

Distribution Agreement

In presenting this thesis as a partial fulfillment of the requirements for a degree from Emory University, I hereby grant to Emory University and its agents the non-exclusive license to archive, make accessible, and display my thesis in whole or in part in all forms of media, now or hereafter now, including display on the World Wide Web. I understand that I may select some access restrictions as part of the online submission of this thesis. I retain all ownership rights to the copyright of the thesis. I also retain the right to use in future works all or part of this thesis.

Emilyn Hazelbrook

March 12th, 2025.

Premeditated but Not Guilty: The Rise and Fall of the Battered Woman Legal Defense

By

Emilyn Hazelbrook

Dr. Daniel LaChance

Advisor

Department of History

Dr. Daniel LaChance

Advisor

Dr. Pamela Scully

Committee Member

Dr. Ju Hyun Park

Committee Member

2025

Premeditated but Not Guilty: The Rise and Fall of the Battered Woman Legal Defense

By

Emilyn Hazelbrook

Dr. Daniel LaChance

Advisor

An abstract of

a thesis submitted to the Faculty of Emory College of Arts and Sciences

of Emory University in partial fulfillment

of the requirements of the degree of

Bachelor of Arts with Honors.

Department of History

2025

Abstract

Premeditated but Not Guilty: The Rise and Fall of the Battered Woman Legal Defense

By Emilyn Hazelbrook

This thesis maps the court cases and events that contributed to the development of the battered woman legal defense. From the first cases integrating the legal defense into their trial strategy to its grant for further research in the Violence Against Woman Act of 1994, the battered woman legal defense gained significant recognition and acceptance from the legal community and broader society from 1970 to 2000. Development in the three decades of the legal defense coincides with the second and third waves of the feminist movement and the era known as the “culture wars,” where family values and the role of women were subjects of controversy and debate. However, the battered woman legal defense experienced a fall from grace during the late 1990s, beginning with discussions of how it pathologized women’s legitimate self-defense claims and culminating in the Section 40507 report issued by the Violence Against Women Act of 1994. My thesis will research the key events and cases that allowed battered woman syndrome to be codified as a defense to murder in the United States criminal justice system and evaluate how the social atmosphere of the 1990s and the third wave of feminism enabled its development.

Premeditated but Not Guilty: The Rise and Fall of the Battered Woman Legal Defense

By

Emilyn Hazelbrook

Dr. Daniel LaChance

Advisor

A thesis submitted to the Faculty of Emory College of Arts and Sciences
of Emory University in partial fulfillment
of the requirements of the degree of
Bachelor of Arts with Honors.

Department of History

2025

Acknowledgements

I would like to sincerely thank my advisor, Dr. LaChance, for his wonderful mentorship and thoughtful guidance throughout this process. I would also like to thank Dr. Scully and Dr. Park for agreeing to serve on my thesis committee and providing feedback on my thesis. I would like to express my gratitude to the Fox Center for Humanistic Inquiry for their support of this project and for providing an enriching and motivating environment for its undergraduate fellows. And finally, thank you to Dr. Anne Gray Fischer and Dr. Patricia Goldfarb for offering their expertise and talking about their experiences researching the battered woman legal defense.

Thank you to my parents, grandparents, sister, and friends Miranda and Mere for their continued support and encouragement. I am forever indebted to you for the numerous sacrifices you have made for my education. I love you forever - EH

Table of Contents

Introduction	8
Chapter 1: Origins	18
Chapter 2: The Framingham Eight	40
Chapter 3: Movements, Legislation, and Controversy	57
Conclusion	76
Bibliography	79

Content Warning: This thesis will include discussions of domestic violence and sexual violence.

Introduction

Should a woman who set her husband's bed on fire while he was sleeping be convicted of first-degree murder? As unambiguous as this situation may seem, a jury's answer to that question becomes far more complicated when testimony establishes that the woman's husband had abused her physically, verbally, and sexually for over a decade. While a defendant's history of abuse would have been inadmissible prior to the 1970s, findings in the field of psychology and developments in the criminal justice system during the last three decades of the twentieth century changed how courts handled these cases and altered the course of several women's lives.

The psychologist Lenore E. Walker first coined the term "battered woman syndrome" in 1979 to describe a series of symptoms displayed by a woman who had undergone persistent intimate partner violence from a romantic partner. While never included in any edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), psychiatry's revered compendium of mental illnesses, Walker's numerous studies and published works have cemented battered woman syndrome as an accepted, if controversial, phenomenon. In *The Battered Woman*, Walker's first book on the condition, she explains that women who experience chronic abuse in an intimate relationship frequently exhibit "learned helplessness," or the persistent and powerful belief that they do not have control over their situation.

When coupled with continually escalating abuse and the anticipation of life-threatening abuse, this psychological condition can cause women to choose committing drastic acts such as homicide against an abuser over more reasonable actions, such as leaving the relationship and seeking assistance at a battered woman's shelter. Living in a continuous hellscape of abuse that only seems to worsen, the battered woman can believe that it is either her life or her abuser's life, and resort to murder to end a cycle that she feels helpless to escape otherwise. The term "battered

woman syndrome” has been used as a “shorthand reference to the body of scientific and clinical literature that forms the basis for much expert testimony in domestic violence cases.”¹ Walker’s testimony at criminal trials provided a blueprint for establishing the psychological profile of a patient suffering from battered woman syndrome that other psychologists followed in the subsequent two decades, forging a distinct legal defense over time.

A psychologist’s testimony that a defendant exhibits symptoms of battered woman syndrome is the most important condition necessary for deploying the battered woman legal defense. The legal defense has been argued in favor of exonerating or commuting the sentences of women who killed their partners after a period of physical and psychological abuse. Battered woman syndrome is an extremely complex area of law, and the events leading to its development are particularly relevant when evaluating the trajectory of feminism and the alterations to common law that allowed courts to exonerate defendants who committed premeditated murder based upon circumstances in their personal history.

The battered woman legal defense is a complex and somewhat paradoxical amalgamation of imperfect self-defense and the insanity defense. During the 1970s and 1980s, states justified the battered woman defense as an expansion of the legal concept of self-defense. In the United States criminal justice system, the legal criteria for arguing self-defense are “(1) the honest and reasonable belief that (2) one is in imminent harm or immediate danger of death or serious bodily harm, (3) that the use of force is necessary to avoid danger, and (4) that a reasonable amount of force was used to repel the attack.”² The legal concepts of perfect and imperfect self-defense

¹ Travis, Jeremy, and Steven E. Hyman. “The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials.” *United States Department of Justice and National Institute of Mental Health*, May 1996, ii.

² Gagné, Patricia. *Battered Women’s Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 24.

exist to denote gradations in how juries perceive a defendant's culpability for a crime. Under perfect self-defense, all the criteria for arguing self-defense must be met, but it is considered a complete defense to a crime. Imperfect self-defense, the category which most cases of the battered woman legal defense fall under, includes situations where a defendant unreasonably believed that they were in imminent danger or used unreasonable force to defend themselves after the threat to their safety had subsided.³ While self-defense is usually only applicable to cases where the murder was not premeditated or intentional, the battered woman defense argues that the defendants perceive themselves to be in a life-or-death situation due to persistent physical and psychological abuse. In most situations, imperfect self-defense does not result in a full acquittal but can significantly reduce the sentence that a defendant receives for their crime.

The insanity defense is based on the supposition that the action that occurred was wrong, but that the perpetrator's mental state was so impaired at the time of the incident that they should not be held accountable for their actions.⁴ A concept rooted in British common law that was carried over to the United States, the insanity defense as forwarded in the influential M'Naghten legal test requires that the party accused is "labouring under such a defect of reason...as to not know the nature and quality of the act he was doing."⁵ The insanity defense is still widely used in courts today to argue that suffering from a myriad of psychiatric or psychological impairments should lead to the acquittal or a reduction in sentence of a defendant.

The battered woman legal defense relies on expert witness testimony about battered woman syndrome, which argues that women who suffer chronic abuse often perceive no way to

³ Blanks, Richard Charles. "Criminal Law - Perfecting the Imperfect Right of Self-Defense." *Campbell Law Review* 4(2): 434. January 1982, <https://scholarship.law.campbell.edu/cgi/viewcontent.cgi?article=1059&context=clr>.

⁴ Brown, Angela. *When Battered Women Kill*. New York: The Free Press, 1987, 176.

⁵ Busby, John C. "M'naghten Rule." *Cornell Law School Legal Information Institute*. August 4, 2023. https://www.law.cornell.edu/wex/m%27naghten_rule.

escape their situation other than to kill their abuser. The idea that battered woman could not accurately perceive their options for exiting an abusive situation drew upon the established legal concept of the insanity defense to carve out a specific defense for battered women. However, physical struggles that often preceded a battered woman's murder of her abusive spouse led many attorneys to also argue self-defense on their behalf. The criteria necessary to argue the self and insanity defenses contradict each other in their requirements for a defendant's state of mind leading up to a crime. Self-defense, both perfect and imperfect, requires a defendant to be cognizant of how much danger they are in and how much force would be reasonable to deploy in the situation for a court to recognize the force they exert as an extension of their right to defend themselves. The insanity defense necessitates proof that a defendant was not in a coherent state of mind during the incident, undermining claims of self-defense by removing a defendant's capacity to accurately assess the danger that they are in. This implicit paradox multiplied the confusion of courts and judges who heard cases invoking the battered woman legal defense.

The first cases that attempted to use a history of domestic violence to reduce the sentence of or exonerate a defendant occurred in the 1970s and 1980s. While a handful of other cases also endeavored to admit expert witness testimony on battered woman syndrome into the court, the trials of Yvonne Wanrow, Beverly Ibn-Tamas, and Francine Hughes were pivotal benchmarks for the development and trajectory of the defense that demonstrate both its successes and setbacks. Amidst the litigation of these cases, Lenore Walker published *The Battered Woman*, *Terrifying Love: Why Battered Women Kill and How Society Responds*, and *The Battered Woman Syndrome* on what she witnessed in her clinical practice. Her research and findings were important to these trials and established the foundations of the literature base on battered woman

syndrome as a psychological phenomenon. Her early works and the criminal cases that they impacted are the focus of the first chapter of my thesis.

Most matters of criminal law are litigated and decided at the state level due to the structure of the United States criminal justice system. Each state has its own criminal statutes and precedent, and while most states criminalize the same infractions as felonies and misdemeanors, the admissibility of certain evidence and testimony varies by state. This structure resulted in a slow and long-winding progression for the battered woman legal defense to appear in courtrooms and judicial precedent throughout the three decades following the publication of Lenore Walker's research and early court cases on the matter. Another contributing factor was the limited quantity of cases where the legal defense could be applied to the facts of the case. Men account for over 90% of people convicted of homicide and almost 80% of all victims of homicide.⁶ While women account for almost double the quantity of male victims of domestic violence, it is relatively rare for women to commit murder. Cases where a woman kills their abusive spouse accounts for an even smaller subset of this select group of cases.⁷ However, by the 1990s, many states had encountered the legal defense or the question of admitting expert witness testimony on battered woman syndrome in courts.

In Framingham, Massachusetts, publicization of the sympathetic circumstances that resulted in the incarceration of members of a domestic violence support group at Massachusetts Correctional Institute - Framingham resulted in Governor William Weld's decision to change guidelines for commutation to include a history of domestic violence as a potential justification

⁶ Federal Bureau of Investigation. "Expanded Homicide Data." *Department of Justice*. <https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/offenses-known-to-law-enforcement/expanded/expandhomicidemain>.

⁷ "Domestic Violence Statistics." *National Domestic Violence Hotline*. July 4, 2023. <https://www.thehotline.org/stakeholders/domestic-violence-statistics/>.

for clemency. This opened the door for members of the support group to petition for early parole or commutation of their sentences. Eight women who were sentenced for lengthy prison terms for killing their batterers unified under the moniker “The Framingham Eight.” They secured legal representation to state their case for clemency to the parole board, who decided to hold public hearings on each woman’s case that followed the conventions of a trial court but were decided by an executive commission. The second chapter of my thesis contains an oral history of Dr. Phyllis Goldfarb’s experience representing Elaine Hyde and an analysis of the media coverage and legislative changes that resulted from the Framingham Eight hearings.

While the battered woman legal defense could be a powerful tool that equipped attorneys with a psychological justification for extreme measures of self-defense and restored the livelihoods of people who committed crimes in an environment of horrifying abuse, the concept of battered woman syndrome and its deployment in trials faced opposition from several different angles during the 1990s. Activists fought hard to bolster the credibility of the legal defense, but Dr. Mary Anne Dutton and several other academics criticized battered woman syndrome in the 1990s for its homogenization of the domestic violence victim and its emphasis on the helplessness and altered mental state of victims. Despite recognizing cases where the legal defense helped women escape unjustly lengthy prison sentences, feminist activists took issue with the pathologization of domestic violence victims for the purpose of clemency. The broader publicization of battered woman syndrome and the legal defense based upon it enabled attorneys to more successfully defend their clients at first, but the concept and connotations that undergirded the defense continued to be points of legal controversy into the 2000s.

An important milestone in the history of the battered woman legal defense was the Violence Against Women Act of 1994. Besides instituting a wide variety of protections for

victims of domestic violence and sexual assault and increasing criminal penalties for acts of gender-based violence, the act ordered a report on the success of the battered woman legal defense in courtrooms. The report, entitled “The Validity and Use of Evidence Concerning Battering and Its Effects on Criminal Trials: Report Responding to Section 40507 of the Violence Against Women Act,” was issued by the Department of Justice and National Institute of Mental Health in May of 1996. The findings from this report increased the controversy surrounding the battered woman legal defense due to its mixed report on how it was received in courtrooms. My thesis’s final chapter will explore the pushback that the battered woman legal defense received in the late 1980s and 1990s, important legal cases of the 1990s, and the Section 40507 report’s evaluation of the battered woman legal defense.

As the dawn of the twenty-first century approached, the criticism that the battered woman legal defense had received in the 1990s damaged its credibility and led psychologists and attorneys to prefer other terminology to describe the psychological impact of abuse. However, the admissibility of testimony on battered woman syndrome and a history of domestic violence in a relationship were unaffected by this development and remain the most enduring legacy of the battered woman legal defense. The last three decades of the twentieth century saw the battered woman legal defense gain widespread recognition and sympathy over a short period as well as its subsequent decline from use in courtrooms and psychological research. In this thesis, I will narrate the historical developments that comprise the rise and fall of the battered woman legal defense and explore how its legacy can be interpreted over fifty years after its birth.

Historiography

Despite receiving attention from a plethora of law review articles and its citation in numerous judicial opinions, the battered woman legal defense has only been lightly touched upon by legal historians. Lenore Walker's books *The Battered Woman*, *The Battered Woman Syndrome*, and *Terrifying Love: Why Battered Women Kill and How Society Responds* were written in the discipline of psychology. Their purpose was to distill Walker's research into accessible volumes for other psychologists to learn about the condition, and they do not attempt to chronicle the history of the legal defense. Even *Terrifying Love: Why Battered Women Kill and How Society Responds*, which discusses Walker's role as an expert witness in several trials and the outcomes of those trials, is limited in its use as a historical account because it was published in 1989, prior to many key events of the late 1980s and 1990s. While Walker's books are important primary sources on the conception of battered woman syndrome and her role as an expert witness, they are meant to be used as psychological texts, not historical monographs.

Phyllis Goldfarb, professor emerita at George Washington Law School and former professor at Boston College Law School, contributed both to oral histories of the Framingham Eight that are documented in this thesis and existing legal scholarship on battered women. Her chapter "Intimacy and Injury: How Law Has Changed for Battered Woman" is included in *The Handbook of Women, Psychology, and the Law* and provides a comprehensive account of how legal precedent and commutation guidelines have changed since the 1970s to allow a history of domestic violence and expert witness testimony on the effects of battering into trials. The chapter is a rare instance where the Framingham Eight received attention from legal scholars aside from short news clippings and outlines the progression of state laws towards concrete protections for victims of domestic violence both in and out of courtrooms. Her documentation of state

governors who commuted the sentences of battered women who killed their abusers provides an immensely helpful distillation of a key avenue that women used to escape lengthy prison sentences after testimony of their history of abuse was not admissible at trial.

While Goldfarb's article helped me to understand how the Framingham Eight fit into a broader wave of commutations, my thesis encompasses a wider set of events that comprise the history of the battered woman legal defense. As an attorney for Elaine Hyde during the commutation hearings of the Framingham Eight, she is ideally situated to provide her perspective on the rise of battered woman syndrome in the courts. Her research and oral history are central to my thesis's exploration of the Framingham Eight as a case study and the wave of gubernatorial commutations that ensued during the 1990s. I draw upon her scholarship to narrate the events that promoted broader recognition of the battered woman legal defense, but diverge in my discussion of the decline of the battered woman legal defense by the turn of the century.

Anne Gray Fischer, a professor of legal and gender history in the United States at the University of Texas at Dallas, is the author of the most recent contribution to the historical literature on battered woman syndrome. "Bad, Mad, or Both: A Legal History of Battered Woman Syndrome" was published in May 2024 to the *Journal of Gender and History* and provides a modern-day reflection on how the legal struggle for battered women's right to self-defense led to the controversies that surrounded the battered woman legal defense in the 1990s. The article underscores how the recognition of battered woman syndrome in courts led to the commutation of several women's sentences and was a powerful force for uncovering how the state had failed to protect abused women. However, she also demonstrates that its recognition had "harmful consequences for women on trial," including confusing questions of reasonable self-defense and requiring women to claim diminished mental capacity to gain clemency or

exoneration under the defense.⁸ Fischer writes that the “ingenuity of ‘learned helplessness’...was that it mobilized sexist beliefs about women’s passivity and submission in service to feminist psychological ends,” both praising the ability of Walker’s research to obtain legal victories for abused women and recognizing how it relied upon normative gender dynamics and traditional notions of how women behave in relationships.⁹ My thesis expands upon her work to focus on the trajectory of the battered woman legal defense and the implications of the criticisms that she notes in her article for the credibility of the defense in courtrooms. Fischer’s article provided me with initial avenues to pursue in my research, but my thesis’s unique intervention in her work is to argue that battered woman syndrome had a notable fall from grace in the 1990s that can be attributed in part to the pushback documented in “Mad, Bad, or Both.”

While the battered woman legal defense is not under-researched in the legal field, the annals of legal history are noticeably vacant on the topic, providing a clear avenue for this thesis to make an original contribution to the scholarship on the topic. Through its spotlight on the Framingham Eight cases and examination of the historical zeitgeist that the legal defense’s development occurred during, this thesis will scrutinize the history of battered woman syndrome and the battered woman legal defense from a different lens than the existing scholarship. In addition, investigating how the legal defense became embroiled in controversy and its current credibility within the legal system contributes to the work of other scholars in furnishing a portrait of the legal defense that captures all its nuance and complexity.

⁸ Gray Fischer, Anne. “Bad, mad or both: A legal history of battered woman syndrome.” *Gender & History* 36: 944. 2024. <https://doi.org/10.1111/1468-0424.12792>.

⁹ Gray Fischer, Anne. “Bad, mad or both: A legal history of battered woman syndrome.” *Gender & History* 36: 944. 2024. <https://doi.org/10.1111/1468-0424.12792>.

Chapter 1: Origins

Domestic Violence in the United States

While laws against murder and theft have existed since the advent of early human civilizations, domestic violence was not considered a crime in the United States even well into the nineteenth century. Disputes between a husband and wife have traditionally been considered private family matters, and courts often did not consider it proper to intervene in marital conflicts. Even when cases of domestic violence did make their way into the courts, abusive behavior was often seen as a husband's prerogative, indicative of the lack of societal, legal, and economic protections that existed for women independent of their husbands or male family members for much of American history.

American common law until the late nineteenth century afforded a husband superiority over his wife in most aspects of their relationship. Once a woman married, her legal personhood, property, paid and unpaid labor, and obedience belonged to her husband.¹⁰ The merger of the husband and wife's legal identities barred a wife from filing lawsuits without her husband's participation and vested responsibility for the wife's criminal conduct in her husband.¹¹ A husband could subject his wife to "corporal punishment or 'chastisement' if she defied his authority," permitting physical abuse of wives under American common law. This specific privilege, known as the right of chastisement, was enshrined in British common law in 1770 and was carried over into American common law once the country gained its independence.

American legal scholars such as Tapping Reeve doubted the application of the 'chastisement

¹⁰ Seigel, Reva B. "'The Rule of Love': Wife Beating as Prerogative and Privacy." *Yale Law Journal* 105(2117): 2122. 1995.

¹¹ Ibid, 2122-2123.

prerogative,' writing that "the right of chastising a woman is not claimed by any man, neither is any such right recognized by our law" in his treatise on American family law in 1816.¹²

However, legal precedent issued in many Southern and Mid-Atlantic states demonstrates that American courts still recognized a right of chastisement well into the late nineteenth century.¹³

The Mississippi Supreme Court ruled in *Bradley v. State of Mississippi* that a husband has the right to "moderate chastisement" without being "subjected to vexatious prosecutions" in 1824.¹⁴

Throughout all fifty states, domestic violence in the early 1800s was perceived as an acceptable extension of a husband's control over his wife and household.

In the 1870s, the temperance, social purity, and women's suffrage movements brought the issue of wife-beating to the forefront of social consciousness and resulted in a reconsideration of its legal acceptability.¹⁵ The movements, focused on the elimination of alcohol consumption, the restriction of sexual activities considered amoral by Christian standards, and the right of women to vote, brought about a reappraisal of the power dynamics between husband and wife. Susan B. Anthony and Elizabeth Cady Stanton, two of the most celebrated suffragettes in American history, supported the Woman's Christian Temperance Union during the 1870s. The organization focused on the relationship between alcohol consumption and domestic violence, and its effect on the era's social milieu seeped into criminal law regarding abuse in domestic partnerships.¹⁶ Alabama and Massachusetts were the first states to criminalize domestic violence,

¹² Seigel, Reva B. "'The Rule of Love': Wife Beating as Prerogative and Privacy." *Yale Law Journal* 105(2117): 2124, 1995.

¹³ Ibid, 2125.

¹⁴ Rivers-Schutte, Noel. "History of the Battered Woman Syndrome - a fallen attempt to redefine the reasonable person standard in domestic violence cases." *Seton Hill Law Scholarship Repository*, 2013.

¹⁵ "History of Intimate Partner Violence Reform." *Columbia University Freedom and Citizenship Project*. 2009. <https://freedomandcitizenship.columbia.edu/ipv-history>.

¹⁶ Graboys, Sam. "Things to Know About the History of the Domestic Violence Movement." *Connections for Abused Women and their Children*, September 7, 2023.

and by the ratification of the 19th Amendment in August of 1920, all states had passed laws that made extreme physical violence in a relationship a criminal offense.

However, violence among intimate partners continues to be one of the most common crimes committed in the United States in the twenty-first century. Intimate partner violence comprised 20% of violent crime against women in 2001, in comparison to 3% of violent crime against men during the same year.¹⁷ Criminologists estimate that less than one in every ten victims reports battering assaults when they occur, making domestic violence one of the least-reported crimes in the history of the United States.¹⁸ Despite widespread recognition that domestic violence is a crime and can be punished severely in courts, it is still regarded as an extremely prevalent crime with far lower reporting rates than comparable violent crimes.

Psychologists and sociologists have theorized about why domestic violence persists throughout the historical record, and no singular explanation exists to explain all battering behavior that occurs in relationships. However, implications of gender socialization into traditional male and female roles in society has been a focus of many inquiries. In Western societies and throughout most historical civilizations, men have been socialized to maintain dominance, power, and control over both their work and households. Their self-image depends on their success at work and their ability to obtain the approval of other men. Research has demonstrated that male batterers often are professionally successful, believe in male supremacy, and blame others for their actions. These factors are potentially connected to their decision to

¹⁷ Rennison, Callie Marie. "Intimate Partner Violence, 1993-2001." *U.S. Department of Justice, Office of Justice Programs*, February 2003. <https://bjs.ojp.gov/content/pub/pdf/ipv01.pdf>.

¹⁸ Walker, Lenore E. *The Battered Woman*. 1st ed. New York: Harper & Row, 1979, 45.

abuse their female partners to reassure themselves of their power and superiority when external factors threaten their self-esteem, according to psychologists.¹⁹

Women, in contrast, have “made trade-offs to obtain economic and physical safety” throughout history to protect themselves and their children.²⁰ Psychologists have noted a correlation between women who are “traditionalist about family roles” and women who end up in battering relationships.²¹ For these women, their performance in their role as a mother and wife is the basis of their self-esteem, leading them to believe that it is their responsibility to keep their husband happy and their fault if he is not. In addition, the societal emphasis on marriage affects women more acutely. One woman in a clinical research study on battering relationships lamented that “in ‘fairy tales’ she was taught about marriage as the ‘end all and be all’ of life” and that “all of life was like a school for marriage” in the traditionalist circles that she was raised in.²² The message that marriage and motherhood are the pinnacle of a woman’s life and the stigma attached to divorce that exists in many communities can result in women remaining in abusive relationships to avoid the shame of ending their marriage. Women who have children are also more likely to endure battering behaviors without exiting the relationship due to the social pressure to keep their family together for the good of their children.

It is extremely common for other forms of abuse, such as financial, emotional, or sexual abuse, to accompany physical battering. In a study of battered women in Pittsburgh, over a third reported that they had been raped by their abusive partners, and almost half recognized elements

¹⁹ Walker, Lenore E. *The Battered Woman*. 1st ed. New York: Harper & Row, 1979, 70.

²⁰ Ibid, 39.

²¹ Ibid, 64.

²² Hoff, Lee Ann. *Battered Women as Survivors*. London: Routledge, 1990, 182.

of force or coercion present in their sexual relationship.²³ As a result of liberal feminist efforts during the late twentieth century, marital rape was criminalized across the United States in 1993.²⁴ However, a gap between the criminal statutes regarding marital rape and public awareness that it is a criminal offense persists throughout the United States and negatively impacts the frequency with which it is reported to law enforcement.

The woman's suffrage movement of the late nineteenth and early twentieth centuries fought for the criminalization of domestic violence, and each subsequent resurgence of the feminist movement brought about changes to American laws on domestic violence. One of the powerful movements that laid the foundation for the culture wars of the 1980s and 1990s was the feminist movement of the 1960s. Thanks to the efforts of the women who championed the movement, including Betty Friedan, co-founder of the National Institute for Women and author of *The Feminine Mystique*, and Gloria Steinem, co-founder of the National Women's Political Caucus, "American society became less hospitable to men who abused women."²⁵ Grassroots feminist efforts to open shelters for battered women across the nation provided a critical exit strategy for victims of domestic violence, and feminist legal activism pressured most states to adopt rape shield laws by the 1970s to render a victim's sexual history inadmissible in trials.²⁶ Feminists were able to gain traction quickly with reforms related to domestic violence since most conservatives refrained from openly defending the rights of wife batterers, although pushback often occurred through thinly veiled lamentations about the loss of traditional family values.

²³ Brown, Angela. *When Battered Women Kill*. New York: The Free Press, 1987, 100.

²⁴ Bennice, Jennifer A., and Patricia A. Resick. "Marital Rape: History, Research, and Practice." *Office of Justice Programs*, July 2003.

²⁵ Hartman, Andrew. *A War for the Soul of America: A History of the Culture Wars*. University of Chicago Press, 2016, 137.

²⁶ Ibid, 137.

The consciousness-raising group was a crucial development of the 1960s that laid the foundation for the battered woman's movement. The purpose of a consciousness-raising group is to "share personal experiences and...develop new understandings and analysis about women's subordinate position and social and political issues."²⁷ As a result of consciousness-raising groups organized in 1971, the battered woman's movement officially began in 1972 when feminists in Chiswick, England, bought an abandoned house and opened a shelter for battered women.²⁸ The first battered woman's shelter in the United States opened in 1974 in St. Paul, Minnesota. Its model was quickly replicated to construct dozens of other shelters across the United States, sponsored by feminist groups, churches, YWCAs, and other civic organizations.²⁹ Once battered women's shelters were established across the United States, battered women's activists began to seek other avenues of helping battered women improve their situations.

The First Cases

The feminist movement's focus on legal reforms for female victims of crime in the 1960s and 1970s led people to begin inquiring into how victims of domestic violence who lashed out against their abusers might be unjustly punished in the legal system. In the 1970s, the first cases that tested the limits of the criminal justice system in deciding cases that involved a male homicide victim who had abused the perpetrator were tried in courtrooms. While women fighting back against or killing their abusers was not a novel incidence in courts, states prior to the 1970s

²⁷ Hague, Gill. *We've Come Further Than You Think: History and Memories of the Domestic Violence Movement*. Bristol. Bristol University Press, 2021, 19.

²⁸ Gagné, Patricia. *Battered Women's Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 12.

²⁹ Ibid, 10.

did not provide battered women the opportunity to discuss their history of domestic violence during their trial, and most women were sentenced to lengthy prison terms as a result.

In psychological studies comparing battering relationships that end in homicide of the abusive male partner to those that do not, a recurring theme found in homicidal relationships was that the battered woman had “reached a point where they lost all hope of improvement or relief.”³⁰ Many were convinced due to the threats that they had received or the escalation of abuse to unbelievably violent levels that their death was inevitable. The situations where women murdered their abusers were almost always the result of two potential scenarios: either the murder occurred during an assaultive incident instigated by the abuser, or the women raised a weapon to her abuser in an attempt to protect her child or pet from abuse.³¹ These cases forced the courts to reconcile gendered perceptions of women as non-violent, and attorneys often struggled to use self-defense as a grounds for acquittal. However, cases where homicide occurred during the tension-building phase of an abuse cycle, or the phase where the battered woman knows that abuse is imminent due to the mood and language of the batterer but is not in life-threatening danger at the moment where the murder takes place, were significantly outside of the standard of self-defense that was used in courts at the time.³² Both of these applications of self-defense manifested in complicated trials during the 1970s, leading to the creation of landmark precedent regarding the admissibility of expert witness testimony on domestic violence and the expansion of the concept of self-defense. Yvonne Wanrow’s case, while not a domestic violence trial, marked a turning point in this subsection of legal history and expanded the concept of self-defense to include situations where a woman’s life might not be in imminent danger. This

³⁰ Brown, Angela. *When Battered Women Kill*. New York: The Free Press, 1987, 135.

³¹ Ibid, 135.

³² Ibid, 139.

expansion of imperfect self-defense was applied to future domestic violence trials and would become extremely important in trials involving the battered woman legal defense.

Yvonne Wanrow, a resident of Washington State, shot a white man who had previously molested several children in the neighborhood as he approached her toddler son in 1972. Neighbors had reported the man, named William Wexler, to the police prior to the incident on three separate occasions. Wanrow was convicted of second-degree murder and sentenced to forty-five years in prison in May of 1973. During her trial, she was not afforded the opportunity to document and testify to the history of abuse that children in her neighborhood had endured at the hands of Wexler based upon the narrow parameters of self-defense law at the time in Washington State.³³ An appeals court reversed the conviction in 1975 due to multiple instances of judicial error, including a failure to sequester the jury during media coverage and inconsistencies in the judge's jury instructions regarding self-defense statutes. She appealed her case to the Washington State Supreme Court in 1976. Feminist attorneys who later founded the Women's Self-Defense Legal Project assisted her appeal, and the Center for Constitutional Rights submitted an *amicus curiae* ("friend-of-the-court") brief in support of her defense.³⁴

On January 7th, 1977, the Washington State Supreme Court issued their ruling on Wanrow's case after an *en banc* review, a session reserved for complex and significant cases where all the judges in a court sit to hear the case instead of the routine procedure of a three-judge panel. They ruled that Wanrow was entitled to have a jury hear testimony regarding her actions in the context of her "perceptions of the situation, including those perceptions which

³³ Coker, Donna K, and Lindsay C. Harrison. "The Story of Wanrow: The Reasonable Woman and the Law of Self-Defense." *University of Miami School of Law Institutional Repository*, 2013. https://repository.law.miami.edu/fac_books/228/.

³⁴ Gagné, Patricia. *Battered Women's Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 44.

were the product of our nation's long and unfortunate history of sex discrimination.”³⁵ The decision expanded self-defense law in Washington State and entrenched legal precedent for the admissibility of testimony establishing a history of domestic violence.

The case was also notable for its discussion of gendered stereotypes embedded in the laws of self-defense, which rarely received mention or credibility in courtrooms during the era.³⁶ Psychologists and legal scholars had observed in the 1970s that when “a woman charged with homicide explains her use of force as a reasonable and necessary response to abuse in the home, jurors are threatened more deeply than in the case of a male defendant who claims to have killed in self-defense.”³⁷ This phenomenon was understood as a psychological defense mechanism so that a person could maintain “the image of the family as an institution of love, nourishment, and protection.”³⁸ During the decades when the battered woman legal defense emerged, the simultaneous cultural battle over family values across the country resulted in a fierce defense of the family that increased resistance to negative portrayals of its benefits for women.

The *Wanrow* case’s most important legacy, however, is that it established the legal groundwork for expanding self-defense to include battered women who killed their husbands because *Wanrow*’s case both did not involve an imminent, life-threatening danger and demonstrated an instance where the court accepted the idea that a person’s perceived options for responding to a threat were reduced during the incident. In 1978, Elizabeth Schneider, Susan

³⁵ “State of Washington v. Wanrow.” *Center for Constitutional Rights*. 2007. <https://ccrjustice.org/home/what-we-do/our-cases/state-washington-v-wanrow>.

³⁶ England, Christina. “The Battered Women’s Syndrome: A History and Interpretation of the Law of Self-Defense as it Pertains to Battered Women who Kill their Husbands.” *Vanderbilt Undergraduate Research Journal* 3(1):5, Spring 2007.

³⁷ Schneider, Elizabeth M. “Equal Rights to Trial for Women: Sex-Bias in the Law of Self-Defense.” *Brooklyn Law School Faculty Scholarship Repository*. Winter 1980.

³⁸ *Ibid*.

Jordan, and Cristina Arguedas, attorneys who had represented Wanrow during her appeal, published a guide for feminist legal self-defense entitled “Representation of Women Who Defend Themselves in Response to Physical or Sexual Assault” that would be used in future trials involving the battered woman legal defense. The guide instructed attorneys on how to deploy an expanded interpretation of self-defense by arguing that sex-based stereotypical views of women who act violently prevented an equal application of self-defense law in the status quo. Their approach sought to explain that due to “societally based factors, a woman may reasonably perceive imminent and lethal danger in a situation where a man might not.”³⁹ Key tactics outlined in the guide included focusing on the failures of the police to respond to incidents prior to the homicide and pointing out how the standards of justifiable homicide have been constructed to bestow sympathy onto men who kill men caught in flagrante delicto with his wife in the “crime of passion” defense, but do not afford the same consideration to women who kill their abusive husbands. Attorneys throughout the 1980s and 1990s utilized the guide to convince judges and juries that their conception of imperfect self-defense should be expanded to cover women who kill their abusive partners or threats to their children.

Four years after Wanrow’s arrest, another important case occurred in the District of Columbia that would mark the first attempted use of testimony on battered woman syndrome to appeal the verdict of a murder trial. In February of 1976, Beverly Ibn-Tamas shot her husband, Dr. Yusef Ibn-Tamas, after enduring three and a half years of abuse at his hands. She appealed the outcome of her initial trial upon six issues, including “the exclusion of expert testimony

³⁹ Schneider, Elizabeth M., Susan B. Jordan, Cristina C. Arguedas. “Representation of Women Who Defend Themselves in Response to Physical or Sexual Assault.” *Brooklyn Law School Faculty Scholarship Repository*. Spring 1978, 150.

about ‘battered women.’”⁴⁰ The psychologist Lenore Walker, who would later write *The Battered Woman*, provided expert testimony on the characterization of a battered woman and why Ibn-Tamas perceived herself to be in imminent danger at the time of the shooting. However, when she was asked by a defense attorney whether battered women syndrome was recognized as a diagnostic category within psychology, she replied that it was not. Her testimony was stricken from the record in her trial, and the case bounced back and forth between the trial court and the appeals court in the District of Columbia while Ibn-Tamas remained in prison.⁴¹

However, *District of Columbia v. Ibn-Tamas* was cited as precedent in other cases because it had recognized the possibility of battered woman syndrome. Even though Lenore Walker had testified that the research was “only in its infancy,” *Ibn-Tamas* was consequential for the battered women’s movement because it established as a goal for the movement the scientific legitimacy of battered woman’s syndrome.⁴² Attorneys argued that the testimony was excluded solely because the scientific methodology had not yet been established for diagnosis. Once that methodology existed, they assumed that the condition would be accepted in courts. Their reasoning was vindicated during Francine Hughes’ trial for the murder of her husband.

The 1977 case of Francine Hughes is widely perceived as the first successful deployment of the battered woman legal defense. Francine Hughes dropped out of high school at age 16 to marry James “Mickey” Hughes, whom she had four children with. After a tumultuous marriage with recurring physical, verbal, financial, and sexual abuse, she and Mickey divorced in April of 1971.⁴³ However, after a car accident left Mickey severely injured, he moved back in with his

⁴⁰ Gagné, Patricia. *Battered Women’s Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 45.

⁴¹ Ibid, 46.

⁴² Ibid, 45.

⁴³ McNulty, Faith. *The Burning Bed*. Orlando: Harcourt Brace Jovanovich, 1980, 97.

former wife. Mickey remained in the house after recovering from his injuries, and the abuse that Francine had suffered prior to their divorce resumed and escalated. Her ex-husband constantly threatened to kill her, regularly beat and raped her, and killed the kitten that belonged to one of their daughters.⁴⁴ On March 9th, 1977, Mickey had physically and sexually assaulted Francine, forced her to agree to drop out of nursing school, and burned her nursing school textbooks in front of her. She called the police, but they refused to arrest Mickey because they had not witnessed the abuse themselves. When Mickey finally went to sleep, Francine poured gasoline around his bed, set the bed on fire, and escorted their young children out of house. She turned herself into the police station the next morning.

At her trial, she was found not guilty by reason of temporary insanity, the first documented instance where a woman who killed her abusive husband was exonerated despite evidence of premeditation and intention.⁴⁵ Rather than attempting to argue imperfect self-defense due to considerable evidence that the crime was deliberate and planned, her attorneys chose to argue that the duress Hughes was under rendered her temporarily insane and incapable of rational decision-making. Testimony from psychologists specializing in domestic violence corroborated these claims during the trial. Hughes' story received significant media attention throughout the nation, and the author Faith McNulty published the book *The Burning Bed* about the case in 1980. The book was later adapted into a motion picture in 1984 with the same name, starring Farrah Fawcett.⁴⁶ The attention that Hughes' initial trial and the adaptations of her story received led to sweeping changes across the criminal justice system regarding how domestic

⁴⁴ McNulty, Faith. *The Burning Bed*. Orlando: Harcourt Brace Jovanovich, 1980.

⁴⁵ Carpenter, Teresa. "The Final Self-Defense." *New York Times*, December 31st, 1989. <https://www.nytimes.com/1989/12/31/books/the-final-self-defense.html>.

⁴⁶ Boots, Anna. "'The Burning Bed' Recalls the Case That Changed How Law Enforcement Treats Domestic Violence." *The New Yorker*, July 9, 2020.

violence cases were handled. Laws that police officers had to witness abuse to make an arrest were swiftly altered across most states, and the concept of battered woman syndrome gained more credibility throughout the United States.

Lenore Walker and Battered Woman Syndrome

Dr. Lenore Walker, a professor of psychology at Nova Southeastern University, was the first psychologist to propose the concept of battered woman syndrome. Her book *The Battered Woman*, published in 1979, is regarded as a seminal contribution to the field of psychology. The book distills clinical studies that Walker had conducted over years into a psychological profile that describes the mindset of victims suffering from domestic violence.

Walker observed that among her clinical patients, the women who remained in relationships where they suffered persistent and severe abuse often displayed a lack of self-esteem, subscribe to traditionalist family roles, and accepted at least partial responsibility for the batterer's actions, among other characteristics. These traits formed the basis for her "psychosocial theory of learned helplessness," one of her most important contributions to the understanding of how women behave in situations of domestic violence. For years, psychologists had observed that if an organism repeatedly experiences a situation that they cannot control and are helpless in, they become conditioned to believe that they cannot effectively respond to a similar situation. These experiments, conducted initially by delivering electric shocks to a variety of mammals, demonstrated that when the animals could not stop the shocks no matter what actions they resorted to, they would become "compliant, passive, and submissive, and would not

believe researchers' attempts to show them how to escape later."⁴⁷ Walker theorized that this phenomenon, which she called learned helplessness, explained how battered women's responses to abuse often defied expectations of rational responses to physical violence. She believed that once the perception of helplessness is instilled through repeated incidents of abuse that the women is helpless to prevent, their perception becomes their reality, and they become blind to the options that exist for them to escape the situation.

In the case of battered women who kill their abusers, learned helplessness and persistent abuse can lead women to believe that it is either their life or their abuser's, narrowing their potential responses to a situation out of their expectation of future violence. Walker argued in *The Battered Woman* that her observations of women suffering from learned helplessness reveal that after a particularly horrible instance of abuse, women can experience a mental shift from their previous frame of helplessness to becoming convinced that drastic action is necessary to escape escalating abuse. While the circumstances that lead to this shift in psychological posture vary depending on the circumstances of the abusive relationship, the change often occurred when the abusive partner threatened the lives of a woman's children or pets, nearly killed her, or crossed some line in the woman's professional or personal life that provoked an alteration in how the woman considered her situation.⁴⁸ After the acute instance of battering had ended, the women's assessment of the severity of the incident and her belief in whether abuse led her to formulate a plan to exit the abusive situation for good. However, her anticipation of retaliation from the abuser and her limited frame of options for escape due to learned helplessness could result in her determining that murdering her abuser was the only way to truly escape his wrath.

⁴⁷ Walker, Lenore E. *The Battered Woman*. 1st ed. New York: Harper & Row, 1979, 83.

⁴⁸ Ibid, 91.

Walker expanded upon this application in *Terrifying Love: Why Battered Women Kill and How Society Responds*, which was published in 1989. The book elaborated on how her research on battered woman syndrome applies in cases where women kill their abusers and her experiences testifying as an expert witness on behalf of battered women in over 150 murder trials throughout the United States since the publication of her first book.⁴⁹

A crucial distinction that Walker noticed throughout her testimony was the severity of abuse in relationships that ended in homicide and relationships that did not. In relationships where a battered person ends up killing their batterer, women perceived their batterers as using “greater violence, more frequently, [and] resulting in more and graver injuries to them” than did women whose battering relationships ended differently.⁵⁰ They were more likely to receive death threats, have weapons used as part of the abuse, and perceive abuse to be continually escalating.⁵¹ In Walker’s clinical research, the majority of homicides occur when violence is perceived to reach such a level that it will not diminish, which “the battered woman who kills senses.”⁵² The severity of the incident that immediately precedes the homicide leads a women to believe that the batterer has finally reached the point where he will kill her, or to reach a personal turning point where she can no longer tolerate the prospect of future abuse and wants to escape through any means possible.⁵³

⁴⁹ Walker, Lenore E. *Terrifying Love: Why Battered Women Kill and How Society Responds*. 1st ed. New York: Harper and Row, 1989, 102.

⁵⁰ *Ibid*, 104.

⁵¹ *Ibid*.

⁵² *Ibid*, 106.

⁵³ Walker, Lenore E. *Terrifying Love: Why Battered Women Kill and How Society Responds*. 1st ed. New York: Harper and Row, 1989, 106.

Terrifying Love contains many case studies of women that Walker interviewed and the outcomes of trials in which she served as an expert witness. It was written prior to notable developments in favor of the battered woman legal defense at the legislative and gubernatorial levels in the 1990s, and the book underscores the difficulties of persuading judges and juries of its credibility. Walker's expert testimony on battered woman syndrome was first accepted in state courts in 1977 and was accepted during a federal trial for the first time in 1982. While the outcomes of the trials varied significantly based upon the individual facts of cases, Walker noted that near the publication of her book, she received little pushback to the admission of her testimony from prosecutors and judges in comparison to her first appearances in the late 1970s.

Walker's research is considered a "bible" of the battered woman's movement and has been extremely influential since its publication.⁵⁴ The impact of Walker's research reverberated throughout the subfield within psychology that focused on how women experienced psychological conditions such as Post-Traumatic Stress Disorder, or PTSD, differently than men but was limited in its dissemination throughout the academic field. However, several critics still countered her research by levying attacks against her portrayal of women, claiming that she pathologized their legitimate responses to abuse. The psychologist Mary Ann Dutton contended that battered woman syndrome creates a "stereotyped image of pathology" that focuses on all the negative aspects of a battered woman.⁵⁵ She believed that the profiling of battered women as disordered sent the wrong message to judges and juries. The image that the condition evoked through the common profile that Walker espoused threatened the cases of women who did not fit

⁵⁴ Boxall, Bettina. "Abuse Expert Stirs Uproar with Simpson Defense Role: Trial: Psychologist Lenore Walker says she is testifying to bar either side from distorting data on battered women." *Los Angeles Times*, January 29th, 1995.

⁵⁵ Dutton, Mary Ann. "Updated Critique of the 'Battered Woman Syndrome' Model." *The American Academy of Experts in Traumatic Stress*. 1993.

into the model. Dutton updated her critique of battered woman syndrome several times to incorporate new research included in Walker's subsequent books and remained an outspoken critic of battered woman syndrome into the twenty-first century.

Despite these criticisms, the World Health Organization accepted Walker's research and labelled "'battered spouse syndrome' and 'the effects of battering on adults' as maltreatment syndromes" in 1987. Walker testified in criminal trials on battered woman syndrome throughout the final two decades of the twentieth century. Her work was pivotal to enabling developments in the 1990s that firmly established that women could testify to a history of domestic violence in murder trials or as grounds for an appeal. It also made the quick succession of commutations and legislative victories that the battered woman's movement achieved in the 1990s possible.

"Family Values"

The emergence of the battered woman legal defense in the 1970s took place during the emergence of bitter divisions over social issues in the United States, which directly implicated how people understood and pushed back against the legal defense. The sociologist James Davidson Hunter introduced the concept of the culture wars as a description for the raucous and fierce debates over social issues that emerged the last few decades of the twentieth century. In *Culture Wars: The Struggle to Define America*, he argues that what distinguishes the culture wars from other divisive times in American history is that on multiple important social issues, such as abortion, gun ownership, and the rigid separation of church and state, there were two definitive polarities that society had divided itself into. These two warring groups are described by varying terms in different publications but can be distilled into the New Left and the neoconservatives for the purpose of easy identification.

In America during the 1960s, a counterculture seized the country and evoked dramatic opinions, both positive and negative. The “sex, drugs, and rock and roll” mentality of youngsters during the 1960s, known as the New Left, “blew a deep crater on the surface of traditional American culture.”⁵⁶ While the New Left consisted of a number of groups with different priorities, including the Yippies, hippies, Civil Rights movement activists, Black Panthers, Chicano activists, post-Stonewall activists, and feminists, the unifying quality of all of these groups is their refusal to ignore aspects of America that oppressed certain populations and shined an unfavorable light on the nation.⁵⁷ Their successes, from ending de jure racial segregation to the passage of no-fault divorce legislation that enabled women to escape abusive relationships, permanently altered the American consciousness but inspired a neoconservative counterforce that would coalesce into the other side of the cultural divide.

Neoconservatives defended traditional American institutions and warned that America was dying from a lack of religion and the loss of the nuclear family. They stridently attacked sexual education in schools and blamed feminism for the crumbling traditional family structure, lamenting the loss of “family values” to the revolutionary culture of the sixties. When the Supreme Court issued their landmark ruling on *Roe v. Wade* in 1973, neoconservatives perceived the decision as “clear evidence of the moral decay of America” and launched a fierce resistance to abortion rights.⁵⁸ The Christian Right’s opposition to abortion, divorce, and deviations from traditional gender roles led to a national debate between feminists and neoconservatives that persisted through the last three decades of the twentieth century. At the heart of the dispute was

⁵⁶ Hartman, Andrew. *A War for the Soul of America: A History of the Culture Wars*. University of Chicago Press, 2016, 3.

⁵⁷ Ibid, 18.

⁵⁸ Ibid, 94.

the concept of “family values,” a nebulous assertion that came to stand for a number of neoconservative positions and implicated the battered woman legal defense.

The ardent efforts of feminist activists in the 1960s and 1970s made American society less hospitable to men who abused women through their efforts to open battered women shelters, enact rape shield laws, and equalize pay for women in the workforce.⁵⁹ Assistance for victims of domestic violence was a core tenet of the mainstream feminist movement’s agenda, which supported the recognition of the battered woman legal defense. While neoconservatives were “mostly mute on the issue of wife-beating since few people openly defended their rights,” the growing capacity of women to live independently of men troubled conservatives.⁶⁰ They responded by doubling down on the idea that the traditional family was the ideal and aiming to discredit the feminist movement.

The family was a pivotal point of contention during the culture wars of the 1980s and 1990s. A series of heated proxy conflicts on abortion, LGBTQ+ rights, welfare, and feminism captured the public’s attention during the era, but the primary divide between the New Left and neoconservatives was over their distinct visions for the American family and its importance in late twentieth-century politics. Neoconservatives believed that the nuclear family should be an unassailable unit across the United States. They condemned increasing divorce rates, out-of-wedlock pregnancies, and single motherhood, claiming that these policies led mothers and children to become “sniveling little welfare cheats,” in the words of one neoconservative politician.⁶¹ President Ronald Reagan popularized the stereotype of the “welfare queen” during

⁵⁹ Hartman, Andrew. *A War for the Soul of America: A History of the Culture Wars*. University of Chicago Press, 2016, 137.

⁶⁰ Ibid.

⁶¹ Castle, Marie. *Culture Wars: The Threat to Your Family and Your Freedom*. Chicago: See Sharp Press, 2013.

his 1976 presidential campaign, an often racialized description of a single woman who funded her lifestyle through government assistance programs rather than earning an income.⁶² This grotesquely hyperbolized but “symbolically terrifying” archetype permeated national debates over the social safety net and fortified the neoconservative argument that the nuclear family unit should be the primary means of obtaining economic security, not the federal government.⁶³

In contrast, the New Left advocated for economic policies that increased the role of the government in providing a social safety net and reimagined the family without traditional gender roles or stigmatization of divorce.⁶⁴ Feminists in the New Left fought earnestly to secure protections for women in the workplace and afford women the opportunity to escape abusive relationships. However, cultural messages from neoconservatives about the importance of sustaining a marriage for the good of the couple’s children and the undesirability of needing economic assistance from the government pressured women to stay in abusive relationships. While many women benefitted from policies that reduced the difficulty of escaping an unhappy marriage, the propensity of battered women to cling to traditional precepts about a woman’s role in a family indicates that this messaging likely affected many victims of domestic violence.

A central observation from Dr. Lenore Walker’s clinical research on battered woman syndrome is that men and women who maintain traditional beliefs about gender roles in relationships are far more likely to enter battering relationships than people who do not. Over and over, Walker noticed that women who believed that the home is the basis of their self-esteem, and that divorce represented a failure of a woman to be a good wife to her husband were

⁶² Kim, Anne. “The Tyranny of the Welfare Queen.” *Washington Monthly*, October 30, 2024. <https://washingtonmonthly.com/2024/10/29/the-tyranny-of-the-welfare-queen/>.

⁶³ Ibid.

⁶⁴ Hartman, Andrew. *A War for the Soul of America: A History of the Culture Wars*. University of Chicago Press, 2016.

more likely to end up in abusive relationships and were less likely to leave.⁶⁵ Battered women who worked outside the home were well-represented in her research, and Walker emphasized in case studies featured in *The Battered Woman* that the workplace often offered women suffering from abuse a safe haven and avenues of receiving assistance through their coworkers.⁶⁶ The workplace could be a vital escape from the tumultuous home environment that women lived in, but could also create additional tensions in a traditional relationship. Men who believed in traditionalist family roles often “perceived it a slight to their masculinity when women worked,” causing feelings of inadequacy even as it became more and more difficult to support a family on one income during the late twentieth century.⁶⁷ While few neoconservatives defended wife batterers outright, their defense of the traditional family and opposition to women in the workplace indirectly supported the conditions that promoted abuse in intimate relationships.

During the emergence of the battered woman legal defense, the positions that the New Left and neoconservatives would stake out on the battlefield of the culture wars were just beginning to crystalize. The increasing number of women entering into the workforce and the pushback that various priorities of the feminist movement faced would lead tensions to boil over in the 1980s and 1990s into a contentious struggle for the “soul of America.”⁶⁸ While never more than a subsidiary point of contention during the culture wars, the battered woman legal defense was nevertheless divisive due to its implications for the independence of women and the traditional family structure. The 1990s precipitated seismic changes for the battered woman legal

⁶⁵ Walker, Lenore E. *The Battered Woman*. 1st ed. New York: Harper & Row, 1979, 55.

⁶⁶ Ibid, 49.

⁶⁷ Ibid, 224.

⁶⁸ Hartman, Andrew. *A War for the Soul of America: A History of the Culture Wars*. University of Chicago Press, 2016, 285.

defense's recognition and the feminist movement, leading to both notable accomplishments and stinging setbacks for the battered woman's movement during the decade.

Chapter 2: The Framingham Eight

MCI-Framingham

A cluster of cases that thrust the battered woman legal defense into the spotlight are the Framingham Eight cases, which captured public attention in Massachusetts in the late 1980s and 1990s. While the cases of each member of the group possessed different details and led to different outcomes, the women unified under the collective identity of the Framingham Eight to garner more significant media attention and indicate the similarities between their cases. What began as a support group for victims of domestic violence in a Massachusetts prison eventually gained the attention of the governor and Massachusetts state legislature, resulted in the early parole or commutation of six of the women's sentences, and irrevocably altered the prospects of future cases attempting to deploy the battered woman legal defense in courtrooms.

The Framingham Eight were a group of eight women who had been convicted of crimes against their batterers and sentenced to prison. The members of the group were Eugenia Moore (convicted to second-degree murder and sentenced to life in prison in 1985), Meekah Scott (convicted of manslaughter and sentenced to 8-12 years in prison in 1993), Patricia Allen (convicted of manslaughter and sentenced to 8-15 years in prison in 1991), Lisa Becker Grimshaw (convicted of manslaughter and sentenced to 15-20 years in prison in 1989), Elaine Hyde (convicted of first degree murder and sentenced to life in prison in 1985), Shannon Booker (convicted of second degree murder and sentenced to 8-15 years in prison in 1989), Debra Reid (convicted of manslaughter and sentenced to 9-14 years in prison in 1989), and Patricia Hennessey (convicted of manslaughter and sentenced to 18-20 years in prison in 1988). Each woman was sentenced to serve time in Massachusetts Correctional Institution - Framingham (MCI-Framingham), the only medium security prison for women in Massachusetts.

While each future member of the Framingham Eight ended up in MCI-Framingham, they were all unaware of similar cases to theirs or of the other members prior to meeting them in the prison. They were introduced to each other through a support group for victims of domestic violence and realized that their cases possessed similar attributes. The facilitator of the group was a social worker and human rights activist and became their resource for discussing their cases and what actions they could take to try to lessen their sentences. The members of the group began to call themselves the Framingham Eight, electing to adopt a collective identity because of the similarities between their cases and in hopes that the name would gain greater media attention.⁶⁹ Their facilitator worked with battered women's advocates in Massachusetts to develop a media strategy to raise public awareness and sympathy for their cases.

The Framingham Eight became a prominent feature in articles published in the *Boston Globe* and *Boston Sunday Herald* beginning in 1991. The articles "Love and Terror: 'Safer' and in Jail: Women Who Kill their Batterers" by Stan Grossman and "Battered Women Need Help, Not Jail" by Stacey Kabat, both published in 1991, were among the most compelling articles that featured the women.⁷⁰ Most Massachusetts residents became aware of the Framingham Eight through Stan Grossman's longform article, which included short descriptions of each woman's history of domestic violence and how laws in Ohio and other states had already changed to grant battered women clemency. Pictures of the women in prison filled nearly two pages of print when combined, and the early childhood history of sexual or physical abuse that many of the women had experienced was detailed in the article. One quotation in Grossman's article from

⁶⁹ Goldfarb, Phyllis. "Oral History of Framingham Eight Commutation Petitions." By Emily Hazelbrook. December 15th, 2024.

⁷⁰ Grossman, Stan. "Love and Terror: 'Safer' and in Jail: Women Who Kill their Batterers." *Boston Globe*. September 2nd, 1991.

Framingham Eight member Lisa Becker Grimshaw describes how her late husband “threw me down the stairs and kicked me in the stomach while I was pregnant...and used to make me sit down in the corner of the room and sprinkle boiling water on me so that I would [perform oral sex].”⁷¹ As an extensive and evocative article published in Boston’s highest-circulation newspaper, Grossman’s article raised significant awareness about the women in Massachusetts.

Kabut’s article featured State Representative Barbara Gray of Framingham, who stated that the Framingham Eight took “drastic and murderous actions only after living in fear and in terror.”⁷² Many subsequent articles focused on how testimony on battered woman syndrome had been inadmissible during their trials and suggested that the outcomes of the cases would be different if litigated just several years later, when the battered woman legal defense had gained greater credibility in Massachusetts. Details of the Framingham Eight’s lives before conviction, the persistent abuse that they suffered, and the length of their prison sentences aroused the sympathies of the public and led the state’s legislature and governor to take notice.

In 1993, Massachusetts Governor William Weld changed the guidelines for commutation of sentences. One of the factors that could grant clemency under these new guidelines to a convicted murderer was a history of domestic violence. Weld dictated that a “significant history of abuse that contributed to the offense” could lead to a commutation of a convict’s sentence.⁷³ This alteration to the state’s sentencing guidelines was the “first official action in the country that formally increased battered women’s access to clemency relief,” and opened the door for the

⁷¹ Grossman, Stan. “Love and Terror: ‘Safer’ and in Jail: Women Who Kill their Batterers.” *Boston Globe*. September 2nd, 1991.

⁷² Kabut, Stacey. “Battered Women Need Help, Not Jail.” *Boston Sunday Herald*. June 23rd, 1991.

⁷³ Goldfarb, Phyllis. “Intimacy and Injury: How Law Has Changed for Battered Women.” In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 38.

women to ask for clemency in light of the state's recognition that a history of abuse could contribute to the circumstances underlying the offense.⁷⁴

Governor William Weld, who would later decide each woman in the Framingham Eight's commutation of sentence position, was a unique and influential figure in Massachusetts state politics during the 1990s. A Republican candidate in a state where registered Republicans comprised fourteen percent of the electorate during his first gubernatorial campaign, Weld obtained popular support through his liberal stances on social issues and perceived economic expertise.⁷⁵ Prior to his two terms as governor from 1991 to 1997, he served as U.S. Attorney for the District of Massachusetts and U.S. Assistant Attorney General for the Criminal Division under Ronald Reagan. While Weld did not issue any statements explaining the rationale for his alterations to sentencing guidelines, it can be inferred that his experience as a federal prosecutor informed his perspective on the crime of domestic violence. Weld was the Libertarian Party's vice-presidential candidate in 2016 but remained involved in the Republican Party until the 2010s. His change in sentencing guidelines afforded the Framingham Eight the opportunity to petition for commutation, and his decisions on their petitions would determine whether they were able to leave prison or remain behind bars until the conclusion of their sentences.

When the social worker who facilitated the domestic violence support group at the prison told the women about the changes to the commutation guidelines, the group was eager to begin the process of attempting to commute their sentences. Activists who were in contact with the women and their facilitator began calling local attorneys and law professors to secure legal

⁷⁴ Goldfarb, Phyllis. "Intimacy and Injury: How Law Has Changed for Battered Women." In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 36.

⁷⁵ Butterfield, Fox. "Fiscal Crisis Could Open Door to the G.O.P. in Massachusetts." *New York Times*. January 24th, 1990.

representation for the women. Each woman's case possessed different details and factors that would increase or lessen the difficulty of securing early parole or commutation, so the activists determined that each woman should have separate legal representation.

Elaine Hyde

Former Boston College Law School professor and current professor emerita at George Washington Law School Phyllis Goldfarb first heard of the Framingham Eight when she received a phone call from the nonprofit organization Battered Women Fighting Back! that asked if she would be willing to represent group member Elaine Hyde on a pro-bono basis. At the time, she led a criminal justice clinic at Boston College Law School. Several of her students assisted in Hyde's parole hearing case and in writing the commutation petition that was sent to the governor of Massachusetts. Elaine Hyde had originally been convicted of first-degree murder for stabbing her husband to death, but her life sentence was overturned due to inaccurate statements delivered during jury instruction. However, she pled guilty to manslaughter in 1986 and was serving time in MCI-Framingham when she met the other members of the group.⁷⁶ On February 14, 1992, "each of the eight respective defense teams filed a petition for commutation, detailing the petitioner's history of abuse and arguing that because each was tried before recent improvements in legal protections, she was therefore deserving of equitable relief."⁷⁷

Several crucial factors differentiated the cases of women in the Framingham Eight, resulting in different strategies and obstacles for each woman. In Elaine Hyde's case, Professor

⁷⁶ Kunzelman, Michael. "Time for Healing: Struggle of the Framingham Eight Recalled After 10 Years of Freedom." *Milford Daily News*, December 18, 2004.

⁷⁷ Locy, Toni. "Weld Urged to Free 8 Women." *Boston Globe*. February 15, 1992.

Goldfarb states that “one of the major factors was how strongly the family of the deceased opposed the parole or commutation of the convicted woman.”⁷⁸ Some of the families of the deceased were more amenable to early parole or commutation, but other families were vehemently opposed. A case with stronger opposition to clemency increased the importance of any documentation of what had occurred and often relied on witness testimony to establish a history of domestic violence. The family of Elaine Hyde’s husband opposed early parole or commutation, and their victim impact statements to the parole board were considered along with the evidence that Goldfarb and her co-counsel presented to the court. Their opposition to Elaine Hyde’s release challenged Hyde’s defense team to substantiate the history of abuse with documentation and testimony to reduce Hyde’s sentence.

However, Elaine Hyde’s case possessed several key details that helped her attorneys create a convincing justification for reducing her sentence. Goldfarb states that Hyde’s “husband was a very large man – over six feet, and stocky – and was an imposing presence of abuse” in Hyde’s life.⁷⁹ The police had documented drug and alcohol abuse when investigating the husband’s murder in 1985, enabling her attorneys to argue that mind-altering substances had exacerbated the altercation that resulted in Hyde’s imprisonment and her husband’s death. On the night of the homicide, he had physically attacked her in the kitchen of their home. Hyde picked up a knife from their counter and thrust it toward him, causing him to back off. Hyde testified that due to several violent altercations that had occurred that day, she did not follow him to see the result of her action, opting instead to take a sleeping pill and go to bed. The next day, she realized that he had died because the knife had severed an artery.

⁷⁸ Goldfarb, Phyllis. “Oral History of Framingham Eight Commutation Petitions.” By Emilyn Hazelbrook. December 15th, 2024.

⁷⁹ Ibid.

While nothing in the physical evidence of the case disputed Hyde's account of what had occurred, her statements to the police inadvertently discredited her account and damaged her criminal defense during the initial trial. Goldfarb emphasizes that the fallibility of human memory can hinder victims of abuse from giving coherent statements to the police about the abuse they suffered and the incident that occurred. The process of piecing together a narrative from Hyde's memories was long and difficult because she had spent many years suppressing the memories of her abuse to protect herself from bearing the weight of the psychological trauma that she endured. Goldfarb recalls that preparing for the hearing included a long process of "triggering memories through precise questioning and developing trust."⁸⁰ Some memories proved resistant to being easily dislodged, but Hyde would assist them by bringing up memories that she recalled between visits at the next visit that she had with her legal defense team. Hyde's initial statements to the police after the incident suffered from a "lack of clarity."⁸¹ Her attorneys wanted to counteract this during her parole hearing by presenting a clear history of domestic violence that Hyde was unable to faithfully recollect during her initial trial and that would allow for commutation or early parole under the new Massachusetts guidelines for commutation. While Hyde's legal team's patience during the long process of extracting and recovering Hyde's memories of her relationship and the incident paid off during her commutation and parole hearings, the tenuous reliability of memories recovered after years of abuse and trauma presented an obstacle for her team and for many cases involving the battered woman legal defense.

The first step that Goldfarb and her team took towards securing Elaine Hyde's freedom was to write a petition for the commutation of Hyde's sentence. In the state of Massachusetts,

⁸⁰ Goldfarb, Phyllis. "Oral History of Framingham Eight Commutation Petitions." By Emily Hazelbrook. December 15th, 2024.

⁸¹ Ibid.

this petition was sent to parole board first for their recommendation, although the governor would have the ultimate say in a sentence's commutation or a convict's pardon. Due to outsized media coverage and public interest surrounding the Framingham Eight cases, the parole board in Massachusetts elected to hold public hearings on their cases. Each woman's case would be litigated by her attorneys as if in front of a trial court, but instead of being decided by a jury or bench verdict, a commission from Massachusetts' executive branch listened to the evidence and decided on commutation or parole. Elaine Hyde's case was chosen through random selection to go first, which caused her hearing to "set the tone for how the other hearings would go."⁸²

The facts of each woman's case differed, but Goldfarb attests that the major arguments at all the Framingham Eight hearings had similar underpinnings. All the group's members alleged that "the violence they were accused of was actually self-defense, and if [the court] understood the untenable situation and threats that they were regularly subjected to, they would not have been originally convicted."⁸³ The use of the battered woman legal defense also unified all of the cases. Attorneys for each woman argued that battered woman syndrome lacked credibility and recognition at the time of their sentencing in Massachusetts, which played a role in the severity of their sentences. They postulated that the increased publicity of battered woman syndrome and the circulation of Lenore Walker's books throughout the 1980s and especially the early 1990s had altered the calculus for prosecuting women charged with similar offenses. The quantity of legal precedent that concerned the battered woman legal defense, stemming from key cases in the 1970s, had resulted in prosecutors "not charging at as high of a level because of mitigation

⁸² Goldfarb, Phyllis. "Oral History of Framingham Eight Commutation Petitions." By Emilyn Hazelbrook. December 15th, 2024.

⁸³ Ibid.

from a history of domestic abuse,” the attorneys alleged.⁸⁴ This argument was central to the strategy behind the Framingham Eight’s petitions for commutation of sentence.

Elaine Hyde’s petition for commutation of sentence was denied by the executive commission. However, she had a parole date approaching very soon after the hearings and was granted parole on the first date that it was available.⁸⁵ The Massachusetts Parole Board took into consideration testimony from her commutation hearings and offered Hyde early parole instead of commutation. While receiving parole instead of commutation may seem to indicate that Hyde’s attorneys did not prove their case adequately to the executive commission, Goldfarb’s description of how the parole process worked in Massachusetts demonstrates that receiving parole was merely a way for Governor Weld to prevent the appearance of appearing lenient by commuting all of the Framingham Eight’s sentences.⁸⁶ In Massachusetts, commutation petitions are heard first by a parole board commissioned by the executive branch, and the governor decides after reviewing the records from the parole hearing whether the convict’s case merits commutation. Weld, a Republican governor in staunchly Democratic Massachusetts, ascended to the governorship in part because of his tough-on-crime political persona. He was famous in Massachusetts for winning 109 convictions out of 111 cases on public corruption during his tenure as the U.S. Attorney for Massachusetts.⁸⁷ In an era where Democratic candidates were castigated for failing to be tough on crime, Weld had to carefully navigate the Framingham Eight

⁸⁴ Goldfarb, Phyllis. “Oral History of Framingham Eight Commutation Petitions.” By Emily Hazelbrook. December 15th, 2024.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ “The Fourth Estate, the 2016 United States of America Presidential Election, and the United States Supreme Court.” *Iowa Free Press*. June 20, 2016.

petitions because the perception of releasing eight murderers from prison could damage his reputation. Goldfarb speculates that while Weld likely believed that Hyde should have her sentence commuted, he chose instead to deny her commutation petition but recommend early parole in her case. Because her parole date was scheduled so soon after the commutation hearings, she believes that Weld decided to not grant her commutation to demonstrate to his critics that he carefully considered the facts of each case and only granted some of the Framingham Eight's requests for commutation. The strategy would allow him to sidestep claims that he was abandoning his tough-on-crime persona by commuting the women's sentences.

Commutation is often perceived as a monumental revision to the historical record and a symbolic reversal of a criminal conviction. Many find it to be an admission by the state that they committed a significant error in the initial criminal proceedings of a defendant. Parole possesses an entirely different connotation in the criminal justice system. A large quantity of convicts receive parole at some point during their sentences, and receiving parole is never taken to signify an error on the part of the judge or jury, but an indication that a convict has demonstrated good behavior while serving their sentence and should be released on a probationary basis.

While it is possible that some members of the Massachusetts public were disappointed that Elaine Hyde did not have her sentence commuted by the governor, Goldfarb believes that because Hyde was released on parole roughly around the same time that she would have been released had her petition for commutation succeeded, her case was still perceived to be successful by the public. As an attorney for Hyde, she remembers that Hyde and her legal team were not disappointed by the failure of her petition for commutation because of how quickly the result of her parole hearing was released, and because several of the other members of the group

did have their sentences commuted.⁸⁸ Goldfarb also noted that the coverage of all the women's outcomes in the media was largely celebratory since Hyde had been released from prison and many of her fellow group members had succeeded, which illustrates that the failure of her commutation petition was not perceived as a symbolic defeat for Hyde or the Framingham Eight.

Elaine Hyde was released on parole in 1994 after serving six years in prison. While the Framingham Eight all pled their case for commutation to parole boards commissioned by the executive branch, only some members of the group were successful. Eugenia Moore's life sentence was commuted by Governor Weld in May of 1993, and Meekah Scott was out of prison pending her appeal when the commutation guidelines were changed and had her sentenced released to time served.⁸⁹ Patricia Allen's sentence was commuted by Governor Weld in 1994, but she returned to prison in 1997 for violating the terms of her parole after being arrested on a charge of assault with a deadly weapon. Lisa Becker Grimshaw was afforded early parole in 1993, and Shannon Booker was also granted early parole in 1994. However, both women returned to prison in 1998 for violating the terms of their parole. Grimshaw was pulled over while driving and failed field sobriety tests, while Booker was charged with stealing a wallet from a woman's purse.⁹⁰ The executive commission voted against clemency for both Debra Reid, the "sole lesbian among the Framingham Eight," and Patricia Hennessey in 1994, demonstrating that being a member of the group did not automatically confer leniency.⁹¹ In summary, all but two women had either their sentenced commuted or were released on early

⁸⁸ Goldfarb, Phyllis. "Oral History of Framingham Eight Commutation Petitions." By Emily Hazelbrook. December 15th, 2024.

⁸⁹ Krause, Joan H. "Of Merciful Justice and Justified Mercy: Commuting the Sentences of Battered Women who Kill." *University of Florida Law Review* 46(5), 1994, 735.

⁹⁰ Thorton, Mark Otto Jacob. "Framingham Eight." *Cryan*. October 18, 2017.

⁹¹ Krause, Joan H. "Of Merciful Justice and Justified Mercy: Commuting the Sentences of Battered Women who Kill." *University of Florida Law Review* 46(5), 1994, 735.

parole, but three women eventually returned to prison. Out of the eight women, three remained free upon the turn of the century, while the rest remained in prison. Before the clemency process for the women had concluded, “the legislature had enacted a law that guaranteed the admission in appropriate cases of a history of abuse and expert testimony about battering and its effects.”⁹² The changes to Massachusetts law that resulted from the cases demonstrated the lasting impact that the Framingham Eight had on the public’s understanding of domestic violence.

Despite varying levels of success in appealing their sentences, the cases of the women who made up the Framingham Eight are landmark contributions to Massachusetts criminal law. Their momentum and the sympathy they garnered in the media demonstrate how the women’s situations captured public attention and resulted in changes to executive policy and state criminal law. While each state’s timeframe for addressing cases regarding battered woman differed, the 1990s were a time of significant change in how similar cases were handled in state courts nationwide. Increased attention and the proliferation of appeals and petitions for commutation, however, led critics to launch attacks at key tenets and assumptions that undergirded the legal defense, complicating its legacy in the late twentieth century.

Clemency Across the States

While the Framingham Eight cases gained widespread recognition through media coverage in Massachusetts, they were not the first cases where a reconsideration of the importance of expert witness testimony on domestic violence led governors to commute the sentences of women. The movement had begun in Ohio several years prior to their parole

⁹² Goldfarb, Phyllis. “Intimacy and Injury: How Law Has Changed for Battered Women.” In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 38.

hearings, when Ohio Governor Richard Celeste commuted the sentences of 25 women who were incarcerated for killing or assaulting abusive partners or stepfathers in 1990.⁹³ Nine years earlier, the Ohio Supreme Court had ruled in *State of Ohio v. Thomas* that expert witness testimony on behalf of Kathey Thomas, who had murdered her abusive common-law husband, was inadmissible due to its irrelevancy to the issue of self-defense at the time of the shooting.⁹⁴ However, in March 1990, *Thomas* was overturned by *State of Ohio v. Koss*, another Ohio Supreme Court case that found that battered woman syndrome possessed “scientific legitimacy” and that defendants had the right to introduce expert witness testimony at trial.⁹⁵ Ohio’s legislature passed H.B. 484 in August 1990, which permitted expert witness testimony regarding battered woman syndrome. Governor Celeste’s wife, Dagmar Celeste, is thought to have influenced the unprecedented quantity of commutations that he issued due to her membership in WomanSpace, an umbrella group of women’s movement organizations.⁹⁶ She offered to rent her vacant house to the organization WomenTogether to serve as Ohio’s first battered woman’s shelter in 1976, and was a proponent of the battered woman’s movement throughout the 1980s and 1990s.⁹⁷ She and her husband worked together throughout his two terms in office to champion the issue of domestic violence. Dagmar Celeste proposed a large-scale clemency review as her husband neared his final year in office, and executive aides solicited applications for clemency from inmates at the prisons where his wife routinely volunteered. After extensive

⁹³ Gagné, Patricia. *Battered Women’s Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 1.

⁹⁴ Ibid, 62.

⁹⁵ Ibid, 72.

⁹⁶ Gagné, Patricia. *Battered Women’s Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 70.

⁹⁷ Ibid, 72.

review, Governor Celeste granted twenty-five women clemency and sent thirty-four cases to the Ohio Parole Authority for further documentation and evaluation.⁹⁸ While his successor reversed course and denied future clemency petitions throughout the 1990s, the battered woman's movement in Ohio was able to gain momentum through alliances with powerful figures in state politics and spread to other states in the years that followed.

After Governor Donald Schaefer of Maryland followed Celeste's lead and pardoned eight women in 1991, a national clemency movement began in earnest that led feminist legal activists to file petitions for commutation on behalf of incarcerated women in many states. The National Clearinghouse for the Defense of Battered Women was a crucial proponent of these efforts and played a key role in mobilizing lawyers across the nation. Sue Osthoff, the organization's director during the 1990s, stated that the "concept of mass clemency became something that a lot of people thought maybe could happen in their own state," leading to a wave of clemency petitions in other states during this era.⁹⁹ Governors who granted clemency to at least one battered woman throughout the 1990s include Fife Symington of Arizona, Roy Romer of Colorado, Terry Bradstad of Iowa, Charles Roemer of Louisiana, John Ashcroft of Missouri, George Pataki of New York, Steve Merrill of New Hampshire, James Martin of North Carolina, Barbara Roberts of Oregon, and Gary Locke of Washington.¹⁰⁰ Many of the governors defended their decision to grant clemency on the grounds that they recognized that the petitioners had been suffering from battered woman syndrome at the time of the crime, had been trapped in abusive

⁹⁸ Gagné, Patricia. *Battered Women's Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 95.

⁹⁹ Spaid, Elizabeth Levitan. "Battered Women's Defense Plea." *The Christian Science Monitor*, February 22, 1993. <https://www.csmonitor.com/1993/0222/22131.html>.

¹⁰⁰ Goldfarb, Phyllis. "Intimacy and Injury: How Law Has Changed for Battered Women." In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 48

relationships, and had been unable to offer a complete account of their abuse to a jury. The common understanding that the horrifying circumstances of the women's relationships impacted their decision-making demonstrates how battered woman syndrome had gained widespread acceptance in courts and in the public consciousness by this time.

Beyond action in the executive branches of state governments to grant women clemency, legislation also began to address criminal statutes that pertained to a battered woman's right to self-defense. In 1992, the Kentucky legislature passed a law that "reconceived the notion of imminent harm for purposes of battered women's self-defense."¹⁰¹ In most states, the concept of imminent harm references the requirement that a person have a reasonable fear of imminent harm and deploys a reasonable amount of force that is proportionate to that harm.¹⁰² The Kentucky legislature's new law deliberately did not rely on the concept of battered woman syndrome, but expanded the notion of imminent harm to apply to women subjected to persistent domestic abuse.¹⁰³ Other states elected to justify changes to their admissibility rules using Lenore Walker's research, such as in *Rogers v. State of Florida* in 1993. In the case, the Florida Court of Appeals ruled that expert witness testimony on battered woman syndrome could be admissible in relevant cases, opening the door for a battered woman legal defense in the state.¹⁰⁴

Testimony from psychologists was typically used to bolster a defense of temporary insanity, although it could also be used to prove a claim of imperfect self-defense by illustrating

¹⁰¹ Goldfarb, Phyllis. "Intimacy and Injury: How Law Has Changed for Battered Women." In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 45.

¹⁰² "Imperfect Self-Defense in Criminal Law Cases." *Justia*. October 18, 2024. <https://www.justia.com/criminal/defenses/imperfect-self-defense/>.

¹⁰³ Goldfarb, Phyllis. "Intimacy and Injury: How Law Has Changed for Battered Women." In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 48.

¹⁰⁴ *Ibid.*

how a defendant's use of unreasonable force was symptomatic of their psychological state.¹⁰⁵

Across the United States, cases in the historical record that involved psychologist testimony on battered woman syndrome have attempted to argue both for self-defense and for temporary insanity defenses.¹⁰⁶ Tension between the conflicting criteria necessary to argue these defenses still existed in courts during this era. As more and more states accepted testimony on battered woman syndrome, however, courts increasingly interpreted the battered woman legal defense as an extension of the temporary insanity defense rather than self-defense.¹⁰⁷ In most criminal trials, testimony on battered woman syndrome was entered into the record during direct examination of the expert witnesses in the trial itself but was referenced during sentencing. Psychologists who testified also frequently wrote letters on behalf of defendants to be read during sentencing, which were admissible under new legislation in states.¹⁰⁸ Since 1990, legislation permitting expert witness testimony on battered woman syndrome or "establishing a standard of reasonableness that includes consideration of a history of abuse" has been passed in thirteen states.¹⁰⁹ Eight other states also passed laws that permitted expert witness testimony on abuse but required additional circumstances to be met prior to admissibility.

¹⁰⁵ Goldfarb, Phyllis. "Oral History of Framingham Eight Commutation Petitions." By Emilyn Hazelbrook. December 15th, 2024.

¹⁰⁶ Goldfarb, Phyllis. "Intimacy and Injury: How Law Has Changed for Battered Women." In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 39.

¹⁰⁷ Goldfarb, Phyllis. "Oral History of Framingham Eight Commutation Petitions." By Emilyn Hazelbrook. December 15th, 2024.

¹⁰⁸ Ibid.

¹⁰⁹ Gagné, Patricia. *Battered Women's Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 62-63. The thirteen states were Arizona, California, Georgia, Kentucky, Maryland, Massachusetts, Nevada, Oklahoma, South Carolina, Texas, Utah, Virginia, and Wyoming.

By the end of the 1990s, hundreds of incarcerated battered women had petitioned their state governors for clemency through commutation or early parole. While not every woman was successful in her petition for clemency, “more than 100 of the battered women who petitioned for clemency were successful in obtaining it” during the decade.¹¹⁰ The wave of commutations, court cases, and legislation that swept across the United States in the early 1990s was a monumental shift in how cases involving battered woman syndrome were perceived in the courts and represented a crucial victory for the battered woman’s movement.

¹¹⁰ Goldfarb, Phyllis. “Intimacy and Injury: How Law Has Changed for Battered Women.” In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 48.

Chapter 3: Movements, Legislation, and Controversy

A Time of Change

The 1990s was a landmark decade for the battered woman legal defense. Following a wave of “virulent, even vicious, opposition to feminism from the right in the 1980s,” the legislative victories and increased recognition that the battered woman’s movement obtained in the 1990s reinvigorated efforts to seek justice for battered women in courts.¹¹¹ From the wave of commutations issued by governors in the 1990s to the increased sympathy in the media for battered women, the legal defense became more prominent across the United States and enabled hundreds of women to deploy the defense in trial or seek commutation for their sentence.

The success of new feminist organizations in the 1990s breathed new life into the movement and renewed its focus on assisting victims of domestic violence. Feminists were eager to resurrect the energy and change that the 1960s and 1970s feminist movement had brought. However, they recognized that the past movement had often essentialized the challenges that women of different races, classes, and sexual identities experienced, and desired to achieve broader inclusivity and recognition of the ways that women of various backgrounds experienced gender in their lives. Anita Hill’s testimony on sexual harassment at Clarence Thomas’s Supreme Court nomination and the proliferation of Riot Grrrl feminist punk rock bands are widely credited for the resurgence of the feminist movement in the 1990s.¹¹² Once the movement gained

¹¹¹ Evans, Sara M. *Tidal Wave: How Women Changed America at Century’s End*. District of Columbia: Free Press, 2003, 190.

¹¹² “Feminism: The Third Wave” National Women’s History Museum. June 23, 2020. <https://www.womenshistory.org/exhibits/feminism-third-wave>.

momentum, many suborganizations within the feminist movement began solidifying their priorities and lobbying for legislation that would forward their goals.

Ending domestic violence became a primary goal of the 1990s movement due to the increased recognition that domestic violence had received on a national stage in the last few decades of the twentieth century, and the organizations that comprised the 1990s movement devised new strategies and methods to work towards that goal. The Riot Grrrl movement hosted workshops on “sexuality, rape, unlearning racism, domestic violence, and self-defense” for women across the United States.¹¹³ Battering, violence, and sexual abuse became one of two main priorities of the National Black Women’s Health Project, raising awareness about the prevalence of domestic violence in Black communities around the United States.¹¹⁴ Feminism in the 1990s continued the legacy of 1960s and 1970s movements by shining a light on the ways that the legal system failed victims of domestic violence. The efforts of feminists during the era culminated in the landmark passage of the Violence Against Woman Act in 1994.

Curiously, however, the 1990s also led to the decline of the term “battered woman legal defense” and renewed controversies over battered woman syndrome. The condition’s pioneer, Lenore Walker, was slammed by feminists who had formerly extolled her work as a “sell-out” due to her testimony for the defense in the O.J. Simpson murder trial. While her testimony in the trial was intended to propagate her research by demonstrating that Simpson did not fit the profile of a batterer, evidence that fortified the prosecution’s claims that he had abused his ex-wife led members of the battered women’s movement to scorn her involvement and distance themselves from her research. Increased public awareness renewed critiques of battered woman syndrome’s

¹¹³ Evans, Sara M. *Tidal Wave: How Women Changed America at Century’s End*. District of Columbia: Free Press, 2003, 216.

¹¹⁴ *Ibid*, 192.

pathologization of women's legitimate right to self-defense. Outspoken critics from the inception of research on battered woman syndrome, including Mary Anne Dutton, updated their attacks and made headway in persuading others to oppose the condition's legitimacy. And the final death blow to the battered woman legal defense was dealt by the same piece of legislation that granted more legal protections to victims of domestic violence than any other law in history. The apogee of the battered woman legal defense's development and its subsequent descent into the ranks of abandoned legal terminologies both occurred between 1990 and 2000, making for a dramatic decade of important events and fiery discourse.

Besieged on All Sides

While the feminist movements of the 1990s successfully infiltrated the public consciousness and sought legislative victories for women, the battered woman legal defense suffered its most ardent criticism from many different sources. Its critics ranged from conservative commentators to feminist activists and legal scholars, and their concerns varied considerably based upon their motivations for launching their attacks. However, they were unified in their belief that the foundations of the battered woman legal defense were shaky and that a reevaluation of its credibility and acceptability should take place.

The first major critique of the concept of battered woman syndrome that undergirds the battered woman legal defense was that it insinuated that victims of abuse suffered from an illness or affliction. Critics such as Mary Anne Dutton argued that perceiving battered women as suffering from a syndrome detracted from condemnation of the abuser and diverted attention

from the horror of the victim's home life.¹¹⁵ Rather than supporting an understanding that the woman had engaged in reasonable behavior under extreme and life-threatening circumstances, they perceived the battered woman defense as pathologizing victims of abuse and altering a judge or jury's position on the reliability of the victim. A victim's association with a pathology or mental illness could damage her prospects during her trial and have a negative effect on her self-perception that hindered her efforts to adapt to life outside of the abusive relationship.¹¹⁶ These criticisms landed solid blows in the reputation of the legal defense and raised important questions about its effect on women in court that were expanded upon throughout the 1990s.

Despite the general reluctance of scholars to be persuaded by *ad hominem* attacks, Lenore Walker's involvement in the O.J. Simpson trial thrust the battered woman legal defense into a frustrating imbroglio that irrevocably altered perceptions of her scholarship. Orenthal James "O. J." Simpson was tried in the Los Angeles County Superior Court in 1995 for the murder of his ex-wife Nicole Brown Simpson and her friend Ron Goldman. Considered a "massive media circus" that millions around the world watched on television, the high profile of the former National Football League star and the strong opinions that the case evoked led the case to be "one of the most famous trials of the 20th century."¹¹⁷ One of the key arguments forwarded by the prosecution was that Simpson had abused his ex-wife for almost two decades, corroborated by eight police reports and numerous documents and journal entries in Brown's personal records.¹¹⁸ After their divorce in 1992, Brown claimed that Simpson had stalked and harassed her

¹¹⁵ Goldfarb, Phyllis. "Intimacy and Injury: How Law Has Changed for Battered Women." In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005, 56.

¹¹⁶ Ibid, 56.

¹¹⁷ Hayes, Rob. "Massive Media Presence at OJ Simpson Trial Changed Modern News Coverage." *ABC7 San Francisco*, April 12, 2024.

¹¹⁸ Noble, Kenneth B. "Prosecution Says Simpson Abused Wife For 17 Years." *New York Times*, January 12th, 1995. <https://www.nytimes.com/1995/01/12/us/prosecution-says-simpson-abused-wife-for-17-years.html>.

to pressure her into a reconciliation. Brown's gruesome stabbing was widely perceived to be the final escalation of an abusive and obsessive relationship. The prosecution's strategy was centered around admitting evidence of the abuse into the trial record and calling witnesses that had personally observed instances of abuse to demonstrate that Simpson had the "motive to kill," debunking the defense's theory that unidentified strangers had murdered Brown and Goldman.¹¹⁹ In the prosecution's opening statement, Christopher Darden stated that "in our team's opinion, this case at its heart was a case of domestic violence," aiming to use evidence that Simpson had abused Brown to portray him as a violent wife-beater whose obsessive tendencies culminated in murder when he found his ex-wife with another man.¹²⁰ The case raised awareness about domestic violence but severely damaged the credibility of the battered woman legal defense.

One of the members of Simpson's legal defense team, Alan Dershowitz, had debated Lenore Walker on an episode of *Nightline*, and suggested that his team retain her services as an expert witness to testify that Simpson "did not have the characteristics her research had found to be associated with the classic batterer."¹²¹ Walker spent sixty hours meeting with Simpson in jail prior to the trial, and testified both during *motions in limine*, or pretrial evidentiary hearings to determine evidence and testimonial admissibility, and during the defense's presentation of their case in front of the jury.¹²² According to Simpson's defense attorneys, her testimony helped "severely reduce" the amount of evidence that the prosecution was able to admit regarding

¹¹⁹ Dershowitz, Alan. *Reasonable Doubts: The Criminal Justice System and the O.J. Simpson Case*. New York: Touchstone Press. 1996. 102.

¹²⁰ Ibid, 102.

¹²¹ Ibid.

¹²² "Simpson Trial Transcripts - December 5." *Superior Court of the State of California, The County of Los Angeles*. December 5th, 1996. <http://simpson.walraven.org/dec05-96.html>.

domestic discord in Simpson and Brown's relationship.¹²³ Dershowitz describes Walker's testimony as one "ace in the hole" that contributed to helping Simpson overcome reputational damage that had ensued from the publicization of 911 tapes where he was recorded screaming at Simpson.¹²⁴ While Simpson's acquittal was due to several factors, including the caliber of attorneys that he retained for his defense and the famous "if it doesn't fit, you must acquit" phrase delivered by defense attorney Johnnie Cochran, Walker's participation in Simpson's defense cast a negative light on her scholarship on battered woman syndrome.¹²⁵

Many feminist activists expressed outrage and concern over Lenore Walker's testimony for the defense in the O. J. Simpson murder trial in 1995 from the minute that her name was mentioned in Johnnie Cochran's opening statement. While Walker's public rationale for her decision was that she did not want her data on battered women syndrome distorted, many psychologists accused her of "selling out" in her role in Simpson's defense and were worried that her research and court testimony would be tarnished.¹²⁶ Walker reportedly received hundreds of calls a day from distraught women's rights activists during the weeks prior to her testimony and received negative portrayals of her role in the movement in the media. In the civil trial that occurred after Simpson received a not-guilty verdict from the court, Walker testified against Simpson and was retained instead by attorneys for the Goldmans, one of the plaintiffs in the case. While her testimony did not entirely discredit the research of her books, it did cast a negative association on her role in the movement that has haunted Walker since her testimony.

¹²³ Dershowitz, Alan. *Reasonable Doubts: The Criminal Justice System and the O.J. Simpson Case*. New York: Touchstone Press. 1996. 106

¹²⁴ Ibid, 102.

¹²⁵ "'If It Doesn't Fit, You Must Acquit.'" *NBC News*, June 11th, 2014. <https://www.nbcnews.com/dateline/video/if-it-doesnt-fit-you-must-acquit-279038019711>.

¹²⁶ Boxall, Bettina. "Abuse Expert Stirs Uproar with Simpson Defense Role: Trial: Psychologist Lenore Walker says she is testifying to bar either side from distorting data on battered women." *Los Angeles Times*, March 5, 2019.

Another obstacle that presented itself during the era was the fact that “the legal defense branch of the battered women’s movement has been steeped first in radical feminism and later in cultural feminism,” rendering it vulnerable to the attacks that neoconservatives launched at the feminist movement.¹²⁷ Few neoconservative pundits had come out in initial opposition to battered woman syndrome during the 1970s and 1980s, primarily due to both its relative obscurity and the perceived distastefulness of defending wife batterers. However, conservatives in the 1990s found vulnerabilities in the battered woman legal defense that they exploited to discredit its indictment of the traditional family structure. Due to the prominence of domestic violence in the feminist agenda of the 1990s, battered woman syndrome carried the associations of the broader feminist movement, and shared in the condemnations that it received.

The feminist movement of the 1960s and 1970s was comprised of several different factions, each of which had varying priorities and degrees of organization. The two main factions within the movement were liberal feminists focused on legal and political changes and radical feminists aiming to completely dismantle misogyny, which they perceived as the ultimate oppression within society and the root of all inequality.¹²⁸ Another smaller faction within the movement, cultural feminism, chose to focus on what they perceived as natural distinctions between men and women and revalue attributes associated with women.¹²⁹ The battered women’s movement had begun as a joint effort between many different feminist groups. It included the consciousness-raising efforts that radical feminists were known for alongside

¹²⁷ Gagné, Patricia. *Battered Women’s Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998, 31.

¹²⁸ “Second Wave Feminism Primary Sources & History.” *Gale Primary Sources*. No Date.

¹²⁹ Echols, Alice. “Cultural Feminism: Feminist Capitalism and the Anti-Pornography Movement.” *Social Text* 7 (1983): 37.

determined advocacy for legal and legislative reforms from liberal feminists.¹³⁰ In the 1980s and 1990s, however, cultural feminists became known for their efforts to erect battered woman's shelters across the United States as radical feminists staged more defiant demonstrations against patriarchy and liberal feminists lobbied for the Violence Against Woman Act and other legislation.¹³¹ Cultural feminists were often perceived as the most societally innocuous group within the feminist movement for their adherence to notions of traditional gender differences and aversion to the fervent protests that radical feminists had become notorious for.

Neoconservatives during the era, however, discovered that associating any feminist goal with radical feminism, which was less palatable to mainstream society than the other factions of feminism, was effective to discredit feminist pursuits such as the battered women's movement. The battered woman legal defense was particularly vulnerable to these attacks because women who committed acts of violence were perceived as an aberration of traditional femininity and domestic violence presented an uncomfortable counterargument to upholding the traditional family structure and gender roles. In an era of vicious warfare between people desperate to open society to new understandings of gender equality and those determined to preserve the nuclear family, the battered woman legal defense's association with radical feminism would increase resistance to its acceptance across the United States.

Attacks on feminism increased in intensity and virulency throughout the 1980s and 1990s. The media fueled the fire against feminists, with "venomous attacks on feminazis" filling the airwaves of the 1990s.¹³² The difficulty of untangling the innovations of various factions of

¹³⁰ MacFarquhar, Larissa. "The Radical Transformations of a Battered Women's Shelter." *The New Yorker*, August 12, 2019.

¹³¹ Ibid.

¹³² Evans, Sara M. *Tidal Wave: How Women Changed America at Century's End*. District of Columbia: Free Press, 2003, 7.

the feminist movement from broader critiques and pejoratives cast upon feminists increased throughout the decade. The battered woman's movement, while a small subset of the feminist movement, faced the same stinging commentary from conservatives during the culture wars and struggled to differentiate themselves from the broader movement. While its migration from the auspices of radical feminism to cultural feminism should have shielded it from the fiercest attacks on radical feminism, it failed to truly distance itself from radical feminism or gain footing against arguments that it protected murderers from being held accountable for their actions.

One of the consistent refrains against the concept of battered woman syndrome was that it legitimized the "abuse excuse," taken by conservatives to be symptomatic of a societal decline in personal responsibility. Even in cases where the circumstances of the case should have conferred sympathy of the woman's situation, conservatives lodged complaints that the abuse excuse signified an "open season" on men and an abandonment of responsibility for criminal behavior. Alan Dershowitz, one of America's most high-profile attorneys due to his role in O. J. Simpson's criminal defense and his nearly fifty-year professorship at Harvard Law School, wrote a chapter titled "'Abuse Excuse' Is Detrimental to the Justice System" in a broader volume on differing viewpoints in criminal law in 1996.¹³³ He wrote that the abuse excuse and the battered woman legal defense was a "license to kill and maim" and an abdication of responsibility for perpetrators of crimes.¹³⁴ As an influential and respected legal scholar and attorney, his perspective lent credibility to conservative commentators who lambasted the abuse excuse for allowing people who committed crimes to escape punishment for their actions.

¹³³ Dershowitz, Alan M. "Abuse Excuse Is Detrimental to the Justice System" From *Americas Victims: Opposing Viewpoints*, edited by David Bender et al. Office of Justice Programs, 1996, 138.

¹³⁴ Ibid.

Despite the vehement opposition to feminism that battered woman syndrome was ensnared in during the 1990s, the feminist and battered women's movements were successful in their lobbying efforts for the passage of the Violence Against Woman Act in 1994. A landmark achievement that also initially granted national credibility to the battered woman legal defense, its passage was a pivotal movement for the battered woman legal defense. However, proponents of the battered woman legal defense were too quick to claim victory over its critics, as a report issued by the law would launch the most decisive and condemnatory attack on both battered woman syndrome and the battered woman legal defense of the decade.

Section 40507

The 1994 passage of Title IV of the Violent Crime Control and Law Enforcement Act, known as the Violence Against Woman Act, vindicated decades of feminist organizing to increase protections for victims of domestic violence. A landmark achievement for the feminist movement, the act addressed a myriad of different forms of violence against women, from workplace harassment to sexual assault. It provided grants for battered women's shelters and victim support hotlines, funded trainings for police officers to learn how to effectively respond to domestic violence situations, and required that every state afford full faith and credit to protection orders issued anywhere in the United States.¹³⁵ To "expand understanding of the ...medical and psychological bases of battered women's syndrome" and how it was used in the criminal justice system, Section 40507 of the Violence Against Women Act provided funding for

¹³⁵ "History of the Violence Against Woman Act." *Legal Momentum*, No Date. <https://www.legalmomentum.org/history-vawa>

research on battered woman syndrome and its efficacy as a defense in criminal trials.¹³⁶ This marked the first instance where battered woman syndrome was recognized in federal legislation and led to the publication of a comprehensive report on the issue in 1996.

The report, titled “The Validity and Use of Evidence Concerning Battering and Its Effects on Criminal Trials: Report Responding to Section 40507 of the Violence Against Women Act,” was issued by the Department of Justice and National Institute of Mental Health in May of 1996.¹³⁷ Rather than being a milestone in the history of the battered woman legal defense, however, the findings of the report instead effectively hammered the final nail into the coffin of the battered woman legal defense.

One of the most striking arguments that the report forwarded was that a strong consensus existed among psychologists that “the term ‘battered woman syndrome’ does not adequately reflect the breadth or nature of the scientific knowledge now available concerning battering and its effects.”¹³⁸ The researchers who collaborated on the article were troubled by the supposition that there could be a universalizable profile of symptoms exhibited by all victims of domestic violence. Psychological research had consistently demonstrated throughout the late twentieth century that responses to abuse were as varied as the types of people who experienced and perpetrated physical abuse. The report echoed the concerns of feminist scholars from earlier in the 1990s that the word “‘syndrome’ carried implications of a malady or psychological impairment and, moreover, suggested that there was a single pattern of response to battering,”

¹³⁶ Travis, Jeremy, and Steven E. Hyman. “The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials,” *United States Department of Justice and National Institute of Mental Health*, May 1996, 15.

¹³⁷ *Ibid.*, xi.

¹³⁸ *Ibid.*

potentially harming a woman's criminal defense.¹³⁹ The researchers preferred the term "evidence concerning battering and its effects" in order to avoid the association of illness.¹⁴⁰

The *Validity and Use of Evidence* report was equally conclusive on the question of whether the battered woman legal defense was a valid defense in the United States. The researchers emphasized that just as "important is the clear statement that there is not a 'battered woman's defense' per se."¹⁴¹ Instead, they argued that "expert testimony in these cases, when introduced by the defense, should be used to support a battered woman's claim of self-defense or duress, not to replace it."¹⁴² The researchers defined duress in this legal context to denote relevant circumstances to the "defendant's perception of the temporal proximity of the perceived danger to life or safety," indicating that psychologists acting as expert witnesses could testify that a woman's circumstances enhanced her understanding of the acute danger to her life that existed.¹⁴³ Unlike many situations where duress indicates that a person is in imminent danger due to having a gun to their head, expert testimony would be used to prove a claim of either temporary insanity through an understanding that a constant state of abuse caused a defendant to be under considerable duress.

The findings of the report solidified that depending on the circumstances of the homicide, the umbrella of testimony concerning battering and its effects could either support a claim of temporary insanity or imperfect self-defense. The report's clear dissatisfaction with the idea that a battered woman's defense existed, even though it supported the use of expert testimony to

¹³⁹ Travis, Jeremy, and Steven E. Hyman. "The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials," *United States Department of Justice and National Institute of Mental Health*, May 1996, x.

¹⁴⁰ *Ibid*, iii.

¹⁴¹ *Ibid*, x.

¹⁴² *Ibid*, 24.

¹⁴³ *Ibid*, 34.

essentially accomplish the same result as the battered woman legal defense would have brought about, is an attempt to create semantical distance from the concerns scholars had expressed with the concept of ‘battered woman syndrome.’ Because the notion of a battered woman’s defense relied primarily upon a diagnosis with the discredited battered woman syndrome, the researchers urged courts to discard the term ‘battered woman legal defense’ so that attorneys would understand the necessity for evidence beyond just testimony on the effects of battering to support a woman’s claim of self-defense or duress.

However, the report did find that there is extensive scientific and clinical research supporting the dynamics of domestic violence and traumatic stress responses.¹⁴⁴ Expert testimony on the effects of battering had been “admitted in each of the 50 states plus the District of Columbia” by the report’s publication, underscoring the effectiveness of the battered woman’s movement in enabling women who had murdered their partners after a history of abuse to discuss the violence that led to their behavior. While the report stressed that the expert testimony was not tantamount to an acquittal because sixty-three percent of convictions were upheld, the researchers still found that testimony about the psychological effects of battering had a significant impact on the outcomes of some trials and appeals.¹⁴⁵

The overall conclusion of the report found that the term ‘battered woman syndrome’ is no longer useful or appropriate,” and that a cohesive battered woman legal defense did not exist in the criminal justice system.¹⁴⁶ While the battered woman’s movement and feminist legal scholars had succeeded in securing the admissibility of expert testimony on battering and a history of

¹⁴⁴ Travis, Jeremy, and Steven E. Hyman. “The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials,” *United States Department of Justice and National Institute of Mental Health*, May 1996, xi.

¹⁴⁵ *Ibid*, iv.

¹⁴⁶ *Ibid*, vii.

domestic violence, the report debunked arguments for the usefulness of the term ‘battered woman syndrome’ and the notion that a cohesive battered woman legal defense existed. A crucial turning point in the history of the battered woman legal defense, the Section 40507 report provided a persuasive assessment of the drawbacks of the defense that convinced many that the term should be abandoned in courts.

A New Millennium

As the twentieth century gave way to a new millennium, the battered woman legal defense had receded from the lexicon of accepted criminal defenses. However, the admissibility of testimony on battered woman syndrome and a history of domestic violence in a relationship seemed permanently entrenched in courts, two crucial developments that the battered woman’s movement had fought to instill across the United States. While it is inaccurate to state that the battered woman legal dispute had entirely disappeared from courtrooms by the twenty-first century, an undeniable shift in how attorneys approached the criminal defense had taken place.

Despite the many controversies that battered woman syndrome was embroiled in during the 1990s, it is evident that “the use of BWS in U.S. criminal courts persists, including in cases outside of typical self-defense.”¹⁴⁷ Expert witness testimony from psychologists on battered woman syndrome is still admissible, if less popular, means of explaining how a person’s criminal behavior was influenced by the psychological impact of persistent abuse. However, a trend emerged across expert witnesses in these cases where post-traumatic stress disorder, or “PTSD, has emerged as an alternative diagnosis with a broad evidence base across a variety of

¹⁴⁷ Holliday, Jessica R., Dale E. McNiel, Nathaniel P. Morris, David L. Faigman, and Renée L. Binder. “The Use of Battered Woman Syndrome in U.S. Criminal Courts.” *PubMed* 50(3) September 1, 2022: 373.

populations, widespread use in clinical contexts, and diagnostic flexibility that may account for variations in victim reactions to IPV.”¹⁴⁸ As the terms “battered woman syndrome” and “battered woman legal defense” vanished from courts, the same psychological symptoms that Walker identified as evidence of battered woman syndrome were assumed into the expansive range of situations where a diagnosis of PTSD can explain the behavior of a person.

Psychologists began to recognize in the 1990s that the symptoms and clinical presentation of battered woman syndrome overlapped considerably with the wider umbrella diagnosis of PTSD. The Section 40507 report issued by the Justice Department and National Institute of Mental Health found that the conditions mirrored each other because PTSD explained instances where certain “events can cause the battered woman to act or feel as if prior severe violence were recurring, even if it is not.”¹⁴⁹ A diagnosis of PTSD requires a “specific constellation of symptoms” that include “intrusion of the traumatic memory into the individual’s consciousness, avoidance of thoughts and feelings associated with the traumatic experience or numbing of general responsiveness, and symptoms characterized by increased arousal (e.g., difficulty sleeping or concentrating, hypervigilance).”¹⁵⁰ Indications that a battered woman suffered from PTSD at the time of a criminal act helps “factfinder[s] to understand her state of mind” and enhances the credibility of a claim to temporary insanity.¹⁵¹ Clinical psychologists had long testified in courts that women who committed crimes against rapists or abusive parents suffered from PTSD, and expanding its use in trials to situations of intimate partner violence seemed to be a natural extension of its explanatory power.

¹⁴⁸ Ibid, 375.

¹⁴⁹ Travis, Jeremy, and Steven E. Hyman. “The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials,” *United States Department of Justice and National Institute of Mental Health*, May 1996, 9.

¹⁵⁰ Ibid, 19.

¹⁵¹ Ibid.

Dr. Judith Herman, an associate clinical professor of psychiatry at Harvard Medical School, was the first feminist scholar to propose a connection between the psychological symptoms demonstrated by war veterans and victims of domestic violence. Her book *Trauma and Recovery*, published in 1992, condensed research studies from the previous few decades to conclude that the same “‘survivor triad’ of insomnia, nightmares, and psychosomatic complaints” exhibited by PTSD patients who had fought in combat zones was also evident in many profiles of battered women and in victims of sexual violence.¹⁵² Herman proposed that the spectrum of symptoms that victims of prolonged, repeated trauma experience should be called complex post-traumatic stress disorder. This condition would give “a new diagnostic name to the psychological disorder found in survivors of prolonged, repeated abuse” while enabling them to use the preexisting research on PTSD to enhance the legitimacy of their defense.¹⁵³ Herman’s work was an important milestone in the field of legal feminism because it influenced people in the battered woman’s movement to shift to using PTSD as a diagnosis to describe the effects of chronic abuse.

A diagnosis of PTSD offered several advantages over battered woman syndrome in courtrooms. The condition had been studied for decades by the 1990s and had a far more expansive research base. PTSD as a psychological concept was far more unassailable than the existing research on battered woman syndrome, especially after the widespread condemnation of Lenore Walker’s role in the O. J. Simpson trial. It sidestepped criticisms that battered woman syndrome pathologized the legitimate self-defense claims of women and arguments that it implied the existence of a predictable response to battering across all victims due to its emphasis

¹⁵² Herman, Judith Lewis. *Trauma and Recovery: The Aftermath of Violence--From Domestic Abuse to Political Terror*. New York City: Basic Books, 1992, 69.

¹⁵³ *Ibid*, 2.

on the variety of responses that victims exhibit after abuse. The existence of “standard PTSD criteria in the DSM-5, as well as frequent use of PTSD in clinical settings,” caused psychiatrists and psychologists to feel more comfortable testifying about PTSD than about BWS and convinced defense attorneys that judges and juries were more likely to find PTSD credible.¹⁵⁴ While testimony on battered woman syndrome was still accepted in courtrooms, it became increasingly rare in the twenty-first century due to the shift to using PTSD as a diagnosis in courtrooms instead of battered woman syndrome.

Expert testimony on the psychological effects of PTSD accomplished the same result as testimony about battered woman syndrome to support either a defense of temporary insanity or imperfect self-defense. As an accredited mental disorder with thousands of case studies indicating that a patient’s intrusive traumatic memories can result in violent acts, such as a war veteran shooting other person during a PTSD episode, claims of temporary insanity stemming from PTSD could draw upon legal precedent from more cases and a more established body of literature. Claims of imperfect self-defense could also use PTSD to explain discrepancies in the time when an abusive incident occurred and when the homicide took place due to the explanation of traumatic memories as intrusive and triggered after the initial traumatic incident, resulting in criminal behavior. Because this explanation allowed for a temporal gap between the abuse and the homicide and afforded defendants a rationale for believing that they were experiencing an acute threat to their life even if they were not at the time of the homicide, psychologists and attorneys found that PTSD could adequately encapsulate the same explanatory power as a

¹⁵⁴ Holliday, Jessica R., Dale E. McNiel, Nathaniel P. Morris, David L. Faigman, and Renée L. Binder. “The Use of Battered Woman Syndrome in U.S. Criminal Courts.” *PubMed* 50(3) September 1, 2022: 375.

diagnosis of battered woman syndrome while side-stepping prosecutorial attacks on its credibility that had fomented during the 1990s.

The battered woman legal defense similarly went out of vogue by the turn of the century, which was both observed by and attributable to the Section 40507 report on its validity and effectiveness. The report summarized the increasingly pervasive sentiment among psychologists and legal professionals that battered woman syndrome failed to grapple with the complexity of responses that victims of abuse display and carried an implicit connotation of illness that detracted from the credibility of abuse victims. However, its publication led to a more substantial decline in the use of the term in courts, as the report underscored to holdouts that “the language of BWS is no longer preferred” and that it should not be considered a legal defense in its own right.¹⁵⁵ By the year 2000, the battered woman legal defense had significantly declined in popularity and was rarely mentioned in criminal trials.

The rise and fall of the battered woman legal defense over the last three decades of the twentieth century paints a complicated picture of how courts and psychologists interpreted its helpfulness in affording women avenues for clemency due to a history of domestic violence. In the 1970s and 1980s, the absence of a right to testify about a history of abuse and offer expert witness testimony on its psychological ramifications demonstrated the necessity of a term encapsulating the plight of women who saw no way out of abusive situations other than to resort to violence. The battered woman legal defense was born out of this gap in legal precedent. The battered woman’s movement’s tenacious advocacy for women who killed their abusers after years of violence propelled efforts to recognize the battered woman legal defense in state

¹⁵⁵ Holliday, Jessica R., Dale E. McNiel, Nathaniel P. Morris, David L. Faigman, and Renée L. Binder. “The Use of Battered Woman Syndrome in U.S. Criminal Courts.” *PubMed* 50(3) September 1, 2022: 379.

legislatures, criminal proceedings, and psychological publications. In this regard, the battered woman legal defense was a successful vehicle to increase the admissibility of a history of domestic violence and expert witness testimony on the psychological effects of domestic violence, two achievements that remain guaranteed rights in courtrooms across the United States.

As quickly as the battered woman legal defense gained acceptance and granted women the opportunity to petition for clemency in the 1990s, resistance to its implications and terminology led to its fall from grace by 2000. The controversies that besieged battered woman syndrome effectively besmirched Lenore Walker's credibility and underscored the negative connotations that the term conveyed onto victims in courts. The term "battered woman legal defense," was rarely heard in courts after the twenty-first century began. However, the alterations to the admissibility of testimony that it secured have changed the destiny of many cases of domestic violence and feminist self-defense in courtrooms, signifying that it possesses a complicated but meaningful legacy as a concept in criminal law.

Conclusion

The Legacy of the Battered Woman Legal Defense

Considering that the first battered woman's shelter in the United States opened in 1974, the three decades that followed completely revolutionized how domestic violence was handled in courtrooms and perceived in the outside world. The battered woman's movement brought about seismic changes to laws on domestic violence. The Violence Against Woman Act has been reauthorized numerous times since its initial passage and remains one of the foremost weapons that police and prosecutors use against perpetrators of intimate partner violence. Prior to 1970, expert testimony on the psychological impact of battering and a defendant's testimony of their experiences of domestic violence were not guaranteed rights and faced opposition to admissibility in nearly every state. The establishment of these rights and their codification in state evidence admissibility rulebooks across the nation changed the outcome of hundreds, if not thousands, of cases that invoked either right to improve the trial outcome of an abuse victim. However, perhaps the greatest achievement of the battered woman's movement was its success in turning American society against domestic violence. Feminist efforts between 1960 and 2000 overturned centuries of legal precedent and public consensus about the criminality of domestic violence and improved the lives of thousands of women in the United States.

Lenore Walker's research on battered woman's syndrome has also translated into a legacy of important explanations of psychological phenomena, even if its use in courts has declined. Walker was the first psychologist to delve into the question of why women choose to stay in abusive relationships. Her findings on learned helplessness and the cycle of abuse have endured past the lifespan of the battered woman legal defense and still inform discussions on how abusive relationships operate. She was the first psychologist of many to testify in criminal

trials on the psychological effects of battering in relationships, and her important testimony on how chronic abuse influences behavior has spared many people from sentences disproportionate to the severity of the crime committed. While her legacy was muddled throughout the 1990s, the battered woman legal defense and the achievements that stemmed from it would not have been possible without her scholarship and efforts to defend victims in court.

In today's courtrooms, the terms "battered woman legal defense" or "battered woman syndrome" are only ever uttered by defense attorneys unaware of the baggage that both terms carry. Cases that used to fall under the umbrella of the battered woman legal defense and involve an implicit tension between the self and insanity defenses have shifted toward solely arguing that the defendant suffered from a spell of temporary insanity due to PTSD. The diagnostic criteria and episodic nature of PTSD increases the difficulty of arguing self-defense, and legal precedent exists that deploys the insanity defense due to a diagnosis of PTSD. Eradicating this tension removed some of the difficulty in litigating these cases to a jury. Expert testimony on PTSD is a far more common avenue of seeking leniency for victims of abuse who retaliate against their abusers, and referring to people as "battered" or suffering from "battered woman syndrome" has been abandoned in favor of more inclusive and less pathologizing terminology. Even if many agree that the battered woman legal defense was well-intentioned in its inception, the grounds for its departure from accepted legal terminology has cast a partial shadow on its legacy.

Despite its mixed reception among psychologists and legal scholars, however, the changes that it brought to the testimony admissible at criminal trials across the United States have endured and helped judges and juries gain a better understanding of the circumstances that lead a person to attack their abuser. Expert witness testimony on the psychological effects of battering and a defendant's history of domestic violence are the foundation of the battered

woman legal defense, and far more important than the legal defense itself. Their lasting contribution to the American legal system has affected charging and sentencing decisions across thousands of cases. The legacy of the battered woman legal defense illustrates that a short-lived concept can evoke lasting, impactful change long past the end of its lifespan.

Bibliography

Primary Sources

Books

Brown, Angela. *When Battered Women Kill*. New York: The Free Press, 1987.

Dershowitz, Alan. *Reasonable Doubts: The Criminal Justice System and the O.J. Simpson Case*.
New York: Touchstone Press. 1996.

Hoff, Lee Ann. *Battered Women as Survivors*. London: Routledge, 1990.

McNulty, Faith. *The Burning Bed*. Orlando: Harcourt Brace Jovanovich, 1980.

Walker, Lenore E. *Terrifying Love: Why Battered Women Kill and How Society Responds*. 1st ed.
New York: Harper and Row, 1989, 102.

Walker, Lenore E. *The Battered Woman*. 1st ed. New York: Harper & Row, 1979.

Newspaper Articles and Published Reports

Dershowitz, Alan M. "Abuse Excuse Is Detrimental to the Justice System" From *Americas Victims: Opposing Viewpoints*, edited by David Bender et al. Office of Justice Programs, 1996, 138-141. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/abuse-excuse-detrimental-justice-system-americas-victims-opposing>.

Dutton, Mary Ann. "Updated Critique of the 'Battered Woman Syndrome' Model." *The American Academy of Experts in Traumatic Stress*. 1993.
<http://www.aaets.org/article138.html>.

Grossman, Stan. "Love and Terror: 'Safer' and in Jail: Women Who Kill their Batterers." *Boston Globe*. September 2nd, 1991.

<https://www.newspapers.com/image/439649864/?match=1&terms=Framingham%20Eight%20battered%20women>

Kabut, Stacey. "Battered Women Need Help, Not Jail." *Boston Sunday Herald*. June 23rd, 1991.

Locy, Toni. "Weld Urged to Free 8 Women." *Boston Globe*. February 15, 1992.

Travis, Jeremy, and Steven E. Hyman. "The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials." United States Department of Justice and National Institute of Mental Health, May 1996. <https://www.ojp.gov/pdffiles/batter.pdf>.

Oral Histories

Goldfarb, Phyllis. "Oral History of Framingham Eight Commutation Petitions." By Emilyn Hazelbrook. December 15th, 2024.

Secondary Sources

Bennice, Jennifer A., and Patricia A. Resick. "Marital Rape: History, Research, and Practice."

Office of Justice Programs, July 2003. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/marital-rape-history-research-and-practice>.

Blanks, Richard Charles. "Criminal Law - Perfecting the Imperfect Right of Self-Defense."

Campbell Law Review 4(2): 427-446. January 1982, <https://scholarship.law.campbell.edu/cgi/viewcontent.cgi?article=1059&context=clr>.

Boots, Anna. "'The Burning Bed' Recalls the Case That Changed How Law Enforcement Treats Domestic Violence." *The New Yorker*, July 9, 2020. <https://www.newyorker.com/culture/video-dept/the-burning-bed-recalls-the-case-that-changed-how-law-enforcement-treats-domestic-violence>.

- Boxall, Bettina. "Abuse Expert Stirs Uproar With Simpson Defense Role: Trial: Psychologist Lenore Walker says she is testifying to bar either side from distorting data on battered women." *Los Angeles Times*. January 29th, 1995. <https://www.latimes.com/archives/la-xpm-1995-01-29-mn-25821-story.html>.
- Busby, John C. "M'naghten Rule." *Cornell Law School Legal Information Institute*. August 4, 2023. https://www.law.cornell.edu/wex/m%27naghten_rule.
- Butterfield, Fox. "Fiscal Crisis Could Open Door to the G.O.P. in Massachusetts." *New York Times*. January 24th, 1990. <https://www.nytimes.com/1990/01/24/us/fiscal-crisis-could-open-door-to-the-gop-in-massachusetts.html>.
- Carpenter, Teresa. "The Final Self-Defense." *New York Times*, December 31st, 1989. <https://www.nytimes.com/1989/12/31/books/the-final-self-defense.html>.
- Castle, Marie. *Culture Wars: The Threat to Your Family and Your Freedom*. Chicago: See Sharp Press, 2013.
- Coker, Donna K, and Lindsay C. Harrison. "The Story of Wanrow: The Reasonable Woman and the Law of Self-Defense." *University of Miami School of Law Institutional Repository*, 2013. https://repository.law.miami.edu/fac_books/228/.
- "Domestic Violence Statistics." *National Domestic Violence Hotline*. July 4, 2023. <https://www.thehotline.org/stakeholders/domestic-violence-statistics/>.
- Echols, Alice. "Cultural Feminism: Feminist Capitalism and the Anti-Pornography Movement." *Social Text* 7 (1983): 34–53. <https://doi.org/10.2307/466453>.
- England, Christina. "The Battered Women's Syndrome: A History and Interpretation of the Law of Self-Defense as it Pertains to Battered Women who Kill their Husbands." *Vanderbilt Undergraduate Research Journal* 3(1):1-11, Spring 2007.

Evans, Sara M. *Tidal Wave: How Women Changed America at Century's End*. District of Columbia: Free Press, 2003. ISBN: 978-0743255028.

Federal Bureau of Investigation. "Expanded Homicide Data." *Department of Justice*.

<https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/offenses-known-to-law-enforcement/expanded/expandhomicidemain>.

"Feminism: The Third Wave." *National Women's History Museum*. June 23, 2020. <https://www.womenshistory.org/exhibits/feminism-third-wave>.

Gagné, Patricia. *Battered Women's Justice: The Movement for Clemency and the Politics of Self-Defense*. New York: Twayne Publishers, 1998.

Goldfarb, Phyllis. "Intimacy and Injury: How Law Has Changed for Battered Women." In *The Handbook of Women, Psychology, and the Law* edited by Andrea Barnes. San Francisco: Jossey-Bass, 2005.

Graboyes, Sam. "Things to Know About the History of the Domestic Violence Movement."

Connections for Abused Women and their Children, September 7,

2023. [https://www.cawc.org/news/things-to-know-about-the-history-of-the-domestic-violence-](https://www.cawc.org/news/things-to-know-about-the-history-of-the-domestic-violence-movement/#:~:text=1870s:%20The%20Women%27s%20Christian%20Temperance,degree%20and%20prevalence%20of%20abuse)

[movement/#:~:text=1870s:%20The%20Women%27s%20Christian%20Temperance,degree%20and%20prevalence%20of%20abuse](https://www.cawc.org/news/things-to-know-about-the-history-of-the-domestic-violence-movement/#:~:text=1870s:%20The%20Women%27s%20Christian%20Temperance,degree%20and%20prevalence%20of%20abuse).

Gray Fischer, Anne. "Bad, mad or both: A legal history of battered woman syndrome." *Gender & History* 36: 938–951. 2024. <https://doi.org/10.1111/1468-0424.12792>.

Hartman, Andrew. *A War for the Soul of America: A History of the Culture Wars*. Chicago: University of Chicago Press, 2016.

Hague, Gill. *We've Come Further Than You Think: History and Memories of the Domestic Violence Movement*. Bristol: Bristol University Press, 2021.

Hayes, Rob. "Massive Media Presence at OJ Simpson Trial Changed Modern News Coverage." *ABC7 San Francisco*, April 12, 2024. <https://abc7news.com/oj-simpson-trial-changed-how-modern-media-covers-car-chases-and-court-cases/14648570/>.

"History of Intimate Partner Violence Reform." Columbia University Freedom and Citizenship Project. 2009. <https://freedomandcitizenship.columbia.edu/ipv-history>.

"History of the Violence Against Woman Act." *Legal Momentum*, No Date. <https://www.legalmomentum.org/history-vawa>.

Holliday, Jessica R., Dale E. McNiel, Nathaniel P. Morris, David L. Faigman, and Renée L. Binder. "The Use of Battered Woman Syndrome in U.S. Criminal Courts." *PubMed* 50(3) September 1, 2022: 373–80. <https://doi.org/10.29158/jaapl.210105-21>.

"If It Doesn't Fit, You Must Acquit." *NBC News*, June 11th, 2014. <https://www.nbcnews.com/dateline/video/if-it-doesnt-fit-you-must-acquit-279038019711>.

"Imperfect Self-Defense in Criminal Law Cases." *Justia*. October 18, 2024. <https://www.justia.com/criminal/defenses/imperfect-self-defense/>.

Kim, Anne. "The Tyranny of the Welfare Queen." *Washington Monthly*, October 30, 2024. <https://washingtonmonthly.com/2024/10/29/the-tyranny-of-the-welfare-queen/>.

Krause, Joan H. "Of Merciful Justice and Justified Mercy: Commuting the Sentences of Battered Women who Kill." *University of Florida Law Review* 46(5), 1994.

Kunzelman, Michael. "Time for Healing: Struggle of the Framingham Eight Recalled After 10 Years of Freedom." *Milford Daily News*, December 18,

2004. <https://www.milforddailynews.com/story/news/2004/12/19/time-for-healing-struggle-framingham/41179483007/>.

Noble, Kenneth B. "Prosecution Says Simpson Abused Wife For 17 Years." *New York Times*, January 12th, 1995. <https://www.nytimes.com/1995/01/12/us/prosecution-says-simpson-abused-wife-for-17-years.html>

Rivers-Schutte, Noel. "History of the Battered Woman Syndrome - a fallen attempt to redefine the reasonable person standard in domestic violence cases." *Seton Hill Law Scholarship Repository*, 2013. https://scholarship.shu.edu/student_scholarship/618.

Schneider, Elizabeth M. "Equal Rights to Trial for Women: Sex-Bias in the Law of Self-Defense." *Brooklyn Law School Faculty Scholarship Repository*. Winter 1980. <https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1350&context=faculty>

Schneider, Elizabeth M., Susan B. Jordan, Cristina C. Arguedas. "Representation of Women Who Defend Themselves in Response to Physical or Sexual Assault." *Brooklyn Law School Faculty Scholarship Repository*. Spring 1978.

"Second Wave Feminism Primary Sources & History." *Gale Primary Sources*, No Date. <https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism>.

Seigel, Reva B. "'The Rule of Love': Wife Beating as Prerogative and Privacy." *Yale Law Journal* 105(2117): 2118-2170. 1995.

“Simpson Trial Transcripts - December 5.” *Superior Court of the State of California, The County of Los Angeles*. December 5th, 1996. <http://simpson.walraven.org/dec05-96.html>.

Spaid, Elizabeth Levitan. “Battered Women’s Defense Plea.” *The Christian Science Monitor*, February 22, 1993. <https://www.csmonitor.com/1993/0222/22131.html>.

“State of Washington v. Wanrow.” *Center for Constitutional Rights*. 2007. <https://ccrjustice.org/home/what-we-do/our-cases/state-washington-v-wanrow>.

“The Fourth Estate, the 2016 United States of America Presidential Election, and the United States Supreme Court.” *Iowa Free Press*. June 20, 2016. <https://web.archive.org/web/20191205003839/http://iowafreepress.com/2016/06/20/the-fourth-estate-the-2016-united-states-of-america-presidential-election-and-the-the-united-states-supreme-court/>.

Thorton, Mark Otto Jacob. “Framingham Eight.” *Cryan*. October 18, 2017. <https://www.cryan.com/blog/20171018.jsp>.