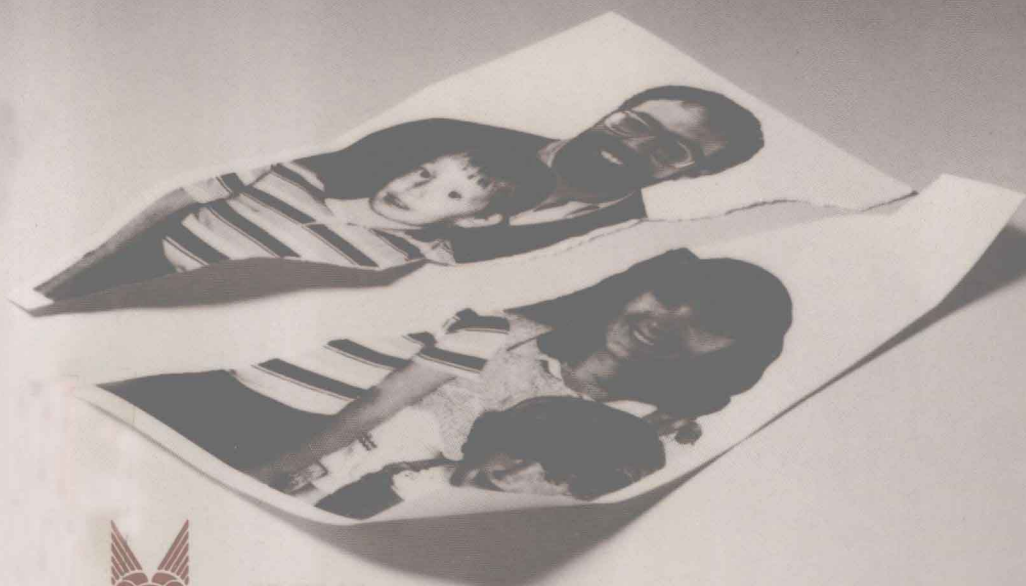


Abused AND Battered

Social and Legal Responses
to Family Violence



EDITORS

Dean D. Knudsen • JoAnn L. Miller

ABUSED AND BATTERED
Social and Legal Responses to
Family Violence

Dean D. Knudsen and JoAnn L. Miller
(*Editors*)



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Preface

Defining family violence is problematic. What do we know, with relative certainty, about spouse abuse, child abuse, or elder abuse? What can we do to help, and not harm, victims of family violence?

We know that familial and intimate violence kills, injures, and mutilates its victims physically and psychologically. We know that the social-science community, the legal community, and the public-health community must integrate their research and their intervention efforts so that we can broaden our current understanding of the causes and consequences of violence and abuse against family members. We know that too little is known about a problem that is too poorly defined and explained in contemporary American society.

Two decades of family violence research have generated information that is used by practitioners in legal, health, and social-service settings. Researchers borrow methods and theory for studying the family violence problem from the major academic disciplines. Explanations for the initiation of abuse, for perceptions of abuse at the community and individual level, and for the multiple responses to incidents of abuse are more comprehensive now than they were a decade ago.

Contributors to this volume represent sociologists, psychologists, public-health nurses, social workers, and legal analysts. Together they advance our knowledge about family violence along two critical dimensions: (1) they provide new and sophisticated insights regarding the etiology of the numerous forms of family abuse, and (2) they suggest innovative strategies for alleviating or mitigating the anguish resulting from violence and abuse.

This volume heralds the second generation of domestic abuse research. These studies and essays examine the *implications* of the victim- or offender-oriented legal and social responses that were engendered by the pioneers of family violence research. Contributors systematically address the intended and unintended consequences of programs and procedures designed to remedy the effect of intimate and familial brutality.

Brutality against children and partners is a tragedy that makes all its observers uncomfortable. We invite readers to join us and the numerous contributors to this volume on a distressing journey that we feel compelled to take.

We wish to acknowledge many people who have assisted in the development of this book. The Department of Sociology and Anthropology and Reece McGee provided a stimulating and supportive milieu in which to work. The editors at Aldine de Gruyter, Trev Leger and Richard Koffler, and managing editor Arlene Perazzini deserve sincere thanks. Special appreciation is also due Kay Solomon, Candy Lawson, and Evelyn Douthit, whose work was essential to completion of the book. Finally, we wish to thank our spouses—Lucille and Scott—and our children—Karen, Steve, and Jonathan—for their continued love and loyalty.

Introduction: Some Fundamental Issues

Family violence in the United States is a multidimensional dilemma: complex and intertwining problems with insufficient remedies affect victims, their families, the courts, and social-service agencies. Nonetheless, lawmakers and social-policymakers strive to resolve the family violence problem. Reformers develop imaginative ideas, they try new laws, and they develop a variety of treatment or intervention strategies for correcting and preventing the violent and sexual abuse of vulnerable children, marital partners, siblings, and elderly parents.

Family violence researchers—regardless of differences in academic disciplines or preferred theoretical perspectives—can help to maximize the effectiveness of social programs designed to ease the pain of family violence. Researchers can chronicle the patterns of abuse. We can design studies to explain the persistence of family violence. We can execute evaluation studies. And we can inform policymakers and lawmakers about the unexpected as well as the expected consequences of schemes devised to heal victims and to stop the abuse. The contributors to this volume show us how to begin a new generation of research and social intervention.

I. The Current Predicament

What is the real magnitude of the family violence problem in this society? The work published herein indisputably exposes a high level of family violence in the United States. John E. Murphy, in "An Investigation of Child Sexual Abuse and Consequent Victimization: Some Implications of Telephone Surveys" reports that 18% of the women and 11% of the men he interviewed in Minnesota had, at least once in their lives, experienced a form of sexual abuse. Murray A. Straus, in his chapter "Physical Violence in American Families: Incidence Rates, Causes, and Trends," distinguishes an incidence rate from a prevalence rate in his 1975 and 1985 studies. He uses these studies to estimate recent increases in family violence. Employing the 1985 data, Straus estimates a 6.3% annual *incidence rate* of spousal violence. He estimates

conservatively a 30% *prevalence rate* for American families that will experience battering over the course of a marriage. Further, giving us a second *prevalence* measure, he estimates that the severely violent family in the general population typically experiences five major assault events per year. These figures are comparable to other estimates (e.g., Frieze and Browne 1989; Garbarino 1989).

Incidence is "the number of new cases of a particular problem that are identified or arise in a defined geographical area during a specified period of time." Prevalence is "the number of existing cases [with a given condition] in a particular geographic area at a specified time" (Rossi and Freeman 1985:117). Together, these two indicators summarize the family violence problem. They can inform the legal and public-health sectors how to respond to the family violence problem. To illustrate: An incidence rate of battering in a particular county tells us how many perpetrators per month are likely to be court-ordered to a six-week batterers' therapy program. We need to examine the prevalence of family violence, however, when drafting comprehensive legislation intended to ameliorate in this society the "chronic illness" that we call family violence.

The current predicament is that there is too much family violence in the United States. For an earlier point in time, we would hesitate to make such a claim. Instead, we would question whether or not we could estimate accurately the magnitude of a problem that was not clearly defined legally or socially. Presently, for many forms of family violence (battery or child sexual abuse, for example), we see definitional consensus emerging. For those particular forms of abuse, we can indeed make magnitude estimates accurate enough to guide policy decisions. For other forms of family violence (elder neglect or spousal rape are prime examples), we still see too much disparity in relevant state laws to expect social consensus. Without social consensus in the definition of an offense, and without statutory consistency, we cannot measure or estimate with any precision or accuracy the magnitude of the problem.

II. Persistent Problems

Jacquelyn C. Campbell, in "Public-Health Conceptions of Family Abuse," shows us the utility of a public-health perspective for understanding a family suffering from abuse. Moreover, she proposes an approach for efficaciously responding to the spouse abuse problem. A person traumatized by an act of family violence needs help for healing the emotional wounds along with the medical help provided for healing cuts, bruises, and broken bones. Campbell, on the one hand, brings to

the family violence research literature a somewhat new and urgently needed perspective—the public-health perspective (Spivak et al. 1989). On the other hand, she reminds us that the family violence problem is a persistent one. In doing so, she asks us to reflect upon the potential damage in the “generic process of Blaming the Victim [that] is applied to almost every American problem” (Ryan 1971:5) including spouse abuse and child abuse.

Contributors to this volume highlight three major failures in the legal system’s response to family violence that stem from a victim-blaming process. These failures, if left unchecked, will ensure the persistence of the family violence problem in the United States.

One consequence of victim blaming is the all too persistent failure of the police, the criminal justice system gatekeepers, to help remedy the real problem of family abuse (e.g., Stith 1990). Richard K. Caputo, in “Police Classification of Domestic Violence Calls: An Assessment of Program Impact,” finds that police can (and do) “misclassify” calls regarding domestic violence. A police department committed to ameliorating the family violence problem—rather than blaming the victim of violence—gives the legal system an opportunity to stop the revolving door nightmare. The well-known and well-publicized Minneapolis spouse abuse experiments (Sherman and Berk 1984; Berk and Sherman 1988; Berk et al. 1988; Sherman and Cohn 1989) verify the premise that police can affect recidivistic and abusive behavior. The legal system can indeed be efficacious in treating the family abuse problem. It can also exacerbate the persistence of the real problem by blaming the victim.

Sharon D. Herzberger and Noreen L. Channels, in “Criminal Justice Processing of Violent and Nonviolent Offenders: The Effects of Familial Relationship to the Victim,” highlight another persistent problem that is associated with a victim-blaming approach to the family violence problem. In their research, they show that offenders who are accused of criminally violent acts against victims to whom they are related are more likely to be released on bail than others, and they are less likely to be convicted by a trial court judge. It is a persistent problem: blame the victim of spouse abuse and treat the perpetrator with as much leniency as possible. A victim-blaming approach will avoid any offender degradation associated with the criminal justice process. It tells the victim to prepare for more abuse. And it tells the courts and social-service agencies to expect manifestations of the battered-woman syndrome.

Bruce K. Mac Murray highlights a third persistent problem in the legal response to family abuse: prosecutorial discretion. Mac Murray compares the case screening and prosecution decisions characterizing two Massachusetts counties in his qualitative research, “Legal Responses of Prosecutors to Child Sexual Abuse: A Case Comparison of Two Coun-

ties." A 1983 law, i.e., the Massachusetts District Attorney Reporting Law, was designed to help prosecutors secure convictions in sexual-abuse cases. The law identified the district attorney as the key criminal justice actor for criminalizing child sexual-abuse cases. It did not, however, specify the criminal charges upon which individuals accused of sexual abuse should be prosecuted. Prosecutorial discretion was left unchecked and unstructured, thereby precluding uniformity in the prosecution of child sexual-abuse offenders. This style of law, one encouraging prosecutorial discretion, can permit an implicit victim-blaming approach through its failure to mandate a legalistic response to all cases of sexual abuse.

III. New Insights

Contributors to this volume illustrate and explain the persistence of family violence. They also give us new ideas, new insights that can inform the policymakers and lawmakers who struggle to remedy the problem. They tell us a story about persons who abuse and batter their spouses and children. They take us out of the trap set by victim blaming.

Two papers in this volume, David A. Ford's "Preventing and Provoking Wife Battery through Criminal Sanctioning: A Look at the Risks" and Richard M. Tolman and Gauri Bhosley's "The Outcome of Participation in a Shelter-Sponsored Program for Men Who Batter," give us provocative, new, and refined ideas on how the legal system and social services can increase or decrease the likelihood of continued spouse abuse. Both papers are focused on the batterer.

David A. Ford gives us an extraordinarily sophisticated understanding of how criminal sanctions meted out to men convicted of battery can deter or encourage future acts of violence. His research, substantively, is in the tradition of the Minneapolis spouse abuse experiment, which examined the role of *punishment certainty* in deterring future acts of domestic violence in another large city—Indianapolis. David Ford's research examines the roles of *punishment severity* and *anger* in recidivism. Ford urges us to continue our empirical search for appropriate levels of punishment severity. He gives us the analytic tools to begin the development of a punishment scheme that will stop the violence.

Making empirically based judgments about programs designed to treat batterers is extremely problematic. What indicates "success"? How can we collect data on the "outcome" of program participation? Evaluation researchers document the difficulty of gathering the data necessary to assess the effectiveness and efficiency of social programs (Burstein et al. 1985). Statisticians describe the difficulty of estimating the real effects

of social programs (Judd and Kenny 1981). One major problem is the fact that many batterers do not complete programs (Gruzinski and Carrillo 1988); often the dropouts have the most severe problems (Hamberger and Hastings 1989).

Richard Tolman and Gauri Bhosley show us that we can evaluate empirically the effectiveness of treatment programs for batterers. To design this type of evaluation study requires inventiveness and researchers who can elicit trust from victims of abuse, whose trust in others is delicate if not lacking. In a creative and sensitive study, Tolman and Bhosley talked to victims of spouse abuse to find out whether or not the abuse stopped partly as a result of a shelter-sponsored batterers' treatment program. And they asked victims about fear and comfort in expressing anger. This study establishes the necessity to measure multiple indicators of program success whenever we attempt to appraise the utility of social intervention designed to stop family violence.

Diana Gurley's research, "The Mixed Roles of Social Support and Social Obstruction in Recovery from Child Abuse," invites us to listen carefully to the voices of women who were sexually abused as children. If we dare to listen, we can hear traumatized women telling us that they are victimized over, and over, and over again. Caregivers can hurt. Therapists can hurt, whenever they blame the victim. Diana Gurley gives us a unique study of the social support and social obstruction that family abuse victims experience. She shows us that we must dare to enter the nightmare of pain if we want to help stop it from recurring.

IV. What Can We Do?

As academics, we can do a lot. We can design cross-disciplinary research agendas to understand comprehensively the extent and consequences of all forms of family violence. We can continue our empirical and theoretical search to define precisely the separate forms or types of family abuse (e.g., Ellis 1987). We can conduct research that draws samples of victims and perpetrators from the general population and from the known clinical (and criminal) populations. In spite of the difficulties we can design and implement experimental and quasi-experimental studies. Experimental research is needed to examine empirically the critical cause and effect relationships regarding family violence that we argue theoretically.

We can design longitudinal studies for examining the long-term and unexpected consequences of family abuse. And we can design longitudinal studies to follow up perpetrators who undergo treatment, and who experience punishment for their crimes. Finally, we can develop

cross-national inquiries of family abuse. Cross-national studies will show us the importance of cultural norms and values in the genesis and tolerance of violent and abusive families.

As advocates who want to terminate the family abuse problem, we can do a lot. The lack of information about the law, inadequate programs, and reticence of victims contribute to inaction (Martin 1989), but several things can be done to help victims and prosecute perpetrators. Debra Whitcomb, in "Improving the Investigation and Prosecution of Child Sexual-Abuse Cases: Research Findings, Questions, and Implications for Public Policy," summarizes a multiplicity of innovative techniques for the prosecution of family abuse cases. She also informs us that we need to continue the development of constitutional and effective means to prosecute the problematic child victim-witness case. Eleanor Lyon and Patricia Goth Mace, in "Family Violence and the Courts: Implementing a Comprehensive New Law," formulate (implicitly) a blueprint for lawmakers who want to draft legislation that can effectively respond to the problem of family violence in this contemporary society.

V. A Public Issue

Mary Ann Glendon, a jurist specializing in comparative family law, uncovers recent changes in this and other western societies: "Although the legal system has shifted its focus from families to individuals, society still relies on families to play a crucial role in caring for the young, the aged, the sick, the severely disabled, and the needy" (1989:306). The American family is the locus for love and support. And it needs help. Once, family life was private. The state regulated and governed family life least of all. The parent-child relationship was sacred. The husband-wife relationship was not to be monitored or controlled by government. Now family problems are public. No longer can we afford to keep the family violence problem hidden within the family's closet. But neither can we afford to allow legal actions or social services to go unexamined, or to continue without assessment of their impact on the family, and not only on individuals.

The research in this volume is an effort to focus attention on family violence, and to illustrate the implications of findings for legal, social, and public-health responses. But the studies presented here are only a beginning. There is much to be done if we are to attack the issue of family violence. And the time to do it is now.

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