Imperatives of Arrest or Non-Arrest for Assaultive Language in Domestic Violence Cases: An Empirical Study of Responding Police Officers

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Abstract

Victims in domestic violence cases widely report being traumatized by verbal abuse, along with the physical attack. When the verbal abuse intensifies legally to an assault (generally describable as placing a victim in fear of immediate physical attack), arrest for the assault, either alone or in combination with the physical battery, seems rarely to occur. This qualitative study based on in-depth interviews of 15 police officers experienced in domestic violence cases, utilizing a survey instrument, in three Northern Nevada police departments explores why arrest for misdemeanor assault does not occur although authorized under Nevada’s domestic violence statute. The data was subjected to content analysis, based on major themes revealed, utilizing a grounded approach. The literature has treated verbal abuse in domestic violence cases extensively, although not comprehensively, but no explicit treatment of arrest or non-arrest for assault has been found in the literature. Key findings are that: (1) no systematic evaluation of an arrest policy for assaultive domestic violence has ever existed in these departments for reasons deemed justifiable by them; (2) arrest for such assaults has never been made in these departments although authorized by law; (3) officers would prefer to make such arrests where sustainable and authorized; and (4) assault occurs in a substantial majority of domestic violence cases; and (5) methods exist to overcome evidentiary obstacles to arrest in such cases. Imperative changes in police policy, protocol, procedure, training and culture regarding the arrest or non-arrest of defendants for verbal assault in domestic violence cases, and the resulting impacts on victims, were indicated as a result of the findings and analysis.
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INTRODUCTION

Domestic violence has become one of the most prevalently under-reported and unenforced offenses nationally, for legal and pragmatic reasons described below. It was perceived historically, including legally and socially, as a family or personal matter more than a crime, even though bearing thorough resemblance to criminal conduct. Only comparatively recently in Nevada, the context jurisdiction for this paper, and elsewhere has a distinct definition of domestic violence behaviors, victim impacts, and sentencing been enacted, necessitating therefore arrest policies, protocols and practices.

The jurisdiction of Sparks Municipal Court, Sparks, Nevada, where I sit as a Municipal Judge, includes misdemeanor domestic violence matters (first offenses and also second offenses if within a seven-year period), which is substantially the court level at which domestic violence cases are processed. Domestic violence matters are an increasingly large percentage of cases in my court which extend beyond initial pleas. These cases are, based on past and future dockets (calendars), the entire trial calendar, between 6 to 15 cases typically, appearing before me on court-appointed counsel days (days on which indigent defendants are represented by court-appointed attorneys). This docketing accommodates the volume thereby assuring speedy trial rights. Domestic violence cases occur on other days as well, when defendants are represented by private attorneys. A substantial majority of such cases, approximately 80 to 90 percent, do not proceed to trial due to the distinctly large percentage of witness non-appearance, almost always the female victim. Victims also fail to appear for several reasons, often due to continuing serious physical and economic threats. Victims who fail to appear in order simply to utilize the criminal justice process as a warning to perpetrators, to initiate separation, or to protect their children, rather than fully intending to proceed to trial, as reported in court by
prosecutors. Without witnesses, which is almost always victims, prosecutors amend the charge to obtain a plea agreement or more frequently move to dismiss the case completely, which the court is without option but to grant.

Defense and prosecution counsel would readily confirm these statistics, which are not required to be kept because these counsel, often aside from victims’ statuses, originate them by negotiated pleas. The verbal threats to victims, and other abusive language, before, during and following incidents of domestic violence, are known through police reports, witness statements, victims’ statements, advocate and counselor analyses and beyond, to include, nearly without exception, abusive language, usually severely abusive, trending toward assault. The attendant abusive language to physical violence is verifiably, consequently, an inextricable element of the overall violence, again before, during and after the physical incidents. Physical violence without the inseparable abusive language, therefore, would be a naïve assumption, as well as contrary to pervasive evidence.

Specific Rationale for the Study

Nevertheless, abusive/assaultive language regardless of context and severity is essentially if not completely, non-processed by police for reasons to be explained and explored, as a basis of or a co-occurring charge of assault to the domestic battery charge. A charge of assault standing alone or attendant to a battery charge is fully authorized under Nevada law (and numerous other jurisdictions), to be set forth below. Police explanations for the non-processing are not the subject of criticism in this paper, rather simply as description, because the explanations arise from legal interpretations, processing and protocol necessities and evidentiary demands, as well as from pervasive cultural and personal assessments. If such language amounts to an assault, it is conceivably the basis for arrest (and prosecution, although
prosecution is not determined by police, rather by prosecutors, who, however, clearly are integrally involved with police often before and during, as well as fundamentally after arrest). Nevertheless the ability to prosecute such cases depends nearly entirely as in all criminal cases upon the quantity and quality of evidence police are able to obtain in a domestic violence investigation. This in turn depends upon numerous co-occurring, often exigent circumstances, not just upon police capabilities or attitudes. In the context of this paper, that evidence would consist of assaultive language occurring largely contemporaneously with or incident to the physical domestic violence.

Innumerable case reports by police (and in the professional literature to be referenced in the Literature Review to follow), whether ultimately prosecutable for the reasons above outlined, reveal that abusive language clearly interpretable as assaultive routinely occurs in domestic violence matters. Yet, never in twelve years-plus of presiding over hundreds of domestic violence cases has assaultive language been the basis of arrest, and thus prosecuted in my court based on such language alone or as an accompanying charge to the physical violence (the battery). The assaultive language may be heard at trial, but it is considered only as context consistent with establishing proof or absence of proof of the physical violence. The assault may be persuasive in establishing the physical violence, but is never considered in and of itself as proof of domestic violence, nor, although sometimes legally and reasonably feasibly, as a separate charge of assault-based domestic violence. This circumstance and atmosphere, consequently, forms the pervasive rationale and inquiry of this study.

The literature, as will be seen, is profuse that abusive language attendant to domestic violence is traumatic, damaging and enduring, and, arguably, more so than the physical violence. The potency of verbal attack, especially when it is legally assaultive, is disregarded,
although it occurs hour by hour and acutely damagingly across the nation essentially. This situation is also, therefore, the urgent motivation of the study.

**Social Media**

Domestic violence has become more diverse and intense by the availability of social media (utilizing the expansive definition to include e-mails and texts as well as core social media) through which abusers and their victims communicate. Police reports reveal, therefore, that social media is increasingly frequently central to or at least adjunctive to domestic violence. In the context of this study, abusive language via social media typically would not constitute viable assault charges. Assault charges by statutory definition, must be based on contemporaneous physical presence of abuser and victim.

Although generally infeasible therefore as a criminal charge, abusive language via social media may context assaultive language in domestic violence, if it occurs with reasonably immediate proximity to the physical domestic violence, either before or after. Such social media contact would not readily occur during the physical act. To state it alternatively, language which would clearly be assaultive if done in the physical presence, cannot become such due to the absence of physical presence. Proximate abusive language could intensify the later-occurring assaultive language from both perpetrator’s and victim’s perception, and coincidentally that of witnesses, turning abusive language (non-assaultive) into assaultive language. Nevertheless, some corollary attention will be paid to assaultive-appearing language via social media, even though it is an extensive topic for research and analysis standing alone, because it is increasingly a basis of the assaultive context of domestic violence.

**Definitions**

Police rationales for arrest for assaultive language must basically be justified under
Nevada law (and prevalent amongst most jurisdictions) by language which under the statute requires provable domestic violence conduct, being one or more of a number of alternative behaviors, one of which can be assault. Nevada Revised Statutes ("NRS") 33.018 1(b). Assault for this purpose is criminally defined for purposes of this study and by law as:

“Intentionally placing another person in reasonable apprehension of immediate bodily harm.” NRS 200. 471 1(a)(2). This definition is generally uniform across the breadth of criminal and civil common law. Should such arrests (and prosecutions) more comprehensively be attempted at some point in time, it is probable although technically unnecessary, that more specific statutory language authorizing and facilitating such arrests and prosecutions (and the outflow therefrom including sentencing and rehabilitative structures) could be essential both legally and practically. This eventuality could contrast with the prevailing approaches, to be revealed in the survey responses.

Domestic violence invoking protective orders in a civil, not criminal, process in Nevada is of comparatively recent vintage, having first been instituted in 1985 (NRS 33.018 and 171.137). Not until 1997 (NRS 200.485) was domestic violence made a misdemeanor crime, previously having been enforceable only as assault and/or battery in general (NRS 200.471 and 200.481) without the descriptive behavioral elements beyond physical violence alone. The sentencing regime now includes mandatory counseling uniquely appropriate to domestic violence, community service, fines, suspended jail time, and very possibly a no-contact order. Domestic violence as a felony, such as that entailing severe bodily injury, strangulation or kidnapping, is not addressed in this paper, because the far greater incidence of domestic violence is misdemeanors, due to the statutory framework (NRS 200.485 (1) and (2) making first and second domestic violence offenses misdemeanors, and only third ones as felonies. These
misdemeanors include assaults which definitionally are verbal, as seen above. They also include a second misdemeanor offense within seven years (thereafter becoming a felony if repeated).

Felony domestic violence is, of course, of greater seriousness by definition, but by the time of a felony occurrence, numerous instances of misdemeanor domestic violence have likely occurred, but have not been reported and therefore not resulting in arrest. Thus, the misdemeanor level of domestic violence is immeasurably serious, due to its repetitiveness, and resulting in mandated attention by police (and prosecutors and courts), but dismissed however with great frequency, as above noted, due to witnesses’ failure to appear, further indicating the gravity of the cycle of occurrences.

A further definitional clarification is pertinent at this point, which is that in this paper the term “abusive language” may include language amounting to an assault, as above set forth, but may not be always be specified or differentiated, except where necessary for clarity. This is because the legal demarcation between “abusive language”, as the more inclusive term, and assaultive language, must be determined case by case, not uniformly. In addition, outside the legal process, the term “abusive language” is more widely understood for descriptive, research and analytical purposes in the social science and other literature.

Objectives

The objectives of the research, study and analysis are to: (1) explore the reasons why assaultive language is or is not considered as grounds for domestic violence arrest by police; (2) establish the extent to which assaultive language alone, or in combination with physical attack, could feasibly and reasonably be considered as such grounds for arrest; (3) delineate the per-incident impediments to the arrest policy, protocol and practice if police were to arrest for assaultive language; and (4) sample the assumptions and reactions of police regarding the
absence of such arrests, including the explanations and implications for the prevention of
domestic violence flowing from such absences.

LITERATURE REVIEW

This study is set amidst studies which explore the abusive/assaultive language co-
occurring with domestic violence. Assaultive language, which is an aggravated level of abusive
talking into the literature. It is essentially not explored at all regarding the arrest or non-arrest by police for assaultive domestic violence. As a setting for this study the studies that first follow below explore adverse communication in the recurrent pattern of domestic violence. Second, several studies address further specific abusive language in intimate partner relationships. Third, reference is made to studies describing the effects of police attitudes on their responses to domestic violence incidents, including abusive/assaultive language contexts. Fourth, as contrast and comparison to the third item reference is made to studies describing victims’ impressions of police response to domestic violence, continuing within the abusive/assaultive language context. Fifth, reference is made to studies exploring the complicating context of social media, as a glimpse into the future of police response to abusive/assaultive language in domestic violence.

None of the studies precisely address the inquiry of this study, namely the arrest or non-arrest for assaultive domestic violence. Consequently, this study expands upon the core impact of assaultive language in domestic violence, leading to the rationale for police to arrest or not arrest for such assaults, as conceptually authorized by Nevada law.

General Discussions of the Domestic Violence Pattern Including Verbal Abuse

Several studies refer to the added psychological element of domestic violence, as well as
abusive/assaultive language within it, as well as its dangerously recurrent nature. A study of 30 sheltered battered women and 30 non-sheltered battered women in counseling (Sackett and Saunders 1999) showed that psychological abuse may be more severely impactful than physical abuse, and that physical abuse is almost always accompanied by psychological abuse (psychological abuse included verbal abuse). Strong association with low self-esteem and depression, and most strongly with fear, were also found due to the verbal abuse. A study (Henning and Kleges 2003) of 3,370 of court-involved women who had been repeatedly assaulted psychologically and physically by their intimate male partners, confirms Sackett and Saunders, adding that the women considered verbal abuse as a psychological threat independent of physical violence, not simply as co-occurring. The level of repeated violence was at 80 percent. Psychological abuse, including verbal abuse was almost always co-occurring with physical violence.

The recurrent nature of domestic violence is shown in the comprehensive review (Burke 2007) of current police and prosecution practices in domestic violence cases. It demonstrated that those practices are often act-based, meaning based on single physical violence acts, instead of on a long-term pattern of both verbal and psychological control that research, as seen below, shows domestic violence to be. It thus confirmed, as in the foregoing studies, what victims know, but police seem not consistently to comprehend. An extension (Dutton 2007) in book length of the psychology of domestic violence including its recurrent nature reviewed in numerous studies. It analyzed the batterer syndrome, including that verbal abuse was often the precursor to physical violence, as a fundamental feature of the physical violence. An interestingly aggressive approach to the victim/abuser verbal abuse interface with law enforcement (Tetlow 2016) suggested that the cyclical nature of domestic violence be deemed a
crime of “torture”, to include both physical as well as psychological torture, whether by actions or words. The term “torture” comported with the conceptions and reactions of victims in the research and anecdotally, as seen in most studies reviewed. The recurrent nature of domestic violence, together with its psychological features such as severely abusive/assaultive language, are shown to multiply its punitiveness for victims.

Studies of Verbally Abusive Communication in Intimate Partner Relationships

Of the numerous articles on the interplay of intimate partner communication and domestic violence, several were particularly instructive in the context of, first, the extent of abusive/assaultive language flowing from batterers, and, secondly, the potentiality of interfacing co-occurring verbal abuse/assault as a basis for arrests and prosecutions. One study (Feldman and Ridley 2000) set domestic violence in a context of conflict-based communication, finding that it interrelated with the frequency and severity of domestic violence by male batterers. Subjects were 251 female victims, victimized by male violence in proportion to the extent of recurring verbal aggression. Otherwise solely violent relationships were excluded from the study, adding profound impact to the role of verbal aggression including assaultive language. Verbally aggressive communication by batterers directly related to the extent of domestic violence. Similar results were revealed in a study of 173 college students (Cornelius, Shorey and Beebe 2010) relating to abusive/assaultive language by male dating partners using Gottman’s construct of marital communication. A variant was that reconciliation efforts between the parties led to aggressive victimization, unlike what seems the norm in marital reconciliation efforts following abusive/assaultive language. This result may indicate even more imperative is the need of police to attend to the adverse pattern of domestic violence, if police are effectively to confront domestic violence. This result further explains a study finding that domestically
violent males do not respond to facilitative language (Robertson and Tamar 2006), showing the volatility of abusive/assaultive language in domestic violence, and the corresponding need of rapid, effective police action. These studies indicate that a pattern of aggressive communication by perpetrators slides readily into abusive/assaultive communication incident to physical violence.

Further studies addressed abusive/assaultive language in violent marriages, interrelating it to domestic violence. A study of such adverse communication (Cordova, Jacobson, Gottman, Rushe and Cox 1993) of married couples in relationships from “distressed but non-violent,” to “happily married,” “to verbally violent.” Domestically violent marriages, it found, engaged in significantly more negatively charged communication by both husbands and wives. Similar results were summarized by a diverse and extensive summation of abusive communication in intimate partner abusive relationships (Whitchurch, 1996). Communication, psychological, sociological and other experts explored the pervasiveness of adverse/assaultive language in such relationships over time and at levels of intensity. Consistent with the foregoing studies, Jacobson and colleagues (Jacobson, Gottman, Waltz, Rushe, Babcock and Holtzworth-Munroe 1994) demonstrated the no-recourse position of wives living with violent husbands. No ameliorative behaviors of wives, such as calming language, eased the verbal or physical violence of husbands, and indeed served to increase the violence including assault, which was consistently initiated by husbands. Husbands experienced no fear during the incidents in contrast to wives who greatly feared due to the verbally psychological violence. During the violence wives were as verbally aggressive as the husbands, but possibly defensively.

Arrest for verbal abuse amounting to assault therefore may be a significant deterrent to recurring physical violence. An escalation of aggressive language coincided with an escalation of
the physical violence, several studies concluded. Anger expression was studied and assessed 
(Barbour, Eckhardt, Davison and Kassinove 1998) in 88 “marital-violent,” “marital dissatisfied-
non-violent,” “and marital satisfied-nonviolent” men. The marital violent men expressed 
insulting, belligerent and demeaning language at a significantly higher rate than the non-violent 
mixed men. Law enforcement intervention, as preventive as well as curative, at the stage of 
prosecutable language (verbal assault) seems again warranted scientifically as well as legally. A 
进一步 explanatory study of 90 married couples (Gordis, Gayla and Vickerman 2005) revealed 
that couples experiencing recent aggression, also experienced high hostility (consistent with 
verbal abuse/assault). Couples which experienced recent aggression or past aggression also 
experienced frightening behavior from husbands (also consistent with verbal abuse/assault), 
confirming as in Barbour et al., that police intervention up to and including arrest may be critical 
in verbally abusive/assaultive domestic violence, just as in physical violence. These studies are 
an informative augmentation of the preceding ones indicating that police intervention at the 
assault rather than the battery stage could prevent substantial physical violence.

**Police Responses and Attitudes Regarding Domestic Violence**

The critical nature of police policy, protocol, practice and culture regarding verbal abuse, and even more importantly by inference verbal assault contiguous to police intervention, are 
highlighted in the following police response studies. They further develop those in the next 
section of victims’ perceptions of police response. Both types of studies purport to underscore 
omissions in police responses, as also seen in the foregoing studies, regarding verbal 
abuse/assault in general and attendant to the repetitive nature of domestic violence.

A vast range of studies of existing and newer police response types to domestic violence described the hesitancy and complexity of response even before reaching any responses to
domestic violence assault. Adding a response to the assault, as seen in the surveys, could bring layers of additional difficulty for responding officers. An extensive review of 21 rural New York State officers and 6 police chiefs responses to domestic violence incidents (Stephens and Sinden 1999) highlighted responses ranging from non-arrest, blaming the victim, male favoritism culture, wide police officer discretion, whether injury had occurred, marital status of the parties, intoxication by either or both parties, race of the parties, social class of the parties, use of a weapon, physical risk to the officer, and low prioritization of domestic violence, after the mandatory-arrest law which is now common to Nevada also (NRS 171.137(1). Respondents cited factors such as lack of confidence that prosecutors would proceed with the case, whether any long-term deterrent effect would be achieved, that they could only achieve limited results (as compared to other participants in the domestic violence treating community), and ambivalent victims. Not surprisingly in this environment assault would neither be investigated nor processed. An article (Stark 2012) in contrast to Stephens and Sinden reflected mounting but atypical initiatives to characterize and act upon domestic violence, not as a “violent incident,” but as “coercive control” over time. The control included intimidation, fear, isolation, deprivation, verbal abuse/assault, sexual demands, and degradation. As a result police would be trained to do incident reports, not simply about the incident of physical domestic violence, but reports which covered a range of time and circumstances, above-described, enabling arrest and prosecution based on a more accurate concept of the entirety of domestic violence. A further article (Wiener 2017) summarized innovative legislation in England and provided prospective insight into feasible changes in police mentality and action regarding domestic violence, encompassing what Stark envisioned. The legislation permits arrest and inferentially prosecution for “coercive control,” which reflects the pattern of domestic violence including
assault referenced in foregoing studies, instead of simply for the “violent incident” reaction of police protocols and response.

**Victims’ Perception of Police Responses and Attitudes Regarding Domestic Violence**

From police attitudes and responses we next consider victims’ perceptions of police responses to domestic violence, which range from skepticism to appreciation. Police responses to abusive/assaultive language is sparse in the literature, appearing only incidentally to domestic violence occurrences in general. One of a limited number of studies of victims’ perceptions of police responses and attitudes toward domestic violence (Stephens and Sinden 2000) found, based on in-depth interviews of 25 victims in the state of New York whose abusers were arrested (after repeated incidents), four basic police demeanors: “minimizing the situation,” “disbelieving the victim,” “don’t-care,” and “macho cop.” The study followed enactment of the laws in Nevada, above referenced, as in other states, requiring arrest, cooling-off, and other more responsive domestic violence protocols. Victims thereafter reported greater overall satisfaction with police responses. A further study, finding even greater police responsiveness (Johnson 2007), sampled random incident reports of domestic violence cases, and thereafter sampled telephonically 50 female violence victims, to determine victims’ perceptions of how helpful police had been during responses to victims’ calls for help, also in contexts of abusive/assaultive language. It was pointed out that victims face a serious decision of whether to call for help, because the near and long-term results will be highly consequential to their well-being, to the abuser, and to the intimate partner relationship. A direct relationship, and thus the success of the ultimate processing of the case, was found between victim satisfaction and the extent of police helpfulness, such as the listening ability of officers to the total incident and the provision of information about helpful resources and the legal process. Verbal abuse was
found (Trujillo and Ross 2008) to be the most frequent cause for victims, in a wide-ranging Australian study, to call police, and that the verbal abuse was often part of a pattern of abuse, causing unmanageable fear from previously experienced or expected physical violence. The need was emphasized as in Johnson above, for police to intervene based on the cyclical nature of domestic violence, in the context again of abusive/assaultive language. Thirty domestic violence victims, mainly women, were interviewed in-depth (Stewart, Langan and Hennem 2013), in a seminal abuse/assaultive language study, to determine why they had called police and how they viewed the police response. Victims emphasized the seriousness of abusive/assaultive language, concluding that police response is often viewed as inadequate and unfair, furthering the “fabric of abuse.” The term used for this study was “verbal violence,” and was defined to include “loud yelling,” “verbal attacks,” “intimidation,” “threats,” “demeaning remarks,” and “verbal attempts to control and isolate the victim.” It was found again that police typically view domestic violence as an incident rather than a pattern, and do not view abusive/assaultive language as domestic violence. Victims indeed often called the police because of the mounting fear from abusive/assaultive language, rather than from an incident of physical violence. It was noted that the seriousness of abusive/assaultive language could be more understood by police if they more faithfully produced detailed investigatory reports, so that the history of abuse could be documented and therefore used preventively.

Instructive studies indirectly as well as directly including assaultive domestic violence, added insight to police responses to domestic violence, as well as victims’ attitudes regarding the responses, including whether arrest occurred. First, a study of stalking (Melton 2016), while within the statutory framework of domestic violence in Nevada, as is assault (NRS 33.018), stalking is distinctly differently defined than assault (NRS 200.575, stalking, as compared to NRS
Nearly two hundred female victims of stalking were sampled. The study did not address the significance of arrest, as the present study does, rather whether the victims’ cooperation with the criminal justice system (most of whom did not) indicated subsequent experience with stalking. It did not. In fact stalking diminished considerably. The study concluded also that physical domestic violence victims, not including stalking victims, are more likely to cooperate with the criminal justice system. Perhaps this means that assaultive language victims are less likely to do so, but that is not established by this study. Importantly perhaps for domestic violence cases in general, again however not dispositively, the study concluded that stalking victims had negative experiences with the criminal justice system. Police interventions in domestic violence cases were studied (Dichter and Gelles 2012) to determine victims’ perception of ongoing safety and further risks. The study did not address assaultive domestic violence but like Melton was instructive regarding police responses and victims’ reactions thereto at once and over time. Women (173) from hospital emergency rooms and community organizations were studied. The kind of violence was found to be more important than violence overall as determinative of their sense of danger. These kinds included battering, sexual violence, and pertinent to the present study, lethality threats, which would comport potentially with assault. All forms equate with power and control, the common denominator of domestic violence. All of the women felt that police intervention failed to adequately keep them safe, which would include from assault by inference.

**Relationships Between Social Media and Domestic Verbal Abuse**

As widely recognized, social media (broadly including e-mails and texts) forms a developing expansive arena of abusive language. Because it occurs outside the circumstances of person-to-person confrontation, it cannot by legal definition, as previously explained, be assault.
However, it may be a destructive precursor to and aftermath of assault occurring in the domestic violence incident. A study of verbal abuse experienced via social media (Dimond Fiesler and Bruckman 2011) by women in a shelter found that they had been harassed by abusers, not only through mobile phones, but also by networking sites. These authors concluded that social media verbal abuse can be more damaging than in-person verbal abuse, because it is widely circulated over time, and thus emotionally and physically more threatening. Social media-based verbal abuse does not currently qualify as verbal assault in Nevada, because of the definitional distinctions above referenced. Nevertheless, it is clear that social media threats could place victims in fear of soon as well as long-term physical violence. As a result, it forms a new and complicated domestic violence scenario legally, psychologically and sociologically. Domestic violence advocates (152) and victims (46) were surveyed in Australia (Woodlock 2017) regarding stalking by abusers using phones, tablets, computers and social media networking sites. It demonstrated the constancy (24/7), frequency and unavoidability of the stalking, as well as to further isolate, punish and humiliate the victims by stalkers, who were found typically to be intimate partners, not strangers. The data clearly relates also to the verbal abuse element of stalking, even if not to verbal assault except as potential cumulative evidence of assault.

Abusive, threatening, demeaning and controlling language clearly occurs via social media. It is ripe for study in numerous respects. These include its volatile precursor role in assault, but is beyond the topic of this study, although informed by the police responses in this study.

The literature review demonstrates the deep penetration of abusive/assaultive language into troubled relationships, its interface with physical domestic violence, police responses or
non-response to abusive/assaultive language, victims’ reactions to police responses, and the emerging role of social media as a pre- and post-incident complication of domestic violence and responses to it. This study explores the core elements of police response, namely arrest or non-arrest for abusive/assaultive language, as an expansion and partial explanation of the interrelationships explored by the prior literature.

**METHODOLOGY OVERVIEW**

The methodology adopted and implemented consisted of a qualitatively oriented survey instrument utilized to interview fifteen police officers at length, five each, from the Cities of Reno and Sparks and Washoe County, Nevada police and sheriff’s departments from June through August 2018. Both closed and open-ended questioning was employed to elicit both specific, as well as extended responses as the officers chose to do. Each one had a copy of the survey in hand to assure comprehension and consistency. A total of 16 questions, some with numerous subsets, were asked. The officers were chosen wholly voluntarily, for reasons of internal organizational and practical availability, by their superiors on a random basis. The officers had numerous years of experience in domestic violence responses and investigations, most having advanced training, although unrelated to assaultive domestic violence.

The initial selection of officers was followed up by making specific one-on-one interview appointments with each officer, during an off-duty time, in all instances at a Starbucks coffee house, buying them a coffee and meeting in a semi-private section of Starbucks. The interviews typically ranged from an hour to an hour and a half. Each one had been told in advance of the nature of the interview, its procedure, its purpose, its use, and my position as a judge in the City of Sparks. They were assured of confidentiality, including no resultant implications for their employment or privacy.
The survey response instrument responses were analyzed question by question, then narrowed to core themes commonly expressed by the officers, to be explicated under the Content Analysis. A convergence of insightful themes emerged from a cross-section of officers highly familiar with domestic violence incidents and investigations. Overall, the themes reveal that officers do not arrest for assaultive domestic violence, nor typically document or consider it a part of investigations, although they fully recognize its acute underlying role. Their task conception in the investigations is based on departmental policy, protocol, practice, training, and, inevitably, the cultural milieu of domestic violence. The above questions and purposes were explored by interviews of police officers, employing a qualitative survey instrument (see Appendix "A"), utilizing both closed-ended and open-ended questions, which will allow the development of themes from a grounded approach to a content analysis, as further described below.

**Abusive Language Compilation and Content Analysis**

The police officers set forth below were asked utilizing the survey instrument, to describe the actual assaultive language heard from victims, witnesses or perpetrators, and heard by police themselves, which had occurred imminently before, during and after physical domestic violence, sufficiently to constitute criminal assault. This language in specific instances is an integrally core portion of the research, supportive of the research questions and generally served several purposes: (1) to delineate the context, extent and potential of such assaultive language-based arrests in domestic violence cases; and (2) to augment the content analysis of the interviews.

**Empirical Subjects Interviewed**
The police officers and sheriff’s deputies (collectively hereafter most often “interviewees”, but also “police” or “officers”) of Sparks, Reno and Washoe County, Nevada were accessed. A total of 15 interviewees were selected by their superiors, being asked to do so as randomly as feasible, but based on voluntariness, schedules and relative experience with domestic violence investigations, most of whom were specialized in domestic violence investigations and training. Police rationales were explored for either intentionally or unintentionally not proceeding with charges based on assaultive language alone or in combination with physical violence formed the core exploration in general and as related to specific incidents (based on recall, not on case-by-case inspection, due to confidentialities, and the endemic incompleteness of police reports about abusive language).

Further interviewee responses included: (1) interviewee backgrounds and demographics; (2) the legal underpinning of domestic violence, with specificity regarding domestic violence assault, i.e. language; (3) domestic violence descriptions, including perpetrators and victims; (4) types of responses to domestic violence incidents, with special attention to language during incidents; (5) polices, practices, protocols, trainings and attitudes; (6) victim reactions, short-term and long-term, to domestic violence investigations; (7) interview recommendations for domestic violence investigations; and (8) related topics as set forth in the survey instrument in Appendix “A”. Particular attention was given to police discretion, proof and legal interpretation issues, along with their sensitivities and preferences to pursuing or not pursuing arrests. They were asked whether they preferred to see superiors and prosecutors proceed with such assault-based cases. The survey questions were not asked in an accusatory or confrontational mode, and confidentiality was expressly assured. Names were not kept in any way as an identifier in relationship to the survey instruments.
Two of the three police departmental populations interviewed were not from my own jurisdiction, which is the City of Sparks, so my role as a judge, as an influence upon them was believed to be substantially discounted and moderated. In this context again, those from my jurisdiction, as with the others, were forthrightly and repeatedly assured that their responses were confidential, and would neither legally, ethically nor pragmatically have any influence upon their appearances in my court, nor upon their professional role or status, which was also assured by their superiors. Institutional Review Board (IRB) approval, including a consent form for each interviewee, were knowingly and voluntarily obtained and fully followed. Other means of minimizing my potential intrusive influence were employed as explained below by further methodological specifics. Interviewees received a full explanation of the purpose and overall content of the interview, were assured of voluntariness, were told they could decline to participate initially or at any time thereafter, and followed along with my questions with their own copy of the survey instrument in hand to provide clarity. A clear explanation of the purpose and scope of the interview was provided, so that interviewees perceived the usefulness and importance of their responses emphasizing that no negativity attached to their responses, only a search for genuine and factual responses. The questions were elicited from the survey instrument, which prompted both standardized and open-ended responses from police, utilizing both a structured and semi-structured interview format. Interviewees were interviewed by permission, due to natural sensitivities and command structure requirements. Informality but a purposeful format were the objectives, to maximize responses but not to belabor them. Interviewees were, in all cases, interviewed separately to avoid influence, inhibitions or cumulative effects.
The survey instrument was retained after the interview, so that it would not provide advance advantage to other interviewees within each department, if they knew of one another’s participation (which was indeterminately unknown from interviewee to interviewee). All interviews intentionally took place in neutral, semi-confidential, comfortable locations, in all instances in Starbucks or other coffee houses. I purchased coffee drinks of various descriptions for the interviewees, not as much as a participation reward, but to set a conversational mode for the interviewee. The randomness of officers chosen by superior officers, although not fully attainable in this study, was assisted by the fact, as also cited above, that the interviews occurred with officers who were most available based on schedules, relative depth of domestic violence investigatory experience, varying shifts and, of course, willingness to participate.

Further Methodological Procedures

The described methodology allowed an ongoing assessment of the survey instrument, the interviewees, the context, and the comprehension of the interviewing, in the event that unanticipated issues were obtained requiring adjustments. Other than natural variations from interviewee to interviewee no cognizable such issues were detected by myself nor indicated by the interviewees. Pre-testing the survey instrument would have been exceptionally difficult as a qualitative study for this specialized population and the content of the survey.

Non-intrusive assiduous notetaking was relied upon to retain interview responses directly on the survey instrument for each interview to promote transparency and consistency, as well as to pre-classify the response themes on an ongoing, self-checking basis, and to preserve context as well as salient verbiage. No electronic recording of the interviews occurred, and interviewees were so assured, being deemed as a volatile inhibitor with an officer population, as well as a threat to the promised confidentiality. Flexibility was maintained by the
conversational mode, so that openness to unexpected themes was detected and pursued, and certainly individual variations occurred, which enriched the cumulative data. Interviewees were requested to refrain from discussing the interviews afterwards, so that the importance of their individual responses were preserved and possible tainting of subsequent interviewees was avoided. No controls over this eventuality were perceived to be viable or significantly critical, due to the known and confirmed independence of their responses to further assure their cooperation. Interviewees were told that they would be provided, if requested, a copy of the final product. Always at the conclusion of the interviews, and perhaps interspersed, interviewees were offered ample opportunity to address any matters they felt needed more comment.

The Findings section is a summary and/or paraphrase, and in some limited cases a direct quote, of what the interviewees said. Their responses were considered significant enough, indeed interesting enough, in light of the purposes and outcomes of the research, that the Findings section has been set forth at length. It demonstrates and supports the in-depth Content Analysis derived from the Findings, as well as the core primary themes and recommendations arising from the Content Analysis.

The interviewees were exceptionally cooperative, rather clearly wanting to provide their responses to the survey, apparently deeming their responses genuinely important in the overall context of domestic violence and their roles in that context. As above stated, they were requested by their superiors, semi-randomly based on availability and experience with domestic violence, to participate, not ordered to do so, and volunteered to do so having been told with ample initial clarity what the survey was about. It was also apparent that they had never before been asked in any structured way, and certainly in no official way within their job contexts.
regarding the same or similar contents of the survey. They engaged readily and throughout with the survey and dialogue prompted by it. Although their responses naturally varied in length and introspection, none of them provided rehearsed or reluctant responses. Their responses were thoughtful and useful.

**FINDINGS**

**Question 1. Describe your position, experience and training in domestic violence matters.**

*Now please also include your age, educational level, ethnicity, marital status and if you have children.*

Subjects ranged in years of experience from 8 to 14 years, and in age from 35 to 51 years, with almost all in the center of those ranges. All had the basic officer POST (Police Officer Standards and Training) certification, and all but one had additional in-house training in domestic violence. Half had additional training in such classes as crime scene investigation. All but three were married, four being divorced, and all have children. All were male but one. Two were Hispanic, the remainder White. They ranged in residency in the geographical areas from lifetime to 12 years, with most being present at least two decades. Two self-described as Independents, and two as Democrats, and the rest as Republicans qualified their leanings, as either somewhat more conservative or less conservative. Six self-described as members of independent Protestants, six as non-church members, and two as Catholics. Four were previously in the military. The rest came from a cross-section of prior occupations, and all had at least one prior occupation. Seven had college-level criminal justice training, and three had at least a Bachelor’s degree in it.

Note: The question-by-question responses are summarized from this point forward in the FINDINGS, including salient examples of the various responses, to indicate their prevailing
Question Two. **How would you describe domestic violence, along the following lines?**

a. **When does it occur?**

   It occurs during escalating arguments, sometimes in the context of substance abuse and generally stressed relationships due to job losses, infidelity, and conflicts over children and extended family. Pervasively, it occurs over power and control issues typically asserted by the male intimate partner, which often arises to physical violence by him, in turn perpetuating recurrent verbal and physical violence. End of relationships are acutely volatile times for domestic violence.

b. **Where does it occur?**

   It occurs primarily in residences but also in vehicles and workplaces.

c. **Who is involved?**

   Mostly husbands and wives or boyfriends and girlfriends are involved, but also children.

d. **How does it occur?**

   It occurs in the context of chronic and acute arguments over almost any topic, escalating physical altercation including weapon use, personal property destruction, alcohol and drug rage, cell-phone and car-key confiscation by the perpetrator, and as aggravated by calls by the victim to police or others for help.

e. **Why does it occur?**

   This response was both repetitive and distinct from item “d” above. The whys entail both routine and aggravated relationship problems including finances, infidelity, communication
inabilities, children, extended family, submission and non-submission by victims, substance abuse, higher-career females, and perpetrator’s upbringing (family values). Financial problems, Verbal abuse and assault before, during and after physical violence first prominently appears in the responses at this point, as context and causative factors. Certainly, power and control factors substantially appear as well expressed sometimes as a need to dominate, and “a need to get the victim back in line.” A long-term pattern of conduct by both perpetrator and victim, amounting to a lifestyle, was a further perceptive response. Again, the point at which a victim may attempt to leave the relationship was cited as both temporally and causatively acute.

**Question Three. How often does abusive language occur in connection with domestic violence?**

These answers emphatically confirmed the central role of abusive/assaultive language in domestic violence. All but two interviewees said it occurs 100 percent of the time, and those two said it occurs almost every time. The revealing statement, not the least surprising, was that “. . . it would be hard to imagine it not occurring.”

**a. If it occurs, does it take place before, during, and also continuingly after the physical violence?**

Interviewees stated that the abusive language occurs from start to finish of overall domestic violence incidents, and typically only ends upon forced separation by the police. It intensifies, reaching assault-level at the point of maximum physical violence. The language may turn falsely apologetic after the incident subsides, as the perpetrator attempts to persuade the victim not to call for help. Interviewees reported that victims not infrequently described the abusive/assaultive language as worse emotionally to endure than the physical violence. Verbal abuse, and even submissive words, by the victim, may exacerbate the perpetrator’s violence.
**Question Five (mis-numbered).** In what ways could it (the abusive language) add or not add to the severity and perhaps continuation of the domestic violence?

The tone of the abusive language ignites the argument, and changes the responses of both persons. If one party is provoked by the language, the severity of the dispute and resulting domestic violence will increase in severity especially if alcohol and drugs are being used. The abusive/assaultive language reveals the intent of the perpetrator to emotionally and physically hurt the victim, also adding to the severity of the incident for children who are present and traumatized. Interviewees reported that the language breaks down the victim’s defenses and self-esteem into submissive or even passive behavior leading to even further physical abuse. Interviewees were persuaded that the abusive/assaultive language, in addition to resulting in physical violence, may well lead afterwards to harassment, stalking, injury to victims’ pets and personal property, grave physical injury, even murder, or at least a cycle of continuing verbal and physical abuse, there being no such thing as a one-time occurrence.

**Question Six.** Recalling our assumption (the brief restatement of Nevada law pertaining to assault in domestic violence cases, which was provided to the subjects in writing in the survey), what do you think about whether abusive language may constitute an assault as domestic violence? How could it be possible, if at all, that assaultive language, alone or in combination with physical violence, may be domestic violence under the law?

Interviewees’ answers to this question took on some individual and departmental differences, as the core inquiry of the survey was approached, due to the obvious nuances of policy, protocol, practice and training leading to non-arrest for assaultive domestic violence. These responses included the following:
1. Whether abusive language can be considered legally as assault, requires proof of the assault. Because it is language not a physical act resulting in observable injury, usually occurring after officers arrive, gathering non-hearsay, i.e. he-said-she-said, evidence can be difficult.

2. Officers are left with a wide scope of discretion, therefore, as to whether, first, an assault took place, and secondly, whether it can be proven sufficiently.

3. Proof of assault may need to await repeated instances, to be sufficiently proven by cumulative evidence, and thus the importance of repeated police responses and documentation even when assault is not provable and when an arrest is not made.

4. The legally subjective/objective nature of assault (requiring proof that the victim reasonably felt a threat of immediate physical harm), relies heavily upon the victim’s impressions and actions at the scene supported by other evidence such as witnesses and the officers’ abilities to detect and support those impressions and actions.

5. Officers know that prosecutors have never proceeded with a charge of assault absent a charge of battery (the physical violence), and with exceptional rarity have ever proceeded with an assault even with a battery.

6. At the scene of domestic violence, absent evidence of physical violence, an assertion of an assault by victims is in essence never processed, because it will not be further processed by superiors or prosecutors for their own reasons seen as justified above. A few interviewees reported, in fact, being sometimes reprimanded for attempting to process assaultive domestic violence. The usual response of officers as a result is simply to temporarily separate the parties and perhaps refer victims to sources of help when no physical violence has occurred.
7. Victims realize that certain kinds of threats mean that they’re going to “get it”, meaning battering. Victims realize that if they can’t engage the perpetrator in discussion, the battery will happen and may anyway.

8. Witnesses can be crucial in proving an assault but typically only the two parties are present. If children are present, officers are for obvious reasons highly reluctant to make witnesses of them unless they are at least mid-teens or themselves have called the police. Increasingly, victims as well as any witnesses are utilizing cell phones where possible to record assaults, but these are a minority of cases.

**Question Seven. Recalling our assumption, whether or not you think assaultive language is domestic violence, can you describe specifically some of the abusive language you have heard, or heard of from others, in connection with incidents of physical domestic violence, or perhaps such language standing alone?**

a. **Describe any abusive/assaultive language during or after physical attack or threatening physical attack, and whether it was included in the incident report.**

The variety and intensity of the abusive/assaultive language reported by interviewees was remarkably informative and indicative, to include these samples at some length: “You’re going to get a black fucking eye.” “Whore” “Slut” “I will kill you.” “I will choke you.” “Get the fuck out of here.” “Cunt” “I’ll kill you.” “I’ll cut your fucking throat.” “I’ll knock your teeth down your throat.” “You fucking bitch.” “Your job is to cook and clean, mine is to earn.” “If you don’t shut up, I’ll shut you up.” “If you don’t shut up, I will fucking kill you.” “I’m going to beat your ass.” “Why are you making me do this (while battering her).” “I’m going to take everything, and the kids, you’re going to jail.” “Because of your cheating ass, I’m going to beat your ass so bad that they’re (the supposed co-cheater) is not going to like the looks of it.” “Do you like it (while
battering her), this is your fault?” “Don’t make me beat you in front of the kids.” “If you don’t shut your mouth, I’m going to throw you out of the car.” “I’m going to knock you out, and put my fist in your mouth.” “I can hurt you if I want, do you want me to?” “I’m going to give you two black eyes.” “You’ve got it coming.” “I’m going to fuck you up.” “I’m going to hurt your animals.” “I’m going to hurt your kids.” “I’m going to kill you if you get pregnant.” “I will rape you and kill you if you have a kid.” “You’re fat and stupid.” “Remember what I did last time.” “Financially, you’re nothing without me.”

Sometimes the verbal abuse or assault is included in the report especially if police are onsite while the language is still in use, but otherwise it can be hearsay and non-useful for prosecution, and as a result not made a part of any report. Some said that officers don’t ask often enough what language was used during the attack. (typically officers arrive after the physical attack and often after the intensive stage of the language). Victims may often be too upset to recall precisely what language was used, and the more so as emotions augment after repeated attacks. Some officers but not most report that they always include the language in the report if they can ascertain what the language was.

b. Describe whether such language was belittling, frightening, controlling, had some other effect, or all or none of those. Have you heard of situations [when] abusive/assaultive language did not produce fear?

The interviewees answers are summarized as follows. The abusive/assaultive language attains a variety of chronic and acute effects. It is all of the above, respondents said, particularly controlling victims’ finances, contacts and communication. Such language causes victims to submit, but is not fearful until physical violence follows. They are both ashamed and afraid. The language is intended to control victims, and is nearly always fear-inducing. The language is
intended to establish dominance and to tell victims that they have no rights. Victims fear the language may also lead to loss of their kids and are threatened with that by perpetrators. The language conveys to victims that they are constantly monitored and being watched. If the perpetrator is under the influence of alcohol or drugs, the verbal, as well as the physical occurrence may be much more fear-inducing, and even more so if kids are present or hearing the occurrence from another room. The language long remains with victims, continuously affecting their performance at work, as parents and socially.

c. **Describe whether children heard any abusive language, placing victims in immediate fear of attack, and whether you observed or asked them about the effects.**

The involvement of children was pronouncedly disturbing to officers. Batterers seem not to care if children are exposed to the language or even to physical violence. The children become very emotional, crying and scared. Depending on the ages of the children, batterers may attempt to involve them in the incident, demanding that they take sides, or on the contrary threatening them along with victims. Teens will sometimes secretly call 911 trying to help victims but then hang-up. Kids become numb over time to such incidents. But they will tell officers what they have heard, the older they are and the more truthful they try to be or can be. When observing the incidents they become traumatized, crying and hyperventilating. Kids know when verbal and physical violence are about to happen, and try not to be involved unless when they become older they may try to prevent such incidents or come to the aid of victims.

Kids are often seen by officers at the scene even if the kids have been kept out of the room, so they are highly aware of what has happened usually from repeated incidents. Kids are obviously afraid even after officers are on the scene and officers sometimes have to interview the older ones to help determine what has happened. The kids may try out of fear to cover for
the perpetrators who may often be their fathers or father figures. Officers see older kids modeling the verbal and physical conduct of their perpetrator fathers or father figures even when they have primarily overheard, not having actually witnessed such incidents.

d. How often did abusive or assaultive language occur in connection with physical domestic violence in the last six to eight cases you have investigated?

Answers here varied but only marginally. Most said every time at various levels. The others said most of the time.

e. Does abusive/assaultive language occur, standing alone without physical violence, in cases you have investigated in the last year, and if so, in how many cases?

First, interviewees reaffirmed that abusive/assaultive language by the perpetrator occurs in every case of physical violence. They added that the assaultive language also occurs alone more and more frequently. Some said that assaultive language is almost always co-occurring with physical violence, but without physical violence police aren’t consistently called for assaultive language alone. Several interviewees said that abusive or assaultive language doesn’t typically result in police processing the case as domestic violence, but such language occurs more than physical violence on about a 60/40 ratio.

f. Did verbal abuse by the victim seem to initiate, worsen, lessen or explain the physical domestic violence?

Interviewees acknowledged that abusive language co-occurs. When used by the victim the situation is worsened, causing the perpetrator to become more angry, likely initiating physical violence. The victim’s language becomes a trigger which may have become an automatic in the relationship because the language is repeated from incident to incident. If the victim and perpetrator are both on drugs or alcohol when such language occurs, the
perpetrator’s anger causes increased physical violence, primarily by the male. In these volatile situations if the victim says almost anything, the physical violence by the perpetrator will begin. The victim may start some initiating language, but the perpetrator’s reaction is far out of proportion.

8. Recalling our assumption, how does the department respond to incidents of verbal abuse without an allegation of physical violence?

Interviewees reported that responses to the scene are nearly uniformly made, regardless of severity of the incident and the ultimate results. It was said by most that response is always made as a priority one, the parties are then separated, but if no physical violence has occurred, there is no arrest, and a case report is not made. Some said that previously, they would file a report if the incident were verbal only, but now they just respond, perhaps to separate the parties, especially if one of them is intoxicated. Interestingly, some said that they might respond better if a previous report (a history) had been filed on which to base some conclusions, because when they respond they don’t know if verbal or physical violence has occurred, or both. One officer said that abusive language alone is not a crime, and it is not domestic violence even if assaultive language has taken place (which is contrary to the law), but they might arrest if an assault can be proven (this seeming contradiction was not further explained).

9. Recalling our assumption, why doesn’t verbal abuse, assuming it may be an assault, lead to arrest (which seems conceivable under the statute NRS 33.018), either as a single offense or in combination with the physical attack?

This question reflected the heart of the survey, and officers’ rationales for arrest or non-arrest. It produced a somewhat inexplicable range of responses:
1. There may be lack of staffing to process a case which is verbal only, and proving the assault may be unreasonably difficult if it is based on hearsay alone (she-said-he-said). If the incident is verbal only, it is considered a family disturbance, in which case officers separate the parties, and they may document the incident for use in case of a repeat incident, but a case is not processed.

2. Even if an assault has occurred, it is considered merely normal verbal interaction, and is not considered a crime. Officers aren’t thinking about an assault being a crime based on issues of proof and their training, but instead are determining whether physical violence has occurred. Assault would not be considered domestic violence, based on interpretation of the law by the department.

3. Interviewees said that they were never trained to arrest for assault only, so the issue hasn’t been thought of before. They said they were not trained to even look for assault as domestic violence, let alone to arrest for it, which is based in part on difficulty of proof, and simply on a prevailing mindset.

10. **Recalling our assumption, do you think verbal assault should be prosecuted separately or in combination with physical domestic violence, as an assault? If so, what, if anything, do you think should be done to accomplish more such arrests?**

   Interviewees were given opportunity at this point to voice their thoughts on the central arrest-non-arrest issue as experienced officers in domestic violence, without compromising their duty to adhere to departmental demands. Most said, with qualifications they would prefer to arrest for assault in domestic violence cases, as follows:

   1. Yes, if feasible, especially if it would stop the domestic violence without the usual numerous repeated incidents.
2. Body cameras (to be in use shortly after completion of the survey) may allow
greater proof of assault, and other aspects of a case, because they will be recording
language possibly still being used upon officers’ arrival.

3. Arrest for assault should be considered even without the testimony of victims,
   based on physical evidence, photos, and cell phone recordings by victims, children
   or neighbors.

4. Cases based on assault will have proof issues so they won’t be prosecuted (even if
   arrest is made), even though they should be in a perfect world because the system
   is already clogged with cases.

5. The mental injury from assault may be as bad as the physical injury.

6. Arrests for assault alone or in combination with battery should be made as a
   preventive of future domestic violence.

7. Cell phone recordings are being used increasingly by victims, and should always be
   requested of them, along with 911 recordings which are almost always made but
   rarely accessed.

8. More such arrests should be made based on better interviews by officers and better
   training for officers and prosecutors as well, so that assaultive language is looked
   for, preserved and used as the basis for arrests and prosecutions.

9. If assault was charged in combination with battery, prosecutors would have more
   room to plea bargain, perhaps dropping the one or the other charge in exchange for
   a plea to the other, something which is highly common in other kinds of cases.
   Arresting for assault can add hugely to the probable cause, and thereafter to proof
of the case, especially if the assaultive language is strong. This could be done based on the present law but it isn’t done.

11. Recalling our assumption, if there is an absence of prosecution of verbal assault, is it a question of priorities, tradition, policy, protocol, opinion or something else?

Interviewees weren’t hesitant to express their impressions of the underlying and overt reasons for non-arrest based on assault. Those reasons show a widespread misapprehension in concept and practice of the non-arrest. Some of the reasons are:

1. People have different interpretations of the law. Prosecutors see it differently than the police. It’s tradition—whether or not it’s fitting—not policy. It’s a matter of priorities as well as opinion. It’s based on past practices and on training.

2. The policy and the training are to base domestic violence cases entirely on whether there has been physical violence not verbal violence. There is a difference in the perspective of patrol officers responding to the scene and that of command level officers in charge, but there is no policy either to arrest for assault or not to.

3. It’s the law (which isn’t accurate), there can’t be domestic violence cases based on assault alone. There’s no explanation, it just doesn’t happen.

12. Recalling our assumption, has the possibility of arrest and prosecution based on verbal assault ever been discussed at a serious level by command or among fellow officers or with the City Attorney’s office (sheriff’s deputies were also asked the same regarding the District Attorney’s office).

Interviewees’ answers to this question were essentially a uniform and definite “no”. They added that the matter hasn’t been addressed informally or casually to a cognizable extent, although has received some give-and-take at various discussions but with no results. They
further added that at no time has it arisen as a topic in any training or routine staff meetings.

Ironically, some said that their department isn’t necessarily opposed to assault-based domestic violence charges but none have ever been processed. In this context several again expressed serious preferences that domestic violence, both as assault and as battery, should have an end-game in mind instead of incessant processing and re-processing.

13. Recalling our assumption, is there a formal or informal policy or protocol about responding to or processing cases of verbal assault?

Somewhat repetitive of previous answers, almost all interviewees said that even if it’s not going to be a case of domestic violence, response is made to the scenes. A couple said that response would not normally be made if the case is known in advance to be only verbally based. The majority believe that response even without arrest serves a preventive function.

14. Leaving aside extensive details, and declining to answer if you wish, have you known about, or perhaps been involved with, domestic violence among family or friends? What very briefly was the nature of it? Any details will remain completely anonymous.

Approximately half of interviewees were closely familiar with domestic violence in their own families either in early or recent years. Paraphrases and summaries of the answers are provided as follows, without specific details of incidents, to further preserve anonymity:

1. It took place throughout childhood, entailing alcohol, and was seriously physical for family members.

2. Drug use occurred in the family accompanying very abusive conduct in early childhood. Weapons were used to intimidate spouses.

3. An ex-husband was violent, involving thrown objects, also was highly verbally abusive and monitored the wife’s cell phone.
4. The childhood entailed a physically abusive home along with badly abusive language.

5. Jealousy and rage were displayed by close family members.

15. Have you experienced or heard about messages through social media (Facebook, texts or e-mail, etc.) rising to the level of an assault?
   a. If so, please briefly describe how this occurs.
   b. If so, how often does this occur, in your experience?

   Generally, interviewees said that social media may perform an evidentiary context function in domestic violence but that domestic violence assault via social media would by legal definition not be possible. Social media are the means of threats, but although cannot be assaults have been investigated as harassment or stalking. They said that social media may be the means of assaultive language (even if not legally an assault) and can be even more violent than when spoken in person, particularly amongst younger generations. Others said that abusers try to avoid such uses of these media, because they know it becomes preserved accessible evidence. These media may be used by perpetrators who have been arrested for domestic violence to intimidate victims after a criminal no-contact order or a civil protective order has been issued. Interviewees noted that these kinds of message are hugely used now, to include assaultive language, even threats to kill. Some said these messages now occur in some way and extent in almost every case of domestic violence.

16. Finally, some general information:
   a. How long have you lived in Reno/Sparks, or where were you originally from?
   b. How long have you been a police officer, and what, if any, other careers have you had?
      (Repetitive of Question 1, but repeated here to coincide with other demographics responses.)
   c. Are you a member of a church, and if so, do you actively attend and participate?
d. What, if any, is your political affiliation?

e. What kinds of training (on-the-job or in classes) have you received in knowing about and processing domestic violence cases?

CONTENT ANALYSIS OF CORE THEMES BY SELECTED QUESTION

Interviewees’ answers to questions which formed the heart of the survey elicited core themes. These themes were revealing, and instructive and sometimes alarming. Thus, analyses which address core primary themes pertinent to the paper topic are here included. Content analysis of questions in full appears as Appendix “C”. The core themes are: (1) the ingrained nature, whether justified or unjustified, of non-arrest for assaultive domestic violence; (2) the starkly assaultive quality of the language used in domestic violence incidents; (3) officers’ observations of the effects of the assaultive language at the scene; (4) officers’ confirmation that response is made to the assaults even if not processed; and (5) officers’ distinct preference for processing the assaults if possible based on changes to policy, protocol, practice, training and prevailing culture.

Question 6. Non-Arrest Ingrained

As confirmed by the survey responses and as anticipated, arrest for domestic violence assault essentially never occurs, and has become ingrained, too often unthinking, policy even if not ill-intended. The reasons are reasonable and understandable, but paradoxically also inexplicable and disturbing.

Some interviewees concurred that abusive language becomes an assault as defined in law when a victim is reasonably in fear of immediate bodily harm, and the assaulter has the immediate ability to inflict the harm. Thus, an assault is viewed as largely circumstantial, not an automatically definable event. In other words, responding officers will assess whether an
assault has occurred, taken alone or in combination with physical violence, if their overall investigation warrants a charge of assault (although this result as above noted is rare to nonexistent). The evidence of an assault, being verbal, is often hard to establish, and therefore problematic on which to base an arrest, so a judgment call may be the optimum available decision, they further reported. Interestingly and insightfully, interviewees reported that they would potentially base an assault charge on previous domestic violence experience between the parties, in particular the victim’s expressed sense based on the perpetrator’s verbal clues, as predictive of imminent battery. These assessment clues would include: seriousness of threats; degree of aggressiveness and attempted or actual battery, exemplified by conduct such as yelling in the face of the victim and cornering the victim; and intensely foul and abusive language.

Nevertheless, charges of and arrests for assault in domestic violence situations seem by the interviewees’ own perceptive descriptions, to be far more theoretical than actual. Interviewees did not deny that assault occurs taken alone or in combination with physical domestic violence, but decisions devolve to issues of proof, policy, practice, protocol and culture as will be seen later. One interviewee, and others by inference, indicated that assault cannot be domestic violence, which would seem to contravene the statute, and reveal other problematic protocol, practice, training and cultural issues, perhaps contravening their expressed inclinations.

Interviewees reported that it is the rarest of situations in which in which an arrest is made based on assault taken alone or in combination with the charge of battery under domestic violence law. Most report that it is never done in actuality. If an assault alone seems to define the incident once officers arrive, the result is essentially always to separate the parties, not an
arrest, and to close the matter by asking one or the other to leave, typically being the male perpetrator. It appears from their responses for reasons deemed sufficient by them and their superiors, and from their perspectives may be, that officers do not attempt in-depth investigations regarding assault. So no matter the seriousness or significance of an assault if one has occurred, it is essentially not pursued for a variety of practical and legal reasons, as officers make highly difficult decisions under volatile circumstances. However, the overall implications of this scenario for domestic violence prevention may be profoundly disturbing and damaging, as some interviewees acknowledge.

Question 7 (a). The Language Is Unmistakably Assaultive

No responses to the survey more penetratingly characterized the repetitive and damaging domestic violence sequence, than did the assaultive language. The absence of exploration of arrest and prosecutorial methodologies to find viable ways to criminally process it would seem to beg for answers.

The examples of abusive and assaultive language cited by the interviewees, many more of which they say they could have referenced if given opportunity, included extraordinarily offensive, profane, intentionally-abusive, demeaning, intimidating, fear-inducing and, most importantly for present purposes, explicitly assaultive language directed at victims by perpetrators in similar hundreds and more likely thousands of cases. The bald, nearly demented language cited in the foregoing Findings section need not be repeated. It is crucial to note that it was uttered, not as communicative conversation, casual chatter, street talk, in gest or outside of domestic violence circumstances. Rather, it was uttered between intimate partners in repeatedly highly stressed, volatile, abusive and often incomprehensibly violent situations.
Once again emphasis is mandated that the language was impossibly separable from the overall
domestic violence incident, and so stated by interviewees in every instance.

Some of the language is exceptionally repulsive, when assessed, not only verbatim, but
also as a prescriptive type, such as: expressions that the victim herself has caused the assault
and violent injury happening or about to happen; expressions of hatred; threats of impending
death; countless “b word” and “c word” expressions; warnings to shut up or be shut up;
expressions that the victims have made the perpetrator inflict the assaults and injuries; obtuse
inquiries from the perpetrator whether the victim wants the children to witness the beating;
similarly obtuse inquiries by the perpetrator whether the victim wants to be hurt; threats of
rape and murder if the victim becomes pregnant; threats to hurt the children also; accusations
of being fat and stupid; and threats to financially starve the victim. This recitation is not to
contend that victims do not occasionally engage in abusive and assaultive language as well, but
as interviewees report, it is far less commonly or frequently as abusive, assaultive, intimidating,
demeaning, or otherwise as objectionable. Victims’ language is also atypically accompanied by
any level of physical attack resembling that of male perpetrators.

Such language reveals again that perpetrators normatively demand and command
unrelenting power and control verbally and physically. They achieve it through the kinds of
abusive or assaultive language recited above, as well as through physical violence, to severely
frighten, threaten, demean, disarm, subjugate, imprison and otherwise control most waking and
sleeping moments of victims. The unfortunate fact, interviewees further reported, is that such
language seems typically neglected or disregarded in the investigative process, perhaps gravely
so. This reaction by interviewees may occur for understandable reasons, including often its
hearsay nature, cited above. The exceptions are where victims, neighbors or even child
witnesses may have recorded the language on cell phones, and if they make it available to officers afterwards.

Some victims have reported that they wish officers had more routinely asked them about the language that had taken place. Some interviewees did report that they carefully attempt to write down victims’ and also perpetrators’ recollections of language exchanged, but for the limited reasons of documenting it for the oft-repeated future responses to incidents between the parties. This at a minimum may be helpful in responding to and processing future incidents. They do not generally indicate having fully confirmed such language as part of the formal report of the case, because as above noted it is highly unlikely in reality that assault-language based cases would be seriously processed, or more likely not processed at all.

A last note pertaining to this survey question is that interviewees found that victims are often too emotionally impacted to recall exact or even paraphrased language of the incidents. Perpetrators and sometimes victims too may intentionally claim failure to recall the language precisely to try to end the incident without an arrest of the perpetrator, knowing that the results on numerous fronts will be from mildly to acutely consequential to both of them and to children. Nevertheless, whether recalled, reported, processed, undetected or disregarded, language especially at an assaultive level is a highly impactful and unavoidable element of domestic violence. It follows that to deny or fail to process it may pose as many issues as are resolved in approaches to domestic violence long-term, if the intent is to respond effectively to it aside from preventing or curtailing it instead of only arresting for it.

**Question 7 (b). Observably Profound Effects of Assault**
Regardless of the absence of arrest for assaultive domestic violence, and the reasons as
above addressed, interviewees reported pervasively volatile and traumatizing effects on victims
from the assaults.

Most interviewees cited all three effects of abusive or assaultive language, namely being
belittling, frightening and controlling. They stated that victims become from moderately to
severely numb to such language, having heard it frequently over time, but that it still is
stunningly fearful when prefatory to, during, and as the outflow of physical attack, as is typically
the case. The language may be less than directly confrontational, but said in understated or
coded terms of which both parties are aware, so that victims are forewarned that both verbal
and physical escalation is highly likely to occur. Further, the language is intended not simply as
physical threats, but to continue victims’ submissiveness, isolation physically and financially and
fear, together with a train of other chronic and acute impacts. The language to all but victims
and officers may also produce shame apparently because they don’t want family and friends to
know about the trauma, damage and wreckage occurring to their lives and relationships.
Obviously, the shame also produces further submissiveness and isolation, distancing them
ominously further from help, interviewees detect. The intimidating message again from
perpetrators to victims is emphatically that they are under the total power and control of
perpetrators, extending to oppressive monitoring of victims by perpetrators, which is
unequivocally known to victims.

Both intimate partners unmistakably understand these searing messages conveyed time
and time again creating near-constant intimidation and fear in victims. Victims report to officers
that the inescapable effects follow them to work, shopping, school, appointments, social events
and everywhere all the time basically (including fear of revealing their dire status to doctors,
clergy, counselors, and other help sources, to include family and friends from whom also they may be isolated). Any verbal let alone physical resistance by victims to perpetrators’ abusive or assaultive language and physical attacks, as noted above by interviewees, triggers more severe punishments by perpetrators rising to extreme vindictiveness and beatings. Perpetrators weaponize their language as punishment after punishment fully aware of or self-blinded to its debilitating array of impacts.

**Question 8. Officers Encouragingly Report Mandatory Responses to Assaults**

Interviewees nearly unanimously reported that responses are routinely made to calls based on assaults, whether or not a battery may also be occurring. They take assault indeed seriously, hoping to respond to prevent a battery or to intercede in the battery, regardless of prevailing policy, protocol, practice or training, or ironically their absence regarding arrest.

Priority response is routinely made to calls for help by victims or witnesses at the abusive or assaultive language stage. However, as above stated, the response, even if protective, may remain that and officially nothing more, meaning no report, no arrest and overall no case. The response to the scene is not discontinued even if victims attempt to cancel the response, or if police are told that the perpetrator has ostensibly left the scene. This indicates favorably that police treat such language quite seriously, at least as a point at which prevention of further physical harm can be achieved. Some interviewees said that in the past a report, although perhaps not an arrest, might be made if the incident is verbal only, but that the practice has been ended. Now the response is limited to a peace-keeping response, which is at a minimum not inconsequential.

As also indicated above some interviewees state that better responses can be made if documentation has been made, whether a previous incident has been verbal only or physically
violent. This means, although documentation is seldom done, that officers can know how urgent a call may be, in terms of language volatility, immediacy of physical violence, repetitiveness of the language or physical violence, involvement of children (who may have made the call), degree of physical violence and other critical contexts of the response. It is crucial to again note that most interviewees report that they are called repeatedly to respond to incidents involving the same victims and perpetrators, sometimes recently and sometimes over years. Their experience with these victims, perpetrators and families is crucially important, but meaning as well that such incidents could if profusely documented, possibly result at the time or cumulatively in formal assault-based charges. Consequently, documentation of both language and physical violence becomes immensely useful to them, even if for no reasons of case formalities, to know what may be facing them in investigations from time to time. Several interviewees indicated directly and some indirectly that assaultive language by itself would not be unlawful. All interviewees stated, to be clear again, that assaultive language cases are essentially not processed as official cases, meaning full reporting and arrest, for the above-referenced reasons, or least explanations. This is not, without more information, necessarily a finding of fault, but a fact from the responses.

**Question 9.**

Responses to this question merged with previous responses, but was stated separately to clarify further the context and rationale for processing or not processing assaultive-language domestic violence. Reasons for the absence of processing assaultive language cases included: inadequate staffing (acknowledging the voluminous time and paperwork required in case reports); proof issues above-explained; conceptualization of such cases as no more than “family disturbances;” a protocol and practice of separating the parties but not fully processing the
incident; and not investigating whether a crime of assault may have occurred. Instead, resulting from training, interpretation and practice, the assaultive language, provable ultimately or not and justifiably or not results always in effect in a non-case as before noted. Interviewees add that the non-processing of such incidents is also a product necessarily of city attorneys’ and district attorneys’ practices, interpretations and policies of not prosecuting such cases. This circumstance theoretically leaves inadequate discretion to police command levels, all of which is somewhat contrary to the preferences of most interviewees of wanting to process such cases. This prevailing circumstance seems definitively unclear and unresolved to all involved, notably including victims and perpetrators.

As a result, without assessing blame to officers or their commanders, domestic violence, for all practical and perhaps legal purposes is physical violence alone even if assaultive language, which interviewees unanimously report to be pervasively and injuriously present. Interviewees uniformly report that they are not as much trained, let alone authorized, to look for assault at the scene. It is simply the unyielding mindset, they report. It is accurate to say based on their responses that assaultive language inseparably and devastatingly occurs but effectively it is as if it did not. This means that perpetrators persist in a continuous state of near-deranged unreality, while persisting in the moment of violence in livid reality, inflicting indelible emotional and physical injuries on their victims.

**Question 10. Officers Prefer to Arrest For Assault**

Ideally respondents would prefer to arrest for assault, if evidentiary and processing obstacles could be addressed, and if newer technologies and training can be implemented. Their objective is to prevent or lessen the severe damages of assault as well as battery in domestic violence cases, which they tire of seeing so repetitively destructive. They are
disenchanted with the absence of policy, let alone protocol, practice and training, arising from an adverse culture which is too tolerating of assaultive domestic violence and of a general misapprehension of domestic violence as a one-time physical occurrence.

A substantial majority of interviewees felt as noted that assault could or possibly should be a basis for arrest and prosecution under domestic violence law, either standing alone or in combination with physical violence charges, contrary to prevailing practices. They acknowledged again that issues of proof (hearsay, absence of physical evidence and witnesses, failure of victims to testify, and clogged police and prosecutorial calendars), all as stated above, could intercede in their feelings. However, they thought as well that the larger conundrum of reasons of policy, protocol, training and cultures may be the actual obstacles preventing such arrests and prosecutions. Some favored processing domestic violence assault cases using available witnesses, cell phone recordings by victims and witnesses, 911 recordings which may preserve assaultive language while in process, and also contributory physical evidence.

They conceded that such cases might not be pursued by prosecuting attorneys even if arrests were made. Several cited the potentially auspicious value of body camera protocols being implemented now in all three departments, which may record assaultive language still being used as officers arrive on the scene, and which otherwise may not have been preserved. This could, paradoxically, for the first time make domestic violence assault cases more productively viable for arrest and prosecution than domestic violence battery cases (which as noted are exceedingly difficult to prosecute now as well, even though they are the overwhelming emphasis of arrest and prosecution). This transition could prove invaluable in processing domestic violence cases, resulting in prevention and effective restorative services for victims and perpetrators.
Perhaps most importantly, interviewees said are readily at hand improved protocols, practices and training in investigative techniques, which might better preserve assault evidence, whereas currently such evidence is not prioritized or even looked for, due to lapses rather than particular intent, it appears. Assault-based domestic violence cases could, with considerable irony, as well as major outcomes, rescue the referenced prevailing failed outcomes of domestic violence case processing.

Interviewees gave as reasons plus outlines for wanting to process assault cases if possible: (1) indelibly imprinting the consequences of domestic violence in perpetrators’ minds before extreme physical violence occurs; (2) preventing traumatic damage to children; (3) recognizing and preventing the severe emotional damage caused by assaults; (4) advanced training which accounts for all aspects of domestic violence, not just the physical violence; (5) clarifications from prosecuting attorneys and thus superiors of how assault cases may be pursued; and (6) augmentation of legislative initiatives which could facilitate such assault-based arrests and prosecutions (entailing perhaps hearsay modifications, inducements to victims to testify, and effective rehabilitative but less criminally consequential results for non-hard-core perpetrators). Interviewees seem to realize implicitly and professionally that domestic violence is increasingly prevalent and destructive, and that well-intended current preventive and enforcement practices although greatly improved over the past, fall short of needs by a wide chasm. Nowhere is this realization more evident, they agree, than in the non-processing of domestic violence assault when feasible. At a minimum, interviewees point out that assault charges in combination with those for physical violence could provide prosecutors with greater flexibility in achieving negotiated pleas, whereas currently cases are overwhelmingly dismissed
entirely because, absent victim witnesses, a fall-back charge, such as disturbing the peace, is not as easily available nor remotely as effective for sentencing purposes.

**Question 11.**

These responses augment and amplify those within Question 10.

Each of the interviewees cited all or most of these options in their responses, indicating that the reasons for not proceeding with arrests for assault crosses many command-level boundaries, operational norms and rationales. In this response interviewees also acknowledged thoughts previously expressed and said that different interpretations of law exist between prosecutors, superiors and officers, and that differences in priorities, practices, workloads, perspectives and opinions exist between these participants. Yet most also said that there is no firm policy whatsoever either to arrest or not to arrest for assault in domestic violence cases, and said as well that there simply is “nothing official.” On the periphery some repeated (inaccurately) that assault cannot be domestic violence as a matter of law. The absence of arrest for assault was tellingly put by one officer who said that “. . . there’s no explanation, it just doesn’t happen.” Whether reasons are grounded or nebulous, it persuasively appears that no thought-through let alone written explanation or guidance exists for the non-recognition, indeed the non-existence, of arrest and prosecution for domestic violence assault.

**DISCUSSION OF CORE PRIMARY SUMMARY THEMES**

Abusive language, not infrequently amounting to assaultive language, was revealed by mostly all interviewees to be utilized by perpetrators in essentially every domestic violence incident. It occurs as stand-alone language or in combination with the physical violence. It seems non-speculative to observe that assaultive language occurs as a norm with such incidents, rather than being atypically related to this survey only. Nevertheless, for reasons whether
justified or inexplicable, domestic violence assault is viewed in effect as non-cognizable or non-existent officially in the authorized approach to domestic violence by police at large (not necessarily reflected however by the interviewees), and as also confirmed in the literature reviewed. This status appears strongly to be a fact potentially if not readily extendable to police in many locations and circumstances, but is not a blanket finding of accountability.

A core purpose of this survey was to discover and document the backgrounds, rationales, circumstances and working orders behind interviewees’ arrest or non-arrest for assaultive domestic violence. The permeation of the non-arrest in the referenced domestic violence investigations is shown to be indisputable, based on the survey responses. The ultimate impacts, as well, of the non-arrest are profoundly consequential to victims, also to perpetrators and beyond, and are as profoundly unprocessed. This borders closely on official non-recognition of domestic violence assault, based on the survey responses. Again the data reflects facts and officer judgments not fault nor is fault assessed or implied.

The objectives of the survey have not been to systematically or extensively critique police, and are not to suggest that panaceas are available to officers responding to immeasurably complex and traumatized domestic violence incidents. The results of the survey and its analysis, inextricably became a replete source of insights, conclusions and tentative recommendations. These results arose, not only from the limited but also profound qualitative data, it also arose from the interviewees’ forthcoming authenticity. Numerous summary themes are revealed by the Content Analysis. They are referenced here in brief form, due also to having been explored in the Content Analysis section, as derived from the Findings, so that their import will not be diminished.
1. The prevalence of abusive, and in particular for present purposes, assaultive language is interwoven with the overall pattern, trauma and devastation of domestic violence to an inseparable and critical extent.

Henning (2003) and Dutton (2007) underscore the pervasive co-occurrence and repetitiveness of abusive and assaultive language with physically violent domestic violence consistent with the interviewees’ extensive confirmation of the same. The reach of these studies (and others cited in the literature review) show that battered women victims, virtually without exception, report this co-occurrence and consider it perversely consequential to their lives. The non-recognition even if unintentional, but more significantly, the non-processing of assaultive domestic violence as authorized by law (subject to understandable police and prosecutorial discretion) merits urgently in-depth review and change across jurisdictions. The current status, therefore, clearly seems chronically and acutely damaging beyond victims and perpetrators, extending externally to society’s responsibility to address and process the total sweep of the destructive impacts of domestic violence. The question is not simply one of lapses or omissions in police performance, but of re-examination of their approach to a gravely difficult proliferation, to which they attest, of assaultive as well as physical domestic violence. They are best equipped initially with the expertise, and it is believed, the on-going re-education potential of attitudes and processes to achieve needed results. Consultations and trainings of their choice with external sources are profusely prepared to assist them.

2. Essentially minimal to no processing of assaultive (as well as abusive) language occurs in the domestic violence criminal law process, almost always officially considered by law enforcement as non-domestic violence, whether for understandable or non-understandable reasons. Interviewees stated almost to a person that they are neither trained nor required
specifically to ascertain let alone document abusive or assaultive language as part of domestic violence investigations.

The non-processing of assaultive domestic violence, whether for reasons of police policy, protocol, practice or training, is fully consistent with Burke (2007), reflecting upon the dominant traditional but invalidated mind-set amongst police and wider that domestic violence incidents were stand-alone even one-time happenings. Further, this mind-set held that the incident was to be comprehended and processed as strictly physical, not abusive or assaultive language-based, by law and operationally. This approach as revealed by the research as well as police incident-based experience defies the reality revealed in the survey and suppresses changed approaches. Victims continually report to the interviewees, consistent with the literature, the nearly inseparable co-occurrence of assaultive domestic violence meaning in their view the traumatizing, demeaning and indelibly damaging language in concert with the physical violence. Such descriptions and impacts comport with the studies by Sacett (1999), regarding the acute co-occurrence of assaults with the domestic violence battery, as further aptly proposed by Tetlow (2016) as crimes of “torture.”

3. No particularized rationale for this non-processing is discernable, rather a variety of acknowledged and at least semi-justifiable but officially unrecognized rationales exist, including, but not limited to the following: (1) operational protocols and policies which entail non-prioritization of assault-based domestic violence; (2) the heavy caseloads of physical domestic violence, before extending to assault-based domestic violence; (3) the near-complete absence of training which recognizes the clear provisions of the statute (Nevada Revised Statues, 33.018) deeming assault as domestic violence; (4) a decades-old ingrained practice, perpetuated for reasons considered necessary (and may be) by command staff, of simply regarding assault as a
secondary context of domestic violence but not actually domestic violence; and (5) the real and frequent infeasibility of establishing probable cause and evidence for an assault-based domestic violence charge.

Police response generally to domestic violence including the inevitable constancy of assault was disturbingly described by Stephens (1999). Beyond police policy, protocol, practice and training, police in New York blamed female victims, favoring male perpetrators. In so doing, they invoked inexplicable discretion to not arrest, perceived they were thus saving marriages, excused the incident due to intoxication, and interposed racial and social class biases. Further police conduct included being seemingly more concerned with officer safety than victim safety, all amounting to a low prioritization of domestic violence investigations. These elements traditionally and realistically also currently based on the literature and the interviews, are perhaps alarmingly widespread, explaining not only the non-processing incidence of physical domestic violence, but the more so of assaultive domestic violence. It is darkly evident that some police (with no intent to include the present interviewees), given these attributes, would never choose to process or recognize assaultive domestic violence. Any aspiration of obtaining processing of such cases leading to arrests and prevention would be futile under such scenarios.

An auspiciously progressive approach, Stark (2012), would be to train officers that domestic violence inclusive of assault is comprehensively more than an isolated incident, rather an ingrained pattern of “coercive control,” as the literature so broadly supports. This control is revealed incessantly in the fear, deprivation, emotional stripping, sexual degradation, and the litany of abuses that attend domestic violence assaults. Police need awareness and training in the necessity of encompassing the entirety of domestic violence incidents (which are so often repeated leading to critically cumulative evidence especially of assaults). Such inclusions can
cover overall habitation, family, employment, relationships and other circumstances, in other words, the context of violence, not just its surface-level enactment. Assaultive language would, as seen in Stark, emerge as a prime descriptor of the incidents. In itself it would justify arrest, cutting to the core issue of the oppressive debilitation of victims—that is control of their very lives and thoughts.

4. Supportive of this approach is Wiener (2017), demonstrating in England that substantial progress in police attitudes and responses occurred where “coercive control” policy, protocol and practices were adopted, which recognized the reality of the dynamics confronting domestic violence victims continuously. Under this approach, police including the present interviewees based on their responses, were accommodative of, even re-invested in, new methodological and investigatory processing of physical and assaultive domestic violence. Police perceived such processing as offering prevention rather than reaction alone. Thus, these components of change in police attitudes and actions demonstrate that the law permitting arrest for domestic violence assault is, within reasonable constraints, optimistically enforceable and preventive, as the interviewees concur.

5. The interviewees are willing to arrest for assaultive domestic violence, but the above-referenced endemic constraints firmly if not entirely preclude doing so. They know that such a charge, either standing alone or in combination with a charge of physical domestic violence, will effectively go nowhere within their departments, or if so would never survive prosecutors’ discretion. Indeed, officers arresting for assault would very possibly be critiqued or warned, perhaps disciplined if they continued to do so.

The research, as referenced in the literature review, together with interviewees’ experiences, persuasively display the factual and psychological lethality of assaultive domestic
violence, alone or in combination with physical domestic violence, and consequently the rationale of arrest (and ultimately prosecution) for domestic violence. Henning (2003). Victims report through the interviewees and otherwise being equally fearful of and impacted by assaultive language and sometimes more so as by the contemporaneous physical violence. Police comprehension of the research in infinite extent may not be required, because the interviewees, and presumptively police more broadly, routinely report the equal if not the augmented impact of assaultive language. Also again Sackett (1999). Common experience seems readily confirmative of these implications regarding these searing and cumulative impacts of abusive and assaultive language attendant to domestic violence.

6. Interviewees’ experiences at the scenes of domestic violence leave no doubt in their minds that abusive, and certainly as well assaultive language is gravely a part of domestic violence, to the extent of often believing it to be worse in emotional impact and duration than the physical violence. They are keenly interested in preventing not just arresting for domestic violence in all its forms.

Officers including the interviewees hear abusive and assaultive language or are told about it by witnessing children, extended family, friends, neighbors and other witnesses pursuant to domestic violence investigation after investigation. Numerous interviewees cited such language’s corrosive, chilling and enduring effects upon relationships, upon children and upon specific domestic violence incidents. To repeat the oft-repeated fact, abusive/assaultive language is inseparable from the physical violence, whether preceding contemporaneously or following the incident. Numerous of the interviewees would arrest for the assaultive language if they deem it a sustainable charge, but are under no policy, protocol or practice to do so, as above noted. As a result there are no established or even cognizable ways whether or not
justified to assess or process assaultive domestic violence, despite its chronic and acute interface within the overall context of domestic violence. Robertson (2006).

7. If assaultive language, and to whatever achievable extent abusive and assaultive language, could be processed within the scope of investigations and arrests for physical domestic violence, now largely excluded from the investigative reports, officers think that it could deter future incidents. They are closely aware of the oft-repeated sequence of domestic violence, and sense that such reports could cumulatively form the basis as a matter of evidence and arrest discretion to directly arrest for assault-based domestic violence, standing alone or in combination with the physical violence. If not successful in promoting arrests, such reports could at least re-affirm lagging confidence of victims in police.

These intense responses reflect, Stewart (2013), conclusively that officers don’t react responsively to the assaults, because they are neither explicitly nor implicitly authorized to do so nor trained to do so. As seen above, this protocol, policy and practice results in profoundly disturbing degree from the viewpoint, not only within law enforcement, that domestic violence is a stand-alone (even if a concededly repeated) physical incident. This viewpoint is a profusely discredited viewpoint in the literature and by the interviewees, if not more broadly. This serious misjudgment, Stewart (2013) again, created immense inertia in female victims to report their victimization, whether assaultive or physical, to trust police responses, and to have faith that anything beneficial would be achieved thereby, often quite the contrary, they feared. Also Johnson (2007).

Stephens (2007) found further that the extent of police attentiveness and helpfulness directly corresponds to the success of prosecuting the case, such as victim-witness cooperation. As a result, the response of police to physical domestic violence, as well as assaultive domestic
violence, directly effects the success of the arrest and prosecution for the assault, which becomes a self-fulfilling success. The assaultive domestic violence thus integrates fully into the total domestic violence investigation and follow-up, not merely adjunct to it, if integrated at all.

8. Interviewees’ personal experiences with family domestic violence in childhood or in present relationships amongst family and friends has lastingly and deeply affected their perceptions of the gravity of domestic violence, in numbers that tend based on this limited sampling to reflect the prevalence of domestic violence in other populations. If police were to more fully be trained in comprehensive dynamics of assaultive domestic violence, and be supervised and authorized in the field consistently with such training, they would be aware that: (1) domestic violence occurs unavoidably within a variable context including failed abusive/assaultive language between victims and perpetrators; and (2) the failure is complicated by the dominant power and control patter. Aggressively more so does such language occur attendant to domestic violence incidents. To overlook, indeed to intentionally omit investigation of the assault, which occur before, during and after domestic violence, defies what is known experientially and research-based regarding domestic violence. An advanced, constructive statute such as Nevada’s expressly permitting arrest and prosecution for assaultive domestic violence if enforced is tragically counter to what is un-attained by police responses to domestic violence, as interviewees support. Ignoring the criminal-level language deficits of perpetrators, in particular, as integral to the domestic violence syndrome (not to overlook victims’ communication deficits), disregards the severity and constancy of assaultive domestic violence. Such a disregard subverts effective ways to address and process assaultive domestic violence via law enforcement, social and economic responses, and rehabilitation for victims and perpetrators, as suggested by Robertson (2006) and Trujillo (2008).
Domestic violence perpetrators are firmly known to be ineffective, indeed obtuse and violent communicators. To be fair, victims too often very poorly communicate (bearing in mind that perpetrators communicate as aggressors and victims as defenders). Under the intense stresses and escalations of a domestic violence incident both perpetrators and victims may communicate confrontationally, but one ruthlessly subjects and the other defeatedly submits. The point not to be lost is that perpetrators, although agitated by victims, inexorably verbally attack, employing abusive and assaultive language as an indispensable weapon of the physical attack with equal or greater devastation. Feldman (2000), Cordova (1993) and Whitchurch (1993). Perpetrators’ weaponized communication may not be neutralized by victims’ attempted calming. Paradoxically, such attempts may intensify the perpetrators’ verbal and physical attacks. Cornelius (2010) and Jacobson (1994).

9. Intercepted electronic assaultive communication, not traditionally core parts of domestic violence investigations are nevertheless pervasively present in domestic violence, as in life overall it would seem. Such investigations could clearly lead ultimately to arrest and prosecution, if not for assault, then for physical domestic violence (due to legal definitional issues above referenced, or to related charges, such as stalking). Such arrests could facilitate to a greater extent appropriate sentencing, and more importantly rehabilitation for perpetrators and protection for victims, as a following newly perfected investigative and evidentiary and processing protocol, policy and practice for police. It can be anticipated that electronic media messages of abusive content ranging from e-mails and texts to social media will increasingly, perhaps exponentially, be central to domestic violence incidents and may be by definition verbal abuse or assault. The nearly universal dispersal of electronic devices will only become diverse and sophisticated, and the use of them in domestic violence before, during and after the
incidents is readily assumable and supported by interviewees’ reports. These forecasts are confirmed by Dimond (2011) and Woodlock (2017).

10. The substantial degree of uniformity of the responses, as well as the demographics of the interviewees, confirm the validity of their responses individually, as a group, and potentially beyond to other police. While no broadly-based conclusions can be derived from the small sampling, the foregoing conclusions seem to reflect widespread feelings, insights, experiences, summations and recommendations of officers, and of their colleagues, interviewees say.

LIMITATIONS AND FURTHER RESEARCH

The nature of the survey instrument for this research inherently entailed cautionary limitations:

1. The sample size and randomness of 15 officers, although representing qualitatively significant responses, cannot be claimed to be conclusively or quantitatively representative. Clearly, a larger and more random sample based on a more narrow and refined survey of the core themes would productively extrapolate further issues and conclusions and expand upon existing ones.

2. It is unclear whether officers distinguish between assault in arrest versus non-arrest contexts. That is to say, do they seriously consider assault-based arrest or for a variety of reasons reject it as an infeasible approach regardless of the presence or absence of physical violence.

3. The diversity of the sample, although unavoidable for this survey, was obviously lacking in gender and ethnic extent. A more diverse sample could, although not necessarily
anticipated, disclose different responses regarding the core themes. Thus again research with
greater diversity whether qualitatively or quantitatively would be potentially revealing.

4. Exploration of the relationship between the intensity of the physical violence and the
reaction of officers to the assaultive language would possibly further inform regarding officers’
decisions of arrest or non-arrest for assault standing alone or in combination with the battery.

5. Further research is needed regarding the separation between officers’ personal
feelings about domestic violence including assaultive domestic violence, on the one hand,
versus their contexts of policy, protocol, practice, training and culture which they must adhere
to in whole or in part.

6. The scope, results and implications of the study exhibit further more specific and
perhaps profound limitations, including the following which the study does not and could not
comprehend or indicate:

(a) Officers investigate domestic violence incidents during or immediately after the heat
of such incidents, meaning they are assessing numerous matters of evidence under stress,
including physical evidence of injury, victims’ and perpetrators’ words and actions, any witness
statements, and as of recently anybody-camera evidence. Ultimately a decision must be made
to charge or not charge one of the parties. Adding a requirement that they must determine
whether probable cause for domestic violence by assault, based on what might be largely
hearsay evidence, along with or independent of domestic violence by battery, conceivably
would complicate their decision-making to an unreasonable point. For these reasons, although
assault-based arrests are essentially non-existent, it may be too readily assumed that domestic
violence by assault is not a part of policy, protocol or practice. The conclusion does not
unavoidably follow, therefore, that assault is not considered in any respect, rather that it is
simply not feasible under the immediacy facing officers at the scene or evidentially, when the
decision (for them, not necessarily for prosecutors thereafter) to arrest for assault and/or
battery must be made.

(b) It is apparent that officers aren’t fully trained, if at all, regarding the availability of
arrest for and processing of assaultive domestic violence as a matter of law, very possibly for the
reasons outlined in item (a) above. Such training implicates a broader view of domestic violence
from an operational as well as cultural point of view. Both points of view pose high hurdles
potentially, for reasons set forth numerous times herein, and constitute matters ultimately
within the confines of higher command, not patrol officers. Responses to domestic violence
incidents, including the real-time investigations, have improved exponentially over recent years,
due to updated laws as well as some improvements in policy, protocol and practice. However, it
may defy reasonableness to expect that the rapidity of change should now commonly include
frequent or simply more numerous arrests based on domestic violence assault, even though
officers fully know that assault occurs endemically and injuriously with or independently of the
batteries. It is as if they need release and approval from superiors and prosecutors to arrest for
domestic violence assaults, in order as they well realize to confront domestic violence’s
proliferation and threat. The interviews indicate in some instances that they are awaiting just
that.

RECOMMENDATIONS

The province of this paper is not, nor could be, to assume the role of law enforcement in
formulating and implementing policies, protocols, practices, training or rationales for processing
assault-based domestic violence. That would be an invading their prerogatives and expertise.
Even so, the survey responses and analysis including notably the analysis offered by
interviewees themselves, provide either clear or logically inferential recommendations meriting consideration, as follows:

1. If assault-based domestic violence is to receive the level of concern and action it deserves, even if not ultimately resulting in arrests and prosecutions, training regarding it is urgently necessary. This course should be followed by some level of more appropriate changes in policy, protocol and practice. This training would include: (1) instruction on the law; (2) the integral nature of abusive and assaultive language to the physical violence; (3) dealing with abusive and assaultive language and its affects at the scene; (4) discovering and preserving evidence including electronic evidence of abusive and assaultive language (either for charging assault or to document the overall domestic violence case and its likely repetition); and (5) assisting in development of new effective investigative and processing approaches to assault-based domestic violence.

2. New and under-utilized evidentiary methods exist which would materially assist in processing assault-based domestic violence. Cell phone recordings, long potentially available by victims in particular, and perhaps by witnesses including children, are substantially under-accessed, and distinctly under-accessed and under-used in such matters. Within recent months of this paper, mandatory body camera deployment to the departments in which all interviewees are employed are actively in use. Interviewees spontaneously indicated that the potential of capturing both video and audio evidence of assaultive as well as abusive language at the scene is now immeasurably enhanced. Such language is more likely to still be in use upon officers’ arrival, as compared to the physical violence, which obviously abates or disappears once officers arrive.
3. As a matter of policy, police command levels along with prosecutors, might give consideration to charging domestic violence assault, or even more viably simple assault or battery (non-domestic violence assault or battery), to the exclusion of domestic violence battery, especially in questionable-proof cases of the domestic violence battery. This approach, possibly extending to dropping domestic violence battery charges considerably in advance of trial, could encourage victims to remain available to testify, thus firming up prosecutors’ cases which now must frequently be dismissed due to the non-availability of victim witnesses (who are nearly always the mandatory witnesses). For victims, this reasoning entails the fact that they may face less future physical and verbal violence, less financial vulnerability, and other severe stresses for them and the children arising from disruption of the victim/perpetrator relationship than if the perpetrator is convicted of or pleads to domestic violence battery. Clearly, this approach is not a total solution for victims. The reasoning for perpetrators follows similar lines, in that they may well be more amenable to pleading to simple assault or battery, because it is substantially less impactful in terms of criminal records, and in terms of direct and indirect financial, counseling and other sentencing than those attendant to domestic violence battery charges. The sentencing could case-by-case and by agreement of prosecution and defense still include at least some of the rehabilitative features of domestic violence sentencing. Thus a win-win from several perspectives might be achieved, in lieu of the current defeatist cycle of either no assault-based charges at all or dismissal of domestic violence battery charges entirely (always inclusive of abusive or assaultive language even if not charged), and consequently devoid of beneficial results for anyone involved including society at large. An alternative to this approach is to substitute a charge of disturbing the peace, as an affirmative approach, not simply as a weakened fallback, as is now prevalently done when victim witnesses
It would seem that they would significantly less often fail to appear under this approach.

4. Any approach which deals pro-actively with the domestic violence charges, either the assault or the battery, or both, up to and including an aggressive plea-bargaining approach by prosecution long before it knows its witnesses may fail to appear could persuade defendants to undergo rehabilitative measures such as counseling. These are core ameliorative and preventive reliefs to the domestic violence repetitive pattern. These approaches could prove again vastly more successful for all involved, notably victims, while also avoiding some of the acutely inhibitive outcomes for defendants. Caseloads, protocols, practices and policies, as well as inertia understandably afflict prosecutors too, but they might well discover that new approaches are, in fact, far more facile and effective than the present markedly ineffective approach. Police appear substantially favorable to this and other preventive approaches, being deeply frustrated by the tragic treadmill of both assaultive and physical domestic violence.

5. Prosecutors and command level staff should within their expertise and perspective, consider intensively collaborative interaction with officers who routinely respond to domestic violence scenes, whereas, based on the survey responses this seems incompletely done now even informally. As set forth above, responding officers have valuable insights and suggestions to offer regarding assaultive domestic violence, including many with clear merit. If prevention of the alarming incidence of domestic violence is the objective, such an undertaking should assume high priority it would seem. This is additionally pertinent because command staff does routinely employ such approaches in numerous other matters, which obviously they must and do. Such approaches are at the core of innovative managerial practices in virtually every profession as is well known. One of its benefits in addition to directly productive solutions and
enhanced attitudes, is its consistent benefit-to-effort ratio if done routinely instead of ad hoc or rarely.

6. Arrest and prosecution protocols to follow for assault-based and domestic violence battery could realistically begin with jointly charging the assault with the battery, where feasible. Such a practice strengthens the case for both charges, and at a minimum provides plea bargaining space as is commonly, effectively and justifiably done in numerous other kinds of criminal cases. If there is hesitancy now to charge assault at all in domestic violence cases, joining an assault charge with the battery charge would at least tend to establish a viable arrest and prosecutorial protocol and practice regarding assault, to accompany the advantages and processes previously discussed. Officers would know to look for and preserve evidence of assault, victims and other witnesses would be encouraged to testify about it, and perpetrators would know that it could quite potentially be utilized against them (which among other results might discourage its use in the first place, and possibly diminish the severity of the battery as well as the repetition of both).

7. Fundamentally, policies, protocols, practices and training must begin to require officers, as they themselves recognize, to look for, document and report assaultive language, whether as a basis for charges or simply to preserve the record for and responses to the inevitable reoccurrence of domestic violence between the same parties. This as interviewees note would enhance capacities to viably arrest and prosecute in these subsequent cases due to the cumulative evidence, if not for purposes of the current case then for understanding the dynamics and conduct of the violent relationships, which may otherwise never be revealed and certainly therefore never resolved. For example, based on the documented assaultive language, an evaluative but not necessarily quantitative scale-assessment might be developed, where
arrest does not occur, but to determine the language’s severity, and thus as an indicator of issues such as reoccurrence, injuriousness, lethality, and indirect but crucial outcomes (such as financially, inter-family, mental-health related, and socially). Referrals for services now done sometimes vaguely could be more pertinently beneficial.

8. In the missing-the-obvious category, law enforcement must imperatively find, whether the outcome be positive or negative productive or non-productive, instead of just anecdotally or supposedly, let alone completely inaccurately, why arrests for assault are neither contemplated nor pursued. As seen above the known or at least, voiced reasons, and not necessarily to be discounted, are absence of policy, protocol, practice or training. It strongly appears that neither rational, lawful nor pragmatic reasons are adequately researched or may be comprehended. This research and comprehension could extraordinarily confirm, partially confirm or not confirm the present situation, leading to an informed, strategized and hugely enhanced approach, as above repeatedly described, in place of non-comprehension and disregard.

9. The pronounced incidence of domestic violence occurrence to interviewees or to their families and friends past and present has been noted as indeed remarkable, and may also be of no small importance, thus meriting further study. To begin with, however, its importance is essentially indeterminate. Substantive questions arise, however, which may be unresolved: (1) did these officers volunteer or, on the other hand, resist domestic violence assignments due to their personal experiences; (2) do they react to and investigate markedly differently at the scene and afterwards than officers lacking such experience; (3) are they intrinsically more or less sympathetic toward victims, or to perpetrators, due to such experience; (4) does their personal experience provide added insight into the longer-term dynamics, as well as to the immediacy of
domestic violence; (5) have these officers resolved their domestic violence experience, if needed (which may be disturbingly relived when they respond to domestic violence scenes implicating their individual capacities), through counseling or otherwise, and do they realize whatever absence of resolution may persist; and (6) finally, most pertinent to this study, do they comprehend the impacts of assaultive language in ways which exceed, positively or negatively, those without such experience?

In the context of this survey it may be significant to recall that: (1) the interviewees were all male except for one; (2) they were almost entirely within the 30’s and 40’s age span; (3) they were almost entirely White or Caucasian; (4) numerous ones were active or church-attending Christians, mostly in independent protestant churches; (5) a number, perhaps beyond normal expectations, had military or military-like previous careers; and (6) they were almost entirely politically conservative. Based on the methodology employed and the interviewees’ responses, insufficient reason exists to think that a dissimilar cross-section could have been achieved even if prescribed in advance, within these three departments, and it may not be unfairly surmised that such a sample could be widely applicable. Similarly, the following is also revealed: (1) interviewees’ domestic violence investigations nearly totally involve females as victims; (2) the victims and perpetrators frequently include other ethnicities; (3) victims and perpetrators unlike officers come from a cross-section of social, economic, religious and political viewpoints; and (4) victims and perpetrators are generally 10 to 20 years younger than the interviewees, with vastly different economic and social backgrounds. These facts do not indicate anything other than genuinely well-intended and competent efforts by officers investigating domestic violence. Indeed, it may perhaps be entirely reasonable to conclude that the interviewees’ backgrounds and demographics (extending perhaps to officers elsewhere), in fact,
augments their responses to and investigations of domestic violence. It is essential to note, however, that these facts do unavoidably touch on issues of implicit bias, which, under the best of conditions, affects, not only police officers, but also attorneys, witnesses, judges, and essentially everyone, which research too broadly-based and well-accepted to necessitate reciting here clearly shows, and is beyond the scope of this paper. Ongoing internal examination and education regarding any such biases in these departments may be warranted, as has been shown to apply broadly to other organizations.

CONCLUSIONS

The survey responses and the analysis of them have revealed core themes of potentially genuine importance for police and beyond by implication for prosecutors, courts, victim advocates, and both victim and perpetrator counselors. The need, affirmatively even aggressively, to recognize and address police response to domestic violence assault seems clear even from this limited study. To conclude otherwise risks consequential neglect of the roles, capacities and needs of all players. Recommendations have been formulated incorporating both aspirational and pragmatic approaches for police. Follow-up studies, as above suggested, as well as the recommendations, will serve significant specific purposes within the myriad complexities facing police in arrest or non-arrest decisions for domestic violence assault.
BIBLIOGRAPHY


APPENDIX “A”

Survey Instrument

1. Describe your position, experience and training in domestic violence matters. Now please also include your age, educational level, ethnicity, marital status and if you have children.

2. How would you describe domestic violence, along the following lines?
   a. When does it occur?
   b. Where does it occur?
   c. Who is involved?
   d. How does it occur?
   e. Why does it occur?

3. How often does abusive language occur in connection with domestic violence?
   a. If it occurs, does it take place before, during, and continuingly after the physical violence?

5. In what ways could it add or not add to the severity and perhaps continuation of domestic violence?

As an introduction to the following questions, under Nevada Revised Statutes (NRS), Section 200.471 1 (a)(1), assault is defined as: “Intentionally placing another person in reasonable apprehension of immediate bodily harm. NRS 33.018 1 (b) includes “assault” in the definitions of domestic violence. For the following questions please recall the assumption that a person who places another person in fear of immediate physical harm commits an assault, under Nevada criminal law, even if no physical harm takes place:
6. Recalling our assumption, what do you think about whether abusive language may constitute an assault as domestic violence? How could it be possible, if at all, that assaultive language, alone or in combination with physical violence, may be domestic violence under the law?

7. Recalling our assumption, whether or not you think assaultive language is domestic violence, can you describe specifically some of the abusive language you have heard, or heard of from others, in connection with incidents of physical domestic violence, or perhaps such language standing alone, along the following lines:
   
a. Describe any abusive/assaultive language during or after physical attack or threatening physical attack, and whether it was included in the incident report.
   
b. Describe whether such language was belittling, frightening, controlling, had some other effect, or all or none of those. Have you heard of situations of abusive/assaultive language that did not produce fear?
   
c. Describe whether children heard any abusive language, placing victims in immediate fear of attack, and whether you observed or asked them about the effects.
   
d. How often did abusive or assaultive language occur in connection with physical domestic violence in the last six to eight cases you have investigated?
   
e. Does abusive/assaultive language occur, standing alone without physical violence, in cases you have investigated in the last year, and if so, in how many cases?
   
f. Did verbal abuse by the victim seem to initiate, worsen, lessen or explain the physical domestic violence?

8. Recalling our assumption, how does the department respond to incidents of verbal abuse without an allegation of physical domestic violence?
9. Recalling our assumption, why doesn’t verbal abuse, assuming it may be an assault, lead to arrest (which seems conceivable under the statute NRS 33.0118), either as a single offense or in combination with the physical attack?

10. Recalling our assumption, do you think verbal assault should be prosecuted separately or in combination with physical domestic violence, as an assault? If so, what, if anything, do you think should be done to accomplish more such arrests?

11. Recalling our assumption, if there is an absence of prosecution of verbal assault, is it a question of priorities, tradition, policy or protocol, opinion or something else?

12. Recalling our assumption, has the possibility of arrest and prosecution based on verbal assault ever been discussed at a serious level by command or amongst fellow officers or with the City Attorney’s office?

13. Recalling our assumption, is there a formal or informal policy or protocol about responding to or processing cases of verbal assault?

14. Leaving aside extensive details, and declining to answer if you wish, have you known about, or perhaps been involved with, domestic violence among family or friends? What very briefly was the nature of it? Any details will remain completely anonymous.

15. Have you experienced or heard about messages through social media (Facebook, texts or email, etc.) rising to the level of an assault?
   a. If so, please briefly describe how this occurs.
   b. If so, how often does this occur, in your experience?

16. Finally, some general information:
   a. How long have you lived in Reno/Sparks, or where were you originally from?
   b. How long have you been a police officer, and what, if any, other careers have you had?
c. Are you a member of a church, and if so, do you actively attend and participate?

d. What, if any, is your political affiliation?

e. What kinds of training (on-the-job or in classes) have you received in knowing about and processing domestic violence cases?
APPENDIX “B”

Full Findings
(Omitting Questions 1 and 16 to preserve interviewee confidential information)

Question Two. How would you describe domestic violence, along the following lines?

a. When does it occur?

During drug and alcohol use, but not as the cause. Financial disputes, including excess spending by one of the persons. Conversational altercations. Escalating arguments. Stressed relationships. Job losses. One person starts a conflict with the other. One person, usually the male, stays out excessively late. Failure to share household duties. Infidelity. Pressures from relatives. Power and control issues, including mental, verbal and physical efforts by the female to escape the power and control. When the dominant male reaches a tipping point, possibly arising from anger and resistance from the dominated female. Unwanted, perhaps violent, physical contact, following heated arguments. Socialization, meaning upbringing and social environments which tolerate or condone domestic violence. A routine of domestic violence by the perpetrator and the victim. Conflicts over children, often including mixed families. End-of-relationship dynamics, resulting in domestic violence.

b. Where does it occur?

Homes. Vehicles, increasingly so. Workplaces, more so if the parties work in the same place. In outdoor and indoor public places. Anywhere.

c. Who is involved?

Mostly husbands and wives or boyfriends and girlfriends. Extended family. Intimate partners. Co-habitants. Parents and teenagers. Gay and Lesbian partners. Children who are present, sometimes also abused and sometimes even required to translate the abusive language between perpetrator and victim. Significant others. Ninety-five percent of victims and
perpetrators are from low income areas. Numerous female bread-winners remain with abusive husbands or boyfriends, who serve as babysitters.

**d. How does it occur?**

Arguments, pushing, shoving, hitting, breaking items. Drunkenness, drug highs. Calls to police from victims during the verbal abuse stage, which often results in physical violence, usually by the male, who may then leave the scene before police arrive. A neighbor calls police about a domestic disturbance taking place. Begins with arguments, possibly verbally abusive, escalating to physical violence, usually by the male, to which the victim responds verbally and perhaps, but not typically, physically, resulting in further escalating verbal and physical violence by the male perpetrator. One person attempts to inspect or forcibly remove the cell phone of the other, suspecting cheating. Control issues asserted by the perpetrator, usually the male. Refusal to communicate by one person or the other, which provokes the other. Escalating efforts by the perpetrator, usually the male, to restrain and confine the victim, resulting in blows by hands or feet to and possibly choking of the victim. Lack by both persons of non-violent ways, either verbally or physically, to resolve disputes, which results in escalated disputes. Begins with disputes over small things, but escalates by the male perpetrator to keep the victim in her place. Begins with shoving and grabbing, sometimes resulting in greater violence. Pushing and shoving, then punching, strangulation, kicking and dragging. Verbal and physical threats. Begins with some kind of control issue, followed by threats, mental warfare, and then physical attacks. Physical violence followed by use of firearms and knives. Jealousy, insecurity, problematic relationships, and deeply-held feelings of anger. The dominant partner is unsatisfied with results of discussions, which results in arguments and escalation.
e. Why does it occur?

Relationship problems and infidelity. Financial problems. Verbal abuse and assault both before and after physical violence. Joblessness, especially by the male, even homelessness. Escalation of disputes and verbal abuse into physical violence. Submission by victim due to verbal abuse, resulting in physical abuse. Lack of communication, resulting in suspicion of cheating and other volatile behaviors. Dominance and control issues, with a having-to-win attitude, and no other tools with which to relate and resolve. Power and control issues, resulting in verbal and physical efforts to get the victim back in line, as it was put. Toleration of, and submission by the victim to, the abuse, both verbal and physical. A long-term pattern of conduct by both perpetrator and victim. Aggravated level of alcohol and drug abuse. Comprehensive stresses. Wives who are substantially more educated than the husband, resulting in efforts by husband to submit wife. Use of force, usually by the male, to exert control, and to convince the victim not to follow through as a witness. A lifestyle of dominance by the perpetrator. Attempts by the victim to leave, either the scene or the relationship all together, resulting in verbal and physical efforts by the perpetrator to prevent it, including violence, confiscation of cell phones and car keys, and forcible retention of children, all of which may provoke physical and verbal defense and offense by the victim, leading to further escalation. A learned behavior by the perpetrator, a decline in family values, including marital fidelity.
Question Three. How often does abusive language occur in connection with domestic violence?


a. If it occurs, does it take place before, during, and also continually after the physical violence?

Occurs from start to finish, and only ends upon forced separation by the police. At all times during the domestic violence incident. It occurs constantly during the incident and escalates into extreme verbal violence accompanying the physical violence. Occurs at all stages of the incident, but in some cases, after the physical violence and resulting intimidation, the perpetrator may apologize, even if insincerely, to persuade the victim not to report the incident. The abusive and assaultive language may often be worse than the physical violence for the female victim, due to the emotional damage. It occurs at all stages of the incident, breaking down the victim emotionally and physically, leading to the physical violence. Both parties may escalate the abusive language, which in turn causes the perpetrator to become increasingly violent, to exert control. Verbal response by the victim may lead to further violence by the perpetrator, whereas submission tends to stop the physical violence, but not always. The verbal abuse may be worse before the physical violence, followed by an apology, whether sincere or not, by the perpetrator, and then the cycle may repeat.
**Question Five (mis-numbered).** In what ways could it (the abusive language) add or not add to the severity and perhaps continuation of the domestic violence?

The tone of the abusive language ignites the argument, and changes the responses of both persons. If one party is provoked by the language, the severity of the dispute, and resulting domestic violence, will increase in severity. The abusive language enflames the argument, and becomes re-active, especially if alcohol and drugs are being used. It definitely worsens the incident, and reveals the intent of the perpetrator to emotionally and physically hurt the victim. It adds to the severity, especially for children who are present and traumatized, and who may conclude that this kind of behavior is normal, resulting in them displaying the same kind of behavior near-term and long-term. The emotional effect of the verbal abuse may be greater for women than the physical, because it lasts forever. It breaks downs the victim, leading to the physical abuse. Victims sometimes report that if they hadn’t used abusive language also, the perpetrator might not have used physical violence. The abusive language causes the victim to become submissive and passive, which brings on the physical violence. The abusive language by the victim, combined with that of the perpetrator, is the catalyst and breaking point for the physical violence. The abusive language adds emphasis and seriousness to the incident, resulting in an elevated level of both verbal and physical violence. The abusive language, in addition to resulting in physical violence, may lead afterwards to harassment, stalking, injury to victims’ pets and personal property, grave physical injury, even murder, or at least a cycle of continuing verbal and physical abuse—there is no such thing as a one-time occurrence. By use of verbal abuse, the perpetrator breaks down the victim’s self-esteem, preventing defensive response by the victim to both verbal and physical abuse.
**Question Six.** Recalling our assumption (the brief restatement of Nevada law pertaining to assault in domestic violence cases, which was provided to the subjects in writing in the survey), what do you think about whether abusive language may constitute an assault as domestic violence? How could it be possible, if at all, that assaultive language, alone or in combination with physical violence, may be domestic violence under the law?

In 99 percent of cases, abusive language occurs long before the physical violence, with threats of violence, not infrequently assaultive, thus inducing fear. Whether the abusive language is an assault under the law depends on the nature of the threats, and the ability to carry out the threat, as the law states.

The law states that assault is an offense. But the issue is whether there is proof of the assault, which is obviously verbal, unlike physical violence where the proof may, for example, be obvious injury to the victim. If there is no injury, how is assault proven? There is a wide scope, a judgment call, by officers on the scene. There is never one instance of domestic violence, so proof of an assault may have to await another instance.

If the victim believes, and experience will clearly tell them, that they are in harm’s way, as the law states, it may be an assault. In only one case have I known the district attorney to proceed on a domestic violence assault without proof also of physical violence. If it’s an assault alone, the practice is to separate the parties for a cooling-off period, but not to arrest the perpetrator. Assault is the basis of arrest under law, but the totality of the circumstances must be taken into consideration. Are there threats of bodily harm, and the means to carry them out, based on previous incidents? The issue is how to prove assault, as contrasted to physical violence.
Victims know whether an assault, as defined by the law, is happening, based on previous incidents, and based on familiar verbal clues from the perpetrator. These clues are threats, serious aggressiveness, and attempted or actual battery.

 Victims realize that certain kinds of threats mean that they’re going to “get it”, meaning battering. Victims realize that if they can’t engage the perpetrator in discussion, the battery will happen, and may anyway. Proving assault is always the problem, because of the usual absence of independent evidence. It’s usually only the victim’s word versus the perpetrator’s. So the practice is no arrests in “verbal only” cases. It’s called a “domestic call”, to make preliminary determinations, resulting in a separation and cooling-off for the parties.

An assault is an imminent credible threat, as the law states, of physical violence. In other words, when the victim feels immediate physical harm is going to happen immediately. As assault is when a threat happens, but how to prove it is the issue. I have never arrested for an assault alone.

It is rare that an assault becomes the basis of arrest, but an assault can occur, even if it is not provable. Both parties may be using abusive, as well as assaultive language, showing how difficult the proof issues can be.

An assault occurs based on the victim’s knowledge of previous incidents, which puts her in fear, based on gestures of the perpetrator, and increasingly more abusive behaviors by the perpetrator over time. Assault is hard to prove, but can be, such as by witnesses, admissions and recordings on cell phone which victims can sometimes achieve.

Yes, assault is theoretically an offense, under the law, for which arrest may occur, but proof issues almost always prevent arrest.
Constant threats become a signal of an attack to victims. Such statements as, “I’m going to beat your ass,” along with a raised fist, are typical threats, which are usually carried out. It is possible that threats of physical violence, as stated in the law, can be an assault, standing alone or in combination with the physical violence.

There is a difference in abuse versus assault. “Abusive assault” alone is not domestic battery. There must be an assault plus a battery. The assault alone is hard to corroborate, due to being hearsay.

Tone and location may determine whether an assault has happened and is provable. Yelling in the face, isolating the victim in a corner, foul and abusive language, without hands-on contact, may be an assault, especially if there is a history of such behavior.

**Question Seven. Recalling our assumption, whether or not you think assaultive language is domestic violence, can you describe specifically some of the abusive language you have heard, or heard of from others, in connection with incidents of physical domestic violence, or perhaps such language standing alone?**

**a. Describe any abusive/assaultive language during or after physical attack or threatening physical attack, and whether it was included in the incident report.**

“You’re going to get a black fucking eye.” “Whore” “Slut” “Little pecker” “I hate your guts.” “I don’t love you.” “I will kill you.” “I will choke you.” “Get the fuck out of here.” “Bitch” “Cunt” “I’ll kill you, I’ll cut your fucking throat.” “I’ll knock your teeth down your throat.” “You fucking piece of crap.” “You fucking bitch.” “Your job is to cook and clean, mine is to earn.” “I’ll fucking kill you.” “If you don’t shut up, I’ll shut you up.” “If you don’t shut up, I will fucking kill you.” “I’m going to beat your ass.” “Why are you making me do this (while beating her).” “I’m going to take everything, and the kids, you’re going to jail.” “Because of your cheating ass, I’m
going to beat your ass so bad that they’re (the supposed co-cheater) is not going to like the looks of it.” “Do you like it (while attacking her), this is your fault.” “Don’t make me beat you in front of the kids.” “If you don’t shut your mouth, I’m going to throw you out of the car.”

“Shithead” “Retard” “I’m going to knock you out, and put my fist in your mouth.” “I can hurt you if I want, do you want me to?” “I’m going to give you two black eyes.” “You’ve got it coming.” “Fuck you.” “I’m going to fuck you up.” “I’m going to hurt your animals.” “I’m going to hurt your kids.” “I’m going to kill you if you get pregnant.” “I will rape you and kill you if you have a kid.” “I will fuck your ass.” “You’re fat and stupid.” “Remember what I did last time.”

“Financially, you’re nothing without me.” “I will call the state and cause your mom to lose assisted living.”

Sometimes the verbal abuse or assault is included in the report, especially if police are onsite while the language is still in use, but otherwise it can be hearsay, and non-useful for prosecution, and as a result not made a part of any report. In a number of cases, but not most, victims are able to record the language, particularly if the attacks are repetitious (which is almost always the case), which would enable officers to include the language in the report.

Some said that officers don’t ask often enough what language was used during the attack (typically officers arrive after the physical attack and often after the intensive stage of the language). Victims may often be too upset to recall precisely what language was used, and the more so as emotions augment after repeated attacks. Paraphrases of the language are frequently the best that can be reported, if any at all can be reported. If victims or perpetrators report any of the language, it may, but frequently will not, be quoted directly in the report.

Other officers include the language in the report, due to considering it a part of the probable cause for arrest. Officers said that defendants, not surprisingly, do not recall what was said at
the time of the incident. Some officers, but not most, report that they always include the language in the report if they can ascertain what the language was. The parties may not recall the language, perhaps intentionally not recalling it to help avoid further police involvement, they think.

\[ \textit{b. Describe whether such language was belittling, frightening, controlling, had some other effect, or all or none of those. Have you heard of situations [when] abusive/assaultive language did not produce fear?} \]

It is all three, particularly controlling victims’ finances, contacts and communication. If the language is repeated many times, it’s not as scary until it is accompanied by physical violence. It is all three, and sometimes veiled but obvious to victims. It is dismissive of victims as persons. Such language causes victims to submit, but is not fearful until physical violence follows. When such language is used, victims should leave at least temporarily, but often they have been isolated by perpetrators and don’t know how to leave or where to go. They are both ashamed and afraid. The language is intended to control victims, and is nearly always fear-inducing. The language belittles victims, and says, “I’m in charge.” Victims may try to stand up to perpetrators, until the physical violence starts. The language is intended to establish dominance, and to tell victims that they have no rights. The language is fear inducing, but the fear subsides after repeated incidents, until the physical violence begins. The abusive language is worse than the physical violence, it mentally destroys victims, even though officers separate the parties, and tell them how to access services. Such language may be commonly used out of anger by both parties to some extent in abusive relationships. The language is intended to break down victims, it produces both financial and physical fear. Victims fear the language may also lead to loss of their kids, and are threatened with that by perpetrators. The language
conveys to victims that they are constantly monitored, being watched. If the perpetrator is under the influence of alcohol or drugs, the verbal, as well as the physical, occurrence may be much more fear-inducing, and even more so if kids are present, or hearing the occurrence from another room. The language remains with victims continuously, affecting their performance at work, as parents and socially, in other words constantly.

c. **Describe whether children heard any abusive language, placing victims in immediate fear of attack, and whether you observed or asked them about the effects.**

Batterers seem not to care if children are exposed to the language, or even to physical violence. The children become very emotional, crying and scared. Depending on the ages of the children, batterers may attempt to involve them in the incident, demanding that they take sides, or, on the contrary, threatening them along with victims. Teens will sometimes secretly call 911, trying to help victims, but then hang-up. Kids become numb over time to such incidents. But they will tell officers what they have heard, the older they are, and the more truthful they try to be or can be. However, they are sometimes suspicious of what officers may do to the family if kids try to intervene, perpetrators may turn against them also. If the kids are out of the room but hearing such incidents, their imaginations of what is happening may be even worse than actually observing, but, tragically, their imaginations may be based on numerous actual observations. If kids observe the verbal or physical abuse, they may cry or scream, which becomes worse after repeated incidents. Kids who observe verbal and physical violence at home, fight verbally and physically at school, and become confrontational. When observing the incidents they become traumatized, crying and hyperventilating. Kids know when verbal and physical violence are about to happen, and try not to be involved unless, when they become older, they may try to prevent such incidents or come to the aid of victims. On the other hand,
kids sometimes become accustomed to the verbal and physical violence, and out of fear, check out of the situation when it occurs and in general. If perpetrators or victims forcibly involve the kids, the kids may yell at both parents, which becomes worse with age.

Kids adapt by becoming immune to the verbal and physical violence, and may start using it themselves, but perpetrators and victims seem for the most part to try not to involve the kids. Male children may resort to hitting girls at school, based on what they have seen at home. Kids are often seen by officers at the scene, even if the kids have been kept out of the room, so they are highly aware of what has happened, usually from repeated incidents. Kids are obviously afraid, even after officers are on the scene, and officers sometimes have to interview the older ones to help determine what has happened. The kids may try, out of fear, to cover for the perpetrators, which may often be their fathers or father figures. Kids don’t want to talk, out of love for or fear of their parents. If kids are forcibly involved in such incidents, arising from the severe controlling nature of perpetrators, the kids may become hopeless about their lives.

Officers see older kids modeling the verbal and physical conduct of their perpetrator fathers or father figures, even when they have primarily overheard, not having actually witnessed, such incidents. Kids overhear such incidents, even when victims and perpetrators think they have not. The adverse effects may occur over many years.

Victims, as well as perpetrators, often have been in the same roles as kids themselves. Kids seem increasingly to be involved in some way in such incidents. They learn to dismiss such situations on the surface but not deeply internally. Officers often have to ask the older kids what has happened, in order to establish probable cause for arrest of the primary aggressor. Kids also learn the language of abuse and assault, and may use it themselves in their relationships. Abusers actually may like to involve kids in such incidents, because it augments
their control of victims, increases the fear of victims, and compounds the level of threats to and abuse of the kids as well. If the children are under 10, the fear can be seen in their faces if they have seen or heard the incidents. About 25 percent of the time they are able to say what happened.

d. How often did abusive or assaultive language occur in connection with physical domestic violence in the last six to eight cases you have investigated?

Always. 100 percent. 99.9 percent. Frequently. Every time. Every time at various levels. 100 percent in combination with physical violence. Most of the time. Over 90 percent.

e. Does abusive/assaultive language occur, standing alone without physical violence, in cases you have investigated in the last year, and if so, in how many cases?

Assaultive language by the perpetrator occurs in every case of physical violence. Assaultive language by the perpetrator does occur alone more and more often, which prompts victims to call 911. Such language occurs 30 percent of the time in cases of physical violence, but more so in felony level domestic violence. Assaultive language is almost always co-occurring with physical violence, but without physical violence, police aren’t called for assaultive language alone. Yes, abusive or assaultive language may occur without physical violence, perhaps lots of times, which is often overheard by neighbors or older children, and causes them to call police. Abusive or assaultive language doesn’t typically result in police processing the case as domestic violence, but such language occurs more than physical violence on about a 60/40 ratio. The abusive or assaultive language doesn’t result in processing a case unless there is or was an immediate threat of physical violence. Such language occurs in the vast majority of domestic violence cases. Cases of such language aren’t investigated without accompanying physical violence. It is a rarity for assaultive language to occur alone without physical violence.
Assaultive language does occur without physical violence, and it has been charged as domestic
domestic violence without physical violence, but it is very rare to do so. Such language always occurs in
combination with physical violence.

**f. Did verbal abuse by the victim seem to initiate, worsen, lessen or explain the physical domestic violence?**

Yes, it worsens the situation, causing the perpetrator to become angrier, like a trigger
which may have become an automatic in the relationship because the language is repeated
from incident to incident. Such language initiates force by the perpetrator, especially if the
perpetrator is on drugs. If the victim and perpetrator are both on drugs or alcohol, when such
language occurs, the perpetrator’s anger is increased. The victim’s language may instigate the
perpetrator’s behavior. Such language by the victim always worsens the situation, it never
diminishes the situation. If the victim demands an answer to questions from the perpetrator,
the situation is escalated, beginning with pushing and shoving by the perpetrator if the victim or
the perpetrator tries to leave, perhaps followed by advanced physical violence. If such language
results in tit-for-tat exchanges, it almost inevitably leads to physical violence by the perpetrator.
In these volatile situations, if the victim says almost anything, the physical violence by the
perpetrator will begin.

The victim may start some initiating language, but the perpetrator’s reaction is far out of
proportion, usually resulting in physical violence, at which time the victim becomes submissive,
all of which has become a customary pattern. Officers don’t often ask if the victim engaged in
initiating language, but it can trigger the perpetrator’s dominance. Victims don’t always initiate
such language, perpetrators more often start the physical violence independently of such
language by the victim. If the victim initiates such language, the perpetrator’s control obsessions may be triggered, resulting in physical violence by the perpetrator.

8. Recalling our assumption, how does the department respond to incidents of verbal abuse without an allegation of physical violence?

Response is always made as a priority one, the parties are then separated, but if no physical violence has occurred, there is no arrest, and a case report is not made. If we are called, it is our duty to respond, even if the victim has called us off for unknown reason. We do respond, even if dispatch has told us it is, so far, only verbal, and even if the abuser has left the scene, and the victim doesn’t want us to come or to make an arrest. If the incident is verbal only, it is not a crime, although we would respond, but would not file a report. Previously, we would file a report if the incident were verbal only, but now we just respond, perhaps to separate the parties, especially if one of them is intoxicated. We might respond better if a previous report had been filed on which to base some conclusions. When we respond we don’t know if verbal or physical violence has occurred, or both. We might go ahead and document the incident to some extent, but no arrest would take place if the incident were verbal only. We may not know if any verbal abuse has arisen to the level of assaultive language. We would only separate the parties if the incident consists of verbal abuse only. We respond daily to verbal abuse incidents, which are sometimes assaultive, but we only separate the parties, and do not file a report.

We respond to determine if physical violence has occurred, but if not, no report is filed. We hardly even know what kind of situation we will find when we respond, especially if the call is for a verbal incident only, so we respond to determine if physical violence has occurred. Abusive language alone is not a crime, and it is not domestic violence even if assaultive language
9. Recalling our assumption, why doesn’t verbal abuse, assuming it may be an assault, lead to arrest (which seems conceivable under the statute NRS 33.018), either as a single offense or in combination with the physical attack?

Language alone may not be a violation, there may be lack of staffing to process a case which is verbal only, and proving the assault may be unreasonably difficult if it is based on hearsay alone (she-said-he-said). If the incident is verbal only, it is considered a family disturbance, in which case we separate the parties, and we may document the incident for use in case of a repeat incident, but we will not process a case. Even if an assault has occurred, it is considered merely normal verbal interaction, and is not considered a crime. Officers aren’t thinking about an assault being a crime, based on issues of proof and their training, but instead are determining whether physical violence has occurred. Assault would not be considered domestic violence, based on interpretation of the law by the department, as provided by the City Attorney, and on officer training and on how to prove the assault. Assault it not considered a case of domestic violence. If the victim feels a threat of immediate physical violence, as the statute states, a crime has occurred, and we should arrest if we have the proof. Both parties may be using abusive or assaultive language.

It is rare for abusive language to become assaultive, and it can be assaultive even if it cannot be proven. We were never trained to arrest for assault only, so the issue hasn’t been thought of before. We are not trained to even look for assault as domestic violence, let alone to arrest for it, which is based in part on difficulty of proof, and simply on a prevailing mindset. After ten years on the force, I have arrested for assault alone, which I consider like a lesser
included offense (under law, an offense which is necessary for the commission of a greater offense). I don’t know why, but arrest for assault is very uncommon, because we aren’t even looking for it, and it’s extra paperwork too, when we’re already burdened with paperwork. Assaultive language alone is not domestic violence. If both parties are engaging in assault, no arrest would be made.

10. Recalling our assumption, do you think verbal assault should be prosecuted separately or in combination with physical domestic violence, as an assault? If so, what, if anything, do you think should be done to accomplish more such arrests?

Yes, if feasible, especially if it would stop the domestic violence then without the usual numerous repeated incidents. The District Attorney needs to be on board. Body cameras, in use beginning in recent days, may allow greater proof of assault, and other aspects of a case, because they will be recording language possibly still being used upon officers’ arrival. We should consider prosecutions for assault, even without the testimony of victims, based on physical evidence, photos, and cell phone recordings by victims, children or neighbors. Cases based on assault will have proof issues, so they won’t be prosecuted (even if arrest is made), even though they should be in a perfect world, because the system is already clogged with cases. Yes, assault cases should be processed more and more, so that consequences can be enforced. The mental injury from assault may be as bad as the physical injury. We aren’t trained how to lawfully make such arrests, and so maybe a change in the law, to make it more clear and enforceable, is needed. Officers need to be educated about assault-based arrests, because the elements of assault are different from those of battery, which is what we are trained to look for.
Certainly, arrest for assault as well as the battery could be made. Arrests for assault alone or in combination with battery should be made as a preventive of future domestic violence. Officers need training from the District Attorney or City Attorney, because the law is subjective, with many different interpretations. Such arrests should be made in a perfect world, if only to prevent future damage to kids and their relationships with parents. Cell phone recordings are being used increasingly by victims, and should always be requested of them, along with 911 recordings which are always made but rarely accessed, and, finally, body cameras are now going to become possibly critical evidence in assault cases. An alternative may be to treat assault as a normal statutory assault, instead of as a domestic violence assault, in which case the perpetrator could be cited instead of arrested, and the victim could be requested to sign the citation as a citizen complainant, helping assure her appearance. In this situation, at least some consequences could be achieved and proof issues might be lessened, due to perpetrators pleading without the advanced consequences of pleas to domestic violence.

Body cameras may become especially useful as proof of assault, because if third parties make the 911 call, such as teenage kids or neighbors, officers may arrive while the assaultive language is still being used, unlike when victims make the 911 call which can halt or ease the incident. More such arrests should be made, based on better interviews by officers and better training for officers, and prosecutors as well, so that assaultive language is looked for, preserved and used as the basis for arrests and prosecutions. Assault cases should be processed if it can lead to protections for victims, preventing future injury or death. The climate of domestic violence is now more present and serious, and needs prevention by use of assault-based cases, based in some cases on use of third-party witnesses when available, which isn’t typically done. Officers need to be told by superiors that such cases can be processed, because now it is entirely
based on loose discretion on the part of officers, who are instructed that such cases are not
normally to be processed. If assault was charged in combination with battery, prosecutors
would have more room to plea bargain, perhaps dropping the one or the other charges in
exchange for a plea to the other, something which is highly common in other kinds of cases.
Arresting for assault can add hugely to the probable cause, and thereafter to proof of the case,
especially if the assaultive language is strong. This could be done based on the present law, but
it isn’t done. I would make such arrests if I could.

11. Recalling our assumption, if there is an absence of prosecution of verbal assault, is it a
question of priorities, tradition, policy, protocol, opinion or something else?

People have different interpretations of the law. Prosecutors see it differently than the
police. It’s tradition—whether or not it’s fitting—not policy. It’s a matter of priorities, as well as
opinion. It’s based on past practices, and on training. The policy and the training are to base
domestic violence cases entirely on whether there has been physical violence, not verbal
violence. There is a difference in the perspective of patrol officers responding to the scene, and
that of command level officers in charge, but there is no policy either to arrest for assault or not
to. It’s all of these items, there’s nothing official. Priorities control, there are so many physical
violence cases, there’s little time for assault cases. There is no lack of compassion for assault
cases, it just hasn’t been done in the past. It comes down to training, and having everyone on
board, police, prosecutors and the courts. The department is always concerned about civil suits
for unlawful arrest, if an assault arrest can’t be proven, so it’s policy as well as protocol.
Training, priority and tradition are the primary factors. There is a workload issue, regarding
whether we can process assault cases, but it’s also matters of training, tradition, and direction
from the prosecutors. It’s the law, there can’t be domestic violence cases based on assault alone. There’s no explanation, it just doesn’t happen.

12. **Recalling our assumption, has the possibility of arrest and prosecution based on verbal assault ever been discussed at a serious level by command or among fellow officers or with the City Attorney’s office (sheriff’s deputies were also asked the same regarding the District Attorney’s office).**

No, never. I have attempted to arrest for assault-based cases, more aggressively than most, but I am the exception. No (repeated by many interviewees). Maybe we should be instructed to process such cases as disturbing the peace, if it is felt that they can’t be processed as assaults. No, not even casually. Informally a little. There certainly are training meetings about domestic violence, but not about-assault based cases. It has been discussed at round-table discussions, such as whether it could be effective with repeat offenders, but not a formal level. Victimless trials should be considered, that is to say, trials based on kinds of evidence, which may not exist in many cases, but which does not include testimony from the victims, who almost always never show up for trial. There is never a discussion of what we can do to stop domestic violence, instead of just arresting for it. Never discussed to my memory. Maybe it was discussed seriously one time in a limited way, but never department-wide formally or informally. I have never arrested for assault alone in a domestic case, due to proof issues, but there is no policy against doing so. The department supposedly is supportive of such arrests. They are more difficult to prosecute, but the department, including victims’ advocates, are open to doing so.
13. Recalling our assumption, is there a formal or informal policy or protocol about responding to or processing cases of verbal assault?

Yes, we respond even if it’s not going to be a case of domestic violence. We always respond (repeated numerous times). It is protocol to respond, as a preventive, even if it won’t result in a case. Yes, we respond, to document the incident in some non-formal way, even if it’s not going to be a case. It could be, but we don’t process verbal assault as domestic violence. There is no policy to either to respond or not to respond (repeated numerous times). We respond to such cases sometimes numerous times a day, but don’t process verbal assault as a case, for reasons of proof and because it’s not the practice to do so. It is policy and protocol not to respond, because it’s the law not to consider verbal assault as domestic violence.

14. Leaving aside extensive details, and declining to answer if you wish, have you known about, or perhaps been involved with, domestic violence among family or friends? What very briefly was the nature of it? Any details will remain completely anonymous.

Paraphrases and summaries of the answers are provided as follows, without specific details of incidents, for further preserve anonymity:

It took place throughout childhood, entailing alcohol, and was seriously physical for family members. Physical battery was perpetrated on a mother and brother. A brother physically abused his girlfriend, and involved alcohol. Drug use occurred in the family, accompanying very abusive conduct in early childhood. Weapons were used to intimidate spouses. An ex-husband was violent, involving thrown objects, also was highly verbally abusive, and monitored the wife’s cell phone. The childhood entailed a physically abusive home, along with badly abusive language. Physical attacks were done by an ex-wife.
The father was abusive in childhood. A former wife was twice convicted of domestic violence. Jealousy and rage were displayed by close family members. Some were aware of physical abuse by spouses within the department. Several also said no such abuse or violence had occurred amongst families and friends.

15. Have you experienced or heard about messages through social media (Facebook, texts or e-mail, etc.) rising to the level of an assault?

a. If so, please briefly describe how this occurs.

b. If so, how often does this occur, in your experience?

These media are the means of threats, but by law cannot be assaults. It can be harassment or stalking (said numerous times). These media may be the means of assaultive language (even if not legally an assault), and can be even more violent than when spoken in person, particularly amongst younger generations. Threats and harassment are common utilizing social media, and can be the basis of civil protective orders. We have responded to victims of seriously abusive or assaultive language conveyed by social media, sometimes as harassment or stalking. This kind of abuse may be the basis of forthcoming domestic violence, so we respond. Abusers try to avoid such uses of these media, because they know it becomes preserved accessible evidence, but may be used by perpetrators who have been arrested for domestic violence to intimidate victims, even after a criminal no-contact order or a civil protective order has been issued. These media aren’t used, in order to avoid privacy issues, but may be used if the parties are in a close relationship.

These kinds of message are hugely used now. They are more e-mail or texts than strictly social media (said repeatedly). Assaultive language is definitely used via these media, even threats to kill, but we don’t routinely ask about it when responding to calls. Yes, it happens
often, usually as threats of further violence if victims continue with the case. It occurs in some way and extent in almost every case of domestic violence. Victims delete such messages, because so many such messages occur, and also because they are threatened even if they don’t have their cell phones forcibly taken by abusers.

16. Finally, some general information:

(Repetitive of Question 1, but repeated here to coincide with other demographics.)

a. How long have you lived in Reno/Sparks, or where were you originally from?

b. How long have you been a police officer, and what, if any, other careers have you had?

c. Are you a member of a church, and if so, do actively attend and participate?

d. What, if any, is your political affiliation?

e. What kinds of training (on-the-job or in classes) have you received in knowing about and processing domestic violence cases?

Detailed responses deleted to preserve confidentiality.
APPENDIX “C”

Full Content Analysis
(Omitting questions one and sixteen to preserve interviewee confidential information)

Question 2 (a).

The contexts of domestic violence are varied, and astutely identified by the interviewees as first-hand observers. They report that domestic violence occurs at crisis points in relationships, including, among numerous ones, financial disputes, upbringing, escalated arguments, infidelity, substance abuse, pressures from relatives, and conflicts over children. Amongst the descriptions, however, are power and control issues between victims and abusers. Power and control are universally confirmed by advocates, counselors, academics, law enforcements, prosecutors, and indeed by victims, as well as abusers themselves sometimes, as the underlying dynamics of domestic violence. This is to say, that abusers, whether physically, threateningly, verbally, or intimidatingly, by way of violence, deprivation, isolation, belittling fear, or in numerous other ways, exert power and control over victims. The responses of the interviewees did reference the power and control issue, but in less than half of the responses explicitly. At the same time, most did not mention the power and control issue, indicating to some degree a non-cognizance of the issue.

This is not at all to say they were wholly unaware of the power and control issue, because their training, as described, would nearly certainly have covered the topic. It is indicative, nevertheless, that some officers, under the unrelenting stresses of prolific domestic violence cases, perhaps understandably lose sight of the fundamental context, cause and implications of domestic violence, which as experts, including police, essentially always report, revolve around power and control, not the immediate circumstances of instances of domestic violence taken in isolation. The underlying significance is that abusive and assaultive language
is, as evidenced by all interviewees’ responses, inextricably a pervasive element of domestic violence.

**Question 2 (b).**

Domestic violence occurs, as reported by the interviewees and not surprisingly, in the obvious places, most often concealed places such as residences, hotel rooms and vehicles, but also indiscriminately in public places, such as restaurants, bars, streets, and workplaces, essentially anywhere potentially. The locations of domestic violence are, consequently based on these responses, clearly complicating at times for its detection and processing, as obviously, therefore, is the abusive and assaultive language.

**Question 2 (c).**

Rather obviously, the interviewees report that husbands and wives, together with girlfriends and boyfriends, are most often the victims or perpetrators of domestic violence. They also cite that, under law as well as fact, other family and friendship relationships may define victims or perpetrators. Some mentioned the increasing, but generally much less acknowledged, relationships of gay or lesbian victims or perpetrators. One interviewee, and others by implication, mentioned a disproportionate occurrence of domestic violence amongst lower income brackets, including notably female breadwinners, who tolerate abuse in order to retain joint breadwinner support or at least babysitter services from a husband or boyfriend. Domestic violence is generally acknowledged, nevertheless, to not be particularly income related, so this observation, while undoubtedly extensively verified by experience, may not reflect the total scope of domestic violence, nor, in proper respect of the observation, nor was necessarily intended to do so.
These stated relationships and contexts both facilitate and, contrastingly, render inexplicable the intensity of the language weaponized by perpetrators, and sometimes by victims. To the interviewees, unlike the acutely agitated but accustomed participants, the language of abuse and assault seems as debilitating as it is constant. Paradoxically, they are unfailingly unsurprised, but stunned, by it. Similarly, physical domestic violence defies explanation or excuse, as also expressed by the interviewees.
Question 2 (d).

Interviewees report, based on statements from victims, perpetrators, and available witnesses, that domestic violence typically begins with arguments, including abusive and sometimes assaultive language, either chronically or acutely. It then escalates into varieties of physical contact, from pushing and shoving to seriously injurious attacks with fists and feet, and sometimes weapons. At times, it includes incapacitating choking. Commonly, interviewees report that perpetrators attempt to confiscate, or even destroy, victims’ cell phones, either to prevent them from reporting the incident, to prevent them from listening to a recording confirming their accusations of cheating by perpetrators, or to confirm again their power and control. Car keys may also be confiscated, and as the ultimate threat, children may be forcibly retained or taken away by the perpetrator. Intoxication from alcohol or drug highs frequently add to the severity of abusive or assaultive language, as well as to the physical attacks, but typically are not the initiating causes. Interviewees responses show that, from beginning to end, the perpetrator, usually the male, attempts to and does exert power and control regarding the victim and the incident, which is routinely an extension of his power and control at all times in the relationship. If the female victim is verbally confrontational also, which usually doesn’t rise to the level of assault due to her inferior ability to carry out physical response, the incident escalates, giving supposed excuse for the male perpetrator to inflict physical violence, justified by his perceived need not to relinquish power and control at any cost.

Both parties exhibit inabilities to resolve their relationship issues, disputes and anger by discussion, and very likely have long since given up on peaceable resolutions, interviewees report. Disincentives are observed to exist for the dominant male to do so, but also for the submissive female, for reasons of physical inferiority, financial dependence, protectiveness of
children, and a history of violent defeats. Victims also possess little to no negotiating or threatening counter-offensives. The prevalence of abusive and assaultive language is to be noted again unmistakably, as the context and actual substance of domestic violence, as interviewees describe. Whether as an initiator, sustainer or concluder of the incident, abusive or assaultive language attends it moments, hours or days with trauma only slightly less than that of physical attacks.

**Question 2 (e)**

Interviewees report a degree of overlap in these responses with those of the foregoing question, but these responses express their deeper perceived causes of domestic violence. The depth of the financial straits of victims and perpetrators is often emphasized by the police, based on their observations of living conditions, the statements of the parties, and the condition of children, among other indicators. Needless to say, acute financial conditions, can ignite verbal disputes and the escalation of them. In these circumstances, victims feel despair when dependent upon a male breadwinner, and when the male feels his role is under attack.

Relationships plagued by repeated domestic violence, clearly including abusive and assaultive language, as the research also dominantly shows, feature repeated submissions by the female victim, and repeatedly successfully confrontational exertions of power and control by the male perpetrator. Interviewees, therefore, repeatedly encounter a subservient, frightened and perhaps non-communicative victim, even immediately following an attack, and repeatedly at points thereafter. Interviewees confirm that a syndrome, not simply events, of domestic violence permeates these relationships, with repeated causes, initiations, enactments of abusive and assaultive language, and physical attacks, with expected outcomes (fear, renewed threats, short-lived remorse, denials, and certain re-occurrence). Interviewees are
chronically aware of these results after almost countless responses to incidents between the same parties.

The responses confirm that the power and control gridlock continues between the parties, and is revealed, incident after incident, being enforced verbally and physically time after time, and underlies every hour of their co-habitation or contact. This situation persists notwithstanding civil protective orders or criminal no-contact orders being in place. One interviewee reported, so perceptively, that some couples need not even approach physical violence, or if so, then predictably, because the parties know through experience, or coded trigger words (often being abusive or assaultive words), that a severely abusive, assaultive or physically violent incident is certain to be imminently forthcoming. The initiating causes are never resolved, and the parties are incapable for both internal and external reasons, including the lethality of their communication, of resolving them. An unrelenting trap, interrupted only re-occurring abusive or assaultive language and intermittent levels of physical violence, is revealed by victims again and again to officers. Victims may attempt to leave the scene, usually temporarily to avoid further threats or injuries, perhaps to children too, but tragically only rarely permanently. All the while they endure the abusive or assaultive language, as well as the physical attacks, of the perpetrator. More often than not, physical separation only occurs when officers arrive, and routinely separate the parties at the scene and perhaps thereafter, but merely briefly, if an arrest has not occurred. This circumstance commonly is the case if abusive or even assaultive language is the extent of the incident, effectively diminishing the incident’s consequences for law enforcement, preventive, rehabilitative, and wider societal purposes.

Chronic substance abuse, sometimes by both parties but primarily by perpetrators, may acutely elevate and accompany the fears and submissiveness of victims, and emboldens the
language and attacks of perpetrators. The substance abuse disables the ability and efforts of victims to defend themselves, and augments the verbal and physical violence of perpetrators, as reported by interviewees. They do not report that the substance abuse is other than an attendant context and initiator, not a true cause, of domestic violence. Those causes, as seen above, penetrate greater depths.

**Question 3.**

Abusive language, whether or not assaultive, occurs virtually always, interviewees report. It is unimaginable that such language would not occur, as numerous interviewees articulated it. Such language and physical violence are, virtually needless to say, hand-in-glove occurrences, even if victims don’t always feel free to thoroughly report it, and if officers don’t consistently, or ever, document it. The implications of this co-occurrence, seem too obvious to recite, in view of interviewees’ responses to what they often term verbal-only incidents. The aggravated language holds immense consequences for the processing, as well as the short and long-term outcomes, of domestic violence, all reflected in the interviewees’ responses throughout the interviews.

**Question 3 (a).**

The responses firmly establish that the abusive or assaultive language occurs during an incident of physical violence. Interviewees also report, unsurprisingly, that it also occurs pervasively before and after such incidents, as reflected in some of the foregoing responses. This is consistent with the above-explored responses that domestic violence, together with the abusive or assaultive language, is the dominant element, not the occasional interruption, of violent relationships. Such language is virtually ceaseless, from all perspectives. Very perceptively, interviewees report that such language may be more damaging to victims than
physical violence, because it lingers longer as a fear-inducer, source of intimidation, cause of submission and dependence, and tragically, a destruction of the victim’s self-worth. These effects may extend to children, interviewees emphatically add. Submission by the victim, which is often the only conceivable response under threat or attack, doesn’t always result in the perpetrator lessening the verbal and physical inflictions, but actually may intensify them, as power and control are inflamed. Paradoxically, the perpetrator may follow such incidents with an apology, often insincere, in order to avoid a call to police and possible arrest, the responses reveal. However, repeated such incidents over months and years obviously belie the apologies. With impending irony, the apologies become demented assurances to the victim of further abusive and assaultive language.

(Question 4 was inadvertently numerically omitted).

**Question 5.**

The language of domestic violence incidents, by either party, can, and nearly always does, exponentially escalate the incident, usually leading to physical attack by the male perpetrator, interviewees report. Concurrent substance abuse by either or both parties, as seen above, may escalate the incident to near irrationality, if not already achieved. Once again, the abusive or assaultive language ingredient is critically central to the incident, but can be seen by officers, due to the understandably exigent nature of their responses to the incident, as non-cognizable context rather than inseparably a part of the violence. Key to the physical violence, interviewees report, is that the perpetrator’s abusive or assaultive language causes the victim at some point, as seen above, to become submissive and passive, knowing that the physical violence will follow the language of violence, that the violence is following the inexorably attached pattern of escalation and injury. Indeed, perpetrator knows, indeed controls this train
of events, so the submissiveness and passiveness of the victim initiated by the violent language, instead of deterring the perpetrator, actually scripts the perpetrator to proceed with the destructive outcomes. This phenomenon is illogical on its face, but tragically and inescapably real to victims, and to responding officers, and perhaps even to perpetrators, the interviewees suggest. A further pivotal role of the language of the incidents exists, interviewees inform us, which ensues from the inevitably repeated nature of such incidents. Ultimately, after the incessant sufferings from such incidents, victims finally calling the police, the volatile language and consequent the physical attacks worsen in order for perpetrators to harden their power and control. The victims, horrifically defeated, demeaned and beaten, play their inescapable roles in stunning drama after drama.

Interviewees note that the abusive or assaultive language, separately or combined with physical violence, traumatically affects children in the moment and long-term, whether they are observers or hearing from an adjoining confined room. They are definitively victims of the language and physical attack, along with the direct victim, who is almost always their mother, the perpetrator almost always being their father or father figure. Indeed, perpetrators may assault and batter the children also, the responses show. In this context, the responses, which also indicate that the language of the incidents may be as emotionally and cognitively damaging, perhaps more so than the physical violence, mandate immense further comprehension of such incidents. As the interviewees note repeatedly, the victim is victimized in numerous lastingly traumatizing ways, and it follows that the abusive or assaultive language is definitively prominent, not subsidiary.
**Question 6.**

Some interviewees concur that abusive language becomes an assault, as defined in law, when a victim is reasonably in fear of immediate bodily harm, and the assaulter has the immediate ability to inflict the harm. Thusly, an assault is viewed as largely circumstantial, not an automatically definable event. In other words, responding officers will assess whether an assault has occurred, taken alone or in combinations with physical violence, if their overall investigation warrants a charge of assault (although this result, as above noted, is exceedingly rare). The evidence of an assault, being verbal, is often hard to establish, and therefore on which to base an arrest, so a judgment call may be the optimum available decision, they further report. Interestingly and insightfully, interviewees report that they would potentially base an assault charge on previous domestic violence experience between the parties, in particular the victim’s expressed sense based on the perpetrator’s verbal clues, as predictive of imminent battery. These assessment clues would include: seriousness of threats; degree of aggressiveness and attempted or actual battery, exemplified by conduct such as yelling in the face of the victim and cornering the victim; and intensely foul and abusive language.

Nevertheless, charges of and arrests for assault in domestic violence situations, seem, by the interviewees’ own perceptive descriptions, to be far more theoretical than actual. Interviewees do not deny that assault occurs, taken alone or in combination with physical domestic violence, but decisions devolve to issues of proof, policy, practice, protocol, and more, as will be seen later. One interviewee, and others by inference, indicated that assault cannot be domestic violence, which would seem to contravene the statute, and reveal other problematic protocols, practices and training, perhaps contravening their expressed inclinations.
Interviewees report that it is the rarest of situations in which a charge is made for, or arrest based on assault taken alone or in combination with the charge of battery under domestic violence law. Most report that it is never done in actuality. If an assault alone seems to define the incident once officers arrive, the result is essentially always to separate the parties, not an arrest, and to close the matter by asking one or the other to leave, typically being the perpetrator. It appears from their responses, for reasons deemed sufficient by them, and from their perspectives may be, that officers do not attempt in-depth investigations regarding assault. So, no matter the seriousness or significance of an assault, if one has occurred, it is essentially not pursued for a variety of practical and legal reasons under urgent circumstances, as officers make highly difficult decisions under volatile circumstances. However, the overall implications of this scenario for domestic violence may be profoundly disturbing and damaging, as some interviewees acknowledge.

Question 7 (a).

The examples of abusive and assaultive language cited by the interviewees, many more of which they say they could have cited if given opportunity, included extraordinarily offensive, profane, intentionally-abusive, demeaning, intimidating, fear-inducing and, most importantly for present purposes, explicitly assaultive language, directed at victims by perpetrators in similar hundreds, and more likely, thousands of cases. The language cited in the foregoing Findings section need not be repeated. It is crucial to note that it was uttered, not as communicative conversation, casual chatter, street talk, in gest, or outside of domestic violence circumstances. Rather, it was uttered between intimate partners, in repeatedly highly stressed, volatile, abusive and often incomprehensibly violent situations. Once again, emphasis is mandated that the
language was impossibly separable from the overall domestic violence incident, and so stated by interviewees in every instance.

Some of the language is exceptionally repulsive, when assessed, not only verbatim, but also as a prescriptive type, such as: expressions that the victim herself has caused the assault and violent injury happening or about to happen; expressions of hatred; threats of impending death; countless “b” and “c” expressions; warnings to shut up or be shut up; expressions that the victims have made the perpetrator inflict the assaults and injuries; obtuse inquiries from the perpetrator whether the victim wants the children to witness the beating; similarly obtuse inquiries by the perpetrator whether the victim wants to be hurt; threats of rape and murder if the victim becomes pregnant; threats to hurt the children also; accusations of being fat and stupid; and threats to financially starve the victim. This recitation is not to contend that victims do not occasionally engage in abusive and assaultive language as well, but, as interviewees report, it is far less commonly or frequently as abusive, assaultive, intimidating, demeaning, or otherwise as objectionable. Victims’ language is also atypically accompanied by any level of physical attack resembling that of male perpetrators.

Such language reveals again that perpetrators normatively demand and command unrelenting power and control verbally and physically. They achieve it through the kinds of abusive or assaultive language recited above, as well as through physical violence, to severely frighten, threaten, demean, disarm, subjugate, imprison and otherwise control most waking and sleeping moments of victims. The unfortunate fact, interviewees further report, is that such language seems typically neglected or disregarded, perhaps gravely so. This reaction by interviewees may occur for understandable reasons, including often its hearsay nature, cited
above. The exceptions are where victims or neighbors, or even child witnesses, may have recorded the language on cell phones, and if they make it available to officers afterwards.

Some victims have reported that they wish officers had more routinely asked them about the language that had taken place. Some interviewees did report that they carefully attempt to write down victims’ and also perpetrators’ recollections of language exchanged, but for the limited reasons of documenting it for the oft-repeated future responses to incidents between the parties, which may be helpful in responding to and processing future incidents. They do not generally indicate having fully confirmed such language as the basis of a formal report of the case, because, as above noted, it is highly unlikely in reality that assault-language based cases would be seriously processed, or, more likely, not processed at all.

A last note pertaining to this survey question is that interviewees find that victims are often too emotionally impacted to recall exact or even paraphrased language of the incidents. Perpetrators, and sometimes victims too, may intentionally claim failure to recall the language, precisely to try to end the incident without an arrest of the perpetrator, knowing that the results on numerous fronts will be from mildly to starkly consequential to both of them, and to children as well. Nevertheless, whether recalled, reported, processed, undetected or disregarded, language, especially at an assaultive level, is a highly impactful and unavoidable element of domestic violence. It follows that to deny or fail to process it may pose as many issues as are resolved in approaches to domestic violence long-term, if the intent is to respond effectively to it, aside from preventing or curtailing it, instead of only arresting for it.

**Question 7 (b).**

Most interviewees cited all three effects of abusive or assaultive language, namely being belittling, frightening and controlling. They stated that victims become from moderately to
severely numb to such language, having heard it frequently over time, but that it still is
stunningly fearful when prefatory to, during, and as the outflow of physical attack, as is typically
the case. The language may be less than directly confrontational, but said in understated or
coded terms, of which both parties are aware, so that victims are forewarned that both verbal
and physical escalation may or is highly likely to occur. Further, the language is intended not
simply as physical threats, but to continue victims’ submissiveness, isolation physically and
financially, and fear, together with a train of other chronic and acute impacts. The language to
all but victims and officers, may also produce shame, apparently because they don’t want family
and friends to know about the trauma, damage and wreckage occurring to their relationships.
Obviously, the shame also produces further submissiveness and isolation, distancing them
ominously further from help, interviewees detect. The intimidating message again from
perpetrators to victims is emphatically that they are under the total power and control of
perpetrators, extending to oppressive monitoring of victims by perpetrators, which is
unequivocally known to victims.

Both sides unmistakably understand these searing messages, conveyed time and time
again, creating near-constant intimidation and fear in victims. Victims report to officers that the
inescapable effects follow them to work, shopping, appointments (including fear of revealing
their dire status to doctors, clergy, counselors, and other help sources, to include family and
friends from whom also they may be isolated), in other words, in every setting. Any verbal, let
alone physical, resistance by victims to perpetrators’ abusive or assaultive language and physical
attacks, as noted above by interviewees, triggers more severe punishments by perpetrators,
rising to extreme vindictiveness and beatings. Perpetrators weaponize their language as
punishment after punishment, fully aware of, or self-blinded to, its debilitating array of impacts.
Question 7 (c).

Interviewees were pointedly observant and agitated by the children’s hearing of abusive and assaultive language, and more agitated naturally, by children observing physical violence. They are certain, based sometimes on years of responding to calls to the same families, that the effects scar children deeply in the moment and increasingly and permanently over time. They report that children are emotionally traumatized by the violent language and physical violence when present, as officers arrive, in particular if either victim or perpetrator attempts to involve them somehow, which is typically the perpetrator, to further punish the victim. Older children may attempt to defend the victim from the language and attacks, although profoundly confused about whom to blame, and may have been the ones who secretly called 911. They may also become witnesses at the scene, often with compounded reluctance, about language and violence observed or heard. They become secretive, sealed-off beings by the repeated occurrences of domestic violence, and are, as are victims, impacted as seriously by the abusive and assaultive language as by the physical violence, responding interviewees report. Children often conflictingly re-enact the behaviors they observe and loathe, officers report, such as boys hitting girls at school, using profane and abusive language toward girls (although girls less often may do the same).

Question 7 (d).

Sufficiently covered in previous responses.

Question 7 (e).

Interviewees indicate that they may not be called by victims or witnesses to an assaultive language-only incident, even if severe (as long as the witnesses aren’t children, who may indeed make such a call). They also may not be dispatched to a language-only incident, if it
is known that it is firmly and a language-only incident. Typically, they do not know what the incident may become, and thus routinely respond, if only to keep the peace and separate the parties. Not surprisingly, interviewees add that abusive or assaultive language occurs in domestic violence cases more often than does physical violence, at a ratio of about 60 to 40. As stated above, they also report that such language is virtually 100 percent co-occurring if physical violence does occur. Once again, it is exceedingly difficult to underemphasize the integral, intensifying effect of such language, whether occurring alone or in combination with physical violence. Yet, to underscore foregoing responses, interviewees indicate by a large majority that, once having arrived on the scene and determining that physical violence has not occurred, the incident becomes, in effect, a non-case, meaning no case report is made, thus no arrest, and usually no written record of consequence, if any record at all.

**Question 7 (f).**

Initiating or reactive language, whether abusive or assaultive, by victims escalates domestic violence incidents, not surprisingly, interviewees report, sometimes in a virtual frightful re-enactment or rehearsal of many previous such incidents. They report that victims lash out, in a knowingly, futile self-defense, which triggers perpetrators’ even more abusive or assaultive language and heavy-handed responses, intended, and usually successfully, to maintain their power and control. In a somewhat contrasting mode, interviewees report that, if victims attempt to defuse the perpetrator’s language and physical violence, with moderating language, her actions, along with alcohol or drugs, can serve paradoxically to embolden the perpetrator’s language and actions, as if adding lighter fluid, not extinguisher, to the flame. This result magnifies the victim’s helplessness. Such language by victims may be followed by pushing and shoving, perhaps by both parties, but mainly by perpetrators, especially if victims try to
leave, which, in turn, ignites more aggressive physical violence by perpetrators. Thereafter, virtually anything said by victims, from expressions of anger to expressions of submission, lead to increased assaultive and physical hostility by perpetrators, following a pathological-like pattern.

Interviewees report that, regardless of victims’ supposed initiating language, they don’t routinely ask victims or witnesses about such language. Again, the question arises, posed in some instances by interviewees themselves, whether the potential underestimation, even if for plausible reasons, of both abusive and assaultive language could disenable full responses to and prevention of domestic violence. The answer, based on overall responses, seems to be a very loud affirmative.

**Question 8.**

Priority response is routinely made to calls for help by victims or witnesses at the abusive or assaultive language stage. However, as above stated, the response, even if protective, may remain that and officially nothing more, meaning no report, no arrest, and overall no case. The response to the scene is not discontinued even if victims attempt to cancel the response, or if police are told that the perpetrator has ostensibly left the scene. This indicates favorably that police take such language seriously, at least as a point at which prevention of further physical harm can be achieved. Some interviewees said that in the past a report, although perhaps not an arrest, might be made if the incident is verbal only, but that the practice has been ended, and now the response is limited to a peace-keeping response, which is, needless to say, not inconsequential.

As also indicated above, some interviewees state that better responses can be made if it has been documented in some form, whether a previous incident has been verbal only or
physically violent. This means, although documentation is seldom done, that officers can know how urgent a call may be, in terms of language volatility, immediacy of physical violence, repetitiveness of the language or physical violence, involvement of children (who may have made the call), degree of physical violence and other critical contexts of the response.

Paradoxically, it is crucial to again note that interviewees report in large numbers that they are called repeatedly to respond to incidents involving the same victims and perpetrators, sometimes entailing recently and sometimes over years. Their experience with these victims, perpetrators and families is crucially important, but meaning, as well, that such incidents could be profusely documented, and possibly result at the time or cumulatively in formal charges. Consequently, documentation of both language and physical violence becomes immensely useful to them, even if for no reasons of case formalities, to know what may be facing them from time to time. Several interviewees indicated both directly and some indirectly that assaultive language by itself would not be unlawful. All interviewees stated, to be clear again, that assaultive language cases are essentially not processed as official cases, meaning full reporting and arrest, for the above-referenced reasons, or least explanations. This is not, without more information, necessarily a finding of fault, but a fact from the responses.

**Question 9.**

Responses to this question merged with previous responses, but was stated separately to clarify further the context and rationale for processing or not processing assaultive-language domestic violence. Reasons for the absence of processing assaultive language cases included inadequate staffing (acknowledging the voluminous time and paperwork required in case reports), proof issues above-explained, conceptualization of such cases as no more than “family disturbances”; a protocol and practice of separating the parties but not fully processing the
incident; and not considering that a crime may have occurred. Instead, resulting from training, interpretation and practice, the assaultive language, provable ultimately or not and justifiably or not, results always, in effect, in a non-case, as before noted. Interviewees add that the non-processing of such incidents is also a product, but necessarily completely, of city attorneys’ and district attorneys’ practices, interpretations and policies of not prosecuting such cases. This circumstance theoretically leaves inadequate discretion to police command levels, all of which is somewhat contrary to the preferences of most interviewees, of wanting to process such cases. This prevailing circumstance seems definitively unclear and unresolved to all involved, notably including victims and perpetrators.

As a result, without assessing blame to officers or their commanders, domestic violence, for all practical, and perhaps legal, purposes is physical violence alone, even if assaultive language, which interviewees unanimously report to be pervasively and injuriously present. Interviewees uniformly report that they are not as much as trained, let alone authorized, to look for assault at the scene. It is simply the unyielding mindset, they report. It is accurate to say, based on their responses, that assaultive language inseparably and devastatingly occurs, but, effectively, it is as if it did not, and that perpetrators persist in a state of near-deranged unreality, while persisting in the moment of violence in livid reality, inflicting indelible emotional and physical injuries on their victims.

**Question 10.**

A substantial portion of interviewees feel, as noted, that assault could, or possibly should, be a basis for arrest and prosecution under domestic violence law, either standing alone or in combination with physical violence charges, contrary to prevailing practices. They acknowledge again that issues of proof (hearsay, absence of physical evidence and witnesses,
failure of victims to testify, and clogged police and prosecutorial calendars), all as stated above, could intercede in their feelings. However, they think, as well, that the larger conundrum of reasons, of policy, protocol, training and mindset may be the actual obstacles preventing such arrests and prosecutions. Some favor processing domestic violence assault cases using available witnesses, cell phone recordings by victims and witnesses, 911 recordings which may preserve assaultive language while in process, and also contributory physical evidence.

They concede that such cases might not be pursued by prosecuting attorneys even if arrests are made. Several cited the potentially auspicious value of body cameras, now required in all three departments, which may record assaultive language still being used as officers arrive on the scene, and which otherwise may not have been preserved. This could, paradoxically, for the first time, make domestic violence assault cases more productively viable for arrest and prosecution than domestic violence battery cases (which as noted are exceedingly difficult to prosecute now as well, even though they are the overwhelming emphasis of arrest and prosecution). This transition could prove invaluable in processing domestic violence cases, resulting in prevention and effective restorative services for victims and perpetrators.

Perhaps most importantly, interviewees say, and readily at hand, is improved training and protocol in investigative techniques, which might better preserve assault evidence, whereas currently, such evidence is not prioritized or even looked for, due to no particular sources’ fault, it appears. Assault-based domestic violence cases could, with considerable irony, as well as major outcomes, rescue the referenced near-fatal quandaries of domestic violence case processing.

Interviewees gave as reasons for wanting to process assault cases if possible: (1) indelibly stamping the consequences of domestic violence in perpetrators’ minds before
extreme physical violence occurs; (2) preceding traumatic damage to children; (3) recognizing and preventing the severe emotional damage caused by assaults; (4) training which accounts for all aspects of domestic violence, not just the physical violence; (5) clarifications from prosecuting attorneys and thus superiors of how assault cases may be pursued; and (6) augmentation of legislative initiatives which could facilitate such assault arrests and prosecutions (entailing perhaps hearsay modifications, inducement to victims to testify, and effective rehabilitative but less criminally consequential results for non-hard-core perpetrators).

Interviewees seem to realize implicitly, if not explicitly, that domestic violence is increasingly prevalent and destructive, and that well-intended current preventive and enforcement practices, although greatly improved over the past, fall short of needs by a wide chasm. Nowhere is this realization more evident, they agree, than in the non-processing of domestic violence assault, if feasible, however justifiable non-processing may be. At a minimum, interviewees point out that assault charges in combination with those for physical violence could provide prosecutors with greater flexibility in achieving negotiated pleas, whereas currently cases are overwhelmingly dismissed entirely because, absent victim witnesses, a fallback charge, such as disturbing the peace, is not as easily available nor as effective in sentencing.

**Question 11.**

Each of the interviewees cited all or most of these options in their responses, indicating that the reasons for not proceeding with arrests for assault crosses many command-level boundaries, operational norms and rationales. In this response interviewees also mentioned phrases and thoughts previously expressed, saying that different interpretations of law exist between prosecutors, superiors and officers, and that differences in priorities, practices,
workloads, perspectives and opinions exist between these participants. Yet, some also say that there is no firm policy, whatsoever, either to arrest or not to arrest for assault in domestic violence cases, and say, as well, that there is “nothing official.” On the periphery say that assault cannot be domestic violence as a matter of law. The absence of arrest for assault was tellingly put by one officer who said that “there’s no explanation, it just doesn’t happen.” Reasons, whether grounded or nebulous, the fact is it persuasively appears, that no thought-through, let alone written, explanation or guidance exists for the non-recognition, indeed the non-existence, of arrest and prosecution for domestic violence assault.

**Question 12.**

Generally, interviewees said a resounding “no” in response to this question. Some went on to say that it had been discussed informally limitedly, but all said it had never been formally discussed in policy meetings, shift briefings, training sessions or otherwise. Some said that assault should strongly be considered when processing domestic violence repeat offenders, toward the end that prevention of domestic violence, not just arrest and prosecution, should be the priority. They express profound explicit and implicit weariness of the domestic violence syndrome, its ceaselessly burdensome processing, its extraordinary legal inadequacy, and its life-disintegrating effects (sometimes on themselves). A clear, wide and imposing gap exists between the various parties who process domestic violence assault. It has sweeping implications for such processing, but more pivotally for victims, and perpetrators too, and routinely unmentioned, for officers as they incessantly endure the volatility of domestic violence incidents.
**Question 13.**

As heretofore noted, all said that response is always made, regardless of whether the call is to ongoing physical violence cases or to abusive and assaultive language-only cases. The idea is to prevent further verbal or physical violence, and perhaps to document abusive or assaultive language, although a distinct minority of interviewees said that such documentation is done, absent physical violence and an arrest, and far from consistently even then. Again, several said that assault is not domestic violence, in justification of not processing assault incidents, whether as policy, protocol practice, or other reasons. Whatever the scenario or rationale, domestic violence assault seems simply to descend out of sight and mind.

**Question 14.**

These responses were indeed perceptive, indicating that interviewees are, in numerous instances, familiar with domestic violence, past and present, in their own immediate or extended families or in their friendships. By way of review, due to their far-reaching significance, they cited: (1) instances of serious physical violence by a father throughout childhood, complicated by alcohol; (2) instances of physical violence by a father toward a mother and brother; (3) instances of drug use accompanied by serious physical violence, again by a father; (4) use of weapons by a father to intimidate the mother; intensely abusive language by a father toward the mother; (5) monitoring of a mother’s cell phone by the father; (6) a physically abusive home also entailing badly abusive language; (7) displays of jealousy and rage by parents during the officer’s childhood; (8) and at least in a couple of instances, physical and abusive language by the mother toward the father, by a former wife, and by current wives of fellow officers.
But a few interviewees said that they are not aware of assaultive or physical violence in their childhood homes, of those of other family members, nor within their current homes or those of other family members. The proportion of those who are thus aware, however, is remarkable in so limited a survey population. Officers at large, it can be surmised, seem clearly aware of domestic violence in all its searing displays, from violent language to violent physicality, at a bluntly personal level, as well as from their daily dispatches to destructive scenes of the same. Indicatively, most interviewees favor an informed, strategized and firmer processing of domestic violence assault, realizing its constant and inescapable reality.

**Question 15.**

All interviewees are familiar with social media, as well as e-mail and texts, to convey seriously abusive language, but acknowledged that by law such language cannot be an assault, due to assault requiring by law the concurrent joint physical presence of the parties (absent some highly unusually confrontational circumstances perhaps). Some interviewees indicate, revealingly, that abusive language via these electronic media may exceed the intensity of such language when the parties are physically together. This contrast, they suppose, may be due to an added sense of aggressiveness, possibly occurring when perpetrators knowing that their language is threatening only, not a precursor to imminent attack, is, they therefore conclude, not criminal. This electronic-based conduct is more prevalent amongst younger generations, because, rather obviously, they are the ones using such media to a far greater extent than older generations.

Interviewees point out that victims can obtain civil protective orders, which address abuse via electronic media, which is not generally available in a criminal law context unless a case of domestic violence (entailing abusive or assaultive language or not) were to be actually
processed. Interviewees also point out that abusive language may also be prosecuted under stalking or harassment statutes, if the elements of such offenses are present, typically requiring repetitively intimidating conduct, but, again, such conduct would not by law be assaultive. Interviewees report that they would respond to such abusive language via electronic media, if known to them, to prevent actual assault or physical attack. Interestingly, proof issues may be less in these circumstances, because the proof may be the preserved abusive language of perpetrators on cell phones or other devices. A further nuance, therefore, of these kinds of message conveyances is that some would-be, and perhaps experienced, perpetrators avoid electronic abuse for the very reason that they know it can be preserved by victims. The gravity of such messages, up to and including threats of bodily harm and murder, is becoming increasingly used, some interviewees report. Adding to the serious role of such messages is that, regardless of the potential preservation of them, is that some conveying perpetrators of them, as well as perpetrators of actual domestic violence, use them very conveniently, even though violative of protective orders and no-contact orders, to threaten victims with severe consequences if they proceed with either protective orders or as witnesses in domestic violence cases.