

Spring 2012

Domestic Violence in Boulder County: Gendered Trends in Case Outcomes

Sarah McCullar

University of Colorado Boulder

Follow this and additional works at: https://scholar.colorado.edu/honr_theses

Recommended Citation

McCullar, Sarah, "Domestic Violence in Boulder County: Gendered Trends in Case Outcomes" (2012). *Undergraduate Honors Theses*. 236.

https://scholar.colorado.edu/honr_theses/236

This Thesis is brought to you for free and open access by Honors Program at CU Scholar. It has been accepted for inclusion in Undergraduate Honors Theses by an authorized administrator of CU Scholar. For more information, please contact cuscholaradmin@colorado.edu.

Domestic Violence in Boulder County: Gendered Trends in Case Outcomes

Sarah McCullar

Spring 2012

Lorraine Bayard de Volo, Primary Advisor (Women's and Gender Studies)

Deepti Misri (Women's and Gender Studies)

Joanne Belknap (Sociology)

Celeste Montoya-Kirk (Women's and Gender Studies)

Abstract

Despite years of research done regarding the impacts of domestic violence, significant questions remain about the implications of arrest and conviction for women who are charged with domestic violence. Complex interactions between a woman's role as victim and offender are relevant in the approaches researchers take when examining women as domestic violence perpetrators. In this investigation, I analyzed arrest and sentencing data from the Boulder County Domestic Violence Research Team, and then investigated those trends by interviewing legal professionals in Boulder County to determine if gender affects sentencing outcomes in intimate partner abuse cases. My results demonstrate that in the domestic violence sentencing process, gender is related to the criminal history of the defendant, the types of abuse that are committed, and the likelihood of a case dismissal. These trends point to the need for more extensive research about the ways that arrests and sentencing in domestic violence cases affect both victims and perpetrators. Importantly, this investigation also demonstrates that there is a need to establish policies which acknowledge the gendered dynamics of intimate partner abuse.

INTRODUCTION

In evaluating the ways that women and men experience domestic violence, there are various questions left unanswered despite the plentiful amount of research done on this topic.¹ While there are many ways to analyze how domestic violence offenders are treated by the criminal justice system, important aspects remain unexplored. One question that warrants further research is “What explains the disparity that appears to favor women in sentencing and conviction following mandatory arrests?” Through conducting analysis on statistical reports kept by law enforcement in Boulder County, I find that women and men arrested for domestic violence often receive different outcomes in the resolution of their cases. Other studies have produced similar findings yet little scholarly attention has been devoted to this trend (Henning and Feder 2004; Busch and Rosenberg 2004; DeLeon-Granados and Binsbacher 2006).

¹ I use the phrases “domestic violence” “intimate partner abuse” and “intimate partner violence” interchangeably to refer to the phenomenon wherein women are subject to coercion, control and violence perpetrated by an intimate partner. The changing trends in the literature using this terminology are notable and I hope that reflecting this in my work will help incorporate a broad spectrum of literature into this analysis.

Some observers wonder, “Is women’s seemingly preferential treatment in the processing of domestic violence cases indicative of discrimination against men charged with this crime?” Through an examination of the extant literature on the processing of domestic violence cases in courts throughout the United States and through my own investigation of attitudes in the justice system in Boulder County in Colorado, I conclude that the main factor explaining women’s less severe punishments for intimate partner violence is their criminal histories, which are generally less extensive than those of their male partners. An additional significant factor involves the types of crimes women commit in the context of intimate partner abuse: women’s commission of domestic violence crimes against intimate partners differs from men’s. Specifically, women are less likely to be given the maximum sentences available because the crimes women commit tend to be less violent than men who perpetrate intimate partner violence; additionally, women are more likely to engage in criminal behaviors that are less physically abusive, but are more harassment-oriented. The final significant contributing factor to this trend relates to the dismissal process in Boulder County wherein prosecutors tend to pursue the most winnable cases. When women are defendants in domestic violence cases, their cases are not likely to be pursued compared to men’s cases. This does not constitute discrimination per se, but points to a disparity in the way that women and men are treated as domestic violence offenders, which I examine in this project.

The trends I evaluated in my investigation were observed by legal professionals in Boulder County’s judicial system. Their interpretation of the cases involving domestic violence reflect the attitudes towards women defendants and illuminate the rubric that these professionals utilize to prosecute, defend, and adjudicate these cases. Their experience with handling these types of cases suggests that further study of women’s role as perpetrators is warranted in all

stages of the processing of the cases. Because there is a lack of consensus among legal professionals, scholars, and advocates concerning the best ways to approach domestic violence cases, especially when they involve women as defendants, further research will help identify the trends which are most pertinent to intimate partner abuse cases.

In order to determine the in women's increasingly visible role as perpetrators of intimate partner violence, critical evaluation of the response of the professionals who come into contact with women defendants during the processing of women's cases is crucial. To begin, the arrest process signifies the beginning of contact with the criminal legal system and can shape the entire process of addressing intimate partner abuse in a legal capacity. After lobbying for more stringent responses toward domestic violence perpetrators and the success of civil lawsuits against police departments, grassroots activists have propelled pro-arrest policies into common practice throughout the United States (Miller 2001). When law enforcement officers respond to domestic violence situations, it is particularly important to interrogate how sensitivity to women's experiences with violence affects a police officer's response to domestic violence incidents (Robinson and Chandek 2000), especially if a woman acts in self-defense. It may be unclear to an arresting officer which partner is the primary aggressor which may lead to errors in the process of an arrest in response to intimate partner abuse situation. As women's cases are processed in the court system, their records tend to demonstrate that they are generally less violent than their male counterparts and on the whole have fewer previous offenses. When women face domestic violence charges in court setting before a judge, these mitigating circumstances are typically raised, often resulting in lesser sentences than men who are arrested with domestic violence charges. The combination of increasingly stringent arrest policies

coupled with judicial discretion produce disparate outcomes for women and their male abusers as their domestic violence case is handled through legal channels.

This conclusion strongly suggests that women's circumstances should ideally be considered at all stages of the criminal justice process – from arrest to case conclusion. Careful consideration of patterns concerning the arrest and sentencing of domestic violence cases will reduce erroneous arrests, increase the efficacy of the justice system with regards to domestic violence, and thus will ultimately lead to a better understanding of intimate partner abuse. Whether in law enforcement, on the bench, or in the district attorney or public defender's office, legal professionals should endeavor to constantly make themselves aware of the nuanced dynamics at play in intimate partner abuse. Of course, there are certain lenses that would be most useful in the continuing education of the workers of the legal system; these preferred approaches would privilege the experiences and narratives of victims of domestic violence, examine the patterns of abusive behavior on the part of perpetrators, and would strive to ensure that victims' autonomy is respected and preserved.

The following analysis examines these factors and will proceed as follows. I begin by considering the literature pertaining to women's roles in intimate partner violence. In this section I pay special attention to the factors that affect women's use of violence against their partners and examine the scholarly debates about women's circumstances that are affected by mandatory arrest laws. Following that, I turn to a foundational statistical framework which served as the impetus for this project. I draw from statistical data published by researchers in Boulder County concerning domestic violence data collected over the years. In the main part of my analysis, I call upon legal experts in Boulder County to discuss the trends involving women in domestic violence cases. In order to ascertain the most relevant aspects of women's

involvement with intimate partner abuse, I interviewed nine legal professionals in Boulder County and included their responses in the results section. I conclude by discussing my findings and outlining the implications of the responses I gathered.

LITERATURE OVERVIEW

I turn now to the debates in the literature about the application of justice for women who are simultaneously victims and perpetrators. I begin by situating women's delinquency in general wherein I evaluate some theories about the nature of the crimes that women commit. Next, I will consider the literature that examines women as victims and offenders in intimate partner violence, specifically relating them to the application of the law. Following that, I will provide an overview of the debate about mandatory arrest law in domestic violence cases and its impacts on women in the criminal justice process. The final component of my review will focus on the ways that women's domestic violence cases are handled during sentencing.

When researching domestic violence, it is paramount to acknowledge that violence against women occurs worldwide (Krug et al. 2002) and that it constitutes a major public health and gender equality problem. My focus here will be on the way that domestic violence cases are handled in the criminal justice system in the United States, specifically in Boulder County, Colorado. This does not suggest, of course, that women in the United States have a more serious problem with violence in the home or that their experiences are representative of women around the world; instead, my research here is meant to examine a single aspect of the violence against women. There are certain limitations in my research which do not adequately acknowledge the varying circumstances that people in same-sex couples, people of color, people with disabilities, and people who are experiencing poverty face. I cannot claim that my research is as entirely inclusive in this respect as I would like, but I hope that my research will highlight the need for

further study concerning the ways that people who are marginalized experience domestic violence and how they are treated in the criminal justice process. Despite the lacunae in my methodology, I employ a feminist analysis when looking at the ways that domestic violence is handled in the United States court system because it offers a comprehensive approach to critically engage with the aspects of gendered power relations, the resulting inequality of those relationships, and the way that this dynamic affects the prosecution of individual offenders.

Obstacles and Other Considerations in the Legal Responses to Domestic Violence

There are numerous aspects of intimate partner violence that must be clarified in any discussion of the way that this crime is treated in court systems in the United States. It is especially important to examine the attitudes which shape the policy outcomes. Protecting the family and the privacy of the members of the family often affects the manner in which domestic violence is handled by the police and the courts. There is a certain reluctance to treat crime that occurs within the home the same as crime that occurs in the outside world because domestic violence has been often considered to be a private, family matter (Mitchell 1992). One predominate view is that society endeavors to maintain the cohesiveness of the family as a social group both for the good of its members and for the benefit of the society in which it exists; thus, while many law enforcement and judicial officials recognize the severity of domestic violence, they are sometimes reluctant to address the issue for fear of compromising family structures (Straus 1996). This view highlights the need to approach this subject matter from a critical perspective because there are many ways that the family functions as a microcosm of societal expectations and fulfills certain roles and expectations for acceptable behavior. Because of societal obstacles in place that seek to undermine the legitimacy of claims of victims of intimate partner abuse, women may find it difficult to find legal recourse when they have been accused of

a domestic violence crime. Some theorists argue that violence used by women in an abusive situation is considered legally inexcusable and will therefore be treated severely in the legal system (Edwards 1984). Noting this, Edwards insists that we not only consider the gendered interactions between partners, but also the justification used for such violence (Edwards 1984). Considering that women's use of violence in their intimate relationships is scrutinized severely in the criminal legal system, as Edwards suggests, what approaches can scholars and advocates use to understand the context in which women use violence against their partners?

In order to answer this and other questions, I draw upon the theories of women's criminality and then explore how that contributes to the discussion of women's role as perpetrators of domestic violence. For many years, Freda Adler, one of the most vocal theorists on the increasing rate at which women participate in criminal activity, hypothesized that as women embraced the rhetoric of the feminist movement from the 1960s and 1970s, these women rejected notions of traditional femininity. She argued that as women endeavor to become more like men, they begin to mimic male behaviors including the way that men commit crimes (Adler 1975). This well-known theory offered explanations for what many believed were a significant increase in the number of women committing serious crimes.

Agreeing in principle with these notions, Richard Davis claims that, "Between 1970 and 2000, the number of crimes committed by women increased by 144%. Violent crimes by men increased by 85% during that same period, and violent crimes by women increased by 260%" (2008). In the context of domestic violence, Davis argues that because power and control are the basis of any crime, women can be just as violent as men and oftentimes are (2008). This approach mirrors Adler's argument by asserting that as women gain access to equality, they have more power in general, which translates into the commission of crimes.

Davis and Adler's arguments are problematic because the way these authors apply them to women's circumstances oversimplifies the situations that many women face as a result of violent relationships. Not only do they fail to address the ways that men's violent actions against their female partners might influence women's criminal behavior, but there is no acknowledgement that the rates of women's battering of their male partners are significantly less than the rates at which men batter their female partners (5% and 95% respectively) (Hamberger and Potente 1994). They similarly fail to employ an intersectional theoretical framework to their discussion of women's delinquency in general. Using a more intersectional approach to ascertain the motives behind women's commission of crimes is preferable to a monolithic explanation of gendered trends in crime. It more adequately represents the way that women's choices are dependent on the situations they face and it is here that a feminist framework becomes most useful for analyzing this debate.

Davis and Adler engage in arguments which reify the notion that intimate partner abuse has "gender symmetry" which means that women and men engage in abusive behaviors equally. The insistence that men and women achieve parity when it comes to violence toward intimate partners often seems to trade off with the reality that there is a distinct asymmetrical aspect to gender-based intimate partner abuse. Problematically, this stance seeks to delegitimize violence against women while assuming that compassion for victims is a "zero-sum" endeavor (Kimmel 2002). Kimmel explains that researching the ways that intimate partner abuse as a gendered phenomenon is important for understanding the effect it has on both men and women. He additionally claims that evaluating intimate partner violence and finding solutions for perpetrators and victims does not have to be mutually exclusive (2002). To that end, it is

constructive to use gender-based frameworks to analyze the implications of domestic violence, especially as it pertains to the arrest and sentencing of women arrested for this crime.

There are significant gendered trends that are indicative of the different ways that men and women experience intimate partner abuse. A useful approach to explaining women's role in domestic violence also highlights the unequal access to tools for escaping violent situations. The ways that men experience violence should not be minimized or discounted, but it is important to acknowledge the dissimilar ways women and men experience intimate partner abuse. Men, when they are abused, have a better chance of escaping a violent situation (Leonard 2003). Unlike abuse directed at women, the intent of domestic violence against men is not to terrorize or dominate them. There is also a significant difference in the level of injury incurred by women compared to men in abusive situations. Furthermore, women are more likely to experience different types of violence; marital rape is predominately perpetrated by men and thus serves as another significant indicator of the disparity in abuse to which men and women are subjected (Leonard 2003). It is also worth examining that women tend to be more likely than men to experience financial abuse at the hands of their abusers (Romans et al. 2007), thus making it more difficult for them to gain financial independence, which could assist them in leaving the relationship. Gendered narratives of motherhood and responsible parenting often pressure women to stay in abusive relationships because they believe it is in their children's best interest to have a father figure or role-model (Buel 1999). There are several factors which women must negotiate when experiencing violence that often do not apply to men. Men and women experience intimate partner abuse differently, and thus have differing resources and ability to protect themselves and their children.

Victims and Perpetrators: Navigating the Space in Between

In many domestic violence cases, law enforcement officers and legal professionals use a paradigm which reinforces the victim-offender division, which prevents them from examining this type of violence and its role in response to conflict (Buzawa and Buzawa 2003). For women, this artificial dichotomization of victim-perpetrators' experience is not indicative of their histories with familial violence. An indicator that victimization and perpetration of crime are correlated in the lives of some women is reflected in studies which have studied the delinquency patterns of women who have experienced abuse. Women who are incarcerated have histories of sexual and physical violence that is two to three times greater than women in the general public (Harlow 1999), suggesting that victimization might lead to a pattern of criminal offending (McDaniels-Wilson and Belknap 2008). The lines between victim and perpetrator are indistinct and women who commit crimes often encounter both experiences (Siegel and Williams 2003). Scholarly attention needs to be directed towards exploring the roles that women play as victims and survivors of domestic violence, which serves to bridge the gap between the ways women can be perpetrators as well as victims in these types of crimes. Though this is likely the most common way that women's experiences are depicted in relation to domestic violence, a critical examination of the ways that this shapes women's interaction with the law enforcement and criminal justice systems is imperative.

Using gender-neutral measurement mechanisms to determine how violence is employed in intimate relationships fundamentally ignores the inherent power differential between men and women in heterosexual relationships. Some authors, like Davis (2008), claim that there is no empirical data to demonstrate that patriarchy causes violence against women. He asserts that power differentials exist in all types of relationships and that factors such as physical power, economic coercion, and emotional and economic coercion are present in violence perpetrated

against people who are elderly, people in the lesbian, gay, bisexual, transgender (LGBT) community, between siblings, et cetera so gender-based violence is in no way unique (2008). Davis' analysis is not completely erroneous in this instance, but he fails to take into account that "...social norms, laws, policies, and sheer physical strength systematically have given men more power than women" (Leonard 2003). Because power differentials are inscribed in gender constructions and expectations, the hierarchical understanding of the roles that each gender play ensure that men benefit from power over women in both the public and private spheres. This dynamic further entrenches the way that some women experience abuse. Power over an intimate partner is the reason that intimate abuse occurs and it includes the ways that abusers employ physical, emotional, financial, and other forms of control to ensure that the other partner behaves in such a way that the abuser finds satisfactory (Stuart van Wormer and Bartollas 2000).

Arguably, the most important aspect of women's violence towards an intimate partner is that when faced with a violent situation in the home, women were more likely to use violence in self-defense while men were more likely to report using violence to punish or control their intimate partners (Hamberger and Potente 1994). Women are significantly more likely to report that the duration of violence against them in their relationships lasts longer than men's. Women who are abused are also more likely to seek medical attention and lose time at work due to their injuries (Tjaden and Thonnes 2000). This suggests that there is a fundamental difference in the way that women and men utilize and respond to violence in their relationships. Even if it were true that men and women are equally violent toward their intimate partners, their essentially different uses of violence would be indicative that there are circumstances which propel women into using violence that may not apply to men in the same way.

Because women are often framed as victims, when they do perpetrate a crime like domestic violence, they often struggle to navigate between the role of perpetrator, on the one hand, and the role of victim on the other—a victim acting in what she perceived to be her best interest. As victims, they may feel shamed by the lack of agency that others believe defines their experience, but they must also work through the legal system that may not be able to fully address her needs as a survivor of violence (Leonard 2003). Women who are considered perpetrators in intimate partner abuse often have experiences with being victims which shape their interactions with law enforcement, social services, and the courts.

One of the most prominent ways that domestic violence has been brought to the attention of a larger academic community is through the research of Lenore Walker, a pioneering researcher who coined the term “battered woman’s syndrome.” Walker’s research (2006) underscores how women who are abused can be diagnosed with a form of post-traumatic stress disorder which can affect the ways they respond to violence (Walker 2006). Her findings created a new way for experts in the fields of psychology and psychiatry to explain why women who have been abused perpetrated crimes against their abuser. These findings also provided justification for women who retaliated against abusive partners and “...what is seen as extreme force used by the victim may be proportionate to a man’s long history of abuse” (Stuart van Wormer and Bartollas 2000). As this defense became more mainstream in the court cases where women were indicted as perpetrators, this helped explain how the dynamics of power and control can have a significant impact on the way a woman uses survival mechanisms to ameliorate or escape an abusive situation.

Indeed, the ways that women are likely to react when they are experiencing abuse is consistent with the finding that only 2% of the domestic violence incidents where a woman was

identified as the perpetrator involved her being the primary aggressor (Leonard 2003). Women are far less likely to initiate a violent attack, and if they do, it is often in order to react to previous violence. Furthermore, women identified as perpetrators in domestic violence incidents are likely to have been victims themselves; 40% of women who were arrested in dual arrest cases were victims of intimate partner violence in the past (Martin 1997). Ultimately, there is rarely a definitive line between those women who are perpetrators and those women who are victims because these categories are not discrete and frequently encompass both experiences.

Mandatory Arrest Laws: Solution or Entrenchment?

Once domestic violence captured the public interest in the 1970s in the United States, vocal advocates began to push for increasing police response to domestic violence incidents. In the past, police were hesitant to arrest when called to the scene of a violent incident, which sometimes led to the severe injury or death of the victim after the police left. As a result of civil lawsuits filed against police departments for failure to adequately respond to incidents of intimate partner violence, many states passed laws which required that one or both of the people involved in a domestic violence incident be arrested (Miller 2001). While this appeared, on face value, to serve as an effective deterrent for perpetrators, the effects of these pro-arrest policies are complex and have many implications.

Some scholars have argued that police discretion is a key factor in determining who is arrested in domestic violence cases, stemming from an officer's attitude about the people involved in the case and moral judgments about the situation itself (Martin 1997). Martin asserts that this is detrimental to women of color and women experiencing poverty especially since they are more likely to be arrested in dual arrest cases because typically police discretion is not in their favor (1997).

Studies have also focused upon the problematic nature of the lack of police discretion. Blanket approaches to curtailing domestic violence mean that police officers are prevented from respecting the wishes of the victim and are not allowed to decline to arrest based on the severity of the incident (Buzawa and Buzawa 1996). These sorts of arrest policies can prevent victims of domestic violence from having agency in a situation because there is no room for the wishes of the victim to be considered.

The impact that mandatory arrest policies have on women, victims and perpetrators alike, is of paramount importance when studying policy implications of domestic violence reform. If building a safer society for all people is truly a goal of the criminal justice system, the scholarly debate about the impacts on women is key to understanding the broader issue at hand. Recognition of women's situational pressures is equally important in determining the best approach to implementing domestic violence policy. Some scholars aptly argue that "[Arrested] women are often battered women who are enmeshed in a pattern of violence that they typically did not initiate or do not control" (Miller 2001). Women in violent situations must often negotiate between assuaging her partner's temper while making decisions that will allow her to survive. When a woman is arrested after the police have been dispatched to the scene of an incident involving intimate partner violence, she may lose trust in the police's judgment and may feel unsafe in calling for help in the future because her trust in law enforcement has been compromised (Martin 1997), thus underscoring the problematic nature of mandatory arrest policies.

In addition to feeling victimized by the police and criminal justice authorities, women may be subject to continuing or increased violence after she and/or her partner have been arrested. Despite evidence that initially indicated that arrests will deter future violent incidents

(Sherman and Berk 1984), a batterer may increase his level of violence after charges have been brought against him (Hart 1992).² There are instances in which the victim of a violent altercation knows her partner's tendencies and may be privy to threats he may have made or to what his reactions have been following previous arrests; she is in the best position to know how an arrest will affect his behavior and thus knows what course of action will keep her relatively safe. Women in abusive relationships often must navigate a myriad of complex factors in their relationships and ultimately, a woman who is being abused is the expert in her own situation (Han 2003). Preserving a victim's autonomy is one of the key ways that she can transition from victim to survivor, but mandatory arrest policies can significantly undermine women's efforts to regain a sense of control in their situations.

Women's autonomy both as victims and survivors is consistently undermined, additionally, by the manipulation of law enforcement institutions by an abusive partner. For example, some abusers self-inflict injuries and then call the police claiming that his female partner caused the harm, thus manipulating the situation in his favor (Mekha and McCloskey 2007). An abuser may also call the police during an event where the victim chooses to retaliate against his abuse (Miller 2001). In this instance, her status as victim is called into question and her ability to be protected by law enforcement is limited by the abuser's control of the situation. Because abusers ultimately aim to control their victims, using the criminal legal system to create negative consequences for their partners is another way for abusers to maintain power and control in the relationship.

² The Sherman and Berk study's findings were incredibly influential in the decision-making process of police departments across the country to implement more stringent pro-arrest policies. The authors of this study cautioned against widespread application of the results until they could be replicated, but many law enforcement entities used the initial findings nonetheless.

Even if many women share common experiences in their abusive relationships, their various identities and life situations can drastically affect their experiences with law enforcement as victims and perpetrators. Hillary Potter (2008) provides a compelling argument for the sometimes unique ways that Black women are caught in the paradoxical situations that mandatory arrest laws create. For example, Black women are more likely to fight back against an abusive partner, which often places them in a precarious situation: they are often afraid to call the police if they are being abused because they will be accused of perpetrating the abuse as well. Indeed, as awareness about mandatory arrest laws increased among members of the African American communities across the United States, many Black women have become increasingly reluctant to call for help in these cases.

People in same-sex couples that have abusive dynamics may face similar problems when dealing with the criminal justice system because of mandatory arrest policies. Battering in same-sex couples is just as prevalent as it is in different-sex relationships (Stuart van Wormer and Bartollas 2000). For example, both women in a lesbian relationship may be subject to a dual arrest because the responding police officer may believe that there is mutual abuse occurring because there is no male aggressor. This can be traumatizing for both women, but especially if one woman is not the primary aggressor, her experience may be worsened by the too-broad approach to arresting perpetrators. Facing possible prejudice from law enforcement officers and personnel in the court system, people in the LGBT community may feel isolated from resources and feel that their relationship defines the treatment they receive.

Furthermore, women who are experiencing poverty may also encounter deleterious consequences as the result of mandatory arrests. Some of these women might be wary of calling the police in a violent situation if they believe that the arrest of their partner might result in the

loss of the family's income (Miller 2001). These women may not believe that they are in a position to call the police knowing that they face serious consequences for themselves and their children. In this way, mandatory arrests make a decision for a woman when she must choose between violence and possible destitution.

Another unintended repercussion of arrests made under a mandatory arrest policy framework is the negative impact that contact with the criminal justice system can have on women who have been arrested and have been convicted of charges of domestic violence. For women who are already marginalized based on race, class, sexuality, and/or ability, a criminal record can mean that a woman might encounter even greater difficulty in procuring employment that pays enough to provide for her and her family, it might present barriers to finding housing, and it may forever stigmatize her as an offender in the eyes of the law (Potter 2008). The added pressures of parenting, trying to maintain safety in their relationships, and trying to further their life projects means that even minimal contact with the criminal justice system can be extremely damaging.

Sentencing factors: How judges react to women as defendants

When considering the ways that judges and attorneys in the criminal justice system approach sentencing, it is important to recognize first that they often seek sentences and punishments that are appropriate for the person as a whole. These public officials are responsible for the conclusion of a case and can shape an offender's experience after an arrest has occurred, so they must be careful about the ways their sentences will impact the defendant.

Because cases are decided by officials with their potential biases and personal perspectives, some scholars believe that there are certain attitudes which shape the way that judges decide cases where women are defendants. One such framework that judges might utilize,

consciously or not, is the chivalry model. In this instance, the (usually female) defendant is placed on a pedestal and is exempt from harsh punishment and her sentence is likely to reflect a belief that women are comparatively pure and moral. Another aspect of chivalry is paternalism which necessitates that people in positions of power should protect those that are weak and helpless (Belknap 2001). These characteristics are often associated with women who are victims of violence (Karmen 1982). Chivalrous attitudes displayed toward female offenders might also stem from the belief that women are weaker and more passive and are thus not proper subjects for imprisonment. Similarly, women might also be perceived to be more submissive and less capable of crime so they cannot be held accountable for commission of serious delinquent acts (Nagel and Johnson 1994). Women are viewed as less capable of crimes compared to their male counterparts, so when females transgress the boundaries of law, they are viewed in more charitable ways.

Some scholars assert that there are caveats to chivalrous treatment in courts for certain women (Belknap 2001). Women who commit crimes that are consistent with expected gender roles and are stereotypical of female offenders might expect to see less harsh sentences. Judges might also use their discretion to give the most lenient sentences to white women to the disadvantage of women of color (Belknap 2001). Whether a woman displays proper adherence to the accepted norms of femininity may also determine the outcome of her case; lesbians, women of color, women who are experiencing poverty, immigrant women, women with disabilities, and women with unfeminine demeanors may receive punitive measures as a result of these characteristics (Simon and Ahn-Redding 2005; Edwards 1984). Research suggests that it is not only a woman's crime that is under consideration in the sentencing phase of her interaction with the criminal justice system but is also her manner and presence, which can become

aggravating factors in the disposition of her case. Some judges are believed to enact more severe sentences on female offenders because they violated standards of decency as well as the law.

These sentencing paradigms are problematic for women because they deny women the chance to benefit from equal treatment under the law. Even if the judgment handed down is ostensibly beneficial in the outcome of some women's cases, these attitudes deny women's agency and punish women for immutable qualities that are already factors that deny women justice in other realms.

One of the more charitable, albeit still gendered, explanations for sentencing discretion in the cases of female offenders is that judges and prosecutors alike take other factors into account when deciding how to proceed in a case. They might decide that there is not enough evidence against a female defendant to move forward or they might take action during informal phases of the process to reduce a charge or dismiss a case (Belknap 2001). The inclination to drop cases or reduce sentences through informal means is indicative of the reluctance to subject women to the full court processes.

There are many scholars that argue that women are given preferential treatment in general in the criminal process compared to men; when charged, their cases are dropped and if a woman's case is not dropped, she is likely to receive a more lenient sentence. Some believe that this is due to an attitude among judges that women are better able to reform their behavior and are less likely to reoffend (Armstrong 1977; Ménard 2008). This claim speaks to other theories of chivalry in the judiciary wherein women are considered morally upright and are therefore less likely to deserve punitive measures. Others argue that women's role as mothers is often a mitigating factor in sentencing decisions because judges believe that even though some women may have committed a crime that being at home taking care of their children is more important

than being punished through incarceration. This belief may stem from a perception that if women are unable to take care of their children, it places a burden on the rest of society (Simon and Ahn-Redding 2005; Nagel and Johnson 1994). Such attitudes are a reflection on the belief that women ought to adhere to traditional feminine standards that include maintaining a family.

There are a number of options for prosecutors and judges as they handle cases of intimate partner abuse. They can choose to dismiss the case altogether, determine that probation is the most appropriate sanction, demand that the batterer receive treatment, recommend a pretrial diversion, or order the perpetrator to be incarcerated (Hanna 1997). Buzawa and Buzawa claim that prosecutors believe that using discretion when choosing whether to pursue a conviction on a domestic violence case is an integral part of their job and allows them to decide to not aggressively pursue cases if those cases do not embody an explicit state interest (1996; Leonard 2003). Prosecutors may be reluctant to see a case through to conviction because they may face opposition from the victim herself in the form of not cooperating with the court process and may understand that removing a family's source of income could be damaging (Henning and Feder 2005). As they decide how to proceed with a case, prosecutors play an integral role in shaping outcomes in intimate partner abuse cases and are important to examine in determining how the handling of domestic violence cases leads to certain sentences for women.

Some scholars argue that in general intimate partner violence is treated with impunity by the personnel in the judicial system. It often appears that judges systematically minimize men's violence towards women, especially by blaming women for their victimization (Leonard 2003). While this attitude is generally reflective of traditional feminist narratives of patriarchal practices, there is a more complex dynamic at work here.

As female defendants who are accused of domestic violence charges navigate the system, studies have identified certain factors that work in their favor when determining the outcome of their cases on the part of judges. Gender serves as its own extralegal factor, both for the reasons above, and for the causes I found in my investigation. Women accused of intimate partner violence are more likely to be released on bonds of personal recognizance or to have their charges dropped altogether (Henning and Feder 2004)³. That women domestic violence perpetrators in general have a certain degree of trust conferred upon them highlights the prevalence of beneficent attitudes towards them. Henning and Feder also found that a woman was less likely to be convicted of the charges against her in domestic violence cases and if convicted was more likely to receive a lighter sentence (2004). These authors identified the factors discussed above as reasons for women's lenient treatment. They additionally attribute these sentencing patterns to the overall decreased severity of punitive judgment of female offenders across the board for other types of crime.

Because there is an expanding body of research that examines how these sentencing theories are applied to intimate partner violence cases, I have made an attempt here to provide an overview of some of the most relevant literature regarding sentencing in domestic violence cases. Yet, because there are still aspects of intimate partner abuse that are not addressed in the literature, I believe even more firmly in the necessity of investigation into the ways that judges and prosecutors work to produce just outcomes for women charged with domestic violence. What follows is an examination of the trends in sentencing women as defendants in domestic violence cases.

³ Personal recognizance (PR) bonds allow a defendant to be released from jail with only a signature and a promise to return for his or her court date. A district attorney must consent to the PR bond under most circumstances (Colorado Judicial Department and Colorado Division of Insurance 1998).

METHODOLOGY AND DATA

In order to determine what impacts mandatory arrest and sentencing policies have on defendants in domestic violence cases – both male and female – I took a two-fold approach to gather and analyze my data. While my methods are primarily qualitative, they are based on quantitative trends I observed in data published by the Boulder County Sheriff's Department. This data informed my preliminary research questions for this project and became the foundation of my inquiry. I will begin by outlining my data analysis methods for the quantitative data set and then I will explain the qualitative methodology.

The Boulder County Sheriff's Department has been part of a coalition which compiled county-wide statistics on trends pertaining to intimate partner abuse. Originally called the Domestic Abuse Prevention Project (DAPP), the reports became a source for examining the trends associated with domestic violence. As the project developed, its name was changed to the Domestic Violence Research Team (DVRT) to more accurately reflect the gathering and compilation of the data. I accessed these reports through the Boulder County Sheriff's Office website, which contained "links" to the most recent published reports from 2003 to 2010.

For each report, I examined the information that presented the arrest types and disposition of each case by gender. It is important to note that the data analyzed in the DAPP/DVRT projects view gender through a dichotomous lens, thus obscuring the experiences of people who do not identify with the gender binary. It is further crucial to recognize that the partner data sets that I utilized were silent about how race and gender worked simultaneously in domestic violence cases. The way that these reports presented information regarding various aspects of the dynamics of intimate partner abuse is limited in scope; further investigation into the ways that various social groups interact with the criminal legal system are imperative to gain a more

comprehensive understanding of the impacts of arrest and victimization as they pertain to intimate partner abuse.

From these reports, I was able to create spreadsheets that contained statistics concerning the rates at which women and men were arrested, got deferred sentencing, had their cases dismissed, were sentenced to jail time, or whose cases were dismissed with plea bargains. In analyzing the data concerning the outcomes of an arrest made on the basis of a domestic violence charge, I chose to make graphical representations to highlight the trends in a more accessible fashion. The comprehensive graph is included in the “Results” section, but the full data set that I utilized can be found in Appendix A.

The focal point of this study was the qualitative data I collected by conducting interviews with legal professionals in Boulder County. Because this analysis was conducted on such a small scale, I wanted to collect only the most relevant data. My inquiry centered on the reasons that women were more likely to have lenient sentences in Boulder County and I determined that those who would be most knowledgeable about the trends would be those who were most intimately acquainted with the arrest and sentencing processes. For this part of my investigation, I scheduled and conducted interviews with nine legal professionals, each of whom works in one of three aspects in criminal law. I interviewed three defense attorneys (both in private practice and in public defender roles), three prosecuting attorneys who work in the Boulder County District Attorney’s office, and three former or sitting county and district judges. I chose to conduct my data collection using this method in order to triangulate my results thus ensuring that a single respondents’ opinion was not entirely representative of entire group’s perspective on the trends relevant to my study. The interview questions I used for attorneys can be found in Appendix B and the interview questions for the judges can be found in Appendix C.

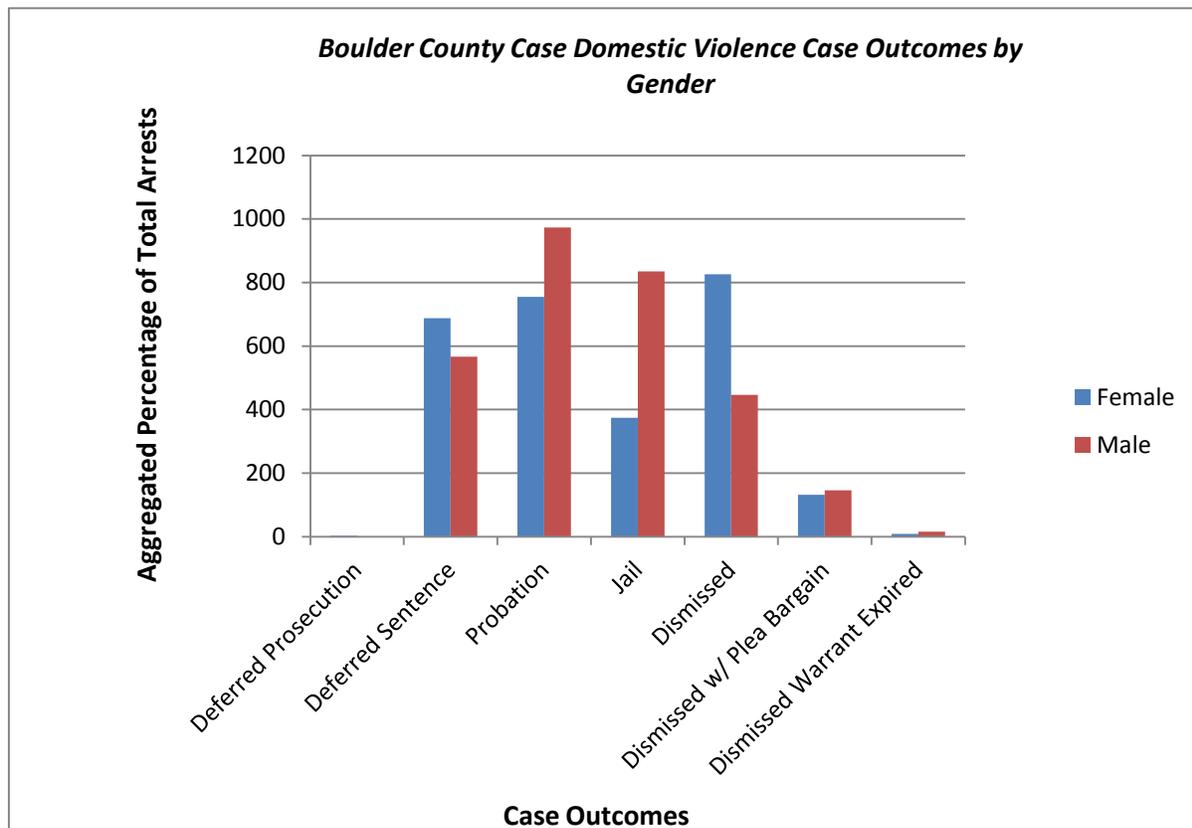
I anticipated the delicate nature of some of the responses to my questions and ensured the anonymity of each respondent. I kept each set of responses confidential, especially because some of the respondents have political reputations to maintain. I assigned a random number, ranging from 1 to 9, to each interview participant. Throughout the rest of my analysis, respondents will be identified with their assigned number, providing them with confidentiality.

RESULTS

Though small in scope and simple in nature, my results are two-fold and relate to each other closely. In trying to discern what factors are relevant in the domestic violence trends in Boulder County, I begin with an introduction of the preliminary data in the DAPP/DVRT reports published by the Boulder County Sheriff's Department. Though the project began in 1992, the reports for 2003 through 2010 were those accessible through the Boulder County website. These data sets provide insights into how intimate partner abuse is handled locally by examining multiple dimensions of domestic violence cases. I start by presenting a graphical representation of the data that reflects the gendered nature of domestic violence case dispositions. The second explanation of my results entails recounting the interview answers I procured between October 2011 and January 2012. These interviews provide professional insight into the ways that policy and outcomes interact in the narratives of those accused of intimate partner abuse. These data are valuable because they provide insight into the rationale that legal system professionals use to determine the course of action in cases; in other words, by explaining their own experiences and perspectives, this study can locate the attitudes which directly affect the cases and the victims and perpetrators involved.

The DAPP/DVRT data from 2003 to 2010 show a number of consistent and related trends across the years where these types of data were collected. Despite the multidimensional

aspect of the reports, a single phenomenon becomes salient: across the years studied, the cases that include women as defendants have outcomes in which those women are less likely to go to jail and are more likely to have their cases dismissed entirely. The chart below illustrates the cumulative percentage of each type of case disposition from 2003 to 2010, signifying the apparent advantage women hold compared to men. I chose to employ a method which would compare the case dispositions by their relative treatment of each gender.



The chart above highlights the gendered differences in dispositions, the court's final determination in a case, according to the different outcomes available⁴. In this section, I will explain the various outcomes in domestic violence cases that were in the initial reports, starting

⁴ It is important to note that there were inconsistencies in the data for the data set from which this chart was created. 2003's report failed to include the data for the category called "Dismissed Warrant Expired" in the "Recidivists" data set; 2004, 2005, and 2006's reports lacked the "Dismissed Warrant Expired" classification in the "Double Arrests" category. Further, the 2007 and 2008 reports lacked specific disposition information for double arrests. The 2009 and 2010 data only included disposition information regarding "Total Arrests."

with the dispositions that are not a significant percentage of the overall dispositions. According to the DAPP/DVRT reports (2003; 2004; 2005; 2006; 2007; 2008; 2009; 2010), “Colorado State Law prohibits deferred prosecutions in domestic violence cases; however, they are still occasionally given to [domestic violence] DV defendants in Boulder County” which explains the relatively low rate at which both women and men receive deferred prosecutions. Gisela Libertun, researcher with Boulder County explains that cases that were dismissed with plea bargains were cases that were dismissed because the defendant pled guilty to charges in another case (2012). In other circumstances, cases were dismissed because the defendant had a warrant out for his or her arrest but was never found. In these instances, warrants expired according to the statutes of limitation, and the cases were dropped (Libertun 2012).

The outcomes that I found most compelling and most worthy of further examination were those which were most commonly applied in the adjudication of domestic violence incidents which include deferred sentences, jail time, probation, and dismissals. According to Respondent 7, a prosecuting attorney who works in the Boulder District Attorney’s Office, deferred sentences occur when a defendant enters a guilty plea for the charge in question, and if the offender is not charged with any other offenses for set period of time (twelve or eighteen months are common timeframes applied to domestic violence cases) and the offender meets the conditions of his or her sentence – such as domestic violence treatment – the guilty plea will be withdrawn and the charge will be removed from the record. If the defendant does not follow through properly, the plea becomes permanent on her or his record. Participant 7 also explained that probation refers to the conditions placed on a defendant as part of the sentence that that person receives; these terms must be completed as part of the sentence for the crime committed. Probation can encompass both punitive and rehabilitative measures as determined by the judge

deciding the outcome of the case. The dispositions I discussed here, along with jail time and dismissals, constituted the majority of domestic violence case outcomes in Boulder County from 2003 to 2010; these outcomes provide insight into a trend which has gendered implications that I investigated through interviews conducted with legal professionals whose insights form the main part of the results of my study. I will highlight the salient trends of these interviews in the following section.

Interview Results and Trends

In the course of conducting interviews with three types of legal professionals in Boulder County, I was able to identify certain significant patterns in their responses; it is in this section that I will outline the answers that were most informative in the discussion of the gendered aspects of intimate partner abuse cases in Boulder County. It is important to recognize from the outset that their views, while important, are only a preliminary sample and should not be construed as representative of the views of the professional legal community as a whole.

To begin, five out of nine interview participants (Respondents 2, 4, 5, 8, and 9), noted that they have observed a shift in attitudes and policies since the 1980s regarding how law enforcement and legal agencies handled cases of intimate partner violence. These respondents believed that law enforcement and legal reactions to domestic violence became more stringent following pressure from women's rights advocates in the 1980s to standardize police response to domestic violence. Respondent 5, a judge, believed that police had more discretion in the 1970s and 1980s in the arrests they chose to make, but that as public awareness increased, and legislatures took on the issue, police were forced to adhere to stricter statutes. Respondent 6, a defense attorney, spoke about a different aspect of the intensification of pro-arrest policies, describing the pressure on police officers to not be culpable for an injury or death that was the

result of domestic abuse because there was no arrest made in a dangerous situation. Respondent 8, an attorney in the district attorney's office, identified the attitudinal shifts regarding dual arrest policy in the judicial system in Boulder County since the 1990s. This respondent had observed that the efforts of victims' advocates and the battered women's lobby increased the public and professional awareness about the rate at which dual arrests were conducted. In addition, the DAPP/DVRT reports highlighted the incidence of dual arrest cases, which this respondent believed led to a decrease in dual arrests in the last five years. These perceived shifts in the handling of domestic violence cases provide us with contextual understandings of the other trends that the respondents in my study noticed in the cases involving women as defendants.

My interview participants were divided about the benefits and costs of mandatory arrest policies in Colorado, and I found no consensus in their views about how this might affect the victims and perpetrators in domestic violence cases. Respondents 4 and 8, both prosecuting attorneys, believed that mandatory arrest policies were more beneficial than harmful, citing them as increasing protection of victims and allowing the police officers to err on the side of caution when responding to domestic violence. Participants 1, 2, and 6, a judge and defense attorneys respectively, found fault with mandatory arrest laws, citing the detrimental effects that mandatory arrest laws have on both the perpetrator of the violence and the victim. Respondent 1, the same judge, saw many cases that were the result of the victim calling the police so that her abusive partner would "leave her alone" but did not realize that her partner would be arrested. Further, this respondent believed that arrests are traumatizing for children who witness the event. My other interviewee who was critical of mandatory arrest policies had a different set of concerns. Respondent 2, a defense attorney, believed that mandatory arrest policies were too general and were not appropriate for all situations involving violence between partners; for

example, the people involved in a violent incident may not have even been cohabitating therefore reducing the need to remove the primary aggressor from the home. Respondents 2 and 6, both defense attorneys (2 is in private practice while 6 is a public defender) were most concerned about the effect that a mandatory arrest and no-contact order policies might have on victims who were arrested, even if those victims were not convicted. Participant 2 noted that when victims are arrested, they are alienated from the system and are less likely to reach out for help in the future. Both of these attorneys were also critical of mandatory no-contact orders which prevented their clients and their partners from communicating about important issues like childcare and finances.

Respondent 2 and Respondent 8 (a prosecutor in the district attorney's office) were in disagreement about whether police officers were under pressure to make more dual arrests. Participant 2 believed that law enforcement officers were being pressured to make more dual arrests, possibly to keep the number of men and women arrested somewhat equal. On the contrary, Respondent 8 explained that she believed that law enforcement agencies are being discouraged from making dual arrests because of pressure from the victims' advocacy community. These oppositional views were very much a part of the interviews I conducted and were increasingly important in other aspects of this study.

My interview questions for my respondents also sought to explore the ways that the District Attorney's office makes determinations about how to proceed with domestic violence cases and how that affects defense attorneys' response in defending their clients. Prosecuting attorneys 4 and 8 expressed that the District Attorney's office finds it difficult to determine who is at fault in some domestic violence cases, especially in cases where there are no physical injuries. In these circumstances, they said it is hard to discern which person is the primary

aggressor and who is the victim. Respondent 4 from the District Attorney's office and Respondent 2, a private defense attorney, expressed similar concerns about the complicated nature of deciding the primary aggressor because some abusers can be very persuasive at the scene when law enforcement officers arrive. My interview with Respondent 2 yielded results which highlighted this attorney's belief that men who perpetrate intimate partner abuse can be persuasive at the scene, making the responding officers more unsure of the best course of action. In my interview with Respondent 6, an attorney in the public defender's office, she explained that her office has seen cases where a male perpetrator of abuse will deliberately call the police in order to manipulate his female partner, forcing the prosecuting attorney and the judge to decide if his claims were valid. Respondent 4 even discussed the incidence of perpetrators using self-injury to manipulate officers into believing that their partners were the instigators of the violence. These respondents were concerned about the complexity of determining who the primary aggressor is, and what that meant for the processing of these types of cases.

Despite the concern about the lack of clarity concerning who is perpetrating the violence in intimate partner abuse, Respondents 4 and 6 expressed confidence in the abilities of the District Attorney's office to determine who is perpetrating the abuse in domestic violence cases and to ascertain who the victim is. Both of these interviewees indicated that even if an arrest occurred erroneously, the District Attorney's office would be able to take more time to review the facts and circumstances in the case in order to determine which partner is the abuser. These responses underscore the ways that domestic violence cases are handled in that they point to how the mandatory arrests statutes work and how the prosecutor's office handles the cases as a result.

My next questions focused on the rules and procedures that the District Attorney's office uses in the course of prosecuting domestic violence cases. While Respondents 2, 5, 6, and 9

claimed that the court system's response was uniform for first-time offenders through the application of minimum standards, I learned that the District Attorney's office has discretion in the proceedings of domestic violence cases. Respondents 5 (a judge), 4, 7 (both prosecuting attorneys), and 2 (a defense attorney) related that the District Attorney's office handles dual arrest cases in such a way that they will often choose the case they are most likely to win. Respondent 4 qualified her statement by describing how her office will pursue both cases in court if they are unable to determine which defendant was the predominant aggressor and will go forward with both cases if they believe that both defendants were responsible for the commission of a domestic violence crime. The prosecuting attorneys only take the cases to trial which they believe they are likely to win; this respondent believed that prosecutors have an ethical obligation to only pursue those cases that have a chance to be successful. Conversely, the District Attorney's office will dismiss the entire case if they are unable to prove what actually occurred between the parties involved. My interview with Respondent 7, another prosecuting attorney, clarified the guidelines that the District Attorney's office uses when deciding how to approach intimate partner abuse arrests. He explained that his office makes a judgment call when it comes to dual arrests by examining the injuries and/or third party eye witness accounts of the event. Their office cannot use emergency "911" calls to decide which person perpetrated the most injurious violence because to do so might violate the defendant's constitutional right to avoid self-incrimination under the Fifth Amendment to the United States Constitution. In other words, using the "911" calls may reveal facts about the case which would otherwise be inadmissible in court if the defendant exercised his or her right to remain silent.

Regardless of the type of arrest, the Boulder County District Attorney's office attempts to utilize prudence in intimate partner abuse cases when deciding whether to dismiss the case or

what sentence they recommend if they decide to prosecute the case. The prosecutors in the District Attorney's office must take into consideration a number of factors, and are often faced with challenging circumstances that pose consequences for both the perpetrators and the victims. Prosecuting attorneys 7 and 8 described to me situations where they believed it was in the victims' best interest to prosecute the abuser, despite resistance from the victims themselves. Respondent 7 spoke about his experience with a victim whose abusive partner had been arrested, and she was quite adamant about wanting to drop the charges against him. The District Attorney's office pressed forward regardless of her complaints and the perpetrator was convicted and incarcerated. The victim in this case eventually wrote a letter to this respondent and the judge in her abuser's case thanking them for not listening to her; because her partner was convicted, she was able to escape that relationship and was able to build a new, safer life for herself and her children. Respondent 8 seemed to find the work done with victims more challenging. This attorney related the difficulty she has had working with victims who recant their stories and ask to have their abuser released. This respondent described how the District Attorney's office will press forward with a case, even if that means effectively forcing the victim to testify; she described how hard it is to make a victim do this, especially when testifying or proceeding with the case appears to make that victim "miserable."

There are circumstances where the District Attorney's office chooses a different course of action depending on the circumstances of the case. The challenges that the prosecutors I interviewed had with victims were certainly important, but the decisions about whether to prosecute women defendants in domestic violence cases had a more distinct gendered effect. When considering what types of punitive measures they will recommend in both single and dual arrest cases, prosecutors match the sentence they recommend with the crime that was committed

and the past behavior of the defendant. Notably, six of my nine interviewees (Respondents 1, 3, 5: judges; 6, 9: defense attorneys; and 7: prosecuting attorney) agreed that men have a more extensive criminal history compared to women. This signals to both prosecutors and judges that less punitive sanctions are appropriate for first-time offenders, while defendants with more extensive criminal histories will be subject to more strict measures.

Respondents from all three categories were also in agreement about the nature of the offenses that women tend to commit. Respondents 1, 5 (both judges), 7, 8 (prosecuting attorneys), and 9, a defense attorney each expressed a belief that women were generally less violent in the crimes they committed. In my interview with prosecuting attorney 7, I learned that domestic violence incidents are categorized into two main categories: per se offenses, which refer to the actual use or threat of violence against an intimate partner, and offenses that involve coercion, vengeance, control, or revenge. Women's offenses most often fall into the latter category and are usually characterized by offenses like violations of protection orders and stalking. This interviewee seemed to suggest that there are gendered differences in the types of crimes men and women tend to commit.

Respondents 8 and 4, both attorneys in the District Attorney's office, were careful to explain, however, that they believed that women could be and were just as violent as men, and that women can inflict serious damage when they are the abusers. Yet, even if women are capable of committing equally violent acts, Respondent 7 noted that women tend to be more accountable for the crimes they commit, saying that women are more likely to admit to their crimes, making their cases easier to prove; further, women are more likely to enter guilty pleas even when they are not the primary aggressors. These interviews suggest that even when women

commit violent acts against intimate partners, they are more likely to demonstrate accountability for their actions.

These factors play a significant role in how the prosecuting attorneys choose to pursue cases of intimate partner abuse, which in turn determines which cases actually go to trial. At that stage, there are another set of factors that judges use to determine the outcomes in these cases. The two predominant factors that the judges I interviewed used in their sentencing decision considerations were the seriousness of the incident that occurred and the criminal history of the defendants. Participants 3 (a judge), 4, 7, and 8 (all prosecuting attorneys) believed that judges used the seriousness of the violence as a measurement tool for determining the appropriate sentence. Similarly, respondents 3, 5 (both judges), 7, and 8 (prosecuting attorneys) agreed that judges also take the offender's criminal record into account when deciding on the sanctions for the crime committed. While these considerations allow the judges some discretion, it is important to reiterate that four of my respondents (2, 6, 9, defense attorneys, and 5, a judge) believed that minimum standards apply to every domestic violence case that makes it to court.

Even in light of some consensus about the standards judges use in their determination of sentences for domestic violence cases, there were still respondents who were critical of the sentencing process. Four of my nine interviewees (Respondents 4, 8, prosecuting attorneys; 2, and 6, defense attorneys) believed that judges used some gender bias in their decisions. Respondent 4 seemed to believe that judges were doubtful of women's ability to physically harm a male intimate partner because the male partner is usually bigger and stronger in stature. This same attorney also believed that judges were reluctant to give women jail time for fear of incarcerating a victim of domestic violence. In my interview with Respondent 8, she identified paternalism as a form of gender bias, stating that judges are influenced by cultural norms which

downplay women's capacity to commit domestic violence against an intimate partner, delegitimizing women's violence as a crime that deserves maximum punishment. Respondent 2's criticism focused on judges' predisposition to see women as victims in domestic violence cases automatically, regardless of the charges against the defendant. It was Respondents 6 and 9 who believed that some judges might give preference to women because of their child care responsibilities and may not want to overburden them with too many responsibilities.

Prosecuting attorneys 4 and 8 also believed that women got preferential treatment in the sentencing phase of domestic violence cases. Respondent 4 related to me during her interview that she worked with a probation officer who believed that women who were on probation were especially hard to deal with because they were "used to getting away with it." During my interview with Participant 8, she described when she had cases that she was prosecuting where women were identified as the primary aggressors, she received letters from battered women's shelter advocates who were attempting to demonstrate that their client was being wrongfully prosecuted because she was the victim of domestic violence. This attorney recalls being offended that they would ask for a more lenient sentence because she felt that she should treat each perpetrator equally. These respondents each had a different perspective on the ways that the sentencing phase of domestic violence cases could be more effective and those experiences are important to examine ways to ensure that the system functions fairly.

Finally, there were also respondents who believed that the sentencing process forced defendants into treatment, even in cases where it was inappropriate. Respondents 2, 6, and 9, all defense attorneys, explained that minimum mandatory sentencing could be too generalized and therefore ineffective for some offenders. All three believed that the lack of individualized treatment was problematic. Respondent 6 explained that when an offender is assigned treatment,

they are seen by an evaluator. That evaluator can recommend the minimum amount, 36 weeks of treatment, but can also advise that the offender attend more weeks of treatment; of concern for this attorney was the fact that these evaluators are paid per class, so they have an incentive to recommend additional weeks of treatment. It is important to mention, however, that Participant 9 (a defense attorney) and Participant 7 (a prosecuting attorney), described how there are changes being made to the current treatment model. These changes will seek to make treatment more individualized through different levels of counseling, small groups for different types of perpetrators, and exemptions from treatment for some offenders. There is certainly less agreement among my participants regarding best practices in the sentencing and treatment of perpetrators, but it appears that there are more conscientious changes being made to better address the needs of perpetrators of domestic violence.

DISCUSSION

The patterns that emerged from the analysis of this interview process are worth examining further in order to ascertain the impact that judicial practices have on offenders as well as victims of intimate partner abuse. Each respondent related their individual experiences with women who were defendants in domestic violence cases and were able to offer their interpretation of the trends and also gave their input on what issues need to be addressed concerning these types of cases. In this section, I will interpret their interview results through a feminist lens in order to critically examine the implications of the ways that women who are defendants in domestic violence cases are treated in the court system.

After consolidating the interview responses into broader topics that I discussed in the “Results” section, I was able to determine that there was the most consensus, where five or more participants agreed, on only three issues: **that domestic violence has gained prominence as an**

issue since the 1980s, that men have more extensive criminal histories compared to women, and that women are generally less violent than men. Importantly, these responses explain the disparity in sentences for men and women's outcomes in domestic violence cases. I interpret these answers as the common experiences that prosecutors, defense attorneys, and judges have in the processing of these cases and offer the best insight into why women are more likely to have their cases dismissed or to be given less stringent sanctions if their cases go to trial.

I begin here with a look at the significance of my respondents' reaction to the changes in domestic violence policy that have been made since the 1970s and 1980s. The observations made by Respondents 5 and 6 mirror the analysis done by Miller (2001) about how mandatory arrest policies became more commonplace following the 1980s. Participant 8 similarly identified the "battered women's" lobby as pushing for more stringent reforms. These responses signal that each of these respondents perceived a shift in policy outcomes due to pressure from women's groups to reform what was seen as a flawed approach to addressing domestic violence.

Respondents 1, 2, and 6 had criticisms of the mandatory arrest policies that were the most similar to a feminist approach to evaluating the effectiveness of stringent arrest policies as a solution to intimate partner abuse. These respondents were most concerned with the lack of discretion the police have to respect the wishes of the victims at the scene. Because law enforcement officers are required to make an arrest if there is probable cause, there may be deleterious consequences for the couple. This recognition of the negative impact that compulsory arrests have on the well-being of a victim of intimate partner abuse is crucial for evaluating whether mandatory arrests are more helpful or harmful, and the respondents demonstrated concern about how victims were stripped of agency concerning the arrest decision. The deterioration of a victim's agency following an abusive incident is of paramount concern

because rigid arrest policies undermine her ability to keep herself safe, especially considering that some perpetrators become *increasingly* violent after an arrest has been made [emphasis mine] (Hart 1993). Recognizing that a woman who does not wish for her abuser to be arrested might have a legitimate reason for doing so is essential for determining how to best support victims of intimate partner abuse.

My respondents additionally identified ways that women might be put into financial jeopardy by having their partner arrested, which would decrease a woman's ability to communicate about the family's money situation. This view was also addressed by Miller in her 2001 research in which she suggested that women who are aware of the arrest policies may not call for help because they might lose the family's income if a partner is incarcerated, thus destabilizing their financial situation.

Respondent 2 provided the sole perspective which described the reluctance on the part of some victims to contact law enforcement if a dual arrest has happened before or if the victim has been arrested. It is important to acknowledge the alienation that can occur when a victim is arrested, even if she is not convicted; this contact with law enforcement can be enough to deter her from seeking protection from police in future violent incidents (Potter 2008; Martin 1997). Further, Respondent 2's recognition that men who are perpetrators in intimate partner abuse cases can manipulate law enforcement officers at the scene of a violent incident resonates with Mekha and McCloskey's 2007 and Miller's 2001 research concerning the ways that abusers use tactics to preserve their own power and control. These factors contribute to the women's reluctance to utilize law enforcement as a form of self-protection.

While professionals in the Boulder legal community seem to have a more nuanced recognition of the implications that mandatory arrests have on victims of intimate partner abuse,

policy analysts and legislators need to revisit mandatory arrest laws in order to better reflect the needs and experiences of victims. Despite the pressure from some women's groups, there is a need to implement intersectional feminist perspectives which demand that the situational needs of women who experience this type of violence be taken into account. Promoting the recognition of the different identities that women have through the lenses of race, class, sexuality, ability, and gender would increase the understanding among legal professionals when approaching the domestic violence cases. A reform of mandatory arrest policies, taken in conjunction with more comprehensive law enforcement training, could potentially alleviate some of the concerns that my respondents expressed and that are in debate in feminist and victims' advocate communities.

One of the most telling aspects of my investigation was the agreement that many of my interviewees had regarding men's criminal histories and what role that played in the outcome of their domestic violence case dispositions. Through the interview process, I learned that the standards are fairly uniform concerning someone's first domestic violence offense, but that there were circumstances where a defendant's criminal history became a decisive factor in how that case would be handled. In dual arrest cases specifically, the District Attorney's office often chooses which case to pursue, which usually means that they end up dismissing the other defendant's case. Because men tend to have a more extensive criminal history, their cases more often go to court, while their female partner's case is dismissed; this finding is congruent with Belknap's 2001 research regarding the more informal processes that prosecutors use in women's cases. Finding out that this practice was common in the District Attorney's office helped explain the gendered disparity in case dispositions in Boulder County.

Regardless of the type of arrest (single or dual), men seemed more likely to have more stringent sentences, whether that included jail time, lengthier treatment plans, or more rigorous

probation requirements. This finding is consistent with research that posits that chivalrous models of judges' attitudes towards women offenders affects the way that judges hand down their sentences (Belknap 2001; Nagel and Johnson 1994). This distinctly gendered phenomenon speaks to the ways that men perpetrate crime differently than women; however, as my results demonstrate, Respondent 8 still believed that cultural norms let women receive less punitive sentences because women are perceived to be incapable of forms of violence such as intimate partner abuse. Some theorists disagree with this assessment, arguing that women who commit domestic violence crimes are treated more harshly in the courts for domestic violence crimes (Edwards 1984). This tension underscores the nature of the debate about the ways that domestic violence is treated in the court system and how this interacts with notions of equal treatment under the law.

Though none of my interview respondents specified whether the criminal histories of the defendants that were taken into consideration had to do with domestic violence or other types of crime, men were subject to more punitive case outcomes. Men, with their generally more extensive criminal histories, had cases that were more likely to demonstrate that they were guilty of perpetrating domestic violence against an intimate partner. A possible explanation for the more extensive criminal records for men who perpetrate intimate partner abuse is the high rate of recidivism for offenders who were convicted on domestic violence charges. A study that followed the lives of domestic violence offenders for five years indicates that 40% of domestic violence offenders recidivate (Shepard 1992), signaling that repeat perpetrators will get increasingly punitive sentences if they continue to commit domestic violence abuses. These cases were more attractive to prosecuting attorneys because the District Attorney's office had a better chance of winning them in court. Further, women are less likely to recidivate in domestic

violence cases in general compared to men (Ménard et al. 2008). The gendered effect of women and men's patterns of offending and reoffending are important for verifying the trends concerning sentencing in domestic violence cases.

The concern that the attorneys demonstrated for pursuing the cases they were most likely to win was a notable aspect of their responses. Many respondents struggled with the problem of determining the primary aggressor in the case, and were concerned about prosecuting the wrong person in the case. Two of my respondents believed that the District Attorney's office was making thoughtful choices about how to prosecute the domestic violence cases that were brought to them, which appears to be most beneficial for the parties involved in intimate partner violence cases. There are problematic aspects of this strategy, however. Especially in dual arrest situations, a case dismissal means that one of the people arrested was incarcerated, potentially separated from their children, and might have lost time from work. Consistent with Potter's 2008 research, arrests are disruptive and even a dismissal does not mitigate the negative impact that being taken into custody has on someone who has already been through a violent situation; these problems are exacerbated for victims of intimate partner abuse.

Another problematic part of the way that the District Attorney follows through on the cases is the way that single arrests are handled, particularly regarding the ways that victims are treated regarding their preferences in how the case proceeds. My sense from my interviews with prosecuting attorneys suggests that the prosecutors believe that by moving forward with a case despite the victim's dissent will result in positive outcome (e.g. helping her end an abusive relationship). While this may be true for some of the cases that have been processed through the Boulder County court system, prosecutors should be cognizant of the danger that women may be in after their perpetrator is released or after he completes his sentence, especially considering

Miller's 2001 research which suggests that some perpetrators increase their level of violence following an arrest. Respondent 8 was proud of her abilities as a prosecutor to treat each case equally under the law, using a gender-neutral framework. In the strictest sense, she is ensuring that justice is upheld because each person is afforded the same treatment, regardless of extralegal factors. Intimate partner abuse, however, is necessarily unequal in the way that perpetrators exert power over their victims; to treat dual arrest cases and cases where a woman is arrested for intimate partner violence as absolutely equal ignores some of the more nuanced ways that violence in intimate relationships manifests itself (Tjaden and Thoennes 2000; Hamberger and Potente 1994). Despite their good intentions, the prosecutor's office may be causing unintended injurious consequences for the victims of intimate partner abuse through their uniform approach to prosecuting domestic violence offenders. Alternatives to this model would promote the victim's autonomy by allowing her to determine the direction of the case, recalling that she is the most qualified person to determine her safety needs (Han 2003). This approach would be effective only if the victim and her family's safety could be ensured and that they will have the necessary resources to live comfortably if her abuser is incarcerated or removed from the home in a permanent way.

Another facet of the way that my interviewees viewed the process of exacting justice in intimate partner violence cases was the belief that women commit less violent offenses compared to men. Respondent 7 explained that when women did commit crimes that fell into the domestic violence category, they were less likely to use physical violence, and were instead charged with crimes like stalking and violations of protection orders. Though there was dissent from Respondents 4 and 8, the majority of my participants observed that women were less violent overall than men. Remarkably, as stated by Respondent 7, even when women are arrested for

domestic violence, they are more likely to plead guilty *even if they are not the primary aggressor*, [emphasis mine]. He went on to say that women are more likely to demonstrate accountability, regardless of their role in the abuse and that when defendants are accountable for their actions, they are viewed more favorably with the prosecuting attorneys, who believe this predicts future risk of reoffending. This echoes the work done by Hart (1998) who sees perpetrators' acknowledgement of the harm they have caused and accountability as critical components for enacting justice. Ultimately, not only do women tend to commit less violent offenses, but they are also more willing to take responsibility for their actions. This speaks to the fundamental differences between women's and men's domestic violence cases, and contributes to a gendered explanation in the disparity in their case outcomes.

The belief about the nature of men's criminal histories combined with the seriousness of the crimes that women commit informs the decisions that judges make in domestic violence cases. Four of my interview participants observed that judges use the seriousness of the incident as a measurement tool to determine case outcomes; four of my respondents also believed that judges used the defendants' criminal records to adjudicate the case. This demonstrates that throughout the handling of the cases involving domestic violence, women's behavior as perpetrators and defendants is significantly related to the outcomes in their cases. As I discussed above, women's perpetration of domestic violence offenses differs from men's significantly, and thus contributes to their more lenient sentencing.

The skepticism that some of my interview respondents expressed about the gender biases is answered by the different factors that contribute to sentencing decisions: previous criminal history and the severity of the incident(s). Because women tend to have shorter (or non-existent) criminal histories, less violent tendencies in domestic violence cases, and demonstrate

accountability for their actions, judges are able to determine that women generally pose less risk compared to men who perpetrate intimate partner abuse. Further, Respondent 4 believed that judges were reluctant to sentence a victim to jail time. Combined with women's likelihood of being the victim of intimate partner violence, many judges tend to favor women in their case decisions.

Even though these were the most prominent trends regarding the dispositions of women's cases as perpetrators of domestic violence during the process of collecting the interview data, there were other issues that my respondents raised and I will discuss those in the remainder of this discussion. These were aspects of women's role as victims and perpetrators of intimate partner abuse that did not have much consensus among my respondents, but I felt that they were pertinent to the discussion of gendered trends in domestic violence cases.

Treatment of offenders was a consistent topic of conversation and was very divisive for my respondents. Three of my respondents believed that the treatment model was too general and made it so that offenders who were convicted of domestic violence charges would be sent to treatment, even if there were circumstances where they perceived it as inappropriate. One respondent seemed to believe that offenders were assigned to additional treatment classes based on the incentivized system of evaluators who are paid for per class that they facilitate. While I did not investigate this claim further, I certainly believe that it warrants further research. If it is true that the same evaluators are the facilitators of the treatment programs for perpetrators, there could be some serious implications for the validity of the treatment process in Boulder County and in the state of Colorado.

Overall there are some positive aspects of the current and proposed treatment models that Boulder County is currently using or has plans to implement in the near future. Respondent 7

elucidated that the treatment program that has been in place since September of 2010. Currently, there are three tiers of perpetrator rehabilitation classes that utilize a “differentiated risk” model. The offenders assigned to Group A have the lowest level of risk; Group B has participants who have two to five risk factors; the participants of Group C have six or more risk factors⁵. In order to be considered eligible for completion of the treatment, the offenders must demonstrate competency in fourteen different content areas which are designed to give them tools to avoid future violence and to ensure that they take responsibility for their actions. This model addresses some feminist concerns about ensuring perpetrator accountability as it relates to the protection of victims and decreasing perpetrator recidivism (Burton 2006). By requiring offenders to acknowledge their role in the commission of a domestic violence crime, they must take accountability for their actions. This is a step in the right direction, though I have reservations about whether the most violent and manipulative perpetrators will continue to take responsibility for their actions once the treatment program has been completed.

In my view, the District Attorney’s office is attempting to provide the best perpetrator treatment available and is working to validate its methods with the University of Colorado at Denver. Their model addresses the concerns about overgeneralization of treatment and endeavors to ensure that perpetrators accept the consequences for their actions. More research should be done concerning the results of their validation study and should be monitored over time to evaluate the effectiveness of this program.

Another facet of my interviews that merits discussion concerned the paucity of services offered for male victims of domestic violence. Respondent 8 felt very dismayed that there was still a wide-spread perception that women are less violent than men and that there are no advocacy services for men who have been victimized. She also contested the idea that women

⁵ Risk factors include the use of a weapon during the incident, history of mental illness, etc.

are victimized more often than men, saying that it may be the case that men are victimized just as much as women but are reluctant to report it. This sentiment is consistent with other research that suggests that men are more hesitant to report abuse from an intimate partner than women (Felson and Paré 2005). This interviewee suggested that it would be useful to research why there are so few advocacy services for men who are victims of this type of violence. I certainly agree that men who are victims of abuse are underserved in many areas and that their needs must be addressed in order to give them the support they need. Advocates and legal professionals should be cautious, however, to ensure that providing more services for male victims of intimate partner violence would not trade off with women who are victims of intimate partner abuse, especially considering that victims' services should not become a "zero sum game" (Kimmel 2002). Since women constitute the majority of intimate partner abuse victims overall, balancing their needs with victims who are men is important and must be done carefully.

Ultimately, there are trends which indicate that there is a gendered effect on the ways that professionals in the criminal legal system pursue domestic violence cases. Those who perpetrate more violent crimes and those who commit domestic violence crimes more frequently have an increased likelihood of receiving more punitive sentences, especially when a dual arrest has been made. Women are more likely to have their cases dismissed or to have another sentence instead of jail time because their offenses are usually less physically violent and they tend to be more accountable for their actions. These factors explain the gendered sentencing disparities in domestic violence cases in Boulder County and bring to light the differences between women and men when it comes to responding to intimate partner abuse. The responses in this study also highlight the need for more extensive research and for increased programming to identify and meet the needs of victims of intimate partner abuse in Boulder County.

CONCLUSION

The purpose of this study was to identify preliminary explanations for the disparity in outcomes for domestic violence cases in Boulder County contained in the DAPP/DVRT reports from 2003 to 2010. Though only relatively small-scale investigation, this study research helps underscore important trends in the attitudes of defending and prosecuting attorneys as well as the judges who preside over domestic violence sentencing hearings. By examining their observations and experiences with intimate partner abusers, these interviews add to the body of knowledge pertaining to intimate partner abuse. In doing this study, I hoped to contribute to a literature that explores the dynamics of intimate partner abuse and how it manifests itself.

Limitations

This research investigated several important facets of intimate partner abuse in Boulder County, but there are still gaps in the conclusions drawn from this project. Because this project relied on only nine respondents, it was an extremely small sample of participants, and their responses should not be construed as representative of the attitudes and observations of other legal professionals who handle domestic violence cases. Further, their responses were gathered through personal interviews with the author, and this may have prevented them from sharing details that they might have otherwise included in an anonymous survey. It is also crucial to note that the interviews were arranged in such a way that I interviewed participants who had availability that matched my schedule; this was the epitome of a convenience sample and therefore should be taken into account when reviewing the data at hand.

There are substantive limitations in this study as well. Because I chose not to interview victims and survivors of domestic violence and was unable to access court documents and police reports, it was nearly impossible to determine what specific factors led to the outcome in each

case. The interview process gave me very general information about the ways that women are treated as defendants, but the first-hand experiences of victims and survivors were excluded from my analysis.

It is the omission of victim and survivors' stories which leads me to outline the other problematic aspects this particular inquiry. Because the DAPP/DVRT data do not provide statistics on case disposition by class, race, sexuality, and/or ability, they make it difficult to ascertain the impact that domestic violence dispositions have on the victims and perpetrators in these incidents through a truly inclusive lens. Feminist scholarship maintains that identity (race, class, ability, sexuality, and gender) should be of paramount importance in every aspect of study; my project was limited regarding all these identity categories except for gender. Even in this respect, however, this analysis fails to incorporate people whose identities are not included in the standard dichotomous gender binary. Their experience with intimate partner abuse is rendered invisible through the use of a heterosexual, two-sex paradigm.

This problem is reproduced because same-sex couples are generally not included in this analysis. Most of my inquiry focuses on why men are more likely in general to get more punitive sentences compared to women. Often, this question led to cases of dual arrest which involved arresting the members of a heterosexual couple. Indeed, only Respondent 4 identified the nuances of a case involving same-sex couples (interview with author, 2012). In order to form more broad-based knowledge the dynamics of intimate partner abuse cases and how they are processed in criminal courts, more research needs to be done that explicitly incorporates intersecting identities as a cornerstone of the study.

Recommendations for Future Directions and Outcomes

Respondent 5, a judge, expressed his interest in this project, and was eager to view the results. He said he believed that this type of analysis could be very helpful for both attorneys and judges to determine how gender affects their work with domestic violence victims and perpetrators. This study, along with more extensive investigations, will help illuminate the gendered trends as they concern violence against women and girls. The results and discussion presented here are intended to contribute to the larger conversation between academics and advocates alike about trends in intimate partner abuse.

Indeed, there are still a multitude of unanswered questions about the way that intimate partner abuse manifests itself in the lives of men, women, and children globally. The validation study conducted by the University of Colorado at Denver concerning the perpetrator treatment program in Boulder County holds promise for providing the necessary feedback about best practices for helping perpetrators. I believe that further research be conducted about additional treatment models and that the program models should be evaluated for effectiveness over time.

I additionally recommend that monitoring programs like the DVRT be continued in Boulder County. According to Community Justice Services of Boulder County, the DAPP/DVRT reports will no longer be produced due to a lack of funding (Libertun 2011). Because intimate partner abuse has significant impact on the lives of people around the world, communities should make a commitment to provide the necessary resources for continued research in this area. I acknowledge the economic realities that many law enforcement and judicial departments face, but the research in this type of violence is simply too important and impactful to be discontinued. Yet even in an ideal situation, the DAPP/DVRT reports should incorporate more complex analysis when examining the variables in the lives of victims, survivors, and perpetrators involved in intimate partner violence. These reports lacked

intersectional perspectives on how different identities might affect how different people experience abuse at the hands of an intimate partner. For example, the reports I used the monolithic category of “female” to describe case dispositions as they were processed in the courts. A more nuanced approach would have looked at the ways that women of color, women in the LGBT community, women who do not identify as “female,” and women who experience poverty have their cases handled in the Boulder County court system.

The findings in this investigation point to a gendered trend in domestic violence case dispositions which show that men tend to get sentences which are more punitive (e.g. jail time, probation) whereas women’s case tend to be dismissed at a higher rate and they are assigned jail time less often. My respondents believed that there were differences in the ways that men’s and women’s cases were handled by the courts in Boulder County, citing disparate criminal histories and differing levels of violence in the commission of intimate partner abuse. My investigation revealed practices in the District Attorney’s office that speak to the decision-making process that attorneys use when determining their course of action in a domestic violence case. Specifically, I learned that dual arrest situations tend to be the cases that have distinct gendered dismissals. Though there are almost certainly other factors which affect the ways that cases involving intimate partner abuse, this exploratory analysis suggests that gendered crime patterns influence the case outcomes.

Even if the gender of the perpetrator is not a direct factor in the sentencing decision, it influences the ways that cases are handled in court. Increased gender sensitivity needs to be incorporated into the policies and practices of the criminal legal system in order to effectively target the offending patterns of women; investing in gender responsive policies holds potential for both individual offenders and the system as a whole (Bloom et al. 2004). Because there are

different ways that men and women respond to intimate partner abuse, there are differences in the ways that those cases are handled by the police and the courts. Men and women do get different case outcomes in domestic violence cases in general and gender affects the ways that law enforcement and legal professionals approach their cases.

Works Cited

Adler, Freda. Sisters in Crime. New York: McGraw Hill. 1975. Print.

Armstrong, Gail. "Females Under the Law—'Protected' but Unequal." Crime & Delinquency 23.2 (1977): 109. Print.

Belknap, Joanne. The Invisible Woman: Gender, Crime, and Justice. Third ed. Belmont: Thomson Wadsworth, 2001. Print.

Bloom, Barbara E., Barbara Owen, and Stephanie S. Covington. "Women Offenders and the Gendered Effects of Public Policy." Review of Policy Research 21.1 (2004): 31-48. 29 August 2011. Blackwell Publishing.

Buel, Sarah M. "Fifty Obstacles to Leaving, a.k.a, Why Abuse Victims Stay." Colorado Lawyer. 28.19 October 1999. 2 March 2012.
<http://www.vcpionline.org/pdfs/50%20Reasons%20Why%20Victims%20Stay.pdf>

Busch, Amy L., and Mindy S. Rosenberg. "Comparing Women and Men Arrested for Domestic Violence: A Preliminary Report." Journal of Family Violence 19.1 (2004): 49. 28 February 2012. SpringerLink.

Burton, Mandy. "Judicial Monitoring of Compliance: Introducing 'Problem Solving' Approaches to Domestic Violence Courts in England and Wales." International Journal of Law, Policy and the Family 20.3 (2006): 366-78. Print.

- Buzawa, Carl G., and Eve S. Buzawa. "The Increased Policy Preference for Arrest." Domestic Violence: The Criminal Justice Response. Third ed. Thousand Oaks: Sage Publications, Inc., 2003. Print.
- Buzawa, Eve S., and Carl G. Buzawa. "Introduction." "Do Arrests and Restraining Orders Work?" Eds. Eve S. Buzawa and Carl G. Buzawa. Thousand Oaks: Sage Publications, 1996. Print.
- Colorado Judicial Department and Colorado Division of Insurance. "Your Guide to Bail Bonds in Colorado" 1998. 23 October 2011. <http://www.releasebonds.com/>
- Davis, Richard L. Domestic Violence: Intervention, Prevention, Policies, and Solutions. Boca Raton: CRC Press. 2008. Print.
- DeLeon-Granados, William W. and Ruddyard Binsbacher. "Arresting Developments: Trends in Female Arrests for Domestic Violence and Proposed Explanations." Violence Against Women. (2006) 12.4:355. 28 February 2012. Academic Search Premier.
- Edwards, Susan S. M. Women on Trial. Dover: Manchester University Press. 1984. Print.
- Felson, Richard B. and Paul-Phillipe Paré. "The Reporting of Domestic Violence and Sexual Assault by Nonstrangers to the Police." Journal of Marriage and Family 67.3 (2005): 597-610. Print.
- Hamberger, Kevin L. and Theresa Potente. "Counseling Heterosexual Women Arrested for Domestic Violence: Implications for Theory and Practice." *Violence and Victims* 9.2 (1994): 125-37. 15 December 2011. IngentaConnect.
- Han, Erin L. "Mandatory Arrest and No-Drop Policies: Victim Empowerment in Domestic Violence Cases." BC Third World LJ. 23 (2003): 159. 14 November 2011. HeinOnline.
- Hanna, Cheryl. "The Paradox of Hope: The Crime and Punishment of Domestic Violence." William & Mary Law Review. 39 (1997): 1505. 14 November 2011. HeinOnline.

- Harlow, Caroline Wolf. "Prior Abuse Reported by Inmates and Probationers." Alcohol. 75 (1999): 29. Print.
- Hart, Barbara J. "Battered Women and the Criminal Justice System." American Behavioural Scientist. (1993): 3-13. Web. *Chinook Database*. 29 August 2011.
- Hart, Barbara J. Safety and Accountability: The Underpinnings of a Just Justice System. Harrisburg: Pennsylvania Coalition Against Domestic Violence. 1998. Print.
- Henning, Kris, and Lynette Feder. "A Comparison of Men and Women Arrested for Domestic Violence: Who Presents the Greater Threat?" Journal of Family Violence. 19.2 (2004): 69-80. 30 August 2011. WilsonWeb.
- Karmen, Andrew. "Introduction." The Criminal Justice System and Women. Eds. Barbara Raffel Price and Natalie J. Sokoloff. First ed. New York: Clark Boardman Company, Ltd., 1982. 185-201. Print.
- Kimmel, Michael S. "'Gender Symmetry' in Domestic Violence." Violence Against Women. August 2002: 1332-63. 2 March 2012. Sage Publications.
- Krug, Etienne G., James A. Mercy, Linda L. Dahlberg, Anthony B. Zwi. "The World Report on Violence and Health." *The Lancet* 360.9339 (2002): 1083-8. 2 September 2011. Elsevier.
- Leonard, Elizabeth Dermody. "Stages of Gendered Disadvantage in the Lives of Convicted Battered Women." Gendered Justice: Addressing Female Offenders. Ed. Barbara E. Bloom. Durham: Carolina Academic Press, 2003. 301-97-141. Print.
- Libertun, Gisela. Boulder County Community Justice Services Domestic Violence Statistical Report 2003: January to December. 6 Vol., 2003. 22 August 2011.
<http://www.bouldercounty.org/help/abuse/pages/dapp.aspx>.

--- Boulder County Domestic Abuse Prevention Project Year End Statistical Report: January – December 2004. 3 Vol., 2004. 22 August 2011.

<http://www.bouldercounty.org/help/abuse/pages/dapp.aspx>.

--- Boulder County Domestic Abuse Prevention Project Year End Statistical Report: January – December 2005. 3 Vol., 2005. 22 August 2011.

<http://www.bouldercounty.org/help/abuse/pages/dapp.aspx>.

--- Boulder County Domestic Abuse Prevention Project Year End Statistical Report: January – December 2006. 4 Vol., 2006. 22 August 2011.

<http://www.bouldercounty.org/help/abuse/pages/dapp.aspx>.

--- Boulder County Domestic Abuse Prevention Project Year End Statistical Report: January – December 2007. 5 Vol., 2007. 22 August 2011.

<http://www.bouldercounty.org/help/abuse/pages/dapp.aspx>.

--- Boulder County Domestic Abuse Prevention Project Year End Statistical Report: January – December 2008. 3 Vol., 2008. 22 August 2011.

<http://www.bouldercounty.org/help/abuse/pages/dapp.aspx>.

--- Boulder County Domestic Abuse Prevention Project Year End Statistical Report 2009: January to December 2009. 7 Vol., 2009. 22 August 2011.

<http://www.bouldercounty.org/help/abuse/pages/dapp.aspx>.

--- Boulder Community Justice Services, Boulder County Domestic Violence Statistical Report 2010: January to December 2010. 2011. 24 January 2012.

<http://www.bouldercounty.org/find/library/help/dappstatisticalreportfullyear2010.pdf>

Martin, Margaret E. "Double Your Trouble: Dual Arrest in Family Violence." Journal of Family Violence. 12.2 (1997): 139-57. 30 August 2011. WilsonWeb.

- McDaniels-Wilson, Cathy, and Joanne Belknap. "The Extensive Sexual Violation and Sexual Abuse Histories of Incarcerated Women." Violence Against Women. 14.10 (2008): 1090-127. 2 March 2012. Sage Publications.
- Mekha, Rajan and Kathy A. McCloskey. "Victims of Intimate Partner Violence: Arrest Rates Across Recent Studies." Journal of Aggression Maltreatment and Trauma. 15.3 (2007): 27-52. 5 March 2012. Taylor and Francis Online.
- Ménard, Kim S., Amy L. Anderson, and Suzanne M. Godboldt. "Gender Differences in Intimate Partner Recidivism : A 5-Year Follow-Up." Criminal Justice and Behavior. 36.1 (2008): 61-76. 30 August 2011. Sage Publications.
- Miller, Susan L. "The Paradox of Women Arrested for Domestic Violence: Criminal Justice Professionals and Service Providers Respond." Violence Against Women. 7.12 (2001): 1339-75. 30 August 2011. Sage Publications.
- Mitchell, David B. "Contemporary Police Practices in Domestic Violence Cases: Arresting the Abuser: Is It Enough?" The Journal of Criminal Law and Criminology (1973-). 83.1 (1992): 241-9. 3 September 2011. JSTOR.
- Nagel, Ilene H., and Barry L. Johnson. "The Role of Gender in a Structured Sentencing System: Equal Treatment, Policy Choices, and the Sentencing of Female Offenders Under the United States Sentencing Guidelines." The Journal of Criminal Law and Criminology. 85.1 (1994): 181-221. Print.
- Potter, Hillary. Battle Cries: Black Women and Intimate Partner Abuse. New York: New York University Press, 2008. Print.
- Respondent 1. Personal Interview. 2 November 2011.
- Respondent 2. Personal Interview. 19 October 2011.

Respondent 3. Personal Interview. 5 January 2012.

Respondent 4. Personal Interview. 18 January 2012.

Respondent 5. Personal Interview. 5 December 2011.

Respondent 6. Personal Interview. 7 December 2011.

Respondent 7. Personal Interview. 14 November 2011.

Respondent 8. Personal Interview. 23 January 2012.

Respondent 9. Personal Interview. 31 January 2012.

Robinson, Amanda. L., and Meghan. S. Chandek. "The Domestic Violence Arrest Decision: Examining Demographic, Attitudinal, and Situational Variables." Crime & Delinquency. 46.1 (2000): 18. Print.

Romans, et al. "Who is most at Risk for Intimate Partner Violence?" Journal of Interpersonal Violence. 22.12 (2007):1495. 2 March 2012. Sage Publications.

Shepard, Melanie. "Predicting Batterer Recidivism Five Years After Community Intervention." Journal of Family Violence. 7.3 (1992):167. Print.

Sherman, Lawrence W. and Berk, Richard A. "The Specific Deterrent Effects of Arrest for Domestic Assault." American Sociological Review. 49,2 (1984): 261-272. Print.

Siegel, Jane A. and Linda M. Williams. "The Relationship between Child Sexual Abuse and Female Delinquency and Crime: A Prospective Study." Journal of Research in Crime and Delinquency. 40.1 (2003): 71. 14 November 2011. Sage Publications.

Simon, Rita J., and Heather Ahn-Redding. The Crimes Women Commit: The Punishments They Receive. Third ed. Lanham: Lexington Books, 2005. Print.

Straus, Murray A. "Identifying Offenders in Criminal Justice on Domestic Assault." Do Arrests and Restraining Orders Work? Eds. Carl G. Buzawa and Eve S. Buzawa. Thousand Oaks: SAGE Publications, Inc., 1996. 14-29. Print.

Stuart Van Wormer, Katherine, and Clemens Bartollas. Women and the Criminal Justice System. Needham Heights: Allyn & Bacon, 2000. Print.

Tjaden, Patricia and Nancy Thoennes. "Prevalence and Consequences of Male-to-Female and Female-to-Male Intimate Partner Violence as Measured by the National Violence Against Women Survey." Violence Against Women. 6.2 (2000): 142. Print.

Walker, Lenore E. A. "Battered Woman Syndrome." Annals of the New York Academy of Sciences. 1087.1 (2006): 142-57. 14 November 2011. Wiley Online Library.

APPENDIX A

Year	Type	Case Outcome	% of Total Cases	
			Female	Male
2003	Total Arrests	Deferred Prosecution	0	0
2003	Total Arrests	Deferred Sentence	34	28
2003	Total Arrests	Probation	17	40
2003	Total Arrests	Jail	8	74
2003	Total Arrests	Dismissed	32	20
2003	Total Arrests	Dismissed w/ Plea Bargain	6	8
2003	Total Arrests	Dismissed Warrant Expired	0	0
2003	Double Arrest	Deferred Prosecution	0	0
2003	Double Arrest	Deferred Sentence	40	38
2003	Double Arrest	Probation	15	28
2003	Double Arrest	Jail	2	14
2003	Double Arrest	Dismissed	34	22
2003	Double Arrest	Dismissed w/ Plea Bargain	4	6
2003	First Time Offenders	Deferred Prosecution	0	0
2003	First Time Offenders	Deferred Sentence	45	35
2003	First Time Offenders	Probation	14	33
2003	First Time Offenders	Jail	4	12
2003	First Time Offenders	Dismissed	36	20
2003	First Time Offenders	Dismissed w/ Plea Bargain	1	4
2003	First Time Offenders	Dismissed Warrant Expired	0	0
2003	Recidivists	Deferred Prosecution	0	0
2003	Recidivists	Deferred Sentence	5	7
2003	Recidivists	Probation	31	41
2003	Recidivists	Jail	25	28
2003	Recidivists	Dismissed	26	14
2003	Recidivists	Dismissed w/ Plea Bargain	23	14
2004	Total Arrests	Deferred Prosecution	1	0
2004	Total Arrests	Deferred Sentence	34	27
2004	Total Arrests	Probation	15	29
2004	Total Arrests	Jail	9	34
2004	Total Arrests	Dismissed	37	17
2004	Total Arrests	Dismissed w/ Plea Bargain	4	7
2004	Total Arrests	Dismissed Warrant Expired	1	2
2004	Double Arrests	Deferred Prosecution	0	0
2004	Double Arrests	Deferred Sentence	32	36
2004	Double Arrests	Probation	9	19
2004	Double Arrests	Jail	2	19

2004	Double Arrests	Dismissed	53	34
2004	Double Arrests	Dismissed w/ Plea Bargain	0	2
2004	First Time Offenders	Deferred Prosecution	0	0
2004	First Time Offenders	Deferred Sentence	40	38
2004	First Time Offenders	Probation	12	27
2004	First Time Offenders	Jail	4	25
2004	First Time Offenders	Dismissed	40	18
2004	First Time Offenders	Dismissed w/ Plea Bargain	1	3
2004	First Time Offenders	Dismissed Warrant Expired	1	2
2004	Recidivists	Deferred Prosecution	2	0
2004	Recidivists	Deferred Sentence	12	7
2004	Recidivists	Probation	25	33
2004	Recidivists	Jail	29	50
2004	Recidivists	Dismissed	29	17
2004	Recidivists	Dismissed w/ Plea Bargain	12	15
2004	Recidivists	Dismissed Warrant Expired	0	1
2005	Total Arrests	Deferred Prosecution	0	0
2005	Total Arrests	Deferred Sentence	34	26
2005	Total Arrests	Probation	20	36
2005	Total Arrests	Jail	15	32
2005	Total Arrests	Dismissed	33	18
2005	Total Arrests	Dismissed w/ Plea Bargain	4	6
2005	Total Arrests	Dismissed Warrant Expired	0	1
2005	Double Arrest	Deferred Prosecution	0	0
2005	Double Arrest	Deferred Sentence	21	26
2005	Double Arrest	Probation	13	32
2005	Double Arrest	Jail	6	19
2005	Double Arrest	Dismissed	53	28
2005	Double Arrest	Dismissed w/ Plea Bargain	6	4
2005	First Time Offenders	Deferred Prosecution	0	0
2005	First Time Offenders	Deferred Sentence	41	35
2005	First Time Offenders	Probation	18	33
2005	First Time Offenders	Jail	10	25
2005	First Time Offenders	Dismissed	34	18
2005	First Time Offenders	Dismissed w/ Plea Bargain	2	3
2005	First Time Offenders	Dismissed Warrant Expired	0	0
2005	Recidivists	Deferred Prosecution	0	0
2005	Recidivists	Deferred Sentence	3	3
2005	Recidivists	Probation	25	35
2005	Recidivists	Jail	32	42
2005	Recidivists	Dismissed	25	15

2005	Recidivists	Dismissed w/ Plea Bargain	12	10
2005	Recidivists	Dismissed Warrant Expired	0	1
2006	Total Arrests	Deferred Prosecution	0	0
2006	Total Arrests	Deferred Sentence	35	23
2006	Total Arrests	Probation	36	46
2006	Total Arrests	Jail	9	36
2006	Total Arrests	Dismissed	31	17
2006	Total Arrests	Dismissed w/Plea Bargain	3	6
2006	Total Arrests	Dismissed Warrant Expired	2	1
2006	Double Arrest	Deferred Prosecution	0	0
2006	Double Arrest	Deferred Sentence	23	26
2006	Double Arrest	Probation	23	49
2006	Double Arrest	Jail	6	18
2006	Double Arrest	Dismissed	46	23
2006	Double Arrest	Dismissed w/Plea Bargain	0	5
2006	First Time Offenders	Deferred Prosecution	0	0
2006	First Time Offenders	Deferred Sentence	39	31
2006	First Time Offenders	Probation	35	47
2006	First Time Offenders	Jail	6	27
2006	First Time Offenders	Dismissed	33	19
2006	First Time Offenders	Dismissed w/Plea Bargain	1	3
2006	First Time Offenders	Dismissed Warrant Expired	1	1
2006	Recidivists	Deferred Prosecution	0	0
2006	Recidivists	Deferred Sentence	12	9
2006	Recidivists	Probation	38	44
2006	Recidivists	Jail	19	50
2006	Recidivists	Dismissed	21	14
2006	Recidivists	Dismissed w/Plea Bargain	14	13
2006	Recidivists	Dismissed Warrant Expired	2	1
2007	Total Arrests	Deferred Prosecution	0	0
2007	Total Arrests	Deferred Sentence	34	18
2007	Total Arrests	Probation	44	50
2007	Total Arrests	Jail	21	38
2007	Total Arrests	Dismissed	30	18
2007	Total Arrests	Dismissed w/Plea Bargain	3	5
2007	Total Arrests	Dismissed Warrant Expired	0	1
2007	Double Arrest	See pages 20-22 in 2007 DAPP/DVRT Report		
2007	First Time Offenders	Deferred Prosecution	0	1
2007	First Time Offenders	Deferred Sentence	41	32
2007	First Time Offenders	Probation	44	55
2007	First Time Offenders	Jail	16	31

2007	First Time Offenders	Dismissed	30	17
2007	First Time Offenders	Dismissed w/Plea Bargain	1	2
2007	First Time Offenders	Dismissed Warrant Expired	0	1
2007	Recidivists	Deferred Prosecution	0	0
2007	Recidivists	Deferred Sentence	19	9
2007	Recidivists	Probation	74	37
2007	Recidivists	Jail	60	48
2007	Recidivists	Dismissed	48	16
2007	Recidivists	Dismissed w/Plea Bargain	14	10
2007	Recidivists	Dismissed Warrant Expired	0	0
2008	Total Arrests	Deferred Prosecution	0	0
2008	Total Arrests	Deferred Sentence	32	23
2008	Total Arrests	Probation	49	52
2008	Total Arrests	Jail	14	41
2008	Total Arrests	Dismissed	33	16
2008	Total Arrests	Dismissed w/Plea Bargain	3	5
2008	Total Arrests	Dismissed Warrant Expired	0	0
2008	Double Arrest	See page 18 of 2008 DAPP/DVRT Reports		
2008	First Time Offenders	Deferred Prosecution	0	0
2008	First Time Offenders	Deferred Sentence	41	35
2008	First Time Offenders	Probation	50	60
2008	First Time Offenders	Jail	10	31
2008	First Time Offenders	Dismissed	35	15
2008	First Time Offenders	Dismissed w/Plea Bargain	1	2
2008	First Time Offenders	Dismissed Warrant Expired	0	0
2008	Recidivists	Deferred Prosecution	0	0
2008	Recidivists	Deferred Sentence	6	5
2008	Recidivists	Probation	49	39
2008	Recidivists	Jail	26	57
2008	Recidivists	Dismissed	28	17
2008	Recidivists	Dismissed w/Plea Bargain	8	11
2008	Recidivists	Dismissed Warrant Expired	0	1
2009	Total Arrests	Deferred Prosecution	0	0
2009	Total Arrests	Deferred Sentence	31	24
2009	Total Arrests	Probation	51	56
2009	Total Arrests	Jail	23	42
2009	Total Arrests	Dismissed	31	19
2009	Total Arrests	Dismissed w/Plea Bargain	3	5
2009	Total Arrests	Dismissed Warrant Expired	1	1
2009	Double Arrest	See page 18 in DAPP/DVRT Reports		

2009	First Time Offenders	Unavailable		
2009	Recidivists	Unavailable		
2010	Total Arrests	Deferred Prosecution	0	0
2010	Total Arrests	Deferred Sentence	34	26
2010	Total Arrests	Probation	48	52
2010	Total Arrests	Jail	18	42
2010	Total Arrests	Dismissed	28	14
2010	Total Arrests	Dismissed w/Plea Bargain	6	7
2010	Total Arrests	Dismissed Warrant Expired	1	1
2010	Double Arrest	See page 18 in Dapp Reports		
2010	First Time Offenders	Unavailable		
2010	Recidivists	Unavailable		

APPENDIX B: Interview Questions for Attorneys

Please state your name and job title.

How many years have you worked as an attorney in Boulder County?

Do you have any previous experience working in other court systems?

I'm interested in finding out more about women who are arrested in domestic violence cases. Have you ever defended/helped prosecute women who are arrested for domestic violence?

About how many of those cases have you been involved in?

In dual arrest cases, how often did a woman get a lesser sentence than her male partner?

Can you provide your opinion on why this happened?

Do you think that women defendants in domestic violence cases get some preferential treatment at their sentencing compared to men who are arrested with domestic violence charges?

If so, can you provide some insight on why this might be happening in Boulder County?

In your experience, what are some of the problems that you see in the arrest, prosecution, and/or sentencing phases of domestic violence cases?

According to Boulder County statistics from the Domestic Abuse Prevention Project, also called DAPP, women received significantly reduced sentences compared to men in cases of domestic abuse. Why do you think that might be the case?

Do you have anything else you would like to add to your comments here?

APPENDIX C: Interview Questions for Judges

Please state your name and job title.

How many years have you worked as a judge in Boulder County?

Do you have any previous experience working in other court systems?

When you evaluate a domestic violence case, what are the main factors in your sentencing decision?

Are there any special mitigating factors that affect how you view perpetrators of domestic violence?

When women are defendants in a domestic violence case, what trends do you see in their cases?

Do you have any special sentencing guidelines you use for women defendants in domestic violence cases?

I'm trying to determine why women are more likely to have more lenient sentences as defendants in domestic violence cases. Can you provide me with your professional opinion on why this might be happening in Boulder County?

Is there anything else you would like to add?