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The pattern of violence

EVAN STARK: So the first thing we know is that the domestic violence laws do not even begin to touch on the pattern of violence that exists, typically exists in probably 90 to 95 percent of these relationships and certainly in the vast, vast majority of abusive relationships that come to the attention of the courts or the police or the health care system. The second thing that domestic violence laws do not even begin to reach, is the following....and this is a paradox. Even though domestic violence is frequent, the typical domestic violence incident is minimal from a criminal justice or a medical standpoint. Now what do I mean by that? Yes, domestic violence accounts for a large number of homicides. Yes, domestic violence is frequently accompanied by severe injury, by sexual assault or rape. But in well over 90 percent of domestic violence incidents, no injury results. Not only does no injury result, but if someone from another planet, say, or someone who uses what I call a "calculus of physical harms" to assess severity. Well to look at the incident it would seem trivial. There's a push, there's a shove, there's grabbing, there's holding, there's pulling hair. Any of these acts taken alone from a medical or a criminal justice standpoint seems like nothing. Unfortunate, maybe we would advise the person not to do it, but certainly not something that's going to excite a police officer, or a criminal court judge or even a family court judge or anything of the kind.

Incident-specific approach

EVAN STARK: So what has happened is that because we have a law that focuses on discreet incidents of violence, and because the vast majority of domestic violence incidents are trivial from a criminal justice or medical standpoint, the vast majority of domestic violence arrests and cases result in absolutely no sanctions that are significant enough, or even approach significant enough, to inhibit subsequent domestic violence crimes. In other words, what we've done by turning domestic...by taking an incident specific approach to domestic violence is effectively to turn domestic violence into a second-class misdemeanor for which almost no one goes to jail. But in the 60 percent of the cases where I believe the pattern of violence is complemented by this extended pattern of intimidation, isolation and control, I believe a much more broad-based and fundamental crime needs to be identified and enforced.

Coercive control

EVAN STARK: I think that with the 60 percent of battering cases that comprise domestic violence I think we need a law that punishes offenders at the same level that we would punish people that take hostages, or kidnap people, because what we're really dealing with, although the analogy's by no means perfect, is a kind of domestic terrorism. A kind of domestic hostage taking in which the victim has no outside to escape to, because the supposed safe place, the relationship, the home, the family network, has been identified as the point of imprisonment and entrapment. So I think that while we can deal with some proportion of cases simply by reforming our current domestic violence laws and enforcing them more carefully by looking at

the pattern of behavior as part of the crime rather than as recidivism or a repeat of a single crime, I think that we need a fundamentally new criminal justice approach, and beyond that a new social service approach to the liberty crime of coercive control.