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RESPONDING TO
DOMESTIC VIOLENCE

6
EDITION

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RESPONDING TO DOMESTIC VIOLENCE

The Integration of Criminal Justice and Human Services

Eve S. Buzawa • Carl G. Buzawa • Barbara J. Hart

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Responding to Domestic Violence

6th Edition

To the millions who endure and survive and to those who protect and support.

Responding to Domestic Violence

The Integration of Criminal Justice and Human Services

6th Edition

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We gratefully recognize the courageous people who listened to the voices of survivors and began the revolution, the movement to end the violence and subordination of intimate partners. Most especially we humbly acknowledge the battered women who were the first to step up to expose the scourge of woman battering and call upon the nation of feminist activists to bring an end to domestic terrorism. The risks they took were enormous. The change they demanded ultimately transformed (and continues to mobilize fundamental metamorphosis of) gender roles and rights across the globe.

For practitioners and scholars of all disciplines dedicating your lives, careers, and study to intimate partner violence and various strategies to protect and serve victims and/or to reform perpetrator beliefs and behavior, you have contributed immeasurably to this revolution over the past 45 years of the movement. The authors are profoundly indebted to you and honored to have played some small part with you as colleagues and teachers. For those signing up to participate in this justice and liberation movement, we welcome you with a tad bit of envy and curiosity about your rich opportunities for innovation and investigation and your transformative contributions to the revolution. To those with whom we have labored closely, alas, you are too many to name. We treasure you. Thank you.

CHALLENGE TO OUR READERS

To those of all ages, gender identities, races, economic and social classes, cultures, faiths, national origins, health circumstances and disabilities, many of whom remain invisible and underserved by the US legal systems, criminal and civil, human services, and victim advocacy/ domestic violence programs, may this volume encourage readers to enlarge your vision and passion to forge new and reform current justice remedies, systems of accountability for perpetrators, and delivery of survivor-defined advocacy and support for victims. To scholars and researchers, may this text persuade you to investigate the nuances of intimate partner abuse and of effective legal, advocacy, cultural, and support systems to interrupt and end violence. To all, recognize that practitioners/professionals have conflated the experiences of survivors. We must expand our understanding of the realities and needs of all survivors, and, for example, begin to identify the differences as well as similarities of transgender, bisexual, gay, lesbian, cisgender intimate partner violence.

NEW TO THIS EDITION

This is the sixth edition of this book documenting the evolution of the movement, as each edition, itself, evolves. We complement the emphasis on criminal justice intervention with

chapters on civil legal protections, child custody, the impact of domestic violence on children, child welfare interventions, community engagement, victim services, and the role of risk assessment in societal response to domestic violence. We broadened the focus to reflect the powerful realization that relying so heavily on criminal justice response may not prove to be as effective as was initially hoped.

The reader will find considerable changes in this volume from previous editions. Most notably, there is a greater focus on victims. As a result, there are several new chapters including the chapter “Special Populations at Risk,” a chapter entitled “Victim Services,” and a chapter on “Coercive Control.” In addition, because of the growing awareness of the problem of stalking, we now have a new chapter entitled “Intimate Partner Stalking,” which focuses on this important issue. There is also a new chapter, “Civil and Criminal Protection Orders,” and all remaining chapters have been substantially or completely rewritten in accordance with the growing body of research in the field.

ABOUT THE AUTHORS

Eve Buzawa, PhD, is Professor Emerita in the School of Criminology & Justice Studies at the University of Massachusetts Lowell. She served as Chair of the School from 1995 to 2013, and Director of the School from September 2013 to June 2016 when she retired. Dr. Buzawa received her Bachelor of Arts degree from the University of Rochester and her Master's and Doctoral degrees from the School of Criminal Justice, Michigan State University. Dr. Buzawa has authored and edited numerous books, journal articles, and monographs in the field of domestic violence. She has also served as a Principal Investigator on several federally funded research projects as well as directing numerous state-funded research and training projects.

Dr. Buzawa's expertise encompasses the issue of domestic violence in the United States and globally. She has served as a consultant, trainer, and speaker to numerous agencies and organizations throughout the world and was the recipient of a Fulbright Award in 2016. Dr. Buzawa is Past President of the Society of Police and Criminal Psychology, Past President of the Northeast Association of Criminal Justice Sciences, and past Board Member for the Academy of Criminal Justice Sciences.

Carl Buzawa, JD, is a retired attorney. He served as Senior Vice President—Contracts, Legal, and Compliance at Textron Systems. He received his BA from the University of Rochester, his MA from the University of Michigan, and his JD from Harvard Law School. With Eve Buzawa, he is the author of numerous books and articles on the topic of domestic violence.

Barbara J. Hart is an attorney, advocate, scholar, organizer, and public policy analyst. She is among the multitude of women activists who cofounded the battered women's movement in the mid-1970s. Commencing in 1978, she shepherded efforts to draft and implement civil protection order statutes across the country. For 30 years thereafter she fostered an informal national network of advocates, attorneys, and judges who collaborated in the development of state and federal law (i.e., criminal, civil, family, and administrative), public policy, litigation strategies, and "best practice" professional guidelines designed to protect, restore, and liberate domestic violence survivors. For upwards of 25 years, she directed several national technical assistance initiatives on "violence against women" and has consulted in numerous venues on research related to violence against women.

Ms. Hart is a cofounder of several groundbreaking organizations, including but not limited to the National Coalition Against Domestic Violence, the National Clearinghouse for the Defense of Battered Women, the Battered Women's Justice Project, the National Center on Protection Orders and Full Faith and Credit, and the Domestic Violence Resource Network. Ms. Hart has authored several hundred papers on domestic violence, some of which appear in a collection of her work on the BISCMI.org website.

Ms. Hart established the Batterer Intervention Services Network of Pennsylvania, convening accountability and monitoring meetings among BIP providers and women's advocates. Her efforts served as a national model for collaborative work between survivor advocates and BIP providers. She organized the first national meeting addressing both the role of men in the domestic violence movement and standards for BIP services.

She coauthored several sections of the federal Violence Against Women Act(s). She was on the team that developed the Model Code on Family Violence for the National Council of Juvenile and Family Court Judges. She convened the panel of representatives from a dozen or

so Indian nations to produce *Violence Against Native Women: A Guide for Practitioner Action*. She also participated in the design and analysis of the first multistate study on batterer intervention programs (BIPs) for the National Institute of Justice (NIJ).

She served as a consultant and speaker for numerous federal, state, and local agencies. She has received numerous awards and honors, among them are several from Presidents Clinton, Bush, and Obama.

In retirement, she continues to write monthly columns for *The National Bulletin* on domestic violence prevention.

She was battered. Her partner's violence propelled her into organizing for justice for battered women.

INTRODUCTION

The Role and Context of Agency Responses to Domestic Violence

THE DOMESTIC VIOLENCE REVOLUTION—THE SHELTER MOVEMENT

Origins of the Battered Women's Movement

While the most powerful social justice movements (e.g., labor, civil rights, anti-poverty, peace, and black power movements) of the 1960s produced intense commitment, particularly among young adults, to political, social, and economic change to promote equality and to end poverty, racism, and war, the poverty and inequities faced by women, particularly single women heads of households, were largely ignored. As justice movements gained ascendancy in the public consciousness and discourse of the nation, women began to raise questions about the lack of proclamations embracing economic and social justice or equality for women. In fact, the leadership of these justice movements was almost exclusively male, whether by design or merely as a continuation of the powerful norms enforcing the second class status of women. Few male leaders (and ordinary men) eschewed the disparagement of women, and many ridiculed women's demands for equality. For example, most men raised no alarm or objection to the words of one civil rights leader, Stokely Carmichael, in 1964—"The only position for women in the (civil rights) movement is prone."

By the mid-60s many women grew impatient and outraged at the subordination of women in all things public and private, political and governmental, economic and social. Women's groups emerged. Many were conversational—consciousness-raising groups (composed of college-educated, politically left, self-identified feminists) and junior women's clubs (educated women, across a broad political spectrum, with few identifying as feminists)—in which women considered personal and political issues. They reviewed books and political commentary. They considered the privilege and entitlement claimed by male partners, coworkers, and leadership in both political and civic organizations. Discussions were wide-ranging about men's expectations of sexual pleasuring by wives/girlfriends with limited to no reciprocity, unwanted sex, the burden of exclusive responsibility for housework and child-rearing, inferior wages and authority compared to male counterparts, legal limitations and bias against women in financial matters (e.g., purchasing cars, renting housing, or obtaining credit), hurdles in gaining admission to professional graduate studies, and the exclusion of women in movement leadership. Some women revealed they had been raped. Some battered. Some divorced. Others were struggling in troubled relationships. Few women reported equality, even in supportive partnerships.

Women, inspired by these critical conversations, began to act—to assist women marginalized, immobilized, or harmed by the men in their lives. To that end, they established crisis hotlines, women's centers both on college campuses and within communities, temporary

safe home networks, safe-escort services for college women, and women's political caucuses. What they learned as they honed their skills in organizing services for women was extraordinary. Knowledge built on knowledge, and skill upon skills. They embraced the adage—"The personal is political." The women's movement was born in nooks and crannies across the country.

Betsy Warrior, a formerly battered wife, joined a "consciousness raising" group, *Cell 16*, in 1968. Members examined the subordination of women by men within and beyond intimate relationships. They began advocating for equal pay for women, affordable childcare, and reproductive rights. The group campaigned against unpaid labor by homemakers, wife abuse, and the inequality of women in the workforce. Within 1 year, Betsy produced several articles of economic analysis; the most influential of which was *Housework: Slavery or a Labor of Love?* in which she posited that wife beating was an occupational hazard of the housewife who, because of being deprived of monetary remuneration for her labor, lacked resources and recourse to escape "male-patterned violence."

Contemporaneous with Betsy's experience and 600 miles west, Barbara Hart was being battered. Persuaded by women colleagues in Students for a Democratic Society, she joined their women's consciousness-raising group. She was the only woman in the group to reveal that she had been battered. The other women were stunned and offered her shelter in their homes where she devised plans for leaving her violent partner. Stalked and kidnapped several times by her batterer, she fled across the country to Washington, DC. A childhood friend provided shelter. Shortly thereafter and in Barbara's first semester in law school, the housemate's former husband, a severe batterer, abducted the friend's young daughter. Barbara and the men in her law school team began lawyering, persuading the criminal and civil courts and the FBI to restore the daughter to her mother. Eighteen months later, the child was returned. The team founded a women's legal clinic at the law school. The clinic fast became a tutorial on sexual and intimate partner violence, subjects not appearing elsewhere in the law school curriculum.

Marjory Fields established the matrimonial unit at South Brooklyn Legal Services in September, 1971. Her education on domestic violence began immediately as most clients were battered women desperately seeking protection from violent partners. Marjory identified gaps in the NYS civil protection order law, and successfully prevailed upon state legislators to amend expanded relief into the law. News of the extraordinary safeguards for abused women in the NY law spread like wildfire among poverty law programs across the country. A flood of requests for law reform consultation arose. Marjory met with legal services organizations and legislators in 34 states to advise on both statutory language and strategy to move legislation to enactment. In 1976, and thereafter in quick succession, all 50 states and territories enacted civil protection order laws. See *Chapter 12* within.

On a May afternoon in 1972 a woman telephoned Women's Advocates in St. Paul, Minnesota. She needed shelter. Sharon Vaughan (2009), a founder of the St. Paul program, recalls:

The call was ... from Emergency Social Services. A worker said a woman was at the St. Paul Greyhound bus station with a two-year-old child. To get a job, she had traveled 150 miles from Superior, Wisconsin, with two dollars in her pocket. What were we expected to do? Where would they stay after two days at the Grand Hotel? One of the advocates borrowed a highchair and stroller and we took them to the apartment that was our office. These were the first residents we sheltered. The two-year-old destroyed the office in one night because all the papers were tacked on low shelves held up by bricks. His mother didn't talk about being battered; she said she wanted to go to secretarial school to make a life for her and her son. She tried to get a place to live, but no one would rent to her without a deposit, which she didn't have... . After a couple of weeks, she went back to Superior, and every Christmas for

several years sent a card thanking Women's Advocates for being there and enclosed \$2.00, the amount she had when she came to town. (p. 3)

Meanwhile, Tillie Black Bear of the Lakota Sioux Rosebud Nation formed the White Buffalo Calf Women's Society, a spiritual group of women seeking safety, justice, and well-being for women and children on the reservation. They housed battered women and children in their homes. They honored battered women in the traditional "women's dances" at celebrations of the Rosebud Nation. Tillie regularly packed her van with Society members and her daughters for what was to become regular trips to Washington, DC to educate Congress and various federal agencies of the entrapment of battered women in relationships with violent partners and to seek support for funding of battered women's programs.

In 1974, Betsy Warrior wrote *Working on Wife Abuse* (later entitled *Battered Women's Directory*), the first international directory of individuals and programs advocating for battered women. It was 30 pages long. Eight editions followed, with the last in 1989; it became 300 pages. The *Directory* provided statistics on wife abuse, articles on the history of work on behalf of battered women, discussion of the motivations and utility of male-patterned violence, a review of the legal options available, papers by men working to combat sexism by counseling abusive men, and a bibliography on woman abuse as well as advice from emergency room doctors treating battered women. It included guidelines for setting up shelters, hotlines and support groups for battered women. Published long before the age of computers, email, and social media, the *Directory* became an important aid to networking among communities of women organizing to end intimate partner violence.

Deep in the heart of Texas, Debby Tucker and friends started the Austin Rape Crisis Center in 1974. Within 2 months of opening the Center in the Episcopal Seminary, the room which had been used as a bedroom for overnight "crisis line" volunteers was converted into emergency housing for women raped by their husbands or partners and afraid to go home. Visiting priests suggested that the Center needed more suitable arrangements to shelter battered women. A committee was formed, and by June 1977, the Austin Center for Battered Women opened.

Activists in Oakland, CA and NYS filed class actions against their respective police departments in 1976, charging gross failure to protect battered women and to comply with arrest laws. *Scott v. Hart* sought a change in the Oakland Police Department nonarrest policy on response to domestic violence. The OPD's "Training Bulletin on Techniques of Dispute Intervention" stated that the role of law enforcement is as a "mediator and peacemaker" rather than an enforcer of the law. The OPD settled in 1979, agreeing to stop training officers to avoid arrest in domestic violence cases, to treat each case on its own merits, to allow the plaintiff's attorneys to do weekly squad trainings with the police, to hand out resource cards to victims, and to donate money to local battered women's shelters. The NYPD similarly settled *Bruno v. Codd* before it went to trial. The two lawsuits inspired advocates for battered women to confront the nonarrest practices in many other locales. Laws authorizing warrantless arrest upon a determination of probable cause in domestic violence misdemeanor cases were enacted thereafter.

In 1976, battered women's advocates in Pennsylvania concluded that an alliance of all the shelters and domestic violence service centers in the state could harness their collective power to transform the consciousness and discourse of the public about domestic violence, to engage all sectors of the community in efforts to stop the violence, to expand justice-making within the legal system, and to gain funding for support of domestic violence programs. They also recognized that each organization had much to learn from each other for building programs that would provide battered women with the support and resources needed to escape the violence and to achieve safety, security, and justice. To these ends, they formed the first statewide network of domestic violence programs, the Pennsylvania Coalition Against Domestic Violence. One intense conversation of the founders was—What do we call this

phenomenon of wife abuse in a way that might be more politically expedient, or in other words—less radical or feminist, as we approach governmental bodies for law and policy changes in addition to funding, and as we reach out to philanthropic sources, the public, and battered women. “Domestic violence” seemed to work. The term was vague, but it didn’t describe any other phenomenon in the public discourse of the time. They believed that “domestic violence” could be readily understood to be violence toward women by their intimate partners. The name distinguished the issue from “family violence” which until that time focused on child abuse. The term was a hedge against anti-feminist attacks. It was clear to the founders that much political work would be necessary to convince the public that women were suffering dreadful violence and coercive controls by their current or former husbands or boyfriends. At the time, common belief was that women were exaggerating or causing any partner-based violence they experienced. Some Coalition members objected to what was seen as pandering to the victim-blaming beliefs of the dominant culture. The pragmatists prevailed. The term “domestic violence” is now understood world-wide to be, at the very core, violence against women in intimate partnerships, and it now includes recognition that men and people in bisexual and same-sex relationships may also be targeted for abuse by their intimate partners. (Other terms for “domestic violence” have been adopted. “Intimate partner violence” became the “term of usage” advanced by researchers, and “gender-based violence” is the term in process of reaching movement recognition for the “woman abuse” or “wife abuse” of movement origins.)

In Bethel, Alaska, a community accessible only by cargo planes and fishing boats, in 1977 a group of women, later known as the Tundra Women’s Coalition, began outreach and education on the alarming incidence of sexual assault and other violent crimes against women in their community. That fall, they opened a crisis-line in the home of a volunteer. They renovated a Quonset hut leased from the town and opened a shelter for battered women and children in 1979.

In Boston, batterers were calling battered women’s hotlines, some attempting to locate their abused partners and others ostensibly seeking help to end their violence. Women’s advocates at Transition House and Respond asked their male partners and friends to do something with the men battering intimate partners. The men—most in their mid-20’s—responded, sometimes with trepidation, but with deep concern that whatever they developed would not further endanger battered women. In 1977 they founded EMERGE, the first abuser education and group counseling program for men in the world. Accountability to battered women was a fundamental organizing principle. To that end, EMERGE reached out to the battered partners of their clients to inform them about the EMERGE curriculum, to support women’s safety, to inquire about risks to survivors posed by abusers, and to refer survivors to battered women’s programs. The EMERGE collective sought feedback on their work from both battered women and women’s advocates.

Unlike most domestic violence organizations in the country at that time, Refuge House was organized in 1977 as a traditional social service agency rather than as a grassroots, explicitly feminist, organization. The victim advocate in the office of the state attorney in the 2nd Judicial Circuit of Florida, Beth Rom-Rymer, was the inspiration for the shelter in the Big Bend area of northwest Florida. Newly arrived from Chicago, Beth was familiar with the burgeoning shelter movement there. She put out a call to community leaders, urging the critical need for a domestic violence shelter. The five individuals who accepted her invitation to a planning meeting represented the Leon County Commission, the community mental health center, the state attorney’s office, the sheriff’s office and Florida State University. The group anticipated that securing start-up funding would be challenging. It was not. They were encouraged to apply for a grant from the federal Law Enforcement Assistance Administration under the auspices of the local Community Development Block Grant agency. They did and were immediately awarded a \$10,000 grant. With this seed money Refuge House rented a house and hired a director.

Over the Pacific, Kokua Kalihi Valley (community health center) opened the Shelter for Abused Spouses on Oahu in 1978. Initially, residents were either very reticent to speak about their experiences or they spoke fearfully about the tyranny of their husbands' abuse and their deep dread that abusers would find them and retaliate for the "betrayal" of leaving. As survivors shared housework, food preparation, and childcare or negotiated often crowded shelter spaces, they talked of their experiences. Conversation brought encouragement. Conversation enriched problem-solving. Peer support groups became a vibrant part of shelter life. Support group conversations were steeped in the culture and experience of Hawaiian, Asian, and Pacific Islander battered women. Observing that mainland video clips did not speak to the heart and lives of Hawaiian survivors, Nanci Kreidman, a cofounder of the shelter, produced a video "Too Many Lickins: Spouse Abuse in Hawaii."

Across the United States by the mid-70s, "Listen to the voices of battered women!" became an expression of solidarity with survivors, an organizing refrain, and a call to allies to embrace the leadership of survivors in the domestic violence movement. *The National Communications Network for the Elimination of Violence Against Women*, *AEgis: the Magazine on Ending Violence Against Women, Response, and SANENews*, told the stories of battered women and the work of the movement. Hearings before legislative bodies and government agencies were held in many states. The *Take Back the Night Marches* in local communities included "speak-outs" by survivors.

In 1977, the first White House meeting on domestic violence began with battered women speaking of their experiences. Domestic violence conferences in communities and states, nationally and internationally, brought the voices of battered women to public policymakers, journalists, justice system professionals, faith leaders, and social service practitioners. In 1978, the US Commission on Civil Rights convened hearings on domestic violence. Testimony was offered by a broad spectrum of domestic violence experts—researchers, attorneys, healthcare providers, journalists, domestic violence program advocates, community leaders, and battered women. Hundreds attended. Among the attendees were more than 100 advocates for battered women. The National Coalition Against Domestic Violence was formed by these advocates meeting in the nooks and crannies (and even the women's bathrooms) of the Commerce building before, between, during, and after the compelling testimony of the day. Energy was high. Preliminary goals, structure, and leadership of NCADV were identified. In 1980, the first national conference of NCADV was held at the National 4H Center in Washington, DC; 550 advocates from 49 states attended.

The vignettes above are by no means a history of the early battered women's movement. Rather, they are very brief descriptions depicting the organic growth of the movement throughout the United States in its first decade. Susan Schechter authored the definitive history of the early movement in "Women and Male Violence: The Visions and Struggles of the Battered Women's Movement (Schechter, 1982)."

During the next five decades, women across the country (e.g., women battered and raped, community organizers, professional women, YWCA staff, attorneys, social workers, academics, college students, and lesbian activists) established safe homes, shelters, transitional housing, legal clinics, childcare, economic literacy courses, and many other services for survivors of domestic violence throughout the United States. Since 2006, the National Network to End Domestic Violence (NNEDV), a professional association of state, territorial and tribal domestic violence coalitions, produced a national census of domestic violence organizations, the array of services provided, and the number and demographics of adult, youth, and children survivors of domestic violence assisted. The NNEDV 2019 CENSUS obtained data from 88% of the 1887 domestic violence programs in the United States through a 24-hour survey in September 2019. More than 77,000 adult and child victims were assisted daily, with almost 43,000 victims accessing temporary shelter and 34,262 survivors receiving nonresidential assistance, including counseling, safety planning, legal advocacy and representation, financial literacy education and development, children's groups, transportation, health services,

language access, immigration representation, and crisis hotline support. While many programs attempted to deliver comprehensive assistance, few were able to provide a full range of service. More than 11,000 requests for service could not be met; 68% of which were for emergency shelter or housing. Funding shortfalls resulted in the loss of almost 800 components of program services across the country in 2019; for example, 109 programs reduced or eliminated legal advocacy or representation (National Network to End Domestic Violence, 2020).

The battered women's movement has forged a revolution that circles the globe. The societal response to victims of domestic violence and offenders—of all races, faiths, economic classes, physical and mental abilities, genders,¹ sexual orientations, and ages and in thousands of neighborhoods from massive urban environments to remote rural enclaves—challenges men's age-old prerogative to hurt, demean, control or otherwise subjugate their female partners. In addition to the proliferation of community-based services for victims, the revolution includes three other major components that are the focus of this text: (1) criminal and civil laws and justice system responses to domestic violence; (2) resources to protect and restore abused women and their children and to hold perpetrators accountable and committed to intimate partnerships free of violence and other coercive controls; and (3) the development of a vast and exponentially growing base of knowledge on every facet of abuse and corresponding societal responses.

By 2018, police in the United States were arresting more than 507,000 people for domestic violence crimes annually (Reaves, 2017). Most arrested for domestic violence are male, although the number of

women arrested for abusing male or female partners is increasing. "Dual arrests" of both partners routinely occur in a minority of jurisdictions.

THE DOMESTIC VIOLENCE REVOLUTION: RESEARCH ON WIFE ABUSE

Research on domestic violence was also an important component of the early days of the "battered women's movement." Before the 1970s, figures on the incidence (Gelles, 1983). The index of the *Journal of Marriage and the Family* did not contain a reference on violence, let alone family, spouse, or partner abuse, between its inception in 1939 through 1969.

Feminist research made a stunning debut in the first decade of the movement. Scholars sought to describe and document violence toward wives by their husbands. *Battered Wives* (1976) by Del Martin sparked intense public interest, validating the experience of survivors, and drawing other scholars to investigate what had been a largely invisible and tolerated practice of men toward their wives. Drawing on historical, social, and legal research, Ms. Martin deftly exposed the extent and seriousness of wife abuse. In the *Introduction* to the 1981 edition (Martin, 1981), Dianna E. H. Russell (1982) opined:

Battered Wives is written not only for those working to change the law, reform social agencies, provide housing for battered women or the victims of this form of male violence, but every single one of us who needs to understand this phenomenon lest those fortunate enough not to have been victims participate unwittingly by our silence in the perpetration of this crime... . Battered women must speak up, and this book should make it easier for them to do so, and easier for all of us to hear and respect what they have to say.

Dianna Russell, herself a feminist scholar, political commentator, and organizer, brought rape within marriage into public discourse in the 1970s. Her first book, *The Politics of Rape: The Victim's Perspective* (1974), provided a provocative lens into the misogynist culture and societal structures sustaining rape and other sexual violence against women. She asserted that rape is a display of socially constructed masculinity (Russell, 1975). Among her many other books, *Rape in Marriage* (1982) was groundbreaking and remains the definitive scholarship on intimate partner sexual assault (Russell, 1982). She was an organizer of the first International Tribunal on Crimes Against Women in 1976 in Brussels, Belgium. Attended by 2,000 women from 40 countries, victims testified to their experiences of numerous forms of violence and oppression inflicted because of their gender. Russell first defined “femicide” as “the killing of females by males because they are female” (Russell, 1982).

Rebecca and Russell Dobash offered trail breaking scholarship on woman battering in *Violence Against Wives: A Case Against the Patriarchy* (1979). The methodology employed by the Dobashes sharply contrasts with that of leading empiricists investigating wife battery through survey research utilizing probability sampling (see Straus, Gelles, and Steinmetz, below) as discussed in Chapter 3 *infra*. They developed a process of contextual analysis, linking historical and contemporary factors, coupled with the interactional, institutional, and cultural aspects of wife battering, and the meanings and interpretations that men and women attach to events of wife battery. They conducted and analyzed in-depth interviews with 109 survivors residing in shelter and a content analysis of 34,724 police and court records. They reviewed historical documents, media coverage and informal interviews with agencies providing assistance to battered women (Dobash & Dobash, 1979).

The Dobashes draw the reader into the findings of their investigation through a comprehensive review of the historical development of the patriarchal nuclear family and its hierarchical power structure. They concluded that patriarchy requires the subordination of women and thereby produces mandates for wife abuse. They discredit the then prevailing notion that men who batter their wives are crazy, evil, aberrant, alcoholic, weak, or marginalized individuals, and unable to manage their anger. They found instead that battering is normal conduct of normal men who embrace patriarchal philosophy and beliefs. They demonstrate how men who believe that **patriarchy** is their right, that marriage entitles them to unrestricted control over their **wives**, and that **violence** is a permissible means of achieving and maintaining that control, in fact exercise their prerogatives as husbands when they brutally punish wives for any lapse in behavior inconsistent with the expectations of battering husbands (Dobash & Dobash, 1979).

Anne Flitcraft and Evan Stark pioneered investigation, also in the 1970s, into the health risks and consequences of wife battering and the responses of emergency medicine professionals and institutions to survivors (Stark & Flitcraft, 1979). Their research examined the medical records of 481 women who visited an emergency room in a major urban hospital in a period of 1 month. Fully 10% of the women were identified as battered and another 15% were classified as likely to have been victims. The records contained prior ER visits, hospitalizations, clinic appointments, and social and psychiatric services. The 1,419 trauma events (i.e., injuries) reported to this hospital ranged in frequency from 1 to greater than 20 per patient; 75 injuries were derived from battering and another 340 injuries were inflicted on the women within the “probable” or “suggestive” of domestic violence categories. The importance of the context of the violence inflicted on these women became important upon drilling down through the medical histories before the month of the ER visit that triggered their involvement in the study. The sum of past and present injuries showed that almost half of the injuries among the patients in the “probable” category were domestic violence inflicted, and 25% of the injuries were caused by domestic violence perpetrated against the women who fell within the “suggestive” category.

The overarching finding was—“Battering (is) an ongoing process of repeated brutalization.” Other medical problems were identified; 3 of 100 nonbattered women had attempted suicide, while 26 of 100 battered women had made such attempts. The differences between

nonbattered and battered women were significant and included drug and alcohol abuse, psychiatric emergency service, community mental health assistance, state hospital admissions, and psychosocial labeling. The responses of medical personnel to women identified as battered were prescriptions of minor tranquilizers or pain medicine. As to referrals for psychiatric services, only 4% of the nonbattered women were referred compared with 15% of the women identified as battered. Further, medical personnel frequently characterized women with “pseudopsychiatric” labels in the absence of overt psychological disorders. The researchers conclude that these erroneous labels appear to stick, and the patients thereafter suffer stigma that diminishes future referral options and impedes the delivery of effective treatment.

The activism of the Flitcraft and Stark (a medical doctor and sociologist/social worker) team in the domestic violence movement began in the summer of 1975 when they visited an ally in the anti-war movement in St. Paul, MN, Sharon Vaughn, the founder of the Women’s Advocates shelter, above. The experience was so profound that Anne, who was in medical school and required to undertake a research project, chose original research on wife abuse rather than research in process with her faculty mentor. She was required to undertake a literature review on her topic as a first step in the approval process for her project. She found one article only, in *Lancet*, cataloguing injuries sustained by women visiting an E. R. while in shelter in the United Kingdom. Within 3 years Anne was testifying before the US Commission on Civil Rights and Congress. She remains astonished that federal policy was based on her exploratory student research. The hearings were a springboard for her advocacy for battered women with the American Medical Association, the American College of Physicians, and beyond. Anne and Evan also became cofounders of the battered women’s program and the University of Connecticut Health Care Center’s **Domestic Violence Training** Project in New Haven.

Arguably, the researcher most read by advocates and the public is Lenore L. E. Walker. The trajectory of individual domestic violence episodes derived by Walker, a clinical psychologist, from a sample drawn from her clients, became the almost universal explanation of the experience of battered women and the motivation of batterers upon the publication of Walker’s *The Battered Woman* (Walker, 1979). The book became a best seller, read by many advocates who shared Walker’s findings with colleagues providing a broad array of services to battered women or perpetrators. It was the book cited with authority by credentialed psychologists and expert witnesses for much of the following 15 years. Walker found a three-part explanation of battering inflicted by men on their intimate partners: phase 1, “tension-building” in the batterer; phase 2, an explosion of violence; and phase 3, a period of tranquility or at least nonviolence, named “the honeymoon phase.” “Tension-building” included increased agitation, heightened criticism, or threats targeted at the battered woman or her children, greater demands for service or subjugation, an uptick in surveillance, expectations that the battered partner would meet the batterer’s unspoken need even before he had formulated the need himself. When tension was high, some act of the battered woman or stressor in the work or family life of the batterer would cause a tipping point at which time the batterer would inflict one act or an extended episode of physical violence. If the violence ran its course (i.e., if it wasn’t interrupted by some powerful third party or event like a police visit to the home, or the survivor appeasing the assailant sufficiently by her obeisance or protestations of fidelity, or the batterer’s physical exhaustion precipitated by the infliction of violence), the abuser would possibly become contrite or experience a period of calm which sharply contrasts to the “tension-building phase,” or the batterer performs some task long promised but unfulfilled, or the assailant becomes (from his perspective) romantic, which often is experienced by the battered woman as “make-up” sex or rape. Any of the seemingly contrite behavior of the abuser ostensibly provides the victim with a period of rest and a reduction in vigilance. This three-part process became widely known as “the cycle of violence.”

As battered women began to deny that phases 1 and 3 happened or to discern other patterns of violence unique to their batterers, or as battered women experienced no such pattern to the abuse, whether predictably repeated or not, the strength of Walker’s explanation abated.

When advocates and other allies of battered women listened, many ceased teaching this “cycle of violence” and asked that people “listen to the experiences” told by battered women.

This ubiquitous explanation of woman battering also receded when Batterer Intervention Programs (BIPs) no longer embraced “anger management” as the central reason for battering intimate female partners. Shortly into the turn of the first decade, the “Visions Forum” a gathering of founders of BIP programs from Oakland to Atlanta, Boston to Duluth, Ft. Wayne to San Raphael met to discuss the work of men to end violence against women, most particularly battered women. Along with discussions about community organizing among men allies and challenging sexism, racism and patriarchy in public discourse, the group eschewed the “cycle of violence” explanation of domestic violence and began to adopt men’s use of their patriarchal entitlement to “power and control” over women partners as the fundamental explanation for battering. The revised Duluth BIP curriculum set forth the reasons for making this change, and soon many BIPs in the country had adopted the Duluth curriculum or a modification thereof.

Undaunted by the challenges to her formulation of the “cycle of violence,” Walker turned her attention to investigation of the reasons that battered women might assault or kill their battering partners. *The Battered Woman Syndrome* (1984) created a quasi-psychological medical condition in which a battered woman exposed to severe violence rather than acting in pure self-defense or defense of others acts from a type of “diminished capacity” or “post-traumatic stress disorder” to assess the reality of the peril posed by a batterer to life and limb. A battered woman operating under the *syndrome* acts subject to misapprehensions about the actual danger posed by her batterer and thus is unable to benefit from the protections of the criminal law that creates a full or affirmative defense to a charge of homicide, attempted homicide, or recklessly endangering the life of the batterer (Walker, 1984).

Walker’s application of the *battered woman syndrome* in the defense of O. J. Simpson seemed to many to be a gross perversion of *the syndrome*. Walker lost significant credibility as an expert, and the National Clearinghouse for the Defense of Battered Women became the “go-to” legal experts on defense strategies for battered women criminally charged for using violence against their batterers. Pursuant to passage of the “Violence Against Women Act,” Congress ordered an investigation of the *syndrome* as a valid and useful legal construct in the defense of battered women who are charged with violence against their partners. The US Department of Justice, in conjunction with other federal agencies, published a report (1996) finding that “the ‘battered woman syndrome’ does not adequately reflect the breadth or nature of the scientific knowledge now available concerning battering and its effects. There were also concerns (by researchers and criminal justice professionals) that the word ‘syndrome’ carried implications of a malady or psychological impairment” (US Department of Justice, May, 1996).

This overview of research in the 1970s briefly describes the most influential of the investigations into “woman abuse.” The scholarship of these social scientists was foundational for the rich and robust inquiry that has followed. In no small way, the research of this decade introduced “wife abuse” to the academy, as well as to the American public, rendering a great service to battered women and the movement by legitimizing “domestic violence” as a social problem worthy of study and by lending their substantial support to revolutionary changes to end the scourge of violence against women in this country.

THE DOMESTIC VIOLENCE REVOLUTION—COMMUNITY COLLABORATIVES

Coordinated Community Response

By the end of the 1970s, it became apparent that changes in the rest of the criminal justice system did not automatically follow. Law enforcement and advocates could not do it

alone. They needed the cooperation of the rest of the criminal justice system for domestic violence intervention to be effective. Conversations expanded. “Coordinated Community Response” became the approach chosen by many communities. CCRs, as they were commonly known, became the forum for many criminal justice agencies (e.g., police, bail system, pretrial services, jail administrators, prosecution, courts, probation and parole, crime victim assistance agencies) and the battered women’s program to sit down together to: consider their respective missions, philosophy and goals, to hear about the processes and strategies used by the various agencies to implement their mandates, to identify any conflicts or tensions that might be compromising their work, to estimate the effectiveness of the current state of policy and practice within and between the agencies, to listen to feedback of battered women and advocates about their experiences in navigating the CJS and changes they recommended, to establish a clear mission and goals for the CCR, to examine their respective policies and procedures, forms (e.g., intake, reports, assessments, evaluations, checklists, brochures and other marketing products, etc.) as to their complementarities or conflicts, and to propose changes to the overall design and implementation of the entire CJS, to acquire funding to make the changes, to gain “buy-in” of the leadership of each agency, to access funding to cover the costs of changes proposed, to construct an implementation timeline and process, and ultimately to make the changes and evaluate the coordination of the whole CJS. Both the vision and power of the leaders of the CCR must be clear and robust to move this whole process along. Likely leaders are often presiding judges or executives in the police or prosecutor’s office.

Organizers learned that patience is required, as is fortitude, for the process is slow and change is often incremental. And even when the process is completed, the persistent adherence to the resultant policies and procedures requires supervision, periodic training, and transparency of all participants in the CCR for “a domestic violence crime is rarely fully resolved with the first intervention.”

The Domestic Abuse Intervention Project (DAIP), through the leadership of Ellen Pence and Michael Paymar, became the authority on CCR development. See the DAIP website for further description of CCRs. PRAXIS International, the City of St. Paul, MN and DAIP developed the Duluth *Blueprint for Safety* in 2007 which they describe as “a first-of-its-kind comprehensive approach for addressing domestic violence in the criminal legal system” (PRAXIS International, City of St. Paul, MN, and Domestic Abuse Intervention Project, 2007).

One final community collaboration. Men began to organize to forge a world free of patriarchal domination and violence against women and girls. The National Organization for Men Against Sexism (NOMAS) began as a loose-knit spontaneous social movement in the early 1970s. In 1975, a group of men who were enrolled in a women’s studies course at the University of Tennessee held what they announced as “The First National Conference on Men and Masculinity,” in Knoxville, TN. Annual conferences followed. M & M was informal in its structure. M & M became NOCM, the National Organization of Changing Men. It adopted a pro-feminist, gay-affirmative, anti-racist philosophy supporting the enhancement of men’s lives. Its successor organization, the National Organization of Men Against Sexism (NOMAS) has a global reach and continues to encourage social activism and analysis across a range of anti-sexist men’s issues, including ending violence against women.

In the late 1970s, the Batterer Intervention Services Network of Pennsylvania, an affiliation of education and counseling programs to engage men who batter their wives and girlfriends in the process of change toward nonviolence and equality in intimate partnerships, was organized. Programs were struggling to figure out the approaches they should take to facilitate the process of change, not only for men who used violence and abuse to control their partners, but also for men who wanted to create partnerships with women based in equality and respect, free from sexist beliefs and practices. They recognized that all men, not just battering men, benefit from living in a “culture of control”² of women, and that all women, not just battered women, endure the oppressions of patriarchal dominance and the limited

opportunities inherent therein. The BIS Network remained informally organized. Membership was eclectic—faith-based, self-help, educational, psychiatric, and the greater men’s movement. While a variety of curricula were explored, the Network never endorsed any particular program but created voluntary program standards and a peer-monitoring approach to accountability to battered women and domestic violence programs. The Network hosted the 1981 *Visions Forum*, a national dialogue on appropriate roles of men in all aspects of the work to end violence against women.

And so it began—the battered women’s movement. This overview only touches on the gestation, birthing, preliminary organizing, and extraordinary accomplishments of the people who dedicated their lives to ending woman abuse in the first decade of this powerful social revolution.

THE DOMESTIC VIOLENCE REVOLUTION—THE MIDDLE YEARS

In the 1980s the work of the movement rested heavily on reforming criminal justice and civil legal interventions. Advocates found both systems wanting. While the law did not impose a reduced standard of protection and accountability, domestic violence policy and practice were inferior. Investigations were shoddy. Recordkeeping was cursory. Decision-making was inconsistent. Crime victims were treated poorly. Victim-blaming was standard fare. Survivor credibility was suspect. Adverse consequences, both individual and societal, went unchecked.

Profound dissatisfaction with the criminal justice system precipitated two change strategies.

1. Advancing “victim rights” in criminal justice processes.
2. “Normalization” of criminal justice response to domestic violence.

Victim activists began to organize. They constructed a platform of “victim rights.”

The rights of crime victims enumerated were:

- The right to be treated with dignity, respect, and sensitivity.
- The right to be informed.
- The right to protection.
- The right to apply for compensation.
- The right to restitution from the offender.
- The right to prompt return of personal property.
- The right to a speedy trial.
- The right to enforcement of victims’ rights.

National Center for Victims of Crime (2020)

Victims’ Rights (victimsofcrime.org)

In 1982, California was the first state to amend their constitution to guarantee crime victim rights. Every state has since enacted a crime victims’ bill of rights, and most have incorporated victim rights into their constitutions.³ Battered women were intended to share in these rights.

Notwithstanding this reform, it was apparent that victims continued to receive short shrift from criminal justice agencies. The culture of the criminal justice system subordinated the interests of victims to those of sector components. Victim preferences as to arrest,

prosecution, sentencing, incarceration, and reentry were largely ignored. Research reported by Cannavale and Falcon confirmed that victims of crime were not being treated well by the criminal justice system. Thus, victims were not cooperating with prosecutors, resulting in unsuccessful prosecutions (Cannavale & Falcon, 1976). Advocates began to understand that securing “victim rights” as a matter of law would not eliminate victim resistance absent changes in criminal justice system policies and practice. At the very least, the movement demanded that criminal justice response to domestic violence must be similar to system treatment of other crimes of violence. This approach was known as “normalization.” But “normalization” was not likely to be successful without “buy-in” from leadership at the top. Only when all sectors demonstrably respected victim interests and included victim input in decision-making was it possible to gain the cooperation of victims in the criminal justice process.

The first opportunity for gaining critical leadership support at the highest levels came with US Attorney General William French Smith’s appointment of a “Task Force on Family Violence” in 1982. The Task Force held hearings in six major jurisdictions around the country. One thousand people gave testimony. In preparation for the hearings, a cadre of leading advocates devised and distributed a “think piece” for local activists to consider in drafting their testimony. As a result, testimony was similar at each hearing, and the commonality of themes across the country enhanced the credibility and power of victim and advocate testimony. A report was issued from the Task Force in September 1984 (Task Force Members, September, 1984). It was met with great acclaim. The report overview highlighted three improvements foundational for criminal justice reform on family violence.

1. Family violence should be responded to as criminal activity.
2. Law enforcement officials, prosecutors, and judges should develop a coordinated response to family violence.
3. Communities should develop a multi-disciplinary team to investigate, process, and treat all incidents of family violence... (Task Force Members, September, 1984, p. 18).

Detailed recommendations followed for each sector of the criminal justice system, offering an ambitious framework for change. One recommendation that was particularly helpful in establishing the legitimacy of victim inclusion and victim advocate participation in domestic violence criminal process was: “The full participation of the victim is necessary at all critical stages of the criminal justice process. To obtain that participation, a coordinated response should include a victim advocate... who educates the victim about the operation of the criminal justice system and makes referrals to appropriate services and victim compensation programs; keeps the victim informed on the progress in the case; and ensures that the victim is consulted on decisions regarding plea bargaining, sentencing, and restitution” (Task Force Members, September, 1984, p. 22).

The findings of the Minneapolis Police study on the deterrent effect of arrest for domestic violence perpetrators that same year gave exponential impetus to reform within law enforcement (Sherman & Berk, 1984b).

Congress passed two pieces of significant funding legislation in this time period.. The Victims of Crime Act (VOCA) provided states block grants by which they could distribute revenues to criminal justice system agencies for system improvement, including system-based and shelter-based victim advocacy. States were given discretion in deciding how to distribute the funds allocated to them. The “Family Violence Prevention and Services Act” of 1984 provided for population-based grants to states to fund “core services” (e.g., emergency housing, food, transportation, counseling, and childcare) of domestic violence programs. It also funded the National Domestic Violence Hotline and five national technical assistance centers.

Thus, with these two pieces of funding legislation, major reform in the criminal and civil criminal justice systems began and shelter services expanded and gained stability. Perhaps the most influential piece of criminal and civil justice legislation on domestic and sexual violence, the Violence Against Women Act of 1994 as substantially amended and reauthorized in 2000, 2005, and 2013, will be covered in depth in Chapter 11.

Complementary reforms in various sectors have attempted to enhance the predictability and consistency of the justice response by guiding or restricting discretion in decisions made in justice venues, e.g., whether to arrest or prosecute offenders, factoring domestic violence in decisions regarding custody or divorce, combining criminal and family court response to domestic violence by creating “integrated” courts, and constructing “one-stop” models of service delivery for victims.

Since the millennium, several thousand localities now host collaborative efforts, often designed as “Family Justice Centers,” to serve survivors of domestic violence. FJC partners typically include shelters, court services, law enforcement, local businesses, child protection agencies, and a range of economic, health, and social service organizations in one facility. “One-stop-shops” offer ease of access for survivors to obtain assistance needed at one location, sometimes during one visit, acquiring essential protections, economic supports, health services, and appropriate referrals, thus being relieved of multiple trips on various days to different agencies spread throughout the jurisdiction. Hope for survivors is said to be a by-product of the spirit and cooperation of FJC services.

Recent years have brought new voices in support of victims. Leading politicians, celebrities of all stripes (TV, movie, music, professional sports, gaming, and social media stars), Fortune 500 executives, technology sector giants, clerics, print and broadcast media personnel, and even queens and kings have eschewed these crimes against women. Some among these privileged elites harnessed their fears and stepped into the spotlight, revealing victimization heretofore too shocking, potentially jeopardizing of careers or compromising of precious family privacy. Bystanders are interrupting violence against women and lending assistance to victims.

Other changes are in process. Attacks on victim credibility have diminished substantially in the media, although victim-blaming still deters many victims from pursuing legal redress. Racism, sexism, and xenophobia in the culture, and consequently in the legal system, are being examined as never before. Strategies to confront unequal justice are being considered in every judicial district. Likewise, in the media.

THE DOMESTIC VIOLENCE REVOLUTION—IS IT A SUCCESS?

By many standards, the domestic violence revolution has been an unqualified success. This is true whether one looks at the amount of public money directed at the problem, the degree to which politicians across a broad spectrum have embraced its core understanding of male violence and female victimization, the global reach of domestic violence work, the vast knowledge base that has accumulated about abuse, or the degree to which family law and criminal justice have moved domestic violence to the top of their agendas. Indeed, it would be hard to find another area of family life or criminal activity in these last decades that has commanded anything like the resources or personnel that have flowed to the civil and criminal justice systems on behalf of victims of abuse. Further, domestic violence has had a substantial effect on policy and practice in the fields of health, education, and child welfare. Similarly, the dominance of the discourse on domestic violence in all spheres of communication (e.g., internet, broadcast, print, and social media) has grown exponentially each decade of the movement. Despite this, we note that domestic violence rates remain quite high, and by most available measures, have actually increased since 2017 suggesting that we have a long way still to go before declaring victory.

In fact, while the goals of justice reform initiatives, and many others innovations reported within this volume, are to transform societal response to affect justice and safety for domestic violence survivors and accountability and desistance of perpetrators, the efficacy of new laws, policies, practices, and programs is hard to measure directly.

First, defining the “success” of the work of any sector or individual in the civil and criminal justice systems is difficult. Thus, “success” is not easy to measure. Beyond this, “success” is a complex phenomenon. Does one evaluate a particular practice or a cluster of practices in a sector, the method of delivery of the practice, the timing and consistency of professionals utilizing the method, the differences and similarities of the perspectives of supervisors and clients, the comparative importance of the practice in the overall goals of the sector, etc.? Is it measured by victim satisfaction? And how is “success” defined in constructing meaningful research about each and any of these issues?

One approach to investigating “success” is through case studies. This method, which is really oral history or documenting work of professionals, is little more than an anecdotal description of intervention strategies and outcomes. While storytelling is a crude method of exploring “success,” yet it can be helpful in identifying apparently effective practices that can be the basis for building theory and constructing tools for more scientific measurements of “success.”

Professional Performance Evaluation. Three case studies reveal the importance of oral history for defining “success” in evaluation of the performance of individuals in one sector of the criminal justice system. Here, law enforcement.

Case study 1. A police officer noticed that an acquaintance looks peaked and distressed. Upon approaching her for conversation, he discovered that she had a black eye. She reported that her husband punched her the day before. The officer proposed to arrest the husband. The survivor strongly opposed. She told him that unless her husband was incarcerated for a long period after conviction, she would be in greater danger, even lethal danger, if the husband was merely convicted of one simple assault. However, if arrest could potentially achieve a long-term custodial sentence, the survivor would enthusiastically support the prosecution of her husband. The officer agreed. With the victim’s assistance, he began a course of surreptitious investigation into all the crimes of the husband within the statutes of limitations. He identified upwards of 20 misdemeanors. The prosecutor agreed to take most to trial. The wife cooperated. The prosecutor persuaded the bail commissioner to hold the husband in custody pre-trial. The husband was convicted and sentenced to 99 years in prison. The survivor, her family, professionals in the criminal justice system, and the public agreed that the outcome of the police action was a success. Yet, the amount of police labor was extraordinary and not sustainable—and not suitable to universal application. However, one element of police action—the principle that police officers listen to victims and incorporate their preferences into decision-making—clearly was successful and susceptible to routine practice by responding officers. And if considering the efficacy of investigation or evidence collection, the officer’s conduct was highly successful. If measuring victim protection, the officer would earn high marks.

Case study 2. The senior officer in a remote state trooper barracks offered to transport a battered woman anywhere within a 2-hour radius of her home at any time. The battered woman called upon the officer three times, twice to drive her to her sister’s and once to a shelter. The survivor accessed safe, permanent housing while at the shelter. Two years later, she advised the officer that her husband was leaving her alone and had not assaulted her since her move to shelter. Protection was

the goal of both the victim and the officer; and the officer delivered protection successfully through transportation, not a common yardstick for success.

Case study 3. A battered woman, the wife of a police officer, was considering the possibility of seeking a protection order against her husband. She did not want her husband to lose his job, but she feared he would as they lived in the same mid-size city and in the district where the husband was employed and assigned to patrol. The attorney suggested that she could arrange an interview for the survivor with the Deputy Chief to tell him: • why a protection order was not incompatible with the husband's continued service, • the wife's belief that her husband would obey a standard protection order, • that she was going to ask that he be evicted from the marital home. The attorney and survivor met with the Deputy Chief. He agreed to retain the officer despite the protection order, but on three conditions—the husband would meet for a counseling session weekly with the Deputy Chief, the husband would transfer to another patrol district, and there would be no violations of the order. The wife agreed. An order issued. Counseling occurred weekly for the first 4 months of the order. The husband agreed to reassignment. At the end of one year, the order was dropped and the parties reconciled. Five years later, the husband was still employed as an officer, there was no repeat violence, and the marriage was working by all accounts. By several measures of success—the survivor's consultation with her attorney and the Deputy Chief, the protection order, and the counseling with the employer were all successful. Only the husband's compliance with the protection order would typically be a marker of success, once again revealing that measuring success must be nuanced to fairly assess the impact of system interventions.

These case studies demonstrate that “success” can be measured and illustrated on an individual case basis. Thus, one of the important lessons learned in the early days of criminal justice work by the movement was that relationship-building is essential to effectively advocate for battered women.

Contemporaneous with building relationships in aid of improved criminal justice system response, advocates engaged in civil legal work to protect survivors. The movement was also committed to enhancing other systemic responses to the needs of battered women. To that end, advocates undertook myriad law reform initiatives. Among these were preserving the privacy and maintaining the confidentiality of battered women.

Privacy and Confidentiality Protection. Preserving the confidentiality of communications between survivors and battered women's advocates in domestic violence services was a stunning “success” of the movement. In 1982, the first confidential privilege statute protecting the conversations and records of battered women was enacted in Pennsylvania (Title 23, Part VII, Chapter 61, Section 6116). Unlike the doctor–patient or psychologist–client privilege, the advocate–survivor privilege is “absolute.” This means that none of a battered woman's communications with advocates about matters related to her victimization and wherever they might occur (e.g., the shelter, the court, a restaurant, or a doctor appointment) is protected as long as the conversation in a public place is conducted in a manner that appears to be preserving privacy. Neither the police, the prosecutor, or a judge can compel the advocate to disclose the contents of the communication or the contents of the file kept by the local program. Even the conversations the survivor has with other participants in the activities of the domestic violence program are protected.

When Bell Atlantic sought approval from the PA Public Utility Commission for marketing a new software—Caller ID—advocates immediately recognized privacy problems with disclosing the phone number of the caller. With Caller ID as proposed by Bell the phone number and name of the shelter would be revealed to batterers when women called their

husbands, for example, to assure husbands that the children and the victims were staying in a safe and secure facility after leaving. Cross directories would have enabled batterers to discover the otherwise confidential addresses of shelters, enabling them to stalk and even kidnap survivors. Advocates insisted on privacy protections whereby any caller could block the transmission of their phone numbers at no cost. In 1990, the Commonwealth Court of PA ruled in favor of the advocates' position that unblockable Caller ID would be "an unwarranted intrusion into the privacy of telephone customers" (*New York Times* (1992), January 23, Section D:10).

Advocates sought and obtained "address confidentiality" for battered women through a records protection and mail forwarding service. Washington's Address Confidentiality Program (ACP) statute was the first, enacted in 1991. Currently upwards of 40 states have adopted this privacy legislation.

Battered women's programs also filed a brief in the case of *Planned Parenthood v. Casey*. Advocates presented an argument before the US Supreme Court that the Pennsylvania law that restricted abortion by requiring spousal notification of a husband prior to a woman obtaining an abortion created an *undue burden* on battered women survivors. The Court in 1992 struck the spousal notification requirement, thus preserving a woman's privacy in matters of reproduction.

VOCA, FVPSA, and VAWA, 3 federal grants programs for victims of crime, prohibit sharing personally identifying information about victims without informed, written, reasonably time-limited consent. VAWA and VOCA also prohibit disclosure of any individual victim information without written consent. Advocates and attorneys for battered women and other crime victims prepared preliminary drafts and strongly supported these regulations and legislation.

The National Network to End Domestic Violence (NNEDV) continues this legacy in social change and systems advocacy for survivor privacy. See the NNEDV *Technology Safety Project* <https://www.techsafety.org/>.

Unquestionably, the battered women's revolution has been a "successful" leader in initiating and implementing privacy and confidentiality protections. This endeavor is but one of many civil law safeguards for domestic violence survivors achieved by the movement.

Notwithstanding these individual and systemic successes, policymakers and practitioners continue to be very interested in ascertaining evidence-based information on the prevalence, frequency, and consequences of domestic violence. Social scientists have looked to aggregation of criminal justice data to assist in understanding the scope of domestic violence which was, until quite recently, deemed insignificant and not worthy of substantial allotment of resources to affect changes in law and practice. By way of example, the amount and trends in assaults and killing by intimate partners has offered invaluable, albeit limited, insights.⁴ Aggregation of *Uniform Crime Report* data over the last four decades shows a decline in crimes of violence in the country, including the prevalence of domestic violence homicides. Decreases in spousal homicides have been substantial since the enactment of VAWA in 1994: husbands, 1995 (267/year) to 2018 (119/year) or a 55% decline; wives, 1995 (732/year) to 2018 (519/year) or a 29% decline. Yet, in 2018 wives were 81% of the victims of spousal homicide, up from 73% in 1995. Thus, although fewer wives were killed in 2018, wives remain at far greater risk of being killed by husbands than are husbands by wives.⁵ However, the trend to lower homicides is not stable; numbers of homicides were up in the period from 2014 to 2017, but have decreased since 2018 (FBI Crime Statistics, 2020a).

Civil protection orders (CPOs) are a legal approach that was crafted to aid battered women in erecting barriers to physical and virtual access by battering husbands (Benitez, McNeil, & Binder, 2010). The most prevalent provisions of relief awarded in CPOs, eviction of the batterer, "no contact" orders, and restrictions on custodial access (e.g., supervised visitation and exchange orders), are intended as safeguards against batterer access and

recurring violence. Investigations into the efficacy of CPOs in preventing recurring violence support a finding that use of this legal safeguard can be effective (Logan & Walker, 2009).

Although much is yet to be learned about whether the criminal justice and advocacy services are well-positioned to reduce intimate partner homicides, preliminary evidence suggests that the reduction in intimate partner homicides can at least partially be credited to effective interventions with abusers and improved social and legal services for abused women (Dobash & Dobash, 2004). The “success” of the several legal intervention approaches above and other approaches will be reviewed extensively in various chapters in this volume.

A caveat: Measuring how justice system, human services, and community intervention efforts affect changes in the prevalence and consequences of domestic violence remains difficult. Some studies of interventions discussed in this text show high “success” rates, most often when a broad spectrum of integrated services is employed. Yet, where declines in domestic violence are documented, they are not always uniform. Nor is it necessarily clear which enhanced program or effort explains the reported declines. It is naive to assume that simply increasing the resources or personnel dedicated to domestic violence—adding more dollars to policing, assigning specialized police or prosecutors or judges to interventions, offering better education and counseling services for batterers, or increasing the number of shelter beds available for battered women—will lead inevitably to a decrease in domestic violence. Even if outreach and advertising of assistance for battered women is improved so that virtually all abused women know of safeguards available locally, a battered woman may not seek services if she believes that any sector of the helping systems is biased against women like her as is covered in Chapter 7. We are at a point in the development of the field when we need to replace heady generalizations (such as “arrest works”) with carefully hewn, scientifically grounded observations about which elements of which interventions are effective for which subgroups.

This text will hopefully help move readers toward science-based investigations into the realities of domestic violence and evaluations of the efficacy of systems of intervention. This is not to forego the lessons learned from the stories of battered women (JSI Research & Training Institute, Inc., 2020). We are facing a decade where government and private philanthropy will likely confront structural and severe financial deficits that may divert revenues away from human services and human rights. Lean times require new thinking on which strategies are vitally essential and which new and historical approaches to ending the violence should be investigated, and on inclusive strategies for transitioning—with battered women and other survivors of gender-based violence—toward social change that promotes justice and safety for survivors, accountability and transformation of perpetrators, and cultural norms and beliefs supportive of equality and nonviolence in intimate partnerships.

FUTURE OF THE MOVEMENT: CRIMINAL JUSTICE CHALLENGES

An important question we address in this book is: What has been the impact of relying so heavily on criminal justice intervention to reduce domestic violence? Part of the answer points to changes in rates of partner abuse as a result of criminal justice intervention, an issue to which we give considerable attention. But equally important is how this emphasis has shaped societal perceptions of the problem. What impact has framing domestic violence as criminal conduct had on the willingness of individuals to get involved—to accept responsibility for addressing abuse in their own lives; to support community efforts at prevention, mitigation, or rehabilitation; or to intervene when observing domestic violence?

Does the view of domestic violence as a crime make it more or less likely that community leaders (e.g., employers, coaches, educators, clergy) will intervene or only intervene by

enlisting criminal justice response to domestic violence? Are healthcare workers, educators, and social service providers unlikely to make domestic violence a priority if they believe it falls solely within the province of criminal justice? Or might they choose to ignore domestic violence if they want no part in criminal justice response, e.g., testifying at trial to the abuse observed? Are neighbors reluctant to intervene in domestic violence or support victims if they believe such action may inevitably lead to participation in the criminal justice system, an institution that they deeply distrust? Are parents unwilling to expose their battering teens (be it for abuse of other family members or girlfriends/boyfriends) because of the dearth of assistance or treatment for their teen children except that which is available through the criminal justice system and/or because the parents are fiercely committed to preventing the life-long stigma and adverse consequences of a criminal record for the abusive child, notwithstanding the legal protections that purportedly prevent youth conduct from being captured in state and federal criminal history databases? Are battered women, themselves, fearful that any outreach to professionals will precipitate a mandatory report to police or child welfare rather than offering other assistance that they believe might help to prevent recurring violence?

Primarily relegating domestic violence to criminal justice system response has other unintended effects with far-reaching implications for intervention. Responding to domestic violence largely through the criminal justice system reinforces a widespread proclivity to equate partner abuse with individual, separate, unrelated acts. State statutes addressing domestic violence found in the criminal code frames violence as discrete acts, not clusters of patterned, continuing, or cumulative behavior. This impression is fostered by the fact that criminal justice response offers comparatively simple, straightforward, predictable solutions to the complexity of domestic violence by targeting specific acts, not clusters of patterned behavior or cultural supports for male domination and control of women, particularly, but not exclusively, in intimate relationships.

Further, although the infliction of injury is not often an element of assault statutes, criminal justice resources are frequently rationed based on a crude calculus of physical harms. As is further covered in Chapter 4, without injury, domestic violence tactics of coercive control, intimidation, exploitation, false imprisonment, etc., are minimized, and treated as unworthy of criminal justice intervention.

There are at least three additional problems caused by equating domestic violence with discrete or injurious criminal assaults. With the general construction of crimes as singular, incident-based acts, police and prosecutors must charge multiple offenses to approximate the continuing or patterned nature of domestic violence conduct. Multiple charging is not preferred due to the resource drain multiple charging imposes on the criminal justice system. More importantly, historic policy within the criminal justice system directs law enforcement to charge only the most serious or injurious offenses. Even if multiple offenses are charged, only the most serious is captured (credited) in state and federal databases of crime incidence. Finally, multiple convictions can produce truly onerous criminal penalties in jurisdictions where sentencing is mandatory, i.e., not within the discretion of the court. Multiple convictions likely result in custodial sentences, placing offenders in environments that are criminogenic and offer few, if any, opportunities for training or rehabilitation and almost invariably produce significant hurdles to successful reentry into the communities to which prisoners are released. There is emerging recognition that lengthy custodial sentences, or years-long community sentences, are neither appropriate nor effective for many batterers, at least those whose violence has not been markedly injurious, weapon-involved, or life-imperiling. Multiple sentencing is not favored when the threat of recurring, and even escalating, abuse can be managed in communities utilizing DVHRT strategies coupled with job training, addictions rehabilitation, mentoring sponsorships, and other programs of behavioral change.

Another problem with the “violent incident” definition is that for many victims, the significance of these violent acts may have less to do with a given incident than with the course

of abusive conduct and the cumulative impacts over time which establish perpetrator domination over the intimate partner, thus defeating victim resistance, and ultimately subordinating the victim, thereby compromising the victim's agency, autonomy, and sense of well-being. Yet, when justice professionals view these effects only in relation to a singular abusive incident (which may be relatively minor), they tend to conclude that the victim is overreacting to the abuse. Consequently, responding officers may trivialize the significance of the act or tactic of abuse in their decision-making about charging and prosecution. Victims who adopt the perspective of criminal justice personnel and minimize the impact or power of the abuse may also consider it marginal in their assessment of the risk of future violence, much to their detriment in designing and pursuing effective safety strategies.

These problems in the criminal justice system's construction of domestic violence are meant to illustrate an important point in the book. However necessary or important the criminal justice framework can be, it is a blunt, imprecise, and ineffective instrument for preventing or stopping the violence and the ongoing pattern of coercion and control by batterers that jeopardize the spirit and ultimate safety of domestic violence victims.

Should Criminal Justice Interventions Be Victim-Centered?

In this book, we will argue both in the individual chapters and in our conclusion that this mission-centric emphasis in criminal justice response (as contrasted with victim-centric response) is shortsighted. We assert that the criminal justice system *should* consider the impact of intervention decisions on individual victims. Unlike bank robbery or even stranger assault where the crime is an isolated event by a person generally unknown to the targeted survivor, in crimes by known perpetrators likely to be in the victims' lives intimately and often indefinitely, engaging in tactics of ongoing control and violence, such as domestic violence, victims disproportionately bear the costs of crime. Enormous burdens are often placed on victims at each stage of criminal justice processing, burdens that may inflict long-term, onerous consequences beyond the violence (e.g., dislocation, job loss, other economic costs, stigma, intrusion on privacy, and uninformed child welfare scrutiny).

Ironically, the fact that the largest burden of abuse falls on individual victims was an implicit rationale for nonintervention early on. Some believed that partner violence was a private matter and a byproduct of family conflicts (or in the extreme, women's masochism) that participants could and should resolve informally. Some observers opined that when victims enter the abusive relationship voluntarily, they "made their beds" and should "lie in them." There were also positive rationales for noninterference based on respect for the right of adult women to make their own decisions about problems encountered in their personal lives.

However, another compelling reason to listen to victim voices is the fact that we have yet to find a foolproof way to deny offenders access to the partners victimized. The privilege of intimacy affords offenders a special knowledge of a victim's whereabouts and vulnerabilities that is rarely available in crimes by unknown perpetrators. Since most offenders remain in (or reenter) the community in which victims reside, even if they are eventually convicted and sent to prison or mandated to a BIP, criminal consequences for offenders may not enhance victim safety.

Further, it is a well-tested adage of the advocacy movement, supported by the available research, that victims themselves are the best judge of what keeps them safe. Following a victim's wishes with respect to arrest or prosecution need not mean doing nothing. We posit throughout the text that once victims initiate contact with the justice or court system, they should have access to a range of supports and resources regardless of whether an offender is prosecuted.

In opposition to our view and now a minority opinion in the field, some respected researchers and criminal justice professionals argue that, given the structural and organizational

capacities of justice agencies, a traditional crime-fighting approach is preferable to a victim-centered, multipronged approach to domestic violence. Jeffrey Fagan (1996), for example, argues that the criminal justice system functions best when its primary focus is on the detection, control, and punishment of offenders, batterers in this instance, and it has minimal and only indirect involvement in providing services to victims (i.e., battered women). His reasoning is that trying to factor in victim experiences and rights or the rehabilitation of offenders' conflicts with the primary mission of these institutions and confounds their efficacy. He further posits that a broad emphasis on serving victims as well as holding offenders accountable can inadvertently make it easier for criminal justice agencies to marginalize domestic cases as they did in the past, turning criminal justice professionals into low-status social workers often vilified for their problem-solving, social justice-seeking personas rather than the elevated status of crime-fighting vanguards keeping order with tactics of coercive controls and selective violence.

Notwithstanding the assertions of Professor Fagan and his colleagues, increasingly over the last 45 years, there has been pressure for the system to assist and empower victims of domestic violence. Whether to be victim-centered and how to accomplish this in a way that does not undermine other goals of criminal justice raises the many challenges addressed in this book.

As with all things subject to the ebb and flow of political truth or correctness, perspectives on the best functioning of the criminal justice system may revert to a strict construction that minimizes assistance to victims, trivializes consideration of victim input and circumvents statutory and constitutional victim rights. Our prognostication is that the emerging incorporation of victim priorities and preferences within the criminal justice system will continue given the power and persistence of the domestic violence movement.

THE DOMESTIC VIOLENCE REVOLUTION: CHALLENGES BEFORE US

Many challenges confront the domestic violence movement as we commence the fifth decade of victim and perpetrator services, protection and intervention strategies, and social change endeavors.

The challenges of the 2020s are only partially foreseeable. However, some are clear. It is certain that the movement must become more racially, economically, and culturally inclusive to be effective. We must incorporate sensitivity to the intersectionality of identities of survivors rather than viewing them as a singular stereotype of victim. We must understand how multiple victim identities—integral to race, socioeconomic status, ethnicity,⁶ religion, social status, gender, sexual orientation, parenthood, age, citizenship status, disability, economic wherewithal, criminal history, educational achievement, etc.—all overlap and interlock to produce social inequalities based on privilege or disadvantage, power or oppression, respect or bias, dignity or degradation. Absent attention to the fullness of survivor identities and the realities that these identities confer or impose on people, the movement cannot “succeed” in delivering meaningful assistance or powerful interventions for those who have historically been “invisible” as we construct and implement policy, practice, and research.

We must structure services to meet the realities of the lives of the people we serve. Many work hours other than 9 to 5. Shelter and courts that today are primarily 8:00 a.m.–4:00 p.m., Monday through Friday operations designed to fit the preferred work schedules of judges and court personnel should accommodate varied work schedules rather than excluding people working night- and swing-shifts or rotating hours. Childcare and visitation programs should offer services on-site in courthouses and human service agencies. Outreach by advocates should reach out to homeless and “transitionally housed” survivors. Hungry survivors should be offered food at shelters, schools, and other human services facilities. In rural and remote

communities, “circuit riding” assistance (modeled on services in many South and Central American communities) could be periodically delivered by mobile “Family Justice Centers” that bring advocates, civil attorneys, public health nurses, child educators, and economic resource brokers to survivors otherwise unserved. Virtual assistance for survivors unable to utilize “in-person” services should be developed, always accounting for the safety and privacy of victims in delivery of cyber services. Bystanders should be educated about effective responses to aid victims and safely deter perpetrators. Support services should extend to the family and allies of survivors to enhance community systems working to prevent and interrupt domestic violence. The movement must engage in a critical evaluation of the deficits in support and assistance infrastructure for *all* survivors and thereafter revitalize our determination to build inclusive and fully responsive advocacy for victims. The movement must also be open to learning about variations in tactics of intimate partner violence and new approaches for effective intervention among underserved groups of perpetrators.

One size does not fit all. There may be cultural rationale for domestic violence that must be understood and accounted for or possibly rebutted in meeting the needs of people not historically well-served by dominant culture programs and governmental institutions. Trauma from discrimination and stigma can affect the experiences of both disadvantaged domestic violence survivors and perpetrators and consequently create barriers to seeking assistance (Australia’s National Research Organisation for Women’s Safety, 2020).

Effective service cannot be achieved without dedicating resources, time and vision, as well as ceding dominant culture privilege, in working with and on behalf of marginalized communities (Cannon & Buttell, 2015). These are among the challenges confronting the movement in this fifth decade. These challenges are more fully discussed in Chapter 5 addressing special populations at risk and those of historically underserved populations.

We have not figured out if differences in interventions impede “justice for all.” Challenges to the strategies we have designed are increasingly apparent as we examine racism in the criminal justice system⁷ and attempt to create systems that no longer imperil the lives and well-being of African American women and men, Indigenous populations, Asians, Pacific Islanders, LGBTQ, and sometimes undocumented immigrants as covered in Chapter 5.

We must also be vigilant to prevent loss of the gains won in civil and criminal jurisdiction for tribal law enforcement. The risk of the US taking back what federal and state governments recently returned to Native nations of the rights and responsibilities manifest in Native culture and articulated in Indian nation codes and treaties with federal and state governments but ignored or superseded in case law and statutes throughout the history of this nation, is great. Movement forward is critical.

Research on pandemics, public health crises, and other crisis settings reveals that the outbreak of these diseases correlates with incitement or exacerbation of domestic violence against women and children. Learning from the COVID-19 pandemic, the movement can prepare to better address the services and criminal justice responses that can mitigate the adverse effects of public health emergencies in the future (O’Donnell, Peterman, & Potts, 2020).

There is a need to expand services and protections for immigrants and refugees from around the globe and displaced indigenous people in this hemisphere. We must confront the dire contributions that domestic violence is making to sex and labor trafficking in this country and create awareness that we who ignore, collaborate. We must ensure that the battered elderly do not lose agency and independence or their homes to caregivers. We must open our hearts and services to men who have been battered notwithstanding the gender or sexual orientation of their abusers.

COVID-19 and Its Long-Term Impact

COVID-19, its aftermath, and recovery present difficult challenges and unpredictable changes. As state governments face bankruptcy and the federal government grapples with

deficits unequalled in our history, caused by the huge disruption in our economy, people of all identities, communities and wherewithal are confronted with the grueling tasks of searching for “normal”—good health, adequate income, manageable debt, and safety in their homes and communities. Domestic violence intervention is at a crossroads. The grants and governmental allocations of funds that have sustained specialized criminal and civil justice interventions over the past 45 years may disappear or be sharply cut back. Charitable giving, the backbone of nonprofit agencies serving survivors, will surely erode. Victims, themselves, will often be unable to triage available resources to continue effective safety strategies and find that risk levels consequently accelerate. Social distancing measures that are recommended for the foreseeable future will slow recovery. Our work cannot be placed on hold during recovery. Consequently, we are challenged to find new methods of deterrence and threat management strategies, expanded virtual legal systems, and innovative community-based victim and human services.

COVID-19 also ushered in the “Reality Revolution” in which we routinely live in both virtual and in-person realities. The expansion of virtual living, sharply precipitated for some and dramatically escalated for others, has changed our lives. The competence in dual reality living varies. Who would have thought in February, 2020 that we would visit with our primary care docs and nurses largely by telephone or virtual patient portals? Who would have thought that our children K–12 would be “homeschooled” by whichever of us happened to be living with them at the time of our confinement? Who would have thought that we’d be searching the Internet to purchase both scarce essentials and favorite foods not available in our local markets? Who would have thought that the only smiles we’d see outside of our homes would be revealed in the eyes of masked neighbors or folks in meetings online? Who would have thought that civil protection order or custody courts would be in virtual venues? Who would have guessed that we’d sit in pajamas or be reminded by hosts of webinars to put on shirts and underwear before entering the virtual meeting? Who would have thought that it might take hours for the one police officer on duty to respond to emergency domestic violence calls? How many of us started answering the front door without inviting a neighbor in for a drink of tea, coffee, beer, or other favorite? Who has washed their hands 10 times a day for 20–30 seconds or worn plastic/rubber gloves when using our credit/debit cards? Who is now listening to Audible Books or reading on Kindle or their ilk who didn’t before?

How many of us who formerly envied those who could work from home, online or phone, now wish for the days of competition for the coffee pot or open-space workplace? And which of us thought we’d be leaving home in the fall, letting our parents figure out what it meant to be “empty-nesters” with total control of the refrigerator, the kid’s bathroom, the music system, and the thermostat, but instead are still sharing space with young adults who just don’t know how to clean their rooms, wash dishes, or shop for food rather than snacks? Or who began to dread power outages as we lived our lives online? Who paid the May, 2020 rent with federal “stimulus dollars” and feared the day when the governor would lift the temporary freeze on evictions? And who learned that the funds they anticipated for research had been cut off and diverted to more essential expenditures? Several things became true for all of us. (1) Life changed. (2) Our closest in-person connections with humans were in long lines at grocery stores or with delivery persons. (3) We spent an inordinate amount of time online daily and learned the technology because it was not optional not to do so. (4) The split between virtual and in-person living became the “new normal.”

At the same time, victims of domestic violence face special challenges above and beyond that of the general population. For example, who gets released from jail pretrial or came home from assisted living because jails and “senior living centers” were too dangerous for residents and workers? Were many abusers that pled down charges to innocuous sounding misdemeanor offenses released? Does this risk the safety and lives of their victims?

What was a sharp shrinkage of federal grants for research under the early Trump Administration became a trickle during the COVID-19 “recovery.” Research positions and

scholarships at even the largest or most endowed universities and research institutions have been lost. Attrition in the numbers of students choosing to become research scholars has been sharp in the social sciences. These changes present enormous challenges to building knowledge about incidence, prevalence, severity, and consequences of domestic violence. The changes have curtailed evaluation investigations. The burgeoning field of domestic violence research and the enriched discourse and collaborative investigations in the community of research scholars are challenged.

Furthermore, the mounting evidence, above, that criminal justice interventions alone have a limited effect on changing the societal beliefs and institutions that sustain violence against women in all its forms, presents daunting challenges for law, policy, and practice. The monumental changes that technology advances are bringing challenge to our capacity to even envision new laws and intervention processes. Surely technology will change our methods of communication, likely eroding privacy protections, taking transparency to a level we cannot now imagine, and even allocating governance to a few technology gurus and their surrogates. Criminal and civil legal justice interventions and protections, as we have known and practiced them, may become obsolete. Conceivably, leadership of the coming generations may take us to direct action rather than formal processes. The hierarchical privileges that distribute power and resources by gender, race, age, beauty, and wealth may be set aside for more democratic and inclusive approaches to justice-making. “Truth and Reconciliation” panels led by historically marginalized people may be convened to settle the grievances that children have against batterers who have disrupted and compromised their childhoods. Whatever the future, as justice-seeking people we must continue to step up and use our wisdom and voices to ensure the safety and well-being of all and to create opportunity and hope for survivors of domestic violence. The challenges presented by an unknown future are almost too much for us to imagine and beyond the reach of our capacity to guide. We must start with small changes.

Change in the law and legal process are upon us. COVID-19 has taken us into the virtual world of court processing of legal rights and responsibilities. A renowned legal scholar recently opined that the practice of law will be so transformed by the COVID-19 pandemic that it will never revert to legal practice as we have known it. Courts will be digital. Barriers of cost, formality, obscure rules, and protracted processes will be sharply reduced. Litigants will become “consumers.” Self-help tools and online consultation will expand to enable consumers to effectively utilize virtual courts. Lawyers will practice in virtual clusters with members in several states or countries rather than in law firms. If the scholar’s prediction is correct, many of us who have lived our professional lives in brick-and-mortar courthouses will be working in virtual venues. The children of women who created shelters and legal clinics will be forging methods of equal access for all people, poor and rich, rural and urban, illiterate and scholars.

The reader may want to turn the page back to reality and the immediate challenges we formerly faced in ensuring effective approaches to forging safety and justice for survivors and desistance and accountability for batterers. However, change is not an option. It is an imperative.

Note on Terminology

The lexicon of the field of domestic violence derives, not from scientific inquiry, but from the social and civil rights movements of the 1960s, most particularly the “battered women’s movement,” expanded by the political and justice system engagement commencing in the 1970s and the early law and governmental reform initiatives of the 1980s and 1990s, all of which inspired the sociological and criminological investigations of the 1980s and 1990s, and exponentially grew with the eras of digital communication, social media, and global outreach in the last two decades.

With all of these influences, the terminology of the field is complex. Terminology differs among the various sectors of the field. Terminology utilized is typically consistent with the

discipline of the speaker, yet dominant public discourse largely retains the nomenclature of the “battered women’s movement” and the justice system.

Language also changes with context. From the perspective of the criminal justice system (CJS), persons employing violence against intimate partners are sometimes “batterers,” “perpetrators,” “accused,” or “offenders.” Prior to CJS intervention, these actors may be identified as “batterers.” Once law enforcement has responded to a call for service, an actor becomes a “perpetrator” when charges have been filed; the actor may also be referred to as the “accused” prior to disposition of a case. Postdisposition, the actor is usually called an “offender.”

Within the context of social services to those targeted by actors, the terminology varies with the type of agency providing assistance. Those identifying their service as “movement-based” may use the terms “abused,” “battered,” or “survivor.” Legal service providers typically use the same identifiers. Healthcare providers may also refer to their clients or patients as “victims.” However, none of these identifiers is exclusive to any service type.

Providers within “movement-based” services are named “advocates.” Those assisting targeted persons within the CJS are frequently called “victim advocates” or “victim assistants.” Other providers are identified by their professional titles.

The “battered women’s movement” and the civil and criminal legal systems employ the following to describe the conduct of those targeting their intimate partners: “Battering”—a broad swath of behavior, primarily violence, e.g., assault, battery, sexual aggression, kidnapping, strangulation, burning, and threats of violence. “Coercive control”—conduct to achieve or maintain domination/subordination e.g., stalking, surveillance, isolation, entrapment, deprivation of necessities, reproductive coercion, various forms of punishment/deprivation for disobedience/noncompliance with directives, limitations on religious practice, prohibition of association, and constraints on parenting. “Verbal and psychological aggression”—words or acts of denigration or humiliation, unjustified contradiction, intimidation, false claims of psychosis, and discrediting. “Economic abuse”—theft, destruction or appropriation of property, arson, control of assets, limitation or interference of employment.

All of these fall under the umbrella of wrongful behavior inflicted on intimate partners generally known as “domestic violence” and less commonly referred to as “abuse,” “intimate partner violence,” or “gender-based violence.” “Intimate partner violence” is the term often employed by the academy, healthcare practitioners, and social scientists. “Gender-based violence” is a variation on “intimate partner violence” denoting that the offender targets the victim based on their gender, but most frequently referencing abuse of a female intimate partner. “Abusive behavior” is a term, deriving from the language of the early movement, that the authors employ referring to all the acts of “domestic violence” and which in no way implies less serious wrongful, destructive, or life-endangering behavior.

The nomenclature for the multiple constituencies or groups of survivors and perpetrators has changed since the inception of the movement. There is not always accord as to usage. The authors have most often identified these constituencies consistent with those employed by federal government agencies (e.g., the Centers for Disease Control and Prevention, the US Department of Justice, the US military, and federal courts), national professional associations and movement-based organizations.

Emerging identifiers have been used sparingly throughout this volume consistent with leadership usage in the field, always with a view to inclusivity. For example, when referring to persons formerly identified as “homosexual,” we have used the acronym LGBTQ (i.e., lesbian, gay men, bisexual, transgender, and queer), recognizing that there are additional sexuality and gender identities. As to populations identifying as Hispanic and Latino/Latina, or Latinx, the Pew Research Center’s most recent survey of persons of Spanish language/heritage found the term “Hispanic” was preferred by far, with “Latino/Latina” second in usage, while only 3% used “Latinx” even though one-third recommended its usage as a pan-ethnic term. “Latinx” was preferred by persons in the academy and college-educated, US-born, English-speakers.

The authors elected to utilize “Hispanic” and “Latina/Latino” interchangeably throughout this text. Another term emerging, but not yet employed by even a small minority of constituents for all people of various races and ethnicities, is BIPOC, an acronym for black, indigenous, people of color. We have chosen not to use this term as it is not inclusive of the most numerous of ethnic/racial minorities in the United States. Throughout, the authors chose to use the nomenclature employed by the CDC and the Office on Violence Against Women of the US Department of Justice in references various underserved or minority populations.

Otherwise, the authors have largely utilized the language of the “battered women’s movement” and the law on “domestic violence” throughout this volume.

NOTES

1. As of the publication of this text, ABC News recognizes 58 gender options by which people currently describe their gender identifies.
2. Garvin, D.
3. VictimLaw.org (2021) is a searchable database of victims' rights legal provisions including federal, state, and territorial statutes, tribal laws, state constitutional amendments, court rules, administrative code provisions, and summaries of related court decisions and attorney general opinions.
4. See, Women Count USA, databases on femicide from 1950 to present. <https://womencountusa.org/the-databases>.
5. See FBI (1995, 2005, 2010, 2015, 2018). "Crime in the United States: Expanded Offense Data." US Department of Justice. Washington, DC.
6. See, Caminar Latino and LUPE at <http://caminarlatino.org/>. Note, children make up a majority of the participants in Caminar Latino, but there are programs for women and men as well.
7. See, *COPS* TV show, pulled off the air, in part, for its racism. NPR, 6/10/2020.

WHAT IS DOMESTIC VIOLENCE?

MATTERS OF HISTORY, FAITH, AND SOCIETY

CHAPTER OVERVIEW

Why do we care about historical attitudes and precedents toward women or religion in the United States, an increasingly secular society? Are religious doctrines and attitudes still important in the context of a modern Western society? Simply stated, an understanding of domestic violence should include a macro-level analysis to explain the structural violence considered by many to be endemic against women in most societies. This chapter will discuss the long history of societal neglect of this problem and how socially sanctioned violence against women has persisted since ancient times.

Prior to the 1970s, the statutory structure for handling domestic violence could charitably be described as “benevolent neglect” of “family problems.” State assistance for victims, if any, went to traditional social welfare agencies that handled a variety of family problems, most of which were assumed to originate from poverty, ignorance, or ill-breeding. Not only did these agencies lack expertise in domestic violence, but they often took the occurrence of violence as an occasion to strengthen family bonds, in many cases exacerbating women’s abuse. Managing violence against women was considered beyond the purview of government; as a result, the failure of government to assume responsibility for the safety of women and children in their homes was not noticed. To the contrary, it was widely believed that intervening to protect women and children except in the most egregious cases could do incalculable harm to family structure and so, by extension, to society as a whole.

We also know that many religions—Christianity, Judaism, Islam, and others—in their core texts simply have affirmed ancient male-dominated family structures. The result can be found in the official discrimination and historical tolerance of domestic violence. These are exemplified by English common law in the history and practices of the United States at least until the enactment of modern reforms. Although most societies have the same—or even significantly worse—issues with official and tacit tolerance toward domestic violence, this chapter will focus on historical and religious antecedents that have shaped the “traditional” US tolerance of domestic violence and how these might still impact how our society treats the issue. Finally, we will deal with the paradox that despite patriarchal texts, many empirical studies have found that in the United States at least deep religious convictions correlate with lower rates of intimate violence.

The second part of the chapter will discuss the modern movement for change in the police response to domestic violence. Change originated from an unusual confluence of political and legal pressure from women’s rights and battered women’s advocates, research, and organizational concerns over the possibility of liability if the police continued past practices of neglecting victims of domestic violence. The interaction of all these sources of influence is worthy of examination as it helps us understand our current concepts of belief systems and best practices.

HISTORIC ATTITUDES ON DOMESTIC VIOLENCE

Domestic violence has long been a feature of both ancient and modern societies. From the earliest record, most societies to varying extents have given the male patriarch of a family the right to use force against women and children under his control.

The basis for patriarchal power often was a desire to maintain social order extending to defined relations within the family. One graphic example is Roman civil law, *patria potestas*, which gave legal guardianship of a wife to her husband. This concept included the largely unfettered ability of the husband to beat his wife, who became, in legal effect, his daughter. Such rights were not necessarily for her well-being since this right extended to the ability (if not the reality) to sell a wife into slavery or, under certain limited circumstances, to put her to death. This was codified in the earliest known example of a written marital code (753 BC); Roman law stated simply that wives were “to conform themselves entirely to the temper of their husbands and the husbands to rule their wives as necessary and inseparable possessions” (Pressman, 1984, p. 18). Similar codes or judicial doctrines were enacted in many ancient societies where women, whether slaves, concubines, or wives, were under the authority of men and in effect were treated as chattel property (Anderson & Zinsser, 1989) or viewed as inherently having an inferior role “as men ruled in government and society, so husbands ruled in the home” (Lentz, 1999, p. 10). Ancient historical precedents can therefore best be summarized by the concept of the “natural order,” being one of inferiority of women under the male head of the household, who logically retained “property” rights as the head of the household over everyone in his domain.

English Common Law and European History

English common law, the progenitor legal system of 49 of the 50 US states (all but Louisiana), followed a variant of the well-recognized custom. In traditional English society, property rights were the key denominator of social status. English feudal law reinforced religious edicts using the concept of male property rights over women and, within limits, the right of men to beat “their women” if needed. Socioeconomic status, heredity, and sex determined far more than personal achievement in setting the potential limits for what a person could attain. Hence, one was either bred into nobility with the numerous rights thereof or one was a commoner. Each group had clearly defined property rights and behavioral expectations. Within such a charged atmosphere, the characterization of one’s rights over property was perhaps the most important attribute of a person’s status.

In feudal times and according to common law, incorporating Norman customs, married women became “a femme covert,” the law of “coverture.” This meant women were under the protection and control of their husbands. While one could be cynical about the role of “chivalry,” there also were risks for men in this allocation of responsibilities as under the law of coverture; husbands were legally responsible for the actions of their wives. However, women incurred the far greater loss as they relinquished property rights in favor of their husbands, even when property was inherited from their families.

The implications of a man’s property rights and his reaction to the violation of such rights were acknowledged in the British judiciary’s reaction to adultery by each gender. For example, English common law differentiated between the “reasonable reactions” of a husband to his spouse’s adultery (justifying to some extent an impulse to extreme violence) and those of a similarly situated wife, who had no such protection for her own violence in the face of adultery.

From the seventeenth century through the mid-twentieth century, British common law mirrored their society where it was expected that men had more aggressive sex drive and a natural dominance over their wives. Hence, a “normal” reaction to a woman’s adultery was

understood. Under this conception of dominance, adultery by the wife constituted adequate provocation enough to mitigate murder to manslaughter (a lesser crime not punished by death) regardless of whether a husband killed the wife or her lover. Because adultery was viewed as violating a husband's property rights in his wife's body and his family name, the common law recognized allegations of infidelity as the most severe form of provocation. As a court opined in *Regina v. Mawgridge* (as cited in Miccio, 2000, p. 161), "Jealousy is the rage of a man, and adultery is the highest invasion of property ... [A] man cannot receive a higher provocation."

Although spousal infidelity might always be considered a severe betrayal, the law of adultery was totally gendered in its application. Until 1946, English courts assumed that wives did not experience rage as men did. Therefore, women who killed philandering husbands could not use adultery as a justification to reduce a murder charge to manslaughter.

This exemption for killing in defense of a man's honor—and in effect, in defense of his property—was carried forth from common law and widely recognized in the United States as well, both by state statutes (four of which at one point made adultery a complete defense to criminal charges of killing a wife's lover) and even more commonly by judicial action (Miccio, 2000).

Some historical change, however, was evident beginning in the 1500s. In response to beating deaths that were from the medieval times regarded as extreme, English common law began the process of introducing constraints on a man's rights to beat his wife. The concept of "restraint" was introduced to place some limits on the up-until-then largely unfettered rights of the husband. Under later English common law, husbands were entitled to dominate wives using violence "with restraint" (e.g., the theory of "moderate chastisement"). The power of life and death over his wife was taken away—at least officially. In practice, however, few if any restraints short of punishing homicide were imposed on the husband's ability to chastise his wife (Gamache, Edelson, & Schock, 1988; Sigler, 1989; Walker, 1990).

Such limiting rights were perhaps most graphically illustrated by the often-stated, if somewhat allegorical, concept of the rule of thumb, which purported to allow husbands to beat their wives with a rod or stick no thicker than his thumb. The probability that a whipping with such an instrument could still cause serious injury or even death illustrates how important maintenance of the family unit and the authority of its patriarch was in practice—far more important than stopping violence. As such, one eighteenth century court ruling gave authority to the husband to punish his wife as long as it was confined to "blows, thumps, kicks, or punches in the back which did not leave marks" (Dobash & Dobash, 1979, p. 40).

In the late 1500s, the British jurisprudence began debating whether there were legal limits to the theory of chastisement. Public debate began as to whether God or the state sanctioned physical beatings (Fletcher, 1995; Lentz, 1999). In this regard, trial courts began to be concerned about the reasons for the beating and the extent of the physical damage inflicted. Hence, it held if the woman somehow was responsible for the beating—if she was an adulteress, or even "a nag," more physical punishment would be permitted. Alternatively, if the beating was the result of a drunken rage, it would be illegitimate and punishable. From this perspective, the concept of restricting beating to particular acts as well as the physical punishment inflicted became key limitations on the common law right to chastise one's wife.

From a different perspective, it is possible to see that as socioeconomic status lines became more rigid, "wife beating," although still widespread, came to be viewed as a mark of the lower class—at least by members of the upper classes, who increasingly disdained such violence as the product of the British drunk lower classes. In reality, although few court records exist, because such actions were considered to be private within the family, it is equally possible that beatings in upper-class families were widely present. Although probably rarer than in the lower classes, at least partially due to differences in drinking patterns, such abuse

was more likely to be veiled in silence and never reported to the authorities to prevent shaming the families in proper society (Fletcher, 1995; Lentz, 1999).

Other societies adopted similar theories that limited the application of the husband's violence while in effect condoning his right as the family patriarch to engage in certain violence to promote family values. For example, a sixteenth century Russian ordinance expressly listed the methods by which a man could beat his wife (Quinn, 1985). When violence became too serious, laws against assault and battery were typically not invoked. Instead, informal sanctions by family, friends, the church, and perhaps vigilantes were undertaken. Such sanctions included social ostracism, lectures by the clergy, or retaliatory beatings of an offender by the wife's male kinfolk (Pleck, 1979).

The fact is that in virtually every society we have examined, whether in European or other cultures, proverbs, jokes, and laws indicated strong cultural acceptance and even approval, within reason of the control of women by their husbands, including beatings, if necessary (Buzawa & Buzawa, 2017). Any effort to list such proverbs would be futile, but two examples are illustrative of the extent of such beliefs:

A wife is not a jug ... she won't crack if you hit her 10 times. (Russian proverb)

A spaniel, a woman, and a walnut tree—the more they're beaten, the better they be.
(English proverb)

In addition, English comic plays used wife beating as a recurrent comic theme. One obvious example is William Shakespeare's witty comedy *The Taming of the Shrew*, where the woman's desire to test the limits and her subsequent acceptance of a beating were considered hugely comedic.

Certainly, US culture is no less inundated with messages of this nature. Until at least the 1970s, American pop culture often trivialized domestic violence. Consider television programs such as *I Love Lucy*, in which Ricky Ricardo regularly spanked Lucille Ball, for comic effect, or *The Honeymooners*, in which Jackie Gleason's arguments with his wife, Alice, typically ended with his catch phrase, "One of these days, Alice ... pow, zoom, right to the moon." John Wayne movies similarly used spanking as a staple strategy in many movies to tame a spouse or even to "win over" independent, strong women—usually in front of and to the delight of the entire town. Notably, such taming did not stop until the woman stopped struggling and accepted that this was appropriate. Although the spankings, at least on camera, might have been perceived as trivial, and no injuries ever resulted, in dramatic effect women were perceived to encourage moderate violence by taunting the male until he gave her the beating she tacitly desired. The reality of serious domestic violence was simply never addressed.

Nineteenth-Century European Advances

While most European countries had very little political activism in behalf of battered women, in the late nineteenth-century Victorian England, early feminists were emerging as a potent social force. As a group, they were admittedly far more interested in women's suffrage and began to understand the impact of what we now term domestic violence. Such authors that often wanted to regulate many aspects of private morality in their country from temperance through rehabilitation of criminals began to be incensed about what was commonly and somewhat derogatorily accepted as "wife beating." They viewed this as being a problem primarily of patriarchs in the "lower classes" who continue to display barbarism in their treatment of women and children in their families.

In 1878, Frances Power Cobbe wrote an important article entitled "Wife-Torture in England." She specifically called the paper "English Wife-Torture" because, in her own words, she "wished to impress my readers with the fact that the familiar term 'wife beating'