

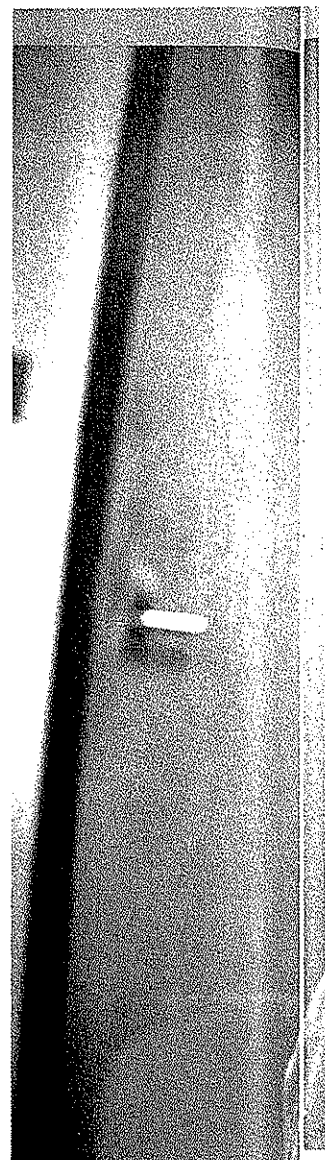
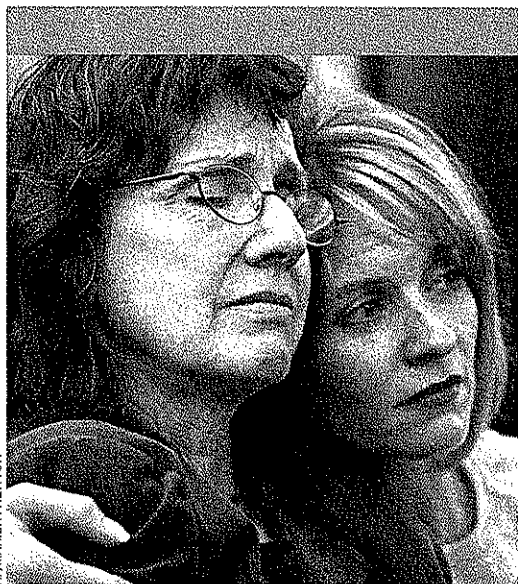
The question of how to respond to family violence has become controversial, as ideology and research collide.

Domestic Politics

By Neil Munro

The federal government formally got into the business of combating domestic violence in 1994, when Congress folded the Violence Against Women Act into a wide-ranging anti-crime bill. Since then, lawmakers have poured at least \$5.5 billion into programs for battered women's shelters, rape crisis centers, relevant police training, and related research. In 2000 and 2005, Congress expanded the law to cover stalking, domestic violence in homes with children, and dating violence. For years, the image of a T-shirted working-class bully who beats his wife has been the standard symbol of violence against women. Protective court orders and confidential shelters for battered women are the answers for such crimes, and the same tools have been applied to child abuse; sibling abuse; elder abuse; stalking; and intimate-partner violence, which includes injury inflicted by spouses, cohabitants, lovers, and dating youths.

TRAGEDY: A Nevada woman listens to testimony about her daughter's murder. The victim's husband was convicted of killing his wife.





WHAT NEXT?
Little research has been done to show what approach works best to reduce violence over the long term.

CORBIS/VIVIANE MOOS

The resulting variety and volume of court cases are forcing advocates, academics, judges, and court officials to shift their focus from law enforcement alone to an approach that integrates law enforcement, mediation, and parental negotiations.

The rules in the nation's courtrooms "are designed around the assumption that you have a real batterer situation," yet many cases don't fit the stereotype, said Michael Johnson, a retired associate professor of sociology and women's studies at Pennsylvania State University. "The judges I work with are saying, 'Help us recognize these other things, and remember, we only have 10 minutes in court to see what's going on.'"

The change is also a result of controversial research that undermines the stereotype by revealing that women initiate some of the violence. A May 2007 study published in the *American Journal of Public Health*, for example, showed minor or major violence in one-quarter of relationships among 11,370 people ages 18 to 28. Fifty percent of the violent relationships included reciprocal pushing, hitting, and threats. In the other half, according to the study, women made seven out of 10 attacks—defined as actual or threatened pushing, throwing, hitting, or slapping.

Today, a bitter ideological fight divides the field and its scientific research between the feminist perspective—which argues that men seeking to control their wives or girlfriends cause the vast majority of violence—and the "family-conflict" perspec-

tive—which says that many cases of lesser violence emerge from routine family disagreements and should not be handled through the criminal-justice system.

To forge a consensus between these two approaches, the National Council of Juvenile and Family Court Judges and the Association of Family and Conciliation Courts are meeting with advocates and experts in both camps. In February 2007, the groups hosted the Wingspread Conference on Domestic Violence and Family Courts in Racine, Wis., "to try to strip the politics out of the room—and that's a challenge, because everyone has interests," said Peter Salem, executive director of the AFCC. "It is our hope that in a few years, we'll have people speaking with a unified voice. We're working from the inside out very carefully and very slowly."

In the Courthouse

Two days of hearings in Alexandria, Va., displayed the wide range of cases that make their way to family court. In one, a judge found a woman not guilty of assault; her husband (who had called 911 after she hit him) testified in her defense and declared that they had stopped drinking. In the next case, the judge found a single woman guilty of injuring her 7-year-old daughter after he heard testimony from the child. In the courtroom next door, a second judge listened as a woman said that her husband had tried to choke her. The judge granted her

\$576 a month in child support and issued a protective order requiring her husband to stay away from her and their young boy for two years (although the mother said that the child "really misses his dad").

The judge next listened to an ill woman who was seeking a protective order against her estranged husband after learning that he had bought a shotgun. She traced the troubles to an argument over her husband's adultery, which had led to her accidentally scratching him (an incident he chose not to report to police). She later discovered from their bank records that he had bought the shotgun, and counselors at the city-funded domestic-abuse agency advised her to seek a protective order. The judge, however, denied the request. He cited testimony by both

tion of sexual victimization. The survey, which domestic-violence groups commonly cite, said that a woman was victimized not only if she was raped but also if she was subjected to behavior ranging from groping to "promises of rewards ... [or] continual pestering and verbal pressure" for sex. The study said that 1.7 percent of the respondents had been raped, and 15.5 percent had been "victimized," in the previous seven months. It concluded that "over the course of a college career ... the percentage of completed or attempted rape victimization among women in higher education might climb to between one-fifth and one-quarter."

Narrower definitions yield a less alarming picture. Another study, by Justice's Bureau of Justice Statistics, showed a two-thirds drop in intimate-partner violence between 1993 and 2005. That study used FBI crime reports in 2005 to calculate reported violence among current and former spouses and lovers. Women accounted for 85 percent of the seriously injured from 2001 to 2005. During that same time, the rate for murder of women by their partners fell 25 percent and the rate for murder of men by their partners fell 75 percent. Each year from 2001 to 2005, 5 percent of the women and 4 percent of the men attacked by their partners suffered serious injuries.

So is domestic violence on the decline? Cindy Dyer, the director of Justice's Office on Violence Against Women since December, says no, largely because many cases still go unreported. "My perspective is [that of] someone who was a domestic-violence and sexual-assault prosecutor for 14 years [in Texas], and I worked in a women's shelter one night a week," she told *National Journal*. "The experience for those people is that it has not gone down."

The Rival Perspectives

For the past 30 years, most researchers and advocates have described domestic violence as an effort by some men to maintain "patriarchal dominance" or "coercive control" over women. Many feminist groups, people who run shelters for battered women, lawyers groups, and allied academics promote this perspective to examine husbands' violence against wives. It is enshrined in laws such as the Violence Against Women Act and in institutions such as the Office on Violence Against Women.

The viewpoint also shapes state laws, such as those barring marriage therapy for intrafamily violence on the grounds that therapy is inadequate if the woman feels threatened by the man. "We really believe that there are larger cultural norms and attitudes around violence in relationships, and particularly violence against women, that come from our culture and years of socialization," said Liz Cascone, the sexual- and domestic-violence projects manager with the government-funded Virginia Sexual and Domestic Violence Action Alliance.

Gradually, however, another perspective has developed. At first, the dissent was hushed and came mostly from groups of fathers complaining that their former spouses were manipulating the laws to deny them visitation rights to see their children. Now academics, therapists, court officials, and fathers groups share a full-blown "family-conflict" perspective, which holds that the vast majority of domestic violence emerges from commonplace arguments over money and sex, which are often exacerbated by drugs, alcohol, or mental illness. Financial aid and therapy, not

Infamous Case



John Wayne Bobbitt testifies in the 1994 trial in which his wife was charged with cutting off his penis. The jury acquitted her on grounds of temporary insanity.

POOL/GETTY IMAGES

parties—the woman said that the husband had never hit her, and the man said he had planned to buy the gun for a long time, had kept it at his brother's house, and had not bought any ammunition.

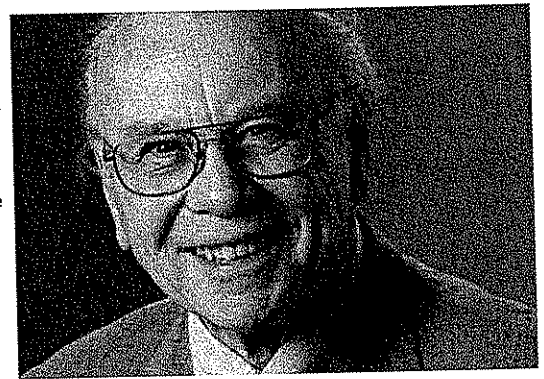
The variety of domestic disputes, their causes, and their unpredictable consequences is amazing, said Judge Susan Carbon, a New Hampshire supervisory judge. Some are stereotypical cases of battery in which the man uses force to control the woman; other cases involve family conflicts with "yelling and screaming, and an occasional swipe," she said. "You need to look at the facts of every case."

The variety of studies gauging the extent of the problem is almost as diverse. The experts' failure to set a common definition of domestic violence clouds questions about the scale of the problem. For example, many studies lump together insults, threats, and assaults. "The research is apples and oranges," said Andrew Shepard, a professor at the Hofstra University School of Law.

A 1997 Justice Department-funded survey of 4,446 college women, for example, used an extraordinarily extensive defini-

Feminist groups “have created a climate of fear that has inhibited research.”

—Murray Straus, sociologist, University of New Hampshire



jail time, are better remedies for most (though certainly not all) domestic violence, these advocates say.

“There is a small group of [patriarchal] wife-batterers, but it is much smaller than the activists would have you believe,” said Donald Dutton, a psychology professor at the University of British Columbia. True batterers are “violent sociopaths,” Hofstra professor Schepard said, but “when Hillary throws something at Bill’s head, it’s more of an expression of anger and a situational thing than battering.”

Proponents of the rival perspectives have amassed studies and facts to buttress their arguments. Feminist-affiliated groups cite surveys from battered-women’s shelters to bolster their claims of male violence; family-conflict advocates and groups of divorced fathers cite data collected in surveys of men and women. The different perspectives “have historically been fueled rather than resolved by research, which has ... generated a variety of findings, some flatly contradictory ... [and has] left little room for cooperation,” according to a report by participants in the Wingspread conference.

Advocates on either side charge the other with dishonesty and bad intentions. Murray Straus, a sociology professor at the University of New Hampshire, says that feminist groups deserve credit for launching the campaign against domestic violence. However, they “have created a climate of fear that has inhibited research,” he wrote in the July 2007 issue of the *European Journal of Criminal Policy and Research*.

Straus and like-minded researchers are “advancing a political agenda that supports the goal of fathers’ rights groups,” responded Walter DeKeseredy, a professor of criminology, justice, and policy studies at the University of Ontario Institute of Technology. “People think if you can bombard people with numbers and jargon, you have more legitimacy, but it is a struggle about whose side you are on—and our side is on the side of women, and we’re proud of it.”

The sharpest dispute is over the share of domestic violence that men and women initiate. The issue is controversial largely because the clout of the “patriarchal-control” perspective would be undermined if women were found to instigate much of the violence, and the clout of the “family-conflict” perspective would be weakened if the violence was overwhelmingly started by men. There’s little controversy over the most brutal crimes: FBI statistics show that women are killed by intimate partners more than three times as often as men are.

Funding Perspectives

Federal funding to study and find solutions to domestic violence comes largely through the 1994 Violence Against

Women Act and its subsequent expansions. For 2008, Congress allocated about \$572 million for domestic-violence and sexual-violence programs, up from \$558 million in 2007, according to budget documents prepared by the Campaign for Funding to End Domestic and Sexual Violence, a coalition of 25 groups. The numbers include the annual transfer of approximately \$150 million from the Victims of Crime Act Fund, which comes from federal fines. Groups that provide shelters and that train lawyers, police officers, and judges receive most of the federal funding.

The campaign is asking Congress to appropriate \$683 million for 2009, including at least \$300 million for grants to hire and train police officers, judges, and social workers. In 2004, for example, the federal funds went to train 303,306 professionals and to provide aid to 630,000 people. The money helped bring 209,000 charges of domestic violence, sexual assault, and stalking, according to the campaign’s budget documents. The campaign is also asking for \$2 million of its request to research “the best practices for reducing and preventing violence against women and children.” Such research received no money in 2006 or 2007, said Kiersten Stewart, public policy director at the 27-person Family Violence Prevention Fund.

Much domestic-violence research takes place at the Centers for Disease Control. A large new project, the National Intimate Partner and Sexual Violence Surveillance System, should shed light on how much violence derives from efforts to control a partner and how much arises from family conflicts, said Michele Black, a CDC epidemiologist. However, the CDC has not yet gauged which of the competing approaches to reducing violence—including law enforcement, therapy, self-help groups, or family self-government—yields the best long-term results, she said. “We have not published any comprehensive reports that evaluate the successes of the various responses.”

The CDC also helps pay for 14 state-level domestic-violence programs, including the Virginia Sexual and Domestic Violence Action Alliance, which receives \$230,000 a year from the CDC. The alliance uses its \$2.2 million budget to train and aid 300 professionals at 63 centers that provide women with shelter, counseling, and courtroom advice, Cascone said. Federal and state agencies provide about 80 percent of the alliance’s budget. The center employs 22 women and one man, including three staffers who lobby the Virginia and federal governments for funding and legal changes. This year, the alliance helped persuade the state Legislature to bar police officers from requiring a polygraph test before investigating a claim of sexual assault.

Like other state organizations, the Virginia alliance is grap-



“If [patriarchal-control proponents] do the research the same way they’ve **manipulated the research on prevalence**, we’re going to come up with the government creating a climate in which effective treatment methodologies cannot be used.”

—Mark Rosenthal, president, Respecting Accuracy in Domestic Abuse Reporting

pling with the unexpected consequences of its success in setting mandatory-arrest laws, which require police officers on a domestic-abuse call to arrest the person most likely to have inflicted visible harm, such as bleeding or bruises. But in response to subsequent increases in the arrests of women, women’s groups are lobbying for laws that require the police to arrest the “dominant aggressor.”

The number of women being arrested is “definitely a problem, and it’s getting more and more a problem [because the

government] is trying to solve a social problem with criminal remedies, and sometimes it does not fit,” Cascone said. “Our concept as advocates is to look at the whole context of what’s going on in the family and the relationship,” she said, “to see who is manipulating who, who is threatening who, and who is doing the majority of violence.”

But, in essence, these groups are using taxpayer funds to “intrude into and reshape families in the image they view as appropriate,” said Ronald Henry, a Washington government-contracts lawyer who does pro bono policy work to aid children who live amid parental conflict. The groups see “the government and sisterhood as substitutes for family and husband,” he said.

Groups advocating for men can count on 10 part-time promoters in Washington and a handful in each state, said Mark Rosenthal, president of Respecting Accuracy in Domestic Abuse Reporting, known as RADAR. He formed his group in 2005 to protest a series of *Washington Post* articles about husbands killing wives. RADAR is a member of a coalition comprising about 100 federal- and state-level groups that promote marriage and rights for men and are staffed mostly by volunteers. One of the few exceptions is the San Diego-based California Men’s Centers, which houses several initiatives, including two advocacy groups and a paternity-fraud center. A Massachusetts group, Fathers and Families, wants domestic-violence charges to be weighed by juries and subject to due process rules rather than decided by judges in family-court hearings.

On the other side, the National Alliance to End Sexual Violence has 30 full-time employees and is part of the Campaign for Funding to End Domestic and Sexual Violence. The umbrella organization comprises 25 federal groups, most of which employ full-time advocates.

Convergence—Maybe

The pressure of domestic-violence cases is pushing the various advocates and academics closer, if only slightly. One reason is that many women want mediation rather than punishment, even with the presence of violence in the family, Schepard said.

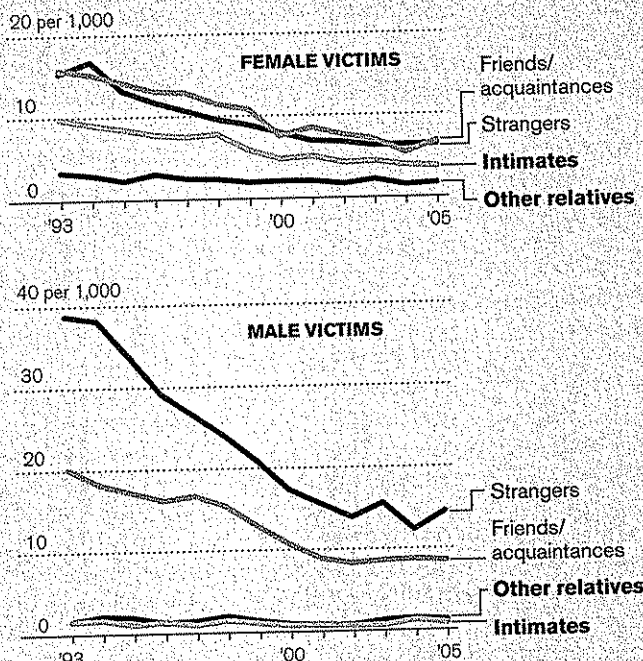
Also, courtroom adjudication of family problems “often exacerbates the process, and it’s not uncommon for people to get victimized during that process,” said Wendy Sawyer, director of the Baltimore County (Maryland) office of Family Mediation. For example, allegations of domestic abuse are “misused an awful lot [because] a lot of people will use it quickly to get custody” of children, she said.

A claim of domestic violence “is the quick and cheap way to get a divorce—it’s becoming the trend now,” said Manuel Lei-

Who Hurts Whom

Based on FBI crime reports, women account for 85 percent of those injured by current and former spouses and lovers. The murder rates among partners fell more precipitously among men. The larger decline in injuries by strangers reflects the overall drop in crime rates.

Serious nonfatal injuries resulting from violence, 1993-2005



SOURCE: Bureau of Justice Statistics

va, a Fairfax, Va., lawyer, who has represented divorcing men who are repetitively cleared of abuse charges and who don't want to give up custody of their children. Men are thrown out of their houses and separated from their children, he said, because "a lot of judges grant [protective orders] too quickly. They figure, what's the harm?"

Judges fear media-magnified scandal if they deny a protective order to a woman who is subsequently killed or injured. "You worry that sometimes you misjudge them, and the greater worry is that someone will die because you weren't careful enough in the gazillions of cases on your docket," said Judge Carbon.

The Justice Department's Dyer disagreed. "My experience as prosecutor was that [a false domestic-abuse charge] was claimed far more often than it occurred—far, far more often," said Dyer, who is well liked by proponents of the patriarchal-violence perspective. Instead, Dyer said, the courts have recently tilted by allowing defendants to exclude spousal statements made outside the court—for example, at the scene of a suspected crime. Also, too few women can afford lawyers, she said. Courtroom representation is "the greatest need of victims."

In response to these cross pressures, courts in such states as Connecticut and Maryland have set up procedures to steer child-custody claims that are entangled in domestic-abuse claims toward mediation and away from winner-take-all courtroom fights. "We're just real pleased with how it's going," Sawyer said.

"Courts, in many places, are changing their role" away from sentencing and toward long-term case management, said Patricia Tjaden, a Colorado-based independent researcher who led a 1999 Justice Department study of domestic violence. "Families need to have a bit of say in that [new process] rather than hearing a court say, 'We know what's best.'"

"The legal system," said retired Penn State professor Johnson, "is in the middle of the major transition in recognizing the variability of domestic violence." But this shift is slow and difficult, said psychology professor Dutton, in part because the patriarchal-control model "has been taught to judges, police officers, and groups of professionals as though it were gospel."

Schepard pointed out that this shift is also reshaping the academic debates. Among academics, "the gender-specific stuff is receding," he said. For example, the 2007 Wingspread conference "was the first meeting that I know of where people from different perspectives tried to discuss their perspectives and to bridge them," he said.

But without good data on what works, "we blunder along, and the whole process is really clumsy," said Clare Dalton, a law professor who founded a domestic-violence clinical program at Northeastern University in 1990.

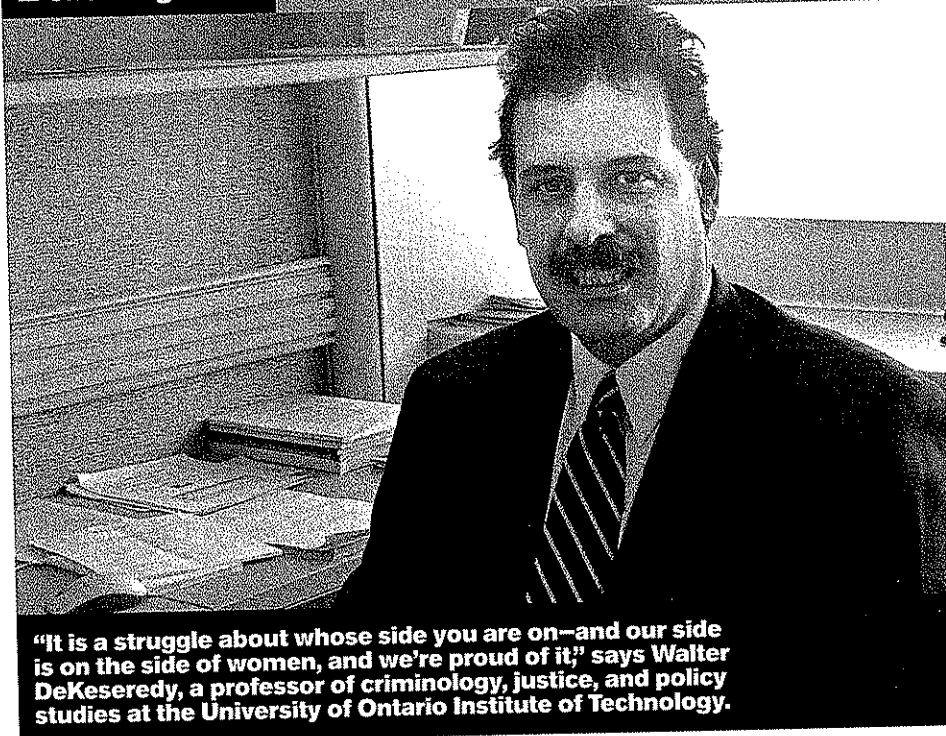
Federal funds to study the value of alternative prevention and remediation approaches could boost the trend toward the Schepard and Johnson model. "It would take a four-to-five-year

study, but it could be done," Schepard said. "This issue needs to be taken over by science."

The hard-pressed judges want more research and advice. It "funnels and fuels everything we do," Carbon said. For example, she said, new research on children's neural development might show that a boy would gain more from living with his mother, even if he wanted to live with his abusive father.

But many advocates are wary of research proposals, in part because the results can be skewed by whoever wins the research grant. "I would be very scared of having the [patriarchal-control proponents] do the research," said RADAR's Rosenthal. "If they do the research the same way they've manipulated the research on prevalence, we're going to come up with the govern-

Choosing Sides



"It is a struggle about whose side you are on—and our side is on the side of women, and we're proud of it," says Walter DeKeseredy, a professor of criminology, justice, and policy studies at the University of Ontario Institute of Technology.

ment creating a climate in which effective treatment methodologies cannot be used."

"There are a lot of land mines with mediation," agreed Stewart of the Family Violence Prevention Fund, who comes at the problem from the other side. Batterers "who are very good at power, control, and manipulation [of a spouse] are very good at power, control, and manipulation" of mediators, she said.

The political disagreements are so wide, and so deep, that even the judges' pleas and the researchers' data may not bridge the gap for a decade or more. "If this is done by the time I retire, we'll have made enormous progress," said Salem of the Association of Family and Conciliation Courts, who is 49. Even the consensus-building Wingspread report acknowledged the incompatibility between the professionals' recommendations for what works best to avert and remedy domestic violence. "Except in the most clear-cut cases, participants were not yet ready to agree."

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