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# **Convicted Survivors: The Imprisonment of Battered Women Who Kill**

by

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## **PART I**

### **INTRODUCTION**

Violence against women is a pervasive social problem of extraordinary proportions in the United States. For women, home is a place of greater danger than public places—more dangerous than the workplace, more dangerous than the highway, more dangerous than city streets. However much we would like to picture intimate relationships as a refuge from the violence that exists outside the walls of our homes, all too often the couple relationship itself is the foremost source of danger and threat to women. Men assault their former, estranged, or current wives, fiancées, and girlfriends at alarming rates with near impunity. In the United States, women are more likely to be attacked, injured, raped, or killed by a current or former male partner than by all other types of assailants combined (Browne 1992). Male intimates inflict more injuries on women than auto accidents, muggings, and rape combined (McLeer and Anwar 1989). The most common form of murder-suicide is perpetrated by a male with a history of abusing his female partner whose attempt to withdraw from him triggers his lethal violence (Murzak, Tardiff, and Hirsch 1992). Over one-half of women homicide victims are murdered by a current or former male intimate (Browne 1992).

Cross-cultural research reveals that the abuse of women by intimate male partners occurs more often than any other type of family violence (Levinson 1989). The identification of the abuse of wives and girlfriends as a social problem emerged in the 1970s as the women's movement took shape and moved forward. Since then, the issue of violence between intimate partners has been of increasing concern to social scientists. Research shows that woman battering crosses all socioeconomic strata; it crosses all racial, ethnic, religious, and age groups (Pagelow 1981). Due to the private nature of intimate violence the actual rates of occurrence are unknown. Nevertheless, known rates in the United States suggest that it is pervasive. The Department of Justice (Hofford and Harrell 1993) reports that between 1.8 and 4 million American women are abused in their homes each year; and Sherman (1992, p. 1) observes,

up to 8 million times each year this nation's police are confronted with a victim who has just been beaten by a spouse or lover... Domestic assault is the single most frequent form of violence that police encounter, more common than all other forms of violence combined.

The 1994 National Criminal Victimization Survey (NCVS) estimates that, in over 90 percent of violent incidents, the victim was female; women experience over 10 times as many violent episodes by an intimate than males (Buzawa and Buzawa 1996).

Women who experience a violent assault are more likely to require medical care if the attacker was an intimate rather than a stranger, injuries occurring almost twice as frequently when the offender is an intimate than when a stranger (Bachman 1994). The National Institute of Mental Health estimates that 21 percent of all women who use emergency surgical services are victims of conjugal violence (Browne 1987), and Sherman (1992) reports that from 22 percent to 35 percent of all emergency room visits are for injuries caused by domestic assault. A recent survey of Denver emergency departments found that more than half of the randomly sampled 648 women who sought treatment had been threatened or injured by a husband or boyfriend at some time in their lives (Abbot, Johnson, Koziol-McLain, and Lowenstein 1995). A woman who comes to a hospital emergency room three times with injuries has an 80 percent chance of being a battered woman, regardless of the severity of injuries (Flitcraft 1995). According to Browne (1992), from 33 percent to 46 percent of battered women are sexually abused, assaulted, and raped by their partners. Estimates of women who experience abuse during pregnancy range from 3 percent to 8 percent, although one study at a multi-racial public prenatal clinic found that 17 percent of the women experienced physical or sexual abuse during pregnancy (McFarlane, Parker, Soeken, and Bullock 1992). Approximately one-fourth of all suicide attempts by females are related to domestic violence (Flitcraft 1995).

In her landmark work, *The Battered Woman*, Lenore Walker provides what has come to be the most generally accepted definition of an abused woman:

A battered woman is a woman who is repeatedly subjected to any forceful physical or psychological behavior by a man in order to coerce her to do something he wants her to do without any concern for her rights. Battered women include wives or women in any form of intimate relationships with men. Furthermore, in order to be classified as a battered woman, the couple must go through the battering cycle at least twice. Any woman may find herself in an abusive relationship once. If it occurs a second time, and she remains in the situation, she is defined as a battered woman (1979, p. xv).

Numerous factors influence a woman's decision to remain with an abusive mate despite the likelihood that the violence will increase in frequency and severity over time (Browne 1987). Culturally, women tend to invest themselves in their relationships and derive meaning and identity from them. The battered woman is likely to feel responsible for the abuse, aided by the batterer's refusal to take responsibility and by his external focus of blame for the violence. Often the woman believes that her abuser can or will change. She makes every effort to resolve family conflicts and create peace in hopes of avoiding future violence. Abusive events are interspersed among otherwise normal interactions and the emotional attachment the woman feels for her partner can be difficult for her to overcome. She may view her abusive partner as "sick" and dependent on her for survival (Ferraro and Johnson 1983).

Traditional or religious beliefs, as well as family and friends, often work against a victimized woman's departure from the home and mate. In general, the batterer maintains sole control over family finances, restricting his partner's access to funds that could enable her to leave. Due to the nature of the nuclear family and the man's efforts to isolate the woman from outside social support, she has few alternatives to staying in a violent relationship (Archer 1989). Generated by the batterer's actual threats of suicide, his threats against her, the children, and/or family and friends, many women remain in abusive relationships out of fear of retaliation (Browne 1987).

A woman with children may be deeply concerned about the well-being of her children if she leaves. She may stay with an abuser out of fear of losing custody of her children, either in the divorce settlement or through later kidnapping by the man; abusive husbands are no less likely to win custody than are fathers with no allegations of violence (Liss and Stahly 1993). According to the US Commission on Civil Rights, "A woman who leaves an abusive situation may be found to have deserted her husband and, therefore, may become the party at fault" (1982, p. 8). While shelters and safe houses provide vital support services for battered women and their children, they have not been able to keep up with the need (Jones 1994); there are about 1,200 shelters for battered women throughout the United States (Crowell and Burgess 1996). Researchers frequently cite the lack of help given to battered

women by the police and other criminal justice representatives among the factors that keep women trapped in abusive relationships (Browne 1987; Ewing 1990; Jones 1994).

Many women leave, or try to, only to end up back with the abuser. Women who experience violence at the hands of an intimate partner cannot assume that leaving, by itself, will end the abuse (Foster, Veale, and Fogel 1989; Jones 1994). Pagelow (1982) found that almost 80 percent of her sample of 350 women had made at least one previous but unsuccessful attempt to leave the relationship and 71 women returned unwillingly. In another study, 20 percent of the women reported that they returned to their batterers at least one time because of threats to hurt or take the children (Liss and Stahly 1993).

Violent assaults may continue after women leave or separate from their abusers. Simply discussing separation or divorce, not only their accomplishment, can provoke an escalation of violence (Browne 1987, Johann and Osanka 1989). "Separation assault" describes a batterer's violent attack on a woman in order to keep her from leaving, coerce her return, or to retaliate for her leaving (Mahoney 1991). The woman's departure may even further aggravate the man's need to control and to regain what he perceives as a loss of power and possession. Women know to take seriously the threats of their abusive partners; it is possible that as many as 50 percent or more of the women who leave their abusers are stalked (Browne 1987, Walker 1992).

Women who leave their batterers are at substantially greater risk of being killed by the batterer than those who stay (Block and Christakos 1995; Stout 1991). Rapaport (1994, p. 225) reports that, of males on death row for domestic homicide,

Almost half the men killed in retaliation for wife or lover leaving them, although the victims of these killers were sometimes the children and relatives of the women as well as, or in place of, the women themselves.

Walker (1992) reports that the woman remains at increased risk for at least two years after she terminates the relationship. Further, in 1992 the National Crime Victimization Survey found that the victimization rate of women separated from their husbands was about three times higher than that of divorced women and about 25 times higher than that of married women (Bachman and Saltzman 1995).

Violence between intimate partners sometimes escalates into an act of homicide. Early sociologist Emile Durkheim's (1897/1951, p. 354) cogent observation, "While family life has a moderating effect upon suicide, it rather stimulates murder" gives testimony to the fact that the phenomenon of domestic homicide is not a recent development. In 1988 an intimate murdered more than three in 10 of the female victims but one in 10 of the male victims (Dawson and Boland 1993). According to the US Department of Justice (Zawitz 1994), between 1977 and 1992 the number of male victims fell from

1,185 to 657 and the number of female victims increased from 1,396 to 1,510. Estimates of women who have been killed by husbands, boyfriends, or former partners range from 1,000 to 4,000 per year; and percentages of female homicide victims found to have been killed by current or former intimates range from 28 percent to 75 percent (National Clearinghouse for the Defense of Battered Women 1994). However, hard data on women homicide victims or offenders are lacking since, according to Gillespie (1989, p. 202n),

the primary source of crime statistics, the FBI's annual Uniform Crime Reports, does not break its figures down by sex in all instances and does not report justifiable homicides at all.

Moreover, McCorkel (1996) notes the paucity of research on gender and its influence on criminal justice system processes, in contrast to the wealth of literature that investigates the impact of race and class within the system.

In general, women are less likely to commit homicide than are men. In a survey of nearly 10,000 murder cases in 1988, Dawson and Langan (1994) report the following: women perpetrated 10.5 percent and men 89.5 percent of all homicides; women committed only 6.8 percent of nonfamily homicides but were responsible for 40.7 percent of spousal homicides; conversely, men committed 93.2 percent of nonfamily homicides and 59.3 percent of spousal murders; spouses were four out of 10 of all defendants and victims involved in a family murder; and females represent 60 percent of all spousal murder

victims. Female offenders tend to act alone and their killings are likely to be unplanned, intersexual, intraracial, and intrafamilial (Mann 1992).

Research consistently shows gender differences in the context of spousal homicide. There is a tendency toward more male aggression and more female defensive behavior in descriptions of homicide incidents and in the use of murder weapons. Casenave and Zahn (1992) report that only male offenders commit beating or strangulation homicides; women, on the other hand, are more likely to stab or shoot their victims once. Men tend to be the aggressors in homicide cases even when the ultimate offenders are women; and when males are the offenders, their actions tend to be more violent. (Casenave and Zahn 1992). Duncan and Duncan concur: "Victim-precipitated homicide is significantly associated with mate slayings wherein the husband is the victim... When the husband is the perpetrator, the mate slaying...is frequently unusually brutal" (1978, p. 179). Moreover, women are more likely to kill in self-defense, while men are more likely to kill when the victim tries to leave the relationship. It appears that the deadly assaults on a large proportion of female victims concern their attempts to leave the relationship (Block and Christakos 1995; Casenave and Zahn 1992; Gillespie 1989). Women are at risk of being murdered by their intimate partner when he is suicidal, while male intimates are not at risk when women are suicidal (Block and Christakos 1995; Pagelow 1992). Casenave and Zahn (1992) also found that when

women kill, they kill men with whom they cohabit; men kill their female cohabitants, but they also kill their estranged spouses and their girlfriends.

Over the last decade researchers have explored the lives and experiences of battered women who killed their abusive male partners (e.g., Browne 1987; Ewing 1987; Gillespie 1989; Johann and Osanka 1989; Jones 1994; Walker 1989). However, research on the lives and experiences of incarcerated battered women who kill has been scant, due in part to their relative inaccessibility. In his book, *Marital Violence: A Study of Interspouse Homicide*, Chimbos (1978) studied 34 Canadian inmates convicted of killing their spouses; his study included only four females but all were being beaten or had just been beaten when the homicide occurred. Totman's (1978) *The Murderess: A Psychosocial Study of Criminal Homicide* examined incarcerated female homicide offenders at one institution and found that, of 43 women convicted of murder or voluntary manslaughter, 13 had killed a child; 30 had killed male partners, 28 of whom had been abusive. Foster, Veale, and Fogel (1989) interviewed twelve women imprisoned for killing their male abusers to determine risk factors for homicide. In sum, only four battered women participated in Chimbos' (1978) research; Totman (1978) included 28 battered women in her study, but they were not the focus of her work; and the findings reported by Foster, Veale, and Fogel (1989) are limited to responses from twelve subjects. Thus, the current study is the largest and most comprehensive

to focus on battered women homicide offenders in prison. It is unique for its multiple methods, the size of its sample, the depth of interview material, and for its ability to compare convicted survivors with the general population of California women prisoners.

This investigation is the first step toward identifying women who serve prison sentences at one California institution for the death of their abusive male partners. This study summarizes data on the phenomenon of homicide by females against abusive husbands and boyfriends. In-depth interviews conducted with 42 female prisoners explore the link between the women's personal experiences of violence and its consequences and the social structural responses to their victimization and homicidal self-rescue. The study describes characteristics of imprisoned battered women and is the first to compare them with the general population of women in prison. This research provides valuable analyses of the experiences and perceptions of incarcerated battered women and describes recurrent themes and processes that emerge from their narrative accounts. The theoretical framework for this exploration examines the link between gender and intimate violence and how this connection works to leave women without protection while punishing them for protecting themselves and their children. This original research addresses policy issues that arise out of the analysis of the lives and cases of these convicted women survivors.

## BATTERED WOMEN WHO KILL AND THE CRIMINAL JUSTICE SYSTEM:

### A REVIEW OF THE LITERATURE

#### **Legal legacy**

Throughout much of known human history, traditions and laws relating to marriage have given husbands the right to control their wives, by force if necessary. Napoleon decreed that women must be legal minors their entire lives (Davidson 1977). English jurist and politician Sir Edward Coke (1552-1634) captured the philosophy of male primacy in the home with the still popular phrase, “a man’s home is his castle.” British Common Law allowed wife beating but, in a move towards “compassionate” reform, limited the size of the correctional instrument used by husbands to a “rod not thicker than his thumb” (Dobash and Dobash 1977; US Commission on Civil Rights 1982, p. 2). The British doctrine of “coverture” determined that a husband and wife were a single legal entity, and that entity was, of course, the husband. Such laws served to codify a married woman’s loss of identity and individual autonomy. Under British common law, if a man killed his wife his action was classified as a homicide; if a woman killed her husband her action was classified as an act of treason punishable by burning at the stake (Jones 1994).

American law followed the British legal tradition that supported the husband's right to discipline his wife. It was not until 1871 that an Alabama court revoked the legal right of a husband to beat his wife; in 1874 a North Carolina court followed suit but narrowed the impact of the repeal:

If no permanent injury has been inflicted, nor malice, cruelty nor dangerous violence shown by the husband, it is better to draw the curtain, shut out the public gaze, and leave the parties to forget and forgive. (US Commission on Civil Rights 1982, p. 2)

### **Contemporary landscape**

While American law no longer grants legal permission for a husband to beat his wife, the domestic curtain shows little sign of being fully open. According to the 1982 US Commission on Civil Rights, "the laws available for the protection of all people do not protect a woman involved with her assailant in a prior or existing relationship" (p. 2). Ann Jones (1994, p. 80) observes,

The constitutional rights of all American women—to freedom from bodily harm, equal protection, due process—and the very lives of thousands lie at the disposal of cops and prosecutors and and judges who still think the subject before us is "marital problems."

Many batterers rape their female partners, often causing serious physical and psychological damage (Browne 1992). Despite the well-documented harm inflicted by rape, defining rape within marriage as a crime continues to be controversial. Russell reports,

A few states have completely eliminated the marital exemption from their law; others have enacted legislation that makes some

rapes within marriage a crime; and in other states court actions have essentially overturned the marital exemption (cited in Crowell and Burgess 1996, p. 127).

Clearly, American law has been slow to label as criminal the actions of men who assault their wives. As a result, abusive men tend to face little punishment for their violence against women and female victims receive little protection from them.

### **Psychological abuse**

Even more hidden than marital rape, psychological abuse is an essential component of men's control and domination of their female partners. Repeatedly, even women who have been severely injured by husbands describe the psychological, mental, and emotional abuse as more damaging and difficult to overcome than the physical trauma (Foster, Veale, and Fogel 1989). Psychological abuse is part of a process of intimidation enacted to establish and maintain the abuser's control over his wife. Browne (1995, p. 239) likens the relationship between male intimate abusers and their female victims to that of wartime captor and captive:

Parallels also exist between the principles of brainwashing used on prisoners of war and the experiences of some women in battering relationship...[including] isolation of the victim from outside contacts and sources of help, and humiliation and degradation by the captor; followed by acts of kindness coupled with the threat of a return to the degraded state if some type of compliance is not obtained.

Jones (1994) features the following chart (see **Figure 1**) of coercive techniques, created by Amnesty International and adapted by a women's shelter. The list of terrorist techniques originated from descriptions provided by hostages, political prisoners, and concentration camp survivors. Despite the damage done by the psychological, emotional, and mental abuse described, many of these actions do not constitute a crime under current statutes.

**Figure 1**

<b>Method of Coercion</b>	<b>Examples</b>
<b><u>ISOLATION</u></b> Deprives victim of all social support for He ability to resist. Develops an intense concern with self. Makes victim dependent upon interrogator.	He moved me away from my friends. didn't want me to go anywhere unless he was with me. He would eavesdrop.
<b><u>MONOPOLIZATION OF PERCEPTION</u></b> Fixes attention upon immediate predicament; to fosters introspection. whenever Eliminates stimuli competing with those children controlled by captor. like Frustrates all actions not consistent with compliance.	I was always scared he'd blow up. I had dress up for him. Give him sex he wanted. I had to control the so they wouldn't bother him. It was walking on eggshells.
<b><u>INDUCED DEBILITY AND EXHAUSTION</u></b> Weakens mental and physical ability to resist. fights doctor. <b><u>THREATS</u></b> Cultivates anxiety and despair. he'd have me the if I left.	He wouldn't let me sleep. He started at night. He wouldn't let me see a He threatened to kill the cat. He said take the kids. He said he'd committed. He said he'd burn down house. He said he'd find me
<b><u>OCCASIONAL INDULGENCES</u></b> Provides positive motivation for compliance. when we	He took me on vacation. He bought me jewelry. He allowed me sex only

“made up.” Once in a while he really listened to me and seemed to

care.

DEMONSTRATING “OMNIPOTENCE”

Suggests futility of resistance.

He beat me up. He had me followed.  
He called me deluded.

DEGRADATION

Makes cost of resistance appear more

He told me I’m too fat. He’d call me

damaging to self-esteem than capitulation. Reduces prisoner to intellectually “animal level” concerns.

names and touch me inappropriately in public. He put me down and sexually and said I was ugly.

ENFORCING TRIVIAL DEMANDS

Develops habit of compliance. particular

The bacon had to be cooked to a doneness. I couldn’t leave a cup on the on the bathroom basin.

---

Source: Amnesty International, *Report on Torture* (1973), as adapted by the women’s shelter of Northampton, Massachusetts, and reproduced in Jones (1994) *Next Time She’ll Be Dead*

**The police**

Even when specific actions are defined as illegal, there is no guarantee that law enforcement personnel will enforce those laws. When police respond to domestic violence with reluctance or indifference, it can be interpreted by the parties involved and society as a whole as condoning the activity. A study of police response to spousal assault found that police officers, like the public at large, hold stereotypical views<sup>1</sup> about battered women and family fights that

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<sup>1</sup> Common stereotypes include: battered women choose to stay in abusive relationships and could leave if they wanted to; women can provoke the beating and probably deserve to be hit; abused women will drop charges against their attackers; domestic violence is a private rather than criminal issue and is not as serious as violence outside the home; domestic violence is a

undermine their effectiveness in dealing with the batterer and the victim (Ferraro, 1989).

In general, the tendency persists for officers to view women claiming to have been abused as non-credible and unworthy of police time (Belknap 1995). Abel and Suh (1987) report that while 60 percent of the 300 battered women in their study asked to have their spouses arrested, police arrested the abusers only 28 percent of the time. Victims' requests for arrests were ignored in 75 percent of the cases examined by Buzawa, Austin, and Buzawa (1995). Victims not only face the reluctance of some officers to arrest abusers, they also contend with a growing possibility of their own arrests. Saunders' (1995) vignette study of police officers' tendency to arrest domestic violence victims found that patriarchal norms and general attitudes about victims were not related to arrest options; however, the likelihood that officers' would choose the arrest option was associated with their justification of domestic violence.

A National Institute of Justice study of domestic violence (Sherman 1988) recommends that since domestic violence is a crime, police officers are obligated to treat it seriously and to provide protection for the victims, especially victims of repeated assaults. But Ferraro observes that changes in

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way of life for some people; the man is the sole head of the household and the wife should obey him.

law enforcement practices must be accompanied by changes in all levels of the criminal justice system:

Mandatory and presumptive arrest policies implemented in the absence of change in other parts of the legal system will probably have little lasting impact on how police respond to domestic violence (1989, p. 72).

Police may be reluctant to bring their full law enforcement power to bear on domestic violence situations due to lack of prosecutorial and judicial support, the low status of the offense as far as professional incentives and rewards are concerned, and perceived lack of follow through by the victims. In addition, law enforcement has long accepted as truth the erroneous concept that domestic violence calls, subsumed in the category “disturbance calls,” are the most dangerous calls to the police. However, a closer examination of the FBI numbers that produced that belief shows that the majority of police killed in disturbance calls were dealing with bar fights rather than domestic violence calls, and the actual number killed in domestic conflict situations was a much smaller proportion, even less than the number of accidental deaths at the hands of fellow officers (Sherman 1988).

### **The prosecution**

According to the Bureau of Justice Assistance, “Without a policy of strong prosecution, efforts by law enforcement agencies have little impact”

(Hofford and Harrell 1993). The office of the prosecutor serves as gatekeeper to the court system. Marcus (1981) cites the unwillingness of district attorneys and judges to prosecute and sentence domestic assailants as an influence in law enforcement decisions. Buzawa and Buzawa (1996) report that domestic violence crimes often are not treated as seriously as they might deserve in the prosecution process and that, in the limited instances of convictions, sentences are quite lenient. Further, they describe a general bias in the court against relationship cases which makes them disproportionately vulnerable to settlement or dismissal. Bail is usually not set high enough to keep the abuser in custody until a preliminary hearing. Frequently, following an arrest for spousal assault, a man is released on bail or on his own recognizance almost immediately, allowing him to return home and intimidate or assault his partner.

The US Commission on Civil Rights (1982, p. 59) reports,

Judges who are indifferent and unwilling to impose any meaningful sanctions on abusive spouses convey a message to both victims and their abusers that the courts will not stop the violence...[T]hey influence police, prosecutors, and other members of the justice system in formulating their own attitudes and policies for handling spouse abuse cases.

In many jurisdictions, prosecution of the batterer is left to the discretion of the victim rather than to the district attorney, leaving her vulnerable to the abuser's threats. Pagelow notes prosecutorial blindness regarding the special nature of the assailant/injured party relationship: "victim's fears of retaliation

for prosecution is a significant problem when the perpetrator of a crime resides with his victim (1981, p. 79). Moreover, making the woman responsible for the batterer's prosecution encourages the offender to place the blame for his legal problems on his partner rather than on his own actions. In 1982, the Swedish government recognized the problems inherent in such an arrangement and altered the law so that spousal assault, including non-aggravated assault on private property, is subject to public prosecution whether or not the victim presses the issue (Hyden 1994).

Many prosecutors place obstacles along the way of women who want the full weight of the law brought to bear on their assailants. Waiting periods, for example, discourage battered women from relying on the justice system for safety. Filing lesser charges than those recommended by the police diminishes the victim's trust in the system. Women are seldom fully informed of their civil rights nor given extra protection from their violent partners. In cases where the woman has to relocate, the offender's attorney is able to obtain her new address, which gives opportunity for the batterer to discourage her from pressing charges or testifying.

The 1982 US Civil Rights Commission found that prosecutors sometimes refuse to prosecute batterers because they expect noncooperation from the victim even when the victim is willing to go ahead with the charges. Zorza (1997) reports that, contrary to the stereotype, battered women are no

more likely to want to drop charges than are any other recontacted victims of violent felonies threatened with further abuse. In jurisdictions where prosecutors pay special attention to battering cases, prosecution rates are high (Crowell and Burgess 1996), and the vast majority of injured parties cooperate in the pursuit of prosecution (Marcus 1981).

### **The judiciary**

Over the past two decades legislative changes have led to an increase in arrests and requests for restraining orders. Many court systems have had to adjust procedures and processes to accommodate the increase (Hofford and Harrell 1993). Courts hear family violence cases in a variety of settings within a single court system—from civil courts, to family court, to misdemeanor and felony courts. At all levels, courts are overburdened with the volume of domestic abuse cases. Some states have as many as five different courts hearing various kinds of family matters (Hofford and Harrell 1993). More jurisdictions are taking into account victim needs and preferences regarding sentencing of offenders (Goolkasian 1986).

However, Crites (1987) suggests that there is a judicial pattern that shows an unwillingness to see wife abuse as a crime and a tendency to side with the husband in domestic violence cases; she cites as further evidence the resistance of judges to issuing orders of protection that temporarily exclude the

men from their homes. While it appears that it is becoming easier for women to obtain restraining orders, violations of these orders are not punished seriously (Schafran 1991). Some judges may refuse to grant hearings mandated by state law, or may blame the woman for causing the abuse (Marcus 1981). In attempting to press charges against abusers, women have been admonished by the magistrate or judge with comments such as, “If you come back one more time to get a peace warrant, then I will lock you up” (quoted in Foster, Veale, and Fogel 1989, p. 278). The California Committee on Gender Bias in the Courts surveyed 425 judges and found that nearly half believed that allegations of domestic violence are often exaggerated, and some expressed active hostility towards victims of domestic violence. The Committee reports,

Again and again, this committee heard testimony that police officers, district and city attorneys, court personnel, mediators, and judges—the justice system—treated the victims of domestic violence as though their complaints were trivial, exaggerated, or somehow their own fault (Welling, et al 1990, Sec. 6, p. 5).

The committee’s conclusions include:

1. Some judges and court personnel approach domestic violence cases, whether consciously or unconsciously, with assumptions based not upon personal experience or the facts of a particular case but upon ...stereotypes and biases...

2. Some judges and court personnel lack information about the psychological, economic, and social realities of domestic violence victims.

The committee found that gender bias contributes to the judicial system's failure to afford the protection of the law to victims of domestic violence (Ibid. Sec. 6, p. 5).

As Schafran's (1990, p.30) report on gender bias in US courtroom shows, criminal justice institutions across the nation continue to minimize violence against women and blame the woman for being assaulted:

Domestic violence continues to be an area in which women experience significant bias, despite major statutory reforms to provide them with civil and criminal protections....Instead of focusing on why men batter and what can be done to stop them, many judges and court personnel ask battered women what they did to provoke the violence, subject them to demeaning and sexist comments, shuttle them from court to court, and issue mutual orders of protection when the respondent has not filed a cross-petition and there is no evidence that the petitioner was violent. These women are then castigated for failing to go forward with their cases.

At every level, the judiciary has the opportunity to intervene on behalf of women who live in pain and fear of their most intimate partners. Yet, all too often, the courts systematically fail to support and protect the victims at great cost to the individuals and to society. Each year in America, up to 4,000 women are killed by their husbands, boyfriends, or former partners (National Clearinghouse for the Defense of Battered Women 1994), many of whom had looked to the courts for help. Accordingly, Zorza (1997, p. 7) comments,

The same prosecutors who have refused to go forward without a

victim's cooperation when she is alive have no problem prosecuting her abuser without her assistance after the abuser has killed her.

Some women perceive that every possible escape route away from the terror is closed off from them and the only apparent avenue to end the ongoing violence is through suicide or homicide. Stark and Flitcraft (1996, p. 120) find that ongoing assault by male partners “may be the single most important context for female suicide attempts...”

### **The men who die and the women who survive**

A small proportion of abused women end the violence by causing the death of their batterers (Ewing 1987). Researchers and practitioners seek to determine risk factors that differentiate abused women who kill their batterers from those who do not kill. Browne (1987) identifies the following factors among her subjects: frequency of violent incidents, severity of injuries, man's threats to kill, woman's threats of suicide, man's drug use, man's frequency of intoxication, and forced sexual acts. Presence of weapons in the home and the abuser's threats to harm children in the home are cited as additional risk factors (Foster, Veale, and Fogel 1989). Walker suggests,

Batterers most likely to be killed were the ones who continued to verbally degrade and humiliate a woman while she had a weapon in her hands. So were those men who had sexually abused her or her children. So were those men who ordered the woman to kill them—using her, perhaps to commit their own suicides (1989, p. 104).

Browne's study of female homicide offenders found that 71 percent of the men who were killed had physically and/or sexually abused the children by the end of the relationship. According to Steffensmeier and Allan (1996, p. 480), "For women to kill, they generally must see their situation as life-threatening, as affecting the physical or emotional well-being of themselves or their children. For the most part, the factors identified by researchers relate to the abuser's actions. Browne observes, "few differences can be found in characteristics of the women in the homicide and comparison groups; the differences exist primarily in the behaviors of the men" (1987, p. 127).

Spousal homicide and domestic violence are not disconnected phenomena (Edwards 1985). Research consistently shows that battering is the most frequent precursor to spousal homicide (Campbell 1995). Ewing's summary of several studies on battered women who kill paints a graphic picture of the typical experiences of these women:

Overall, it seems that the battered woman who kills her batterer has been battered more frequently and has suffered more serious injuries in the course of more rapidly escalating physical abuse. She is more likely to have been raped and sexually abused, threatened with death, and menaced with weapons. Her children are more likely to have been abused by her batterer. She is more likely to live in an environment where a gun is present, and her batterer is more likely to be an alcohol or drug abuser. In addition, it seems that the battered woman who kills may be somewhat older, somewhat less well educated, and more socially isolated than the battered woman who does not kill—characteristics

which, coupled with more frequent threats of reprisal for leaving, make it more difficult for her to leave her batterer (1987, p. 40).

Before the deadly event, many women make repeated but failed attempts to enlist the help of law enforcement for their abusive situations (Browne 1987; Marcus 1981; Stout 1991). One study of domestic homicides found that in 85 percent of the cases, the police had been summoned at least one time before the final incident, and in half the cases, the police were called five or more times before the killing occurred (Marcus 1981). Research shows that police are likely to respond more quickly if the attacker is a stranger than if he is known to the victim (Bachman 1994).

### **The criminal justice response**

The same criminal justice system that often fails to respond to wife abuse seems, in many cases, to prosecute with vigor the battered woman who kills, even though most women offenders of conjugal homicide have no history of criminal or violent behavior (Browne 1987; O'Shea 1993; Walker 1989).

Wilson (1993, p. 49) observes,

Though women kill far less frequently than do men, their actions are less likely to be construed as justifiable by the American legal system, and most probably by the general public. We see this tendency most clearly in two situations: spousal homicide in

response to wife battery, and abortion.

Numerous researchers describe gender inequities in the indictment, prosecution, and sentence determination of women who kill their abusers. McCorkel (1996) reports that, historically, women have received longer determinate sentences and have been given indeterminate sentences as well. Chesney-Lind (1995) finds that, while the dramatic increases in women's incarceration stems from the willingness of the criminal justice system to imprison women rather than a shift in the nature of their crimes. According to Browne (1988, p. 275), "FBI statistics indicate that fewer men are charged with first or second degree murder for killing a woman they have known than are women who kill a man they have known." Almost without fail, abused women who kill are charged with murder or manslaughter and plead self-defense (Ewing 1990). Ewing's (1990, p. 580) data on 100 cases in which battered women caused the death of their partners revealed,

Despite generally abundant evidence that they were severely abused by the men they killed, many if not most of these women are convicted because the circumstances surrounding their homicidal acts do not meet the requirements of current self-defense law...."

Moreover, Walker (1992, p. 329) notes,

Those who were Black and killed Black or White partners still were twice as likely to have been convicted of murder and sentenced to longer periods in prison than those who were Caucasian or from other minority groups. Women who were poor and less educated also appeared to have a similar bias against them in the courts.

### *The sentences*

In Mann's (1992) random sample of 114 female-perpetrated spousal homicides, over half of the offenders received prison sentences, with an average of 16 years to serve. Of the women in Browne's (1987) study, 56 percent argued their cases on the basis of self-defense, 8 percent entered a diminished capacity or insanity plea, and 33 percent pled guilty to a lesser charge in return for leniency in sentencing, and in one case, the charges were dropped; the most common plea arrangement was voluntary manslaughter with reduced jail sentence, or several years probation. Osthoff (1991) reports that the vast majority of women accused of killing their abusive partners (72 percent to 80 percent) are convicted or accept a plea, and many receive long, harsh sentences. In her analysis of domestic homicide offenders, Mann suggests that the system may be growing tougher toward these women: "In 1979 the mean prison sentence was 4.1 years...while in 1983, the mean number of years was 10.2" (1989, Pp. 21-22).

Stout and Brown (1995) reviewed the sentences of women and men incarcerated in Missouri for killing their partners. Of 18 women, 16 had been physically abused by their mates but only five were permitted to present testimony in court about their past abuse; the modal conviction of the female subjects was capital murder, with half of the women (9) receiving sentences of

life without the possibility of parole or life without the possibility of parole for 50 years; four of the women received sentences of life with the possibility of parole; five received sentences of seven to 19 years. Of the 21 men who had killed their spouses, none received sentences of life without the possibility of parole or life without the possibility of parole for 50 years; half of the men were given a life sentence with the possibility of parole; and seven men received sentences ranging from 12 to 35 years. Thus, in the Missouri study, the modal sentence for women was markedly more severe than that for men. Bannister (1991, p. 406) suggests that male spousal homicide offenders are treated with lenience “because of judges’ perceptions that the woman goaded the husband into the act of killing her.”

In contrast to much of the literature, a recent study by Langan and Dawson (1995) found that prison sentences for female spousal homicide offenders averaged 10 years shorter than for men. However, they excluded life or death sentences from their averages while finding that wives were not significantly less likely than husbands to receive life sentences. Moreover, four times more wife defendants than husband defendants had been assaulted by their spouse at or around the time of the murder. Their research surveyed cases disposed of in 1988 in 33 of the nation’s largest urban counties and did

not include divorced couples. In light of the significant gender differences in the context and consequences of spousal abuse and homicide, comparisons of sentencing patterns for male and female homicide offenses may be of limited utility and may contribute to the misperception that these are inherently equivalent actions.

Frequently, a woman is penalized more harshly because she used a weapon. Research shows that a batterer's primary weapons are his hands, fists, and feet, and that typical battering episodes involve slaps, punches, kicking, stomping, and choking (Gillespie 1989). As noted earlier, only male offenders commit beating or strangulation homicides (Casenave and Zahn 1992). Eisenberg and Dillon (1989) suggest that since a woman is merely equalizing the relative strength of females versus males when she uses a weapon, it does not constitute "excessive force," thus, the law should include an "equalizer principle."

#### *The law and women's self-defense*

If, as research shows, women who kill their husbands or lovers most often do so in the context of defending themselves against ongoing violence, why is conviction so common? Stark (1990, p. 18) reports, "Historically, lawyers defending women who murdered batterers concealed abuse, fearing it would be used against their clients in court." Self-defense law allows a person to use reasonable force against someone when the person believes she is in

imminent danger of bodily harm; the level of force must be proportionate to the force used against her; and force is the only means of preventing that harm (Bannister 1993). When a woman's actions fit the legal requirements of self-defense law, she is more likely to be successful in court (Bannister 1991).

However, according to Wilson,

The requirements of immediate danger, necessary force, reasonable belief and the duty to retreat present almost insurmountable barriers to a self-defense claim in the wife-battery situation (1993, p. 50).

Moreover, current laws of self-defense are based largely on assumptions that apply best to situations of adult males fighting adult males (Stout 1991) and often do not reflect the reality most battered women experience (Gillespie 1989). Edwards (1985, p. 196) observes,

There is undoubtedly a discrepancy between women's everyday reality of the homicide incident and the legal reality into which it must fit or fail since rules relating to homicide defense as in any other level of jurisdiction have tended to emerge within the context of male oriented law, judiciary and criminology.

### *The "syndrome"*

The "battered woman's syndrome" provides a commonly used framework for lawyers to defend women who kill their abusers (Walker 1992). Battered woman's syndrome, as described in the *Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised* (DSM-III-R), is a sub-category of Post Traumatic Stress Disorder characterized by a pattern of severe physical and psychological abuse inflicted by an abusive mate. This diagnosis

is used as a justification defense rather than a mental health defense in most cases (Walker 1987). Expert witnesses testify about the effect of abuse on women, such as “learned helplessness;” they give support to a woman’s perception that her life was in jeopardy at the time of the homicide; and they show that her actions were reasonable for a person repeatedly subjected to assaults by her husband. Walker (1992) suggests that utilizing the “battered woman’s self-defense” grants many more women a fair trial. Appellate courts have ruled that the battered woman syndrome is relevant to a woman’s claim of self-defense (Schneider 1986). Nevertheless, even when this type of defense is recognized legally, “[it] may be no warrant against the working perceptions of self-defense applied by traditionally minded judges and juries” (Wilson 1993, p. 51). Further, while the courts have accepted the concept of “battered woman’s syndrome,”

They have whittled the legal understanding of ‘battered woman’ to such a fine point that few living women fit the description. These days, battered women who got angry, or fought back, or called the cops, or took the batterer to court, or bought defensive weapons, or *left*—which is to say, most women who are battered—don’t qualify as “helpless” (Jones 1994, p. 103).

In addition, many feminists find problematic the labeling of battered women as “helpless” and the pathologizing of their responses to ongoing abuse as a “syndrome” (e.g., Bowker 1993; Browne 1987; Gillespie 1989; Jones

1994; Schneider 1986). Rather, they argue that women's ongoing survival strategies require a courage and cleverness that refutes the picture of a passive, helpless female. Schneider's (1992, p. 561) examination of homicide cases involving the battered woman syndrome

underscored the complexity of the task of expanding defense options for battered women. These cases revealed the tenacity of sex-stereotyping for, despite the purpose for which this legal strategy was conceived, old stereotypes of incapacity were replicated in a new form. Lawyers who submitted testimony focused on the passive, victimized aspects of battered women's experiences, their "learned helplessness," rather than explaining homicide as a woman's necessary choice to save her own life, and judges were hearing the testimony in this way.... Judicial and public perceptions of battered woman syndrome as a form of incapacity have had problematic consequences for the defense of battered women who kill and assert self-defense.

### *The aftermath*

It appears that even when self-defense laws fit the homicide event, lawyers and judges may not apply the laws properly in cases of battered women homicide offenders. Maguigan's (1991) analysis of 223 appellate cases of battered women who killed reveals that approximately 40 percent of the cases were overturned, a rate five times higher than other criminal convictions. Why the high rate of turnovers? Maguigan reports that many judges refuse to apply the law fairly to battered women defendants, and that trial and appellate attorneys are waiving or failing to pursue reversible or appealable errors on the part of trial judges.

While none of the Missouri women in the Stout and Brown (1995) study received a death sentence, women are more likely to be sentenced to death on a first offense than men (O'Shea 1993) and their numbers are growing. Dingerson (1991) points out that, among the 34 women on US death rows in 1991, several were there for killing their battering partners. By 1993, the number had grown to 45 women on death row in 17 states, 40 percent of whom are black; almost half of the women have a history of abuse and are there for the murder of an abusive spouse or lover (O'Shea 1993). During 1995 the number of women sentenced to be executed increased to 48; almost two-thirds of the women are in California, Florida, Texas, Oklahoma, and Illinois (Snell 1996). Rapaport (1994, p. 225) records gender differences in patterns of capital sentencing of domestic killers:

almost half the men killed in retaliation for a woman's leaving a sexual relationship, while this pattern was quite rare among the women...."

### *The prisoners*

The actual number of women serving sentences for killing their abusers is not known since, as noted earlier, there is a lack of hard data on women homicide victims or offenders. Current estimates of how many women are in prison for the death of their violent male partners range from 800 to 2,000 (National Clearinghouse for the Defense of Battered Women 1994). Homicide

offenders represented 13 percent of female state and federal prison inmates in 1986 (Greenfeld and Minor-Harper 1991). As of 1996, there were 73,607 women prisoners, 9,807 of them in California (Gilliard and Beck 1997). While not all homicides by women are perpetrated in the context of spousal abuse (Brownstein, et al 1994), the percentages of female perpetrated spousal homicides found to involve the killing of an abusive mate range from 40 percent to at least 75 percent (Gillespie 1991). Combining and extrapolating from these estimates and real numbers suggests the number of women in prison for the death of their abusers may be much higher than previously thought (13 percent of the 1996 female prison population approximates 9,570 possible homicide offenders; 40 percent of this estimate suggests the possibility that as many as 3,800 women may be serving sentences for the death of abusive male partners). Moreover, in a study of incarcerated female homicide offenders, Totman (1978) found that 28 out of 30 women at one California prison had been battered and 20 reported that they killed in defense of their children or themselves.

The current research is unique in its focus on convicted survivors of severe intimate violence. Studies have focused on female homicide offenders rather than on battered women who killed (Chimbos 1978, Totman 1978). Browne (1987) examined the lives and cases of 45 battered women on trial for murder whose cases had a variety of outcomes, including nonincarceration.

Thus, this is the first study of its size to survey and to conduct an in-depth examination of women in prison for the death of their abusive male partners.

The women who participate in this project have been rendered invisible—first by being female in a male-dominated society; secondly by the social isolation imposed by their abusers and the shame women feel as a result of ongoing victimization; thirdly by the criminal justice sanction for causing the death of their batterers. This exploratory study examines the lives and experiences of formerly battered women who are in prison for causing the death of their male abusers. It begins the process of developing a profile of these women and describes patterns and processes common to the population through the use of surveys and in-depth interviews. Analysis of the data suggests improvements and changes in the responses and policies of various social control agencies and intervention systems.

## ANALYTICAL PERSPECTIVE

### **Theoretical Framework**

Despite such gender neutral terms as “domestic violence,” “family violence,” “partner abuse,” and “spouse abuse,” hospital records, law enforcement reports, court proceedings, victim surveys, and the historical record consistently show that violence between intimate partners is primarily

and essentially the violence of men against women. The battering of women by their male partners occurs more often than any other type of family violence (Levinson 1989; Rasche 1990). Thus, social scientific theories that view intimate abuse as gender neutral (e.g., culture of violence theory [Straus, Gelles, and Steinmentz 1980]; general systems theory [Straus 1980]; resource theory [Goode 1971]; exchange theory [Gelles 1983]; and economic or social stress model [Gelles 1974]) obscure the fundamentally gender specific nature of male violence against wives, fiancées, and girlfriends. Stark and Flitcraft (1996, p. 11) locate

The “deliberate, sexual, and familial dimensions of abuse...in the predominance of central injuries to the body, the chest, the breast and the abdomen and by the high rate of violence during pregnancy.

Gender neutral theories assume an equality of power in male-female relationships, a point of view that ignores centuries of male-dominated social systems and structures. Social policies and norms, laws, and physical strength systematically grant men more power than women.

Historically, religion, law, traditional family structure, the economy, and other social institutions have supported the authority of men over women. As Martin (1983, p. 26) notes, “The historical roots of our patriarchal family models are ancient and deep. Dobash and Dobash (1979, Pp. 33-34) concur:

The seeds of wife beating lie in the subordination of females and in their subjection to male authority and control. The relationship between women and men has been institutionalized in the structure

of the patriarchal family and is supported by the economic and political institutions and by a belief system, including a religious one, that makes such relationships seem natural, morally just and sacred.

Feminists view patriarchal institutions as the source of the structural social control of women by men. They argue that woman battering has more in common with other forms of violence which target women, such as sexual harassment, rape and incest, than with other forms of family violence, such as elder abuse, sibling abuse, and child abuse (Kurz 1993). Male domination of females continues to be widespread in the United States, occurring across socioeconomic groups, as well as ethnic, religious, and age groups. In some states, forced sex (rape) in marriage is not considered a crime, evidence that male-structured laws continue to view women as the property of men within marriage (Andersen 1997). Violence between intimates, therefore, is analyzed most effectively within the context of the gender and power relations that patriarchy generates. As Andersen (1997, p, 342) notes, “radical feminism has produced some of the best explanations of and solutions to high rates of violence against women.”

Gender specific violence is a major social and health problem for women globally. Hiese’s (1994) summary of 35 studies from 24 countries reveals from one-fourth to over one-half the women report physical abuse and even more report ongoing emotional and psychological abuse. Most of these studies used probability samples with a large number of respondents from a

wide variety of countries. Heise (1994, p. iii) features the following quotes which demonstrate the pervasiveness of patriarchal attitudes and the oppression of women across time, cultures, and nations:

“Wife beating is an accepted custom...we are wasting our time debating the issue.”

*Comment made by parliamentarian during floor debates on wife beating in Papua New Guinea. (1987)*

“A wife married is like a pony bought; I’ll ride her and whip her as I like.”

*Chinese proverb*

“Women should wear *purdah* [head-to-toe covering] to ensure that innocent men do not get unnecessarily excited by women’s bodies and are not unconsciously forced into becoming rapists. If women do not want to fall prey to such men, they should take the necessary precautions instead of forever blaming the men.”

*Comment made by a parliamentarian of the ruling Barisan National Party during floor debates on reform of rape laws in Malaysia. (1991)*

“The boys never meant any harm to the girls. They just wanted to rape.”

*Statement by the deputy principal of St. Kizito’s boarding school in Kenya after 71 girls were raped and 19 others died in an attack by boys in the school ascribed to the girls’ refusal to join them in a strike against the school’s headmaster. (1991)*

“The child was sexually aggressive.”

*Justification given by a judge in British Columbia, Canada, for suspending the sentence of a 33-year-old man who had sexually assaulted a three-year-old girl. (1991)*

“Are you a virgin? If you are not a virgin, why do you complain? This is normal.”

*Response by the assistant to the public prosecutor in Peru when a*

*female nursing student reported being sexually molested by police officers while in custody. (1993)*

Levinson's cross-cultural examination of family violence in 90 societies demonstrates the clear link between gender inequality and interpersonal violence:

In general, it seems that in societies without family violence, husbands and wives share in domestic decision making, wives have some control over the fruits of family labor, wives can divorce their husbands as easily as their husbands can divorce them, marriage is monogamous, there is no premarital sex double standard, divorce is relatively infrequent, husbands and wives sleep together, men resolve disputes with other men peacefully, and intervention in wife beating incidents tends to be immediate (1989, p. 103)

While the feminist framework includes diverse theories, ideas and programs for change (Andersen 1997); they have basic tenets in common. Feminists focus on the conditions in society that create and sustain men's power over women. These conditions result from social, not biological, factors. A feminist perspective sees patriarchy as an historical fact and considers gender relations to be the fundamental source of oppression for women. The feminist approach to family violence examines the phenomenon from a macrolevel perspective and emphasizes aspects within the social structure that make the oppression of women endemic to many societies. The feminist perspective explains wife beating as a social and political rather than private event—an expression of male privilege rather than individual psychopathology. Supported by institutional norms, men use violence against

their wives as an expression of their authority and power and as a reminder to women of their relative subordination and powerlessness. In her analysis of in-depth interviews with abused women and their abusive male partners, Lundgren (1995, Pp. 243-244) exposes the men's "clear strategy" for short and long-term control:

the man acquires control of the woman he lives with. ...From my interviews with the women, it is frighteningly clear what happens here is extensive, far-reaching control, which means that the man *defines the norms and determines the limits and boundaries of positive and negative femininity, and that the woman gradually internalizes them* (emphasis in original).

Rather than ask the most commonly heard question that arises in regard to battering—Why doesn't she leave? or, Why does she stay?—feminists ask: Why do men beat their wives? Feminists point out that questioning the woman's behavior shifts the focus and the blame away from the violent man and onto the victimized woman. A feminist analysis reveals the similarities in the situations, experiences, and dynamics of hostage-captor and female victim-male abuser relationships (Browne 1995; Graham, Rawlings, and Rimini 1990; Jones 1994; Marcus 1994). Marcus (1994, p. 32) interprets woman battering as a political act—a form of terrorism:

There are strong and striking parallels and similarities between terrorism as a strategy used to destabilize a community or society consisting both of women and men, and the abuse and violence perpetrated against women in intimate or partnering situations. Like terror directed at a community, violence against women is designed to maintain domination and control, to enhance or

reinforce advantages, and to defend privileges. ... Whether the violence is identified as the imposition of discipline, as a strategy of family governance, or as an act of masculinity, the consequences are the same. Women learn that they can be kept in their culturally and socially designated “place” by the threat or imposition of physical injury.

Feminist theory and practice reflect the following basic tenets: (1) male/female relationships are socially constructed on an unequal distribution of gender-based power; (2) men have differential access to society’s valued material and symbolic resources; (3) women are devalued; (4) violence is the most visible form of male control over females; (5) no woman deserves to be abused; and (6) men, not their female partners, are responsible for their actions (Bograd 1984).

The patriarchal legacy recreates patterns of male domination through socialization, through a gendered division of labor inside and outside the home, and through social institutions that seem to support a man’s right to control his woman. The *man* is to “wear the pants in the family;” the home is *his* “castle;” the *man* is the head of the household; the wife is to “love, honor, and *obey*” her husband. Wage inequality persists, with women earning only 71 percent of men’s earnings (Andersen 1997). Ptacek (1990, p. 155) suggests that when “police officers and judges encounter batterers, a mutual validation of victim-blaming and minimization occurs.” Studies that specifically examine gender bias in the courtroom show that the judicial system continues to minimize the

violence of husbands against wives and often places the blame for the abuse on the women victims (Schafran 1990; Welling, Biren, Johnston, Kuehl, and Nunn 1990).

### *Women's Self-Defense*

Not all homicides are punished. The law takes into account killing to protect one's life, the life of another, or in defense of one's property (Schneider, Jordan, and Arguedas 1981). However, when a woman uses lethal force against an abusive husband or boyfriend, she encounters the full weight of the patriarchal patterns that persist in the criminal justice system. Laws embody masculine assumptions about what circumstances and actions make a homicide justifiable or self-defensive: (1) the antagonists are men of relatively equal strength and fighting ability; and (2) the antagonists were strangers or non-intimates and the situation allowed one of them to withdraw, unless the attack was so sudden that retreat was impossible (Gillespie 1989). These male-patterned qualifications do not fit the typical case of a woman who kills her abuser. She is not likely to be as strong as her husband who is certainly not a stranger to her, nor is his violence an isolated incident from which she can withdraw easily. Along with the gender bias influencing judges, lawyers, and jurors (including female jurors), gender insensitive laws represent factors that

combine to place women defendants in an unfair position before the law (Gillespie 1989).

A woman who defends herself against male violence defies the cultural myths and ideals of womanhood: Women give life; they do not take a life; women are passive and in need of male protection; a woman who kills her mate is either sick or criminally deviant. A battered woman who claims that the homicide was justified, based on self-defense, challenges too many norms—after all, “she could have left anytime she wanted to.” The fact that a woman uses a gun or knife to protect herself from a deadly assault by an “unarmed” man allows the law to view her use of a weapon as an act of retaliation with unnecessary force. The law frequently does not take into account that a man’s most common weapons are his hands, fists, and feet as he chokes her, kicks, punches and beats her, and tries to kill her with his hands, fists, or feet.

In some cases women commit the homicide after the man has passed out or gone to sleep, a circumstance even further removed from masculine legal assumptions. A “real man” faces his foe in a fair fight and does not lie in wait and ambush his victim “like a coward.” The “appropriate” situation for using deadly force in self-defense simply does not fit the lived experiences of women who are beaten and threatened with death by their male partners. The only means many women have with which to defend themselves is to catch

their assailants off-guard. A woman whose intimate assailant has injured her, terrorized her, and threatened to kill her or her children knows first-hand what is likely to happen when he awakens. Her fear stems from past experiences and it is a reasonable fear.

However, the law requires juries to apply the “reasonable person” (“reasonable man,” until recently) standard to a woman’s behavior. While the law is designed to consider the impact of danger and fear on an individual’s perception of the situation, Schneider, Jordan, and Arguedas (1981, p. 8) note,

The law of self-defense does not take into account women’s perspectives and the circumstances under which women are forced to respond. ... Views of self-defense which prevent the woman’s actions from appearing as reasonable as a man’s must be eliminated from the trial process... Sex bias permeates the legal doctrine regarding the perception of imminent and lethal danger.

Gillespie (1989, p. 189) explains how women are penalized in two ways with the use of an objective standard of reasonableness. The reasonable man/reasonable person test

...causes women’s actions to be judged by an inappropriate masculine yardstick. In addition, it is often the basis of trial courts’ refusing to admit expert testimony in cases involving battered women on the ground that testimony about the defendant’s subjective perceptions is irrelevant to the question of whether a theoretical reasonable person would have acted as she did.

Schneider (1992) suggests that the problem of reasonableness must be understood in the broader context of women’s subordination. In elucidating the dilemmas faced by lawyers who attempt to educate judges and juries about

male battering and female self-defense, she cautions that the emphasis on the unique characteristics of battered women's experiences may "penalize women's different experiences and women's departures from a stereotypical norm (1992, p. 566). Pioneers in research on the link between female injury and domestic violence as well as abuse in medical settings, Evan Stark and Anne Flitcraft (1996, p. xx) state,

The medical, psychiatric, and behavioral problems presented by battered women arise because male strategies of coercion, isolation, and control converge with discriminatory structures and institutional practices to make it difficult, sometimes impossible, for women to escape from abusive relationships when they most want to or need to.

The tenacity of patriarchal patterns obscures the linkage between the problems faced by battered women and women's overall subordinate position within society. Societal patterns that disfavor women, whether cultural or institutional (E.g., family structure, economic and political relations, religious and educational arrangements, and legal systems) perpetuate and legitimize violence against women.

### **Methodological Framework**

This study is guided by a feminist epistemology that supports the voices of women and seeks to give greater visibility to women's experiences. Bergen (1993, p. 200) observes that "by starting with the private

experiences of women, feminists explore how “personal” problems are the result of structured gender inequality.” Feminists believe that women are experts of their own lives and, therefore, must be part of the research process. As female voices articulate particular and individual stories, they combine to articulate broader societal patterns that reflect patriarchal social institutions and patterns. A woman’s personal experience is embedded in a multilayered social reality—a reality formed and influenced by gender subordination at the interpersonal, family, community, institutional, and societal levels.

While there is no one feminist method (Murphy and O’Leary 1994), feminist domestic violence researchers often use and encourage qualitative methods based on the ethos that the real life situations of formerly battered women are best described by the women themselves (Yllo and Bograd 1988). The feminist researcher desires to delve deeply into the social context of abused women’s lives in order to portray more accurately their texture and reality. This sociological method of inquiry takes “the standpoint of women” as described by Dorothy Smith (1992). Further, feminists argue that when both researcher and researched are women, their shared gender experience results in a greater willingness on the part of subjects to share their thoughts and lives (Renzetti and Lee 1993).

Neuman (1994) describes the feminist researcher as one who (1) interacts and collaborates with her subjects; (2) uses multiple methods, often

qualitative research and case studies; and (3) creates social connections and build a trusting social relationship. Because feminist principles frame women as experts of their own lives, this research gives voice to women prisoners who met deadly violence with deadly violence. Asking women about their personal lives, especially their relationships with violent men and the subsequent homicide, means asking about an intimate and painful area of their lives. To be admitted into the lives of convicted survivors requires a unique relationship of trust between researcher and researched that must be constructed prior to the interview process.

Domestic violence is a sensitive topic, and causing the death of one's abusive spouse is even more sensitive. Revisiting and speaking about traumatic experiences is emotionally costly for a woman and raises the potential for her to reexperience terror and shame. Accordingly, Edwards (1993, p. 192) cautions,

Some of those writing about in-depth interviewing on sensitive subjects express concern about the way this type of interaction can upset and cause emotional harm to those interviewed... At its most extreme, after an interview the subject may be left with her emotional life in pieces and no one to help put them back together...

According to Daly and Chesney-Lind (1988, p. 520). "The victimization (and survivorship) of women is a large and growing part of

criminology and is of central interest to feminists in and outside criminology.” They also point to the link between victimization and offending especially among women. With its theoretical and methodological strengths and sensitivities, a feminist framework is likely to provide a more accurate depiction of how battered women become involved in homicide. Thus, this perspective is appropriate for examining the lives of battered female homicide offenders.

## STUDY FORMAT AND DESIGN

### **Introduction**

No one knows how many women serve prison sentences for the death of their abusive male partners. A large part of the problem is that correctional

institutions do not collect systematic data on victim-offender relationships in homicide cases. In addition, because court proceedings might not include information on abuse patterns in cases of battered women who kill, the adjudication process is an unreliable source for the identification of these cases. Complicating the situation still further, formerly abused incarcerated homicide offenders may not self-identify as abused women, nor share their histories with others. Bordering on invisible, incarcerated battered women represent a highly disenfranchised and vulnerable segment of our society. Clearly, research is required to determine the size of the prison population of women who have killed their abusers, their profile, and their sentences. Information is needed on the patterns of responses by social control agencies to the women's past violent victimization at the hands of male partners. Goetting recommends the collection of in-depth interviews with incarcerated women to elicit from them "the more personal dynamics of their violent behavior" (1995, p. 53). Brownstein, et al (1994) call for further qualitative research in order to understand more clearly the circumstances and characteristics of homicides committed by females. Chesney-Lind (1986, Pp. 86, 87) observes,

Much more basic research must be undertaken on the character and extensiveness of women's deviance and on the motives expressed by...criminal women before a theory or theories of women's lawbreaking can be developed... Books that are based on in-depth interviews with women in the [criminal justice] system also provide important sources of information on women offenders' perceptions of their behavior and their options.

### *Research design*

To address some of the gaps in knowledge regarding female spousal homicide offenders, this study utilizes quantitative and qualitative methods to explore and describe women incarcerated at one California state prison for women for the death of abusive partners. The study begins the process of determining the number of women at this institution who killed violent spouses and compares them with the general population of California women inmates. This work identifies patterns and processes common to this sample and addresses policy issues arising from the women's accounts of their experiences of victimization and violent self-defense.

Access to potential study participants required a lengthy and precise process of approval across multiple institutions. In March 1995, I began seeking project approval from the University of California, Riverside Human Subjects Review Committee (HSRC); the California Department of Corrections, Research Branch; the California Institution for Women, Frontera (CIW); and Convicted Women Against Abuse (CWAA), an inmate-led support group for battered women at CIW. After meeting all requirements mandated by HSRC, CDC, and CIW, and with permission from the CWAA membership of approximately 55 women, many of whom serve sentences for the death of their abusers, I attended my first support group meeting in October 1995.

Averaging two to three times per month, CWAA members meet for two hours of semi-structured group interaction.

Wife-battering and intimate homicide are very personal and delicate areas for a researcher to explore. Thus, and in keeping with feminist principles, I did not immediately seek interviewees from the group; rather, I began my relationship with the group by introducing the research project, and myself stating, “I am here to learn from all of you.” The women warmly welcomed me and expressed support for the focus of the study, women convicted for the death of their male abusers. During the six months that preceded the interview portion of the study, I observed, listened, asked an occasional question, and participated in small group activities. The practice of reciprocity in research, in accord with feminist principles, reduces the asymmetry of the research process among individuals who lack societal resources, rights, and power (Hondagneu-Sotelo 1996). The women of CWAA responded with openness and soon treated me as any other woman—more as a member than as a researcher. Deference gave way quickly to democracy as I, like others, waited my turn on the “talk list” to ask questions or make comments.

CWAA soon revealed itself as more than a self-help or support group for its members with discussion limited to family violence in general, a woman’s personal experiences in particular. Members also use the gathering

to share current news events regarding battered women, homicide cases, and pertinent court rulings. Women share their experiences with the criminal justice system and discuss possible legal strategies to effect their potential release. In the past, media representatives have visited the group and stories emerged on the efforts of lawyers and inmates to seek clemency for incarcerated battered women. Group members continue to monitor media for stories or for journalists with a focus on domestic violence.

My pre-interview education by the group sensitized me to the women's past, present, and future life conditions. I observed that most were able to talk about their trials and many were able to share bits and pieces of abusive and frightening interactions with their partners. However, I soon realized that most, if not all, the members convicted of murder were reluctant or unable to discuss the painful and traumatic homicide event. In one instance, a woman tearfully asked others to suggest ways to help her recall the deadly interaction before her case came up for review by the parole board—her decade-old memories remaining clouded, confusing, and painful.

When ready to begin interviewing, I passed around a sign-up sheet during a group meeting, asking members to sign if they were incarcerated for the death of male abusers and to indicate whether or not they were willing to be interviewed. That evening, twenty-six prisoners identified themselves as women who killed to survive an abusive mate and volunteered for interviews.

Ensuing nights produced more interviewees and cases. Early participants shared information about my research project with other groups and individuals. One woman posted a copy of the informed consent statement in her housing unit to help locate other battered women prisoners for the study. CWAA members identified eight non-member inmates (with their permission) with cases that appeared to fit the focus of my research. A random sample of formerly battered women incarcerated by the state for the death of their abusers is not possible since systematic data on such cases do not exist. Rather, the 42 interviewees in this study were self-selected through a combination of purposive and snowball sampling. Women interviewed do not represent the general population of incarcerated female spousal homicide offenders at CIW nor the general population of incarcerated female spousal homicide offenders in the United States. Therefore, this exploratory study and its results are not representative of all spousal homicide cases involving battered women. Nevertheless, with a robust sample of 42, this is the largest and most representative study to date that examines women in prison for the death of their intimate male abusers

Several women expressed the expectation that their participation in the study would help address the social injustices that contribute to domestic violence and to unjust incarcerations as well as expectations that it would be a personally beneficial experience to talk in confidentiality about their lives with

an interested outside party. One CWAA member whose abuser was injured but not killed expressed regret at not being part of the study. This woman pre-tested the questionnaire and the open-ended interview schedule. I requested her participation based on her interest, her outspokenness in the group setting, and the similarity of her case to my research focus. She suggested that questions not be changed, but that I should allow a full three hours for each interview and to limit interviews to two interviews per day. I followed her advice and arranged with prison staff for interviews to begin.

Of the 45 women who were interviewed, three cases did not fit the focus of my research. While an abusive male partner was part of each woman's crime, in two cases the abuser was not the homicide victim, and in the remaining case, the woman was convicted of attempted homicide. Two additional women who were convicted for the death of their spouses declined to be interviewed and a third woman is terminally ill with cancer and unable to participate. In sum, this research has identified 45 cases of abused women at one California prison who killed their violent partners and collected data from 42 of these women.

### **The interview instruments**

This research uses three different data collection techniques—a triangulation of in-depth interviews, questionnaires, and participant

observation. Bloom (1996) provides a detailed description of the California female prisoner population drawn from interviews with a random sample of 294 women incarcerated in four state prisons. The 208-question survey instrument used to develop Bloom's prisoner profile was modified for this study in order to develop a preliminary profile of incarcerated female spousal homicide offenders and to compare key characteristics of this group with the overall female prison population in California. I filled out the questionnaire as interviewees responded to my survey questions.

Interviews began with the questionnaire, then advanced to qualitative, in-depth questions. Interestingly, the questionnaire seemed to serve as an icebreaker and as a link to the more personal and involved qualitative portion of the interview. In-depth, open-ended questions comprised the bulk of the interview period during which the women were asked to talk about: (1) Childhood experiences in their family of origin; (2) Their first experience of abuse, either as children, teenagers, or adults, and their responses to that abuse; (3) Earlier marriages or abusive relationships; (4) The violent relationship with the deceased batterer, including the reactions of others who knew about the abuse; (5) Their strategies for controlling, ending, or escaping the violence; (6) The batterer's violence toward others; (7) Outside interventions; (8) The homicide event; (9) Criminal justice response to the homicide; (10) Jail experiences, trials and plea bargains; (11) Life behind

bars; (12) Self-definitions; (13) Advice for currently battered women; and (14) What events, decisions, or interventions, might have affected the final outcome of death and incarceration.

Interviews took place, depending upon availability, in various private offices located in a prison administration building. In a few instances, outside noise from maintenance or repair of the building and prison grounds would render parts of the audiotape unintelligible. Interviews took place over a three-month period and ranged in duration from one and one-half to three hours, usually lasting the full three hours. For the comfort of the women, I provided tissues and fresh bottled water, and I rearranged office furniture in an attempt to form a conversational, non-hierarchical setting for interaction. Interviews began with an explanation of procedures and an opportunity for each individual to ask questions about the research and the interview. Each respondent signed an informed consent statement for the interview and its tape recording. (See Appendices for informed consent statement, survey questionnaire, and in-depth interview questions.)

The women interviewed experienced a wide range of emotion as we spoke. Some shifted back and forth from visible distress to seeming detachment. Others began in a particular emotional frame and stayed largely within that emotion throughout the interaction. At times a woman would be clearly upset as she recounted specific episodes, and welcomed offerings of

tissue, water, and empathy. Almost without fail, women appeared to leave the interview in a more positive mood than they showed at the onset of the interaction. Many interviewees openly expressed gratitude for the freedom to tell “the whole story” to someone with whom they felt comfortable. A surprisingly large proportion of the women stated that this was their first opportunity to freely express their lives, their abusive experiences, and their perceptions. Constructing their stories from beginning to end seemed to provide many interviewees with a greater sense of relatedness among events where, previously, they had not seen clear connections. The forty-five women who participated in this study are unique individuals whose generosity and openness contribute to our understanding of battered women who defend their lives with deadly force.

As one woman entered the room to be interviewed, she froze in fear at the sight of the tape recorder. I reassured her that she had control over what, if anything, of our conversation would be taped. Still standing, she spoke of what the tape recorder symbolized and how it was used against her during the trial. We decided to proceed with the survey portion of the interview after which we would gauge her willingness to move onto the in-depth questions. The woman’s confidence appeared to grow as we carefully made our way through the questionnaire. Upon finishing the survey questions, I suggested four options for her to consider: (1) decline the remainder of the interview; (2)

allow me to take written notes without recording on tape; (3) control the tape machine herself, turning it off and on with particular questions and responses; or (4) permit the tape machine to record all of the remaining interview. She determined that, by giving permission for the tape recorder to run unhindered, she would regain the power lost through the trial process and the tape recorder would then lose its power to frighten and intimidate her. She completed the full interview and left the room expressing a sense of pride in her accomplishment.

Most interviewees were able to discuss their experiences with candor and with growing ease as the interview process unfolded. Because this study is based largely on the subjective accounts of women in prison, questions are likely to arise regarding the credibility of their stories. During the extended period of participant observation prior to the interviews, I had the opportunity to listen to many future interviewees discuss their lives. I found that interview material, while substantially more detailed and in depth, was consistent with information gathered in the participant observation process. Over time, a relationship of trust developed between us—researcher and researched. As a consequence, women were even less likely to present false information to me, a person with whom they had developed an ongoing relationship. Moreover, at the close of each interview, I sought consent from respondents for access to their correctional files in the event of further research with their cases.

Without hesitation, every woman gave written consent to an examination of their case files, an unlikely attitude had anyone fabricated her account. To some degree, the request to follow up with later research acted to support their credibility. In addition, many participants struggled with authentically painful emotions as they revisited abuse by male partners, the homicide event, the adjudication process, and their incarceration. Finally, through an unexpected chain of events, I was able to conduct an informal interview with the incarcerated daughter of a study participant who described from her own perspective the same violent events told to me earlier by her estranged mother. Thus, an independent source corroborated this one woman's story.

## A PROFILE OF CONVICTED SURVIVORS

### **Battered Women Inmates and California's Women Prisoners: A Comparison of Characteristics**

Who are the women who participated in the present research and what are their characteristics? Are there differences between imprisoned women who have killed their male partners in order to survive and other women prisoners? Bloom's (1996) study of California women prisoners yields a representative profile of the state's female inmate population. Using data drawn from questionnaires administered to a non-representative sample of women known to be incarcerated at a California prison for the death of their

male abusers, this section compares key characteristics of Bloom's sample with participants in the present study. While this study's sample is not randomly selected, responses from the current 42 women provide sufficient information to generate a preliminary comparison of the two populations. Moreover, Bloom found that her sample matched national surveys of women imprisoned in the United States. The current study found marked differences between battered women who kill and the general population of California women prisoners. Thus, the following tables reflect the uniqueness of women who are incarcerated for using lethal force to survive severe intimate violence.

### **Demographics**

**Table 1** compares age, race, marital status, education, and employment data from the California sample to that of the female spousal homicide offenders. Age: The median age of women in the current study is 14 years above the California sample. Compared to the general population of females, there are six times more battered women who are 55 years of age and older. One half of the women in the homicide group are between 45 and 54 years of age while nearly half the general population of women inmates in California are between 25 and 34 years of age.

Race/Ethnicity: As with the age variable, racial composition of the two groups shows significant variation. The present sample is predominantly white, 67 percent, in contrast to Bloom's 33.4 percent. African-Americans represent one-third of all women inmates, but only 17 percent of the subsample under examination, while Latinas comprise 19 percent of Bloom's study compared to 7 percent of the present group.

**Table 1**  
 Characteristics of Women Prisoners:  
 Comparing California Inmates and Spousal Homicide Offenders at CIW

<b>Characteristic</b>	<b>Bloom (1996)</b> n = 294 (%)	<b>Leonard (1997)</b> n = 42 (%)
<i>Age at interview</i>		
18-24	11.2	4.8
25-34	48.2	9.5
35-44	27.9	21.4
45-54	10.5	50
55 and older	2.2	14.3
<i>Median age</i>	33	47
<i>Race/Ethnicity</i>		
White	33.4	67
Black	33.1	17
Hispanic	19.1	7
Other	14.2	7 <sup>2</sup>

<sup>2</sup> Other: Native American = 5%; Asian/Pacific Islander = 2%

<i>Marital Status</i>		(at time of offense)
Married	16	52 <sup>3</sup>
Widowed	4.1	0
Divorced	23.1	17
Separated	12.2	11.9
Never Married	42.9	11.9
 <i>Education</i>		
8 <sup>th</sup> grade or less	7.4	2.4
Some high school <sup>4</sup>	28.2	14.3
High school graduate	14.6	7.1
Technical school	12.2	11.9
Some college or more	13.5	64.3 <sup>5</sup>
 <i>Pre-Arrest Employment</i>		
Employed	46.3	52.4
Unemployed	53.3	47.7

Education and Work History: **Table 1** reveals higher educational attainment among the current sample than among the California sample. Three-fourths of the spousal homicide cases have training or education beyond high school compared to approximately one-fourth of Bloom's women. Of the women in the present project, 62 percent of those who went beyond high school completed their higher education prior to incarceration, compared to Bloom's 82 percent. Twice as many women in the California sample quit school without graduating (35.6 percent versus 16.7 percent). Nearly equal proportions (Bloom: 46.3 percent; Leonard 52.4 percent) of both groups report being employed, full or part-time, prior to their arrest.

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<sup>3</sup> Includes common-law marriages

<sup>4</sup> Includes 11.6% with GED (Bloom); and 4.8% with GED (Leonard)

<sup>5</sup> BA/BS 2.4%; graduate degree 2.4%

In sum, compared to other prisoners, convicted survivors are older, more educated, more likely to have been married, and less likely to be women of color.

**Table 2**  
**Source of Support Prior to Incarceration**

	<b>Bloom (1996)</b> n = 294 (%)	<b>Leonard (1997)</b> n = 42 (%)
Worked at legitimate job	37.1	52.4
Supported by others	9.2	35.7 <sup>6</sup>
Public assistance	21.8	4.8
Drug dealing/sales	15.6	4.8
Illegal sources	12.3	0
Prostitution	3.7	0

In **Table 2** women describe their pre-prison income sources. In contrast to the homicide group, women in Bloom's California sample were more than four times as likely to be on public assistance and six times as likely to be receiving some type of illegal income. Among the formerly battered women, a frequently cited reason for not working was the opposition of their husbands or boyfriends. The most often reason given by the California cases was substance abuse problems.

**Table 3**

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<sup>6</sup> 35.7 % supported by spouse or partner

### Family Member Arrest History

		<b>Bloom (1996)</b> n = 208 (%)		<b>Leonard (1997)</b> n = 42 (%)
Arrest (%)	Yes	71		52.4
	No	29		47.6
		(%)		(%)
Brother		58		23.8
Sister		29		4.8
Father		20		9.5
Mother		12		2.4
Husband		10		4.8
Son		7		2.4
Daughter		3		2.4
Other		14		2.4

Family Arrests: As depicted in **Table 3**, a greater proportion of women in the California sample reports the arrest of family members than in the homicide group. Just over one-half of the present group relate a history of family arrest compared to over two-thirds of Bloom's cases. Both groups report brothers as the relative most often arrested.

**Table 4**

#### Substance Abuse Problem

	<b>Bloom (1996)</b> n = 294 (%)		<b>Leonard (1997)</b> n = 42 (%)
<i>Substance</i> Alcohol	28		26

Prescription drug	21	38
Illegal drug	24 <sup>7</sup>	16.7

Substance Abuse Problem: **Table 4** reveals both similarities and differences between the groups in their reported substance abuse problems. Compared to respondents in the present study, Bloom's women describe greater problem usage of illegal drugs, similar rates of alcohol abuse, and lower rates of prescription drug abuse.

**Table 5**

**Child and Adult Abuse Histories**  
(%)

<b>Type of abuse</b>	<b>Bloom (1996)</b> n = 294	<b>Leonard (1997)</b> n = 42	<b>Most named Abuser</b>
<i>Physical abuse</i> as a child Father/stepfather/	29	58.5	mother
as an adult	59	100	Spouse/partner boyfriend
<i>Emotional abuse</i> as a child Father/stepfather/	40	76	
mother/stepmother			
as an adult	48	98	Spouse/partner boyfriend
<i>Sexual abuse</i> as a child	31	54.8	Father/stepfather

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<sup>7</sup> This is an average taken from the percentage of women reporting problem use with given illegal drugs.

relative			other male
as an adult	22	95.2	Spouse/partner boyfriend
<i>Sexual assault</i> as a child	17	47.6	
Stranger/father/step- friend			father/family
as an adult	32	85.7	Spouse/partner boyfriend/stranger

Physical, Emotional, and Sexual Abuse: Women responded to numerous questions regarding past abuse experiences in childhood and as adults. As **Table 5** demonstrates, regardless of age and in all categories of abuse—physical, emotional, and sexual—women in the current study report dramatically higher rates of maltreatment and violence perpetrated against them. There were no differences in the most often named abusers across categories. As children, formerly battered women were twice as likely to experience physical abuse than women in the California sample. The nature of the present study guaranteed that 100 percent of the current respondents would report physical abuse in adulthood, while 59 percent of Blooms’ women acknowledge physical abuse in adult relationships. Women in the present investigation were nearly twice as likely than their California counterparts to experience emotional abuse in childhood and more than twice in adulthood. As children, 54.8 percent of the homicide group were sexually abused,

compared to 31 percent of the general population of women prisoners. Nearly all women in the present study report sexual abuse as adults, while less than one-fourth of the women in Bloom's research experienced such abuse—95.2 percent versus 22 percent. As children, 17 percent of the California sample report sexual assault, a significantly lower rate than the 47.6 percent reported by the homicide group. Likewise, 85.7 percent of women in the current study report sexual assault as adults, while 32 percent of Bloom's women report adult sexual assault experiences.

### **Battered Women Inmates: Specific Characteristics**

What are the legal outcomes for battered women homicide defendants? Numerous researchers have documented the criminal justice system's willingness to imprison women and to sentence them to long prison terms (Banister 1991; Bloom 1996; Chesney-Lind 1995; Ewing 1990; Mann 1992; McCorkel 1996; Osthoff 1991). The following tables provide a picture of the results of the participants' trials and plea bargains.

**Table 6**

**Conviction Offense**

<b>Offense</b>	<b>(n= 42)</b>	<b>(%)</b>
Voluntary manslaughter	2	5%
Second degree murder <sup>8</sup>	18	43%
First degree murder <sup>9</sup>	22	52.4%

Conviction Offense: As seen in **Table 6**, two women were found guilty of voluntary manslaughter. Eighteen women were convicted of second-degree murder. Over half the women were declared guilty of first-degree murder.

**Table 7**

**Prison Sentences**

<b>Sentence length</b>	<b>(n= 42)</b>	<b>(%)</b>
10 to 14 years	1	2%
15 to 19 years	1	2%
7 years to life	2	5%
15 years to life	11	26%
15+ - 20 to life	6	15%
20+ - 30 to life	14	34%
30+ to life	1	2%
Life without parole	6	15%

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<sup>8</sup> One woman was also found guilty of conspiracy.

<sup>9</sup> Four women were also convicted on conspiracy charges.

Sentences: **Table 7** reveals that the overwhelming majority of cases received lengthy and indeterminate sentences. Only two women serve a determinate sentence. 18 women serve sentences between seven and 20 years to life. (The two women with a 7 to life term have served at least 20 years of their sentences to date.) 15 women serve sentences exceeding 20 years to life and six received a sentence of life without the possibility of parole.

**Table 8**

**Race and Length of Sentence**

Sentence	Asian-Am	African-Am	Hispanic	Native-Am	White
10 to 14 yr.			1		
15 to 19 yr.					1
7 yr. to life	1				1
15 yr. - life		4	1		6
15+-20-life				2	4
20+-30-life		4	1		9
30+ to life					1
Life w/o parole			1		5

Race and Length of Sentence: **Table 8** reveals the prison terms meted out to women of specific races in the present study. A sentence of 7 years to life went to the Asian American/Pacific Islander interviewee. Both Native American participants received over 15 years to 20 years to life. Sentencing of the four Hispanics ranges broadly from the determinate 10 to 14 years to life in prison without parole. Of the eight African Americans, courts sent half of the women to prison for 15 years to life and the other half received more than twenty years to 30 years to life. One white woman was given a determinate sentence of 15 years to life, while the remaining received some form of life sentence. Over two-thirds of the white women serve sentences exceeding 15 years to life and nearly all of the life without parole sentences went to white women. This sample shows an overrepresentation of whites among the longer sentences.

**Table 9**

**Legal Counsel**

	(n= 42)	(%)
Representation by:		
Public Defender	23	55%
Private Attorney	14	33%
Private followed by Public	5	12%

Legal Counsel: As seen in **Table 9**, over half the women's cases were handled by public defenders. Private attorneys defended one-third of the women. After exhausting their resources, five women were forced to replace their private attorneys with public defenders. There appear to be no significant differences between those sentences received by women represented by public defenders and those represented by private attorneys.

### **Conclusion**

In sum, this description of battered women who killed their abusers differs substantially on most points from that of the general population of women prisoners provided in Bloom's (1996) state profile which corresponds to national surveys. Women in the homicide group under examination are more often white, more often older, have more education beyond high school, and are unlikely to have been on public assistance. Family members of battered women who kill are less likely to have been arrested. Women in the current study who report substance abuse problems prior to incarceration are more likely to have abused prescription drugs and less likely to have abused illegal drugs, a pattern opposite to the state profile. In childhood and adulthood, women in the homicide group suffered significantly more physical, emotional, and sexual abuse. In addition, Bloom's research reveals that 40 percent of the general female population had been on probation or parole

immediately prior to incarceration, while less than 20 percent of the present group had any previous arrest history. The most common prior arrest reported by the homicide group was for motor vehicle violations.

While the emerging portrait of women in the current study contrasts with that of other California female inmates, it bears a closer resemblance to Ewing's summary of several studies on battered women who kill (see chapter 2). Ewing describes high rates of abuse—sexual, physical, and emotional—and the likelihood that the battered woman who kills is older. In her study of women who killed their abusers, Browne (1987, p. 23) found that nearly three-fourths reported

some kind of physical violence in their childhood homes, including that of a father or other male partner abusing their mother, abuse of siblings, abuse of themselves by parents, and abuse from other relatives.

Just as women in the current study are virtually devoid of criminal histories, Browne (Ibid. p. 11) notes that battered women who kill “have the least extensive criminal records of any female offenders.” However, women in the present group appear to have attained more education than those portrayed in Ewing's summary.

Based on information reported by current study participants, prosecutors, judges, and juries show little sympathy or lenience toward battered women who kill their abusers. Despite a clear lack of criminal or

violent histories, the overwhelming majority of these women are convicted of first or second degree murder and receive long, harsh sentences whether they are represented by private or by public attorneys. This finding suggests the possibility of a systematic criminal justice bias against battered women who kill. Moreover, women prisoners see that parole boards rarely release women convicted of spousal homicide; thus, those with indeterminate sentences perceive their sentences to be the equivalent of life without the possibility of parole. Indeed, life without the possibility of parole is not a rare prison term for convicted survivors. Contrary to the bulk of criminological research, in the cases of battered women who kill, it seems that being white does not grant an advantage. While the current method of sampling precludes generalizing findings to the overall population of battered women inmates, the figures reported here suggest that white women interviewees do not occupy a privileged position when standing before the bench for sentencing. Considering that the homicides in the current study are almost exclusively intraracial, as is the case for the overwhelming majority of battered women who kill (Mann 1992), it could be argued that it is the victim's color that determines the position of privilege in the criminal justice system. Women in the present study seem to be punished more harshly for killing a white male than for killing a man of color. Alternatively, differential gender role expectations based on a woman's race or ethnicity may provide another

interpretation—perhaps it is even more inexcusable for a white woman to use violence.

## **PART II**

### **NARRATIVES OF PERSONAL EXPERIENCE**

#### **Introduction**

The convicted survivors of intimate violence who form the core of the present study describe and interpret their lives by narrating them. As they responded to open-ended interview questions, women produced narrative accounts of their personal experiences from childhood to incarceration. Although the women did not report every violent episode, nor go into great detail on every event that they did discuss, they provide a rich, textured glimpse into the personal and social realities of spousal violence.

Allowing women their own voices is fundamental to the nature and purpose of this study. Rather than filtering women's language through the interpretive lens of another, this study uses the interviewees' own words, thereby reducing the potential for distortion and misrepresentation. Each convicted survivor is the expert on her own life. Only she can reconstruct her own life-world and expose its particular trajectory. Each individual woman presents a subjective standpoint that allows us insight to her thoughts, her perceived options, and her

actions. The perspectives of these women are crucial if we seek to examine and learn from their experiences and their circumstances.

The life histories of incarcerated battered women demonstrate internal consistency and coherent life paths that make sense of their violent experiences. Constructing narratives allows the women to discover previously unseen connections among episodes, among relationships, and among the time periods of their lives. Each woman in the study tells a unique and deeply personal story. Yet, each story resembles the stories of other women interviewees. While the women's pre-prison lives vary by class, culture, and race, their abuse-related experiences and outcomes suggest few differences. Through their narratives, women express common themes and describe common patterns. This research suggests that, where intimate violence occurs, gender overrides other social categories. The life accounts of convicted survivors need to be examined in relation to the private and public contexts in which they occur.

## **Minimizing and Forgetting Violence**

***“The back-hand—I didn’t consider it hitting, because it was above the neck.”***

### *Introduction*

Almost without fail, responses from the women reflect a nonobvious theme: women continue to minimize or forget the violence they suffered at the hands of their abusers. Practitioners and researchers note that forgetting abuse experiences is common among survivors. Kelly (1990, p. 124) observes, “We forget experiences in order to cope with an event that we do not understand, cannot name, or that places acute stress on our emotional resources.” Battered women frequently minimize the degree of violence in their relationships (Browne 1995). Despite a great deal of self-education, support group interaction, and reflection on the events that preceded their incarceration, former victims repeatedly minimize the significance and effect of the violence they experience.

### *Narratives*

Because research shows that pregnancy provides little relief for a woman who has an abusive mate (McFarlane, Parker, Soeken, and Bullock 1992; Stark and Flitcraft 1988), each woman was asked if the abuse continued during her pregnancy. A forty-year-old mother of two answered no, that there had been no abuse during either of her two pregnancies. Later in the interview, she mentioned that he “back-handed” her continuously throughout their marriage. Asked if the backhanding stopped during the pregnancies, she states,

When I was pregnant, he didn't beat me. He was always the mental abuse and always the back-handing on my head; that's why I get a lot of headaches. He didn't hit me when I was pregnant. The back-hand—I didn't consider it hitting, because it was above the neck. (with a laugh) Yes he did!

Frequently, a man who is physically abusive subjects his partner to sexual abuse as well. Regarding sexual abuse, the same respondent states:

I don't know if there was sexual abuse. I don't know. It's like, there was a time when we were first in our marriage, I was pregnant, he had a girlfriend living with us and he wanted a menage a trois kind of thing. Just to get him to leave me alone, go do what he needed to do. We'd been married not even a year, half a year, something like that. It was like, what he wanted, I got. I had no choice. It wasn't that... Even now when I talk about it, I leave. I have a lot of blank in my mind.

When this woman was asked about his attempts on her life, she responds:

He didn't make any direct attempts on my life. He just needed to tell me.

However, later in the interview, she observes:

I have no doubt that he could kill me. There was one time that

he had me against the wall, my feet off the ground, I was going into convulsions and I scared him because he couldn't bring me out of it. That's the nicest he'd ever been, after that situation because it scared him so bad. He came close to killing me, and then in bed when he'd wake up and he was in Vietnam. Yeah. I was seeing stars!

One woman states repeatedly that her husband never laid a hand on her, that the abuse had been limited to mental abuse.

He didn't *physically* abuse me, so at that time I didn't even know that domestic violence was the mental abuse. Of course it was just all *me*. So I was going to do what I had to, to keep the marriage together.

Later she recounts an episode that took place in the office of their hardware store, but, because it didn't fit into her own definition, she did not consider it physical abuse. After tearing up the office and throwing items at her for accidentally double-billing one of his friends,

[He] grabbed me by the throat, shoved me up against the wall; his friend had to pull him off of me.

However, when she describes the nonphysical, mental abuse, she recounts her husband's ongoing, ritualized threats to kill their two daughters and then to kill her:

The first night he did that, I thought it was all talk. But it became a nightly ritual. He'd get that gun, point it at me, and he'd go, "If you think I'm kidding..." and he'd take the gun and walk into the kids' room with the gun.

Another woman initially reports only

...bruises. Cuts. Didn't have any broken bones. I never went to the hospital.

Later in the interview, she recalls:

...Mostly there was slapping, slapping me, spitting on me, verbally abusing me, telling me I'm trash, the block whore, just belittling me, like nothing. Making me feel like I was all that. ... He had hit me in the head with a bottle. He was drinking a beer. He had hit me in the head with it. He was laughing right when the cops pulled up and there was blood squirting out of my head.

The following comes from a woman who later showed me several small scars on her face, head, and hands:

He'd get angry and—he wouldn't hit me with his *hands*—all through our marriage I didn't think that I was really being physically abused because he wouldn't hit me with his hands. He would throw things. They'd accidentally hit me. Beer bottles if he had one in his hand; a wrench if he was working on his car; a gun if he was planning on shooting me and decided he didn't want to so he'd throw it at me; he'd kick a door in on my head; he'd drive a car off the road if he was mad at me for some reason; throwing plates at me, dishes, a broom; whatever he happened to have in his hand. He'd punch a hole through—I'd just happen to be in front of a door or a window, whatever it was, he'd punch a hole through it and hit me. Glass and all.

One woman recalls a violent episode only after being reminded by her daughter who had witnessed the attack.

I want to think that my kids didn't know, but in reality, even my youngest, she was only 3 at the time, she remembers things. How do you remember that? She told me after I was out on bail, she said, "I remember when Daddy had the knife and he broke the mirror. He's not mad at you anymore." ... I say, "How do you remember that? What do you remember?" She said, "Daddy was mad and threw the mirror and the mirror broke, and he had a knife at your throat." I didn't

even remember it. I didn't. Until she brought it up, I didn't remember that incident.

Another woman describes memory gaps filled in by her children:

My attorney ... talked mostly to my daughters. Most information he got, he got from them about the abuse, and incidents that had took place, because there were some that I didn't remember.

Even a former nurse with an extensive medical background minimizes the physical damage:

The only physical injuries—just concussions and stitches, that's all.

However, she later admits,

He tried to kill me two or three times that I'm sure of. He tried to drown me in the bathtub once. One of his biggest things was choking me. (weeping) I'm very lucky to be alive.

### *Conclusion*

When a woman is held hostage in an abusive situation from which she sees no escape, minimizing or forgetting the violence serves as an effective denial mechanism that helps her survive (Graham, Rawlings, and Rimini 1990). Once she is no longer subject to ongoing violence, a woman may be able to recall and redefine particular events as violent and abusive. In the course of the interviews, several women were able to identify and re-label specific episodes and actions as abusive or

violent. The process of redefinition allows women to shift the blame from themselves to the abuser, a crucial step in their recovery and growing self-empowerment.

### **Self-Identifying as A Battered Women**

***“I never considered myself a battered woman.”***

#### *Introduction*

As the interview process unfolded, I became aware that, had I sought out these cases a few years ago, many of the respondents would have excluded themselves from the study. Along with minimizing or forgetting the violence, only a few considered themselves battered or abused women during the violent relationship and in the early part of their incarceration. While interviewing women survivors of male violence, Fine (1995, p. 437) notes with irony that

women who have been abused often distance themselves from precisely those labels [such as *battered woman*] feminists use to heighten public recognition of how gendered violence is.

For many of the women in the present study, the first realization that they had been victims of domestic violence occurred as they began attending a support group for battered women in prison; and for some, the process took several years.

#### *Narratives*

This woman was married for 22 years, the first eight without physical abuse:

I just didn't think of me as being a battered woman for about 15 years. When they said that I could get help at battered shelters and when I went to file a restraining order, she told me that if I had to I could go and take the kids to a shelter for battered women. I said, "No, I don't need that because I don't fit that." She didn't give me any information then about battered women. I didn't get anything to read about battered women until I was in [this group].

A mother of three stated:

I never considered myself a battered woman. If someone had asked me then if I was a victim of domestic violence, I would have said no. Believe it or not, even during my trial, I still didn't think I was a battered woman. It wasn't that bad. Until I came to prison and joined CWAA and heard other people's stories, like, well, that's just like mine!

At 14 years old, this woman's parents gave her to her husband, a man twice her age.

Her comments reflect the link between her victimization in adulthood and in childhood.

If someone had asked me then if I was a battered woman, I'd have probably said no, or I don't know. Because I lived that way as a child and I believed that's the way it was supposed to be. I knew inside myself that something was wrong and I didn't feel good, but I didn't know *why* it didn't feel good. It hurt.

The next respondent experienced severe physical and sexual abuse, known by numerous outsiders, including law enforcement.

Nobody ever referred to me as a battered woman. "Battered woman" was never mentioned. If anybody had asked in a

survey then if I was a battered woman, “No.” Or if I was a victim of domestic abuse, “No.” I didn’t feel I was a battered woman but, because I fought back and there were times maybe when I egged it on. I see it all clearer now. But, I wasn’t going to lay down. It was the only thing that was left of me.

The following statement comes from the woman who earlier describes being slapped, stalked, and bloodied:

I never knew I was a battered woman until I came to [the support group]. ...I told [the group leader] “I was never battered.” She sat down and had a looong talk with me. I went ,and it’s like, wow. I never realized that I was battered. When I realized it, I actually called my brother. I never knew. I don’t know. I would’ve never known had I been out there. I *didn’t* know. It explained a lot of things. Then they told me what a battered woman was and how the cycle is.

The next woman’s comments reveal some of the reasons she had not considered herself “eligible” to be called a victim, and the slow process of acquiring a new definition of the situation:

My idea of myself changed through a lot of therapy, a lot of [support] group setting, a lot of different women—women that were not sexually promiscuous, that did live in the house with the 2.2 kids and the one-half dog. Betty Crocker still was told the same things I was. That she was fat, ugly, stupid, a slut, a tramp, a whore. She was told that the same as me. I came to the realization that mine wasn’t unique. I’d heard the word abuse before. I’d seen a talk show here or there. Just because I didn’t cower in a corner... That didn’t make me any less battered or any less bruised or any less wounded. Betty Crocker still got exactly the same that I did. She may not have fought back but the tension-building was there the same It was the same picture to each person. They were just painted with different strokes and it took a year or two of hearing other people’s stories to know that my story really wasn’t any different. I could identify myself as a battered woman within

about a year. It took me another 2 years or so to quit saying, “If I would shut up, he wouldn’t have.” It took me *another* year after that before deep inside my gut within the whole being of me I knew not just intellectually, but in my heart of hearts, that regardless of what I said or what I did *he had no right to hit me*. Or demean me. Or to make me feel less of a person than I was or that I am. I think I got all the pieces together. I think—just like AA— I think that this will be a life time—a continuing thing.

For some, denial was not so much a lack of understanding about what constitutes domestic violence, rather it was based on shame.

I didn’t call myself a battered wife. I called him a wife-beater. I didn’t know about domestic violence. If I knew about it, it was just a newscast and it was gone. If someone had called taking a survey and asked me if I was a victim of domestic violence, I’d have said no. They would have to ask, “Does your husband ever beat you?” Besides I wouldn’t have told them. I’d have hung up. I didn’t want anyone to know. I was ashamed.

For another, denial was based on fear.

If someone had asked me if I was a battered woman, I’d have said, NO. I would deny being a victim of domestic violence. Because if someone asked me, even on the phone, [he] would find out. I don’t know how he would find out, but I was scared.

### *Conclusion*

For battered women, defining the experience of intimate violence is a complex process. Months and years may pass before a female victim of domestic abuse redefines events and actions as part of an ongoing pattern of oppression and intimidation. It may take even more time before she defines herself as a battered

woman. Feminist scholars suggest that the lack of names given to women's experiences renders those experiences invisible and silent (Kelly 1990). Giving a name to her experience empowers a battered woman and validates her thoughts, feelings, and actions. Du Bois (1983, p. 108) explains:

The power of naming is at least two-fold: naming defines the quality and value of that which is named — and it also denies reality and value to that which is never named, never uttered. That which has no name, that for which we have no words or concepts, is rendered mute and invisible: powerless to inform or transform our consciousness or our experience, our understanding, our vision; powerless to claim its own existence....This has been the situation of women in our world.

As formerly battered women in prison join together in support group and in personal conversation, they tell of lives structured by abuse, they hear common histories, and they begin the process of shifting definitions and naming their experiences. What had once been a private, personal problem becomes a social ill shared by other women convicted of spousal homicide.

## **Police Involvement: Calling 911**

*“By the time they left, they had me believing I had done something to him to cause it.”*

### *Introduction*

Law enforcement officials act as the first line of help for battered women, and as such, they are the gatekeepers to systemic response by prosecutors, judges, and social workers. Just how much family violence police actually see is not known, principally because “many officers still fail to define and record such incidents as crimes” (Sherman 1992, p. 5) and often fail to file any report at all (Ferraro 1989). Further, officers routinely categorize domestic assault as misdemeanors, rather than as criminal offenses (Browne 1987). In a survey of three hundred women using a battered woman’s shelter, Abel and Suh (1987) found that three out of four women called for police aid, with officers responding 95 percent of the time; however, despite six out of ten women asking that their batterers be arrested, the police arrested abusers at less than half that rate. Pagelow (1981) reports that of the women in her shelter sample who asked police officers to arrest batterers, the majority was refused. A team of researchers found that, even when departmental policies directed officers to arrest offenders, the police made no arrest in 82 percent of the cases

(Ferraro 1989); further, while these officers were required to give victims information on available protective procedures and resources, in sixty-seven out of sixty-nine cases they failed to do so without being prompted by the researchers. Correspondingly, a National Institute of Justice review of civil orders of protection found police failure in three areas: failure to inform victims of their options, delay in serving the orders on offender, and failure to arrest the abuser when he violates the order (Sherman 1992). In the majority of cases in the present study, women sought the help of law enforcement to stop their partners' violence. They reported the attacks only to be left with even less hope and feeling more trapped.

### *Narratives*

For the next interviewee, law enforcement failed to meet her needs a number of times, even up to the day of the homicide:

I called the police many, many, many times. Nothing happened. Sometimes they came out. If they came, they said he had a hard week at work, because he could change when they'd take him over there to talk. When this happened, I was bleeding, my nose was bleeding. They wasn't going to arrest him. Well, he'd been choking me and, trying to get his hands down, I had scratched him. He said, "Well, if you're going to arrest me, I want her arrested." *Then* they were willing to take us. But they wouldn't take him. They said, "You can go to one of your daughters, you know, go to your friends." Because they'd been there so many times they knew [the name of] my friend who lived right across the street or my neighbor lady. How many times did I call? Hundreds. How many times did someone show up? If it was women officers on, more. If it was men officers, they'd come an hour, two hours later. Maybe half the times I called, they showed up. Maybe they took him from the home four, three

times. But, the [neighbor's] boys [that he threatened with the rifle] ...that incident was different. He wasn't charged for me, they just put him in the drunk tank. I didn't know about shelters. [T]he police never said anything about getting help. ...He'd just tried to shoot me earlier ...that afternoon. I called the police. "What do you want us to do, lady? It's his house. We can't get him out."

In the next case, the woman's estranged daughter independently corroborated the family's experiences with police unresponsiveness when I interviewed her during an unrelated research project as she served a sentence at a California Youth Authority facility for her involvement in the same crime. In the mother's words:

The police, every time I called them, they were usually there about 30 minutes or so, but by the time they left, they had me believing *I* had done something to him to cause it. I called the police about eight different times.... [When he tore up the tire shop, threatening to kill me and the kids] ... I went across the street and called [the police] They got there in about 45 minutes. He was already acting like he was completely sober and had been all day.... but when the cops got there, and [my teenage daughter] was trying to tell them that he has been threatening all of our lives, the cops told her to shut up, and if she didn't, he was going to take her in. She was just trying to let them know. Then they told me the shop was in his name...too. My name on there made no difference. None. It was his and that if I didn't want to be taken to jail that I'd better leave and get out of there and leave it to him.

She continues:

When I'd call the police, they'd come out and... Once we had to go to the Burger King because I couldn't stay at home, because he was there [even after I filed for divorce]. We put all the cats, and the dogs, and our little pigs, in the back of the station wagon. We didn't think he'd do anything to the horses right then. We got all the other animals in the car and went to Burger King and I called the police from there. They got out there in about 30 minutes and I told them what went on. My kids were telling them

too. The guy said that it was a domestic problem and I would have to find a shelter to go to, or somebody's house and stay with them until he cooled down. They wouldn't even go over to the house and make *him* leave. It was always me! It was my house. I paid the payments. I made the down payment on it. But I was always being told that I have to leave, or they'd take me to jail.

In the following example, officers heard the batterer's threats and witnessed his violence.

There was a prison halfway house next door. They called the police more than once. He had broke out the bay window and the police heard him threatening to kill me. His hands were on my throat and his knee in my chest when they broke into the house and pulled him off me. He was not arrested. He was walked around the corner and taken to his parents' house.

One agitated husband solved the problem of police inaction:

One time in particular, he beat me really bad in the face. He was arrested for that. He was always very cautious not to hit me too much in the face after that. I called the police. It was terrible. The police kept saying over and over there wasn't anything they could do. It was a domestic dispute and it was something we had to work out; they hadn't seen him do anything so therefore, they could not arrest him. "Lady, if you want to file charges, you can come down tomorrow and file charges, but you could have done that to yourself; anybody could have done it to you." And I'm crying and hysterical saying, "Shine the flashlight in my face. See what he did to my face." ... I had a bloody nose, puffed up lips. They would just persist in being totally indifferent. So we tried various ways, "You want him to leave? Okay, we'll wait here while *he* leaves." I'm going, "Yeah, and he can come right back!" Their solution was for me to leave. So okay, where am I supposed to go? It was real frustrating. He was getting kind of agitated again, I'm hysterical, and we've got like three or four police officers standing around. He ends up slugging me in the face in front of the police officers, putting his wrists out saying, "Handcuff me. Handcuff me and take me. She's not going to be happy

until I go to jail.” They did. They arrested him. They charged him for hitting me *once*.

She goes on to describe her sense of futility and her children’s involvement:

I now know that my kids basically grew up calling the police. When things would get hairy and scary for them (weeping), they would call the police. From the first few times I called the police, I never called again with all this. The way my children would describe it is, when something would start, they would at some point try to defend me. But when he got angry, his fists and hands and things would just be flying at anybody. So he would hit the kids, too, if they would try to step in and make him stop. He would just go like crazy and he’d get all over everybody. Early on, the kids just learned to run to the farthest phone and call the police. Sometimes the police came; sometimes they didn’t. Usually on calls like that the police don’t come right away... [T]hose type of calls are put down on the bottom of the list. Usually by the time the police would arrive, [he has] either somewhat stopped or cooled down somewhat. ... He, in particular had a real knack for being able to (snaps fingers) switch real fast when the police would knock at the door. He was the calm one—I was the hysterical one.

This mother paid the price for following police advice:

When he was violent with me, the police were called and they said they could not arrest him because they didn’t see him hit me. One time I had to place him under citizen’s arrest because he had hit me in the head with a bottle. He was drinking a beer. He had hit me in the head with it. The cops pulled up and he was laughing. He was laughing right when the cops pulled up and there was blood squirting out of my head. The cops got out and stated, “We didn’t see him do it so we can’t arrest him. The only way we could take him is if you place him under citizen’s arrest.” I go, “Do you know what he’s going to do with me?” They said that’s the only way. So I did it. Wrong thing to do.

He didn't even get down to the police station. They took him down to his mom's house and dropped him off. Then I really got the ass kicked in.

He continued to harass her throughout the period of estrangement.

He used to come at night, before that he used to come at night ...and he used to come up there in the middle of the night and break out my windows. I was constantly replacing windows. These window people knew me. I'd call the cops, and they'd say, "It's dark outside. How do you know he did it?" So I just stopped calling the cops. For what? They don't... You just get tired. You just get tired.

For a 6 foot 4 inch, 190-pound former policeman, his network of friends and former colleagues rendered him nearly arrest-proof. The man's well-placed connections placed his 5 foot 2 inch, 80-pound estranged wife at greater risk and calls into question the objectivity of officers assigned to investigate the homicide.

I'd keep calling the police, keep calling the police, keep calling the police, until they knew my whole first, middle, and last name, and everything about me....There was an outstanding warrant for his arrest at the time of his death. He had a copy of it that he showed me that day. He said, "What do you know about this warrant right here?" He had a copy of the warrant. I said, "I don't know anything about it. What do you mean?" He goes, "What do you know about it?" "Nothing. I'm telling you the truth! I don't know anything about " He goes, "No, you know I know better. I have friends. I can kill you that easily (snaps fingers) and nothing will ever happen to me."

They claimed he was never arrested because they didn't know where was at. However, my husband had worked with them—the same officers that worked the domestic violence unit also worked robbery and homicide.... So they all knew each other. I knew more than anything, the biggest reason why he

was never picked up was that they just chose not to.

### *Conclusion*

While the nature of the research sample greatly increases the likelihood of finding ineffective police response, without exception, study participants who called on law enforcement for help did not receive the assistance they needed desperately. In the cases under review, officers repeatedly failed to perceive the seriousness of the situation and the danger to women and children posed by violent men. After attacking, terrorizing, and/or threatening their partners, batterers may take a ride in a police vehicle—not to the county jail in handcuffs but to a relative’s home. If officers decide that the man may remain on the scene, it is the woman who must leave her home or business for temporary respite or recovery from injury. When that occurs, the man’s right to maintain access to his property outweighs the woman’s right to be free from assault. In the face of such indifference or hostility, traumatized women and children are left feeling abandoned, unimportant, and over time, they become disillusioned with the system they had looked to for help and for justice. In addition, children and family members witness the violence and the subsequent ineffectual police action, leaving some with the impression that officials trivialize the situation, that there will be no help from outside sources, and that the only way for

the battered woman to survive is to kill the batterer. Thus, interviewees list brothers, nephews, sons, and a daughter among their codefendants.

When police respond to domestic violence incidents, they bring with them a blend of personal histories, cultural beliefs, and departmental policies. In some of the present cases, it is possible that law enforcement officers felt constrained by departmental policies and the nature of the domestic violence statutes of the time. However, even when policies dictate arrest, research consistently reveals the tendency of many law enforcement agents to resist bringing the full force of the law to bear on batterers (Abel and Suh 1987; Buzawa and Buzawa 1996; Ferraro 1989; Pagelow 1981 and 1992; Sipe and Hall 1996). Pagelow (1992, p. 95) observes:

[P]olice officers always consider the wife somewhat responsible, particularly when there is alleged antagonism by the woman and when the man threatens violence. The husband's threats to harm his wife *lower* his responsibility, and the wife's responsibility *increases* as his threats are repeated. (emphasis in original)

Women in the current study report their inability to get police to protect them. Their stories of failed attempts to obtain help from law enforcement personnel mirror the stories of many other women who ultimately bring about the death of their violent mates (Gillespie 1989).

## **Police Involvement: Barriers to Calling 911**

*“I knew not to call the cops on him—because he would get out anyway.”*

### *Introduction*

Not all victims of violence call on law enforcement for help. The Department of Justice estimates that close to half of all incidents of intimate violence against women are not reported to police (Langan and Innes 1986). Interviewees describe diverse obstacles that interfered with their ability to enlist the aid of law enforcement for their abusive circumstances. Some were threatened directly and many lacked confidence in the effectiveness of calls to police.

### *Narratives*

One mother of three explains her reasons for not calling for help from law enforcement:

I never called the police. He was brought up in gangs. He got into trouble a lot. So he told me, “No one ever snitches on anyone.” He would tell me some of the things that they would do to snitches in jail. I knew not to call the cops on him—because he would get out anyway.

From his past violence against her and against others, one woman took seriously the threats of her abuser.

I never called the police... He told me if I ever told [anyone], he'd hurt me worse than I had ever been hurt in my whole life.

This respondent describes her one attempt to call for law enforcement aid. Her lack of confidence in police effectiveness is based on childhood experiences with a violent stepfather.

I tried once to call 911. He came in when I was on the phone. He just walked up very calmly, picked the phone out of my hand, listened: "Our circuits are busy. Please hold. (laugh) An officer will be with you as soon as possible." It was on one of those recordings. He hung the phone up and told me very calmly, "Ever try that again, I'll kill you." That was the first and only time I tried. If the police would've come out there—instead of taking my husband out and patting him on the back and giving the good old boy attitude and acting like one of the guys—laughing and talking about women, how they were all no good. ...I knew they weren't going to help me. I knew they weren't.

Her husband's social networks were obstacles faced by this interviewee, an upper-middle class mother of two.

I never called the police. All his friends were judges, attorneys, police officers. His cousin was a sergeant at the police station that arrested me.

One woman, whose Marine husband was 17 years her senior, faced a dual challenge: the isolation of living on a military base and her husband's military assignment. She did not call on law enforcement for rescue.

Unfortunately he *was* the police. He was a military policeman. When everything started getting really bad we were living on base. It didn't help for me to call any of his [MP] friends because they took his side.

The next respondent affixes some of the blame for not calling police on her own deteriorating mental state.

I never called the police on him. But for many years he made sure we didn't *have* a telephone.... I didn't call the police because I was getting sick myself—the drinking, and my depression—so my mental state was just...

Because of the racism found in American society, women of color face added problems in seeking help. The following woman's situation captures the problematic intersection of race, class, and gender. Rather than seek help, she felt responsible to maintain the reputation of her physician husband and her ethnic group.

*No*, I never called the police. *No!* In a small town like that? Out of (unintelligible) doctors, there was only two blacks. I didn't think I needed to do that... Call the white man and tell him about my husband's beating me and we going through this and that? *No!* We were already having a hard time sometime at the hospital because, you know, some patients would come in and they're drinking or something like that and they'd say, "I don't want no nigger doctor taking care of me." You know, that kind of thing. Coming from the South, you don't tell no nobody—police, doctor—nothing like that about your husband, particularly a white man. In a white town like that, you tell him that you have a fight with your husband—it would get around and you don't want that to be known.

### *Conclusion*

Women report numerous reasons for not calling the police. Some have such low expectations of law enforcement that the obvious risk entailed in calling 911 outweighs the perceived probability that officers will fail to respond effectively. Women fear the consequences of reporting—consequences sometimes graphically detailed by their violent partners. Ensuring a woman’s lack of access to a telephone is one of the isolation techniques used by some abusive mates, making it all the more unlikely that she can call for help. To a battered woman, her abuser’s social or professional networks may appear to be insurmountable obstacles in the normal pathway to protection, as is the case when his friends or colleagues are the very ones charged with imposing legal sanctions (e.g. judges, police officers).

For some women, especially those who do not conform to racial stereotypes, racism compounds the difficulty in seeking outside intervention. As Rasche (1995, p. 258) notes,

Whether it’s fear of police brutality against themselves and their men, or the fear of being viewed as a traitor for disclosing a problem which may tarnish the positive image the minority community has worked so hard to foster, these are problems with which white women simply do not have to contend.

## AFTER THE HOMICIDE: JAIL AND TRIAL EXPERIENCES

### **Drug Treatment or Chemical Restraints?**

*“I was a zombie.”*

#### *Introduction*

For the overwhelming majority of the battered women defendants in this study, the homicide arrest was their first experience with interrogation, arraignment, and/or commitment to a county jail facility. Frightened, confused, and often traumatized from a recent beating and their own lethal actions, women report that confinement in county jail was more trying than subsequent confinement in state prison. One recurrent criticism that arises from their jail time is the use of prescription drugs—anti-depressants and mood-regulators<sup>10</sup>—as ordered by jail medical staff. Shaw (1982) reports that the use of psychotropic medication is common throughout most American correctional institutions and she suggests its function as a form of social control. In comparing men’s and women’s penal institutions, McCorkel (1996, p. 171) finds that “women’s institutions rely on the prescription of psychotropic drugs (e.g. tranquilizers) to restrict and control inmate behavior.” In a study of women lifers, Jose (1985, p. 191) observes,

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<sup>10</sup> Frequently mentioned antidepressants and antipsychotics include: Mellaril, Elavil, Desyrel, Triavil, Vivactil, Vistaril, Haldol, Lithium, Stelazine, Sinequan, and Thorazine.

Psychotropic drugs are given to women who complain about depression or misbehave in the institution, in order to “help them” control their problems (and then these women are half asleep and walk around like patients in a mental hospital).

According to Culliver, “The use of psychotropic drugs is 10 times higher in female prisons than in male prisons (1993, p. 404). Even when medical and psychological conditions are taken into account, McCorkel (1996) reports that women prisoners are still at least twice as likely as men to be prescribed psychotropic drugs. Chalke (1978) addresses the ethical problems facing prison psychiatrists in their use of chemical restraints on prisoners, raising the issue of drug treatment for the purpose of controlling individuals. Inmate-author Jack Henry Abbot (1981, p. 42-43) bases his condemnation of mood-altering medications in prison on his personal experiences with “institutional drugs:”

They are *phenothiazine* drugs, and include Mellaril, Thorazine, Stelazine, Haldol... These drugs, in this family, do not calm or sedate the nerves. They attack... The drugs *turn* your nerves in upon yourself. Against your will, your resistance, your resolve are directed at your own tissues, your own muscles, reflexes, etc. These drugs are designed to render you so totally involved with yourself physically that all you can do is concentrate your entire being on holding yourself together. (Tying your shoes, for example.) You cannot cease trembling... Those who need the drugs, who are ill, do *not* experience it the way we do... [Y]ou are handed over to a “psychiatrist,” who doesn’t even look at you and who orders you placed on one of these drugs.

More than a decade later, based on his observations as a prison inmate, Hassine (1996, p. 79) offers this explanation for the generous use of psychotropic drugs:

The reasoning seemed to be that every dose of medication taken by an inmate equaled one less fraction of a guard needed to watch that inmate, and one less inmate who may pose a threat to anyone other than himself. Hence, overcrowding had brought about a merging of the psychiatric and corrections communities.

In addition to correctional institutions, nursing homes have come under scrutiny and criticism for their use of chemical restraints; recommendations have been made to move nursing homes and long-term care facilities towards a reduced or restraint-free environment (see Braun and Lipson 1993, US Congress 1991).

### *Narratives*

One woman's comments reveal the promise of psychological escape through drug treatment. She also exposes the trial advantage that comes to those who receive bail.

When I was first arrested, they put me on drugs. They said I needed them—the doctor that was there. At that time, you want anything that will make you sleep. You don't want to think about what's happening. And everyone sleeps all day and all night. They do it by getting on to the drugs. When they say, I want to give you whatever, whether it's Mellaril, I don't remember what it was. I continued to stay on that drug

and sleep. Luckily enough, I was bailed out so I fought my case on the street and I wasn't on drugs. I knew I had to testify. I knew I had to tell them the story.

In contrast, a woman who serves a 17 to life sentence observes,

11 months of being on ... Sinequan, and during the trial, I took ... Mellaril 4 times a day. I fell asleep seven times during the trial.

A former high school English teacher describes her self-presentation in the courtroom and the impact of drug treatment on her ability to testify. She serves a sentence of 25 years to life.

The jail psychologist or psychiatrist put me on drugs in jail. I was too distraught to make a rational decision about medication. During the trial I was on both a tranquilizer and an anti-depressant. I was not able to testify well—I was a zombie. They said I was cold and remorseless, not showing any emotion. I'm articulate—a college graduate with a graduate degree—the meds made me inarticulate. The DA made Marcia Clark look like a Girl Scout. She destroyed me on the stand. My lawyer didn't prepare me for what was going to happen during cross-examination.

A woman, 21 years into a sentence of seven years to life, describes the impact of the homicide and its aftermath in combination with “psych meds.”

In jail, the psych doctor decided to put me on drugs. I don't know what it was. I was in total shock. I did not even have a period for eight months. My whole body shut down—my mind, too. This was during the trial too.

Unable to recall the composition of the jury, one woman offers an explanation for the memory gap.

I don't really remember the jury... They put me on psych meds about 3 months before the trial.

As a 20-year-old with an addiction to illegal drugs at the time of the homicide, a woman exhibits concern over the combination of medications prescribed for her in jail.

I don't know who decided I had to be on medications in jail. They gave me anti-depressants and other drugs. I was on like four different types that should not have been mixed together. I didn't even know why I was getting it and I didn't want it.

Several interviewees expressed ambivalence toward the prescription of mood-altering medications. The first example also suggests questionable professional ethics on the part of a mental health professional who was involved in the case prior to and following the homicide.

Deputies and a nurse ordered Vistaril and Phenergan. I was depressed and "out of it" so I did and didn't want it. I was taking shots in jail ... and medications—Vistaril, and Phenergan was one of the shots—anti-depressants—that was ordered by somebody... I was hyperventilating, because they'd bring me—they called me the brown bag girl—they'd bring me little paper bags to breathe into while I was in jail. I begged to see a counselor and the same one that had seen me and my husband, [the man] who had told on me, told [my husband] what I had said to him in confidence, came to see me one time.

The counselor or the jail nurse put me on Vistaril and Elavil. I was told to take them and I did. I wanted to and I didn't want to. They kept me on them during the trial. It lasted two months. I stopped the day I came to prison.

I came in with medication and the staff psychiatrist continued Elavil, Lithium, Vivactil, Caffergot, Benadryl, and I can not recall the rest at this time. Did I want it? Yes and no. I was on the meds during the trial that lasted 5 ½ months.

Others were unequivocal in their objection to medications given during their jail confinement.

In jail they gave me Prozac prescribed by a psychiatrist. I didn't want it because I'm fearful of "psych" drugs.

The doctor in jail prescribed Sinequan for me. I didn't want the drug. I only wanted something to get rid of the migraines and allow me to sleep at night. They gave it to me during the trial.

The jail doctor gave me Sinequan and kept me on it during the trial. I didn't want it.

In jail, the psychologist gave me Sinequan. I didn't want it.

The jail staff ...decided I had to be on Mellaril, Lithium, Elavil, Sinequan, Vistaril. I didn't want to take it. I was on all of it during the trial.

The doctors and attorneys decided I needed medications when I was in jail. They gave me psychotropic drugs that I didn't want. Even during the three months of the trial I was on Thorazine, Stelazine, Triavil, Desyrel, and others.

The jail nurse gave me Elavil that I did not want.

One respondent's daughter alerted her to the observable effects of the drug treatment. The woman defends her right to feel the emotions "normal" for her situation and she manages to exercise some control over her dosage.

At Sybil Brand (Los Angeles County Jail for women) they put you

on, well, they put *me* on Sinequan. When I was first arrested, they put me in an orange outfit and put me in a mental observation ward. They were giving me medication—a handful of pills. And I was taking the medication because a *doctor* was giving it to me so I must need it. Days went by and my daughter came to visit me and she was like, “Mom! What’s wrong with you? What are they doing to you?” I knew I was sleepy all the time and I had trouble sorting things out. I asked the doctor, “What is this for and what is this for?” You know, I wanted to know what those pills were for. I started sneaking and not taking them all. But, I asked him what they were for and they told me that they were anti-depressants. I was furious because, to not be depressed in my situation would not be normal. I’m supposed to be depressed. And that’s what I explained to the doctors—that it’s, like, when someone dies you go through the grieving. I just didn’t just kill somebody. I killed somebody that I loved very much. I had the right to be depressed and I refused to take the medication. They didn’t take me completely off the medication though, but they put me under a level that I could go out into population [with other inmates] on a trial basis.

A Native American woman repeatedly refused to take a psychotropic drug. She reports that jail staff attempted to coerce her into accepting the medication in exchange for releasing her mail. She takes her complaint to a higher authority.

When I was in Sybil Brand, every day they were calling me to go upstairs to take—what was it they wanted to put me on? Thorazine. And I’d go up the ramp and come right back down. I didn’t want to be on that medication. I’d seen girls on that medication. And I wouldn’t. I wouldn’t. ... One time I went up to court and I told the judge that they were holding my mail. They wouldn’t give me my mail. They were trying to put me on these meds. I had two court orders where I was not allowed to go up there and be on meds—a court order—and for them to release my mail. Because they were telling me they were going to lock me up if I didn’t take them. I said, “I’m not taking them.” But it wasn’t the judge ordering them, it was just

Sybil Brand. I think it made a difference that I was a woman.

### *Conclusion*

The tendency of medical professionals to overprescribe mood-altering, psychotropic drugs for women is not exclusive to correctional institutions. Throughout the country, significantly more women than men receive prescriptions for tranquilizers and sedatives (Lott 1994). However, for a battered woman attempting to prepare a coherent legal defense in a homicide trial, the overuse of psychotropic drugs becomes even more problematic. In response, one California inmate (not part of the current study) convicted of the accidental shooting and death of her friend, initiated a support group, "Women Prisoners Convicted by Drugging," in order to educate and advocate on the issue of "chemical handcuffs;" for 10 years she has fought for the new drug-free trial which is now pending.

Throughout a woman's relationship with a batterer, he denies her the right to have a voice in her own life. Following the death of their abusers, accused women are arrested, jailed, and, not infrequently, ordered by jail staff to take tranquilizers and anti-depressants. Some successfully refuse the medication. Some women are able to make bail and discontinue the drugs. In general, however, women accept the drug therapy, even when contrary to their

wishes, because they are told they need it, because their batterers have forced compliance throughout the relationship, or because a drug-induced escape from reality may feel good in the short-term. Regardless of the motivation, many interviewees report that psychotropic drugs directly interfered with their ability to participate in the preparation of their defense cases. When drugs inhibit clear thinking, accused women are substantially less able to make reasoned decisions, less able to contribute crucial information, and less able to follow the course of their own trials or plea bargains. Thus, the overuse of mood-altering drugs becomes a form of institutional victimization that continues the silencing of abused women.

## **Adjudication Processes**

*“The actual trial lasted three days. Picking a jury lasted two.”*

### *Introduction*

When a battered woman uses deadly force against her abuser, a prosecutor has the option to not prosecute based on justification, or to indict her for criminal homicide. The law divides criminal homicide into two classes of offense, murder and manslaughter, each of which is further differentiated based on the person's state of mind at the time of the killing. In California, women may be charged with first degree murder (e.g., premeditated, intentional killing), second degree murder (e.g., deliberate killing without premeditation), voluntary manslaughter (e.g., deliberate killing due to serious provocation or heat of passion), or involuntary manslaughter (e.g., killing resulting from recklessness or extreme negligence). The available legal defenses for battered women homicide offenders tend to be quite limited since most admit to the killing (Ewing 1987). Most women accused of killing their

abusive male intimates are charged with first-degree murder (Sipe and Hall 1996).

The following narratives demonstrate the difficulties and frustrations faced by women in the present study as prosecutors adjudicated their cases. Evidence of violent assaults against the women by their male intimates rarely enters the trial as evidence. Not infrequently, defense attorneys employ questionable strategies, demonstrate a lack of knowledge about the dynamics of abusive relationships, or seem disinterested in the unfolding events. The reputations of abusive intimates are protected at the expense of the battered women homicide defendants. Where available, I include information on the year and jurisdiction of the trials or plea bargains.

### *Narratives*

Life without parole was the outcome for a woman who was 34 years of age when she killed her sexually and physically sadistic husband. During subsequent legal proceedings, she reports discovering that her attorney failed to contact people she felt would support her defense case.

The public defender did his job. He defended the public. I wasn't the public. He had no experience with abuse issues. He hired a psychologist to come in. The first guy they had come in was a man, and I was really uncomfortable. I could not talk to a man. I'm like, "And what am I supposed to say to you?" He was a very nice man, but I couldn't talk to him. The trial was in LA County in 1988. My attorney was trying

to go with the battered woman thing except he provided no expert testimony. Even the psychologist that he had, he was just in family practice. Once he tried to say anything about the battered women's syndrome, he asked, "So you have expert training in this field?" He said, "Well, no." They more or less told him to shut up. So [he] testified and made it sound like he got his license out of a Cracker Jack box.

At the age of 20, a plea bargain netted a sentence of 25 years to life for a woman whose abuser killed her cat and tortured her sexually and physically.

The Los Angeles County case took place in 1984 and provides further illustration of the gendered nature of intimate violence and its investigation.

I couldn't talk to the lawyer or the police about the rapes and the sexual abuse because they were all males. Maybe if there had been a woman to talk to... At first they offered a manslaughter but my public defender said no. Then, later, he said he had a conflict and couldn't do my case. The other public defender said they offered me a 25 to life and, "If I take it to trial you'll get the death penalty because this is my first murder case."

The attorney for a Native American woman advised her to turn down a plea bargain, which would have resulted in a much lower sentence than the final 17 years to life she received. In her case, economic disadvantage translates into legal disadvantage.

I had a public defender. I didn't know anything about being battered. Well, there was this one girl ... in [jail] fighting a murder case and she had told me, she goes, "Was he beating you up?" ... I go, "Yeah." She goes, "When you go back to court you ask them what about the battered woman's syndrome—or tell them about you being battered." When I went back in there, the attorney asked right in the courtroom. The DA goes,

“You’re not in here for being battered. You’re in here for killing somebody.” That was it. That was all. That was *all* that was ever said. No expert witness. No evaluation by a psychologist because I wouldn’t pay him \$400. He said if I give him \$400 they would do it. ... My attorney told me not to take the plea bargain because I would walk by the time the court was over. They offered me five years.

Although her brother killed her abusive husband, a Latina serves life without parole for first degree murder and recollects her attorney’s approach during a very speedy trial:

He told me that I could never bring up anything about my abuse in the trial because it would give them a motive. I did not bring up anything about my abuse, anything about my molestation. Nothing. He said they have to *prove* I’m guilty. They don’t have to prove that I’m innocent. They don’t have to prove my state of mind. Especially, the clincher is when they asked me how I felt when [he] died. I said I was relieved. Then I explained, not because he died but because I wouldn’t be abused no more. That’s about the only extent of abuse I could get in because anything brought up about him was discarded because he wasn’t on trial, I was. This was 1987 in LA County. I had a two-day trial.

Two teenagers, a daughter and a boy who lived with the family as a son, took extreme measures to ensure that the father would not follow through on his repeated threats to murder the family and their animals. When the woman and her daughter reported his threats, police officers told them that nothing could be done until the estranged husband acted on the threats. The interviewee, who knew of the teens’ plans, accepted a plea bargain in the hopes that the two youths would receive lighter sentences.

In my trial I never had an advocate ... to come and talk to me. I never had a psychologist report. I never had any of that stuff. A psychological profile, nothing like that. I didn't go to trial. It was going on for about 15 months and every time we had a court date, I'd have to go down to San Bernardino from the Riverside detention center. We'd get down there and they'd say it was postponed. Or [my attorney] wasn't there and twice he had some other lawyer sitting there for him because he couldn't be there. It went on for 15 months. My lawyer never ever came to see me. One of his girls...would always come and talk to me. She's a paralegal. We went over the abuse, the threats. I don't know if it got in as evidence because he told me that if I didn't sign this plea bargain, [the kids] would probably get as much as I did—25 to life for first degree murder—I didn't want to see them (weeping) in jail any longer than they had to. The only time I saw the lawyer was in the courtroom. When he came in for the plea bargain and they took us in this little room, he said that it would be the best thing for me to just sign the plea bargain. This was in 1992, in San Bernardino County.

Despite testimony from a male codefendant that she tried to prevent the killing of her abusive boyfriend, a young woman received a sentence of 15 to life in a plea bargain. Revealing the power of family dynamics, she describes accepting the plea to spare her family the embarrassment of a public trial.

I called my lawyer a thousand times a day. "What do you mean you can't get it down to some kind of assault or manslaughter charge?" He said they just wouldn't go for it. They wanted me down. They just wanted me down. My mother wanted me down. She was scared because I started out with the death penalty. That was a huge thing hanging over my head. I told her I would kill myself because I would not let the state do it. I said I'll just kill myself. My mother freaked out and called the jail, so they came to get me—to talk to me. I said, "You guys don't understand. I couldn't even kill my brother (he terrorized and sexually assaulted her throughout her childhood), how am I going to kill *this* guy?" So, pretty much, my mother

laid the Catholic guilt trip on me and I said okay. I sold my soul to the devil for 15 to life. I didn't stand up for myself. My family is very secretive ... and well-known in the community. It was a very embarrassing. ... "What are the neighbors going to think?" It was very embarrassing. It was very embarrassing. ... They wouldn't let me have a trial.

Although most intimate killings occur between same-race partners, racism triggered a homicide when a 22-year-old Latina told her abusive Korean boyfriend that she was pregnant and that she planned to have their baby. He attacked her with the intent to force the miscarriage of what he considered a "two-headed monster" mixed-race baby. Her 1993 trial occurred in Long Beach.

I had a psychologist testify for me. I had neighbors testify for me, a 911 call [from an earlier assault]. Even the witnesses for the prosecution were made to admit, yes, they saw him slap and hit me numerous times. They also testified that he said he didn't want the baby to be born, and he struck me...before I shot him. Yet, I was still found guilty on second-degree murder and I'm doing 15 to life plus four years for the gun. When the trial was so obviously going in my favor, the DA brought in photos and letters that had nothing to do with the trial but were allowed in to simply "dirty me up," which it did.

When one mother of two daughters made an attempt to discuss divorce, her husband began a nightly ritual of holding a gun to her head, threatening to kill her and the children. Her defense attorney's questionable strategy may have contributed to the life without parole sentence she received.

My trial was going so great—bailiffs and everyone, "Oh ... you're walking. No problem" Then all of a sudden, my attorney—the only time he ever talked to me, really talked to me

—he said, “You’re going on the stand. Tomorrow.” He came to [the LA county jail] with five minutes left. “What am I going to say? What are you going to say?” “Oh you’re an intelligent woman. You’ll be able to answer all the questions.” So when I came to court that morning he said, “I want you to admit to your love affair.” I said, “Why? Nobody knew anything about it. My family doesn’t even know. That will devastate my family! That’s saying I had something to do with it.” “That’s the way we have to go...because if they hear that you’re honest about all this, they’ll believe you and you’re going to walk. It’s your only chance.” Okay. I got up on the stand, admitted to having a love affair... They didn’t basically have a thing on me, so if I didn’t take the stand I wouldn’t be here today. None of my husband’s threats came in. ... They put my youngest daughter on the stand—it really upset me because she was supposed to verify the fact that the time they claimed the murder happened that I was at school picking them up. They put her on the stand and asked if her father had ever touched her in a way he wasn’t supposed to and she started to cry. She said, “Yes.” I stopped everything right then and there. I said, “Get my daughter off the stand.” I got cited for contempt of court and I said I didn’t care. So I made them take her off the stand. That was basically the only evidence for me. They never put my psychologist, my gynecologist on. He said, “Well, if they decide on a death penalty, we’ll use them during the penalty phase. That was all I had. When I tried saying my husband mentally abused me and I was afraid of him, all that was thrown out because *he* wasn’t on trial and he wasn’t here to defend the allegations I was making—I was on trial for murder, not for his abuse. So that was that. But during the penalty phase my attorney got a lot of people to testify on my behalf and afterwards, one of the jurors said that if she would have heard that during the trial she would have never found me guilty. This was in ’84.

One woman, 18 years of age when she married her 46-year-old husband, first experienced his violence on their wedding night. She reports that her case was thrown out twice due to “illegal police actions” before her conviction and sentence of 25 years to life.

The actual trial lasted three days. Picking a jury lasted two. This was in Pasadena in 1985. We weren't allowed to use anything negative against [him]. My attorney's defense was, we weren't trying to get out of the fact that I had committed a crime. I told him all along I didn't want that because I did commit the crime. I was guilty of a crime. I wasn't guilty of first degree or second degree. I...told him, "I'm guilty of involuntary manslaughter. I'll settle for voluntary manslaughter even. Anything less than that and I'll fight." He kept trying to understand that my state of mind—I didn't know what was happening; something had clicked and I wasn't there. We couldn't use temporary insanity. They wouldn't allow us to use that. They wouldn't allow us to use diminished capacity, wouldn't allow us to use any of that. He kept trying to figure out ways to convince the jury that this was an accident. There wasn't any expert witness; I did have a psychological exam but the DA lost it. The [exam was] ... taped and they were getting ready to transcribe it, and [the DA] came in and took it. So [my attorney] had nothing. They took everything, notes and everything. He was not called to testify. On my side, my brother, my aunt, and myself testified. We couldn't say about the threats. Every time we tried to get anything in, it was dismissed, because [my husband] was the victim. And he was dead. The only thing that got into the trial record about his abuse was that, if he was mad at somebody, he wouldn't talk for a long period of time—take it out on me. Emotionally devastated. Nobody testified about the abuse.

At 14 years old, one woman's parents sold her to a 27 year old family acquaintance because "they were tired of contributing" to her support. Despite numerous calls to police about her husband's violence against her and their children, and despite his stays in a mental hospital, she received a sentence of 25 years to life in a plea bargain.

They overlooked all the abuse. His record of the police taking him and going to the mental hospital was never brought up.

It was never brought up. Nothing. I kept telling [my attorney] about the abuse. I kept telling him about the cops coming out to the house and he says, “Well, I could subpoena those records but for every record I could subpoena, for everybody that you tell me that I can call, they’ll just have somebody else to say it ...I don’t think we can do anything here. The only hope I can see for you is either the death penalty or life without parole unless you take a plea bargain.” The plea bargain, it was in ... 1982 in Yuba County.

At the time of the homicide, one woman had plane tickets to another state in order to escape her husband’s abuse and had plans to move in with one of her adult children. In the 1991 trial, her psychologist did not testify nor did her medical doctor give evidence regarding her history of abuse. The private attorney argued that the shooting was accidental. She serves a sentence of 19 years to life.

My lawyer did not want me to say anything real harsh about the victim, because you got to remember the victim is dead. You can’t paint the picture so bad that the jury...will, “Hmm, what is this? The poor victim isn’t here anymore.” I have scars on my face; he let me point that out, if I remember right. I had to have breast surgery—he’d hit me... The sexual abuse—he didn’t let me tell a lot of. “Let’s just do a little and get off the stand.” Then he got sick, and he went to the hospital in the middle of the trial. He came back and he asked for a new trial. He wasn’t well. And the judge said NO. [The jury was] out for about a week. They didn’t call the doctor that did the surgery on my [ruptured] appendix; they didn’t call the mental health therapist. They got their subpoenas but they didn’t get called. We got my attorney on ‘ineffective counsel’ and he wrote a declaration to the fact I was not represented to the best of his ability. He was not knowledgeable in battered woman’s syndrome. He didn’t feel it was a fair trial. This was in Los Angeles County.

An expert witness offered testimony on battered women and one woman's daughters testified about their father's violence. She was tried twice in Kern County—a 1987 trial ended with a deadlocked jury and a 1988 trial resulted in a sentence of 15 years to life.

There was an expert witness. My attorney never really talked to me. Supposedly he talked mostly to my daughters. Most information he got, he got from them about the abuse, and incidents that had took place, because there were some that I didn't remember. He hired an expert witness. While I was out on bail...we probably did about 15 hours or so where we talked. She did a report—used her in trial. She testified that I was a battered woman... She presented her test findings, interview findings, statistics. I thought myself that it was very effective. My daughters testified to the abuse. I testified. The first judge would not allow molestation or the sexual misconduct by my husband, he wouldn't allow that in. He wouldn't allow... my interrogation [by] the detectives. Before they actually completed my booking and everything... they were interviewing me. I was very straight forward and basically talked about abuse, made statements to the fact that I never thought I'd get out of there alive, that he'd rip my head off, that I thought he was going to kill me. I repeated it throughout. I went to trial twice and both times the district attorney fought to keep that record out. We fought to get it introduced to the jury. In both cases, the judge always ruled that the jury could not know about my interrogation. They couldn't hear it, couldn't know what it contained. I was acquitted of first degree murder. The jury they hadn't voted on second degree. He told them they had to go back and decide on the following charges. They were out a few days and came back and said they were deadlocked. They could not reach a decision. All of the women voted guilty on second and all of the men voted not guilty. He called a mistrial. I had to go through being arraigned again. A year later, I was tried for second and found guilty. I couldn't believe it. I was devastated. In the first trial, there were a few of the DA's witnesses that really helped my case. It really turned and was favorable to me. Of course, he made sure he didn't use those in

the second trial.

The first jury deadlocked on a charge of manslaughter in the case of one woman who, during the interview, displayed police photographs of her swollen, bruised, and gashed body taken at the time of her arrest. Despite an expert witness and abundant evidence of her boyfriend's violent assaults, she serves a sentence of 17 years to life. She believes that the jury found her guilty because of her unorthodox lifestyle.

My first trial I had 8 innocent, 4 guilty of manslaughter. I had an alcoholic female attorney that was really pushing the battered woman syndrome. We didn't finish our side. We were on the third or fourth day of our side when she failed to show up. She went on a drunk. But she had been drinking right along. I had an expert witness. The moral behavior in the first trial didn't have anything to *do* with the price of tea in China. They hadn't even brought a lot of the abuse in and she hadn't even gone to his psychiatrist yet. But, she was bringing it in. She was going on the battered woman's thing and that was even supporting of the manslaughter as it stood right then. Then she disappeared. I got another court-appointed attorney. The second trial we moved from San Diego to El Cajon ...in 1986. That judge there...he let *everything* come in. *Everything* I ever did in life...they brought everything in. Everything I had ever done. The women that had been involved in our lives. Everything. I still didn't even believe that was enough for the jury to find me guilty. It was pretty obvious we weren't having tea. They came back with second degree and I was just shocked. But I think they had made me sound so bad and by this time, after 11 months of being on [psych meds] during the trial... I fell asleep seven times during the trial. At the second trial—my lawyer—I hadn't spent a lot of time with him. I would have preferred that my investigator had questioned me. I didn't feel this man thought very highly of me. He had pretty much made me feel like a scum bag, and when I read my trial transcripts he called me “pond scum.” My attorney. And they brought in

his psychiatric reports in the second trial. [My boyfriend had] told the psychiatrist why he was there and all that, you know, because he had been beating me up and he just couldn't seem to stop. He'd stabbed me, and this, that, and the other, and that he saw plain white figures on the side of the road that told him what to do to me. *The man had audio and visual hallucinations.* That was entered into the second trial. That right there, I could have been screwing somebody in front of them and I would think that that would cut me loose. Naaah. Huh-uh. When the jury came back... Hopeless. Guilty.

The following example from a 1991 trial in Norwalk reveals one judge's lack of respect for the battered woman syndrome. In addition, while ample medical and law enforcement records of this woman's ongoing severe abuse existed, very little of the documentation entered her trial.

In the trial, I brought that in about the abuse. The judge that I went before did not believe in battered woman syndrome. This is 1991 in Norwalk Superior Court. ... He said, "Battered woman syndrome shmendrome." He told me at the very end of my trial that he felt like I was battered far worse and for a longer period of time by [my husband than by my boyfriend who died] and that I didn't kill [my husband].... [T]he expert witness that we had ... explained battered woman syndrome and the flashbacks and cycles. When [the DA] asked me about flashbacks, I had to explain flashbacks—and to bring up my jaw [that he had broken] I clicked my jaw in the courtroom. I went to act as if I was eating an apple, and (opening her jaw produces very loud cracks, pops) that's a very loud and distinctive noise. They were just, ohh. ...I made the sound in the trial and I brought up different incidents that had happened with [him]. Neighbors came to our trial and testified as to things that they had seen. My daughter came to testify. The medical records were there but the only medical records that were actually entered as evidence were the statements from the emergency room where I had signed that I didn't want to prosecute. They were entered by [the DA]. And he put them before me and he said, "Is that your signature? You signed that you did not want

to prosecute against this man but you supposedly say this man—you just had 28 stitches in your ear, had your ear sewn back on, but you're saying you don't want to prosecute. Why would you not want to prosecute if somebody hurt you like that?" "I was afraid." I was afraid. If I prosecuted, they would—he would have to pay the medical bills. If they touched his money, he would be enraged.

The battered woman's syndrome can be a two-edged sword, as demonstrated in the following case of a woman with a well-documented history of violent victimization:

I was on the stand for four days. It was very frustrating. Everything that I said, I was a *liar*. They said I was a liar, and that I had premeditated it. They decided that they would go ahead and stipulate to the fact, everyone would agree to the fact that I was a battered woman. But, then that meant that that was the *motive*. That's why I killed him—because he abused me. I couldn't use it to defend me, but they could use it to prosecute me. That was the case.

### *Conclusion*

Women who have been attacked and terrorized by male partners find it difficult or impossible to discuss the painful, traumatic, and humiliating details of intimate assault with male police officers, male attorneys, and male psychologists. While female victims are well aware of the gendered character of physical and sexual battering, lawyers and investigators fail to adjust their approach to better fit the experiences of women. As a result, potentially exculpatory information is not investigated, crucial evidence remains undiscovered, and women are left without an effective defense. In some cases,

a prosecutorial attack on the personal character of a woman defendant or her immaterial, past behavior overwhelms even ample evidence of abuse.

Some accused women accept plea bargains to protect their children, to spare their families the humiliation of a trial, to avoid the death penalty threatened by prosecutors, or to speed up what they see as the inevitable, negative outcome. Others refuse plea bargains because they are confident in the fairness of the system, because they are ready to fight for themselves, because they feel they have nothing to lose, or because they follow the instructions of their attorneys.

Despite the common etiology of domestic violence and spousal homicide (Mercy and Saltzman 1989), criminal justice representatives routinely decontextualize the homicide event. Systematically, attorneys and judges disconnect the woman's lethal action from the batterer's ongoing, escalating violence and threats. The strategy of prosecutors and the decisions of judges prevent study participants from presenting their full stories and deny them the opportunity to offer evidence in support their claims of self-defense. All too often, defense attorneys neglect questions about abuse and fail to seek out witnesses and/or documentation to support women's accounts of abuse. Therefore, the trial proceedings depicted in this study consistently produce incomplete, distorted, or confusing pictures of events for jury members.

Just as the lack of financial resources keeps some women trapped in abusive relationships, the economic disadvantage of some participants prevents the use of experienced, qualified expert witnesses in their trials. For women in the present study whose resources allowed them the use of domestic violence experts, judicial constraints, prosecutorial strategies, and jury bias outweigh the influence of these informed opinions, and in some cases, an undisputed record of victimization as well. Further, while defense expert witnesses participate more often in later trials due to procedural and legislative changes, they often do so with mixed results and with somewhat inconsistent credibility.

## CONCLUSION AND POLICY IMPLICATIONS

Interviews with imprisoned women offer us unique insights into the lives of women who kill abusive men. Their articulate narratives convey fear, fatigue, frustration, and resignation. The women whose experiences are featured in this research represent the tragic failure of numerous social systems to address violence against women by present and former husbands, lovers, and boyfriends. In the beginning, women believe in and call upon diverse social systems—police, family, medical and mental health professionals, schools, clergy, family courts—systems that would fail them and their children. Their collective voice describes a series of events and interactions that produces in each woman a firm belief that the unavoidable conclusion to the violent relationship is death—hers, his, or the death of both partners. What can be done to reduce the likelihood that other women will experience the same pattern of abuse and the same pathway to prison?

Prior to the homicide event, women undertake numerous tactics, trying to end the violence. Strategies that study participants used in their attempts to escape abuse include: seek the help of family and/or friends; seek counseling from mental health and/or religious practitioners; move out of the home; hide from the abuser; move his possessions out of the home; consult an attorney; move into or attempt to move into a shelter for battered women; call law enforcement; report

abuse to medical professionals; file for legal separation or divorce; get a divorce; obtain a restraining order; press charges, and ask that the man be arrested. These survival strategies require women to be creative, persistent, and courageous. Unfortunately, their resistance strategies and escape attempts were met with indifference, disbelief, obstruction, and in some cases, active hostility. Repeatedly, battered women encounter a pattern of gender insensitivity and gender bias in the responses of authorities and institutions. **While the past two decades have seen improvements in services for victims of domestic violence, findings from this research point to the need for further changes in public policies and attitudes that act upon private lives.**

### *Gender*

The gender-specific nature of violence against female partners calls for more women to be involved at all levels of the criminal justice process. Whether a case is one of domestic assault or homicide, battered women are better able to describe their experiences and explain their actions to female investigators, especially when it involves sexual abuse or torture. Women in the present study found it much too painful to discuss humiliating and traumatic details of sexual maltreatment with male officers, male lawyers, male prosecutors, or male psychiatrists and psychologists. Many women perceive that male authorities direct their sympathies toward abusive men rather than to the female victims.

Interviewees feel that men who ask them questions do not believe them, are insensitive to the women's emotional and physical injuries, and blame women for batterers' violence. Study participants and their children lived in terror of violent men, but they found it nearly impossible to convey to male agents of the criminal justice system the depth of their fear and intimidation. **Ongoing gender-sensitive, domestic violence education is indicated for all law enforcement representatives. All jurisdictions need special units of trained officers, counselor-advocates, and prosecutors to handle domestic violence cases. These units should be well staffed with female professionals.**

#### *Arrest and prosecution*

Mandatory arrest policies continue to generate debate among researchers and practitioners. Interestingly, domestic violence appears to be the only violent crime for which arrest is applied so begrudgingly. The assault on women by male partners must be viewed as a crime, not simply a "domestic" or personal problem. Even in jurisdictions where policy states that batterers are to be arrested, most men "are never arrested or prosecuted, and certainly not convicted" (Karmen 1995, p. 189). As this study illustrates, proactive procedures are crucial in light of women's chronic minimization of the violence of intimates. **Prosecution of batterers must proceed whether or not the victims press charges or cooperate with law enforcement. When implemented in a coordinated effort,**

**mandatory arrest, aggressive prosecution, and increased penalties for batterers grant women greater freedom from retaliation while holding abusers accountable for their behavior.**

*Medical reporting*

The vast majority of domestic abuse victims, like the convicted survivors of this study, minimize the violence they have endured even when that violence becomes severe and life threatening. The vast majority of domestic abuse victims, like the convicted survivors of this study, are unlikely to self-identify as battered women. Until women are free from fear and coercion, until they gain understanding of the dynamics of abusive relationships, until they have time to place their experiences in the context of gender-based violence, the responsibility for rescue cannot rest solely on them. Protocols that assist medical practitioners to recognize, document, and report cases of domestic violence provide important legal evidence for the prosecution of batterers or for the defense of women who kill their abusers. Cases surveyed here follow the pattern of increasing severity and frequency of violence common to abusive relationships. Interviewees who sought medical care express their frustration with medical personnel who fail to intervene when the injured woman is unable to report or to specify the nature of the situation herself. Abusive partners maintain their power and control whether they stay close to their victims in the emergency room or remain at a distance.

Participants report their conviction that abusive mates would beat them again regardless of the victim's unwillingness to report and they express their unanimous preference for mandated reporting by medical personnel. Commenting on mandated reports of abuse in medical settings, one interviewee noted that "children get protected and the elderly get protected, so why shouldn't we get the same protection? Aren't we worth as much as them?" **Findings from this research support the implementation or continuation of mandated reporting of abuse in medical settings. To better serve the needs of the millions of American women affected by intimate violence, health care systems need to require ongoing education for medical personnel; medical and nursing school curricula must include extensive training; all health care offices and institutions should have brochures and pamphlets readily available to the public as well as to their clients.**

### *Resources*

Women in the current study lacked sufficient resources to escape their abusive partners, leaving them without alternatives. Interviewees who sought help from shelters found that there was no room for them at the opportune moment. Browne and Williams (1989) report a marked decline in female-perpetrated homicides, as legal and extralegal resources become increasingly available. However, the current number of shelters is insufficient to match the

level of domestic assault against women. Other household movers are encouraged to follow the fine example set by **Starving Students**, a furniture moving company that provides free assistance to women fleeing domestic violence. **More shelters with expanded resources need to be established with links to transitional housing and out-of state placement where indicated. Enhanced job skills and job placement are essential for long-term solutions for women and their children.**

#### *Restraining orders*

For many abused women, including those in the present sample, orders of protection are difficult to obtain. Departing from the norm, an innovative Los Angeles judge permits domestic violence victims to obtain restraining orders via fax and allows trained advocates to file petitions for restraining orders by fax. However, restraining orders do little more than leave a paper trail when judges refuse to mete out serious penalties to men who refuse to obey them. Buzawa and Buzawa (1996, Pp. 86-87) note that violation of restraining orders remains a misdemeanor in most states and suggest that “such crimes may be downplayed simply because they are crimes against women, historically a disfavored group.” **Automatic arrest is the appropriate first response to any violation of a restraining order, followed by severe judicial sanctioning. Women will be safer when simplified procedures, low or waived fees and easy accessibility**

**become standard for acquiring restraining orders. Any female who requests a restraining order against a male should be given information on battering relationships and shelters.**

*Homicide prosecution*

Research participants suffered extreme abuse at the hands of intimate partners, their efforts to enlist help proving futile. When a woman finds no legal way to stop his life-threatening violence, she determines that the only option left is the death of the abuser or her own death. When interviewees use their own agency to put a final end to the violence, they are punished severely. However, the lethal actions of a battered woman can only be understood when placed within the context of her ongoing victimization and the lack of outside help. Trials featured in this study routinely excluded evidence and testimony of ongoing, severe male violence and threats against accused women, resulting in a picture devoid of self-defensive action. In the minds of many prosecutors, battered women who kill are lumped together with drive-by shooters and other violent male and female felons, although these women are highly unlikely to have any history of criminal or violent behavior. This finding raises the question as to whether one isolated traumatic incident turns an individual into a dangerous criminal. It is left to the prosecutor's discretion what charges, if any are filed against an accused battered woman. **When extensive abuse triggers lethal self-**

**defense, prosecutors need to differentiate career criminals from these situational offenders who do not pose a danger to society. If the case is to be prosecuted, involuntary manslaughter is the charge that best fits the battered woman's experience.**

When prosecutors opt to proceed with homicide charges, the self-defensive acts of women become criminalized. As previously reported, gender bias exists in the courtroom. Often juries do not hear of the pattern of escalating violence as abusive men refuse to let their partners leave them to live their own lives. As this research demonstrates, even when documentation of abuse exists, it rarely enters into court proceedings. Moreover, judges, juries, prosecutors, and sometimes defense attorneys disbelieve women who are certain that they took lethal action in defense of their own lives. Women are found guilty even when they sustain serious injuries in the incident that led to the homicide. Prosecutors and juries focus on the sexist question, "Why the woman didn't just leave?" When judges exclude evidence of past victimization and instruct juries in ways that give them little option but to convict, women become double victims, once again controlled and silenced, once again told that the violence they endured was insignificant. **Juries need to be better educated on the dynamics and consequences of ongoing abuse and they need to hear all available exculpatory evidence and testimony. Experts on domestic assault need to be**

**assigned to battered women, regardless of their financial resources. Jury instructions must allow jurors to consider the lethality of male violence.**

*Legal assistance*

In the vast majority of cases, police officers arriving on the scene of a homicide committed by a battered woman find a traumatized and terrified individual who willingly cooperates with their investigation. Interviewees state repeatedly that they were confident that, by telling the authorities what happened, everything would be fine—police and prosecutors would understand that victims of extreme violence and death threats are left with no alternative but to kill in self-defense. Women believe that it will be evident to authorities that the homicide was justifiable and they will be able to stay with and comfort their children. Indeed, police were on the scene responding to women’s 911 calls earlier the same day in several of the present cases. Contrary to their expectations, women find that their accounts, given without legal counsel or protection, are used against them as authorities construct the official version of events in order to secure a successful prosecution. By the time a woman secures an attorney, it may be too late. Moreover, defense attorneys who represented women in the present study seldom demonstrated any understanding of the impact of ongoing, severe abuse on their clients. As this research shows, male defense attorneys can carry with them the same gender biases as do other criminal justice representatives. Many women seldom see their attorneys, are not informed about plea negotiations, and

are allowed little or no input on their defense cases. **Attorneys should be required to meet continuing education requirements of domestic violence classes as a follow-up to required law school courses.**

**Female lay advocates with knowledge and experience in domestic violence and spousal killing need to be assigned to each battered woman homicide case to help the traumatized woman negotiate the confusing and intimidating adversarial system of criminal justice.** Lay advocates can assist women defendants to construct a complete history of abuse and explain the unfolding process of adjudication, serving legal as well as therapeutic objectives. A well-documented history of escalating domestic violence can reduce the charges or allow for charges to be dismissed. Helping the woman to understand and articulate her own actions reduces the shame and increases the defendant's ability to mount a defense. Further, advocates can contribute to the accused individual's understanding of her legal options and rights, such as being informed on plea negotiations. The National Clearinghouse for the Defense of Battered Women in Philadelphia provides information and materials to advocates and to legal professionals who assist battered women defendants.

#### *Alternatives to jail*

Women who cannot afford to meet the cost of bail are in a disadvantaged position. Awaiting trial in jail makes everything more difficult for the battered

woman defendant. Children are placed either with her family, the family of the deceased batterer, or in foster care; regardless, as the adult most closely bonded to her children, a battered woman's concerns center around the well-being of her children with whom she will have extremely limited or no contact. A battered woman defendant with no history of criminal behavior is not a risk to the community, and poses little or no risk of flight. Alternatives to jail would greatly reduce costs of pre-trial incarceration, create space for more dangerous defendants, and allow families to begin the healing process. As this research reveals, jailed women are often drugged, leaving them further disempowered and disadvantaged; the influence of psychotropic drugs interfere with a woman's ability to reflect on the course of events and to participate in her own self-defense.

**A battered woman defendant should be released on her own recognizance so that she can provide financially for herself and maintain her household. Alternatively, she and her children could be housed in the secure and supportive environment of a battered woman's shelter to await trial where she and her children would receive counseling for the trauma they have suffered. The use of chemical restraints on battered women defendants must be curtailed.**

*Post-trial efforts*

Battered women homicide defendants are treated harshly by the criminal justice system, more harshly than are men who kill in self-defense, and more harshly than are men who kill their female partners. The severe penalties meted out to women serve to reinforce patriarchal attitudes that remind women that their proper place is in the home where men are to hold a monopoly on power and control. Sexism in the criminal justice system dictates that women stay within their gender role expectations or face severe consequences, the same message communicated to women by their abusive mates. Women's proscribed gender roles do not grant them the option of using violence against violence. How else can we explain the life sentences given to all but two participants in the current study? What other explanation can we offer for women with sentences of seven years to life who remain in prison after more than twenty years? The pervasive sexism reflected in the cultural double standard found throughout society must be exposed and dismantled.

Following a battered woman's conviction, she enters another world of total control. Sadly, some interviewees state that they feel safer in prison than they did on the outside where they were controlled by their abusers. **Inmate-led support groups of battered women in prison provide education, growth, advocacy, and self-esteem for members; thus, all women's penal institutions should permit and support such groups. In addition, outside support groups**

**for battered women convicted of homicide are needed in order to seek their parole, resentencing, or clemency. This study indicates the need to explore the possibility of retrials or early release for women imprisoned for killing their batterers.**

### *Community-based corrections*

The state of California spends millions of dollars each year to imprison women who are the least likely of felons to repeat their crimes. As inmates, women homicide offenders tend to be “model prisoners,” complying with institutional rules and parole board mandates. This research highlights the differences between convicted survivors and the general inmate population, including the interviewees’ lack of prior criminal history. These women do not pose a danger to the community, and have the potential to become productive members of society—as employees and as advocates for family violence victims. If the criminal justice system believes that the women must remain under the control of the correctional system, there is a range of community-based residential and nonresidential programs shown to be effective for women offenders. Placing a woman in a supervised community or closely monitoring her in her own home would allow the woman to contribute to society while holding her accountable for her actions. The recent loss of family leave visits deprives children of their mothers’ input, influence, and closeness and is destructive to family relationships.

(As of November 1996, California inmates without parole dates are not allowed quarterly overnight visits with immediate family members.) Study participants feel strongly the desire to educate their children and grandchildren on domestic violence in the hopes of preventing the intergenerational transmission of violence. **This research supports placing convicted survivors in a community-based program that allows mothers to live with their children. This move would save millions of correctional dollars as well as millions of social service dollars spent to address the needs of children with mothers in prison. Furthermore, it is crucial that California reinstate family leave visits so women can maintain viable family ties critical to their children, which will not occur in crowded visiting rooms.**

### *Education*

Finally, research findings point to the importance of educational programs at all levels of instruction and in the community at large. Children of battered women witness and experience abuse in their homes. Dating violence remains a hidden problem for millions of young people. Primary and secondary schools can challenge traditional gender ideologies, teaching students that unequal power based on gender is unacceptable, that women and men are equals, that women and their work are to be taken seriously, and that relationship violence will not be tolerated. **Gender-specific programs to target awareness of dating violence**

**should begin in junior high schools and be reinforced in high school and college. Adult women need to be educated about their legal rights and what resources are available to them if their partners become abusive. Public service announcements, billboards, and workplace in-service training sessions can raise awareness of the reality and frequency of battering.**

**Legal professionals involved in family court must be educated about the danger in which battered women and children are placed while fighting for child custody or being court-ordered to arrange visitation with violent men. Religious schools and seminaries must institutionalize training and education on family maltreatment and violence against women in their curricula to enlighten spiritual leaders and enable them to better assist and advise the victims who look to them for help.**

### ***Concluding thoughts***

In sum, the narratives of women in this study reveal the ineffectiveness of social institutions to stop violent men. Women minimize the violence done to them and reveal their reluctance to identify themselves as battered women. Their failed attempts at non-violent self-rescue result in women's firm belief that someone's death is inevitable, most likely their own. When the woman survives the final violent episode, she is charged with murder and prosecuted with vigor in a trial that disallows sufficient evidence of abuse to explain her action as self-

defense. She is further hampered in her trial or plea-bargaining when jail staff prescribes heavy doses of psychotropic medications.

It would be comforting to believe that our present heightened sensitivity to female victims of domestic violence as well as recent policy reforms, such as mandatory reporting and mandatory counseling for batterers, creates a safer environment for battered women, with a more responsive system and sufficient resources for victims. However, even a cursory review of the news and the research literature convinces us otherwise. Battered women who kill in self-defense still receive long, harsh sentences, and currently incarcerated women have virtually given up hope of parole. Parole board hearings seem to re-enact the criminal trials, overlooking or excluding from consideration the years of abuse suffered by the women.

The abuse inflicted upon women in this study by their violent partners falls at the far end of the continuum in terms of severity. However, the extreme physical, sexual, mental, and emotional abuse perpetrated against women interviewees reflects the experiences of the 1,000 to 4,000 women who die each year at the hands of the men who say, "If I can't have you, nobody can." In a very real sense, the women in this study provide a voice for the many women who do not survive that final violent assault. We need to learn from their experiences in order to save lives and reduce the levels of violence and fear in our nation's homes.



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