

Rethinking Law Enforcement Strategies to Prevent Domestic Violence

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trategies for addressing domestic violence have traditionally been strongly victim-focused, with a heavy emphasis on helping victims avoid patterns of intimacy with abusers, disengage from abusers with whom they are involved, physically remove themselves from abusive settings, and address the damage created by abuse and patterns of abuse.

This narrow focus on domestic violence victims has had the effect of limiting how experts think about approaching the problem. As a result, potentially more effective strategies, such as using law enforcement to control offenders, have failed to emerge. Where criminal justice strategies have played a prominent role, as in the movement toward mandatory arrest, they have often served primarily to signal a social commitment to taking domestic violence seriously and/or as part of a long-term strategy to “break the cycle” of domestic violence, rather than to increase society’s power to control abusers. Mandatory arrest, as is now well known, frequently puts victims at *greater* risk from their abusers.¹ Criminal justice strategies have also been seen as ways to ensure that offenders receive treatment² or as avenues to require the surrendering of offenders’ firearms.³ But, in general, criminal justice strategies have offered little hope for directly controlling abusers.

Domestic Violence Offenders as “Special”

Domestic violence advocates, researchers, and theorists have tended to argue that domestic violence is “special”—fundamentally unlike other kinds of violence—and that domestic violence offenders are similarly special. Students of domestic violence have argued that “[domestic violence] is a special and unique kind of violence and should not be approached as a subset of general violent behavior.”⁴

Because those who assault other family members are often depicted as otherwise law-abiding citizens, there is no compelling reason to apply broader notions of criminality.⁵ This conception of the “batterer as anyone”⁶ led to a clear distinction between these men and other violent offenders. But, as we shall see, domestic violence offenders frequently are not at all special and unique, a fact that greatly increases the usefulness of criminal justice interventions for providing rehabilitation, incapacitation, or deterrence.

Pulling Levers/Focused Deterrence Strategy

One promising enforcement framework comes from Boston and from a sizable number of other cities and jurisdictions that have adopted and adapted the basic Boston strategy.⁷ The core Boston intervention, called “Operation Ceasefire,” was a deterrence-based strategy (implemented in 1996 as a problem-oriented policing ini-

tative) to prevent “street” violence committed by and among groups of chronic offenders.⁸ Research on youth homicides in Boston showed that both offenders and victims tended to be highly active criminally: three-quarters of the individuals in each group had prior criminal records; those with records averaged nearly ten prior arrests apiece; and one-quarter of offenders were on probation at the time they committed their murder. Most violence was patterned, back-and-forth vendetta-like behavior between readily identifiable groups of offenders.

The Boston intervention relied on what has come to be called a “pulling levers” or “focused deterrence” strategy. In direct, face-to-face meetings with offenders, criminal justice authorities delivered a clear “retail deterrence” (targeted) message that violence would not be tolerated. They also made it clear that they would relentlessly back up the “no more violence” message by using all available criminal sanctions. Offenders who committed violence could face probation and parole enforcement, drug enforcement, service of outstanding warrants, the opening of “cold” cases, focused misdemeanor enforcement, special attention from prosecutors, and federal attention. As they delivered such crackdowns, authorities explained their strategy to the broader offender population in a continuing, face-to-face conversation (“this ‘gang’ hurt somebody, so here’s what we just did to them; this doesn’t have to happen to

you—don’t be next”). The face-to-face promises of sanctions for violence were supplemented with supportive messages from service providers and community spokespersons offering help, guidance, and moral suasion.⁹ Also, crucially, the operation was designed and implemented with heavy involvement from line-level agency personnel, whose experience was central to assessing the problem and crafting the intervention and implementation (e.g., by noting which gangs were acting up and needed attention).

The Boston intervention was dramatically successful, with youth homicide falling by two-thirds, overall homicide by half, and with sizable reductions in gun assaults and reports of gunshots.¹⁰ These effects were felt within only a few months of the

initiation of the operation. Notably, the intervention was designed and executed as a low-arrest strategy. The idea, in line with the deterrence framework, was to make the promise of enforcement sufficiently credible that it would rarely be necessary to employ it. Very few actual crackdowns were in fact necessary, with the bulk of the work apparently being done by the deterrent power of the communications strategy: only a few dozen arrests were required before the reductions in violence occurred; few additional arrests were required to maintain the new, lower rates; and complaints against police actually fell during the time Operation Ceasefire was in place. Comparable results have occurred with similar interventions in Minneapolis; Indianapolis; Stockton, California; High





Point and Winston-Salem, North Carolina; and elsewhere.¹¹

The pulling levers/focused deterrence strategy relies on linked but distinct elements:

- Selection of a narrow target behavior;
- Attention to identifiable offenders;
- Direct communication and recommunication of a clear deterrent message;
- Backing up that message through enforcement activity on a potentially wide variety of fronts; and
- Matched applications of various services and other facilitative and normative influences.

The strategy is also one of a small but growing number of (at least relatively) sophisticated, carefully crafted, knowledge-

based, customized “problem solving” criminal justice approaches aimed at particular crime problems—and, as such, quite distinct from the more routinized and generalized activities that usually characterize law enforcement. While applied so far primarily in the gang/gun/street violence realm, the approach has potential in other settings.¹²

Domestic violence unquestionably differs from the “street” violence on which these strategies have focused, particularly with respect to the sustained relationships typical between offenders and victims and the psychological and material dependencies victims often experience. Yet, because existing control strategies for domestic violence offenders are so inadequate, it seems reasonable to ask whether these strategies might serve to enhance current approaches to the problem.

A Profile of Domestic Violence Offenders

We should begin by recognizing that the dominant perception of domestic violence offenders as “anyone”—as distinct from other violent offenders and from their patterns and dynamics—is often, and perhaps largely, wrong. Domestic violence offenders tend to be serial offenders in two ways. As is well-known, they tend to commit multiple acts of domestic violence within a given relationship and across multiple relationships. But beyond that, despite the widespread belief that domestic violence offenders are uniquely “spe-

cialized” and that domestic violence is evenly distributed across society, research suggests that offenders tend to have robust criminal histories including a wide range of both domestic violence and non-domestic violence offenses, and that domestic violence homicide victims are quite disproportionately poor and minority. A review of individuals arrested for assault in Lowell, Massachusetts, found that “domestic offenders are commonly thought to be ‘specialists’ who do not pose a threat to the community at large. Our data indicate that this is not the case. The domestic offenders [studied] were just as likely as the non-domestic offenders to have committed non-domestic offenses in the five years prior (46 percent of each group had been arraigned for non-domestic offenses). Additionally, the two groups had statistically equal proportions of high-rate offenders.”¹³

Similarly, a study of more than 18,000 Massachusetts men with restraining orders found that three-quarters had some sort of prior criminal history: nearly half had an arraignment or conviction for a violent crime, more than 40 percent for a property crime, more than 20 percent for a drug offense, one-quarter for driving under the influence, and nearly half for other offenses.¹⁴ Qualitative work gives similar results. Unpublished research on the Quincy, Massachusetts, Probation Project, based on victim interviews, found that 55 percent of batterers had prior criminal records of which the victim was aware.¹⁵ Another study that examined reports from 270 women in intervention programs found that nearly half of spouse abusers had previously been arrested for

violent crimes, and that those who had been arrested for violence against strangers were more frequently and severely violent at home.¹⁶

Additional research shows other parallels. Violent and chronic offending tends to be concentrated among poor and minority populations. This is also true with domestic violence. One study found that “marital violence is found across all social classes, but rates are higher in lower socioeconomic status, blue-collar families, especially those marked by underemployment and unemployment”; a study cited in the article shows a two-to-one proportion of lower to higher economic status among offenders who commit family violence.¹⁷ One study of female victims of domestic homicide in New York City between 1990 and 1997 found that victims were disproportionately black: half of all victims were black, relative to about a quarter of the population. Victims were also somewhat disproportionately Latina and came primarily from the poorer boroughs of Brooklyn, the Bronx, and Queens.¹⁸

Promising Strategies for Controlling Domestic Violence Offenders

Such patterns of offending and victimization present opportunities for intervention. The following interventions, which vary in complexity, identify possibilities and basic frameworks for criminal justice approaches to domestic violence offenders.

GIVING INFORMATION TO WOMEN

Many domestic violence offenders are serial abusers within and across relationships. Many of them come to the attention of criminal justice authorities: they are arrested and sometimes convicted, and also are subject to restraining orders. It could be very useful to women to have access to such information. Many women would not enter a relationship, or would exit a troubled relationship earlier, if they knew the man had a history of domestic abuse.

As a practical matter, this information is not readily available—obtaining it is procedurally difficult, requires a specialist’s knowledge of what questions to ask, and can require consulting multiple databases in multiple jurisdictions. States could provide an important service by collating and presenting this information in a user-friendly fashion such that women (and, not incidentally, enforcement authorities and service providers) could make use of it.

ALERTING POTENTIAL OFFENDERS ABOUT CURRENT ENFORCEMENT

Law enforcement authorities are notably poor at communicating penalties and policies to offenders.¹⁹ It is routine for offenders to be ignorant of the penalties they face and (even more so) of changes in enforcement policy. Yet unless other offenders and potential offenders know that law enforcement is aggressively pursuing abusers, the deterrent/preventive power of these actions is nil. By definition, that which is not known cannot deter.

For example, the U.S. Attorney for the District of Maine recently indicted 13 men and women on federal domestic violence-

related firearms charges either because the offenders had a previous misdemeanor domestic violence conviction, (which, under recent federal law, results in their being prohibited from possessing firearms) or because they lied about such convictions in attempting to purchase firearms.²⁰ The deterrent value of this indictment is likely to be fairly small. It could be greatly increased, however, in several ways: by explaining the action and the potential for more of that type of enforcement in mailings and other means of communication to individuals with relevant prior convictions; by in-person briefings by law enforcement personnel to individuals involved in treatment programs and on probation for domestic violence offenses; as part of judicial statements to offenders sentenced for new domestic violence offenses; and through posters or flyers in gun stores.

“GROUP A” DANGEROUS OFFENDER PROGRAMS

Most jurisdictions have a relatively small number of domestic violence offenders who are especially dangerous, chronic, or otherwise deserving of exceptional attention. Just as Al Capone was finally prosecuted on tax charges, these “Group A” offenders can be prosecuted using any available legal tool: a domestic violence offense, a drug offense, a weapons offense, an outstanding warrant, a drunk driving charge, a probation or parole violation, or anything else that presents itself. This type of effort requires coordination among law enforcement agencies that is seldom in place. Constructing such partnerships is entirely possible but requires a substantial commitment from the partici-

pating agencies. Brockton, Massachusetts, has such a program that involves the Brockton Police Department, the district attorney, the U.S. attorney, probation personnel, victim advocates, and shelter providers.²¹ Selected Group A offenders receive heightened probation scrutiny (including home visits and drug tests) or, if deemed necessary, a “prosecution by any available means” approach that seeks to take them off the street by any available legal means. While incarcerated, these offenders are carefully monitored, and participating agencies are notified when their release is imminent.

“GROUP A/GROUP B” PULLING LEVERS/ FOCUSED DETERRENCE PROGRAMS

It may be possible to greatly enhance the deterrence value of the pulling levers/focused deterrence strategy by explaining them to a wider audience. Here, a much larger “Group B” of less serious offenders would receive direct communications about the existence of the operation aimed at Group A and the consequences of being so targeted—as well as the criteria that would result in “promotion” to Group A. As in the Boston intervention, continued communication about which offenders have stayed out of trouble and which have not (with consequences clearly specified) keeps the message fresh and drives home its seriousness.

CLOSE SUPERVISION OF OFFENDERS

Incarceration is not the only, or necessarily the preferable, enforcement action. Both for probationers and parolees, meaningful supervision can be more effective than incarceration or reincarceration. An effective structure might include high levels of field (rather than office) contacts with offenders; extensive contacts with friends, families, and neighbors of partners and other victims; compliance conditions that require complete abstinence from drugs and alcohol and frequent and meaningful testing, with immediate sanctions for failure; and reporting of new intimate partners.²² Unlike incarceration, this regime would allow both pro-

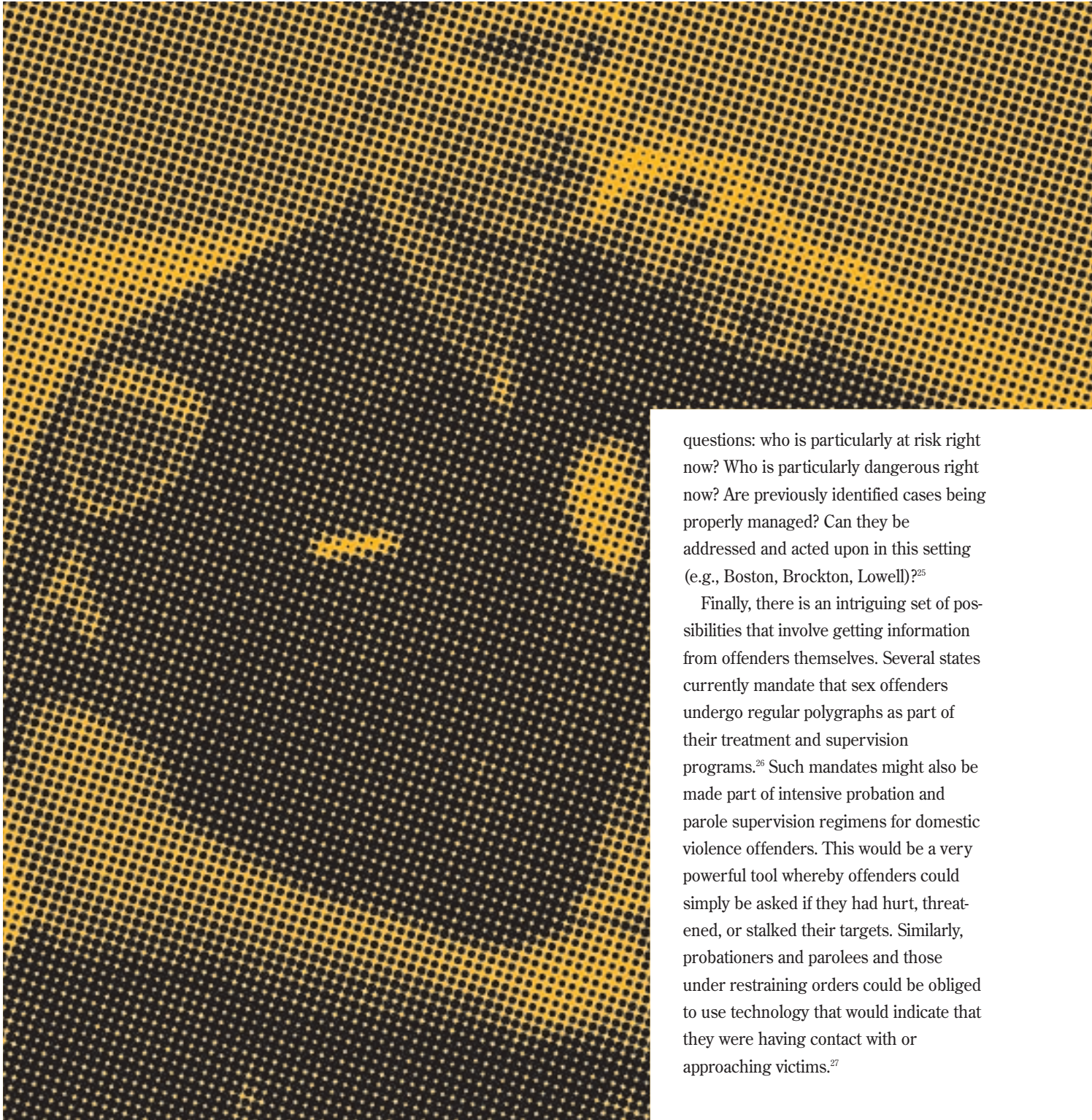
motion (movement from Group B to Group A) and graduation (well-behaved offenders could move from Group A to Group B). It might also be attractive to victims who want something meaningful to happen to their abusers but who do not, for a variety of reasons, want their abusers incarcerated.²³

GATHERING INFORMATION FROM THE COMMUNITY AND OFFENDERS

The more information that is available regarding offenders’ behavior and threats to victims, the better these strategies will work. The more offenders see such information as coming from sources other than their targets (i.e., victims and potential victims) and as being comprehensive and impersonal, the lower the risk to targets will be and the more effective the strategies will be. This approach clearly assumes that there should be routine and high-quality information gathering from a variety of sources other than offenders’ targets and emphasizes the community’s stake in reducing domestic violence. It would resemble the “behavioral supervision” approach used by some jurisdictions to monitor and treat sex offenders.²⁴ This process will never be perfect, but it can easily be much better than it usually is now.

Another particularly important step would be to convene, regularly and frequently, working groups of front-line domestic violence practitioners (e.g., advocates, shelter providers, prosecutors, police investigators and first responders, medical personnel, and probation and parole officers) to gather core information. They should ask basic, pertinent

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questions: who is particularly at risk right now? Who is particularly dangerous right now? Are previously identified cases being properly managed? Can they be addressed and acted upon in this setting (e.g., Boston, Brockton, Lowell)?²⁵

Finally, there is an intriguing set of possibilities that involve getting information from offenders themselves. Several states currently mandate that sex offenders undergo regular polygraphs as part of their treatment and supervision programs.²⁶ Such mandates might also be made part of intensive probation and parole supervision regimens for domestic violence offenders. This would be a very powerful tool whereby offenders could simply be asked if they had hurt, threatened, or stalked their targets. Similarly, probationers and parolees and those under restraining orders could be obliged to use technology that would indicate that they were having contact with or approaching victims.²⁷

Risk to Victims

The possibility of increased risk to victims as a result of criminal justice attention to offenders should be taken seriously. Yet it is important to remember that in recent decades, while criminal justice attention to domestic offenders has been increasing, domestic violence victimization has gone down, not up. Particular programs, such as the Quincy, Massachusetts, Domestic Violence Program, have substantially raised the level of intervention with offenders.²⁸ Groups implementing these heightened enforcement strategies, such as those in Brockton, are extremely concerned about the risk to victims.

Interviews with the administrators of such programs, however, suggest that the feared retribution against victims has not materialized in any of these sites.²⁹

Overall, any increase in risk from heightened criminal justice attention must be weighed against the resulting reductions in risk from these interventions. Analysts should also seek to determine the classes of victims that might experience those enhancements and reductions, and what might be done to address particular problems associated with the interventions.

Conclusion

These law enforcement strategies, which focus intensely on repeat and chronic offenders, challenge the view that domestic violence offenders are significantly different from other violent criminals. Because repeat and chronic offenders commit so much domestic violence, it may be possible and perhaps useful to employ pulling levers/focused deterrence strategies to control and deter this crime. By

applying insights from successful violence deterrence programs, law enforcement agencies can devise strategies that take advantage of chronic offenders' multiple vulnerabilities. And by communicating these tactics to potential offenders, law enforcement can gain powerful leverage to deter future crimes. These possibilities deserve further exploration.

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- 1 See Lawrence W. Sherman, *Policing Domestic Violence: Experiments and Dilemmas* (New York, New York: The Free Press, 1992).
- 2 See, for example, Elena Salzman, "The Quincy Court Domestic Violence Prevention Program: A Model Legal Framework for Domestic Violence Intervention," *Boston University Law Review* 74 (1994): 329.
- 3 See, for example, "Close Gun Seizure Loopholes," editorial, *Hartford Courant*, April 8, 2002.
- 4 Gerald T. Hotaling, Murray A. Straus, and L. Lincoln, "Intrafamily Violence, and Crime and Violence outside the Family," *Crime and Justice* 11(1989): 321.
- 5 Ibid, 323.
- 6 Ibid, 322.
- 7 David M. Kennedy, Anne M. Piehl, and Anthony A. Braga, "Youth Violence in Boston: Gun Markets, Serious Youth Offenders, and a Use-Reduction Strategy," *Law and Contemporary Problems* 59 (1996): 1; Anthony A. Braga, David M. Kennedy, Elin J. Waring, and Anne M. Piehl, "Problem-oriented Policing, Deterrence, and Youth Violence: An Evaluation of Boston's Operation Ceasefire," *Journal of Research in Crime and Delinquency* 38 (2001); Anthony A. Braga, David M. Kennedy, and G. E. Tita, "New Approaches to the Strategic Prevention of Gang and Group-Involved Violence," in Ronald C. Huff, *Gangs in America III*, (Thousand Oaks, CA: Sage Publications, 2002).
- 8 These groups, called "gangs" in Boston, were not Chicago- or LA-style gangs but rather loose affiliations on a neighborhood and sub-neighborhood basis.
- 9 David M. Kennedy, "Pulling Levers: Chronic Offenders, High-Crime Settings, and a Theory of Prevention," *Valparaiso University Law Review* 31 (1997): 449-484.
- 10 See Braga, Kennedy, Waring, and Piehl.
- 11 See Braga, Kennedy, and Tita.
- 12 See David M. Kennedy, "Pulling Levers," and David M. Kennedy, "A Tale of One City: Reflections on the Boston Gun Project," in Gary Katzmann, ed., *Managing Youth Violence* (Washington DC: Brookings Institution, forthcoming).
- 13 Amy Solomon and Gillian Thomson, "Serious Assaults in Lowell: Opportunities for a Collaborative Crime Control Effort," Jan. 22, 1997, Policy Analysis Exercise, Kennedy School of Government, Harvard University, 21.
- 14 Nancy E. Jones et al., "Men Who Batter: Profile from a Restraining Order Database," *Archives of Family Medicine* 52 (1994).
- 15 Eve Buzawa and Carl Buzawa, *Domestic Violence: The Criminal Justice Response* (Thousand Oaks, CA: Sage Publications, Inc., 1996), 88.
- 16 Jeffrey Fagan et al., "Violent Men or Violent Husbands? Background Factors and Situational Correlates of Domestic and Extra-Domestic Violence," in David Finkelhor et al., eds., *The Dark Side of Families* (Beverly Hills, CA: Sage Publications, 1983).
- 17 Richard L. Burgess and Patricia Draper, "The Explanation of Family Violence," in Lloyd Ohlin and Michael Tony, eds., *Family Violence, Crime and Justice: A Review of Research* 11 (Chicago: University of Chicago Press, 1989), Citing Murray Straus, Richard Gelles, and Susan Steinmetz, *Violence in American Families*, (New York: Doubleday, 1980), 87.
- 18 Victoria Frye, Susan Wilt, and David Schomburg, "Female Homicide in New York City, 1990-1997," (New York: New York City Department of Public Health, 1999), www.ci.nyc.ny.us/html/doh/pdf/ip/female97.pdf [Accessed July 14, 2004].
- 19 See, for example, David M. Kennedy, "Pulling Levers," 463-464.
- 20 See press release dated March 18, 2002, "Thirteen Individuals Indicted for False Statements and/or Domestic Violence Firearm Charges," United States Attorney, District of Maine, Portland, Maine.
- 21 Marianne Hinkle, Office of the U.S. Attorney, Boston, Massachusetts, personal communication, April 16, 2002.
- 22 Coerced abstinence from alcohol would likely pay huge dividends in violence prevention in this context. Monitoring for alcohol use is more troublesome than for other substances because of its rapid elimination from the body. However, it is not impossible; Web-based monitoring that would combine scheduled home breathalyzer testing in view of a Web-cam would be possible using existing technology. The Quincy, Massachusetts, domestic violence prevention structure reportedly required alcohol abstinence of probationers (See Elena Salzman, 348). Exactly how this was imposed and whether it was meaningful is not addressed.
- 23 See Linda G. Mills, *Insult to Injury: Rethinking Our Responses to Intimate Abuse* (Princeton, NJ: Princeton University Press, 2003).
- 24 Daniel G. Saunders and Richard Hamill, "Offender Interventions to End Violence Against Women: A Research Synthesis for Practitioners," Document prepared for the National Institute of Justice (7/27/2001): 7.
- 25 The author has conducted these exercises with very good results. In one such setting in Boston, the question was asked: do you in the room usually know who is most at risk at any given time, and from whom? The answers were initially negative and revolved around questions of *prediction*—on the basis of restraining orders, the criminal histories of offenders, and the like. When the question was reemphasized as being about *knowledge*—*that is*, do you, today, on the basis of your work and experience, know who is at great risk, and from whom—the answers were overwhelmingly in the affirmative.
- 26 Saunders and Hamill, "Offender Interventions," 16.
- 27 Global Positioning System (GPS)-based devices that transmit offender locations to a central monitoring location are off-the-shelf items. This approach might require victims to use the system as well.
- 28 Elena Salzman, "The Quincy District Court Domestic Violence Prevention Program: A Model Legal Framework for Domestic Violence Intervention," *Boston University Law Review* 74: 329.
- 29 This, of course, leaves open the possibility of coercion so successful that victims do not report it and police, prosecutors, advocates, and shelter providers all remain ignorant of it.