Analysis on the Standardization of Police Intervention in the Context of Anti-domestic Violence Law

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Abstract

Family violence is a social problem that cannot be ignored. The essence of family violence is a kind of control rights, is a violation of human rights, is gender based violence, is defined by the international community to prohibit torture. 2015 year in December 27th the Twelfth National People's Congress the eighteenth meeting of the standing Committee of the people's Republic of in the anti-family violence law > family violence refers to the family members in beating, binding, mutilation, restriction of personal freedom and frequent abuse, intimidation, physical, mental and other violations of family violence in China. The incidence rate of 29.7% - 35.7%, the victims are mostly women, the elderly, children in recent years, the proportion of males also increased. 2015 in March, the Supreme People's court, the Supreme People's Procuratorate, Ministry of public security, the Ministry of justice caused "notice on handling cases of the crime of family violence law opinions, to Active prevention and the effective punishment of the crime of family violence and strengthen the implementation on March 1, a victim of domestic violence criminal judicial protection 2016. Law of the people's Republic of China on anti-domestic violence, need of the police intervention in domestic violence were standardized research, first of all to clear intervention should be the attitude and knowledge and ability, to perform their functions and duties according to law, risk management of domestic violence cases.

Keywords: Domestic violence; Legal background; Police intervention; Standardization

1. INTRODUCTION

In recent years, with the improvement of social and material level, most people not to earn a living, but the spirit demand is lack, resulting in a many bad violence, domestic violence is one of them. Domestic violence is a serious harm to social security, it will cause the victims to be difficult to measure the physical and psychological damage, and also affect the stability of the family and society. However, our country is not perfect, to be perfect in the law against domestic violence, even in the process of legislation and law enforcement, there are many restrictions and errors. "Anti-domestic violence law" implemented, urgent need of police intervention in domestic violence for standardized study for China's anti domestic violence to provide more theoretical and practical basis, so as to better reduce domestic violence behavior, to safeguard the victim's rights and interests, maintaining social stability. Anti-domestic

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violence is the common responsibility of the state, society and every family. The State prohibits any form of family violence.

2. Introduction of domestic violence
   (1) The concept of domestic violence
   1. Understanding of domestic violence in western countries
      Western countries generally believe that: the main body of domestic violence is a man, and the victim is a woman, the purpose is often to better control the woman. So western countries define domestic violence as the man's violent acts against the woman in order to better exercise their right of control. By western countries, we can see that domestic violence not only exists in marriage, but also exists in the relationship of cohabitation or after divorce. In addition, the western countries also believe that domestic violence should not only refer to the physical damage, but also should include sex, psychological and economic aspects of violence or cold violence, etc.
   2. Understanding of domestic violence in our country
      "Anti-domestic violence law" interpretation of the family violence is "domestic violence is refers to between family members beating, binding, mutilation, restriction of personal freedom and often abuse, intimidation etc. the implementation of physical, mental and other violations," according to the law, these acts to a certain extent, it is illegal and criminal acts. In recent years, with the evolution and upgrading of domestic violence and open, our country law to the provisions of the domestic violence is gradually opening up, such as the marriage explain law "provisions for the object of family violence for physical and mental, this" and "that domestic violence victims range was expanded. It also shows that the law of our country in the domestic violence flexibility in order to facilitate the police violence or court intervention for the punishment of domestic violence.

   (2) Characteristics of domestic violence
   From the police standpoint, in order to better to interfere in family violence, to a full range of understanding of the characteristics of domestic violence; speaking from the legislative point of view, in order to better safeguard the victim rights and effective to prevent domestic violence, also need to grasp the characteristics of domestic violence.
   1. Universality
      Domestic violence is no longer a strange noun: community often domestic violence of men; the police station will also with the scar to report the victim; occasionally have a wife unbearable domestic violence poisoning her husband's news, domestic violence has become the A has a social nature, generally the problem. Secondly, the universality of the family violence is also reflected in both perpetrators and victims, they may in any profession, belonging to any nation, education also has Gao Youdi. All these show that the acts of domestic violence in the presence of universality, but also reflects the police intervention domestic violence and domestic violence legislation of importance.
   2. Concealment
      Domestic violence of concealment relative, 80% of the domestic violence act occurred in the home, that is to say whether the perpetrators and victims do not want outsiders to know their
own family acts of domestic violence. The perpetrators fear law enforcement authority, and
the victim is in order to save in the face or other reasons. The concealment of the domestic
violence greatly curb the progress of anti-domestic violence behavior, in order to better
against domestic violence, the first to dare to stand up and be brave in the face of domestic
violence, no longer fear of violence.
3. Repeatability
Many perpetrators in intervention by law enforcement officers in a short period of time that
will not repeat. But for a long time and again, which led to the repeatability of the family
violence. Women who suffer from domestic violence for a long time will produce the same
pattern of psychological and behavioral patterns ". A passive, obedient, and helpless state of
being unable to terminate the violence of the other side in the long term.
4. Seriousness
Many domestic violence abuser think he was just beaten his wife or children, not in violation
of the law, the idea that exist in many molecular crime of family violence in the mind, it also
shows that the popularization of the importance, so that the perpetrators to understand that
family violence is a very serious crime, be subject to criminal punishment, as a result,
domestic violence abuser will be convergence. Police intervention is a kind of public power
intervention, representing the law and the state. Family violence is not personal, but. Is not
allowed by the law.
(3) Causes of domestic violence
1. Family internal reason
China five thousand years of history has created the status of Chinese women's low status,
submit to humiliation, and many more victims think within the family should be solved by the
family members themselves, "the skeleton in the Jan" psychological let many victims
repeatedly insulted.
2. Legal consciousness is weak
Legal consciousness from two aspects to analyze, first perpetrators have a weak awareness of
the law, they do not understand acts of domestic violence is a serious offence and many
perpetrators that family violence is not subject to legal punishment and very arrogant, not to
be placed in the eyes of the law. Victims have a weak awareness of the law, they do not
believe that police and law may help them to solve the problem, the perpetrators of fear makes
them forget the police and law can protect themselves, if necessary, should pick up the legal
weapons to protect themselves.
3. Social external causes
With the development and progress of society, people's material life has been greatly satisfied.
However, spiritual and cultural life has not been corresponding mentioned, increasing the
pressure of life no place to vent, led to many of the original temper tempered people into
violence.
3. The necessity of police intervention in domestic violence
(1) Characteristics of police intervention in domestic violence
1. Mandatory
Police as law enforcement officers, representing the will of the law, while police as a violent, can stop the violence, the effective protection of the legitimate rights and interests of residents. Family violence is a kind of hurt others body, emotion and spirit of bad behavior, public security organs have the responsibility also has obligations to guarantee people's safety of life and property, only the police has the power to from the legal level up interference of family violence.
2. Eliminate repeatability
Many of the victims in victims of domestic violence will select the alarm, wait until after the departure of the public security organs, the victim may by perpetrators of brutal revenge. In order to avoid this situation, the public security organs have a perfect organization system to deal with domestic violence of revenge and recurrent, police work has a strict policing system, all-weather 24-hour protection work can let the victim rest assured, and police officers of the public security organ is also the residents are the most economical choice.
3. Double sides
Police intervention has a double sides, on the one hand, from a legal point of view to strictly curb domestic violence and other illegal acts, on the other hand, the public security organs can play a role in civil regulation. The police can according to the victim's willingness to consider the transfer of procuratorial organs filed a lawsuit, sentence processing; can also play a role in regulating the civil, ordered the perpetrators apologize apology or criticism education, detention and other penalties. The public security organs in the intervention of domestic violence, both mandatory, and ease, reflecting the police in the intervention of domestic violence in the flexible degree.
(2) The nonstandard expression of police intervention in domestic violence
(1) Legislative decentralization
Although the "anti-domestic violence law" has been introduced, but the law on domestic violence is more conservative, more principled, cannot be specific operation, so the police in the intervention of domestic violence in the lack of specific guidance. In many laws in our country, police in the intervention of family violence by reference to the law of the criminal law, the marriage law, the public security management regulations, "and other laws, but the legislation is scattered, difficult to implement, is an obstacle to effective police intervention domestic violence, which is China's existing legal defects.
2. Messy procedure
China is a country under the rule of law, any law enforcement procedures should be prosecuted according to the law. But most of the police intervention in domestic violence more confused, although the introduction of "the people's Republic of China on anti-domestic violence law", the police in law enforcement have laws to go by, because of the complexity of the problem of domestic violence is police in the intervention of family violence cannot properly deal with the root causes. Even if the law, there is no procedure to follow, there is no legal requirement, the police in handling cases of domestic violence will appear in a
superficial attitude, or the case is difficult to deal with the problem of qualitative, unreasonable and so on. To fundamentally solve the police in dealing with cases of domestic violence program messy problems, it is necessary to the introduction of the "anti domestic violence law" implementation details, so that the police can be reference and guidance in the process of law enforcement.

3. Lack of support

Police in the intervention of domestic violence, often do not have a large number of social support. First, the public security organs is difficult to obtain evidence, this is due to the characteristics of family violence is often within the family, others are not proof, but because of the feelings between husband and wife and the factors of perplexing evasive, or prosecution after withdrawal of regret and other acts, comparison of contradiction, repeatability is strong; second, the lack of legal support, the public security organs in in the process of law enforcement, often need to Court Street, the hospital certificate with other relevant departments, but because of "anti-domestic violence law" has just been implemented, these departments often refuse to cooperate or perfunctory attitude, which has caused some difficulties in the police intervention in domestic violence in the process; third, the lack of prevention support, our existing according to the domestic violence law, mainly for violence after compensation and punishment for this post The measures did not play a preventive role, but also for the public security organs to intervene in domestic violence to increase the difficulty.

4. Police intervention in the standardization of domestic violence

(1) Attitude and knowledge of police intervention in domestic violence

1. Attitude towards domestic violence and women's attitudes towards women

Prevention and suppression of domestic violence has become the consensus of the international community. Since 1979, the United Nations has developed a series of important documents, such as the elimination of all forms of discrimination against women and the Convention, the elimination of violence against women is enunciative "", "Convention on the rights of the child ", opposed to make a clear explanation of the problem of violence against women and children's, for States parties to eliminate violence against women and children put forward clear requirements. At present, a total of more than 120 countries and regions have a law on domestic violence, in which more than 80 countries and regions have developed a special anti-domestic violence law.

China has taken various measures to actively prevent and stop domestic violence, the law on the protection of women's rights and interests, "the law on the protection of minors", "senior citizen rights and interests protection law", "marriage law" and "Public Security Management Punishment Law", "criminal law" and other state laws respectively from different aspects of domestic violence to make provisions. At present, the country has 29 provinces, districts and municipalities, the introduction of local laws and regulations to prevent and stop domestic violence, some prefecture level cities have developed local laws and regulations. In 2008, the National Women's Federation, the Central Propaganda Department, the Supreme People's Procuratorate, the Ministry of public security, the Ministry
of civil affairs, the Ministry of justice, the Ministry of health joint sent the on preventing and curbing domestic violence in a number of opinions ; the Law Institute of the Supreme People's court formulated the" involving domestic violence, marriage trial guide ", and in the grass-roots court trial for the civil protection of domestic violence ruled. In actively promoting the social from all walks of life, at the national level anti domestic violence law has been included in the legislation plan of the Standing Committee of the National People's Congress (, "anti-domestic violence law" (Draft) has been in 2014 November 25th to social announced, extensive solicitation of opinions. The eighteenth session of the Standing Committee of the Twelfth National People's Congress in December 27, 2015 passed the "anti-domestic violence law of the people's Republic of China", and was implemented in March 1, 2016.

As domestic violence intervention, we should have a clear attitude, specifically, the following points:

1. Attitudes towards domestic violence
   (1) Domestic violence is a violation of human rights, a social issue, not a domestic issue.
   (2) Domestic violence is not tolerated, there is no excuse and reason.
   (3) Fight against domestic violence is the common responsibility of the whole society, social institutions should cooperate to prevent family violence.
   (4) Domestic violence needs the intervention of public power, the public power plays an irreplaceable role in the prevention and control of domestic violence.
   (5) Against domestic violence, everyone should start from their own, the family violence zero tolerance".

2. Attitude towards women
   (1) Women are the principal victims of domestic violence, and their legal rights and interests should be protected as well.
   (2) The intervention of domestic violence should be centered on the women, and the trust and understanding of the victims are the basis for the intervention of domestic violence.
   (3) Women who suffer from domestic violence for a long time will have some special psychological and behavioral characteristics. The intervention should be understood, and the criticism is the two harm to women.

(2) Knowledge and ability
Because of the characteristics and rules of domestic violence, the intervention put forward higher requirements, the intervention should have the following knowledge and ability.
1. Basic knowledge of family violence
   Familiar with the basic knowledge of domestic violence, to understand the nature of domestic violence, harm, characteristics, status, and so on, hold the correct attitude.

2. Knowledge of relevant legal
   Domestic violence is a violation of human rights, but also criminal offenses, many of the laws of our country have involved in the legal provisions of domestic violence. Before the introduction of the special law against domestic violence at the national level, most provinces issued regulations and the local system. Intervention should understand this, especially in the local area of the introduction of the relevant documents, in order to help the injured woman more aware.
3. Master the basic laws of domestic violence
Master family violence of the cycle of violence, battered women syndrome rules. This revelation, in the intervention of family violence, adhere to will break the cycle of violence as the first priority, through effective follow-up visits and judgment of the cycle of violence is breaking, family violence whether really well.

4. Familiar with the intervention process
Family violence is not between husband and wife chipping away, nor the general family disputes, not to break the housework "the 50 Greatest planks" to deal with. Domestic violence prevention and control needs to be in accordance with a certain process, in a professional way, multi-agency cooperation can be handled well. The relevant agencies have their own work process, intervention should understand.

5. Ability of intervene in domestic violence
(1) Ability to communicate with the injured woman. In the process of contact with the affected women, to understand the situation, the need to have a certain listening skills, in listening to guide the injured women to speak out the most important point, but also to deal with their emotions. And have a certain ability to express, can accurately express their meaning, and concise, easy to understand, to take the points.

(2) Ability to coordinate with other organizations and persons. In cases of family violence, not by the individual alone, intervention not only to has the high work enthusiasm, but also a linkage consciousness, familiar with relevant agencies of the responsibilities and to provide service, good and relevant institutions and personnel interaction and cooperation, and promote intervention work smoothly.

(3) Ability to deal with negative emotions. Domestic violence victims may bring a lot of negative energy information, in addition to psychological counseling staff, they also need to intervene in a timely manner to appease and ease the intervention. It is necessary for the intervention to master certain skills to deal with emotions, to guide them out of the psychological shadow, to encourage her to the side of the sun. At the same time, in the face of the perpetrators, to pay special attention to its emotional calm, especially to be good at controlling their emotions, cannot irritate the perpetrators, they cannot be angered. In addition, it is necessary to know each family violence may cause certain impact to the intervention in their psychological, it is necessary to pay attention to their own mental health, can according to their own situation and timely adjust, if necessary, can find professional help.

2) To define the main functions of the public security department to treat domestic violence and to provide services to the public
1. Main functions
(1) Public security administration punishment. For the ordinary family violence cases, if the parties alarm, the local police station can the police mediation; for more serious domestic violence cases, it does not constitute a crime, the public security organ of the local violence against people of detention and a fine.

(2) Investigation and evidence collection. The public security organs in anti domestic violence in the process of exercising the power of investigation, collecting evidence for the future of criminal cases, administrative cases of treatment.
3. Judicial expertise. Domestic violence cases, the victim reported, by the parties for identification of injury or by the public security organs in order to find the case to take the initiative to do identification and its victim to determine the extent of the injury, the identification of the conclusions can be used as evidence.

2. Available services

1. Receive alarm for help. The police is the law enforcement, to ongoing violence against unarmed police, even though verbal weapons to stop. The police have the right to arrest, according to the circumstances of the perpetrators to take coercive measures, according to the provisions of the law to be punished. Even if the situation is slightly to take a warning, the perpetrators are also a deterrent. In addition, the police of some low risk of domestic violence in mediation, to resolve conflicts, through the improvement of relations between the two sides, to violence to eliminate.

2. Protect the victim. The police 24 hours duty guard. May be ready to accept the victim's help, of violence is occurred and the victim may at any time be violated, the police can ensure victim safety through the constraints of the offender or the accompanying the victim. At the same time, the police can assist in the implementation of the decision of the personal safety protection to protect the safety of the victims.

3. Provide evidence. Police records and evidence obtained during the process of family violence can be used as evidence. Especially the transcripts of on-site survey etc.. When a woman needs to bring a lawsuit, or a personal protection order, it can get the above evidence through legal workers.

3) Risk management of domestic violence cases

1. Risk assessment

Before the cycle of domestic violence is not effectively blocked, the women have been in danger, and some of them even endanger the safety of life. Therefore, it is necessary to carry out risk management. Risk management should first conduct a risk assessment, the risk assessment should be done in the following aspects:

1) To have a sense of risk assessment. First of all, we should be aware of the danger of domestic violence. Family violence is not a couple minor, nor to a disagreement over things and family disputes, which caused casualties and severe degree and other public violence is almost same. Second to realize the importance of risk assessment. Domestic violence not only direct victims of the risk, the risk of intervention and others, is not only protect the victim's safety, but also to ensure that intervention of their own and other people safe foundation for risk assessment. In the end, it is possible to realize the risk assessment and the risk factors. Risk assessment and treatment of risk factors in a scientific and rational manner can reduce the risk to a minimum, or even avoid the occurrence of dangerous situations.

2) Be good at identifying risk factors. Community workers should be good at identifying and assessing risk factors in the presence or presence of domestic violence.

3) Be good at using the risk assessment scale. Risk assessment of the victim can be carried out with the aid of the risk assessment scale. Risk assessment scale can be used to rescue service, alarm, emergency treatment, apply for arrest, prosecution and jail or supervision, and therapy of cancellation. It can prompt the relevant workers to quickly screen out the high risk
cases, to give a higher density monitoring, thereby reducing the rate of domestic violence cases in the region. It can make the intervention departments in communication is about the dangers of the common language, integrate the work of various departments, the formation of "prevention and control of the safety net" in the intervention process efficient use of resources, focus, respond to different risk for different levels of classification of interventional management, make domestic violence intervention more objective, to improve the effectiveness of the work.

2. Eliminate danger

(1) Enter the scene. When intervention is necessary to enter the domestic violence occurred on the scene, it should be through a variety of ways to understand the scene in general, if the perpetrators are very excited and hand can be ranged damage weapons, such as guns, intervention should take trying not to disturb the perpetrators entered the scene. Studies have indicated that it is very dangerous to enter the scene at that moment. After entering the scene, should first pay attention to the offender, try to let it down. If the situation is critical, need to subdue the perpetrators and take away their weapons, must consider their own safety

Exclude spot weapon. In domestic violence occurred on the scene, most of the existence of the violence of the weapon or weapon can become something, such as hoe, iron bars, bottles, bricks, rolling pin, scissors, fruit knives, should have the consciousness to move them. There are many cases of domestic violence, offender is irritable, easily picked up violent side of things, and finally lead to very serious consequences.

(2) Safety programs are the most effective safety measures taken to help the injured women in the face of the special risks that may occur. Making safety plans is a necessary measure to deal with the risk of the injured women, especially the women who choose not to leave for the time being. To help the victims of the development of safety programs, need to pay attention to the following aspects.

Ready to move quickly away from the items that need to be carried. Including ID card, bank card or passbook, mobile phone, a certain necessities of life, and sometimes even some evidence of material and children's daily necessities, etc.

Designed to quickly leave the line. Should try to choose the best way to get rid of the perpetrators, the easiest way to get the help of others, try to avoid the dark, remote route.

Deliver dangerous information to others in a timely manner. Can be the area police and trusted friends or neighbors of the phone set into a shortcut key, in the face of danger, immediately call. In particular, it should be for neighbors to help, before this, you can communicate well with the neighbors, when the injured woman to make a move (such as tear down the flower pot), said it was particularly dangerous, hoping to get immediate relief neighbors.

It should be noted that, in helping the victims of the development of safety plans, should be in accordance with the principle of "sincere, empathy, unconditional respect", to discuss their common development. The intervention should clearly understand her situation, understand the psychological state and the choice intention.
5. Police intervention in the social governance of domestic violence

(1) Perfect legislation
In our country, there is a lack of strong interference mechanism for domestic violence, especially in the criminal aspect. Therefore, to develop a specifically for family violence of the anti-domestic violence law "has important legal significance, the law includes three aspects: clearly defined responsibilities and obligations of each member of the family; definition of family violence and should bear the legal liability; the national anti-family violence law relevant provisions. The introduction of this law has an important role in the effective prevention of the occurrence of domestic violence, but also for the public security organs in the process of law enforcement provides a solid legal weapon.

(2) Policing Reform
Public security organs should set up a police organization dedicated to the domestic violence behavior, set up a sound system of anti-domestic violence law enforcement, and equipped with professional personnel, to form a complete set of working procedures. At the same time, in order to better improve the police deal with cases of domestic violence can the processing ability of the case as one of the contents of police performance appraisal, which not only can improve the ability of police intervention in domestic violence, also can effectively prevent the occurrence of domestic violence. In addition, police intervention in domestic violence at the same time should be follow the prior prevention, in the intervention, after the punishment "principle, strive for the violence effectively eliminate in the bud, the existence of violence in the family, the family should focus, while on patrol should be focused on the investigation of real understanding, to avoid the tragedy occurrence.

(3) Improve method
The public security organs should carry out the spirit of the background of the anti-domestic violence law, strengthen the training of the contents of the police work, and change the working style of the police and the concept of consciousness. In the process of domestic violence cases, should follow two principles: firstly the perpetrators to punish, in accordance with the relevant laws on the perpetrators be criminal or civil penalties; secondly, we should psychological counseling for victims, and to help the victims out of the domestic violence of shadow.

(4) Publicity and education
Police in working with public law education, focus on education for family violence, family problems. Report of violent acts are illegal, illegal behavior will be subject to the pursuit of the law and punishment; while the victim is subject to legal protection, once affected by violence, not blindly submit to humiliation, this can only encourage the arrogance of the criminals, when faced by the personal safety of harm behavior, be brave, for police protection, picked up legal weapons to protect themselves.

(5) Seek cooperation
Public security organs should be strengthened and the cooperation of multiple departments, such as the procuratorate, court, neighborhood committees, health departments and other, found that violence should be timely reflect to the public security organs, strive for early treatment, early settlement. United States in this regard will do very well, staff in the medical
and health institutions similar acts of domestic violence, once found, it will immediately
dialed 911, the police will be processed within the shortest period of time, and for the first
time processing the perpetrators, Department of this highly charged with can effectively
prevent and stop acts of violence occurred.

6. Conclusion
Family violence has serious threat people's personal safety, and even affect the development
of the harmonious society, so legal interference of police violence, and actively improve the
related legal process need better development, only root so as to better protect the people's
interests of this and maintain social order, to provide a good and harmonious living
environment for the people.

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