would be likely to be arrested again).

Fourth, we believe the system should have a clear policy to target repeat offenders. This policy should prioritize admittedly scarce resources to rapidly apprehending fleeing offenders with a prior criminal record.

Fifth, to assist in response consistency, police should be specifically trained in

interpreting and properly responding to victims as well as offenders. Those victims who are afraid should receive additional assistance, perhaps including mandatory arrest with the concurrence of the supervisory officer, while those preferring alternatives to arrest might initially be directed to victim advocates or other personnel prior to arrest.

### **B. Prosecutors and Victim Advocates**

While prosecutors and victim advocates were clearly aggressively responding to victim problems, they were not viewed as very sympathetic or responsive to victim needs. This may be a difficult problem to solve as it involves the impact of generalized policies not tailored to specific victims. As we described earlier, aggressive enforcement of the law against generally violent offenders may legitimately heighten fears of retaliation of some individual victims. However, the need for such enforcement may outweigh the initial victim preferences. In such an event, prosecutors and victim advocates should anticipate the victim's ambivalence shown in this research. We believe several approaches might help.

First, although it is time consuming, the goals and rationales for standard operating procedures of the system should be communicated, even at times excessively, to the victim.

Second, if resources are available, the prosecutor's office can establish a 24 hour, 7 day a week emergency response team perhaps staffed by one of the victim advocates and coordinated with the police. Acts of further violence or intimidation should be prioritized so that they receive a prompt, coordinated response.

Third, existing programs of community outreach should be strengthened where in a non-case specific, regular basis, and non-confrontational manner, prosecutors can demonstrate their

commitment to victims of domestic assault to large numbers of people in the community.

Fourth, we recognize that current system practices in Massachusetts involve generally charging domestic violence offenders with misdemeanor offenses and trying them in district court. However, prosecutors do have the option of charging many offenses, such as assault and battery with a dangerous weapon, as felonies and referring them to Superior Court. Given the dangerousness of many domestic violence offenders, this research suggests that such a referral should be a recommended option for hard-core, repeat offenders - perhaps on the basis of a publicized policy that explicitly informs prospective repeat offenders of how they will be singled out.

Fifth, we recognize that victim advocates may be the single most interested group in providing services to victims of crime. Despite this, victim advocates are often placed in the uncomfortable role of the advocate for prosecution despite victim concerns about further case processing. Perhaps existing policies that have victim advocates discouraging dropping of charges should be re-examined to give them greater responsibility for educating victims of their options, the reasons for policy preferences favoring prosecution and yet allowing greater flexibility on the face of divergent victim needs. At the same time, in cases involving repeat offenders, the traditional emphasis on prosecution should be maintained and even strengthened.

### **III. Courts**

This research found that a significant number of domestic violence offenders are hard-core criminal offenders in general. Clearly, resources would most profitably be concentrated upon these offenders.

First, judges and prosecutors might consider a task force approach to identify and rapidly

process offenses committed by multiple offenders. If coordinated with the courts, cases involving these offenders could be most rapidly processed, thereby limiting the chances for re-offense during the otherwise lengthy period between arrest and case resolution.

Second, subject to limitations imposed by the state Constitution and laws, granting release on bail/personal recognizance should be more individualized to the past criminal history of the offender. Decisions appear to be based solely on an offender likelihood to reappear rather than on dangerousness. In cases involving a repeat batterer, especially with the presence of a generalized criminal history, there is a likelihood of further risk if injury to the victims or others. As a result, we believe that use of bail/release should be re-examined in the context of repeat offenders.

Our research suggests that judges and prosecutors need a new mechanism to identify the higher risk batterers among the many batterers entering the system. We found that this can be accomplished by reviewing easily obtained criminal justice documents such as civil and criminal records. Currently, judges and prosecutors do not make full use of these records in determining release. Instead they appear to rely on the seriousness of the current charge. Our research suggests that the offender's prior criminal history and age at first offense are the real keys to predicting re-offending, not the circumstances of the actual incident.

Finally, while the judiciary clearly have acted responsibly to prioritizing this problem, we would suggest regular attendance at conferences outlining current best practices and available options.

#### **IV. Victim Trust Issues**

In general, all agencies, police, prosecutors, victims advocates, and the court, should

endeavor to actively listen to victims, especially when they want more serious charges filed against offenders. Victims who wanted more serious charges brought against the offender were largely able to predict re-victimization. The victim who states she does not want arrest or prosecution presented a different dilemma. In most cases, it was because the victim could reasonably predict an offender was not dangerous, but in some situations, it was the fear that the system would be unable to protect her from retaliatory violence.

Our research finds that women often correctly predict that arrest and prosecution will not deter certain batterers from re-abuse. Unfortunately, the criminal justice system may reach the erroneous conclusion that the incidents must not be too serious if the woman is not committed to the prosecution of a case. This is only partially correct. The men who women don't want arrested and prosecuted are less dangerous most of the time. It is the remainder of the time that we should address, where offenders are so dangerous that women are afraid of the consequences of prosecution. Further, these women are less apt to report new abuse, thus making it easier for the criminal justice system to underrate their dangerousness.

The conclusion appears to be that for low risk offenders or first time batterers or those whose offenses are marked by multi-year latency periods, the victim's preference for arrest and prosecution should be honored. For high risk offenders, even a "model" court has not broken their pattern of intimidation and control and the interventions they have used to date are insufficient.

Stopping chronic and/or serial batterers is apt to be a long, difficult process, not easily impacted by any one criminal justice intervention, especially one that is fundamentally compromised by long prosecutorial and judicial delays and restricted to misdemeanor type sentences. Possibilities to be considered are long term, strictly supervised periods of probation and

escalating penalties for repeat arrests and restraining order violations if necessary via referral to the Superior Court. Clearly, these offenders are testimonials to the fact that lesser sanctions will not deter them.