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BLACK AND BLUE BLOODS: PROTECTING POLICE OFFICER FAMILIES FROM DOMESTIC VIOLENCE

Rafaqat Cheema

Officer-involved domestic violence (OIDV) is a national problem, with police officer families having higher rates of domestic violence than non-police officer families. OIDV is also an underresearched problem with few studies or proposed solutions. Many victims of OIDV do not report their abuse precisely because their abuser is a police officer, whom they fear is in a unique position to protect him/herself from any legal consequences. Often, OIDV complaints are not investigated properly in a nonbiased manner. While a handful of police agencies around the country have developed specific policies and procedures to deal with OIDV, Washington State has enacted legislation that requires its police agencies to adopt OIDV-specific policies. The International Associations of Chiefs of Police (IACP), an organization that addresses various issues confronting law enforcement, has also developed a model policy on OIDV. This Note proposes that, in light of the Washington legislation and the model policy proposed by the IACP, each state should enact a statute that requires its police agencies to develop policies on OIDV. This Note also outlines a specific set of procedures that such statutes should, at a minimum, require its police agencies to adopt, ranging from educating police officers on domestic violence to developing guidelines on responding to and investigating OIDV complaints.

Keypoints for the Family Court Community:

- Officer-involved domestic violence (OIDV) is a serious problem within police officer families.
- Police officers face unique challenges that lead to a high rate of domestic violence.
- Police officer families need states' assistance in countering OIDV.
- OIDV can be countered by requiring police agencies to adopt guidelines for dealing with it.

Keywords: *Domestic Violence; Officer Abuse; Officer-Involved Domestic Violence; OIDV; Police Officers; and State Regulation.*

I. INTRODUCTION

Rosaura Torres, an author and partner at a publishing house,¹ was involved in a physically abusive marriage. A native of Minnesota, Rosaura was married to her husband, a Philadelphia police officer who ascended to the top ranks of the police department, for sixteen years.² During the nearly two decades of her marriage, Rosaura was beaten, kicked and choked by her husband.³ As a result, Rosaura has a detached retina, which has left her partially blind.⁴

Ignoring her repeated pleas to stop, Rosaura's husband continued his assault on her.⁵ Rosaura threatened to report him, but he told her that going to the police would amount to nothing.⁶ Unfortunately, he was right.⁷ Rosaura wrote to the police and city officials when her husband was up for promotion, detailing her husband's violent tendencies.⁸ Despite Rosaura's revelations, they ignored her letters and promoted her husband.⁹ Rosaura escaped the abuse in 2004 by ending her marriage.¹⁰ Her husband, who was never criminally charged for her injuries, has since retired from the police department and moved away from the city.¹¹ Rosaura has been able to get back on her feet since then, recounting her experiences in a book and becoming an activist for abused spouses.¹²

Unfortunately, Rosaura's story is not an isolated incident. Reports show that at least forty percent of police officer families experience domestic violence as opposed to only ten percent of families generally.¹³ Another study of older and experienced police officers revealed a domestic violence rate

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of twenty-four percent, nearly two and a half times higher than in non-police officer families.¹⁴ The causes of the high rate of domestic violence in police officer families can be attributed to the unique job related problems that police officers face.¹⁵ Reports show that police officers encounter a stressful work environment which leads to other problems like suicide, divorce, and alcoholism.¹⁶ Considering these factors, it should be no surprise that police officers also face high rates of domestic violence.

The problems confronted by police officers and their families are exacerbated when police departments do not respond effectively to them.¹⁷ Victims of OIDV are hesitant to report the crime because they fear retaliation in the form of further abuse from their spouse and worry that their complaints will not be taken seriously.¹⁸ Those that do report abuse find that departments often do not believe their claims or do not conduct investigations properly.¹⁹ Recognizing this problem, some police agencies have adopted OIDV specific policies, most notably the Chicago Police Department and the Nashville Police Department.²⁰ States like Florida and New Jersey have also enacted model OIDV specific policies to encourage law enforcement agencies to utilize such guidelines.²¹ Legislation enacted in Washington State requires its law enforcement agencies to devise policies and procedures for OIDV.²² Congress has also addressed OIDV by passing the Crystal Judson Domestic Violence Protocol Program, part of the reauthorization of the Violence against Women Act.²³ The Crystal Judson Domestic Violence Protocol Program provides law enforcement agencies with federal funding for implementing OIDV protocols.²⁴ This program was passed in light of an OIDV case in Washington State, which resulted in the murder of a woman by her police officer husband.²⁵

This Note proposes that states should utilize the Washington legislation, as well as the model policy devised by the International Associations of Chief of Police to counter OIDV.²⁶ Specifically, states should enact legislation similar to that of Washington State, which requires law enforcement agencies operating in that state to develop and implement OIDV specific policies.²⁷ Furthermore, like the Washington solution, the legislation enacted by each state should devise a set of policies, which at a minimum, each police agency is required to follow, with discretion to enact and mandate other policies.²⁸ This Note examines those policies and guidelines which each state should statutorily require its law enforcement agencies to follow.

The policies that this Note suggests will address different aspects of the problem of OIDV. The suggested policies include provisions for educating and training officers about the dimensions of OIDV.²⁹ This requirement is inspired by Florida State University's program of partnering with the Florida Department of Law Enforcement to, among other things, develop a model policy on OIDV and educate officers on OIDV.³⁰ Each state should also require police agencies to have procedures in place for dealing with those claiming to be victims of OIDV. Under this system, complainants will be informed of the status of the investigation and will be given contact information for domestic violence victim advocates and any other pertinent information.³¹ Drawing on the experience of programs like the one created by the New York Police Department (NYPD), this Note also proposes that police agencies develop counseling programs for the benefit of any officer who is facing problems such as job related stress.³²

In order to ensure that police officers are not classified as guilty as soon as an accusation is levied against them, each state should require its police agencies to conduct thorough and impartial investigations.³³ Furthermore, while the investigation is ongoing, administrative entitlements and legal rights of the accused officer should be preserved.³⁴ As in the Washington solution, these policies and procedures set out by each statute should be mandatory, with discretion for police agencies to enact other procedures as they see fit.³⁵

Part II of this Note provides an overview of OIDV and its causes. Part III analyzes the current state of legislation on officer-involved domestic violence as well as why it falls short in addressing OIDV. Part IV discusses in detail the legislation proposed by this Note as well as guidelines for implementing it. Part V addresses the arguments critics might pose in opposition to the proposed legislation. Part VI concludes with a summary of the problem and the proposed solution.

II. OFFICER-INVOLVED DOMESTIC VIOLENCE IN THE UNITED STATES

A. GENERAL OVERVIEW OF THE PROBLEM

Domestic violence is a problem which seems to know no gender, racial, economic, or occupational boundaries.³⁶ It should be no surprise that domestic violence affects police officers too.³⁷ After all, police officers are a microcosm of the society and therefore are bound to be affected by the problems plaguing it. Police officers, however, face distinct challenges that contribute to high rates of domestic violence within their families.³⁸

Research on OIDV has been so inadequate that the problem cannot be measured in exact terms.³⁹ Therefore, it has been difficult to obtain information concerning the frequency with which OIDV occurs and is reported.⁴⁰ The fact that there is no central reporting system does not help.⁴¹ Some analysts have even resorted to directly asking officers to confess how often they commit abuse.⁴² Some studies show that in at least forty percent of police officer families women face domestic violence.⁴³ This is in contrast to the twenty five percent figure for American women overall.⁴⁴

The problem of OIDV in turn creates more problems, notably, improper investigations of OIDV by police agencies.⁴⁵ Officers who commit domestic violence sometimes utilize their police power and status to prevent the victim from seeking recourse.⁴⁶ While there are no solid statistics on the issue, it has been reported that, when it comes to officer-involved domestic violence investigations are not done properly.⁴⁷ OIDV complaints are essentially minimized by police agencies and not taken as seriously as they should be.⁴⁸ An OIDV investigation in Florida is representation of this problem and paints a bleak picture.⁴⁹ In that particular investigation, a police officer was vindicated of the murder of his wife in less than twenty-four hours, with relevant evidence ignored and no interviews conducted of relevant parties, raising questions on the adequacy of the investigation.⁵⁰

At times, the accusations are even turned against the victim by the officers to whom the victim is reporting the crime.⁵¹ In addition, victims are haunted by fear of retaliation from the abusive partner.⁵² Many of these women will, unfortunately, end up not even reporting their abuse.⁵³ Improper investigations of OIDV complaints have been attributed to the code of silence among police officers, where police officers will refrain from reporting or properly investigating fellow officers.⁵⁴

However, the code of silence for victims of OIDV is unique.⁵⁵ It is a code of silence where not only police officers, but prosecutors and domestic violence victim advocates also sometimes refrain from coming to the aid of the victims.⁵⁶ It has even been reported that domestic violence victim advocates sometimes choose to ignore OIDV complaints so as not to alienate the police agencies they rely upon for assistance in other domestic abuse cases.⁵⁷ Prosecutors can also become less diligent in pursuing OIDV complaints because they too need these same police officers for help in other cases.⁵⁸

Studies have shown that domestic violence complaints which do end up reaching the investigation phase typically are investigated informally without official analyses or reports.⁵⁹ Furthermore, studies also show that officers who are found guilty of having engaged in domestic violence are unlikely to be relieved of their duties, arrested or prosecuted.⁶⁰ As can be inferred, such biases and inadequacies make the life of the victim extremely problematic and difficult.⁶¹ Unfortunately this is only one of the problems victims of OIDV are facing.

B. WHY DO POLICE OFFICER FAMILIES EXPERIENCE DOMESTIC VIOLENCE?

High rates of OIDV in police officer families may originate in the nature of a career in law enforcement.⁶² Policing is a rather stressful job.⁶³ Police officers report high rates of divorce, alcoholism, and suicide.⁶⁴ A career in law enforcement brings challenges not faced by those in other

careers.⁶⁵ Unlike those in many other workplaces, police officers are exposed to violence and suffering routinely.⁶⁶ Police officers also tend to work erratic schedules which prevent them from spending sufficient time with families.⁶⁷ Furthermore, even the way in which police officers are supervised has also been said to be a cause of job stress: the rigid, militaristic management style and the extremely bureaucratic organization of police agencies make it difficult for police officers to cope on an every-day basis.⁶⁸

Such job related stresses have been noted to contribute to, among other problems, domestic violence in police officer families.⁶⁹ Aside from domestic violence, the work environment faced by police officers is said to be in and of itself a cause of stress among the officer's family members.⁷⁰ Various aspects of the officer's job can cause stress in the family ranging from an erratic work schedule, to not enough discussion on the part of the officer to discuss his or her job as well as the perception on the part of family members that the officer prefers to spend time with coworkers rather than with family.⁷¹ Although it goes without saying, it must be said that this kind of family environment is most likely an incubator for violence in the home.

Police officers thus face a challenging work environment, which contributes to a high rate of domestic violence and a tough living environment for their families.⁷² These factors may lead to other problems as well.⁷³ According to one report, forty percent of police officers suffer from a sleep disorder, at least double the estimated rate of the general population.⁷⁴ Estimates show that possibly twenty percent of police officers are "problem drinkers."⁷⁵ Although this rate might be less than that of Americans overall, it demonstrates that many officers drink to escape the stresses of their job.⁷⁶ Suicide has also been noted to be a problem amongst law enforcement professionals, occurring 1.5 times more frequently than in the general population.⁷⁷ Furthermore, it has also been reported that police officers face higher divorce rates.⁷⁸ All of these various issues show that domestic violence is just one of the many serious potential consequences faced by police officers in a stressful career.

Apart from the stressful work environment there is another notable cause of domestic violence in police officer families—alcohol. The consumption of alcohol is considered to be a part of the police culture and is also a way for police officers to cope with their stressful work environment.⁷⁹ As has been hinted to earlier, as well there is a correlation between the stressful work environment of police officers and alcohol use, however there is also a correlation between alcohol consumption and domestic violence itself.⁸⁰ Simply put, consumption of alcohol by police officers is said to be a cause of domestic violence.⁸¹ One source has even noted that the majority of OIDV cases nationwide are related to alcohol use.⁸² This issue prompted the chief of police of Tucson, Arizona, for example, to acknowledge the relationship between alcohol and OIDV.⁸³

III. CURRENT STATE OF LAW CONCERNING OFFICER-INVOLVED DOMESTIC VIOLENCE

On the federal level, Congress has enacted the Crystal Judson Domestic Violence Protocol Program as part of the reauthorization of the Violence Against Women Act.⁸⁴ This program provides funding to law enforcement agencies to implement protocols to counter OIDV.⁸⁵ Therefore, any police agency seeking to develop a procedure or set of policies on OIDV has the option to finance its program through federal funding.⁸⁶ States like Florida and New Jersey have also adopted model policies on OIDV.⁸⁷ Washington State's statute requires its police agencies to have policies and procedures in place specifically for OIDV.⁸⁸

The Washington State legislation was signed into law in 2004 by then Governor Gary Locke.⁸⁹ This bill was enacted in light of Crystal Brame's death, who was murdered by her husband, the local police chief in Tacoma, Washington.⁹⁰ Her death brought the issue of OIDV, the unique problems surrounding it, and the response of law enforcement agencies, into the limelight in the state of Washington.⁹¹ The bill requires Washington law enforcement agencies to develop policies for OIDV.⁹² Requirements of the law include, among other things, screening applicants for any domestic violence

history, sharing information on OIDV training with other agencies, offering information on counseling options to officers, informing the individual making a domestic violence complaint about the investigation's status, and requiring officers to report a fellow officer's involvement in domestic violence.⁹³ These requirements are only meant to set a minimum standard while allowing agencies further discretion in developing their own policies for OIDV.⁹⁴

At the local level, some police agencies have a distinct policy on OIDV.⁹⁵ A survey by the *New York Times* in conjunction with PBS, discovered that a quarter of the fifty-six largest police departments that responded to the survey have adopted the specific OIDV model policies drafted by the International Associations of Chiefs of Police (IACP).⁹⁶ The IACP, an organization whose goal is the advancement of the law enforcement profession, has also recognized the seriousness of the problem of OIDV.⁹⁷ As mentioned earlier, Florida State University (FSU) has also recognized the urgency of the OIDV problem and has proposed innovative solutions for its home state.⁹⁸ FSU's Institute for Family Violence Studies has developed a program specifically tailored towards OIDV.⁹⁹ Among other things, the program provides a prevention-based course to educate police officers on OIDV.¹⁰⁰ In addition, the program seeks to foster a police culture in which OIDV is considered to be contrary to police ethics.¹⁰¹ As mentioned earlier, the IACP has also developed a model policy on OIDV and urged law enforcement agencies to voluntarily adopt it.¹⁰² Only Nashville, the aforementioned NY Times survey found, has adopted the policy in its entirety, with Charlotte, Chicago, and Columbus following most of the provisions of the model policy proposed by the IACP.¹⁰³

There are multiple problems with the current state of legislation, and indications are that only a minority of police agencies around the country has adopted a policy on OIDV.¹⁰⁴ In effect, police agencies are free to decide whether to address the problem of OIDV or not. This self-regulation has resulted in discrepancies in how different police departments treat OIDV: some police departments have distinct policies for OIDV, but others do not; some may relieve the assailant of his or her job while others may not.¹⁰⁵

It has also been reported that police officers that perpetrate domestic violence can get away with it without facing consequences.¹⁰⁶ One victim of domestic violence stated that, when she would reach out to law enforcement after being assaulted by her police officer husband, the responding officers usually "would do little or nothing to protect her."¹⁰⁷ In fact, statistics on Florida Law Enforcement, for instance, show that between 2008 and 2012, twenty-eight percent of police officers were still working at their respective department a year after domestic violence complaints had been lodged against them.¹⁰⁸ Some departments have systematically addressed the problem, while others have not.¹⁰⁹ All departments should address OIDV systematically. This goal can only be achieved by enacting legislation mandating they do so.

IV. ADOPTION OF A STATE STATUTE

Subsequent to the passage of Washington's legislation requiring law enforcement agencies to develop OIDV policies, a few members of Congress sent a letter to all the states urging them to adopt the Washington legislation.¹¹⁰ This Note proposes that states should heed the advice of Congress. Specifically, this Note proposes that states adopt legislation modeled on the Washington State statute and also utilize the IACP model policy. The proposed state legislation would make it mandatory for law enforcement agencies to adopt and develop OIDV policies.¹¹¹ The legislation would also set out minimum guidelines which police agencies would be required to adopt, similar to the Washington statute.¹¹² Police agencies would also have discretion to adopt any further guidelines they see fit. It is also important to state here that this Note is not meant to be an exhaustive overview of the solutions proposed by the Washington legislation and the IACP. Rather, this Note aims to familiarize readers with the spirit of these solutions in the hope that it will inspire others to recognize and address this problem.

Furthermore, mandatory measures are important because a notable problem in OIDV has been the improper investigation of complaints. It has been reported that OIDV investigations have been

conducted improperly with the officer under investigation essentially being given special treatment.¹¹³ The solution proposed here will help to ameliorate one of the biggest problems with OIDV, namely, the sometimes unhealthy relationship between complainants and police agencies.¹¹⁴

A. STATE REGULATION EXPLORED FURTHER

Mandatory minimum guidelines, which each state should require its law enforcement agencies to adopt, should include the following:

1. Educational Programs for Police Officers

Although the Washington statute does not explicitly require police agencies to formally educate their officers on OIDV,¹¹⁵ such a measure would probably strengthen the anti-domestic violence stance of that state. Every agency should be required to educate its police officers on OIDV issues.¹¹⁶ This comports with FSU's efforts to partner with law enforcement to educate officers on OIDV.¹¹⁷ Although education programs will focus on acquainting officers with the problems and causes of OIDV, individual agencies will have discretion regarding the nature and extent of their educational efforts. This is important because, given the diversity of police forces around the country,¹¹⁸ it is the individual agencies who know their officers best. Furthermore, each state should require its law enforcement agencies to train their officers on the OIDV policies that are being adopted.¹¹⁹ It is essential that officers know what is expected of them.

2. Screening of Candidates

The Washington legislation requires that police agencies thoroughly screen job applicants for any current or past domestic violence incidents.¹²⁰ Police agencies should adopt screening procedures designed to disclose such information.¹²¹ Police agencies should also develop standards on dealing with the employment status of those being investigated for domestic violence and those who are found to have perpetrated it.¹²² Furthermore, as required by the Washington statute, police agencies should develop policies on self-reporting for employees who have been accused of, or are being investigated for, domestic violence complaints by any other agency.¹²³

3. Counseling of Officers

States should require their local police agencies to provide counseling services to their officers implicated in OIDV. This approach is inspired by agencies like the NYPD and Los Angeles Police Department who have counseling programs in place for their officers.¹²⁴ Once police officers have been hired, it is both in the interests of the employee and the employer to foster a healthy work environment. For this reason, counseling should be available to those officers who are facing stress, family problems, or any other problem which, if unchecked, could lead to domestic violence within the household. Ultimately, it would be left to the police agencies themselves to develop the specifics of their counseling program, but forming a partnership with a nearby hospital or university which has access to such counseling services might help in the task.

Although the Washington solution does not explicitly require police agencies to offer counseling services to their employees, it does require agencies to offer information about treatment programs upon request or to officers who have been alleged to have committed domestic violence.¹²⁵ The NYPD, however, provides counseling in order to assist its officers with job related stress issues that might arise.¹²⁶

Like the NYPD counseling initiative, the services proposed here seek to assist police officers with diverse issues and problems.¹²⁷ Such a program will likely not only help officers in their domestic life but will also help them become better employees in the workplace.¹²⁸ It has been reported that

when employers utilize such measures, the employees benefit through higher job productivity, increased job satisfaction, improved work relationships, and less absenteeism.¹²⁹ Therefore, providing counseling services will benefit both the agency and the officer.

4. Responding to OIDV Complaints

The legislation proposed here requires that each complaint of OIDV be promptly investigated and that the complainant be informed of the status of the investigation. This requirement is comparable to the approach taken by Washington.¹³⁰ While each police agency should be free to devise its own variations on this requirement, there are some recommended guidelines that should be followed.¹³¹ As in the model policy proposed by the IACP, the officials responding to the complaint should ensure that the scene of the alleged crime is protected, and any relevant evidence or accounts are preserved.¹³² The victim should also be made aware of the department's policy on OIDV, the standard for an arrest, and the procedures for obtaining a protective order pursuant to the IACP model policy outlines.¹³³

Under these suggested guidelines, departments would also be free to follow their standard procedures in investigating OIDV.¹³⁴ Follow-up investigations should be conducted thoroughly to ensure the acquisition and preservation of relevant information and evidence.¹³⁵ Upon a showing of probable cause, an arrest should be made. In the event that an arrest is not made, a written report of the incident should be drafted and filed in accordance with the IACP model policy outlines.¹³⁶

5. Investigation of the Accused Police Officer

The legislation proposed here requires that the department conduct separate administrative and criminal investigations of an OIDV complaint as recommended by the IACP Model policy.¹³⁷ The IACP policy requires that the administrative investigation be conducted by the Internal Affairs Division of the police agency or an investigator appointed by the chief of police.¹³⁸ The goal of the administrative investigation would be to determine whether the accused has violated any administrative or departmental policies.¹³⁹

Additionally, as suggested by the IACP, a criminal investigation should be conducted by the department, just as it would conduct any other criminal investigation.¹⁴⁰ While the investigation is ongoing, the department should take all necessary steps to ensure that the rights of the accused are protected.¹⁴¹ Such measures can help ensure that the accused is treated fairly while the investigation is being conducted. Finally, the agency should take appropriate action against the officer if the investigation concludes that the accused did, in fact, perpetrate violence on his/her partner.¹⁴² Such action, if the agency deems appropriate, may include termination from the job.¹⁴³

6. Additional Measures

The Washington legislation encourages police agencies to work with fellow law enforcement agencies in addressing the problems of OIDV.¹⁴⁴ Police agencies should be mandated to develop procedures to notify fellow agencies upon becoming aware that a fellow agency's officer has been accused of domestic violence.¹⁴⁵ Furthermore, agencies should be mandated to share and provide access to other agencies on relevant OIDV training that they have developed.¹⁴⁶ It is also important that procedures be developed by police agencies to update complainants about the status of the investigation and giving them contact information for domestic violence victim advocates, or any other pertinent information.¹⁴⁷

In order to ensure that police agencies are complying with all recommended OIDV statutory requirements, it is necessary to establish a mechanism for oversight.¹⁴⁸ This Note proposes that a committee, or an association consisting of representatives from statewide organizations representing state and local enforcement officers, and a statewide organization which provides education and

training for agencies which serve domestic violence victims, be formed to oversee police agency compliance.¹⁴⁹ Police agencies should advise the association of all relevant policies and procedures they have developed in regards to OIDV.¹⁵⁰ The association, in turn, should provide a list to the state governor and state legislature of those agencies who have not complied with the requirements of adopting OIDV specific policies and procedures.¹⁵¹

B. TURNING AWAY FROM THE WASHINGTON SOLUTION

It has been reported that police officers who act as whistleblowers regarding misconduct by their fellow officers, and who break the “code of silence,” end up making the work environment very difficult for themselves.¹⁵² Those who break the code can be ostracized by their peers or face threats.¹⁵³ This problem has been referred to as the “Blue Code of Silence.”¹⁵⁴ The problem is so pervasive that it would be safe to assume that the fight against corruption in some police departments is hampered by the code of silence.¹⁵⁵ Efforts have been underway to study, address, and counter this problem.¹⁵⁶ One particular suggestion essentially calls for changing the culture of the police department in which officers have positive role models in the form of leaders who are ethical.¹⁵⁷ Having such leadership in the police department can aid in improving communication with lower-level officers thereby making it easier for them to report misconduct.¹⁵⁸ Notably, the collaboration in Florida between FSU and law enforcement agencies represents a step toward changing this aspect of police culture through an educational curriculum.¹⁵⁹

Jurisdictions around the country seem to have their own individual ways of regulating reporting of a fellow officer’s misconduct.¹⁶⁰ The NYPD, for example, requires officers to report any “corruption or serious misconduct.”¹⁶¹ The Washington legislation has also attempted to address this issue by requiring officers to report on their colleagues when they have allegedly committed domestic violence.¹⁶² Nevertheless, the code of silence continues to be a serious obstacle.¹⁶³

The solution proposed here, however, does not advocate any of the aforementioned measures. Particularly, this solution does not advocate for or against the aforementioned approach taken by the Washington legislation.¹⁶⁴ This is so because, as the preceding has made clear, this is a controversial and complicated issue that should not be conjoined with the problem of OIDV but should be analyzed and dealt with separately. By dealing with this issue separately and not conjoining it with the problem of OIDV, law enforcement agencies will be better able to deal with both problems. Therefore, the legislation proposed here leaves it up to the individual police agencies to decide on the issue of whether a police officer should be required to report a fellow officer’s perpetration of domestic violence.

V. COUNTERARGUMENTS AGAINST STATES REQUIRING POLICE AGENCIES TO ADOPT POLICIES ON OIDV

A. THE COST AND COMPLICATIONS OF IMPLEMENTING THIS PROGRAM

Critics of the proposed OIDV measures may cite the financial burden police agencies will face in implementing the program required by the proposed statute.¹⁶⁵ As discussed earlier, Congress has passed a bill, which invites law enforcement agencies to apply for federal funding to develop OIDV protocols.¹⁶⁶ This financial backing will greatly facilitate the establishment and implementation of OIDV programs. Even if the federal government is not able to provide funding, the situation is serious enough to warrant financial support from state governments as the solutions proposed here address serious family problems and aim to protect the integrity of our police departments. Therefore, it would be reasonable to expect the states to participate in efforts to ensure that their officers remain free from the taint of domestic violence.

B. MANY CONCERNS OF DOMESTIC VIOLENCE VICTIMS HAVE BEEN LEFT UNADDRESSED

Critics of this proposal might also argue that it fails to allay some of the concerns that victims of OIDV might have. It has been reported that one of the reasons victims of domestic violence choose not to report their abuse is because of fear of retaliation from their partner.¹⁶⁷ It is possible that the fear of retaliation is common to domestic violence victims in general and therefore not limited to situations where the perpetrator might be a police officer.¹⁶⁸ In any event, fear of retaliation should not prevent adoption of the proposed statute and should be looked as characteristic to the problem of domestic violence in general and addressed accordingly.

Furthermore, OIDV victims may also be deterred from reporting abuse because of the possibility that the assailant may lose his/her job.¹⁶⁹ While this is indeed a problem, the solution proposed here says nothing about the job status of those who are found to have committed domestic violence. Rather, the legislation proposed here recommends that the states defer to the individual police agencies to resolve the employment status of those who have perpetrated domestic violence. This is so, as will be further explained, because of the negative economic effect on the victim if the batterer was to lose his/her job.

Conversely, those who advocate a tougher approach to OIDV will likely criticize the fact that the proposed solution does not require automatic job loss of the perpetrators. If termination of employment were to be imposed, victims would suffer doubly; first by being subjected to abuse by their partner and second by being put in a financially precarious situation.¹⁷⁰ An officer who loses his/her job will not be able to contribute to household and childcare expenses. Such a situation might inhibit, instead of encourage, the reporting of domestic violence. The phrase “anticooperative effect of law” has been used to describe such an effect, which promotes noncooperation with law enforcement agencies instead of helping the victim.¹⁷¹ The Chicago police department has taken notice of this problem and rejected a zero tolerance approach toward officers who commit domestic violence, believing that if abusers are punished too harshly victims might not report the crime.¹⁷²

On the other hand, for both police officers and ordinary citizens, it is possible that a zero tolerance policy might provide a strong deterrent to domestic violence.¹⁷³ Proponents argue that such a policy will send a strong message for the nontolerance of domestic violence.¹⁷⁴ However, given the unclear effect that a zero tolerance policy might have on the lives of the victims, it should be left to the discretion of the individual police agencies to decide whether to enforce such a measure.

C. THIS SOLUTION VILIFIES THE POLICE

Critics of the proposed legislation might also argue that the problem and solutions proposed here are vilifying the police by specifically pointing out domestic violence within their ranks. After all, research shows that domestic violence is not just a police officer problem but affects other segments of society like “college students or military families.”¹⁷⁵ Describing the problem of OIDV and proposing solutions does not vilify the police. Rather, it encourages help for police officers and their families. Addressing OIDV will help many police officer families caught in this cycle of violence. It should not be simply dismissed as another tactic being used to malign our police officers.

Traditional views on domestic violence tend to deal with perpetrators only after they have acquired the label of domestic violence perpetrators, usually by offering treatment services to them.¹⁷⁶ Many courts have mandated counseling programs for domestic violence perpetrators from which the vast majority end up dropping out.¹⁷⁷ The solution proposed here, however, tries to intervene before officers have acquired the label of a perpetrator. Counseling services and other carefully balanced protocols, which are proposed here, seek to foster a healthy relationship between officers and police agencies. In addition, this solution also ensures that accused officers receive due process in the administrative and criminal investigations of OIDV complaints thereby preventing them from being unfairly labeled as perpetrators. All this shows that the goal is to assist officers rather than vilify them.

VI. CONCLUSION

OIDV is a problem that exists beneath the surface. Until recently, not many individuals have studied, documented, or even acknowledged its severity. This leaves victims in a helpless place, often in fear that they cannot turn to the law, the police, or anyone else for help. Thus, many victims find themselves in an endless cycle of violence and lose confidence in the policing system. Such a problem also taints the performance and reputation of our police officers. In order to foster both the integrity of law enforcement and the welfare of our police officers as well as their families, states must ensure that OIDV is seriously addressed.

NOTES

1. LinkedIn Profile of Rosaura Torres, LINKEDIN, <https://www.linkedin.com/pub/rosaura-torres/17/799/188> (last visited Dec. 17, 2014).

2. David Gambacorta & Dana DiFilippo, *Domestic Terrors*, PHILLY (Sept. 11, 2014), http://articles.philly.com/2014-09-11/news/53775430_1_police-officer-police-families-philadelphia-police-department.

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

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