

# Federal Probation

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*Robert A. Shearer*  
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# Federal Probation

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## This Issue in Brief

**Probation Officers' Role Perceptions and Attitudes Toward Firearms.**—The issue of whether probation officers should carry firearms has tremendous implications for the future of probation. Despite the importance of the issue, however, there has been little empirical investigation to determine whether probation officers' opinions about firearms are related to their role perceptions, individual characteristics, or other work-related factors. Using data collected from a population of probation officers attending a state-wide probation training academy, authors Richard D. Sluder, Robert A. Shearer, and Dennis W. Potts explore relationships between those variables and officers' opinions as to whether they should be permitted or required to carry firearms in the performance of their duties. The authors discuss findings from the study, as well as implications for the delivery of probation services.

**Family Violence: Challenging Cases for Probation Officers.**—Author Meredith Hofford presents data on the frequency and seriousness of domestic violence and offers suggestions and guidance as to how the courts and probation officials can improve their supervision of the perpetrators of domestic violence. The article presents the proposition that domestic violence is much more widespread—and its consequences much more serious—than has been generally accepted. The author points out that with adequate and effective probationary supervision, the recurrence of domestic violence, the frequency of violent crime stemming from domestic violence, and the intergenerational effects of spousal abuse on children can all be significantly decreased.

**Role Negotiation: Sorting Out the Nuts and Bolts of Day-to-Day Staff Supervision.**—As organizations become larger and more complex, the need for cooperation and coordination between managers and staff increases significantly. Authors Jud Watkins and Robert A. Luke, Jr., describe a structured way for people who work together to sort out their day-to-day needs and arrive at an interpersonal contract, or agreement, that promotes the mutual efficiency and job satisfaction of both negotiators. The authors detail

the procedure of role negotiation, cite examples of its application in the probation and pretrial services setting, and suggest alternative uses such as group nego-

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- Armed Career Criminal Act
- Sentences for carrying a firearm during violent offenses and drug offenses

# Family Violence: Challenging Cases for Probation Officers

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## Introduction

**C**RIMINAL COURT handling of domestic violence cases has increased dramatically in the past decade. This trend is likely to continue and may even escalate. As a result, probation officers now see increasingly large numbers of domestic violence offenders on their caseloads. The challenge to the criminal justice system, and specifically probation officers, when presented with these cases is to exercise enough supervision over the offender to break the pattern of conduct that all too often leads to further violence. A case of domestic violence, besides having the effect of a debilitating long-term disease on its victims, is like a bomb ready to explode at any time in an escalation of violence. As the following data will show it is necessary for special attention to be given to the supervision of identified perpetrators of family violence during probation so as to break the pattern of continued violence in the family.

It is a myth that cases of domestic violence are isolated incidents.

- Over 1 million children are *severely* abused each year. One thousand of them die.
- Over 2 million women are *severely* battered annually. One to two thousand of them die.<sup>1</sup> One-third of these cases represent frequently recurring violence.
- Twenty-five percent of the cases represent victims who are battered on a weekly basis.<sup>2</sup>
- Although official criminal reports are not available for the majority of family violence cases, the FBI has estimated, based on victim survey information, that 4 to 6 million women are abused in their homes annually.<sup>3</sup>

It is also a myth that there is a single victim in a family or household who is the target of violence. Eight out of ten batterers engage in violent behaviors against multiple targets. This includes spouses, girlfriends, children, parents, even pets. Over 50 percent of spouse abusers also abuse their children.<sup>4</sup>

In addition, there is a strong correlation between juvenile delinquency and growing up in a violent home. Though the estimates from research studies vary, we know that 26 percent to 60 percent of institutionalized juvenile offenders have official histories of child abuse.<sup>5</sup> A study recently completed in Oregon found that 68 percent of juvenile offenders came from violent homes. Further, 63 percent of males between the ages of 11 and 20 incarcerated for murder were convicted of killing their mother's batterer.<sup>6</sup>

Probation officers need to reevaluate the importance they have traditionally assigned to the supervision of cases of domestic violence. It is important that they realize that informal or infrequent supervision of domestic violence cases often leads to more serious and tragic consequences. Without close supervision and monitoring of domestic violence cases, the violence that has surfaced and come to the attention of the judicial system will continue to repeat itself, often leading to the loss of life and the shattered futures of the children caught in the middle of the conflict.

## Family Correlates and Impact

Children are present in 80 percent of the homes in which domestic violence occurs. Children are direct victims of violence in at least half of those homes. Forty-five percent of women investigated for child abuse are found to have been battered.<sup>7</sup> Recent studies at Boston's Children's Hospital have established a coincidence of almost 70 percent of children admitted for child abuse with abused mothers.<sup>8</sup> The family portrait here is of a family in which everyone has serious bruises.

At least 30 percent of children from violent homes will grow up to become abusers themselves.<sup>9</sup> The more severe the abuse, the more likely it is to be recreated in the next generation. The factors which influence the impact of family violence on children include the degree of the abuse, the gender of the parent, and whether or not one or both parents also reject the child. Abuse combined with rejection by both parents is the worst set of circumstances for children. Eighty-six percent of children from such homes have severe social and psychiatric devi-

\*The author wishes to thank Sue Dansie and Royle Melton for research and editorial assistance.

ance.<sup>10</sup> A history of family violence is the single most significant variable in predicting both delinquency and future battering.<sup>11</sup> Researchers have concluded that "The risk of troubles for children who grew up in violent homes is double that of children who didn't. . . ."<sup>12</sup>

The deviant behaviors of these troubled children are multiple and are varied. The behaviors change over time as the child gets older. There are many reports of very young children, babies even, in shelters for battered women who already exhibit signs of stress from having lived in a violent home. One 3-month-old infant in a shelter in San Francisco had open wounds in her hands from her own little fingers clenching too tightly from the stress. Young children exhibit behavior such as bed wetting, lying, and cheating. A little older they develop learning problems, an inability to trust, and a poor self-concept. Later, they display signs of anxiety, depression, and generalized unhappiness; and in still later years, truancy, aggression, and, as was pointed out already, delinquency. The behaviors exhibited by children from violent homes also tend to be sex stereotypical. In other words, boys may model the behavior of the aggressive fathers and even begin abusive behavior against mothers and female siblings. Male children over the age of 12 are frequently, as a matter of policy, not allowed to stay in shelters for battered women because of the aggressive and violent behaviors they have learned at home. Girls, on the other hand, are more likely to be very submissive, self-blaming, and hopeless, like their mothers.

#### *Characteristics of Batterers*

Though they frequently appear at first blush to be normal, sociable, even sometimes charming individuals, parents and spouses who are abusive are often lonely, isolated, and unloved persons themselves. They frequently exhibit personal problems such as alcoholism and unemployment. The families in violent homes are troubled and have multiple problems. Research studies have shown that a high percentage of victims and assailants were victims of abuse as children. An even higher number of victims and assailants had parents who were violent towards each other. In a court population the percentage is still higher—over 50 percent of perpetrators come themselves from violent families.<sup>13</sup>

Of spouse abusers in court on criminal charges, 71 percent have drinking problems, 65 percent use street drugs, 35 percent use daily or weekly.<sup>14</sup> However, it is important to know that attendance in

alcohol and drug treatment programs will not solve the violence problem. When offenders blame their violence on drugs and alcohol, they are avoiding their problem and use these self-destructive behaviors as an excuse. Most frequently the real issue underlying their violence problem has to do with the extreme need for power and control and the lack of skills to obtain power and control in any other way except by violence.

A number of treatment programs for batterers have been developed in recent years. Most of these have had adequate levels of success with court-mandated referrals. Typically meeting one night a week for several hours, an assessment period including victim orientation would take 2 weeks. An educational component should take at least 12 weeks, and a counseling component should take an additional 12 weeks. Treatment for repeat and serious offenders should last for a minimum of 1 year. It is completely inappropriate to refer for family or couples counseling until the violent behavior is eliminated. Examples of batterer treatment program models include:

Baltimore, Maryland: *Batterers Program, House of Ruth* (301) 889-7884

Boston, Massachusetts: *EMERGE* (617) 547-9870

Duluth, Minnesota: *Domestic Abuse Intervention Project* (218) 722-2781

Minneapolis, Minnesota: *Domestic Abuse Project (DAP)* (612) 874-7063

Hilo, Hawaii: *Alternatives to Violence* (808) 969-7798

Salt Lake City, Utah: *Spouse Abuse Treatment Program* (801) 355-2846

Juneau, Alaska: *M.E.N., Inc.* (907) 586-3585<sup>15</sup>

Batterers spend a great deal of time and can be very convincing in their denial, minimization, and blaming of the victim for the incidents. Denial is actually a self-deception to minimize the personal pain a batterer would experience were he to admit the truth about his violence towards those he loves. To some batterers, anger equals violence. Many treatment programs stress the teaching of different ways to handle anger other than being violent to people. Batterers also suffer from low self-esteem and thus have a very strong need to control at least something or someone in their lives. They frequently have a history of abuse. They frequently have multiple sources of stress in their lives, and they fre-

quently use drugs or alcohol to minimize the pain and the stress.

It is important to remember that solving the batterer's other problems will not stop the violence in the home. The abusive behavior must be specifically addressed.

### *Improving the System Response*

"The whole area of family violence has long been a troublesome one for the courts. Frankly, the courts have not handled these cases well. There is in recent years a heightened public awareness of this issue, and the severe physical and emotional damage done to families caught in the generational cycle of violence. Yet, the response of the criminal justice system, the juvenile and family courts, and the service delivery system has not kept pace."<sup>16</sup>

Court systems that have chosen to improve their response to family violence are often reacting to the deluge of cases created by an improved law enforcement response. Once the court systems themselves have improved their response, of course, there will be a deluge of cases in probation departments who then in turn will need to take a look at their own policies and procedures as well as at the community treatment resources available.

Improvement of the court system response often begins with the appointment of a task force or study group which should be multidisciplinary and established by a recognized leader from within the system, such as the district attorney or a judge. It would be the mission of the task force or study group to take an objective and critical look at how the court system handles the different types of family violence cases. Frequently, the problems are identified in one or more of the areas of policy, legislation, training, court practice, or coordination between the court and related agencies. Specific problems should be identified and changes implemented to address those problems. The district attorney's office must also ensure that policies and activities are aligned and sensitive to the issues of justice for offenders and victims in violent homes. Responsibility for oversight, follow-through, and staffing of the task forces should be assigned to a specific individual—a system advocate. Most study groups have identified an immediate need for training court personnel, judges, district attorneys, and probation officers in the area of family violence. Judges, especially, must begin to issue dispositions and court orders in family violence cases which are sensitive to all family members and offer a comprehensive response. Specific recommendations on court

policies and criminal justice policies and practices can be found in *Family Violence: Improving Court Practice*.<sup>17</sup> These recommendations are based upon the findings of a 3-year demonstration project conducted by the National Council of Juvenile and Family Court Judges and funded by the Bureau of Justice Assistance, U.S. Department of Justice.

### *Supervision of Offenders*

The following chart outlines elements of model probation orders for violent family members.

#### Model Supervision Conditions for Wife Beaters

- |                    |   |
|--------------------|---|
| <b>Financial:</b>  | <input type="checkbox"/> family support<br><input type="checkbox"/> attorney fees for victims<br><input type="checkbox"/> restitution <ul style="list-style-type: none"> <li>*direct</li> <li>*indirect</li> </ul> <input type="checkbox"/> counseling for wife/children<br><input type="checkbox"/> counseling for abuser<br><input type="checkbox"/> fines<br><input type="checkbox"/> costs<br><input type="checkbox"/> fees/court assessments                       |
| <b>Protective:</b> | <input type="checkbox"/> restraining/protective orders<br><input type="checkbox"/> submit to search and seizure*<br><input type="checkbox"/> intensive supervision<br><input type="checkbox"/> supervised visitation with children<br><input type="checkbox"/> cooperation with social service/child protective workers<br><input type="checkbox"/> confiscation of firearms/weapons  |
| <b>Treatment:</b>  | <input type="checkbox"/> confrontational batterers' group<br><input type="checkbox"/> substance abuse therapy<br><input type="checkbox"/> abstinence<br><input type="checkbox"/> medication <ul style="list-style-type: none"> <li>*anabuse</li> <li>*trexacon</li> <li>*methadone</li> </ul> <input type="checkbox"/> support groups <ul style="list-style-type: none"> <li>*Alcoholics Anonymous</li> <li>*Narcotics Anonymous</li> <li>*Parents Anonymous</li> </ul> |
| <b>Punitive:</b>   | <input type="checkbox"/> criminal record<br><input type="checkbox"/> jail<br><input type="checkbox"/> non-custodial loss of liberty<br><input type="checkbox"/> fine<br><input type="checkbox"/> public humiliation<br><input type="checkbox"/> community work service <sup>18</sup>  |

Every sentence in a family violence case should:

- hold the offender accountable
- order offender involvement in activities specifically designed to reduce future violence
- require an alcohol and drug evaluation where appropriate

- mandate successful completion of treatment and
- provide formal supervision and monitoring of compliance.

In addition to holding the offender accountable, formal supervision provides a measure of protection for the victim who will have an officer of the court to turn to in the event of subsequent threats or assaults. Unlike other types of criminal cases, cases of family violence require probation officers to maintain periodic private contact with the victim in monitoring compliance with the terms of probation. Because the victim may be threatened and afraid to volunteer information on continued abuse, probation officers should also conduct unannounced home visits periodically. The probation officer can help empower the victim to better protect herself and make sure the probationer does not backslide into abusive behavior patterns. Frequently, the victim and the offender will be residing together. However, the victim should never be placed in the position of monitoring and reporting on the offender. Rather, the probation officer should make it clear that the state is responsible for enforcing the court's order, and the regular contacts with the victim are for the purpose of ensuring her safety.<sup>19</sup>

Programs for the treatment and education of identified batterers should be established in each jurisdiction and followed by the court and the probation department. These programs should include:

- provisions for ensuring the continued safety of the victim;
- monitoring the offender with regular reports being made to the court;
- approaches which are specially designed to address battering issues and are considered appropriate and adequate by professionals who are experts in family violence;
- eligibility guidelines.

Referrals and court-ordered treatment should only be made to service providers who meet these standards. Probation departments should engage in regular reviews which should include on-site visits during a time when treatment or educational groups are in progress. Agencies which do not meet the standards should be suspended until they are in compliance. The standards should include regular reporting to the probation department as to the offender's participation and progress in treatment.

### *Offender Classification*

Probation departments should place family violence offenders in the highest level of supervision possible and monitor them intensively. The factors generally considered relevant to determining risk and probation supervision levels include:

- Severity of offense
- Prior criminal history
- History of violent behavior
- Drug and alcohol abuse
- Access to victim
- Employment history

By any classification scheme, perpetrators of family violence require maximum supervision. The reasons are numerous. The risk of recidivism is extremely high; felonious assaults are frequently reduced to misdemeanors in these cases; the community is at risk of future violence; a great majority of offenders have substance abuse problems. In addition, it is likely that perpetrators of family violence have committed the crime a number of times in the past; these offenders typically rationalize their criminal behavior; they know and have easy access to their victims; and they are likely to have come from a violent home and perhaps suffered abuse as a child.

Maximum supervision entails more frequent contacts with the offender—at least once a week. Probation officers also need to closely monitor attendance at batterers' treatment and alcohol drug treatment programs. Conditions of any co-terminus civil protection or restraining orders should be enforced. In addition to refraining from abuse or no contact, the orders may call for supervised child visitation or child support payments.

A notice of a violation of probation of any kind in family abuse cases should be promptly returned to the court for adjudication. Studies have found a direct correlation between violations of technical conditions of probation and subsequent criminal violations.<sup>20</sup> Social and human service agencies must rely on voluntary participation of clients, but probation officers are in a position to demand offender accountability. It is incumbent on the probation officer to react strongly at the first sign of noncompliance and not wait for a criminal offense to occur. A system of imposing incremental sanctions for noncompliance may be appropriate for guiding offenders away from long-rooted patterns of behavior.

All repeat occurrences of family violence must result in substantial additional sanctions or penal-

ties for the offender. Law enforcement officers, district attorneys, and probation officers are strongly encouraged to arrest and return to court any family violence offender who violates a court order. The message must be very clear—that repeat violence will not be tolerated. Judges can do their part in this scheme by taking the cases seriously and by always ordering some sort of additional penalty for those found guilty of the violation. Additional sanctions recommended by the probation officer might include fines, a greater jail sentence, community service work, additional time on probation, and restitution to the victim.

### *Role of Probation Departments*

Probation departments can play a critical role in improving the overall response of the justice system to family violence by participating in coordinating councils and task forces specifically set up to improve court policy and procedures. Probation departments, including juvenile probation departments, can provide early identification of cases of family violence which can then lead to early intervention. They should, as a matter of routine, investigate for child abuse when presented with spousal assault cases and investigate for wife abuse during the investigation of a child abuse case. Inquiring as to the safety and welfare of the children in these families is of critical importance, and probation officers are ideally positioned to intervene on behalf of these children. Case advocacy and family assessments should occur at the earliest possible stage of court processing and should include civil cases as well as criminal ones. Often in cases of family violence, a civil protection order is in place during the period awaiting trial on criminal charges. Probation officers can provide pretrial monitoring of these offenders. They can facilitate the coordination of civil and criminal matters involving the same family. Probation departments can promote the establishment of central information systems to track families and require reporting on violent family incidents to all agencies involved with any member of that family.

Probation departments and individual probation officers can play a pivotal role in improving not only the response of the probation department, but of the entire court system. By setting and enforcing new standards of behavior between family members, the court system not only responds more sensitively and fairly to victims of abuse, the court also promotes an intolerance of violence in the community which will reduce future violence and make homes safer for

millions of victims. In addition, the court and probation officers have the unique opportunity to break the self-replicating pattern of violent behavior which condemns the children to learned domestic violence and crime.

### NOTES

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<sup>4</sup>Lenore Walker, *The Battered Woman Syndrome*. New York: Springer, 1984.

<sup>5</sup>Office of Juvenile Justice and Delinquency Prevention, *Child Abuse: Prelude to Delinquency?* Research Conference Conducted by the National Committee on Abuse, Washington, DC, April 1984.

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<sup>7</sup>M. Hershorn and A. Rosenbaum, "Children of Marital Violence, A Closer Look at the Unattended Victims," *American Journal of Orthopsychiatry*, 55(2), April 1985, pp. 260-266.

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<sup>12</sup>R. Gelles, and M.A. Straus, *Intimate Violence*. New York: Simon and Shuster, 1988.

<sup>13</sup>*Ibid*, p. 4.

<sup>14</sup>*Ibid*, pp. 10-11.

<sup>15</sup>E.W. Gondolf and D.M. Russell, *Man to Man*, Bradenton, FL: Human Services Institute, Inc. 1987.



<sup>16</sup>M. Hofford et al., *Family Violence: Improving Court Practice*. Reno, NV: National Council of Juvenile and Family Court Judges, 1990.

<sup>17</sup>Available for \$5 from The National Council of Juvenile and Family Court Judges Family Violence Project, P.O. Box 8970, Reno, Nevada 89507.

<sup>18</sup>A.R. Klein, *Probation/Parole Supervision Protocols for Spousal*

*Abusers*. Reno, NV: National Council of Juvenile and Family Court Judges, 1989.

<sup>19</sup>*Ibid*, p. 5.

<sup>20</sup>Brown et al., *Executive Summary of Research Findings From the Massachusetts Work/Need Classification System, Report No. 5*, Mass. Office of Commissioner of Probation, 1984.