

Multiple Jeopardy and the Cycle of Domestic Violence: A Study of St. Louis's Response
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By many accounts, the criminal justice system only recently has begun to develop effective strategies to protect victims of intimate-partner violence. The need for public policy addressing the issue of domestic violence gained national attention during the Clinton Administration, when President Bill Clinton signed the Violence Against Women Act as part of the Violent Crime Control and Law Enforcement Act of 1994. This bill created a section of the U.S. Department of Justice devoted solely to contending with the issue of domestic abuse. This attention on domestic violence allowed for the development of individual state policies providing for domestic-violence hotlines, shelters, and other refinements of the national response. In short, as the nation better defined its responsibilities relevant to this issue, local response procedures became more focused on protecting women and children, and on providing services to supplement the work of law-enforcement officials.

Prior to this national action, Missouri was among the few states making progressive attempts to strengthen domestic-violence-prevention policies. In 1989, Missouri enacted a mandatory-arrest statute for domestic-abuse cases. More aptly, the statute is called the “almost” mandatory arrest policy. Recent data, at both the local and national levels, suggests that the policy may create more vulnerability than safety for those whom it serves, particularly minority women in low-income areas (“State Results”). This project outlines the flaws of the Missouri “almost” mandatory arrest policy, specifically regarding its implementation in the St. Louis region. Additionally, this study provides a context for examining the vulnerabilities created by the intersection of class-, race-, and gender-based prejudices on African American women. And finally, this project interrogates the policy through a feminist understanding of multiple jeopardy

and legal theory. An examination of the systemic inequality embedded in the policy, this work delineates steps toward the restorative justice and community collaboration necessary to redevelop domestic-violence-prevention policy.

St. Louis as a Particular Case

In most policy implementations, St. Louis proves a peculiar case. The separation of the city from the county in 1876 has plagued the city with economic and social distress, for most of the affluence of the region moved to outlying areas to escape urban crime and tax mandates of the city government, thereby leaving the public-school system weak, and whole neighborhoods abandoned. In a city with a history of racial tension and police corruption, there is little trust between the African American community of St. Louis and the primarily white leaders of the city's criminal-justice system. This creates consistent friction from both sides concerning the methods used to maintain order and make progress.

To examine the relationship St. Louis has with the “almost” mandatory arrest policy, let us first create a context for understanding those the policy affects primarily. One example is Rhonda Jackson, a 22-year-old African American mother of three who lives in a three-bedroom apartment in North St. Louis with her mother and two younger siblings—seven people in a five-room living space. Having graduated from high school at 18, with an eighth-grade reading level and a child on the way, Rhonda was left with little choice other than to seek public assistance to supplement her family's household while she worked at a local minimum-wage job. With little education and even less mobility, Rhonda has little knowledge of job-training services available in the area and only can travel as far as public transportation takes her. Rhonda's two older brothers currently are incarcerated, one for drug possession, the other for attempted robbery,

making her family cautious around law-enforcement officials and fearful of losing other family members to crime. Currently, Rhonda is in an intimate relationship with TaMarkus Washington, the father of her third child. TaMarkus lives with Rhonda's family some of the time, but he constantly is between jobs because he, too, barely graduated high school. As a result of his substance abuse and the stress it brings upon the family's financial situation, TaMarkus often takes out his frustration on Rhonda physically, emotionally, and sexually. Rhonda has contacted local police only twice regarding the abuse for fear that authorities may take her children away or force her off of public aid.

Rhonda's situation is not unique. According to 2000 census data for the City of St. Louis, nearly 86 percent of single-parent households are female-led (most by minority women), of which nearly 80 percent live at or below the poverty line ("Summary Data"). In the primarily African American North St. Louis area, 22 percent of housing is vacant and more than two-thirds of the occupied housing is rental property, much of which is subsidized for low-income residents. According to the 2006 data for the St. Louis Public School District, 86 percent of students are racial minorities, nearly one in five give up and leave before graduation, and 81 percent qualify for a state- and city-subsidized free-lunch program ("District Annual Report").

With slow progress being made by the state or city governments to eliminate poverty, frustration escalates into violence, and the response of law enforcement often creates greater problems. In cases of domestic abuse, a mandatory-arrest policy requires the responding officer to arrest "any person he or she has probable cause to believe is the 'primary physical aggressor' in the domestic assault" ("Missouri's Domestic Violence"). In Missouri's practice of "almost" mandatory arrest policy, the responding officer is given some discretionary power and is encouraged to arrest the person he or she believes to be the primary aggressor, although the

officer is not mandated to make an initial arrest. In most cases, officers do arrest perpetrators but only hold them for a “cooling off” period in the local jail, usually twenty hours or less. If the officer finds the situation does not warrant arrest, the alternative is that he or she must file a detailed report explaining the circumstances surrounding the dismissal. If a second incident occurs in the same twelve-hour period, the officer must arrest the perpetrator. With an active patrol area covering much of the St. Louis region, officers find the added paperwork to be time consuming, which renders it less taxing to simply detain the aggressor for a few hours and charge him with a Class C misdemeanor, a proverbial “slap on the wrist” for violent offenders. The framework of the policy allows for a high level of officer discretion in the implementation, thus creating multiple points at which the victim may become more vulnerable following an attack.

This practice creates a problematic situation for victims. The temporary-detention practice is intended to allow the victim a period of time to gather her things, exit the residence, and “provide the perpetrator with something to think about the next time he thinks about assaulting his wife” (“Missouri’s ‘Almost Mandatory’”). This policy, were it used as originally intended, could be effective, as the recidivism rate of offenders in cities with similar policies, such as Denver and Minneapolis, have dropped by as much as 40 percent since the implementation of mandatory arrests (“Domestic Violence and Sexual Assault”). However, in St. Louis, effective implementation first would require effective response. St. Louis’s domestic-abuse victims call and report an average of five times before their perpetrators are indicted for felony-level assaults or (“Domestic Violence Unit”). In St. Louis, perpetrators are likely to develop lengthy records of misdemeanor-level charges in multiple policing districts, due to high numbers of transient residents in the city. Although this challenge of transience it not the fault of law enforcement,

community networking concerning domestic attackers falls far short of the networking taking place for “more violent crimes,” such as drug trafficking and armed robbery. This is due in part to the structure of St. Louis’s justice system. In an attempt to develop a focused response to domestic violence, a separate, specialized domestic-violence unit was organized in St. Louis and now is separated out from general patrol officers (“Domestic Violence Unit”). While the unit is able to provide a specialized response to domestic-violence cases, citywide follow-up may not keep pace with the number of attacks taking place in the short timespans common to domestic-violence cases. Without proper follow up by local officials and with the continued practice of holding attackers for only a few hours, most victims are at risk of experiencing cyclical violence, escalating with each offense. As abusers are assigned misdemeanor charge after misdemeanor charge, women are subject to repeated violence as they wait for their perpetrators to incur extended prison sentences.

Furthermore, in impoverished areas, victims often do not have the financial means to leave their abusers and move their families to safer locations. Temporary shelters frequently are located on the other side of the city, where the financial support of community services is more robust. Therefore, if victims are able to obtain support from shelter and welfare services, most then are cut off from their families and communities. More alarming is data showing African American victims and community members reporting violent acts far less often than other racial groups. Although officers are five times less likely to respond to a domestic-abuse call than other types of incidents, officers are more likely to arrest a minority offender for domestic violence than a white perpetrator (Mills 550). Data on St. Louis’s domestic violence cases show that low-income African American women are the group least likely to cooperate with the system following an arrest and charge of their attacker. With the implementation of a supplemental

“mandatory protection” policy that requires prosecutors to continue to pursue charges even when a victim desires them to be dropped, the situation of women like Rhonda Jackson are further problematized. Already possessing limited access to resources, Rhonda is caught in a difficult position wherein she must decide between the relative stability of her home and the limited possibility of something better.

An Understanding of Intersectionality

Feminist theory illuminates the experience of women being, in Tricia Grillo’s terms, at the “intersection of many categories” (Qtd. in Davis). In her discussion of intersectionality and anti-essentialism, Grillo suggests the use of each category to dismantle the essentializing, or compartmentalizing, of women’s experiences. Traditional methods of examining identity simply highlight the impact of gender or race, independent of other elements of one’s personhood. In actuality, it is difficult to separate a variety of elements that constitute identity from one another, as each one acts in relationship to others. For example, women of color “stand at the intersection” of racial and sexist oppression, multiplying the effects of discrimination, not merely adding them (Grillo). It is at these intersections that the marginalized are most vulnerable and subject to experiencing the highest degrees of jeopardy. This multiple jeopardy, as described by Deborah King, can be positive in some respects, as it creates the “multiple levels of consciousness” experienced by women of color (King). Applying this understanding to the status of Rhonda Jackson, we see that as a black, low-income, young, under-educated, under-resourced woman in St Louis, she stands at the intersection of a number of qualifying attributes which ,when taken together, place her in this position of multiple jeopardy. Much of Rhonda’s difficulty arises when her St. Louis community focuses on her gender independently of other

categories of her identity. By understanding this, we can attempt to explain the phenomena of under-reporting in domestic-violence cases, for the system she attempts to serve further disempowers her by ignoring the power of compounding oppressions on her ability to exit a violent relationship. As the system cannot fully provide for her economic, intellectual, physical and social well-being, she remains with her attacker, sacrificing her physical safety for some financial security and social community. For Rhonda, it is a lesser evil to remain in a violent relationship than to threaten what little stability she has.

Theorists bell hooks and Patricia Hill Collins explain problems such as Rhonda's as matters of racial allegiance. In the event an African American woman must choose between her race and her gender, the more prominent oppression of race usually trumps all else, for it is reinforced by the common intersection of race and class, and the complementary desperation experienced by the marginalized. In her work, hooks describes the relationship between black men and women as "comrades in struggle," which means that black women are "not eager to call attention to the fact that the men do not share a common social status, that patriarchy does not negate the existence of class and race privilege or exploitation, that all men do not benefit equally from sexism" (hooks 69). For hooks, black women are more likely to identify with the shared struggle of the men of the community than to view them as the enemy or "violate." In a community that struggles to maintain complete family units, it is difficult to discern when to preserve community, or when it is more appropriate to act in the interest of one's own physical safety. Through the community's, and in many cases American society's, marriage of race and class, class consciousness develops into family and race consciousness. With this knowledge, it is no surprise that in an area of the country that sends more young black men to prison than to college, rates of reporting domestic disputes in St. Louis are fairly low. As race discrimination is

separated out to be the strongest, most damaging form of oppression, or at times only presumed form of oppression, black women are not fully empowered by the services offered them. Because racial discrimination is considered before all other forms of jeopardy, black women often form allegiances in which their needs are not fully met; oftentimes, they are abused.

Collins identifies this allegiance as being influenced by “heterosexist, Eurocentric gender ideology – particularly ideas about men and women advanced by the traditional family ideal – on African-American women and men” (152). The feeling of needing to “hang onto a man” to uphold the black family is troublesome in instances of domestic abuse; Collins suggests that “advising Black women to unquestioningly support sexual harassment, domestic violence and other forms of sexism done by Black men buttresses a form of sexual politics that differently controls everyone” (153). How, then, can women such as Rhonda Jackson protect themselves, and their children, when they are being abused by their partners and inadequately protected by local policies and law enforcement?

A Critique of Liberal Legal Theory

Although the liberal legal system is well-intentioned in its desire to serve the individual and uphold ideals that are to transcend color or creed, the system finds itself in a situation that reinforces patriarchal structures. As local law enforcement officers use their discretion on behalf of the safety of a woman, her autonomy is lost. As local prosecutors practice “No Drop” policies, which disallow the dropping of charges by the abused party, regardless of her opinion on the sentencing of her attacker, women are further disempowered (“Domestic Violence Unit”). Though the policy is in place to more concretely insure the safety of the woman in times of emotional distress, the policy lacks the ability to empower her, for it is disconnected from the

policies by which the local law enforcement acts in the initial response to a dispute. As Missouri's legal structure creates loopholes for responders and extends timeframes for prosecutors to take action, the autonomy of women at the center of these processes is reduced further. How then must the system be restructured to resolve this disconnect? Can a victim be empowered in the process?

Considering the multiple oppressions of African American women because of race, class, and gender, the issue of resolving ineffective policy is complex, especially in area where community leadership and city government do not complement each other's work. In St. Louis, local leaders work cooperatively to develop community responses to violence by bringing together church and community-center resources to serve local families. The difficulty is when these programs are not financially supported by the city. Shelters and legal services are funded primarily through grants and private donors, as the city's financial resources do not reach far enough to cover the services necessary to fully meet the need of domestic-violence victims. As the community attempts to respond, the legal system is enacting post-facto justice, rather creating a proactive response and intimate association between criminal-justice units and community and welfare services. Beyond the issue of legal policy is the organization of local services. The St. Louis region has some 41 offices across the metro region that have a degree of ability to aid victims of domestic violence. The problem is that these offices are dispersed throughout the city and St. Louis County, and no single office can aid in every process that may be needed by a woman during the days immediately following her quick exit from a violent relationship.

Methods for Current Change

For the sake of expediency and immediate social change, we must look to the successes of other regions to more effectively respond to domestic violence. In the most recent attempt to aid local governments to respond to domestic violence, President George W. Bush signed the 2003 President's Family Justice Center Initiative (PFJCI) to earmark federal dollars toward the development of centers in which community leaders and government officials could collaborate. One successful example of the PFJCI is the San Diego Family Justice Center, which houses 32 offices and agencies in one facility, allowing the underserved to gain resources at one location; it is also situated near public transportation ("San Diego"). The San Diego Family Justice Center (FJC) has the ability to file formal charges; provide victims with legal assistance, counseling, welfare services, healthcare, temporary housing, and parenting classes; and offer job training, all in the same building. In St. Louis, it may take a woman weeks to access all of these services. Hence, it is not surprising that most clients in St. Louis do not make it all the way through the process of filing charges, receiving welfare services, and getting back on their feet before returning to abusers. The financial strain becomes too great.

As seen in the St. Louis system, the enforcement of arrest policies by the criminal-justice system leaves underserved, low-income clients without a connection to the services necessary to develop more permanent ends to domestic violence. Instead of being left to travel from office to office to obtain the assistance they need, victims who enter the San Diego FJC are greeted with a map to the building and its immediately available legal services, welfare assistance, and counseling. Because services are housed in a single building, in this case on the same floor, clients are freed from the demeaning experience of waiting in numerous lines and retelling horrific stories of violence that caused them to seek assistance in the first place. In developing a

center that offers access to healthcare, a network of affordable housing, and parenting and job-training courses, the San Diego FJC acknowledges the compounding oppressions faced by low-income minority women who, as in Rhonda's case, are without significant literacy or job skills.

Although it has made steps in the right direction, the St. Louis area has a sizable challenge ahead to develop a center such as the one in San Diego. The metropolitan area of St. Louis is smaller than that of San Diego, but St. Louis faces extreme difficulties in fostering collaboration between the diverse resources that serve the victims. Additionally, St. Louis has long strides ahead if it wishes to reduce the impacts of racial discrimination and segregation that still exist in the systems and services of the city and surrounding areas, as leaders of one part of the region serve drastically different populations than do others. When a community's resources cannot be pooled, victims suffer. When victims must move from temporary shelters to heavily dispersed areas of low-income housing, the justice system does not move the jurisdiction of protection orders, and victims suffer further.

In response to the President's Initiative, the Family Violence Council of Saint Louis was developed as an extensive referral program to attempt the same type of advances as those present in San Diego. The process is difficult, as most recipients of services in St. Louis read at about a sixth-grade level and do not have access to transportation to get to multiple resource sites. Though a rough model of the San Diego FJC is in the beginning stages of development in St. Louis, the city has yet to move out of its current service-referral structure and into an "under-one-roof" type of center ("St. Louis"). The Missouri Coalition Against Domestic Violence offers a directory of service providers to anyone seeking shelter, other services, or additional information. It is only with proper implementation of funds and policies guiding responses that women can be empowered, rather than made dependent on the system as they strive to detach

themselves from abusers. Furthermore, the redevelopment of arrest and protection policies that work with the victim and multiple service providers seem to offer the strongest possibilities of reducing cyclical violence. With vested interest in the individual, a tenet of our liberal system, the community can create a more closely associated network of services. The collaboration of community organizations with city offices further will aid in insuring that the currently underserved will receive appropriate services and care, providing a greater opportunity for the community to end domestic violence.

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