

Case 3: No-Drop

Assault is the crime of believably threatening to physically harm another person, while battery is the crime of actually inflicting physical harm. Most prosecutors' offices used to require domestic violence (assault and/or battery) victims to appear at the local prosecuting attorney's office within days after an assault in order to sign a criminal complaint. Over twenty years ago, at the urging of various women's interest groups, one prosecutor's office shifted its posture and simply had the responding police officer sign the complaint.

At the same time, the prosecutor put in place a "no-drop" policy, under which the prosecutor's office proceeds with criminal charges regardless of the victim's wishes. Some of the rationales for the shift were to remove the incentive for batterers to threaten their victims into withdrawing charges, to recognize and treat domestic assault as a crime and not "just" as a household matter, and to prevent recidivism (repeat offenses) and escalation (up to and including murder). In many respects, the new policies and practices had the desired effects of holding more batterers accountable and protecting the safety of victims and would-be victims without giving them the burden of pressing criminal charges.

Now, as then, the majority of domestic assault victims are women. Recent criticisms of "no-drop" policies have gained momentum, and these criticisms have come from other women-centered perspectives. Generally speaking, the newer criticisms center on the lack of autonomy given to women assaulted or battered by their partners. Involvement in the criminal justice system, as a victim or as the partner of a defendant, can be highly disruptive to a person's life. Furthermore, some victims may not even have requested police intervention in the first place, as in cases where a neighbor calls the police without talking to the victim. For both these reasons, some people argue that "no-drop" policies are morally wrong because they violate women's autonomy.

Should the prosecutor's office continue to enforce no-drop policies in the interest of public safety, or should it respond to concerns about women's autonomy by ending the policy?

Study Questions:

1. How important is an individual victim's autonomy in relation to society's interests in accountability for criminals and the prevention of future crimes?
2. Are there any ways in which withdrawing the no-drop policy could threaten women's (or victims') autonomy? If so, what are they, and how should they affect the prosecutor's deliberations about what to do?
3. How, if at all, should the presence of children in a household affect how victims and/or legal authorities should respond to a domestic violence incident?
4. Who is responsible for holding offenders accountable for their crimes? Who, if anyone else, should have a say in whether or how offenders are held accountable?