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Examining Intimate Partner Violence: The Erasure of Gendered Violence and Coercive Control

An Honors Thesis
Presented to The Faculty of the Department of Philosophy
Bates College

In partial fulfillment of the requirements
for the Degree of Bachelor of Arts
By Leah Ruck
Lewiston, Maine
April 1, 2024

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Abstract

Coercive control is a critical, yet largely ignored, tactic of intimate partner violence (IPV). This form of abuse is built upon an enduring pattern of threats, resulting in the degradation of victims and their direct loss of agency and safety. This violence is cyclical and intended to create power imbalances where the abuser is positioned above the victim. To enforce this dynamic and instill a sense of fear in the victim, an abuser relies on coercion, intimidation, isolation, minimization, denial, and blaming. This thesis argues that coercive control must be viewed as an inherently gendered aspect of IPV, in which male abusers strategically employ coercive control against women victims to uphold systemic structures of power in the private sphere. This violence is not enacted by male abusers to (re)gain control, but rather to punish and dominate the women victims.

This thesis traces the implications of this violence in the legal system. The law upholds a “gender neutral” view of IPV, under which women victims are often convicted for reactive violence, and their pleas for help to law enforcement are frequently misinterpreted and ignored. I argue that convictions for reactive violence are wrongful and that these convictions and unheard pleas are further aspects of gendered harm. To address this violence (perpetuated by the perpetrator of IPV, law enforcement, courts, and the state), this thesis requires a re-thinking of law enforcement and communal responses to enable women to escape the coercive control of gendered IPV.

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Personal Statement

During the summer of 2022, I was fortunate to have the opportunity to intern with a local domestic violence/intimate partner violence agency based in Maine, where I acted as a part-time helpline advocate and shadowed the organization's court-mandated Violence Intervention Program for convicted male abusers. As part of this position, I underwent a 50-hour-long Comprehensive, Advocacy, Intervention Response, and Ethics Training through which I gained skills in recognizing and responding to signs of intimate partner violence. This training emphasized the influence of coercive control in abusive relationships, as a pattern of actions used to degrade and subordinate one's partner and, critically, emphasized that male abusers often *intentionally* employ coercive control as part of intimate partner violence. This training challenged traditional understandings of abuse as primarily violent attacks and instead highlighted the manipulative tactics that often precede physical or sexual abuse. A coercive controlling abuser weaves a web of threats, isolation, intimidation, denial, and minimization, under which a victim is constantly on edge and fearful of potential violence. This crafted coercion may slip under the radar of a victim, law enforcement, family and friends, or others, where seemingly innocuous comments or actions may be part of a larger system of power and control. This contrasts with outdated notions of abuse as "battering" and instead sheds light on the cyclical, ever-present nature of coercive control and intimate partner violence.

This training was essential during my role as an advocate on the helpline, which functions as a 24/7 resource for those in need of support surrounding intimate partner violence or sexual exploitation. I often worked 4-hour shifts in the evening or during non-traditional hours and acted as the first line of coverage on the helpline. There was no set number of calls per night, rather I might have back-to-back conversations or none at all. Working on the helpline afforded me the opportunity to provide resources, emotional support, and help safety plan with those who were seeking advocacy, and in some cases, support victims who were actively fleeing an abusive situation. I was able to hear first-hand the horrors wrought by abuse, while also admiring the resiliency of the survivors I spoke with. It takes tremendous

courage, and potentially sacrifices one's safety, to reach out to a helpline for information on intimate partner violence. There is an inherent vulnerability in asking for help and entrusting a stranger on the other end of a phone call with highly personal information, especially when one has been manipulated into believing that they are not experiencing intimate partner violence.

In my experience, this was often the case. In those first few weeks on the helpline, a pattern emerged: survivors frequently called the service and expressed that they, "didn't know if they were calling the right place," and were hesitant to classify the coercive controlling violence they were experiencing as abuse.¹ These victims carried with them an understanding of intimate partner violence as purely physical and had been denied any emotional support or validation of their experiences by their abuser. They held an unconscious idea that something was not quite right in their relationship yet labeling this "thing" as abuse was a large step. Despite expressing this initial uncertainty, callers to the helpline would then proceed to describe harrowing, psychologically and emotionally draining events, all while questioning if they would count as incidents of intimate partner violence. The abuse the victims experienced was often cyclical, where, on some days, their abusers would be perfectly pleasant. However, there was always the fear that that calm could shift, and they would again be thrown into overt acts of violence. This intentionally enacted a rollercoaster of control, relegated these victims to a life of walking on eggshells and a slow loss of autonomy. Without the knowledge of warning signs of intimate partner violence, and knowledge specifically of coercive control, it is all too easy to find oneself in an abusive relationship. I emphasize that truly anyone can find oneself in a situation involving intimate partner violence, and it is not a sign of some greater weakness or ignorance. Coercive control can be employed subtly to introduce a power imbalance and manipulate one's victim into staying.

To the victims that I spoke with, it was seemingly the "small things" that were most offensive - the denial of one's feelings, the unspoken rules, the progressive isolation from one's friends or family, the

¹ This represents a generalization of my experience on the helpline and does not represent all phone calls with victims. Rather, some survivors are fully cognizant of the abuse they are experiencing and are reaching out with the knowledge that they need assistance to escape.

repeated texts or calls to check in, and other events, that when viewed as a single incident, rather than as part of a larger pattern, appear to be the behavior of a partner on a bad day. One can rationalize these events as annoyances or minor flaws of their partner, and unless one is consciously aware of each time a tactic is employed, it can be extremely difficult to view these tactics in a broader context. Yet, for these victims on the helpline, these incidents did not just occur once. Rather, these small events became the forefront of their lives; lives that now revolved around making sure their abusers were content. Victims in lengthy partnerships would discuss how they don't remember what they used to be like before entering their relationship, and how they now analyze their every move so as not to set off one of their abuser's triggers. I have heard various iterations of the phrase, "I don't know how this happened" during my shifts, where victims in coercive controlling relationships detailed the overwhelming, constant pressure they felt. I make this point not to dismiss the physically or sexually violent experiences of many of these victims, but instead to showcase the crushing nature of coercive controlling violence, which often precedes physical abuse. Further, it must be understood that almost all of the women I spoke to on the helpline identified as white, cisgender, and heterosexual women. While these victims in no way represent all those experiencing intimate partner violence and the varying effects of abuse across identity groups and should not be seen as such, this context has invariably influenced the focus of this thesis. I do not dismiss the intersections of race, sexuality, gender, and other factors on the manifestation, enforcement, and severity of intimate partner violence, but instead to aim to discuss the overarching themes of coercive control across the group with which I gained the most knowledge. This results in a severe limiting of the scope of this thesis, which must be acknowledged as problematic and potentially harmful. It is my hope that, in revealing an often-ignored form of violence among the population with which I am most familiar, more work can then be done to expose the varying manifestations of coercive control through an intersectional lens.

The intentionally manipulative and dominating nature of coercive control was made further evident to me as I shadowed two groups in the organization's Violence Intervention Program and listened

to the statements given by the convicted male participants. For this program, participants were required to attend an hour-long course each week, for 48 weeks. If participants were repeatedly absent, they were at risk of having to restart the course from week one. Groups would be made up of abusers at various stages in the course, some newly through the orientation, others almost at the point of completion. This course was structured around the Duluth Model of Intervention, which prioritizes accountability on behalf of the abuser, while also emphasizing the importance of changing systemic belief systems that allow for the use of coercive controlling violence (Gondolf 645).² Lesson plans would be rolled over after the 48 weeks, where all participants would receive the full curriculum. As the groups I observed were solely made up of male participants who had abused women victims, the structure of the course underscored the role of gender-based violence. Each week, course facilitators discussed coercive “power and control” tactics, with one tactic being discussed for several weeks. At the beginning of a new lesson, participants would watch a video skit showcasing the specified coercive control tactic and would then discuss which elements of intimate partner violence were being used by the abuser.

Participants would then share the ways in which they enacted that tactic in their own relationships, how they validated their actions in the immediate aftermath, and what underlying belief supported their larger use of intimate partner violence, and specifically, that tactic. While I will not detail the precise statements made by the male participants, it is through these observations that I truly began to understand the manipulative and intentional use of coercive controlling practices against women victims. The convicted abusers would describe how they would make critical, cruel statements about their victims, knowing that it would cause them to react. Others would detail how they would employ the silent treatment, just to watch her scramble to figure out what was wrong. I heard double standards about the way a woman should take care of the home; I heard double standards about why she shouldn't be out with her friends even though he could; and I heard the men describe using belittling names and phrases, and

² The Duluth Model is based upon interviews conducted in the 1970's from “thousands of (white) women), who detailed the abuse they experienced (Berrien 34). As such, this wheel, and likely understandings of coercive control, are based solely upon the perspectives of white, cisgender, heterosexual women. This has severe consequences, in that it fails to consider the experiences of women from outside these groups.

other ingrained justifications for their calculated, coercive behavior. For those who were in the early stage of the course, these actions were not thought of as abusive, but rather as a natural enforcement of their position in the relationship. Repeatedly, the phrases “she was crazy” or “she did this...so,” would be used, followed by descriptions of truly staggering examples of manipulation, denial, blaming, and other coercive forms of abuse. Not all participants in the program had engaged in physical violence, although many had used physical abuse against their victims. These incidents were often described as spurred on by fits of rage or jealousy (i.e., emotional outbursts), whereas coercive controlling behaviors were discussed as intentionally enacted tactics.

Notably, most of these participants were unconcerned, if not welcoming, of my presence in the room. As a silent, and therefore non-confrontational, witness sitting with the facilitators, descriptions of past abusive actions, motivations, and beliefs were often presented directly to me. The beliefs that these abusers entered the course with were truly ingrained and served to rationalize their coercive controlling behavior. None of the participants, although they may have vehemently denied their role as an abuser, truly identified themselves as a victim of abuse. Instead, they were angry at being forced to attend courses each week for just under a year and would congratulate those who were near the end of the program, stating “must be nice,” or “you’re almost free,” and made other statements that exemplified their displeasure with the program. It is only with those who were close to the 48 weeks (about 11 months) that there may have been an adjustment in beliefs and a greater understanding of the abuse they enacted, although I cannot comment on the actions taken by these men outside of the classroom.

While I was unable to attend any of the women-dominated VIP courses, I learned through discussion with the facilitators that many of the women required to attend VIP sessions identified as victims of intimate partner violence and were wrongfully arrested as perpetrators of abuse. While physically fighting back against their abusers and engaging in resistive/reactive violence, many of the women were viewed as the violent party and were taken in by police who were called to the scene. These women’s behavior was misinterpreted and as a result, they were caused further harm. In conjunction with

my work on the helpline and discussions with invalidated women victims of coercive control, this legal injustice was made all the more evident. While the course participants felt that they were fighting back against an invisible system of abuse, the law viewed them as physically violent, and thus classified them as perpetrators under the current (and I will argue, incomplete) ideas of intimate partner violence. This was not a happenstance occurrence during the summer of 2022, rather the facilitators stated that this is primarily the case in the women's group. As a result, while some aspects of the Duluth Model are maintained in the women's VIP sessions, advocacy strategies are often incorporated to mitigate further harm to potential victims.

It was this original experience, along with my continued work as a part-time helpline advocate over the past two years that fostered my interest in the questions that guide this thesis - those of coercive control as a gendered form of violence, why women victims are able to be arrested under existing abuse law, and how actions taken in self-defense may be criminalized. I embark on this work with a hope to shed light on the long-ignored, intentional use of coercive control by perpetrators of intimate partner violence, and to underscore its importance as a precursor to physically violent actions. Throughout this work, I carry with me the stories of true strength exemplified by victims during those late-night helpline calls, as well as the justifications for abuse that have stuck with me long after my days spent with the Violence Intervention Program.

Chapter One: Posing the Problem

“All causes, social and natural, combine to make it unlikely that women should be collectively rebellious to the power of men” ~ John Stuart Mill, *The Subjection of Women*

In the historic case, *State v. Norman* (1989), Judy Ann Laws Norman had been physically, verbally, financially, and psychologically abused for over twenty years by her husband, John Thomas Norman. Mr. Norman threatened Judy daily, and on several occasions prevented her from leaving their house. She also attempted to escape from her home, which her husband also prevented. After each attempt to escape, Judy would be severely beaten by Mr. Norman. On June 11, 1985, police officers responded to a call at the Norman residence. Judy reported that her husband had “been beating her all day” and that she was afraid he was going to kill her. She requested aid from the officers. Judy was told to file a complaint but was not given any further information from the officers. In many ways, her testimony was ignored, despite the severity of the abuse she was experiencing.

On June 12, 1985, Judy visited the social services office for welfare assistance but was brought back to her home by Mr. Norman and was again physically abused. That night, while Mr. Norman was asleep, Judy removed their child from the premises, acquired a gun from her mother’s home, and returned to shoot Mr. Norman in the back as he slept. Judy killed Mr. Norman in an act of reactive violence, in the sense that she was responding violently to the abuse that was done to her. Judy reported that she was “scared of him and I knowed when he woke up, it was going to be the same thing. . . . I just couldn't take it no more” (*State v. Norman*). Judy was acting to protect herself from future harm. Following the killing, Judy was arrested by law enforcement and brought to trial for voluntary manslaughter. In this arrest, Judy was viewed as the offender against Mr. Norman, who was seen as the victim.

During the trial, Judy was questioned about the frequent threats that Mr. Norman made to her. In response, she stated that she “believed him; he would, he would kill me if he got a chance” (*State v. Norman*). Psychologists testified in court in support of these statements and concluded that Judy firmly

believed that she was “doomed” in her relationship with Mr. Norman (*State v. Norman*). However, the State did not agree. Judy was “denied the defense of self-defense” because she killed her husband while he was asleep and because her act violated the imminence and proportional force requirements of self-defense law (Leverick 89). Judy was convicted of voluntary manslaughter and was sentenced to six years in prison. The police and legal system failed to hear Judy’s testimony, did not understand the abuse she was undergoing, and unfairly sentenced her. Moreover, she was denied the ability to use “self-defense” as a defense at her trial. One will see that self-defense statutes are highly gendered. Judy Norman was subjected to law enforcement and legal practices that are designed to address non-intimate partner violence cases and was further harmed as a woman victim of intimate partner violence.

While this case was selected to exemplify the inaction and wrongdoings of the legal system, it is not a unique incident. Rather, I argue in this thesis that these phenomena are part of a pattern of harm done to women victims of intimate partner violence. Although it is evident that victims of intimate partner violence experience forms of injustice at the hands of their abuser during the relationship, I aim to show that these injustices do not end when law enforcement intervenes: victims are further harmed by gendered self-defense laws and incomplete understandings of abuse, which can lead to wrongful convictions of the victims for reactive violence, and inaction from law enforcement that has deadly consequences. My goal in this thesis is to outline the ways in which this harm manifests itself, how it is perpetuated and legalized, and to determine what can be done to combat it. The first step in this process is to view this harm as a gendered form of abuse, with a specific focus on coercive control used by male abusers against women victims. This section argues for a gendered conception of intimate partner violence, outlines an expanded form of abuse that must be understood, and then applies this model to point out existing inequities in the law. This will lead to a discussion of current self-defense and abuse laws and historic cases of intimate partner violence, and how these concepts fail to recognize coercive control used against women victims and reactive violence enacted against abusers.

The second part of this thesis suggests a path forward from this harm, not through the criminalization of coercive control, but instead with a decrease in funding by the Violence Against Women Act (VAWA) to the carceral system and the redistribution of these funds to community programs and social services for victims of intimate partner violence. Each part is then divided into the following sections:

In the next chapter of this thesis, I argue for a feminist model of intimate partner violence, namely that to fully understand coercive control as a tactic of abuse, it must be viewed as a gendered problem. This chapter addresses the systemic power dynamics between men and women, and the ways in which these distinctions allow for male abusers to exert control over their women victims. This discussion aims to say that, as a result of the gendered nature of coercive control and the overall attempt by the law to remain gender-neutral, a police officer responding to an incident of intimate partner violence may have no knowledge of the varying forms of intimate partner violence or may be unaware of the potential for justified reactive violence, or self-defense, from the victim. Without this critical understanding, the officer is unable to comprehend the testimony being provided or the situation as a whole. Instead, the officer may interpret a case in which the victim has responded to her abuser and engaged in self-defense as evidence that she is the responsible party. This gendered lens establishes the basis from which I critique existing abuse and self-defense statutes. Additionally, I acknowledge in this chapter that my thesis is centered around the experiences of white, cisgender, heterosexual women and problematize this choice. I turn to the experiences of intimate partner violence by minority and marginalized victims to showcase that all cases of abuse are not equal, or so easily generalizable. I then attempt to defend this choice and offer disclaimers around the scope of my argument.

The third chapter expands upon the previous section to develop an understanding of how intimate partner violence must be conceptualized and defined to later amend law enforcement practices and legal statutes. This section presents intimate partner violence as outlined by local and national intimate partner violence organizations, in which it is described as a coercive pattern of control that extends beyond

physical violence and includes tactics of intimidation, denial, psychological abuse, and other intentional ways of exerting power over a victim. I argue that, in order to comprehend the harm of intimate partner violence, one must fully understand this coercive controlling violence, and the ways in which male abusers rely upon different tactics to maintain the oppression and control of women (Worcester). This framing is the first step towards more inclusive practices for victims of intimate partner violence and is used in the following chapters to challenge the single-lens descriptions of abuse in the law.

The fourth section addresses how the lack of understanding of coercive controlling abuse in the law becomes an injustice due to legal and police practices, which allow for the dismissal of physically non-violent cases of abuse. I detail how “abuse” is described in the Maine Legal Code and critique its limited description of criminally abusive acts. I then outline the harm that this statute perpetuates, where physically non-violent cases of abuse may be dismissed, despite the victim’s pleas for help. I argue that these dismissals cannot be viewed as minor wrongdoings, but rather, are outright denials of the emotional violence that victims of coercive control experience. As articulated in the previous chapter, coercive controlling violence is a harrowing experience, and often precedes other forms of violence and predicts its later occurrence (Myhill and Hohl 4481). The impact of preventing victims from accessing potentially life-saving services cannot be overstated. To support these arguments, I turn to the case of Karen Graves, patterns observed in police practices, and statements made by victims who were rebuked by the police department while seeking help. I then expand upon this critique of abuse law in Chapter Five and detail how the denial of legal remedies under the law to victims of coercive control prevents their access to protective measures, such as Protection from Abuse Orders (PFAs). The PFA process is time-consuming and has several geographic, economic, and legal barriers that prevent victims of coercive control from successfully acquiring a full protection order. I argue that this legal system, although set in place to protect victims of intimate partner violence, fails to recognize the dynamics of abuse impacting those experiencing non-physical abuse.

Chapter Six furthers this discussion and argues that existing self-defense law, while encouraging seemingly neutral concepts of defensive violence, are instead built upon patterns of male-versus-male violence and actions taken to defend the home. This argument is contextualized through both the Castle Doctrine and the history of marital rape and its criminalization, where violence within the home has long been viewed as part of the private sphere and thus, as exempt from the law (Hasday 1487). In contrast, self-defense under the Castle Doctrine takes place in the public sphere or in response to an invasion of one's home and is enacted against a stranger by a reasonable man (Suk 55). Despite the additional self-defense statutes that have been added alongside the Castle Doctrine, the legal code still supports the original premise of the true man protecting his home and not a threat from within. These expansions do not fully account for the impact and nature of intimate partner violence; the framework for self-defense represents a social gap in the understanding of intimate partner violence.

Due to these biases, abuse victims are held to unfair requirements of reasonableness, proportional force, and imminence. These standards do not cover the violence, threats, and other tactics of abuse that are experienced by women victims and fail to account for the types of self-defense that may be necessary to fight back against an abuser. I hold that victims of coercive controlling abuse live in states of perpetual fear of violence within their home but are unable to act in self-defense without risk of conviction, and, as evidenced in the prior chapters, cannot rely on legal protections. I support this argument through references to past court cases, such as *People v. White (1980)*. In detailing the nature of coercive controlling violence, I establish the psychological basis for actions taken by victims in self-defense; I argue that women victims of abuse face both actual and perceived physical limitations in comparison to their male abusers and may reasonably feel the need to use additional force (i.e., a weapon) to level the playing field (Schneider 632). Further, given the degrading nature of coercive control, victims with no physical limitations have been forced into a subordinate role by their abusers and face clear psychological limitations. Given this unequal power dynamic, a victim may then see a weapon as the only way out (Stark, "Coercive Control," 361).

After establishing these critiques against the standards for reasonable and proportional force in self-defense statutes, I argue against the standard necessitating an imminent use of force. I again discuss the cycle of violence imposed by coercive controlling abusers and posit that the threat of danger cannot be reduced to a single moment for victims surrounded by ever-present harm. This chapter also addresses potential solutions that have been offered to rectify these injustices, in the forms of the reasonable woman standard and defenses citing the Battered Woman Syndrome (Winterbauer 813; Walker). While attractive in theory, neither solution functions in practice. If a reasonable woman standard were to be adopted, it would serve to essentialize the experience of the most dominant victims and would deem the most marginalized groups as “unreasonable.” Further, I problematize the existence of the Battered Woman Syndrome and point to its origination in a study of “learned helplessness” in animal subjects exposed repeatedly to negative stimuli (Seligman 408). This theory was never intended to be applied to victims of intimate partner violence, and as articulated by the originators of the study, incorrectly interprets the safety measures taken by women in abusive partnerships (Peterson et al.).

This chapter concludes with a discussion of how exclusionary self-defense statutes lead to further harm among women victims as they may be wrongfully convicted as perpetrators of intimate partner violence. This argument examines the use of reactive, non-deadly violence used by victims against their abusers and distinguishes this aggression from expressions of intimate partner violence. This distinction requires an understanding of coercive control and, as such, can result in unjust arrests by police officers responding to calls for domestic disputes. I complicate these arrest processes by upholding the testimonies of women victims who were wrongfully arrested and mandated to attend intervention programs and point to the ability of abusers to manipulate officers and adopt a victimized role (Harsey and Freyd 897).

In the final, substantive chapter of this thesis, I examine potential ways in which these legal injustices can be rectified. This discussion outlines several possibilities - increased criminalization of coercive control and education surrounding intimate partner violence for law enforcement, or the defunding of police programs by VAWA and the redistribution of these funds to communal and

need-based organizations. Despite my criticisms of the failure of the legal system to adequately address coercive control in the legal statutes, I argue that further criminalization will only result in increased harm for the most vulnerable victims of intimate partner violence (Goodmark, "Should Domestic," 71). This proposal would strengthen the carceral state and provide a short-term remedy for the most privileged victims. Instead, I offer a restorative justice solution which would seek a redistribution of VAWA funds towards community programs and services for victims of intimate partner violence. This framework would aim to eliminate barriers preventing victims from leaving (shelter, funding, etc.), would offer increased support systems through advocacy organizations, and would strive to address the systemic structures of power that allow for intimate partner violence to take place. This project, while lofty, disentangles justice services from the legal system and proposes pathways for long-term social change. It is evident that this thesis is an extensive undertaking, as reflected in the structure outlined above. Critically, it should not be viewed as the final discussion on this subject, rather much work remains to be done.

I now turn to chapter two, in which I argue for a gendered conception of intimate partner violence. This chapter discusses intimate partner violence as part of a larger patriarchal system, in which male abusers enact gendered violence, specifically in the form of coercive control, against women victims. I develop an integrative feminist model from which I build this argument and defend it from gender-essentialist critiques while recognizing the victims who are excluded from this piece.

Chapter Two: Arguing for a Gendered Conception of Intimate Partner Violence (IPV)

This thesis focuses solely on women victimized by intimate partner violence but recognizes that this abuse can affect anyone, regardless of their sexual orientation, gender, expression, or other identities. I also acknowledge that intimate partner violence can be committed by anyone in society, and do not dismiss the violence that is wrongfully used by people of all identities. It is all too easy to adopt a gender-essentialist model of intimate partner violence, in which the sole explanation for this form of violence is the “patriarchy” and societal structures that prize male power over women. In her well-known critique of the “feminist model” in, *Insult to Injury: Rethinking our Response to Intimate Abuse*, Linda Mills condenses the essentialist theory to be that “heterosexual men beat women because of the patriarchy” (13). Under this model, intimate partner violence is no longer a private matter but represents a larger, “public,” issue that extends outside of the home. Men are called to react violently due to their patriarchal privilege at the expense of their women victims.

However, this way of thinking has been largely criticized for its single-minded nature. A gender-essentialist model, as opposed to an integrative feminist model, silences the victims of women abusers and the violence committed in same-sex relationships. This thinking ignores the ways in which race, class, sexual orientation, education level, etc., influence the manifestations of this intimate violence and how the victim may respond (George & Stith 15). The essentialist model focuses solely on the motivations of the heterosexual male abuser and simplifies the complex power and control dynamics that are at play in such violent relationships. In doing so, Mills argues that this assumes that “all violence warrants a state response, and that women want to leave rather than stay in their abusive relationships” (“Insult to Injury,” 6-7). Mandated arrest policies are viewed as lifelines for women victims experiencing this patriarchal violence, as opposed to harmful interventions, and physical and sexual violence are presented as the primary forms of abuse, rather than considering other tactics that may be present - emotional, verbal, financial, etc. This thinking suggests that intimate partner violence is predictable and will manifest in the same ways for all women victims.

In short, those against the gender-essentialist model call for a shift in its focus away from solely male abusers and women victims and for the recognition that violence from both parties is possible (Stark, “Insults, Injury,” 1306). This view has been expanded in recent years to become an integrative feminist approach, in which binaries in general (male/female, western/non-western, etc.) are used less frequently in conversations around intimate partner violence. This avoids lumping the experiences of victims together and the further silencing of marginalized voices and the specific services that they may require (George & Stith 16). An integrative feminist approach to intimate partner violence considers women’s aggression and other forms of oppression as central to understanding forms of violence (McPhail et al. 832). This model calls for non-binary space to be given in future studies of intimate partner violence to increase data on how minority groups are uniquely impacted by this abuse. However, while calling for this reform, integrative feminists maintain the stance that gender must be viewed as a central tenet of intimate partner violence, lest it is harmfully ignored. It is not that *all* focus should shift away from women victims, but instead that one must recognize that women are not the only victims of intimate partner violence. Intimate partner violence is experienced, in differing ways, by victims in same-sex couples, by children living in violent households, by transgender people, and by people of non-dominant identities and backgrounds. It is this integrative model that I choose to adopt in my analysis, while also acknowledging that my argument as a whole and the pool of sources that I draw from are explicitly gendered and predominantly white, and I may therefore fail to achieve this goal. As such, I devote the following section to understanding how intimate partner violence is enacted and experienced differently by those who hold further marginalized identities, specifically Black women.

Intersecting Identities and Experiences of Intimate Partner Violence

As Kimberlé Crenshaw writes, in “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color,” such violence usually occurs within a specific context - that often varies considerably depending on the race, class, and other social characteristics of the woman” (1241). The notion that intimate partner violence is equally experienced by everyone unjustly generalizes, and therefore minimizes, the abuse enacted against victims not situated in the dominant culture. Such interpretations trivialize the role of intersecting spheres of oppression and how this impacts the manifestation, severity, and prevalence of intimate partner violence within marginalized communities (Sokoloff and Dupont 41). Although this thesis looks at gendered factors to understand the use of coercive control as an abusive tactic, it must be acknowledged that gender is not the only oppressive or systemic factor that is at play. Rather, subordinating conditions arise with the introduction of race, socioeconomic status, historical trauma, sexuality, etc., and the combining of these systems of power. As a result, individuals situated in the crossroads between marginalized identities may experience particularly pernicious and distinct forms of intimate partner violence beyond a single-factor, gendered perspective.

Despite the truly alarming lack of literature surrounding the experience of intimate partner violence by women of color, immigrants, transgender individuals, members of the LGBTQ+ community, existing data reveals this increased harm is the case.

To turn first to abuse committed against women of color, findings show that members of this community consistently report higher levels of intimate partner violence victimization. The most recent National Intimate Partner and Sexual Violence Survey (2016-2017) supports this claim and reveals that, across the United States:

Almost two-thirds of non-Hispanic multiracial women (63.8%), more than half of non-Hispanic American Indian or Alaska Native women (57.7%), more than half of non-Hispanic black women (53.6%), about half of non-Hispanic white women (48.4%), two-fifths of Hispanic women (42.1%), and more than one-quarter of non-Hispanic Asian

or Pacific Islander women (27.2%) reported” experiencing some form of intimate partner violence (Leemis et al. 7).

While white, cisgender, and heterosexual women are consistently upheld as the faces for victims of intimate partner violence, it is evident that this abuse is experienced in higher numbers by women of color, specifically by multiracial, Native, and Black women. In order to understand the needs held by these women, “it is essential that...multiple stressors be considered simultaneously” (Stockman et al. 77). Women of color are *not* further victimized because a greater propensity to violence by men of color, rather, it has been suggested that they face greater harm due to systemic and structural factors that are linked to the increased risk of intimate partner violence - socio-economic factors, educational inequality, lack of employment opportunities, institutional racism, and gender (Duhaney 2767). In examining socio-economic and educational factors specifically, it has been shown that “poverty, economic hardship and related stress increase the risk of [Intimate Partner Violence],” whereas greater access to education can serve as a “protective factor” (Reyal et al. 2). It is again Black, Latina, and Native women who are most adversely affected by poverty and have lower rates of education (Stockman et al. 63). For example, as measured by official poverty measure in 2022, 16.6% of Black women, 16.8% of Latina women, and 21.6% of Native women lived in poverty (Sun 3). These rates of financial hardship and decreased access to education only serve to exacerbate levels of intimate partner violence.

Further, the role of racism and aid from legal and social services must be discussed. In a summary of the minimal research on help-seeking behaviors in Black and Latina survivors, it was found that “Black women may...resist formal outreach because they fear that their Black boyfriends/husbands will experience prejudice/unjust treatment” by law enforcement, and that Latina women “underutilize formal DV services” (Harper 13733). Women of color are rightly distrustful of law enforcement and social service agencies and the threat they pose to both the victims themselves and also their partners.³ While

³ There are also cultural factors at play here that have not been discussed. For example, “Black survivors may avoid reaching out” for help due to social norms that demand they “remain strong and shoulder struggle and problems independently” (Harper 13733).

white women may be wrongfully convicted by law enforcement, women of color, specifically Black women, may hold the “genuine and legitimate fear that if they call the police, their partner could be killed or they, as the survivor could be killed” (“A Layered Look”). Or, if this trap is evaded, a victim may experience covert microaggressions and mistreatment while seeking help (Rice et al. 15). All potential avenues for reprieve may be cut off, and thus, bind a survivor to the abuse.

The manifestation of this violence also differs from the experiences of white women, as women of color experience the intersection of multiple forms of victimization: historical trauma, institutional violence, structural violence, community violence, alongside the violence that is used by their partners. All abuse must be contextualized through the intersecting identities of these women to begin to reveal the greater harms they experience. In examinations of intimate partner violence in communities of Black women, higher rates of nonfatal strangulation, femicide, and reproductive coercion were reported, in addition to other expressions of abuse (Rice et al. 9-11). In response to these more severe and isolating expressions of intimate partner violence, it has been shown in some cases that women of color experience greater psychological impacts, such as “higher rates of depression, post-traumatic stress disorder (PTSD), low self-esteem,” etc., in comparison to white women (Stockman et al. 63). Intimate partner violence dramatically impacts the lives of these women victims.

Critically, the following discussion has again prized the relationships between cisgender and heterosexual couples. This fails to recognize the unique factors that impact transgender victims, those in same-sex relationships (the LGBTQ+ community), and the non-white victims who identify with several of these communities. Notably, despite the limited data surrounding these groups, research suggests that LGBTQ+ individuals experience equal, if not greater rates of intimate partner violence compared to cisgender and heterosexual victims (Brown and Herman 2-3). For example, a quantitative study of all literature prior to 2019 on the experience of abuse by transgender victims compared to cisgender victims (women specifically), revealed that “transgender individuals experience a dramatically higher prevalence of IPV victimization...regardless of sex assigned at birth,” with as much as a 3 times greater “risk of

physical and sexual IPV” (Peitzmeier et al. 1,9). In addition, as reflected in the CDC’s National Intimate Partner and Sexual Violence Survey (NISVS), bisexual men and women reported a higher prevalence of lifetime intimate partner violence as compared to heterosexual men and women (Brown and Herman 3).^{4,5} As detailed with cases of non-white victims, there is a severe deficit in research into understanding intimate partner violence among LGBTQ+ people and in gathering accurate reporting numbers, risk factors allowing for abuse, specific, identity based-harms, and other focused information.

Yet, as showcased among women of color, it logically follows that LGBTQ+ victims would experience further injustice due to the prevalence of heteronormativity and heterosexism. Abusers can enact these gender-based stigmas onto their partners for a unique expression of violence. Consequently, transgender victims can experience tailored forms of abuse that target their gender identity. This can include strategies of intentional misgendering, “threatening to ‘out’ them,” preying on “insecurities linked to societal stigma,” etc., and other forms that have been reported in prominent levels among the most marginalized groups (Peitzmeier et al. 2). This data is supported by the “U.S. Transgender Survey: Report on the Experiences of Black Respondents” published in 2015, which revealed that “nearly one-third (29%) of [all] respondents reported acts of coercive control,” through which their abuser attacked their identity. Abusers made statements that they “were not a ‘real’ woman or man,” utilized the tactics listed above, and also restricted the victim from “taking their hormones” (Rice et al. 11). As with all forms of intimate partner violence, these statements and threats are made by perpetrators to degrade their victims, but unlike the violence against white women, this abuse attacks the crossing, minority identities as the point of harm. This is replicated in abuse experienced by other LGBTQ+ victims, who report specific tactics for psychological and physical violence. For example, victims outline emotional abuse that blames the abuse on their identity, defines “abusive behaviors as a normal part of LGBTQ relationships,”

⁴Gay men reported lower levels of intimate partner violence than heterosexual men, although the difference was not statistically significant. Lesbian women reported higher levels of intimate partner violence compared to heterosexual women, although the difference was not statistically significant (Brown and Herman 2).

⁵ Notably, non-binary individuals were not included as a reporting category, thus limiting the information on this group.

pressures them “to be ‘out’ or to be ‘closeted,’” or denies them access to LGBTQ+ spaces, using slurs, etc. Physical and sexual abuse can take form as acts that prevent gender-affirming surgeries, “public displays of affection in dangerous (anti-LGBTQ+) areas,” using stereotypes to enforce particular sex acts, and other manipulative acts (“Recognizing and Addressing” 3-4). Intimate partner violence against LGBTQ+ groups can weaponize their identities into carefully crafted attacks of their personhood. This violence is only exacerbated with the intersection of several minority identities.

Additionally, LGBTQ+ victims may face additional difficulties when seeking aid from legal services or intimate partner violence agencies. These barriers can arise through discriminatory practices, lack of specific services (i.e., shelters) for non-heterosexual or cisgender individuals, inaccurate evaluations of the victim and perpetrator dynamics by police officers arriving at a scene, and further systemic and stigma-based harms (Calton et al.). Much like victims of color, LGBTQ+ victims may avoid help-seeking behaviors to prevent discrimination, harassment, or violence from the services that they are asking for assistance. In some cases, victims may fear that they will be required to disclose their history in order to qualify for assistance, and if they are not out, believe “that their loved ones will abandon them,” they will be fired from their jobs, or will otherwise be ousted from potential support systems. The alternative, staying in the abusive partnership, may seem less destructive than fleeing (Calton et al. 590) If service providers, including domestic violence agencies, do not cater to LGBTQ+ needs, then all systems for “help” may be equally as unsafe as the abuse experienced at home.

In the ignoring of the specific manifestations of abuse for minority groups, the dominant literature, studies, and social and legal systems of aid cater to the experiences of privileged, white, cisgender, and heterosexual women victims. As such, the most marginalized and severely harmed victims are silenced. The above section represents only the most limited understanding of the challenges that these victims face, as I have failed to address the full experiences of women of color, particularly Native women, men of color, immigrants, and all those who are otherwise disadvantaged in our society. In my exploration of coercive control in this thesis, I elucidate only the ways in which this abuse impacts white,

cisgender, and heterosexual women. It can be imagined that, of the violence I reveal, these harms will only be compounded for the more marginalized victims.⁶

A Gendered Conception

I move forward with the knowledge that, when examining potential root causes of intimate partner violence and the impact of this violence on victims, intersections of identities beyond gender must be considered in order to eliminate harmful generalizations and to comprehend the overlapping nature of systems of oppression. This leads to a more fruitful discussion of how intimate partner violence begins and is perpetuated across boundaries and the ways in which it varies based on the identities and experiences of the abuser and the victim. Trends in intimate partner violence can be discussed, without pushing non-dominant narratives to the sidelines. As a result, this thesis does not attempt to speculate about the causes behind all tactics of intimate partner violence, or what spurs perpetrators to abuse their victims in cases where motivations are not provided. Instead, I discuss the ways in which gendered norms are enforced by abusers through coercive control, and how this form of violence is ignored by purportedly “neutral” abuse and self-defense legislation. I draw connections between patriarchal norms and violent strategies based on testimonies shared by women victims and male abusers.

I have made the deliberate decision to examine women victims of intimate partner violence, their testimonies, and the reactive violence they used in response to abuse, rather than explore all incidents of intimate partner violence, regardless of gender identity. This was a conscious choice, given the prevalence of intimate partner violence committed against women and as will be discussed later, the ways in which this is connected to self-defense and abuse law. While it would be presumptuous to assume that all intimate partner violence is linked to the patriarchy, I maintain the integrative feminist view that intimate partner violence is predominantly gendered in nature and must be understood as such. This move should

⁶ In reflecting back upon this thesis at its conclusion, I know that, if I could begin this thesis again, I would wish to remove white women from the limelight.

not be seen as me forcing the role of the abuser onto the man but is instead an examination of existing case law and intimate partner violence trends that exist across the United States.

Accordingly, I am using the term “women” to mean cis-gender, heterosexual people who are victimized by their cis-gender, heterosexual male partners.⁷ I anticipate that this decision could place this work in the category of “gender-essentialist,” as I am consciously excluding the narratives of victims who are not cis-gender, heterosexual women. This choice was largely influenced by the lack of substantive data on the experiences of coercive control in non-heterosexual partnerships. While I concede that this move does generalize the experiences of women victims and sidelines critical identities, I hold that it allows for a discussion of the “contexts, meanings, and motives” of male intimate partner violence against women. These motivations will be discussed shortly.

Crucially, this gendered choice emphasizes the previously overlooked tactic of abuse, specifically coercive control, which is enacted and experienced by abusers and victims of all identities. I argue that this violence is a form of male power and that despite this label, this analysis is relevant as an integrative feminist understanding of intimate partner violence. Toxic masculinity and paternalistic norms can be enforced by those who are not cis-gender or heterosexual men against all people, given the dynamic of the abusive relationship and the use of intentionally controlling and demeaning tactics. Identity alone is not enough to justify certain claims of knowledge or actions, rather people of all identities can rely upon male violence built upon male power (Mills, “Black Rights,” 22). Coercive controlling tactics can be a function of a patriarchal society while also being utilized by people who do not benefit from this structure, due to its dominant nature. This will be discussed in further detail in the subsequent chapter. Given this stance on the use of gendered violence, I envision that my thesis will be inclusive of all identities. Despite the narrow lens through which I am discussing this abuse, and even with the understanding that the issues faced by non-heterosexual and non-cisgender people or trans people will have unique differences that I do

⁷ For the rest of this thesis, I will use the term “women” as a shorthand reference to cis-gender, heterosexual women.

not discuss, I hold that this thesis will be relevant to an expanded understanding of intimate partner violence.

Further, I do not argue that all intimate partner violence stems from the patriarchy and happens exclusively to women by men, but I instead examine the ways in which this power structure maintains divisions between the abusers and victims. This path highlights the different tactics used by male abusers to achieve distinct motivations, such as punishment and responding to “threats to their masculinity,” instead of conflating all violence enacted by men and women into one form (DeKeseredy and Dragiewicz 875). I am grasping at only one piece of the puzzle, which may then lead to more discussion on appropriate interventions and power differentials for all incidents of intimate partner violence. At a minimum, I argue that examining these differences through a gendered lens will provide a deeper understanding of intimate partner violence and could lead to a more holistic legal approach. As will be outlined in a later chapter, current legal statutes around abuse and intimate partner violence narrowly hone in on the physical or sexual violence committed by the abuser and exclude the critical normative context behind the action. While the law attempts to uphold a gender-neutral conception of abuse, this ignores the system of patriarchal norms that exist in society and that are enforced by male abusers against their women victims. This lack of gendered theory has further implications when examining self-defense legislation, in which the limited and “neutral” understanding of intimate partner violence results in wrongful convictions of women victims.

Additionally, one cannot discount that most intimate partner violence is committed by men against women. This gendered nature of intimate partner violence is supported by data from the U.S. Department of Justice, which reports that women are five times more likely to be victimized by a partner or ex-partner than men and that in the United States, where “85% of victimizations reported in 1998, about 876,340, were against women” (Rennison and Welchans 1). Although this number has fluctuated over the years, the Centers for Disease Control and Prevention reported in 2022 that 1 in 4 women and 1 in 7 men will experience and report some form of intimate partner violence in their adult lifetimes

(Huecker et al.). On a statewide level, the 2022 Maine Crime Victimization Report published that women experienced and reported incidents of intimate partner violence at a rate of around 10%, in comparison to the 1% victimization rate of men in Maine (*2022 Crime in Maine*). These statistics cannot be ignored. Instead, it must be noted that women consistently experience intimate partner violence at much higher rates than men, and this divide is only exacerbated when examining specific forms of violence, such as stalking, sexual violence, and coercive control. In addition to this higher likelihood of victimization, the majority of abusers committing this violence against women are men (Swan et al.). Male abusers enact higher levels of intimate partner violence against women than women abusers against male victims, and as outlined above, male abusers primarily rely upon the tactics of coercive control, stalking, and sexual violence that are reported at high levels by women victims.

Due to the prevalence of gender-based intimate partner violence, I argue in this chapter that it is essential to maintain a gendered analysis throughout this thesis, given the social power roles that men and women hold in our society and the impact that these roles have on women's abilities to inflict violence and coercive control as abusers (Worcester). One must first understand these gendered differences in order to conceptualize the inequities in self-defense laws and the legal definitions of abuse that are discussed in subsequent chapters.

I adopt a feminist model of examining intimate partner violence, which understands this violence as a product of the oppression of women in which "men are the primary perpetrators and women are the primary victims" (McPhail et al. 818). Under this view, the violence enacted by men against women is directly tied to the subjection of women in society, as this harm intends to maintain male power through the use of coercive control and to restrict the financial, physical, and emotional capabilities of female victims. These patterns of violence are not used to gain back power that has been lost, or to prevent outside attacks, but rather are exhibitions of dominance by male abusers against female victims (Worcester 1402).

This view has been supported by research into the tactics that male and female abusers use against their victims. While men and women report using physical aggression and psychological aggression at similar rates, men report using “sexual abuse, coercive control, and stalking” more frequently than female abusers (Swan et al.). I choose to focus on the coercive control that male abusers use, which as outlined above, aims to perpetuate gender norms of male dominance (Swan et al.). Coercive control is motivated by a desire to isolate a victim from her support systems and to instill a sense of submissiveness using coercion and threats, intimidation, minimization, denying, and blaming, and acts of psychological violence (Dichter et al.). This form of abuse does not require the use of physical violence but can later result in it. Coercive control produces a sense of fear in the victim and restricts their liberties while maintaining the power and control of the abuser. To execute this form of violence, the abuser must be able to issue a credible and intentional threat that is taken seriously by the victim (Hamberger et al.). I put forth that this credibility and power is granted to male abusers due to their gender and is reinforced by society. This abusive tactic serves to rationalize notions of perceived masculine power in male perpetrators, who utilize coercive control in higher levels and more severe forms of this violence against their female victims, in comparison to the female abusers that have been studied (Tanha et al. 1850).

As stated above, male abusers utilize intimate partner violence as a controlling tactic to maintain the power imbalance and unequal distribution of resources. This takes the form of an ongoing pattern of violence, rather than an isolated incident, that is intended to create fear and to uphold man’s position and privilege in society. This argument is supported by testimonies from male abusers, who identified that their main motivation for abuse was to maintain “control” or to “punish” their female partner (Worcester 1403). They were not seeking to defend themselves from their partner or to gain power, but rather to uphold their existing dominance and to perpetuate the subordination of their female victim.

In contrast, violence enacted by women is not used to maintain a power imbalance or exert control, but often stems from different “social and economic factors,” and is a response to “a loss of power” in a partnership (Miller 140). While male abusers strive to maintain power, female abusers strive

to decrease the power gap. In a study conducted by Hamberger, Lohr, and Bonge (1994) of the motivations for abuse committed by convicted female abusers, the majority of participants qualified their actions as “self-defense,” “to express feelings or tension,” “to shut their partner up,” and to “retaliate for past violence” (Elmquist et al. 610). These motivations suggest that most female abusers exercise coercive control tactics in response to actions from their male victims, rather than as exploitative measures.

While I allow for the possibility of coercive control enacted by female victims, Evan Stark, in *Insults, Injury, and Injustice: Rethinking State Intervention in Domestic Violence Cases* (2004), responds to Linda Mills and argues that he has “never encountered a heterosexual case of coercive control involving a male victim” (1313). This takes the above argument a step further, to posit that, due to the exploitative nature of coercive control through gender inequalities, women abusers are unable to achieve the levels of “patriarchal terrorism” that are necessary to successfully implement credible and intentional threats (Stark, “Insults, Injury,” 1314). In short, coercive control can be acknowledged as a fully gendered tactic that reinforces public power imbalances in the private sphere. I recognize the severity of this position put forth by Stark, but I maintain that it successfully highlights the gendered nature of coercive control. Thus, it is necessary to view intimate partner violence as gendered when discussing the influence and enforcement of power and control tactics.

If this gendered nature is ignored, it can have drastic consequences for how law enforcement and the legal system respond to incidents of intimate partner violence. As outlined above, coercive control can take form in other ways than physical and sexual violence, or other visible injuries. Women may only experience “invisible” threats, denial and blaming, or forms of emotional abuse, and may never be physically abused by their partner. However, this abuse is all too real and is interpreted by the victim as unrelenting and damaging violence that warrants police intervention or acts of self-defense. The current legal definition of abuse ignores the negative implications that any tactics used by an abuser will have on the victim and focuses solely on the most overt expressions of control. As a result, it represents a

structural lack of knowledge around intimate partner violence and impacts how one will respond to a reported incident of abuse.

For example, victims may participate in retaliatory or reactive violence in response to intimate partner violence as an effort to “escape and/or stop the violence that is being perpetrated against them” and/or to prevent an escalation of the abuse through a display of power (Pence and Dasgupta 9). This form of violence is not an example of coercive control and is not part of a larger pattern of abuse but is rather a drastic measure taken by the victim to ensure her safety. However, this act of self-defense may be interpreted by the law as a form of violence in which she attempted to cause “bodily injury or offensive physical contact” to her abuser and can lead to the victim’s arrest (Title 17-A § 108). Additionally, a victim experiencing emotional abuse may seek aid from law enforcement and be unable to get a conviction against her abuser without first experiencing physical violence, or proper, legal, “abuse.” This delay in aid may have severe consequences for the victim, as she has further opportunity to experience harm at the hands of her abuser and may be in danger of increased violence, or death.

Although intimate partner violence can and does happen to anyone, I hold that intimate partner violence against women is not only a personal event, but also represents larger systems of power and oppression. If one fails to recognize the differences between the types of intimate partner violence, they are ignoring the influence of these unjust systems and the impact and consequences they have on victims. This gendered analysis is used as evidence of the epistemically harmful actions of the legal system towards women survivors and lays the foundation for a feminist critique of self-defense, violence, and threats.

This model stands in opposition to alternative ways of conceptualizing intimate partner violence, which point to psychological, sociological, and neurobiological data as explanations for violence enacted by abusers. Proponents of these views seek to understand the abuser’s actions by focusing on his past experiences with violence, potential attachment disorders, or other factors that are related to the nature and nurture of the abuser (McPhail et al. 819). These models view each incident of intimate partner

violence as a private event, in which internal factors contributed to the expressions of violence. However, this ignores the societal implications of coercive control as an abusive tactic. Male abusers are able to effectively levy threats against female victims due to their implied power differential and, as discussed above, cite motivating factors of “punishment” and responses to threats against their masculinity. While internal factors may contribute to someone’s path toward abuse, one cannot ignore that forms of abuse are reinforced by assumptions of male power and masculinity. This will become more apparent as I explore an expanded version of intimate partner violence put forth by domestic/intimate partner violence organizations and feminist scholars and compare it to the sparse definitions of abuse in the law. This will serve as a reminder of the importance of a gendered view of intimate partner violence when examining self-defense law, and the ways in which it fails to account for reactive violence on behalf of female victims and forms of abuse that warrant self-defense outside of physical violence.

Chapter Three: Defining the Concept of Intimate Partner Violence

In order to critique the narrow scope of intimate partner violence under the current legal statutes, I must establish a working definition of intimate partner violence from which I will build this argument. I take up the definition that is outlined in “Feminist Perspectives of Intimate Partner Violence and Abuse (IPV/A),” of intimate partner violence as the “threat or commission of acts of physical, sexual, emotional, or psychological abuse committed by a spouse, ex-spouse, former, or current dating partner” (Becker et al. 2328). This general conception includes all forms of enacted and threatened violence against a victim of intimate partner violence and leaves room for further expansion of the outlined acts. This way of understanding intimate partner violence does not require the use of physical or sexual violence but instead acknowledges that other tactics may be used in conjunction or separately against a victim, which can later escalate to include physical or sexual abuse. Physical violence is not always present in cases of intimate partner violence, and it is not required for a pattern of behavior to be considered as such.

This is a stance put forth and upheld by feminist scholars and intimate partner violence agencies, who argue that it is imperative to consider the aspects of psychological and emotional violence given the devastating effects it has on a person’s autonomy and well-being. The experience of this violence has been likened to an “invisible cage” in which a victim is entrapped by patterns of actions that demand her submission (Stark, “Coercive Control” 229). This violence takes the form of coercive control, also referred to as “intimate terrorism,” in which an abuser uses intentional tactics, such as threats, intimidation, isolation, financial abuse, minimizing, denial, and blame to achieve their intended outcome: dominance and power (Pence and Dasgupta). Coercive control results in the degradation of the victim and their direct loss of agency and safety and is built upon an enduring pattern of perceived and enacted threats.

This intentional enforcement of the abuser’s power is reported at much higher rates than other forms of intimate partner violence, such as physical and sexual violence. This finding was supported by a

comprehensive study of over 66,000 women experiencing intimate partner violence, where nearly half, or 48% of victims reported experiencing at least one form of coercive control at the hands of their male partner. This includes controlling tactics such as isolation, exploitation, and monitoring of movements, that work to increase women victims' dependencies on their abusers. In contrast, other forms of intimate partner violence (physical and sexual) were reported at levels of around 25% in the same study (Kanougiya et al.) Coercive control was found to be more prevalent in incidents of intimate partner violence against women and was often used in conjunction with other forms of violence. This finding was reproduced in a meta-analysis of the mental health impacts of coercive control conducted in 2023, in which the tactic was reported in "up to 58% of IPV relationships" (Lohmann et al.). Although this final statistic does not focus solely on women victims of intimate partner violence, it conveys the weight that coercive control holds for an abuser against a victim and emphasizes the importance of recognizing this form of violence. I have established the need to consider coercive control as a tactic and will next turn to how it is perpetuated. This will allow for a later discussion of the gendered implications of coercive control.

Coercive control manifests as a systemic pattern of abuse against the victim. It is important to recognize that all forms of intimate partner violence are often cyclical in nature, in which the abuser intentionally oscillates between the phases of abuse, turmoil, and "honeymoon or remorse forgiveness" (Becker et al. 2344). The abuser may increase pressure on the victim during the tension phase after a perceived wrong or a violation of their enforced rules, which can then result in an incident of violence, such as an outright threat of physical harm. Following this event, the abuser may feel remorse for his actions and seek forgiveness from the victim. This may lull the victim into a false sense of security before the cycle begins again. This pattern, while repetitive, is wholly unpredictable and has dire consequences for the well-being of the victim and her perceived safety.

As outlined in the meta-analysis on mental health implications of intimate partner violence introduced above, Lohmann et al. found a positive association between the intentional behaviors used by

abusers in the form of coercive control and the decreased mental well-being of the victims. This violence directly resulted in negative mental health outcomes for the victim, such as Post-Traumatic Stress Disorder (PTSD) and Complex Post-Traumatic Stress Disorder (CPTSD), depression, anxiety, and suicidality (Lohmann et al.). While the impact of physical violence against victims may be more outwardly visible than that of coercive control, this does not decrease the harm that is caused by this form of abuse. This is evident in the testimonies collected from women survivors in which they discuss their experiences of being subjected to coercive control at the hands of their male partners.

In reflecting on her experience for “The Voices of Survivors” documentary, which aimed to inform developing physicians about intimate partner violence, one victim shared that the coercive control she experienced “was like one of the worst beatings I think I’ve ever gotten” (Nicolaidis 120). Although this victim had been subjected to both coercive control and physical abuse, she was calling for physicians to understand and take the negative effects of coercive control seriously. This survivor is not alone in these feelings, rather they are part of a larger whole. The long-term health implications for a victim experiencing coercive control are not to be taken lightly and must be given significant weight in discussions of the consequences of intimate partner violence and how it must be quantified under the law.

Additionally, given the gendered lens through which I am examining intimate partner violence, the relationship between gender and coercive control must be explored. Coercive control is a tactic that is predominantly utilized by male abusers against women victims (Stark, “Mandatory Arrest” 199). In an examination of reports of victimization in “Sex Differences in Intimate Partner Violence and the Use of Coercive Control as a Motivational Factor for Intimate Partner Violence,” by Marieh Tanha et al., researchers found statistically distinct differences between the levels of coercive control that were reported by women and male victims and the reported motivations behind these controlling incidents. During trials of the study, participants were first screened for the presence of intimate partner violence and were then asked to complete the Relationship Behavior Rating Scale (RBRS) and self-report on the abuse they had experienced within the past 12 months (1842-1843). These results were divided into

categories of intimate partner violence. Of the 762 divorced couples participating in the study, women victims reported experiencing coercive control at significantly higher rates than the male victims. In subsequent hypothetical and restricted trials of these same participants, this finding was reaffirmed and illustrated that the use of coercive control by male abusers against women, “causes women’s victimization” in high numbers (Tanha et al. 1844-1850). This finding calls into question the motivational differences of intimate partner violence, given the prevalence of male abusers who use coercive control against women victims. For this, one must understand coercive control as a gendered aspect of intimate partner violence.

Coercive control is intended to place and maintain the abuser’s position of power over his victim and reinforces existing patriarchal structures of male domination. While physical violence may be more visible to outside spectators, coercive control allows the abuser to strategically enforce normative standards against women (Stark, “Coercive Control” 232). By using intentional threats that are contingent on the victims’ behavior and supporting these threats with actions intended to create a culture of violence, male abusers increase the victim’s dependency on and fear of the said abuser. Coercive control has been deemed as “patriarchal terrorism,” as a result of its strategic disempowerment of women victims. The behaviors, while not physically violent, are established and enforced to produce an “underlying dynamic” of subjection and domination that reflects existing cultural norms (Hamberger et al. 2). Isolating tactics may cut a female victim off from her support system and will increase her emotional and financial dependency on her abuser. The abuser may then call the victim names, minimize her feelings, and deny his role in the abuse to further the victim’s isolation and decrease her self-worth. When using these methods against women victims, male abusers primarily look to control and punishment as motivation for this abuse (Worcester 1403). Rather than point to actions out of self-defense, to level the playing field, to increase power, or to escape, male abusers provide explanations that directly support their privileged role in a male-dominated social system. This is exemplified in the 1994 study by Hamberger, Lohr, and Bonge, which evaluated the motivations behind the abusive actions taken by 75 women and 219 men. All

participants were mandated to receive intimate partner violence counseling and completed an evaluation of their use of violence in their relationship. In the study, male abusers reported using abusive actions, such as coercive control to “assert dominance, to control women’s verbal or physical behavior, to vent anger, or to demand attention” (Miller 124).

Male abusers rely upon these harmful techniques to reduce the power of their victims and to maintain their own, thus producing a microcosm of a patriarchal society and toxic masculinity. Male abusers are directly enforcing a system of gendered norms onto their women victims, in which their presence demands subjection, and their opinions and rules are definitive. Any deviation from these norms demands punishment, whether in the form of additional coercive control tactics or an escalation of violence to include physical or sexual abuse. As with other exhibitions of intimate partner violence, this pattern of coercive control is unpredictable and traps its victims in a constant state of fear, both for the present and for the future.

To emphasize the ways in which coercive control is used by male abusers, I turn to the following testimonies provided in the study, “Living with Coercive Control: Trapped within a Complex Web of Double Standards, Double Binds and Boundary Violations,” in which statements from 14 women who had experienced coercive control in previous relationships were collected. The following testimonies were given by women participants and outlined their experiences with coercive control tactics:

I wanted to go back to school and finish my final year ... because it meant I would not be home for three days a week. He just put things in place so that I couldn’t make it ... there was always something we had to do ... always something that got in the way to get my license... if I wanted to go somewhere he’d have to take me (Pitman 154).

Where can I set good boundaries without being repercussed ...? I avoid doing things that might make him hit the roof ... because he gets so spiteful, so cruel and mean ... I was a bit afraid he might hurt me to get the insurance (Pitman 154).

Both quotes from the women victims clearly describe their male abusers' intent to control and restrict their partners' movements, and thus agency. They describe their abusers' rules: "he just put things in place," and their punishing attitude, as "cruel and mean " towards them (Pitman 154). This exertion of power is represented in these instances through isolation, potential financial abuse, and evidence of threats and intimidation. Although neither woman references actual instances of physical or sexual violence, it is clear that they are experiencing a form of abuse - coercive control. In both cases, each woman references the idea of recovering her agency, whether it is through going back to school or setting boundaries (Pitman 154). However, these attempts were intentionally thwarted by their abusers to maintain a superior attitude and uphold normative gender standards. They are motivated by patriarchal norms, in which the man is in a dominant position over a woman and enacts severe abusive tactics (Miller 34). Women victims face the repercussions of male abusers' misogynistic thinking.

This is evidenced in a 2005 study by Susan Miller outlined in the work *Victims as Offenders: The Paradox of Women's Violence in Relationships*, in which interviews were conducted with three women treatment groups for women arrested on intimate partner violence charges. While these women were arrested for intimate partner violence, Miller determined that most of the women were convicted for defensive or reactive behavior in response to abuse from their male partner (120). In discussing the abuse they experienced from their partners, the women described that their partners were "angry and uncomfortable with any changes or challenges to the power dynamics...in their relationships" (124). The women felt that they were punished for taking empowering actions, as supported by the motivations given by male abusers described above. Coercive control is a gendered form of abuse that relies upon and perpetuates patriarchal structures.

In contrast to the reasonings given by male abusers, women abusers using coercive control cite their primary motivations as getting "your partner to do something or stop doing something," "to make your partner agree with you," and to "get control over your partner" (Swan et al. 308). These motivations, while still abusive, do not prioritize the removal of power from the victim, but instead emphasize the

increase in power for the women abuser. They are not seeking to maintain existing power at the onset of the abuse, but rather to gain the upper hand over their male victim. These abusive actions challenge the inherent privilege that men hold in society, instead of serving as a perpetuation of this power. This is a critical and gendered difference between the uses of coercive control by women and male abusers that cannot be ignored. Rather, one must recognize that when coercive control is employed by men and women abusers, it is directly influenced by “gender roles and cultural expectations on gender” (McPhail et al. 833).

In a critique of this last argument, some may counter that once a woman abuser begins to rely upon coercive control against her male victim in a pattern of abuse, her motivations are no longer to “make her partner agree with her,” but begin to resemble the goals of male abusers - control and punishment. This would suggest that a woman abuser is capable of enacting the violence that I have previously argued is gendered. I do not disagree with this assessment. Rather, I hold that these women are now taking paternalistic and misogynistic norms and are enacting them against their male victims. A male conception of violence that is based on male power is still being enforced, despite the gender identity of the woman performing the abusive actions. Women abusers internalize oppressive messages that are counterintuitive to their gender identity and adopt these motivations in their abusive actions (Rahmani 6-7). This is not a surprising argument, despite these patriarchal ideologies existing in opposition to the women abusers. However, one must not forget that these motivations, “to control” and “punish,” exist as a form of “ideological hegemony” and can be manifested by anyone in society (Mill, “Black Rights,” 22). As Charles W. Mills outlines in his work, *Black Rights/White Wrongs: The Critique of Racial Liberalism*, non-white people can adopt “white ignorance,” or the dominant racist ideology, in the same way that a “male-identified women” internalizing misogynistic ideas (22). Women abusers utilizing coercive control can participate in this gendered violence by adopting hegemonic patriarchal values and using them as motivators for violence against their partners.

Notably, I am focusing solely on the instances of intimate partner violence in which women are the primary aggressors utilizing patriarchal motivations in this response, and not cases in which women are acting abusively out of self-defense or to escape, or cases in which women are weaponizing violence in order to prevent future abuse from their partner (Elmqvist et al. 616). This argument does not remove responsibility from the woman abuser for her violent actions but instead hopes to contextualize her motivations as an extension of patriarchal norms and to continue the discussion of coercive control as a gendered form of intimate partner violence. This gendered understanding of the ways in which coercive control is enacted, as well as the importance of recognizing this tactic as a form of intimate partner violence leads us to the following discussion on how intimate partner violence is classified by the legal system. It is here that I propose several injustices take place - the failure to include and understand coercive control in both abuse and self-defense laws allows for the dismissal of cases of intimate partner violence, prevents women from seeking protections, and criminalizes reactive violence used by victims in self-defense. I first address the injustices arising from the limited definitions of abuse under the law.

Chapter Four: Intimate Partner Violence Under the Law

Currently, intimate partner violence is also referred to as “domestic abuse,” “intimate partner violence” and “battering” in scholarly works, and is defined in the Maine Statute, Title 19-A §4102: Domestic Relations, as a form of abuse in which someone attempts to cause “bodily injury or offensive physical contact, or attempts to “place another in fear of bodily injury,” and includes additional occurrences relating to force and stalking (Title 19-A).⁸ This understanding of intimate partner violence

⁸ 1. Abuse. "Abuse" means the occurrence of the following acts:

A. Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under Title 17-A, chapter 11, except that contact as described in Title 17-A, section 106, subsection 1 is excluded from this definition; [PL 2021, c. 647, Pt. A, §3 (NEW); PL 2021, c. 647, Pt. B, §65 (AFF).]

B. Attempting to place or placing another in fear of bodily injury, regardless of intent, through any course of conduct, including, but not limited to, threatening, harassing or tormenting behavior; [PL 2021, c. 647, Pt. A, §3 (NEW); PL 2021, c. 647, Pt. B, §65 (AFF).]

C. Compelling a person by force, threat of force or intimidation:

(1) To engage in conduct from which the person has a right or privilege to abstain; or

(2) To abstain from conduct in which the person has a right to engage; [PL 2021, c. 647, Pt. A, §3 (NEW); PL 2021, c. 647, Pt. B, §65 (AFF).]

D. Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by:

(1) Removing that person from that person's residence, place of business or school;

(2) Moving that person a substantial distance from the vicinity where that person was found; or

(3) Confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved; [PL 2021, c. 647, Pt. A, §3 (NEW); PL 2021, c. 647, Pt. B, §65 (AFF).]

E. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed; [PL 2021, c. 647, Pt. A, §3 (NEW); PL 2021, c. 647, Pt. B, §65 (AFF).]

F. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; [PL 2021, c. 647, Pt. A, §3 (NEW); PL 2021, c. 647, Pt. B, §65 (AFF).]

G. Engaging in the unauthorized dissemination of certain private images as prohibited pursuant to Title 17-A, section 511-A; or [PL 2021, c. 647, Pt. A, §3 (NEW); PL 2021, c. 647, Pt. B, §65 (AFF).]

recognizes threats that are “dangerous to human life,” both for the victim or against another person, as long as there is a “reasonable fear” that the crime will be committed (Title 19-A, ch. 4). Although I will not address the idea of a “reasonable” fear against a threat in this chapter, this will be discussed in future sections on existing self-defense requirements. At present, I focus on the forms of abuse that are included and excluded from this legal statute.

Given the emphasis that must be placed on coercive control as argued in the previous chapter, I put forth that the legal definition that is used to convict abusers of intimate partner violence does not fully capture the depth of abuse as a concept. Rather, it ignores the existence of coercive control and its pattern of behavior and limits the understanding of intimate partner violence to the most severe and physically violent instances of abuse. This is evident in the language throughout the statute, in which “bodily injury,” “physical contact,” “sexual assault,” and “force” are used to describe the primary actions utilized by abusers (Title 19-A, ch.4). For example, actions resulting in bruising, broken bones, strangulation, brain damage, and other physical harms may be prosecuted (Goodmark, “Should Domestic,” 77). When abuse is conceptualized as purely physical or revolving around the body, this gap allows for legal officials to ignore potential signs of coercive controlling violence. This is exemplified in statements given by police officers in the 2005 work, “Victims as Offenders” where ten trained observers accompanied police officers on 90 ride-along calls during the months of June through September in 1999. Over the course of the study, observers witnessed 63 calls for domestic violence (intimate partner violence) and interviewed the officers on how they responded to these calls and their general opinions of the procedures (Miller 53).

Notably, the researchers observed a consistent pattern in the way police officers described their practice: “if there are any signs of injury, an arrest must be made,” and in cases where injuries are not visible, “we usually pray there isn’t, then it’s my discretion. I can just write verbal altercation on my sheet” (Miller 58). Officers reported that responding to these calls and completing the required paperwork took too much time away from other incidents and that they could not afford to look beyond the surface of

H. Engaging in aggravated sex trafficking or sex trafficking as described in Title 17-A, section 852 or 853, respectively. [PL 2021, c. 647, Pt. A, §3 (NEW); PL 2021, c. 647, Pt. B, §65 (AFF).]

a potentially abusive situation. Pro and mandated arrest policies were described with antipathy, with observers noting that “covering one’s ass was mentioned repeatedly” (Miller 58-59). Victims were not centered in the narrative, rather officers placed their own needs at the forefront. The legal system affords police officers this right, as they can evade further exploration into non-physically violent situations. Although signs of coercive controlling abuse may be present in a case (i.e., clear fear from the victim, statements outlining coercive controlling tactics, evident manipulation, and dismissal by the perpetrator) the emphasis on physical or sexual violence does not mandate further intervention or understanding of the diverse ways that abuse manifests.

It is evident that the legal exclusion of non-physical violence shifts the focus of the statute, and thus the focus of law enforcement and legal officials, away from victims experiencing coercive control. While the statements above outlined police officers’ displeasure with responding to more complex situations of intimate partner violence, it may also be the case that an officer has a limited understanding of how non-physical abuse manifests. If there are no immediate signs of physical or sexual abuse, a law enforcement officer may believe that the victim is not in critical danger or that the potential offense does not warrant legal intervention. The existing legal system prioritizes the arrest of physically violent abusers and is “incapable of analyzing” incidents of coercive control under this system (Cross 215). Evan Stark, in “Looking Beyond Domestic Violence: Policing Coercive Control,” coins this legal framework as the “violent incident model,” in which physical violence is targeted and the “severity of abuse can be gauged by applying a calculus of physical harms to these incidents” (200). Violence with higher levels of physical harm is deemed worthy of conviction, whereas the “invisible” coercive control is ignored. This can lead to further, unjust harm to women victims who are seeking aid from an abuser. A victim’s pleas for help may be unjustly ignored by legal officials for not meeting their criteria of abusive violence under the law.

Critically, when employing the term “helpful” or “aid,” I am describing a situation in which a victim is respected in her capacity as a knower and is listened to by the hearer (the police officer). This understanding is based upon a study of police perceptions of helpfulness by intimate partner violence

victims published by Robert Apsler, Michele R. Cummins, and Steven Carl in 2003, where high helpfulness ratings were directly connected to “what victims wanted from the police (help getting/enforcing a restraining order, arrest of the offender, connection to counseling/advocacy services) and whether they received the desired assistance (1345). When victims are given their deserved credibility and their requests taken seriously by the police, they are clearly satisfied with the level of legal intervention. In contrast, lack of aid decreases victims’ willingness to contact law enforcement for future assistance for incidents of intimate partner violence (Apsler et al. 1331). If a victim feels unable to call for legal assistance, she loses a key support system that could prevent future harm. This is a critical loss in an abusive relationship, where violence rarely stops or decreases in severity without outside intervention (Epstein 7).

While some may argue that these hesitations of police to convict seem like minor injustices, one must remember the danger that a woman faces when reporting intimate partner violence in a larger context. If she is ignored by the system from which she is requesting help, her situation does not become any less dire. Rather, she faces the additional danger of retaliation from her abuser. As evidenced by the 2003 study, “Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study,” researchers found that the “risk of intimate partner femicide was increased 9-fold” after the victim separates from the abuser and the abuser is highly controlling (Campbell et al. 1090). Although a victim may fail to separate from her abuser if she is ignored by law enforcement officials, this attempt to leave may be interpreted as an act of defiance in the eyes of her abuser and increase the severity of the violence. Specifically, in a coercive controlling relationship built upon power and control, an abuser may interpret a victim’s attempt to seek help as an act of rebellion and a threat to his carefully constructed ecosystem of violence. An abuser may see no choice but to act on established, or contingent, threats, resulting in dangerous outcomes for the already victimized woman (Hamberger et al. 2).

This danger is best demonstrated in the case of Karen Graves, who was killed by her estranged husband, Richard Graves, in March 1996. Despite the calls, letters, and pleas on her behalf from friends and family, K. Graves fell victim to both her abuser and the legal system. This legal story is described as follows:

On June 13 and June 14, 1993, K. Graves makes two calls to the dispatcher requesting shelter from Richard. The police are not called, and K. Graves is given information on shelters. Police are informed that Richard owns two weapons (guns). K. Graves speaks with a case counselor and discusses Richards's violent behavior. K. Graves and R. Graves become estranged sometime during this year and there are no reported incidents until 1995. In early February of 1995, both K. Graves and R. Graves file Domestic Violence Petitions (Protection from Abuse Orders/Restraining Orders) against one another. Both orders are granted, yet they are not successfully enforced. In the petitions for the orders, R. Graves states that K. Graves had demanded he leave the home and tried to slap him. K. Graves states that she told R. Graves she was divorcing him, and he became extremely angry. Following her admission, R. Graves proceeded to remove parts from K. Graves' vehicle, hid her wallet and keys, removed the phone from the wall, physically blocked her in the home, and verbally abused her.

Over the subsequent months, K. Graves and R. Graves were in and out of 4 different district courts to be heard by "10 different District Court judges" (Mortality Review Committee 15). While R. Graves received several warrants for his arrest over the year, they were dismissed during the shuffle of cases from judge to judge. Further, despite the 22 calls made to law enforcement about R. Graves, two different police departments responded...no responding officer was aware of any previous calls when arrived at the scene" (Epstein 22).

In September 1995, K. Graves submitted the following letter to the court system begging for Richard Graves' arrest and for protection from her former partner:

I beg this court and all other courts involved to please put this case to rest...I beg this court to make Richard follow your orders, and when he doesn't give consequences for his actions. I beg this court to read the entire file from beginning to end before making a decision. I beg the courts to protect me, and my children (Mortality Review Committee 2).

Despite the increase in physical violence (and the existing presence of coercive control) and threats throughout 1995, no true action was taken to protect Karen Graves. On March 21, 1996, a murder/suicide call was received by the police from R. Graves' aunt. Karen Graves had been shot in the head and killed by Richard Graves (Mortality Review Committee 47). Karen Graves' victimization was ignored by law enforcement and legal officials and was murdered as a result of this injustice. She exhausted every legal option that was available to her, yet her case was not given the weight it deserved. Karen Graves' case represents a true failure of the system in which her life was allowed to be wrongfully taken by Richard Graves. Clearly, she did not receive the help she requested from law enforcement and paid the ultimate price for their oversight.

While it is impossible to fully comprehend the trials that Karen Graves faced, one must also imagine the psychological harm that was done to her by the legal system. The persistent denial of her experiences, despite the very real abuse she was undergoing, may have only served to increase the overall mental toll. This situation is not unique to Karen Graves but instead represents a further harm towards women victims. The inaction of police officers, judges, etc., constitutes an institutional failure on behalf of the legal system and may only worsen the victim's belief that she is not experiencing *true* abuse. If this narrative is presented from all fronts, it can be impossible to ignore. For example, several victims, acting under pseudonyms, discussed their feelings of betrayal by the police with researchers examining the emotional impact and aftermath of technology-facilitated coercive control in "Living in the Darkness": Technology-Facilitated Coercive Control, Disenfranchised Grief, and Institutional Betrayal" (Woodlock et al. 988). Victims reported unmistakable evidence of coercive controlling behavior from their abusers, such as surveillance through GPS and social media accounts, constant texts or calls, digital humiliation,

etc. (Woodlock et al. 989). As a result of this abuse, victims sought out aid from police officers, yet were dismissed or deemed responsible for the coercive controlling behavior. One victim, Jessica, describes her rebuke from the police:

Certain police, they [say] - "Oh, you're just getting this type of communication," "Oh get over it," sort of type thing, you know? "You're not getting bashed around, or hit with a baseball bat, or with your life threatened" (Woodlock et al. 998).

Jia, experiencing similar abuse to Jessica, recounts her betrayal by the legal system, stating:

I think the most terrible part of that is - because people think it's not physical, there's no physical implication, but actually, there is. Because people can use this information. They can use what they get from your email to physically stalk you and do some bad things (Woodlock et al. 998).

It is evident that, when officers do not take intimate partner violence seriously and fail to hear the requests being made by victims, women suffer unjustly. They lose further credibility that they are experiencing abuse, may face physical and psychological punishment as retaliation from their abuser, and may lose access to potentially life-changing services. Critically, law enforcement is often the first line of defense or response to pleas for aid in these cases of abuse, and their unwarranted dismissal cuts off all future lifelines for victims. While legal aid is an important achievement for a victim, officers are often able to connect victims to advocacy resources and further intervention organizations that are invaluable to the victim's survival (Saxton et al. 4). This is not merely a matter of "avoiding paperwork." Women's lives are on the line. The existing focus of the abuse statute on purely physical violence permits ignorance of coercive control and allows for this pernicious violence to escalate to irreparable forms.

In response to this understanding of the abuse statute and harsh critique of legal practices, some may point to the law's later language, in which criminal abuse is expanded to include the "compelling of a person by force, threat of force or intimidation" to act or abstain from acting, and argue that this includes coercive controlling violence (Title 19-A ch.4). However, while I concede that coercive control relies

upon threats and intimidation, the statute fails to cover the full scope of the violence that can be classified as coercive controlling. The statute ignores the psychological torment that is essential to the function of this violence and instead focuses on methods to coerce physical action. I argue that the reference to compelling a victim to act or abstain from an action implies a physical element to the violence and does not capture the emotional violence that has been described at great length in previous chapters. One must remember that abusers intentionally rely on coercive control to establish domination and implement this abuse using patterns of fear. Once this intensive cycle has been enacted, the victims' fear of further harm (psychological, physical, etc.) becomes so great that she "precensor[s] 'dangerous thoughts'" (Stark, "Coercive Control," 209). A victim experiencing intimate partner violence in the form of coercive control may be constantly on edge and undergoing intense, recurrent psychological harm, all while preventing frequent outbursts from her abuser. In short, she is entrapped by her abuser in her daily life (Tolmie et al.). To those on the outside, this abuse may be invisible, or present as "run-of-the-mill nagging," rather than as its carefully crafted micromanagement (Sheley 1330). This violence cannot be isolated from one individual incident (i.e., "he hit me"), but must be analyzed as a whole. Thus, it is critical that officers responding to calls of intimate partner violence take this violence seriously, despite a potential lack of physical evidence.

Further, while I acknowledge that coercive control tactics may be used in conjunction or separately against a victim with physical or sexual abuse (see the case of Karen Graves described above), these physical aspects of violence are not always present or are not considered most pressing by the victim (Dutton et al. 101-102). Rather, coercive controlling violence often precedes other forms of violence and predicts its later occurrence (Myhill and Hohl 4481). This is exemplified in the longitudinal study, "Psychological Aggression Predicts Physical Aggression Early in Marriage," conducted by Christopher M. Murphy and K. Daniel O'Leary. Over 30 months, 393 engaged couples participated in three assessment periods. The couples completed a pre-trial conflict assessment, and all reported no physical aggression at the start of the study. Once couples reported the first signs of physical aggression,

they were excluded from further trials. Murphy and O’Leary reported a statistically significant correlation between the existence of psychological aggression (determined through a conflict scale) and the later presence of physical aggression among the couples. By tracking the development of this psychological aggression in stages, one could make a supported prediction about when physical aggression would begin (Murphy and O’Leary 579-580). As the frequency of the reported psychological coercion increased in severity, so did the likelihood of physical violence (Murphy and O’Leary 582). These findings show that coercive control acts as its own, unique form of abuse and a clear predictor of later, physical violence. A potential solution (not one that I argue for just yet), is to clearly delineate coercive control in the law to emphasize the dominant position it holds, instead of viewing it as a mere subset of physical abuse. This is not a lofty goal.

Rather, it has been implemented in the United Kingdom. Section 76 of the 2015 Serious Crime Act in England and Wales distinguishes between coercive controlling behavior and other forms of intimate partner violence to recognize the pattern-like and intentional nature of the abuse (Serious Crime Act). The statute then clarifies the criteria for determining if coercive control is present, where the behavior must have taken place on two or more occasions or is continuous (there is no clarification on the necessary time-frame), that the abuse has had a “serious effect” on the victim,⁹ i.e., social isolation, “physical or mental health deterioration,” change in routines, loss of autonomy, “living in fear of punishment,” etc., and that the abuser is conscious of the impact of this violence on the victim (Serious Crime Act). Through making this distinction, legal intervention may be provided earlier to victims and could decrease the number of women who are ignored by the system and serve as prevention of later physical violence or femicide.

⁹ “This means that the perpetrator has caused the victim to either fear that: Violence will be used against them on two or more occasions (section 76 (4)(a)); and/or; caused serious alarm or distress which has had a substantial adverse effect on the victim’s usual day-to-day activities (section 76 (4) (b)). Examples of where the perpetrator’s behaviour has a “serious effect” on the victim includes cases where the victim is subjected to repeated and/or physical violence, sexual assault, coercion, abuse, or threats of such acts. However, violence and/or threats of violence do not need to be present for controlling or coercive behaviour to take place. 8 Lau v. DPP [2000] Crim LR 580. 12” (Serious Crime Act).

However, others may critique this assessment of the legal conception of abuse in Maine and would instead argue that existing mandatory and pro-arrest policies decrease the number of victims who are ignored by the legal system. These mandated arrest policies were largely implemented in the late 1970s and 1980s in response to cries for reform by feminist domestic violence activists (Hirschel et al. 258). In this understanding of abuse law, it is not necessary to parse out the specific forms of intimate partner violence, as these policies “require the police to arrest an offender if there is probable cause to believe that IPV has occurred” (Leisenring 354). If a police officer assumes that a victim is experiencing intimate partner violence, he is able to arrest the abuser without gathering further information about the situation. In short, if a police officer receives a call for intimate partner violence, it can safely be assumed that *someone* will be arrested.¹⁰

For law enforcement officers with a deep understanding of intimate partner violence and its manifestations, mandated and pro-arrest policies may work successfully. However, these policies hinge on an individual officer’s ability to assess a non-violent or violent situation, determine who is the party at fault and who is the victim, and afford said victim the needed credibility and support. Given the earlier testimonies from officers responding to intimate partner violence calls and helpfulness ratings from survivors, it is evident that this is not the reality. As will be discussed in the subsequent self-defense and proposed solution chapters, pro-arrest policies can legitimize the wrongful arrests of victims using reactive violence.

It is the threat or act of physical violence, sexual violence, and/or stalking that leads to a conviction for intimate partner violence under the legal statute. It fails to recognize alternative manifestations of intimate partner violence, such as the minimizing, denial, and blaming actions that are

¹⁰ In this discussion, I consistently refer to cases of single-arrests for intimate partner violence and do not fully address the harm of dual-convictions. Dual-convictions may be utilized by police officers who are unsure of which party is the perpetrator or victim, but, because of pro-arrest laws, may feel obligated to act. Thus, both the victim and the abuser are arrested. I hold that significant harm is still caused by these convictions. Although the “true” perpetrator may be held accountable, injustice is done to the victim. Her victimhood is erased and labeled as mutual abuse, thus removing all opportunities for support and recognition of the violence enacted against her (Goodmark 71).

part of coercive control. Although this form of violence may not result in physical markings or visible signs on the victim, the negative effects of coercive control as a form of abuse cannot be ignored (Lohmann et al.). Without this recognition of coercive control in the legal statutes, a crucial aspect of intimate partner violence is lost. Women victims may only experience abuse in the form of coercive control and may never be physically abused by their partner but are unjustly and denied their deserved aid from legal services. In this act, whether intentional or not, a victim's credibility and testimony are undermined by the very institutions "to which [she] turns for help (often at great personal risk)," who then effectively, "replicate the denial of a survivor's experience that takes place at home - only, this time, at an institutional level (Epstein 448). The current legal definition of abuse focuses solely on the most overt expressions of control. As a result, it represents a structural lack of knowledge around intimate partner violence and impacts how one will respond to a reported incident of abuse. This harm is further perpetuated in cases of self-defense, in which women victims are criminalized for fighting back against their abuser. It is to this topic that I turn to next.

Chapter Five: Protection from Abuse Orders (PFAs)

Critically, it must be also understood that the failure to recognize coercive control as a form of intimate partner violence under the law has severe implications for a victim's ability to acquire legal protections, such as a Protection from Abuse Order (PFA)¹¹ or a Protection from Harassment Order (PFH). While both act as "Protection Laws," this section will focus exclusively on PFAs.¹² PFAs are commonly sought as the first legal treatment for victims of intimate partner violence, and they rely upon the legal definition of "abuse" used in Maine statutes to determine applicant eligibility. PFAs offer abuse victims the possibility of increased safety as, if they are granted an order, certain restrictions can be placed on the abuser's actions, such as their freedom of movement. However, as argued before, the physical-violence-oriented legal definition of abuse severely limits the number of victims who can seek this legal remedy. This harm is perpetuated during the PFA acquisition process, in which victims must legally prove, or legally "convince" judges, of the abuse they are experiencing. If they are unable to do so, these victims of coercive control are denied potential legal remedies.

These remedies can include, but are not limited to: the removal of the abuser's weapons, restrictions on the abuser's movements, i.e., "the defendant shall stay away from the plaintiff's home, school, business, or work," "the defendant shall not hurt, threaten or interfere with the plaintiff and any children in the plaintiff's home," and further protections around the direct and indirect contact between the parties (the abuser and victim), the use of personal property, a temporary division of the home, child-custody, abuser-assigned fines for damages, and mandated violence intervention classes for the abuser (Maine Judicial Branch 15-16). If these clauses are included in the final, approved protection order

¹¹ PFAs are also referred to as "protection orders," "protective orders," and "restraining orders." I will use these terms interchangeably to describe PFAs. I am not including Protection from Harassment Orders in these terms, unless otherwise specified.

¹² Protection from Harassment Orders may be able to offer some relief to those who are denied access to a PFA. While they offer similar protections (preventing defendant from accessing victim's property, restraining defendant from stalking victim, restraining defendant from harassing victim or their employees, etc.), they are not designed as the first line of protection for victims of intimate partner violence. Harassment victims must prove that they have been harassed at least three times, or that they experienced at least one instance of a serious criminal act (criminal assault, arson, etc.) It is evident that this law can be used to address instances of harmful violence outside of intimate partner violence, but does not fully combat the cyclical nature of abuse (Protection from Abuse).

or the initial temporary order, an abuser who breaks the outlined rules is in violation of the law. As a result of this violation, the abuser can then be arrested and charged with a Class D or C crime depending on the severity of the action, or he may be fined a significant sum.

When a protection order functions effectively and is properly enforced (i.e., the abuser is deterred from breaking the terms of the order and is arrested if they do so), it can significantly increase the safety and well-being of the victim. PFAs can be the first step in a crucial journey towards independence for previously dependent victims and can bring back a sense of control in their lives. A PFA may afford them more freedom of movement and a potential respite from constant, abusive behavior. Even if the order does not result in a complete cessation of violence or eliminate the possibility of revictimization, the benefits of these orders cannot be ignored. Yet, as a result of this inability to fully guarantee a victim's safety, some may argue that a protection order merely acts as "a piece of paper" and does not deter abusers who have committed high-level and frequent abuse against their partners (Logan and Walker 1). If this view is accepted, it may seem both unnecessary and a poor use of resources to focus on PFAs as a viable form of protection and resistance against intimate partner violence.

However, I hold that this is not the case and point to a study by the University of New Hampshire Carsey Institute, in which 213 women victims were able to successfully obtain PFAs. The participating victims were divided based on their community context into rural and urban groups, with 106 rural victims and 107 urban victims. The victims were not further classified by abuse type and did not describe their difficulty or ease in obtaining a restraining order against their abusers. (Logan and Walker 2). In this study, researchers conducted three-week, three-month, and six-month follow-ups with the women after they had obtained protection orders. In these interviews, researchers asked women to describe the effectiveness of the protection orders in the following three ways: if it "eliminated or reduced violence," if it "improved or lessened quality of life," and "whether the costs of protective orders outweighed the benefits."

In these post-PFA surveys, it was found that “half of the victims of partner violence indicated the protective order was *not violated*” (Logan and Walker 2). Although some may argue that the PFAs were unsuccessful in protecting the remaining 50% of the victims, this does not appear to capture the full story. Rather, in regard to the second measure of effectiveness on quality of life, 86% of rural victims and 87% of urban victims reported an improved quality of life because of their protection order and deemed that the benefits of the PFAs outweighed the potential costs. For example, the surveyed women reported experiencing a significant reduction in sleepless nights, and in general fear of future abuse, and/or harm to their children, friends, and family (Logan and Walker 3). The importance of this regained sense of safety, only 6 months after the acquisition of the PFA, cannot be dismissed. Although the protection orders did not deter all retaliative violence committed by the abuser, they effectively helped return a sense of agency and well-being to the victims and decreased the severity of violent events. It is evident that, if these women victims found the protection orders to be beneficial, even despite the continued instances of abuse or retaliative violence, then this must be taken into account. PFAs are not merely pieces of paper but are positive methods of resistance.

This 2010 finding replicates an earlier study conducted by the same authors, in which 698 women were interviewed after obtaining protection orders. Although only 2 out of 5 women from this 2009 study experienced a complete cessation of abuse, “the vast majority of women reported the PO [protection order] was effective and they felt safe from partner violence” (Logan and Walker 1). As outlined in previous chapters, the psychological effects of intimate partner violence, specifically coercive control, cannot be understated. This violence is cyclical and unrelenting and, if there is a tool to combat it that is deemed effective by women victims, every effort should be made to ensure these women are able to obtain the said legal remedies. However, this is not currently the case.

Rather, there are several factors that may prevent the effective acquisition and enforcement of Protection from Abuse Orders for women victims: the exclusion of coercive control from Maine abuse statutes, the discounting by judges of victim’s testimonies in PFA applications and defense hearings, and

the reliance on the victims to report any breaches of the restraining order to the police. As the exclusion of coercive control from the law has been outlined in the prior chapter, this section will focus primarily on the failure of the court systems to accept non-physical abuse as justification for a victim's need for a PFA. To critique this process, one must first understand the application requirements for a restraining order and the legal hurdles that a victim must jump through to be granted a final, 2-year order against their abuser.

Under the current guide to "Protection from Abuse and Harassment Cases" put forth by the Maine Judicial Branch, the following forms of abuse could lead to a PFA being granted:

- Causing, or attempting to cause or causing physical injury or offensive contact, including sexual assault;
- Placing, or attempting to place, another person in fear of bodily injury through threatening, harassing or tormenting behavior;
- Compelling a person by force, threat of force or intimidation to do something or not do something that the person has a right or privilege to do or not do;
- Knowingly and substantially restricting the movements of another person, including removing the person from their home, school, business, or work, without that person's consent;
- Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life;¹³

¹³The Maine Judicial Branch also considers the following incidents as forms of abuse that may warrant a Protection from Abuse Order:

- Repeatedly, and without reasonable cause, following a person or being at or in the vicinity of a person's home, school, business, or work;
- Stalking;
- Engaging in sexual assault;
- Knowingly, and with the intent to harass, torment or threaten, disseminating (sharing) a private, sexually explicit image of the plaintiff or another person without consent;
- Engaging in sex trafficking or aggravated sex trafficking;
- Sexually exploiting a minor;
- Disseminating (sharing) or possessing, with an intent to share, sexually explicit images of a minor younger than 16;
- Harassing a minor by telephone or by electronic devices; or
- Economic Abuse, or the intentionally, knowingly, or recklessly depriving a person of essential needs, if the person is an incapacitated adult, dependent adult, or individual 60 years of age or older (Maine Judicial Branch 3).

It is evident from the situations listed above, that the legal emphasis is largely placed on the physical violence used by abusers against their victims. Although there is some recognition of threats and intimidation against victims, it does not fully encompass the manipulation, humiliation, and degradation that are essential tactics of coercive control. A victim is already placed at a disadvantage, as she may not fully believe that what she is experiencing is intimate partner violence, and she must then face (often alone) a complex legal system that does not grasp the severity of her abuse. If she is not deterred (potentially by court clerks) from applying for a PFA, she must enter into the time-intensive application process.

To begin, a victim must be able to fill out an abuse complaint form (whether online or at a district court) and sign the forms in front of a notary, attorney, or court clerk before submitting the documents at her district court (Maine Judicial Branch 4). A victim is immediately excluded from this process or is critically delayed in filing a restraining order request if she is unable to access the PFA application forms online and/or cannot get transportation to collect the paperwork at a district court. This is not an improbable event. Rather, one must consider the intentional isolation and surveillance tactics that are employed by coercive controlling abusers, and Maine's predominantly rural landscape. Isolation is used by male abusers to increase victim dependency and to cut off outside support systems, or lifelines. This can take the form of the abuser restricting the victim's access to her phone, maliciously persuading the victim against seeing her loved ones, physical confinement, and other methods to position the abuser as the victim's sole contact (Karakurt and Silver 813). Thus, if a victim does not have access to her own vehicle, is out of the service area for transportation services, cannot navigate or devote several hours to the Maine public transit system, or has been intentionally cut off from friends and family, the goal of acquiring a PFA becomes all the more daunting.¹⁴ Further, a victim may be fearful of the repercussions not only to herself but also for the safety of others if she goes against the rules established by her abuser

¹⁴ Geographic isolation or seclusion can actively be used by coercive controlling abusers, predominantly in rural areas, to further the power they have over their victims. The idea of space is a central element to this form of violence, in which abusers intentionally invade the physical and private spheres of their victims (Harris and Woodlock 536).

(Dichter et al. 2). In understanding the carefully constructed isolation tactic, it becomes apparent how challenging, to the point of physical impossibility, it may be for a victim to safely leave the home and file an application for a PFA.

Further, even if a victim is not physically confined to her home, she may face economic challenges to filing for a PFA. For example, a victim may be financially unable to hire a vehicle for a lengthy journey to the nearest district court, does not have the funds to purchase gas for a personal vehicle, or cannot afford the time off work to complete the application process. Economic abuse is a key tactic of coercive control, as male abusers limit their women victims' access to financial resources to restrict potential freedoms and increase levels of dependency (Lin et al. 435). This violence can be executed through "employment sabotage," in which the abuser threatens the victim to make them leave work, "economic control," such as hiding financial information, or "economic exploitation," where the abuser may take and spend the victim's wages (Lin et al. 439). These are merely a few examples of financial abuse, and it must be remembered that, as a tactic of coercive control, the intention behind these acts is to subjugate and rid the victim of any support or independence. If a woman victim is financially bound to her abuser, escape no longer feels like a viable option. Rather, the victim may be trading one harm - intimate partner violence - for another: poverty, the possibility of being unhoused, and overall financial hardship. Although I have not yet included children in this equation, it is especially relevant when discussing financial instability. "The choice is clear for many women - feed, house, and clothe the children, even if it compromises her safety" (Conner 357). For a victim who is facing financial insecurity, transportation to and from the courthouse, or the needed time away from her work to complete the initial application may be infeasible (this does not yet consider the psychological constraints that may impact a victim).

Although the court offers a proposed solution to financial and mobility challenges for victims, isolation tactics can span into the digital realm, termed "digital coercive control" (Harris and Woodlock 530). With technology advancement, the constant, looming fear of violence is made more present.

Abusers can track the movements of their victims through cellular devices, monitor incoming texts and phone calls, repeatedly conduct “check-ups,” and easily oversee the digital presence of their victims. To evade the gaze of her abuser, a victim must be vigilant (and well-versed) in concealing her movements on the internet, lest she face the consequences. In a 2014 investigation into digital coercive control experienced by 30 survivors and supported by 24 intimate partner violence workers, one participant reported that she “knew that her abuser was reviewing her mobile text messages and likely her broader use of technology, so [she] ‘had to be very careful about what [she] was doing and deleting everything’” (Harris and Woodlock 537). Although technology affords many of us greater freedoms, it can increase safety concerns for intimate partner violence victims. If a victim chooses to file an electronic PFA, she must be technologically savvy enough to research the process, hide the PDF application, erase all evidence of the email submission and contact with the court, and eliminate any other traces of her digital footprint. While this feat would be difficult for many, a victim is completing these tasks while experiencing the ever-present psychological burden of intimate partner violence. If a victim can successfully navigate these hurdles, she must conquer the application itself.

Although there is no filing fee or notarization charge for the application (if filled out at the court), this paperwork is daunting without the aid of an attorney or intimate partner violence advocate.¹⁵ In this application, the victim must include the protections that they desire, (i.e., the removal of the abuser from the home, revocation of the abuser’s ability to contact the victim, etc.), along with a detailed summary of the abuse that they have experienced. If a victim has not been advised on how to fill out this narrative by an intimate partner violence advocate, she may leave out critical instances of abuse. The victim may be later questioned on this summary if it is found lacking. Once this step is complete, the application is then passed along to an available judge, who determines if a temporary (ex parte) protection order should be issued or denied. If the victim is present, the judge may discuss the complaints listed in the provided

¹⁵ “A party may file by email a document without oath or notarization in a protection from abuse or protection from harassment case, provided that, in place of any oath, the party (not the party’s attorney) signs a declaration.” The victim swears under penalty of perjury that the statements are true, with a potential prosecution for perjury punishable by up to 5 years in prison and a fine of up to \$5,000.00 (Email PFA Packet 2).

forms. When a victim is unable to fill out the paperwork in person and submits an electronic application through an email, she must have access to a “safe phone number and a safe email that [she] can check regularly” (Email PFA Packet 2). The victim must be able to receive an email to learn if the temporary order has been granted and needs to have a safe phone number in case the judge requires further information about the request. As stated in the PFA application, “If the court schedules you for a call with the judge and you do not call at that time, your case will not be dismissed but your request for a temporary order may be denied” (Email PFA Packet 2). When a victim is unable to meet these initial requirements, she is instead told to file her application in person at the district court. Once again, I return to the financial and mobility barriers outlined above.

Once a victim can overcome this preliminary process and a temporary order is granted, the PFA becomes effective when signed by the judge. However, an abuser cannot be found in violation of the order until he has been formally served with a written notice.¹⁶ Additionally, a full protective order has not yet been issued for the victim against the abuser. For this, the court will issue a hearing approximately 21 days after the date of the temporary order, and the abuser will be served a summons for the court date (Maine Judicial Branch 7). Notably, if a victim is denied a temporary protective order, they are still granted a court date 21 days after the filing of their abuse complaint. During the final court date, both the abuser and the victim are allowed to appear and defend their case. Although both parties are offered a chance to reach an agreement, or “order by consent” prior to the hearing, it is likely that the case will be heard before a judge. During this time, “both the plaintiff and the defendant must be ready to present evidence, testify, and if necessary, call witnesses at the hearing,” where the victim has the “burden to prove the allegations (claims) in the abuse complaint” (Maine Judicial Branch 14). However, this burden can be insurmountable if a judge has little to no knowledge about coercive control as a form of intimate partner violence and the ways in which it is enacted by the abuser and perceived by the victim.

¹⁶ Although I do not discuss the difficulty of serving an abuser in this paper, it must be recognized as a potential legal barrier to the implementation of a temporary PFA.

In, “Discounting Women: Doubting Domestic Violence Survivors’ Credibility and Dismissing Their Experiences,” Deborah Epstein and Lisa Goodman aptly refer to this period of testifying as a “legal twilight zone,” in which women are “simply not believed,” while seeking aid from the “laws meant to protect them” (399). Intimate partner violence, and coercive control, rely on inconsistent periods of intense upswings in abuse, followed by gaps of “inactivity,” in which the victim fears future violence. This dynamic is essential to maintaining the power differential between the abuser and his victim and allows him to stay “on top” even in moments where he may not be actively engaging in manipulation, blaming, or denial. However, this narrative may fail to translate in the courtroom, where judges are looking for concrete examples of violence and abusive events to establish a timeline of the abuse (Epstein and Goodman 407). If a victim is unable to recount in significant detail the abuse she has experienced, either in writing or verbally, she may be denied a temporary or final protection order.

Furthermore, judges may prioritize the existence of physical violence evidence, if this is what is deemed “worthy” and important abuse under the law; “what the law prohibits *must* be what is harmful” (Epstein and Goodman 417). If a judge holds this viewpoint, they will likely be searching for evidence of physical violence among narratives of psychological abuse and coercive controlling tactics and will be deterred from approving a PFA if it is not present or is not at the forefront of a victim’s narrative.

For example, in the comprehensive study of victims at 10 shelters between 2012-2014, survivors reported that convincing the court of their experiences with abuse could be challenging without visible evidence of physical abuse: “There were ‘no prior [IPV] calls on him or witnesses. [I] called the cops twice...Nothing was done. [There were] no visible marks until later” (Messing et al. 175). If survivors experiencing physical abuse cannot acquire a PFA without physical markings, then victims of “invisible” coercive control tactics face an even greater burden of proof. The law minimizes the significance of coercive control as a form of abuse, despite the weight it holds for victims. While a physical incident may be particularly harrowing, it is often coercive control that results in more traumatic responses (such as PTSD and depression), for the victim (Dutton et al. 101-102). Although a physically violent event cannot

be dismissed as unhelpful, coercive controlling tactics are intended to, and do, take over the victims' minds. For example, Epstein reflects on her experience advocating for victims in the courtroom and witnessing judges "get frustrated with women who testify at length about their mental anguish," and only offer information about physical abuse after "aggressive judicial questioning" (Epstein and Goodman 419). The failure to offer up evidence of physical violence, if it is present, is not a deliberate act to be deceptive. Rather, it exemplifies the need for coercive control to be considered as a legal justification for a protection order. Coercive control is insidious, and it must be expected that victims of its tactics feel that this abuse is the most pressing harm.

Additionally, in cases where women have not experienced any physical or sexual violence, legal officials without knowledge of the other forms of intimate partner violence may be perplexed as to why a victim would stay. If the abuse is merely inconsistent name-calling, why shouldn't she be able to leave? However, this view fails to account for the psychologically damaging nature of coercive control. Male abusers rely on coercive control to effectively sabotage the livelihood of their partner and to enforce unseen, yet ever-present rules. It may feel impossible to break out of this cycle as a victim, due to the manipulation of her beliefs to support that conclusion. For example, in a 2022 study, Rebecca Heron, Maarten Eisma, and Kevin Browne interviewed 20 women victims of intimate partner violence about the reasons they chose to stay or leave an abusive relationship (677). They found several common themes through the women's testimonies, in which women choose to stay for reasons of entrapment, such as "social isolation, internalized blame," and other sub-themes (Heron et al. 684-685). The same women reported a critical reason to leave as being "external support," whether that is informal or professional (Heron et al. 686). These shared themes reveal the pervasive nature of coercive control. Internalized blame is a manifestation of successful coercive controlling tactics, in which the abuser can manipulate the victim into accepting alternative beliefs, all while denying his key role in perpetuating the intimate violence. This harm is then furthered through isolation from family and friends, who could challenge

those alternate, and inaccurate, beliefs. It is only when women victims regain this external support, that they report being able to break free from the abusive cycle.

While physical assault and general fear of violence were included in a smaller portion of the women's reasons to leave, the predominant justifications for staying or leaving revolved around coercive controlling tactics. On the surface, it may appear that a victim of coercive control should easily be able to leave her abuser, as she may not face any physical resistance. However, it is evident that this is not a belief that is shared by women victims who have experienced this form of abuse. To ask why a victim stayed is to dismiss the violence she has incurred and the strength it requires to seek a protective order. Coercive control offers no respite, and the court system must recognize the major risk a victim is taking in seeking out a PFA.

Chapter Six: Self-Defense

“The common law is obsessed with reasonable people. These people are pinnacles of virtue-courteous, placid, gentle, timely, careful, perceptive-in short, complete figments of our imagination. Yet they are permitted to perform a hideous function within the criminal law. Although no one is really like them, they set the standard for judging our frailties. If we do not match their glorious perfection, we are cast into the shadow of ignominy and damnation”

(Byrd 571).

I argue in this chapter that current legal conceptions of self-defense are predicated on able-bodied male vs. able-bodied male violence and do not consider the experience of women victims of intimate partner violence. Current conceptions of justifiable acts of self-defense describe an individual who is faced with immediate or imminent danger and who reasonably believes violence is necessary to protect themselves. In response to this danger, one can engage in a proportional degree of force (17-A §108). While this understanding appears to be straightforward, it is complicated by its use of the phrase, “reasonable force,” and its later references to imminence and proportional violence requirements. Rephrased, the law asserts that an individual must be under an immediate attack in order to justify a necessary degree of violence and must meet a vague condition of reasonableness (Rosiejka 13). Yet, who decides what force is reasonable and necessary and when danger is imminent? I put forth that women victims must conform to historic standards of the “reasonable man,” under which the degree of force used in self-defense and an understanding of imminent harm is determined (17-A §108). The law fails to account for the perceptions and lived experiences of women who have been victimized by intimate partner violence, specifically coercive control, and the ways in which this violence influences the victim’s understanding of force and danger. This conceptual gap results in biased legal statutes and police procedures that fail to protect and cause further harm to these women, both in the form of wrongful convictions for voluntary manslaughter and charges as the perpetrators of intimate partner violence. The gendered law allows for and justifies these unfair convictions and acts as a part of the larger epistemic injustice done to women victims of intimate partner violence. To build this critique, I must first establish the way self-defense is defined in the law.

Self-defense, or physical force in defense of a person, is outlined in the Maine Statute Title 17-A MRS §108, as:

1. A person is justified in using a reasonable degree of nondeadly force upon another person in order to defend the person or a 3rd person from what the person reasonably believes to be the imminent use of unlawful, nondeadly force by such other person, and the person may use a degree of such force that the person reasonably believes to be necessary for such purpose.¹⁷

2. A person is justified in using deadly force upon another person: A. When the person reasonably believes it necessary and reasonably believes such other person is: (1) About to use unlawful, deadly force against the person or a 3rd person;¹⁸ B. When the person reasonably believes:¹⁹ (2) That deadly force is necessary to prevent the infliction of bodily injury by such other person upon the person or a 3rd person present in the dwelling place; [PL 2007, c. 173, §2 (AMD).]

¹⁷ In the interest of brevity, I have included the following exceptions in this footnote.

However, such force is not justifiable if:

A. With a purpose to cause physical harm to another person, the person provoked the use of unlawful, nondeadly force by such other person; or [PL 2007, c. 173, §24 (AMD).]

B. The person was the initial aggressor, unless after such aggression the person withdraws from the encounter and effectively communicates to such other person the intent to do so, but the other person notwithstanding continues the use or threat of unlawful, nondeadly force; or [PL 2007, c. 173, §24 (AMD).]

C. The force involved was the product of a combat by agreement not authorized by law. [PL 1975, c. 499, §1 (NEW).] [PL 2007, c. 173, §24 (AMD).]

1-A. A person is not justified in using nondeadly force against another person who that person knows or reasonably should know is a law enforcement officer attempting to effect an arrest or detention, regardless of whether the arrest or detention is legal. A person is justified in using the degree of nondeadly force the person reasonably believes is necessary to defend the person or a 3rd person against a law enforcement officer who, in effecting an arrest or detention, uses nondeadly force not justified under section 107, subsection 1.[PL 1997, c. 351, §1 (NEW).]

¹⁸ Or (2) Committing or about to commit a kidnapping, robbery or a violation of section 253, subsection 1, paragraph A, against the person or a 3rd person; or [PL 1989, c. 878, Pt. B, §15 (AMD).]

¹⁹ (1) That such other person has entered or is attempting to enter a dwelling place or has surreptitiously remained within a dwelling place without a license or privilege to do so; and

“A reasonable degree of force:”

Let us begin with a critique of the initial justification for self-defense, in which a person is justified in responding with a “reasonable degree of nondeadly force” if they “reasonably” believe that they are in imminent danger (Title 17-A §108, 1). I will focus initially on the use of the word “reasonable” in the statute, in which it is understood that the victim engaged in self-defense believes it is logically necessary to fight back. This standard of reasoning is used to determine moral and criminal culpability, yet it begs the following question: upon what (or upon whom) does one measure this quality? I argue that, in the law, this abstract requirement of reason is built upon the conception of the “reasonable man,” where, in the face of a threat, the acceptable response is built upon the level of self-defense deemed necessary by a level-headed man (Ogle and Jacobs 106-107).²⁰ Self-defense is justifiable if, and only if, it aligns with the actions that would be taken by a particular, privileged man. This category of reasonable self-defense is further determined through subjective and objective standards. Subjectively, the victim or defendant is asked if he “believed he was faced with imminent harm” and is then judged objectively by comparing his actions “against that expected of a reasonable man” (Ogle and Jacobs 107-108). If one’s actions satisfy these requirements, one can then justify all acts of self-defense.

It is evident that this “objective” test is not infallible. Rather, in its very dependence on the standard of an individual, reasonable male, it fails to consider the perspectives of anyone outside of that category (McGinley 24). Although there is clear merit in delineating between abnormal, unjustified acts of violence and cases of self-defense, a standard that is applied universally in the courts must also be universal in its scope. Defendants on trial for self-defense must meet the narrow, male standard of normalcy, and are immediately disadvantaged if they are unable to do so. This “out-group” includes women victims of intimate partner violence, who “are assessed for liability against an ideal that they can

²⁰ I acknowledge that the phrase has switched to refer to the “reasonable person” to eliminate the previously gendered term. However, this shift was not grounded in an effort to consider outside perspectives and furthers the invisibility of gender (and other identities) in the courtroom (McGinley 23).

never achieve” due to their gender identity (Parker 110). Although a woman victim may be acting reasonably given her perspective and experiences, she is, by nature, not acting as a reasonable man.

Given the emphasis in Title 17-A MRS §108 of the “reasonable degree of force” that must be used in self-defense, women victims who fight back must meet a standard of physical defense based upon the reasonable man, and anything beyond this degree is deemed outside the scope of self-defense. This bind is best exemplified in the case of *People v. White (1980)*, where Odessa White was repeatedly and physically abused for five years by her partner, George Butler. Throughout their relationship, Butler had injured White’s ankle, broken her ribs, and injured her right arm so severely that it had required surgery. In the attack that led to his death, Butler told White that “he was going to whip her again” and became aggressive, causing White to escape and hide in their bedroom at the end of a hallway. During this escape, White found and secured a pistol. Butler then returned to the cornered White, and, in desperation, White fired a warning shot. However, Butler was not deterred and charged White. In response, White shot and killed Butler (Gillespie 95). In reading this case, it is evident that White believed Butler was going to kill her and that she had no way out of the isolated bedroom. Yet, did White behave as a reasonable man and use the appropriate degree of force? To the jury of the Appellate Court of Illinois, she did not. Rather, they stated:

The jury determined beyond a reasonable doubt that the defendant’s belief that the use of force was necessary to prevent her own death or great bodily harm was not a reasonable belief. We cannot say that the evidence of guilt here is so improbable as to justify a reasonable doubt of guilt. On the contrary, the guilt of the defendant and the absence of any legitimate right to self-defense has been proved beyond any reasonable doubt” (Gillespie 95).

As a result of White’s use of a pistol to shoot and kill Butler, it was determined that the degree of implemented force was not proportional to the actions done by Butler. White did not behave as a reasonable man and was convicted of voluntary manslaughter. Yet, were White’s actions unreasonable as

a woman experiencing intimate partner violence? I argue that it is reasonable, given the past history of coercive control and aggressive physical violence, to assume that White was fearful of Butler. White had been physically overpowered by Butler in the past, to the extent that she required repeated medical treatments. Further, given our understanding of coercive control and intimate partner violence, it is not unfounded to assume that Butler had established roles of dominance and submission within their relationship and had instilled in White the fear and understanding that she was trapped. White had remained in the relationship with Butler for five years, enduring endless abuse, and was unable to leave. With this perspective, it now seems reasonable that White would reach for a nearby pistol in the room in which she hid. How else, without the aid of a weapon, could she fight back against the man who had confined and abused her? It must be noted that White did not fire immediately at Butler's appearance but responded when he began to charge her (Gillespie 95). Perhaps White, still healing from an injured arm that was set in a cast, believed that she could not overpower a lunging Butler, while trapped in the room at the end of a long hallway. Is this an unreasonable belief? The degree of force that White believed she required was not a rational, male belief, but was instead the thinking of a desperate woman victim of intimate partner violence. To the jury that convicted White, however, this reasoning was not enough. White fell victim to both her abusive partner and a gendered, exclusionary system.

The Castle Doctrine and Marital Rape

I argue that, as a condition of the reasonable man standard and appropriate degrees of reactive violence, existing laws presume that incidents requiring acts of self-defense do not occur in the home, but instead take place in the public sphere, or in defending one's property against outside intruders. Those engaging in self-defense are strangers and are engaged in a match-up of an able-bodied male versus an able-bodied male, and self-defense is not needed in other circumstances. As a result, the degree of force that is necessary to fight back is altered from what is necessary for a victim of intimate partner violence.

To build this argument, it must be first contextualized through a discussion of the Castle Doctrine and its relationship with the self-defense of the “castle,” or home. The modern Castle Doctrine, built upon the common law castle doctrine, is “intended to expand the right to use deadly force in self-defense” and was brought about in the United States by the National Rifle Association (Suk 55). Castle Doctrine statutes, described in the Maine Criminal Code 17-A § 105, emphasize the necessity of using lethal force, even if retreat is possible and without full proof of an intruder to the home, to defend one’s home from invasion (Suk 55). Again, the idea of a “reasonable person [man]” is employed to determine justifiable self-defense. In the stereotypical case, the average man is able to protect his “castle” using a gun after confronting an intruder who has broken in and is attempting to rob the home. This is an act of self-defense, even though the man could call the police to defend the premise or flee to fight another day; the average man is protecting his family and home (the private sphere) from an unwarranted attack by a stranger coming from outside the home (the public sphere). Legally, one is allowed to “stand their ground” to protect themselves from someone who is not an inhabitant of the home and does not have to “retreat to the wall” (Messerschmidt 593). However, this doctrine is complicated by the introduction of attacks occurring within the home, or between co-inhabitants, as is the case with intimate partner violence. To best understand the private vs. public motivation behind the Castle Doctrine, I assert that one must first look at the history of marital rape and its criminalization.

Marital rape was first introduced as a concept in 1736 in what was later penned as the Lord Hale Doctrine, which argued that “the husband cannot be guilty of rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband, which she cannot retract” (Bennice and Resick 229). In short, a man is exempt from a conviction of rape, by nature of his marriage to his wife and the consent she gives when she says, “I do.” Thus, matrimony serves as a form of “irrevocable consent” and one cannot be convicted of spousal rape (Bennice and Resick 229). This doctrine persisted as a legal exemption in the UK and was recognized in the U.S. by the late 1850s as common law, along with support for the theory of unity between a husband

and wife. Under the theory of unities, a wife was thought of as the property of her husband and therefore had no legal rights that were separate from him - she became “his” through marriage. Thus, the “logic” of the Lord Hale Doctrine becomes clear: a man cannot rape what is a part of himself or what he privately owns. Rather, he can instead relegate this property, his wife, to the private sphere of the home and act without legal restrictions or consequences (Bennice and Resick 229). If a woman were to be raped by her husband, it was a matter for the household, not the court. I return again to the notion of the “castle” and the protections it affords to the male head of household. The private sphere is the man’s domain and is outside of the law.

It must be recognized that this legal rape exemption was not dismantled with the increase of women’s rights in the United States. Instead, it persisted as a viable defense until the end of the 1970s. In 1978, largely due to the work of advocate Laura X, the first man, John Rideout, was the “first husband to be criminally prosecuted for marital rape while still living with his wife” (Bennice and Resick 230). This conviction marked the slow shift towards the criminalization of marital rape, where, on July 5, 1993, “marital rape became a crime in at least one section of the sexual offense codes in all 50 states” (Bennice and Resick 231).²¹ However, this is not to say this criminalization came without significant pushback or the implementation of exemptions. Rather, some states viewed this legal shift as unnatural and a violation of a private relationship, with Florida State Representative, Tom Bush, stating, “The State of Florida has absolutely no business intervening in the sexual relationship between a husband and wife... We don’t need Florida invading the sanctity and the intimacy of a relationship” (Hasday 1487). Bush was not alone in this view, rather it was reiterated across the nation, with the Colorado Supreme Court arguing that “the marital exception may remove a substantial obstacle to the resumption of *normal* marital relations” and that the criminalization of marital rape may prevent the reunification between spouses (Hasday 1488). Marriage was viewed as a separate institution from the law, under which men were afforded more protections and women were afforded fewer.

²¹ Notably, this legal change was finalized 15 years after the conviction of John Rideout.

To offset the criminalization of marital rape in 1993, most states implemented additional clauses allowing for cases of marital rape, with only 17 states offering no exemptions (Bergen 2). For example, marital rape was deemed legal in several states when the victim was raped without force and was “physically or mentally unable to consent to sex,” i.e., when she is unable to unconscious (Bennice and Resick 231). Under these exemptions, it is evident that only the most violent or injurious acts of rape would be considered a criminal act that is worthy of prosecution. Currently, there is no uniform understanding of marital rape throughout the country, rather, several states maintain legal divisions between marital rape and non-marital rape, and/or uphold exemptions under which marital rape is excluded from prosecutions. For example, the Virginia Penal Code 4 §18.2-61 puts forth a more lenient form of punishment for spousal convictions of marital rape, where “all or part of any sentence against a spouse may be suspended upon the defendant’s completion of counseling or therapy if...the court finds such action will promote maintenance of the family unit.” In contrast, non-spousal convictions of marital rape (in cases not involving minors) require a mandatory sentence in a correctional facility of “not less than five years” (VA Code §18.2-61). The family unit is prioritized over the victim’s rights and is emblematic of the idea of the private home sphere. In the Nevada Revised Statutes § 200.373, it is stated that marriage status is no defense “to a charge of sexual assault...if the assault was committed by force or by threat of force,” leaving open the possibility of legal marital rape when one’s partner is drugged, asleep, or otherwise unable to consent (NV Rev Stat § 200.373). As is the case with incidents of intimate partner violence, it is only the most violent forms of assault or abuse that are criminalized.

As evidenced by the perpetuation of the marital rape exemption until the 1990s and the current existence of partial exemptions within the statute, the legal system supports an understanding of women victims as property and relegated to the private sphere. This is a gendered, inherent belief or common law understanding of the spousal relationship and its relationship to the home, where private matters are not allowed proper legal recourse. Instead, it is only the public sphere that requires policing; the Castle Doctrine need not apply to situations where self-defense is used in the home against one’s partner.

This historical context has practical implications for victims of intimate partner violence and is evidenced in Maine law, where Maine Statute Title 17-A §108 specifies that using deadly force in self-defense is not justified if the person knows that they can, “with complete safety...retreat from the encounter.” Although the law amends this requirement to exclude if the initial aggressor “is in the person’s dwelling place,” it does not specify how this law applies to co-inhabitants (Title 17-A §108). It is again presumed that violence requiring self-defense occurs in the public sphere, or in the defense of one’s home from an outside attack. However, this exclusion fails to account for the potential inability of women victims to safely retreat from their abusers inside the home. One goal of coercive control is to deprive the victim of her “physical security,” through monitoring, isolation, threats, and other malicious attacks (Lohmann et al. 630). The woman victim of intimate partner violence faces an intrusion into her castle when experiencing violence at the hands of her abuser, despite the fact that the attacks are now brought about by her co-inhabitant. Yet, under the law, she is not able to stand her ground and is instead expected to appropriately retreat from her abuser or flee from her home (Messerschmidt 616). The Castle Doctrine, built upon a gendered understanding of the home as subject to male governance and women as subjects to this rule, fails to account for the need to defend oneself from internal attacks. There is no longer an external threat to the home as a sanctuary and both parties may have the right to exist on the property. The home becomes an unregulated space in which the woman is forced to retreat, rather than fight back (Crisafi 18). If she does fight back, specifically with deadly force, her actions are criminalized. As MacKinnon writes in *Women’s Lives, Men’s Laws*, “The law does little to nothing about the crimes against women that position them to commit the crimes that do matter officially” (MacKinnon 33). The law fails to appropriately account for the coercive control that may trap a victim in her home but charges her with unfounded and unreasonable use of self-defense. This is an unconscionable denial of a victim’s legal protections.

In response to the assertion that a woman cannot retreat in her own home, one may pose the following questions: But why can’t a victim flee? Why doesn’t she leave her abuser? It must be

remembered that, given the dynamics of intimate partner violence and specifically coercive control, fleeing the home may not be a viable solution for a victim. Rather, she may be psychologically and/or physically imprisoned by her abuser and believe that escape is impossible. This is not to dismiss the victim's independence or assume that she is engaging in learned helplessness but is instead meant to point the finger at the intentional behavior of the abuser. The persistent threats, monitoring of texts and calls, financial pressures, cyclical emotional violence, and other tactics serve as "bars" that confine the victim- "what makes a battered woman is her socially constructed inability to escape" (Stark, "Coercive Control," 239, 257). It is the aim of an abuser engaging in coercive behavior to subordinate his woman victim and restrict her freedom, and to craft a long-term negative influence on the victim. The resulting combination of violence is a devastating form of entrapment (Stark 284). With this gendered understanding of the systemic violence against women victims of intimate partner violence, it is apparent that retreat (as opposed to self-defense) is not a viable option and does not bring about further safety for the victim. If a victim is ensnared in her own home, she cannot seek a reprieve from violence by retreating to a different room - the abuse will follow her. She must fight back if she is to escape. However, she now faces a new set of rules: she must use a reasonable degree of force and must reasonably believe that she is in imminent danger.

As introduced above in the case of Odessa White, the appropriate degree of force used in self-defense does not accommodate the experiences of women victims of intimate partner violence. Rather, as argued with the Castle Doctrine, it is based upon the degree of force that a reasonable man would use against an intruder/another man. It is required that an act of self-defense be proportionate to the harm it is responding to or preventing and presumes that the victim of the attack has equal or greater strength than the offender and has no need for more aggressive force (Schneider 631-632). In this understanding, a victim's potential physical and psychological limitations are ignored. Temporarily ignoring the influence of intimate partner violence and coercive controlling behavior on a victim's beliefs and mental state, one must consider the physical limitations a woman victim may hold.

Actual and Perceived Physical Limitations:

While this section does not intend to make assumptions about the physical capabilities of all women, whether victims or non-victims, or the potential strength or size imbalances in every couple engaged in intimate partner violence, it can be argued that physical limitations, whether actual or supported through gender-conditioning, may lead a woman victim to believe that she requires a weapon for self-defense. Under a sex-gender view of physicality, “few women have the size or strength of a male assailant or the training in physical combat necessary to protect themselves... women socialized not to use physical force are reluctant to defend themselves without weapons” (Schneider 632). This is not a wholly unfounded statement, rather it represents the structural and social differences regarding strength and violence between men and women.²² For example, in a comparison of general strength and body composition between men and women conducted in 2021 (where the categories are defined by sex, rather than gender), Mansour et al. revealed that the average male subjects in the study were both taller and heavier than the female participants and had significantly stronger performances in grip strength, back strength, and explosive force of the lower limbs (7). Overall, the male participants were able to execute greater power performances during these short bursts of strength, due in large part to the compositional differences between the women’s and men’s bodies. If one adopts this understanding of strength and power differentials and applies it to cases of self-defense, it becomes difficult to determine what a “reasonable degree of force” means across the sexes. The reasonable man standard allows for appropriate levels of force as would be exerted by an average male, however, it is clear that this cannot be so neatly applied to women victims of intimate partner violence.²³ While “some percentage of women will always outperform some percentage of men,” women in disadvantaged physical positions may require an additional aid - a weapon- to match the bodily strength that can be exerted by a man. I concede that this argument runs the risk of over-simplifying and essentializing differences between sexes, thus contributing

²² This section is built upon the biological conceptions of men and women, as opposed to gendered understandings.

²³ It could be argued that the definition of an “average man” may be equally as problematic and could lead to unrealistic standards of force for those outside of the most privileged male group.

to “the foundation of inequality,” where women and men are viewed as fundamentally different and categorically distinct (Collins-Dogrul and Ulrich 440). This is a legitimate concern; however, I do not think it fully invalidates the argument. Rather, I hold that even if perceived physical differences are unfounded and everyone must be viewed as physically distinct, the current system perpetuates the narrative that women are physically weaker than men. This can result in an internalization of these stereotypes and the formation of beliefs that they are valid.

Consequently, one must consider the gender-conditioning and alleged sex-gender essentialism that women experience in society, where women are led to believe that they are always “helpless at resting an attacking male - it [is] simply no contest” (Jordan and Mossman). Women are socially perceived as inferior fighters to men, despite the broad possibilities for empowerment through physical feminism (Maor 38). This gender-related social structure has severe implications for women’s participation in physically demanding and aggressive roles, such as the military. For example, it was not until 2016 that women could participate in “ground combat roles,” in the military, with this change being met with significant push-back (Collins-Dogrul and Ulrich 436). In the essentialist arguments against this integration, women were said to be, “inherently different and inferior to men” and would endanger “individual soldiers” and damage “military effectiveness” (Collins-Dogrul and Ulrich 454). These statements push forth the stereotypical beliefs that women are physically weaker and less skilled fighters than other soldiers, so much so that they would negatively impact the efficacy of the military services. This thinking is again replicated in spheres where women engage in fighting practices, such as martial arts. In a series of interviews conducted by Maya Maor on stereotypes surrounding “women’s participation in the martial arts,” Maor and other women participants reflected on the choice to engage in a male-dominated space and to challenge gendered notions of physicality (36). As a predominantly male activity, Maor stated that women fighters are actively choosing to take on “bodily movements...strongly associated, culturally and historically, with masculinity,” and are engaging in a kind of “gender re-socialization” (40). For example, several women discussed the way they tied their belt during class and

their preference to tie it the “male” way on the hips, versus the “feminine way” on the waist, reasoning “I want to be the active, strong, powerful, self-asserting body. Not the frail, to-be-looked at body” (Maor 42). Fighting is an active form of resistance and takes intentional work to dismantle the societal belief that, to be a fighter is to be male. Whereas men are freely given the space to engage in forms of self-defense and exert strength, women must actively seek out these opportunities and must persevere against the dominant, gender-essentialist narratives surrounding strength and violence as spheres of male power. If these beliefs are not dismantled, it is not improbable that a woman victim would feel subordinate in strength to her male attacker. The reasonable man standard fails to consider the subordination of women in the physical world and its influence on one’s perceived power.

Coercive Control and Psychological Limitations:

Further, even if a victim’s physical abilities equal that of her abuser and she has worked to dismantle stereotypes of men as the dominant fighters, one must also consider the role that coercive control has on her mental state. A woman victim of coercive violence has been reasonably indoctrinated to believe that she is subordinate to her abuser and must be obedient, even without physical violence (Stark 361). A victim is made existentially fearful of her abuser and his active and passive threats. Her autonomy and sense of self have been strategically degraded through manipulation, isolation, intimidation, micro-regulation, and other carefully constructed tactics (Stark, “Coercive Control, 318-325). It is the very nature of coercive control to create unequal power dynamics between the abuser and his victim (Miller 26). Critically, if the abuse has later escalated to include punishing, physical violence, a victim may be conscious of the force and violence that can be exerted by her abuser and may believe that this harm is too great to overcome on her own. As a result of these influential factors, a woman victim may reach for “guns, knives, or household implements” to defend herself from a perceived or actual threat from her abuser (Schneider 632). Returning to the case of *People v. White (1980)*, Odessa White had been severely, and physically harmed by Butler prior to his death. White was aware of the

violence and force that could be enacted by Butler (enough that White required hospitalization and surgery), and, considering the dynamics of gendered intimate partner violence, most likely believed that she held less power than Butler. To defend herself, she required the aid of a weapon: a nearby pistol. Yet, as outlined by the jury decision, this is not the response of a reasonable man. Legally, White should have retreated or allowed herself to be subjected to further abuse by Butler. In a system predicated on male v. male violence, White had no legal defense option. This case does not represent an isolated incident but rather depicts a structural problem with existing, gendered self-defense laws. Women victims of coercive control, restricted by the degree of “reasonable” legal force they can use in self-defense, are confined to two impossible options: flee their abuser or defend themselves and face the potential consequences. However, if a woman chooses this second option and is justified in the degree of force used, she is not yet in the clear; she must now meet the “imminence requirement” for self-defense.

Imminent Use of Force:

A further condition of Title 17-A MRS §108 reveals that, in order to use a reasonable degree of force against another person, the person must reasonably believe that there is an “imminent” danger of the use of non-deadly or deadly force by the offender (Title 17-A §108). However, much like the inclusion of the term ‘reasonable,’ what is meant by an imminent danger? Although there is no universal definition of the word, it is commonly thought to mean immediate, and “refers to the time period between the harm faced...and the defensive action taken” (Leverick 87). Under this understanding, an act of self-defense must follow shortly after the threat to one’s safety. This conception is supported by Maine law. Although the term is not defined in the Maine Criminal Code, the Maine Bureau of Labor defines imminent danger in Title 26 MRS §49 as a situation “which will reasonably be expected to cause death or serious physical harm immediately” (Title 26 § 49). Following this definition, I will adopt the assumption that imminence refers to a short, if not immediate time frame, and assert that this language protects abusers and ignores the constant threat that victims of intimate partner violence are under. As a framework for this argument, I return to the case that was introduced at the beginning of this thesis: *State v. Norman* (1989).

As was outlined, Judy Ann Laws Norman suffered severe coercive controlling and physical abuse for over twenty years at the hands of her husband, John Thomas Norman. Judy had repeatedly tried to escape from this abusive situation but was captured and physically beaten after each attempt. Prior to his death, Judy attempted to seek aid from the police and a welfare agency (on June 11 and 12th, subsequently) but was denied any aid. Judy was severely beaten by John Norman after each request for help. Judy, believing she had exhausted her legal options and having received no aid, was forced to return to an unsafe and violent home. Following the beating on the night of June 12, 1985, Judy took her child to her mother's home, acquired a gun, and returned home to shoot a sleeping John Norman in the back (*State v. Norman*). Judy was then arrested and convicted of voluntary manslaughter, despite her pleas of self-defense. While Judy believed she was protecting herself from future attacks and probable fatal violence by John Norman, the State disagreed. Rather, Judy had violated the court's understanding of the proportional force (use of a gun) and imminence requirement by shooting her sleeping partner in the back (Leverick 89). Judy was not acting reasonably but was acting as the primary offender against her abuser.

It is clear to see the court's belief in Judy Norman's failure to meet the imminence requirement for self-defense. Ignoring the influence of intimate partner violence on one's perceptions, John Norman, a sleeping man, posed no immediate danger to Judy. She was not currently under attack and a reasonable man would not hold her belief. Following this logic, Judy was rightly convicted for the voluntary manslaughter of her partner - Judy was not acting in self-defense. However, returning to our knowledge of intimate partner violence and coercive control, this requirement of immediate, or imminent harm becomes far more complex. As has been established, intimate partner violence is made up of patterns of controlling actions and active threats, in which the victim is constantly fearful of the future (Leverick 92). This fear is not an accidental product of an abuser's actions, rather it represents a carefully crafted cycle of abuse in which the victim is purposefully placed into states of "terror and entrapment" to further the abuser's domination (Lohmann et al. 630). Harm, both enacted and implied, is ever-present. The accumulation of violence over some time, be it weeks, months, or years, allows women victims to become familiar with

minute changes in their abuser's mannerisms, where "a look, a footstep, or a tone of voice could signal great danger," despite appearing as a normal change of behavior to an outside party or juror (Ogle and Jacobs 122).

The threat of immediate danger cannot be confined to a single moment as expected by the imminence requirement, which is based "upon a one-time confrontation between two males who are relatively unknown to each other (Rosiejka 21) Rather, the woman victim is intimately acquainted with the power and actions of her abuser and may reasonably believe (as a woman in her position and not as a reasonable man), that she is danger of future harm and has no viable options for escape. This thinking is evidenced in the case of Judy Norman, where Judy was isolated from any potential support systems, had been verbally threatened repeatedly by her abuser, and stated that she "believed him; he would, he would kill me if he got a chance" (*State v. Norman*). Although John Norman was not actively threatening Judy at the time of his death, he had established such a deep-rooted dynamic of coercive control that the danger Judy felt *was* immediate. Judy represents a victim who is truly fearful of a future, deadly attack that she knows she cannot prevent, "and therefore kills her abuser at a time when the abuser is asleep or otherwise incapacitated" to stave off her own death (Rosiejka 20). Judy's actions were not that of a vindictive woman and cannot be viewed as an isolated event but must instead be considered as a whole picture - one of a woman who had been systematically abused by her partner for over 20 years. When this view is considered, it becomes clear that Judy must have felt an immediate, fatal threat to her safety if she was willing to risk breaking free from a constant cycle of abuse. Judy was victimized by John Norman, further harmed by the lack of aid from legal and advocacy resources and cast as the offender by an incomplete understanding of imminent danger. This case does not represent an isolated incident but instead highlights the failures of the legal system to account for self-defense actions taken by victims of intimate partner violence, specifically, coercive control. When imminence is understood as an immediate, as opposed to inevitable harm, victims must choose between staying in a likely fatal situation or being severely punished for the killing of their abusers (Rosiejka 21). While it is not wrong to question whether a victim

could seek alternative options before taking a fatal action, it is unfair to ignore the victim's perspective when examining the events leading to her response.

The “Reasonable Woman Standard”

As argued above, the reasonable man standard wrongly holds women victims of intimate partner violence to unattainable standards of self-defense. Women must meet a male-defined definition of an appropriate degree of force or imminent harm and are unjustly convicted upon their failure to meet these conditions. It is evident that the current standard fails to account for perspectives outside of the average male, however, is a reasonable woman standard the answer? This is not a novel question, rather, it is one that has been discussed in great length and has led to past adoptions of a reasonable woman standard in cases of sexual harassment in the workplace by the Ninth Circuit Court and in several federal district courts (Winterbauer 813). In the 1991 case, *Ellison v. Brady*, which led to the Ninth Circuit Court's use of the reasonable woman standard, Kerry Ellison faced significant harassment from a coworker at the Internal Revenue Service. Ellison had accompanied her coworker, Sterling Gray, on a work lunch and subsequently began to be sexually harassed by Gray. Gray would “hang around her desk,” and send her notes describing his affections (Winterbauer 814). Ellison reported this behavior to her supervisor and Gray was then transferred to a different branch. However, this relocation was only temporary, and, without consulting Ellison, Gray was allowed to return to the original branch after a 4-month period. Upon his return, Gray sent another letter to Ellison. Consequently, Ellison filed an internal complaint with the Treasury Department, however, it was rejected. The Treasury Department maintained that Gray's actions did not violate their organization's harassment regulations and that the IRS had taken effective steps to aid Ellison. Following this decision, Ellison sued Gray and the IRS but lost her case. Under the reasonable person (man) standard, Gray's actions could not be interpreted as sexual harassment. However, after appealing the case to the Ninth Circuit Court, the original ruling was rejected. In a historic move, the Ninth Circuit Court applied a standard of the reasonable *woman* and determined that Gray's conduct was sufficiently offensive (Winterbauer 813-816). While a reasonable man may interpret Gray's frequent

letters and visitations as an annoyance, the Ninth Circuit Court held that “men and women have different views of what constitutes harassment,” and that women’s interpretations of the scenario may be influenced by their subordinate position in society (Winterbauer 815). In this scenario, a reasonable woman standard allowed for an innocent victim to gain some legal recourse from workplace harassment.

However, although some uses of the reasonable woman standard may be beneficial and are fairly implemented, this standard again runs into the same exclusionary practices as the existing reasonableness standard: “... the reasonable woman standard is biased and deliberately ignores the reality that women’s experiences are diverse” (Cahn 1403). While the standard would encourage juries and the courts to adopt the perspective of a woman, this conception of a woman's reasonableness would implement the viewpoint of an ideal woman, who would most likely be white, able-bodied, cisgender, heterosexual, and would hold other hegemonic identities, as is the case with the reasonable man standard. This legal practice would inadequately address the experiences of women outside of those groups and would again limit the scope of who could engage in “reasonable” actions. It must also be noted that the primary literature discussing the use of the reasonable woman standard documents its applications in cases of workplace harassment but does not mention its use in instances of intimate partner violence or interactions within the home. However, I hold that the same objections still apply, where “it defines a privileged person, rather than a disadvantaged one” (McGinley 26). The standard may fail to fully account for the psychological and physical implications of living in a coercive controlling relationship and may still deem a woman victim’s displays of self-defense as unconscionable. Although the idea of a “reasonable woman” is attractive in theory, it becomes more complicated in practice and the manner in which it is employed.

For example, if a reasonable woman standard was fully adopted throughout all court systems (rather than in a limited number of sexual harassment cases), it then becomes an issue of when the standard should be used. Would this standard be implemented over the reasonable man standard and be applied to all incoming court cases, or would it be adopted on a case-by-case basis for woman-identifying

victims? Further, would its use be expanded from cases of sexual harassment to other domains? Although I have argued for a gendered view of intimate partner violence in this thesis to emphasize the nature of coercive control, one cannot dismiss the violence experienced by victims at the hands of women perpetrators. The reasonable woman standard would run the risk of essentializing the experiences of victims and limiting legal defenses for vulnerable men, non-binary people, women of color, or women in same-sex relationships. The implications of adopting a reasonable woman standard are not hard to imagine, rather, one must only turn to those who fall through the cracks left by the reasonable man standard.

Battered Woman Syndrome

In response to this critique of the reasonable woman standard, one may argue instead for the use of the “Battered Woman Syndrome” in cases of intimate partner violence with women victims. To understand this position, the history of this syndrome must be clarified. Battered woman syndrome (BWS) was first introduced by psychologist Lenore E. Walker in the late 1970s, and, although later termed as the “battered person syndrome,” remains largely gendered (much like the reasonable person standard). Walker built her original theory of BWS on data collected from “over 400 self-referred women who met the definition of a battered woman” and the commonalities between the participants’ testimonies and experiences of physical, sexual, and/or psychological abuse (Walker 49-50). The criteria for BWS were then expanded with later research to include the following seven identifying symptoms, with the first four overlapping with the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders’ (DSM-5) symptoms of PTSD:

1. Intrusive recollections of the trauma event (s)
2. Hyperarousal and high levels of anxiety
3. Avoidance behavior and emotional numbing usually expressed as depression, dissociation, minimization, repression and denial
4. Negative alterations in mood and cognition
5. Disrupted interpersonal relationships from batterer’s power and control measures

6. Body image distortion and/or somatic or physical complaints
7. Sexual intimacy issues (Walker 50).²⁴

In diagnosing a victim with BWS, one aims to classify her behavior as a response to repeated, cyclical trauma in the form of intimate partner violence, rather than unexplained, individual actions. If implemented successfully, BWS can, in theory, serve to decrease the gap in understanding between those who have and have not experienced intimate partner violence, much like diagnoses of PTSD. But, unlike the formal acknowledgment of PTSD in the DSM, BWS has never “been recognized as a psychiatric condition” (Holliday et al. 2). It remains an underdeveloped concept with no standard definition and fails to account for all effects of intimate partner violence (Dutton 1). Critically, this syndrome alludes to a harmful conception of women victims as passive and helpless in their abusive relationships and is misleading in nature. BWS was originally termed as “learned helplessness” rather than battered woman syndrome by Walker, who argued that women victims of intimate partner violence become paralyzed into staying in abusive relationships even when they may have opportunities to escape (Rothenberg 85). This understanding of learned helplessness was built upon the concept described in a 1967 study conducted by Martin E.P. Seligman and his colleagues on dogs experiencing shocks. In a preliminary trial, one group of dogs was subjected to inescapable shocks. They were then placed in a second location, where they would receive a shock at frequent intervals, but could escape this harm by jumping over a barrier. In sharp contrast to the elevated levels of escape behavior exhibited by dogs who had not gone through the preliminary trial, two-thirds of past-shock dogs did not attempt to escape the now avoidable harm (Seligman 408). In applying this understanding of learned helplessness to women victims, it is then implied that women victims are, at least partially, deserving of the abuse they are experiencing. Victim helplessness is presented as a passive choice, rather than an enforced condition by the abuser. Further, this notion fails to understand this perceived passivity as a form of resistance, where women are making “active efforts to reduce the risk of violence and abuse to themselves and their children.” To underscore

²⁴ Walker has produced several versions of the seven symptoms of BWS over the years, however, the changes are primarily syntactic (Dutton et al. 3).

this critique, Christopher Peterson, Steven F. Maier, and Martin E.P. Seligman, have argued against this interpretation of their concept of learned helplessness in “Learned Helplessness: A Theory for the Age of Personal Control,” stating that “If a woman cannot afford to leave a marriage, then she stays - not because she is helpless, but because that is her only alternative” (Peterson et al.). In short, the complex dynamics of intimate partner violence cannot be accurately compared to the learned helplessness exhibited by dogs in a 1967 study. In the perpetuation of the BWS, the experiences of victims are confined to a dehumanizing standard.

Despite its critical failings, BWS has been cited as a legal defense in incidents of victims killing in self-defense, as exemplified in the first cited use of BWS during the widely discussed trial of Francine Hughes, later coined the case of “the Burning Bed” (Langer). In the experience of 29-year-old Francine Hughes, Hughes had “been physically and sexually abused by her husband” for 13 years (Cipparone 444). Hughes had tried repeatedly over the years to flee from her husband, James (Mickey) Hughes, but was unsuccessful and found no aid from legal or social services. Rather, she continued to face horrific threats - “There is nowhere you can go, bitch, that I won’t find you” - and violent actions from Mickey (Boots). On March 9, 1977, Hughes was verbally and physically attacked by Mickey. The police were called to the scene, but Mickey was not arrested. Following the incident, Hughes reported that Mickey told her “‘it was all over’ for her,” and, “If you think things were bad before...they’re gonna be worse now,” before sexually assaulting her and forcing her to quit secretarial school (Langer). That evening after Mickey fell asleep, Hughes removed their children from the home, returned to douse Mickey’s bed and the surrounding area in gasoline, and lit the bed on fire. She then drove away with her children as the home went up in flames (Boots). While Hughes was arrested for the murder, she was found not guilty by reason of temporary insanity, under which her legal team cited BWS as a viable explanation for this lapse in judgment (Cipparone 444). Hughes’ actions were viewed as a severe response to over 13 years of intimate partner violence at the hands of Mickey Hughes and were deemed deserving of an acquittal.

While Hughes found justice through the application of the BWS in expert testimony, this does not mean that BWS should be accepted as a truly viable or harmless legal defense (Dutton 2). Rather, this syndrome must be struck from the legal sphere. BWS stands on shaky psychological grounds and has failed to be accepted as a recognized mental disorder, inappropriately restricts the experiences of victims to that of learned helplessness, and thus, demands that a woman victim “convince a jury that she is a ‘normal’ woman - weak, passive, and fearful” (Allard 194). This syndrome fails to account for the various identities of victims of intimate partner violence and instead assumes that she must meet a stereotypical conception of a victim, as white, desperate, and naive. Although, in the case outlined above, Francine Hughes acted violently against her abuser, one could still claim that she met these stereotypes. Hughes was a “good” woman who remained with her husband for over a decade, engaged in feminine pursuits, and was able to recount her fear with surprising clarity. As is the case with the reasonable woman standard, the BWS essentializes cases of intimate partner violence and upholds a dominant narrative of victims as helpless and passive participants in their abuse. For those that fall outside of the syndrome’s qualifications, it can act instead as a barrier to legal aid and serve to further a victim’s experiences of harm. I again return to the experiences of Black women victims to showcase this injustice.

Black Women and Experiences of Intimate Partner Violence

It is evident that existing, victim-centered lines of legal defense address only the most general experiences of intimate partner violence. For Black women victims, use of the reasonable woman standard or defenses citing the BWS fail to alleviate their struggles and instead, cause them further suffering and injustice. Legal intervention and reliance on criminal codes cannot serve as viable solutions for Black women seeking aid or justification for actions taken in self-defense, as they do not conform to the hegemonic understanding of a victim that is required. Additional amendments to self-defense statutes will not, and will never, cater to the most marginalized victims of intimate partner violence. As outlined previously, Black women exist at the crossroads of several identities and experience unique forms of injustice. When this multifaceted violence is not recognized, “...you’re only seeing a slice of [her]. And

that's not justice. Because you have literally carved [her] up" (Kippert). Black women cannot find reprieve by exchanging one system of violence for another. Rather, a Black victim of abuse is surrounded on all sides by potential pathways for harm. On one side, she is confronted by violence within the personal sphere and on the other, faces a criminal justice system that perpetuates and enacts new harms against women of color, particularly Black women. This creates an "omnipresent fear" of violence from which a victim cannot escape (Kippert).

As such, I argue that true harm reduction can only be achieved through the ending of systemic racism. As articulated by Amanda Kippert in "The Ways Racism Fuels the Fire of Domestic Violence," "ending one issue [racism or intimate partner violence] cannot be done until both are eradicated" (Kippert). Increased support for the carceral state must not be understood as justice for Black women victims. Instead, anti-violence activists argue that justice can only arise through the centering of survivors within communal services, specifically those that fund the organizations that "cis and trans Black survivors often go to first for assistance" (Kippert) When the police and courts do not protect victims, but instead further systemic racism through wrongful arrests and denials of Black victimhood, these women must be able to turn to neighborhood services for support and trust. The reasonable woman standard and the BWS will provide no aid.

Victims Charged as Perpetrators of Intimate Partner Violence:

Thus far, I have outlined several of the ways in which women victims are wrongfully denied their rights to self-defense through the exclusionary language of the "reasonable man," "degree of force," and "imminence of harm" used in the legal statutes. Women victims, engaging in self-defense and killing their abusers, can be unjustly charged as the primary perpetrators of voluntary manslaughter. It is evident that the existing structure of the law fails to consider the lived experiences of women victims of intimate partner violence and coercive control. However, I have focused solely on the most severe cases resulting in the death of the abuser and have yet to address the cases in which victims engage in non-lethal

self-defense as acts of resistance or reactive violence. This introduces a new form of harm: victims who are convicted as abusers, due to the combined failings of abuse and self-defense laws and the resulting misinterpretation of reactive/resistance violence as a form of intentional, coercive violence. I argue that these are wrongful convictions that deny the existence of abuse enacted against the victim and the justified violence that is enacted in response. This furthers the manipulation and gaslighting perpetuated by coercive controlling abusers and again represents a structural failure of the legal system.

All acts of violence are not equal. Rather, I adopt the framework supported by intimate partner violence agencies, who put forth the following, distinct forms of violence: intimate partner violence, reactive/resistive violence, situational violence, pathological violence, and anti-social violence (Pence and Dasgupta). This language and later classifications may vary depending on the application, where four forms of violence - intimate terrorism pattern, violent resistance, common couple violence, and mutual violence - are also represented in the literature on intimate partner violence (Miller 24). I will focus on the two forms that are most pertinent to our discussion: intimate partner violence/intimate terrorism pattern and reactive/resistive violence. Intimate partner violence, as has been described in great length, is built upon a carefully crafted pattern of “intimidation, coercion, and violence, and other tactics of control,” to subjugate one’s victim and maintain power in the dominant, abusive role (Pence and Dasgupta 5). Intimate partner violence is not a solitary, isolated event, rather, it is ever-present and cyclical. Critically, coercive controlling violence is built upon motivations to “punish” female partners and maintain power (Worcester 1403). Violence (physical, psychological) enacted as a part of intimate partner violence are not attempts at self-preservation but are instead intended to cause harm to a victim.

In contrast, reactive or resistive violence is utilized by victims in response to intimate partner violence as an effort to “escape and/or stop the violence that is being perpetrated against them” and/or to prevent an escalation of the abuse through a display of power (Pence & Dasgupta 9). This violence occurs in isolated events and is not part of a methodical plan to exert coercive control over another person.

Reactive violence is directly brought about by the abuse tactics that a victim experiences and is not a form of intimate partner violence in itself. A victim engaging in reactive violence is employing a type of self-defense. However, if this action is not viewed contextually, it can be challenging to differentiate between the two classifications of violence and can lead to wrongful convictions of abuse against the victim, resulting in further harm (Miller 14). These injustices are best evidenced in *Victims as Offenders: The Paradox of Women's Violence in Relationships*, by Susan L. Miller, which was previously referenced in chapter two of this thesis. In this work, Miller recounts her time spent over six months with 95 women convicted on charges of intimate partner violence and who were referred to offender's treatment programs (41). This group followed the feminist model from the Domestic Abuse Intervention Program, as opposed to the traditional Duluth Model, which aims to restructure abusive belief systems and emphasize accountability for the participants. As a result, the group was framed around the idea of "women who use violence" and in determining the factors that lead to their use of physical violence, rather than labeling the women as abusers (Miller 46). Miller reports that in the makeup of the group, the majority of the women were convicted after calls placed by their male partners, nearby strangers, or concerned neighbors. All of the women participants reported being shocked at the time of arrest and felt that they were facing a wrongful conviction (Miller 125). At the conclusion of the treatment group, Miller determined that only five of the women engaged in mutual violence (where both parties enact violence against the other), and the remaining 90 women were primary victims of abuse. The physical violence that they utilized was motivated by a desire to defend themselves (65% of the remaining women) or as an attempt to upset power balances in a coercive controlling environment (Miller 126). These goals were apparent in the stories told by the women participating in the class, with many stating that they felt "as though they had no choice but to fight back" in situations where they felt powerless (Miller 124).

One woman, Wendy, reported that she had been arrested, despite the frequent abuse she had endured from her husband. Wendy fought back on one occasion after being physically beaten in front of her children. During this altercation, Wendy's child called the police and told the officer that her father

was beating her mother (Wendy). Although the police were explicitly told by the child that Wendy was the person being attacked, the police failed to acknowledge this upon arriving at the scene. Instead, they “let him [her abusive partner] tell the story instead.” Wendy had never sought legal action against her abuser before, and as a result, did not have a “paper trail” to corroborate her side of the story (Miller 121). Although Wendy did not begin the fight, her actions in self-defense were enough to convict her as the perpetrator of intimate partner violence. Instead of receiving legal aid, she found herself as part of a court-mandated class for offenders. Wendy viewed herself as the victim but was unable to counter the beliefs held by the police.

These findings are not unfounded, rather they support the conclusions drawn in similar studies of perpetration rates among women’s intervention groups and motivations given for physically violent actions. For example, in research conducted by L.K. Hamberger and T. Potente in 1994 of 67 women involved in a mandated intervention program, they found that “only three exhibited primary perpetrator characteristics and battered their male partners.” The remaining women had engaged in some form of reactive or resistance violence (70). When examining the motivations behind violent actions taken by women convicted of intimate partner violence, Hamberger, Lohr, and Bonge (1994), and Hamberger, Lohr, Bonge, and Tolin (1997), found that self-defense was reported as a primary reason (Stuart et al. 610). In a later attempt to replicate these 1994 and 1997 studies, Stuart et al. sampled 87 women who were part of a court-mandated intervention program for convictions of intimate partner violence. In this study, researchers employed the “Reasons for Violence Scale” and a “Revised Conflict Tactics Scale.” These questionnaires measured the participants’ frequency of using aggressive behaviors (Conflict Tactics) and assigned motivations (multiple or singular) for perpetrating violence on a 29-point reasoning scale (Stuart et al. 611-613).²⁵ At the conclusion of the study, the researchers reported that women who

²⁵ The following phrasing was used in the study to elicit responses on the questionnaire: “Sometimes conflict between you and your partner may lead to physical contact or physical aggression, and there are many reasons why partners sometimes get physical with each other. Please keep in mind that you could become physical or aggressive with your partner just one time for many reasons. Please check the box that best describes the per-centage of time (or how often) you were physical or aggressive toward your partner for each of the reasons listed” (Stuart et al. 613).

engaged in aggressive behaviors “were frequently victimized by their partners” within the past year, and that “self-defense,” “because the partner provoked the violence,” and “to show anger,” were listed as the three most common motivations for engaging in violence against their partners (Stuart et al. 614).

Although it is impossible to neatly assign a woman’s actions as self-defense, where her motivations must be regarded as multidimensional, the connection between past experiences of intimate partner victimization and violent acts against one’s partner, cannot be ignored. It is evident that there is a significant gap in knowledge between the perceived reasons for a victim’s acts of violence and the beliefs that the victim herself holds. This gap is supported by existing abuse and self-defense laws and results in wrongful convictions of women victims as the primary perpetrators of violence, which then undermines their identities as the subjects of intimate partner violence.

It must then be considered that this failure of the legal system can be exploited. An abuser may intentionally manipulate a situation in which a call for intimate partner violence has been made, where he may persuade the responding officers to arrest the victim (Miller 80). Her actions in self-defense are no longer viewed as a form of protection but are twisted into an image of a violent attack that deserves a conviction. This is evidenced in the case of Wendy described above, where she was arrested for intimate partner violence and forced to take an intervention class. Despite the original caller stating that Wendy was being harmed by her partner, the police failed to consider Wendy’s perspective. Rather, her truly abusive partner was able to take control of the narrative and shift the legal suspicion away from himself (Miller 121). This use of the legal system can be another tool to enact coercive control against a victim and undermine her credibility. Although there is a paucity of scholarly information on how abusers adopt a victimized role, there have been some attempts to classify this manipulative behavior through the acronym DARVO: Deny, Attack, Reverse Victim and Offender (Harsey and Freyd 897). Preliminary research into the application of DARVO techniques by abusers suggests that those who “minimized the severity of abuse were also likely to implicate the victim as the instigator of violence” (Harsey and Freyd 898). This can then influence outsider perceptions of this violence, as supported by the study, “Deny,

Attack, and Reverse Victim and Offender (DARVO): What is the Influence on Perceived Perpetrator and Victim Credibility,” conducted by Sarah Harsey and Jennifer J. Freyd.

In the study, 316 undergraduates were given brief testimonials, from both the perspective of the victim and the perpetrator, recounting an incident of intimate partner violence. Prior to receiving these testimonials, participants were given a description of the violence, which directly stated that “the perpetrator acted violently toward the victim and that the victim was left with visible bruising the day following the attack” (Harsey and Freyd 901). The participants then read one of several vignettes, in which different conditions were varied. In some trials, testimonials given by the perpetrator were altered to include elements of DARVO, where the narrative attempted to “deflect blame and responsibility for the abuse.” After reading these testimonials, participants were then asked questions about the “perceived qualities of the victim” and the “perceived qualities of the perpetrator” and asked to rank their answers on a given scale (Harsey and Freyd 901). At the study's end, Harsey and Freyd reported a significant impact on perceptions of perpetrator and victim responsibility with the introduction of DARVO tactics in perpetrator narratives. Compared to participants who did not read the DARVO narrative, DARVO participants “rated victims as more responsible for the abuse and their actions as more abusive,” and characterized the perpetrator “as less responsible for the abuse” (Harsey and Freyd 902). This experiment was then retested with 360 new undergraduate students, with two critical changes: the introduction of two questions ranking participant beliefs that the parties involved “should be disciplined or punished for his/her actions,” and a statement describing DARVO tactics (Harsey and Freyd 905). This new trial examined the influence of education on DARVO on characterizations of the perpetrator and victim, and how culpable they were. Harsey and Freyd found that participants who were not primed on DARVO tactics ranked the perpetrator as less deserving of punishment than those who were DARVO-educated and that non-DARVO participants “endorsed punishment for the victim” in higher numbers (Harsey and Freyd 907). Although a novel study, its conclusions are convincing. The intentional manipulation utilized by perpetrators can have clear implications for how they are characterized (responsible and deserving of

punishment), as well as significantly influencing perceptions of the victim. Given the limited understanding of abuse and self-defense under the law and the high potential of manipulation of police officers by abusers, the legal implications for women victims are clear - she may be viewed, and potentially convicted as, the perpetrator of intimate partner violence. This is not an improbable phenomenon, rather it is evidenced by the experiences of the women in this chapter: women who have been wrongfully convicted as abusers, have been denied arguments under self-defense statutes, and thus, were further harmed by the legal system.

It is evident that significant harm is done to women victims experiencing coercive controlling violence both at the hands of their abusers, as well as through the exclusionary and gendered conceptions of self-defense and abuse and the ways in which these concepts are implemented in the legal system. I have offered critiques of existing and past attempts at rectifying these injustices through the infrequent use of the reasonable woman standard, or past attempts at employing the Battered Woman Syndrome. I have yet, however, to pose any substantial recommendations of my own to address these seemingly preventable, legal inequities. It is to this project that I now turn.

Chapter Seven: Proposed Solutions

Throughout this thesis, I have made broad criticisms of the failures of the legal system to account for the gendered form of abuse that is coercive control and have argued that these missteps result in further injustices done to women victims of intimate partner violence. It is clear that these harms arise in several spaces: police response and mandatory arrest policies, during the Protection from Abuse acquisition processes, in understandings and convictions of abuse as defined in legal statutes, and through the gendered requirements underscoring self-defense laws. Largely, these inequities are brought about through misinterpretations and misrepresentations of intimate partner violence, specifically coercive control, in legal policies and procedures, in conjunction with fundamental biases upheld by the law. However, it is not so simple a fix as to call for further education around these areas or the mere criminalization of coercive control (perhaps a trap that I have not yet evaded), rather, it must be discussed what practical and successful changes, or effective interventions, could be made without creating greater harm for marginalized abuse victims. To begin this project, one must first examine the past and present actions to criminalize intimate partner violence through the Violence Against Women Act, and the failures that have followed from its passage.

The Violence Against Women Act (VAWA) was enacted in 1994 and has been reauthorized four times since, in 2000, 2005, 2013, and most recently in 2022 (Goodmark, “Should Domestic,” 55; Hanson 1). At its introduction in 1994, VAWA aimed to address crimes of “domestic violence, sexual assault, dating violence, and stalking” through the formation of federal programs for victims and grant allotments supporting the investigation and prosecution of these crimes (Hanson 1). Although VAWA emphasized the creation of victim-centered programs, it largely prized the criminalization of intimate partner violence through strong legal response systems. Notably, at its proposal in 1993 by then-Senator Joe Biden, the aims of VAWA were described as the implementation of “model, innovate, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution

policies” (Shinde 1). VAWA is not focused on eliminating underlying factors that contribute to levels of intimate partner violence, but rather to motivate a strong carceral response force. For example, in 1994, those granted VAWA funding were required to “adopt mandatory arrest policies,” and to distribute much of the funding to law enforcement and prosecutors (Goodmark, “Reimagining VAWA,” 85). While mandatory arrest policies are no longer needed for VAWA grantees (although some form of pro-arrest/preferred arrest policies are still required), the emphasis on funding for law enforcement programs has persisted, with \$185 million being given in 2022 to the “Service, Training, Officers, and Prosecutors (STOP) Program” (OVW 147).²⁶ In comparison, the “Community-Based Organizational Capacity Building Program,” understood here as the welfare state was allotted only \$5 million in grant funding during the 2022 reauthorization (OVW 149; Fullchange). Under VAWA, the criminalization of offenders is disproportionately viewed as the primary step against intimate partner violence to protect victims and hold abusers accountable for their violent behaviors. These policies focus on goals of preventing recidivism, improving investigations, establishing intimate partner violence as a felony or misdemeanor crime, and largely upholding the belief that criminalization serves as the long-term solution towards the elimination of intimate partner violence (Goodmark, “Reimagining VAWA,” 88-89). To supporters of this act, VAWA has proven to be a great success in improving legal interventions and decreasing rates of intimate partner violence, where “annual rates of domestic violence have dropped by 63%” since VAWA’s implementation. (Goodmark, “Reimagining VAWA,” 88). Further, the support for mandatory arrest policies, pro-arrest policies, and no-drop policies has led to an increase in arrest rates “from 7-15% (1970s-80s) to 30% or more (2008)” (Carle 33). From this data, one could assume that more perpetrators are being held responsible and are being convicted for abusive violence. The strengthening of the punitive state is therefore believed to have improved rates of victimization and increased protections for those impacted by intimate partner violence, thus achieving the goals of the program (Modi et al. 254).

²⁶ “STOP funding provides resources for States to combat domestic/dating violence, sexual assault, and stalking through victim services, law enforcement, prosecution, court response, and training for professionals. This significant increase in funding for the OVW’s largest grant program will significantly enhance States’ and territories’ ability to finance community coordinated responses” (OVW 147).

However, to those who critique the supposed improvements made by VAWA, many describe the reported statistics as misleading. While rates of intimate partner violence did drop dramatically after 1994, this change cannot directly be connected to VAWA-implemented policies. Rather, it must also be noted that overall violent crime rates dropped by similar levels (a 67% reduction) during this time period (Goodmark, “Reimagining VAWA,” 88). It is presumptuous and potentially dishonest to report that reductions in rates of intimate partner violence resulted from VAWA-informed policies, as opposed to being part of a widespread decrease in crime levels. Additionally, it must be noted that despite a larger decrease in rates of violent crime levels over the past 30 years, levels of intimate violence have faced recent increases from 2014-2015, 2017-2018, and 2020-2022, with 2022 reporting numbers of 1,370,440 cases of domestic violence or 4.9 victims per 1,000, and 951,930 cases of intimate partner violence or 3.4 victims per 1,000 (Thompson and Tapp 3).²⁷ Levels of reported intimate partner violence are currently on the rise, and until substantive and consistent data has been produced to confirm the direct correlation between VAWA and overall decreased levels of intimate partner violence, these statistics must be viewed as inconclusive evidence of its efficacy.

Further, reports on the effects of implemented VAWA arrest policies fail to discuss who, exactly, is being arrested for intimate partner violence and is subjected to this mass incarceration. Given the discussion of this thesis and the knowledge of harms caused by aggressive, pro-conviction policies, it is clear to see the probable cause behind this dramatic increase in arrest rates - victims wrongfully being charged by the police as perpetrators of abuse, whether that is through single or dual-arrests (Carle 34; Hirschel et al. 256). If officers arrive at a scene with the knowledge that they must charge someone with intimate partner violence, they may be unable or unwilling to interpret the dynamics of abuse that are at play, and instead choose to arrest both parties. Under pro-arrest policies enforced by VAWA, little room is given for the use of discretion by police officers, rather, only a probable cause of abuse must be

²⁷ The Criminal Victimization Survey distinguishes between domestic violence and intimate partner violence, with the former including “the subset of violent victimizations that were committed by current or former intimate partners of family members” and the latter including “the subset of violent victimizations that were committed by current or former spouse, boyfriends, or girlfriends” (Criminal Victimization 3).

determined (Shinde 2). As such, it must be problematized that these policies negatively impact Black and Brown survivors and facilitate racialized violence (Kajeepeta 33). Given the widespread racism throughout the legal system, responding police officers may unjustly stereotype Black and Brown survivors as “prone to violence” and less likely to be victims, and will arrest them as the primary perpetrators of intimate partner violence, or participants in the violence through dual convictions (Jacobs 89; Shinde 2-3). This directly leads to an increase in wrongful arrests of marginalized victims, and as argued by Michelle S. Jacobs in “The Violent State: Black Women’s Invisible Struggle Against Police Violence,” perpetuates the “government’s policy of mass incarceration of Black people” (90). This legal threat was acknowledged by Black and Brown activists prior to the implementation of VAWA, who argued that the strong-arm presence of police in marginalized communities does not serve to decrease rates of violence, but instead leads to “heightened levels of retaliatory violence” by abusers against their victims and greater levels of injustice (Jacobs 85). In a system in which Black survivors fear likely occurrences of police brutality, potential disruptions of their family units, and further economic harm, as well as an increased risk of conviction themselves, legal intervention is no longer considered a viable option (Jacobs 85). VAWA does not successfully address systemic structures that underlie the use of intimate partner violence against one’s partner, but instead aims to protect those who will not be further victimized by police intervention: middle-class, white women, who do not engage in reactive violence against their abusers. As made apparent in this discussion of VAWA policies, harsh, carceral-focused regulations, and police involvement do little to rectify harm against victims of intimate partner violence. Rather, they perpetuate existing structures of power and further harm marginalized abuse victims.

In problematizing VAWA as an unsuccessful and potentially harmful method of combating intimate partner violence, the need for effective strategies against abuse becomes more apparent. The question remains, however, of how these changes will be enacted. The current focus on criminalization as the primary defense against intimate partner violence has clear, negative impacts on marginalized victims or those who go against the ideas of the stereotypical victim, where increased officer presence and

pro-arrest policies do little to satisfy the needs of those who VAWA is intended to protect. Rather, VAWA places further power in an unjust penal system and fails to support any long-term goals to change cultural patterns of intimate partner violence. Is the solution then to decrease the strength of police forces and remove support for the penal system altogether through the slashing of VAWA funding (the decriminalization of intimate partner violence), thus allowing for improved social services for victims? Or, would these existing policies be improved by increased policies and training for law enforcement around the dynamics of intimate partner violence, and specifically, the criminalization of coercive control? This second option would not decrease police presence but would instead aim to expand the legal scope of intimate partner violence. Both avenues are worthy of exploration in this thesis, and it is to the latter that I now turn.

To begin, one must imagine a world in which the strong support for mass incarceration through mandated and pro-arrest policies remains the norm, yet where the legal system now faces additional requirements to criminalize coercive control. The basis for a widespread legal statute against coercive controlling violence can, for ease of this discussion, be built upon the previously outlined 2015 Serious Crime Act that has been implemented in the United Kingdom and criminalizes cases of coercive control.²⁸ As stated in Chapter Three, this statute recognizes coercive control as a distinct form of intimate partner violence, with specifications placed on its pattern-like nature and the significant impact caused by the abuse (Serious Crime Act 12). To those in favor of adopting a widespread criminal statute akin to that used in the United Kingdom, this legal practice is viewed as a method to sensitize “police responses to non-violent and other forms of low-level offending,” and results in the “greater awareness of the context of a case,” i.e., the victim’s experiences, when it is brought to court (Walklate et al. 3). In theory, criminalizing coercive control is presented as a logical step towards decreasing harm to victims and recognizing those who are left behind, or are wrongfully charged, by the carceral system. The inclusion of

²⁸ It must be noted that I am not suggesting the outlined law implemented against coercive control in the UK is the ideal version of a statute criminalizing this violence, rather I am merely referencing it for ease of use. The UK’s legislation against coercive control has largely been criticized for increasing legal presence, obscuration of other needed services, and over-criminalization (Burman and Brooks-Hay 77).

coercive control in the legal code would demand a reimagining of intimate partner violence beyond physical and sexual abuse, and a greater expectation of knowledge for legal officials. As such, it is evident that the successful implementation of policies against coercive control would require serious restructurings of the criminal justice system - a clear definition of offensive control, further legal training to interpret how evidence of coercive control manifests in victims, and potential amendments to accommodate this form of abuse when a victim is seeking legal protections (i.e., a PFA).

As noted by Erin Sheley in “Criminalizing Coercive Control Within the Limits of Due Process,” creating broad, successful statutes against coercive control would prove to be exceedingly difficult in the United States. Lawmakers would face the substantive burden of defining coercive control in clear terms, lest they face irredeemable problems of vagueness, under which juries would be required to “make open-ended determinations” around abusive conduct (Sheley 1340). Further, coercive controlling laws have the increased potential to fall victim to issues of overbreadth, as many of the problems surrounding this form of violence discuss language used by abusers and could violate the rights of free speech (Sheley 1343). As such, any law must allow for constitutionally protected conduct. One of the most immediate concerns in trying abusers for convictions of control would arise when presenting evidence of coercive controlling intimate partner violence. As abusers could then be charged in cases without physical violence, victims would face additional pressure to provide clear testimonies of their trauma in the relationship. If she is unable to complete this task, her testimony is then deemed deficient in credibility and may not be accepted (Sheley 1346). The victim’s success depends on her ability to “provide a detailed narrative in court” or to a responding officer and to confidently present the coercion that she has experienced (Tolmie 55). Yet again, the burden of proof is placed on the woman victim.

This is not to say that the creation of laws against coercive control would be impossible in the United States. Rather, it is already underway. In their 2022 report, the National Conference of State Legislatures determined that 10 states across the country have adopted some form of legislation around coercive control since 2017, with most states including “coercion” as a viable form of intimate partner

violence, and others more explicitly outlining the tactics that coercive control can use (NCSL 1). For example, in discussions of domestic abuse, Hawaii codified a definition of coercive control as a “pattern of threatening, humiliating, or intimidating actions...[that] includes a pattern of behavior that seeks to take away the individual’s liberty or freedom,” before going on to list several regulatory tactics used to implement coercive control by abusers. For those convicted under coercive controlling offenses in Hawaii, they are “required to participate in an intervention program and spend two days in jail” (HB 2425). Additionally, California enacted a coercive control law in 2020 outlining this coercive controlling abuse in a similar manner. However, California does not criminalize coercive control but instead defines it as a civil defense, which one can then cite as a means for a protection order (Sundaram). Coercive control is variably defined and enforced as a civil or criminal matter across the 10 states that have given it legal recognition, with individual states determining the level of recourse that is necessary for coercive controlling actions. It is unclear whether these newly enacted definitions of coercive control have been truly successful or have further clarified this crucial aspect of intimate partner violence, thus satisfying the concerns of vagueness and overbreadth introduced by Sheley.

Further, it is not apparent how, or if, these states have implemented legal procedures or training to enforce these new provisions. At present, California’s “bill [doesn’t] have an ‘outreach and education component,’” and has not established funding to introduce these items in the future (Sundaram). This is the great risk in codifying coercive control as a criminal or civil offense, in that it is merely included without the accompanying legal training. As argued by Julia R. Tolmie in “Coercive Control: To criminalize or not to criminalize?,” coercive control is a highly individualized form of intimate partner violence, and if codified in criminal law, would require personalized responses by the police and in the courts. It is not merely that coercive control can be added to existing codes surrounding intimate partner violence, rather further training must be included in these legal revisions. Unlike more readily understood actions of physical or sexual violence, identifying incidents of coercive control requires an intimate grasp of its subtle behaviors, critically, “what the victim has been prevented from doing for herself” over an

extended period of time, as opposed to more overt expressions of violence (Tolmie 54). This knowledge cannot be attained without in-depth teachings specifically centering this abuse. For example, as outlined in my personal statement, I underwent a 50-hour training over the course of several weeks on the intricacies and manifestations of coercive controlling violence before I was able to speak with survivors on the organization's helpline. This did not mark the conclusion of my education, however. On the contrary, advocates within the organization are expected to continue attending events to further their understanding and skills in responding to intimate partner violence. If this is what is expected of social service workers to gain a baseline knowledge of coercive control to interact with victims outside of the legal sphere, then one must anticipate or expect the same (or more) of legal workers who consistently engage with victims of intimate partner violence. It is my fear that, if legislation against coercive control is merely implemented without significant efforts to train legal officials in recognizing signs, advocacy language, and other critical information, the resulting combination of pro or mandated arrest policies and these new statutes will create further harm for victims of intimate partner violence. These harms would disproportionately impact Black and Brown victims, or those who do not fit into the stereotypical understanding of someone who has been abused. "Any law intended to offer an avenue for understanding women's experience of coercive control can reassert women as victims to be blamed for those same experiences and sustain the patriarchal state in responding to such violence" (Walklate et al. 1).

To underscore this point, I highlight the critiques put forth by Courtney K. Cross in "Coercive Control and the Limits of Criminal Law," who argues against the passage of criminal law for coercive controlling behavior. In this work, Cross argues that, as evidenced by previous attempts to address problems of intimate partner violence through VAWA and the strengthening of the carceral state, it is the "most vulnerable survivors...[who] will bear the brunt of these new criminal laws" (195-196). As with mandated and pro-arrest policies which aimed, at their implementation, to increase police and legal presence and aid for victims of intimate partner violence, the codification of coercive control would likely improve aid for some women, while furthering injustices to others through dual-arrests or wrongful

convictions. If a police officer responding to scenes of intimate partner violence faces both pro-arrest policies and legislation against the use of coercive control, it is not hard to imagine the resulting dual or wrongful arrests made by an untrained responder. In turning to the perspective put forth by victims of intimate partner violence and integration feminist scholars, the further criminalization of abuse is not viewed as a primarily positive solution. Overwhelmingly, this move is understood as a threat to marginalized victim's safety under the current emphasis placed on convictions and holding abusers legally accountable (Goodmark, "Should Domestic," 94). Coercive control without significant, in-depth training could further imbed these systemic injustices and harms done to marginalized victims and maintain, if not strengthen, rates of mass incarceration and the strength of the penal system.

Instead, let us return to the not-yet-discussed, restorative justice solution: a decrease in support for the penal system through the redistribution of VAWA funding to community programs and social services for victims of intimate partner violence. It is this solution that I will argue for, despite my adamant critiques throughout this thesis of the functioning of the legal system and the need for a greater legal understanding of coercive control. However, in practice, it is clear that further criminalization of intimate partner violence does little to combat the structural factors allowing for the use of intimate partner violence, and instead focuses on short-term solutions for the most privileged victims. The reliance on legal statutes to remedy societal problems further embeds the problematic carceral system and insists upon legal intervention as the only viable solution. Criminal law must not be viewed as a just remedy, but instead as "the most narrow means of change" (Jacobs 85). In challenging current resistance policies centering on criminalization, I draw significant inspiration from the work, "Reimagining VAWA: Why Criminalization Is a Failed Policy and What a Non-Carceral VAWA Could Look Like," by Leigh Goodmark. As Goodmark proposes, VAWA should not be eliminated as a program, but rather, its significant funding (\$185 million in 2022) for the STOP Program should instead be redistributed towards "policies designed to prevent intimate partner violence" at the structural level" (92). This can be imagined as funding for economic interventions, counseling services, immediate shelters, community violence

agencies, belief-restructuring programs, “edutainment programs...to teach a wide audience about social issues like intimate partner violence,”²⁹ food support, etc. (Goodmark, “Reimagining VAWA,” 93). For example, a victim seeking reprieve from intimate partner violence but facing significant economic constraints could receive funding for her transition away from her abuser, and counseling to find safe housing and employment opportunities. Under this future, law enforcement is not presented as the primary resource for victims seeking aid. Rather, this solution presents an idea of communal-based solutions to decrease barriers that may prevent intimate partner violence victims from leaving their relationship, and, critically, provides avenues of protection for those who want to stay with their partner. Ideally, these solutions would allow for interventions prior to the escalation of coercive controlling abuse to physical or sexual violence and would create pathways for the empowerment of victims. As such, I suggest that the need for gendered legal defenses for actions taken in self-defense or resistive violence, such as the BWS or a reasonable woman standard, would decrease in necessity. Women victims, although ignored by the police, could instead turn to communal organizations for “ways out.” If accompanied by the weakening of the police through the removal of pro-arrest policies, social solutions would then be positioned as the primary responses to occurrences of intimate partner violence, thus decentering the role of mass incarceration and over-policing (Poor 325).

Further, while I can imagine a future in which mandated and pro-arrest policies for the police have been eliminated, thus allowing for the potential introduction of coercive control as a recognized form of intimate partner violence (whether as a civil or criminal offense), this move again emphasizes the expansion of the carceral state and reignites the cycle of its “discriminatory and harmful effects” against marginalized victims (Poor 336). This must be avoided at all costs. Although the criminalization of coercive control would create the much-needed awareness of it as a viable form of abuse, it must be realized that “recognizing new harms while continuing to address those harms with the same carceral response will only entrench the discriminatory and harmful effects of the carceral state” (Poor 335). This

²⁹ Edutainment is not a misspelling, but refers to both entertaining and educational programs.

education of coercive control does not have to be limited to the legal sphere when it can be achieved through the communal organizations outlined above (i.e., victim's services, edutainment, etc.). Social outlawing may prove to be a more effective, and less harmful method, of raising awareness around coercive control. Justice services must be disentangled from the legal system to produce substantive and equitable change for victims of intimate partner violence. True, systemic reform can only begin through transformative justice, where aid services are provided to victims *and* remedies are proposed to combat the structures of power that allow for abusive actions.

Chapter 8: Conclusion

It has been my goal, throughout this thesis, to argue that a largely ignored tactic of intimate partner violence, coercive control, exists as an intentionally motivated form of gendered abuse and that in its exclusion from and misinterpretation by the legal sphere, women victims are further harmed by the systems from which they seek aid. In Chapter One of this thesis, I introduce and argue for this gendered conception of intimate partner violence, under which the systemic structures of power and control between male abusers and women victims must be considered. This chapter is grounded in the understanding of coercive control as a tactic used to subordinate a woman victim to her dominant male abuser and as a direct manifestation of the patriarchy and the oppression of women. While intimate partner violence is employed by and experienced by perpetrators and victims of all identities, I put forth that, based on its exploitative nature and intentional enforcement of power and control, coercive controlling abuse must be viewed as a gendered form of intimate partner violence. I defend this idea, pointing to the desires that motivate this form of violence - maintaining power imbalances and punishment of one's victim. I argue that one must already hold a structurally privileged position in society in order to enact these harms. Women abusers who have internalized patriarchal norms of coercion and control may attempt to replicate these patterns of dominance in their relationships, however, the success of truly controlling behaviors depends on one's perceived social power, where one is not seeking to gain authority, but rather to maintain it. While I do not argue that women or non-binary abusers cannot use manipulation, blaming, and other controlling actions against their victims, I hold that coercive controlling violence represents a distinct form of patriarchal violence that is not universally applicable to all cases of abuse. I concede that this thesis did not engage with the question of whether coercive control can successfully be enacted by non-male identifying abusers against their partners (i.e., in same-sex relationships), and view this topic as a potentially fruitful area for future research.

Further, as a result of the gendered stance adopted in Chapter One, it must again be acknowledged that this thesis runs the risk of promoting a gender-essentialist model of intimate partner violence, in that it prioritizes the experiences of cisgender, heterosexual women in partnerships with cisgender, heterosexual men. It can also be assumed that the data utilized in this thesis promotes the testimonies of white, able-bodied women and further restricts the scope of my argument. This is a justified critique that I grapple with even now. The predominant literature and studies of intimate partner violence, and specifically coercive control, are outdated and rarely record the perspectives of victims beyond the “battered woman.” This thesis, although discussing only a specific form of gendered violence with which I have experience, effectively silences any views outside of those that have been documented. I entertain this critique in Chapter Two, arguing that I am attempting to uphold an integrative feminist model, through which gender must still be viewed as a central tenet of intimate partner violence, but must not be recognized as the only influential factor. I do not know if this argument is successful; it is my hope that in drawing attention to the limitations of this thesis and acknowledging the violence that is not addressed, this work is not, and should not, be viewed as a complete picture of intimate partner violence. Rather, it merely describes one influential and gendered aspect of abuse in a specific, majority population. There remains much to be done to address the inequities and knowledge gaps surrounding how intimate partner violence impacts relationships across various identity groups, and how intersections of oppression impact the manifestations and experiences of this violence.

After establishing the necessary philosophical framework for viewing coercive control as a gendered form of intimate partner violence, I then describe in great detail how this abuse is used against women victims. Chapter Three examines how coercive controlling tactics arise as a systemic pattern of abuse, where abusers rely upon manipulation, denial, blaming, financial abuse, threats, etc., to victimize their women partners (Pence and Dasgupta). Women victims are subjected to the constant fear of present or future violence, and despite coercive control’s invisible nature, experience severe, long-lasting harm. This abuse ensnares its victims through intentionally employed tactics to subordinate and degrade them.

This violence is not motivated by the desire to achieve power, but rather to support an existing dynamic of domination and control and to create an ideological hegemony within the home (Mills, “Black Rights,” 22). To women victims, coercive controlling violence is harrowing and often results in traumatic responses of PTSD (or CPTSD) and depression (Dutton et al. 101-102). I put forth the claim that, while coercive control is recognized by intimate partner violence agencies and in feminist discussions of abuse, it has not yet been adopted in the social understanding of violence or in legal practices to defend victims of abuse. As a result, there is a significant lack of aid and potential for harm induced by those responding to incidents of coercive controlling abuse.

This inequity is first introduced in Chapter Four, which details the current definition of criminal abuse in the Maine Statute, Title 19-A §4102: Domestic Relations. Under the law, acts of coercive control are not deemed criminally reprehensible, rather, it is only the most physically offensive and violent actions that are punished. This legal exclusion allows responding legal officers to disregard potential incidents of invisible coercive control, which often require more complex analyses of the situation beyond physical assessments. When the presence of coercive controlling abuse is ignored or misinterpreted due to a lack of foundational knowledge, a victim then loses a potentially vital source of aid in the legal system and its further connection to intimate partner violence resources. Further, I posit that a woman victim may face an increase in abuse following a failed police intervention. It is not merely a case in which no one is harmed by a failed police intervention, but rather one must consider the potential repercussions for a woman victim - a loss of credibility, loss of aid, and potential punishment by her abuser for police involvement. Coercive control exists largely as a precursor to physical or sexual violence. I argue in Chapter Four that this exclusion of coercive control from legal statutes defining abuse must be viewed as an injustice that results in further harm to women victims.

I then further this stance in Chapter Five and describe at great length how the failure to recognize coercive controlling violence as defensible abuse drastically impacts a victim’s ability to acquire legal protections, such as a Protection from Abuse Order (PFA). I problematize the numerous legal barriers that

victims face while seeking protection, where their ability to complete the initial application may be hindered by physical, economic, and psychological constraints. I then detail the several stages before a long-term PFA is granted, and the obstacles that must be overcome, such as convincing the presiding judge that abuse is, or has, taken place. In this chapter, I reveal how exclusionary the legal system can be. Women victims face serious harm in merely seeking a PFA and advocating for their safety yet are frequently turned away for failing to meet the legal requirements for abuse.

I then turn in Chapter Six to understandings of self-defense under the law and critique existing statutes for their reliance on the reasonable man standard and gender-based definitions of imminence and proportionality of force. To build this point, I draw historical connections to the Castle Doctrine and marital rape law, which privilege the idea of the home as a male domain and a private sphere that is beyond the law. I assert that current self-defense law perpetuates these understandings, and views defensive violence as actions against strangers (men vs. men) in the public domain, as opposed to actions taken against one's intimate partner in the home sphere. This argument highlights how measures taken in self-defense by women victims can be criminalized under male conceptions of acceptable, or reasonable, responses to violence. The potential physical and psychological limitations of women victims of coercive controlling abuse fail to be accounted for under the law. I then defend the idea that this leads to unjust arrests and convictions of women victims for their reliance on weapons and delayed violent actions. I offer responses to the proposed and occasionally implemented, reasonable woman standard and Battered Woman Syndrome, arguing that these do not mitigate harm to victims, but may instead worsen potential injustices. While the reasonable woman standard would serve to essentialize the experiences of the "most average" hegemonic woman, the Battered Woman Syndrome (BWS) incorrectly defines the victim's actions as those taken because of "learned helplessness." As was shown in Chapter Six, the BWS has not been formally recognized as a psychological condition and is built upon studies of animal behavior, as opposed to human subjects. In short, I argue that, while some victims were acquitted through defenses

citing BWS, this syndrome incorrectly and harmfully qualifies the actions taken by victims of intimate partner violence.

As a response to these unsuccessful solutions, I propose potential paths forward in Chapter Seven of this thesis and problematize the legal inclusion of coercive control. Although the expansion of the legal definition of intimate partner violence would advance understandings of abuse beyond that of physical and sexual violence, I hold that increased criminalization further embeds the systemic problems of the carceral system. Instead, future responses to intimate partner violence, and specifically coercive control, must shift towards restorative justice and community-based pathways. This could be achieved through a restructuring of VAWA and a distribution of legal funds to advocacy organizations and programs to eliminate barriers to victims wishing to stay/leave their abuser. I note that I originally intended to develop an argument for the criminalization of coercive control in abuse law and shifts in the imminence and proportional force requirements found in self-defense law. However, if I had followed this thinking, my thesis would have become fully entrenched in a gender-essentialist, privileged model of “justice” (despite my claims to the contrary) through which only the most privileged victims would benefit from the strengthening of the carceral system. In opening that door, it is likely that more harm would be caused to the most vulnerable victims and that the true, systemic factors allowing for intimate partner violence would fail to be addressed. I do not see the proposed solutions of Chapter Seven as a deviation from the goals of this thesis, rather given the evidenced injustices that existing legal policies enact against women victims, it follows logically that further involvement of the carceral systemic could serve to increase those harms. As such, I have argued that society must instead move forward with a victim-centric model that develops communal avenues of support for victims of all identities. In deemphasizing the role of the police and legal system, it is also my hope that community-based solutions could highlight the additional, systemic factors allowing for intimate partner violence that I have not fully discussed- racism, economic inequality, and other structures of power. To truly combat intimate partner violence and coercive control, one must turn to abolitionist frameworks and the dismantling of the carceral state.

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