

*INTIMATE PARTNER BATTERING: IMPLICATIONS FOR
DANGEROUSNESS, RISK MANAGEMENT, AND REHABILITATION*

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Forensic training at U.S.C. Institute of Psychiatry and Law

Board Certified, American Board of Assessment Psychology

Member, Los Angeles County Superior Court Psychiatric Expert Panels (Delinquency, Criminal, Competency, Dependency)

Research Assistant for Dr. Lenore Walker, 1978-80. NIMH study of Battered Women

Research on BWS, and BWS and malingering.

Published articles on BWS, IPV, and PTSD.

Conducted >4,000 730 evaluations in Dependency Court

Evaluated >50 cases of domestic violence homicide. Began testimony before Evidence Code 1107

Testimony in Criminal, Dependency, Family and Civil Courts.

Gender Considerations: Caveat

Research indicates that perpetrators of domestic violence are more likely male, especially with serious violence. Of course, women can be violent. Much of the documented female violence is in self-defense, or in an angry reaction to mistreatment. About 5% of the DV cases nationwide have men as victims. Women battered by men are more likely to have injuries. Battering occurs in LGBTQ relationships as well: Male on male, female on female.

My assumption is that the Parole Board and Forensic Evaluators must think about both perpetrators and victims of IPV

The IPV crimes...

- Battered Woman kills Batterer or attempts
- Battered woman arranges to have him killed
- DV Perpetrator kills battered woman, or is convicted of felony domestic violence
- DV Perpetrator kills Child, Mother doesn't protect
- Child Abduction

Domestic Violence is Relatively Common – National Statistics

About 1 in 4 women experience physical or sexual violence by an intimate partner in their lifetime. (U.S. Dept. of Health and Human Services).

In a given year, about 1,000 women are killed by husbands or boyfriends (FBI).

IPV results in more than 200 million injuries among women each year (National Center for Injury and Prevention and Control).

Women who have experienced IPV are more like to report a range of physical ailments and mental health conditions (CDC).

Nationwide (Con'd)

- Over half of all women murdered are killed by a current or former intimate partner.
- Non-Hispanic Black and American Indian/Alaska Native women experience the highest rates compared to Hispanic, White, and Asian and Pacific Islander counterparts at about 4 times the rate for Whites

California Statistics

- Approximately 40% of California women experience physical intimate partner violence in their lifetimes.
- California law enforcement agencies received approximately 160,000 DV-related calls in a recent year.
- Younger women, 18-24 years of age, were significantly more likely to be victims of physical IPV than older women.
- Of those experiencing physical IPV, 75% had children under 18 at home.
- According to the California Dept. of Justice, there were 147 domestic violence fatalities in a recent year. While all other homicides are decreasing, DV homicides increased by 13%.
 - Of the 147, 129 victims were female and 18 were male.

Domestic Violence Defined

Physical Abuse

Sexual Abuse

Psychological Abuse

Coercive Control

Sexual Abuse

- Spousal rape
- Controlling contraception
- Sex trafficking
- Forced participation in videotaping sex acts
- Forced sex with other partners

Psychological Abuse

Name-Calling: Bitch, Slut, Fat, Stupid, Ugly

Manipulating Perceptions: “You’re worthless,” “You can’t make it without me.” “I’m the only one who loves you.” “You can’t trust your family.” “No-one will want you with your kids.”

Gaslighting. Causing the target to question her perception or even her sanity.

Threats: “I will take the children.” “I will have you committed.” “I will track you down.” “I will kill the people you love.” “You will be out on the street, penniless.”

Coercive Control: The use of threats/physical intimidation, or control of freedom or access to resources, such as money, cellphone, friends, a car, etc.

COERCIVE CONTROL

In 2021, California Family Code §6320 was amended to include

a), “disturbing the peace of the other party” refers to conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party. This conduct may be committed directly or indirectly, including through the use of a third party, and by any method or through any means including, but not limited to, telephone, online accounts, text messages, internet-connected devices, or other electronic technologies. This conduct includes, but is not limited to, coercive control, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty.

What is Coercive Control?

A pattern of behavior that establishes dominance over another person, through intimidation, isolation and terror-inducing threats of violence or actual violence.

Abused spouses who experience coercive control experience a higher level of dangerous violence.

Examples of Coercive Control

Isolating from family and friends

Depriving of basic needs

Stalking or monitoring

Interrogating

Financial abuse

Threats of violence against pets, children, family

Revenge porn

Damaging personal property

Involving victim in a crime

Violence Occurs on a Spectrum

Spousal Assault Violent Acts Scale (Kaser-Boyd, 2004)
(Collapsed)

0-5 Insults, names, blaming, accusations, pushed, shoved, destroyed objects, slapped, punched, kicked, kept from sleeping.

5-10 Beat up, coercive sex, threatened children, threatened pet, abused children, threatened to get custody, threatened 5150, threatened with weapon, choked, raped, threatened family, attempted to kill.

Is all Domestic Violence the same?

Typologies: Johnson (2008)

- **INTIMATE TERRORISM:** physical violence is just one of many coercive tactics used to dominate the other (see above), while creating a climate of oppression, fear, and isolation. This is what is more traditionally thought of as intimate partner violence.
- **SITUATIONAL COUPLE VIOLENCE:** the result of poor communication and poor anger management skills. May occur only during separation
- The two are differentiated by the dynamics of coercive control, which exists in Intimate Terrorism, and this type is more difficult to treat.

Intimate terrorism is associated with more frequent and severe violence, more serious injury, and negative physical and mental health effects for women than is situational couple violence.

Intimate terrorism is more likely to extend to the post-separation period, involving stalking, possible kidnapping, vexatious litigation.

Post-Separation Violence

Studies showed that 11-39% of women who left abusive partners experienced physical violence in a 1- to 2-year follow-up.

85% of women who experienced post-separation violence reported multiple incidents.

20-40% of women who left abusive partners reported sexual assaults after leaving.

This means it is myth that an abused women “can just leave.”

Domestic Violence and Child Abuse

Survey of 6,000 American families found that 22.8% of men who had battered their partner had also battered their child.

Lenore Walker reported that 53 percent of the batterers in her NIMH study also physically abused the children. Some of the battered women also admitted physically abusing a child.

Oregon Child Fatality Project reported that DV was present in 41 percent of the families experiencing critical injuries or death due to child abuse and neglect.

Children suffer other effects/damage from exposure to DV.

Cultural considerations

In male-dominated cultures, women may be more at risk, due to cultural or family pressure to stay with the husband/partner, shame, mistrust of authorities, etc.

Immigrants w/o status are also at greater risk.

American men with patriarchal beliefs are more likely to use methods of dominance and control and feel justified in doing so.

Much of what I will say here is about Intimate Terrorism, as this is the most dangerous form of domestic violence.

What kind of person batters a partner?
There is more than one “type” of batterer.

Typologies:

- Holtzworth-Munroe & Stuart (1994): Family only, dysphoric/borderline, generally violent/antisocial.
- Thijssen & deRuiter (2011) using the brief Spousal Assault Form for the Evaluation of Risk (B-SAFER): Family only, generally violent/antisocial, low-level antisocial, and psychopathology.

Batterers...Common Findings

Reared in a home where their father was violent. Family history of DV and/or child abuse.

Reared with concepts of male privilege and male dominance (Patriarchy).

Family history created insecure attachment and fears of abandonment.

Histories of trauma and possible PTSD.

Prone to paranoia.

Other conditions that cause poor emotional control (such as mood disorder, brain damage, substance abuse).

Common Personality Descriptors - Batterers

Controlling

Dominating resources

Self-centered

Jealous, even paranoid.

Lacking in empathy

Denial and projection

Willing to violate social/legal norms

Able to appear “normal”: A particular problem in Custody Evaluations

Are there precursors to becoming a battered person?

Anyone can become a battered person. Case Example: Sally McNeil “Killer Sally” on Netflix.

But, risk factors for female victims...

- In childhood, father battered her mother.
- In childhood, sexually abused.
- Low self-esteem from other causes, i.e., intellectual or physical disability.
- Battered by previous partner.
- Dependent Personality.

Other Problematic False Beliefs about IPV

- Victim-blaming, i.e., for not leaving, for fighting back, for failing to protect children.
- The concept of mutual combat
- That abused women exaggerate or make false assertions about abuse (for secondary gain).

Myths about Battered Women

That they are helpless people.

- “learned helplessness” has been replaced by more diagnostic terms, such as “emotional numbing,” “immobilization,” or “traumatic avoidance.”

That they are masochistic.

That they exaggerate.

That they purposely avoid discussing the domestic violence (as opposed to traumatic blocking).

Mutual Combat?

Mutual Combat does occur, but examine the facts of the couple's relationship carefully to be sure one party's violence isn't in self-defense, or in reaction to the violence of the other party, and decide if this is Intimate Terrorism or Situational Violence.

Female-initiated violence tends more towards emotional outbursts, screaming, throwing objects, destroying possessions, biting, kicking, threats, and typically create less fear of harm and less physical harm (Gould, 2006).

“If it were me, I would just leave.”

Consider social and economic factors

- Culture
- Religion
- Fears about child custody
- Immigration status
- Family resources
- Community resources

Fabrication...Do women malingering IPV?

- ❑ Fabrication in general pre-trial forensic evaluations is usually found to be about 15%. This includes male defendants.
- ❑ NKB Study: Can BWS be malingered?
 - ❑ 19 graduate students in clinical psychology were schooled in BWS and the MCMI, a widely-used test in forensic evaluations. They were asked to try to “fake” BWS or IPV. Their scored protocols were compared to 20 women on trial for killing their battering spouses and 25 battered women from Dependency Court. Like “malingerers” in many other research studies with many other psychological tests, the graduate students overshot the goal, saying yes to too many items.
- ❑ What about post-doc reports of abuse, i.e., after serving some years in prison, now reporting abuse from the victim? *Unusual, but possibly understands more about abuse as the result of groups and programming.*

“Battered Woman Syndrome”: Effects of IPV

Entry criterion: The experience of any form of battering, usually a combination of physical abuse, psychological abuse and coercive control. Experiencing psychological abuse, or coercive control, with only minor physical assault is still considered DV.

Staying in the relationship. Research indicates that battered women leave the situation 5 or more times before leaving for good.

Use of dysfunctional defense mechanisms: Denial/minimization, substance abuse.

Chronic Anxiety/Fear.

Immobilization.

Numbing, substance abuse

Deterioration physically and psychologically.

What about PTSD?

- ☐ Many inmates, especially women, may have PTSD or Complex PTSD.
- ☐ Complex PTSD is also called Complex Developmental Trauma, and it comes from the experience of repeated trauma, such as repeated child physical or sexual abuse, repeated intimate partner violence, kidnapping, sex trafficking, etc.
- ☐ PTSD Symptoms most likely to exist over time (including incarceration):
 - ☐ Avoidance attempts
 - ☐ Changed view of the world and the self
 - ☐ Hypervigilance
- ☐ Complex PTSD symptoms most likely to exist over time (including incarceration).
 - ☐ Difficulty with emotional regulation
 - ☐ Difficulty with interpersonal relationships (e.g., trust).
 - ☐ Impaired sense of self (feels damaged, worthless, etc.)

“All women exposed to violence and abuse in their intimate relationships do not respond similarly, contradicting the mistaken assumption that there exists a singular “battered woman profile.” Like other trauma victims, battered women differ in the type and severity of their psychological reactions to violence and abuse, as well as in their strategies for responding to violence and abuse.” (Dutton, 1993).

DV's Impact on Children

Children in homes with domestic violence live with the threat of episodic temper outbursts, whose outcome they can neither predict nor control, though they may try to do so. They live under the threat of their family disintegrating, of their mother being hurt or disabled, and in some cases, one parent being jailed. This level of constant or episodic threat creates strong underlying anxiety and a view of the world and relationships that will deeply color their lives.

The impact of a child will depend on a number of variables, including their age and developmental level, their resilience, their gender, and the level of severity of the violence.

Children have different responses to the violence: rescuer, target child, parent surrogate.

Child Custody is a very significant issue

MANY BATTERED WOMEN SAY THEY STAY BECAUSE OF THE CHILDREN, OR THEY FEAR IF THEY LEAVE, THEY WILL LOSE THEIR CHILDREN.

A larger study funded by the Dept. of Justice: Saunders, Faller, & Tolman (2012). Child custody evaluators' Beliefs about Domestic Abuse Allegations. *Journal of Family Therapy*, 27(3), 473-483.

- 465 custody evaluators, 200 judges, 131 legal aid attorneys, 119 private attorneys, and 193 domestic violence program workers.
- Domestic Violence Knowledge:
 - Professionals who had attended a greater number of workshops or read widely were better informed.
 - The biggest lack of knowledge among judges, private attorneys and custody evaluators was knowledge of post-separation violence and coercive control.
 - The second biggest deficit was in assessing dangerousness.
- Core Beliefs
 - Used a measure to assess patriarchal beliefs. Those with patriarchal beliefs were more likely to (1) recommend joint custody; (2) believe that DV is not important in child custody; (3) believe that woman make false allegations; (4) recommend unsupervised visitation

Saunders (Cont'd)

- Evaluators that used general personality-psychopathology instruments (such as the MMPI) were more likely to believe that false DV allegations are common, to focus on pathology in the mother, and were less likely to have learned about screening for DV or assessing dangerousness.
- Asked how often they recommended joint legal custody in cases where one parent was clearly the perpetrator, 40% of the evaluators recommend joint legal custody at least half of the time.
- Asked how often they recommended unsupervised visitation when one parent was clearly the perpetrator, they recommended no supervision in 1/3 of the cases.
- Evaluators who were educated in coercive control were more likely to believe (1) DV is important in custody decisions; (2) mothers to not make false DV allegations; (3) victims to not alienate their children; (4) abused mothers do not hurt the children when they resist co-parenting.
- Male evaluators were more likely than female evaluators to believe that DV allegations are false, that DV victims alienate their children, that children are harmed when the abused parent resists co-parenting, and that DV is not an important factor in custody decisions.

HOMICIDE/FEMICIDE [National Statistics]

Women made up about 70% of those killed by a partner, which is more than twice the rate of men killed by intimate partners

Accounts for almost 50% of all women killed in the U.S.

Separated or divorced women had the highest rate of death by homicide by a (former) intimate partner

High rate of previous DV in both femicides and women killing a male partner.

Risk Factors for Homicide/Femicide

Campbell, J.C. (2003). Risk factors for femicide in abusive relationships: Results from a Multi-site case controlled study. *American Journal of Public Health*, 93, 1089.] Femicide in 11 American cities.

Repeated physical assault.

Coercive control.

Threats to harm self, mother, or children.

Stalking (which shows obsession)

Violation of previous court orders

Desperation

Access to weapons

Campbell's Danger Assessment Tool

A 15-item survey that incorporates Campbell's findings from above

Good test-retest reliability

Positive association with past physical or sexual victimization

Also positive association with non-lethal violence and threats of violence.

Employed in studies identifying high-risk perpetrators.

High-Risk Perpetrators of Domestic Violence

Juodis, M., Starzomski, A., Porter, S., & Woodworth, M. (2014). What can be done about high-risk perpetrators of domestic violence? *Journal of Family Violence*, 29, 381-390.

Juodis and colleagues looked at 37 male domestic homicide perpetrators and compared them to 78 non-domestic homicides. Risk factors that preceded DHs were identified retrospectively using the revised Danger Assessment (Campbell, 2009)

High Risk Perpetrators of Domestic Violence – Domestic Homicides

- 86.5% of cases were identified retrospectively as a homicide risk according to Campbell's Danger Assessment.
- Most DH's were not impulsive but 82.9% showed elements of planning/instrumental violence. 40% were considered "in cold blood," not preceded by conflict or provocation or powerful emotional arousal.
- 70.3% of DHs occurred in the context of relationship separation
- 62.2% involved constant and violent jealousy
- 54.1% involved perpetrators who controlled most or all of the victim's daily activities.
- 45.9 involved new partners in the women's lives.
- 21.6% occurred in the context of formal or informal custody disputes.
- DH Homicide perpetrators had a predominant drive to inflict harm out of revenge; 40.5% of victims told others prior to the DH that they believed the perpetrator was capable of killing them.
- 75.7% were problem drinkers and 64.9 were problem drug users
- 51.4 were unemployed

High Risk Perpetrators of Domestic Violence – Domestic Homicides

- 51.4% had made threats to kill
- 45.9 had been stalking their former partner
- 18.9% had engaged in strangulation/choking during prior DV
- 32.4% had engaged in forced sex during prior relationship
- 32.5% had previously threatened the woman with a weapon
- 29.7% of cases perpetrator threatened suicide on prior occasions
- 14.7% of cases included the killing of a child or children
- 13.5% of cases the perpetrator threatened to harm a child.

When Battered Women Kill.....

Stanford Criminal Justice Center presentation:

- ☐ In New York State, 67% of women convicted of killing had been abused by that person.
- ☐ In California in 2012, a senator said that 93% of women incarcerated for killing their partner had been battered.

NKB Referral from Criminal Courts across California:

- ☐ Most homicides were in the midst of a domestic violence incident.
- ☐ Many were with a weapon that was just at hand, like a kitchen knife.
- ☐ Self-defense acquittals were rare.
- ☐ Some had successful imperfect self-defense outcomes (voluntary manslaughter)
- ☐ Prosecutors convinced jurors in some cases that there was premeditation, even in situations of extreme threat. [example]
- ☐ Murder for hire was rare.

Battered Woman Syndrome: Clinical Features, Evaluation, and Expert Testimony. N. Kaser-Boyd (2004) in B.J. Cling (Ed.). *Sexualized violence against women and children*. New York, Guilford Press.

“When a woman kills her batterer, there are two crucial aspects of battered woman syndrome: fear and the perception that escape is not possible. In my research sample of battered who killed, all of the women had experienced battering at a level of “9” on the Spousal Assault Violent Acts Scale. Most had been subjected to violent sex, and most had been threatened with death on a prior occasion or occasions. Many had been previously choked into unconsciousness or threatened with weapons. Many had their families threatened. Brown (1987) studied 42 battered women who kill their spouse. She found that the threat for battered women who killed their batterer was enhanced by the frequency of battering incidents, the severity of their injuries, the batter’s threats to kill them or commit suicide, the severity of the man’s substance abuse, and his forced sexual acts...”

A macabre death doesn't rule out BWS

EXAMPLES: INMATE #1 CUT UP THE BODY; INMATE #2 DROVE THE BODY TO AN ISOLATED LOCATION AND SET IT ON FIRE.

CHILD HOMICIDE

In the last 10 years, nationwide, over 700 children involved in child custody or related matters have been murdered, mostly by abusive fathers.

The worse abusers use child custody to regain what they believe is their right to control their partner, and they are willing to harm the child/children because it is the best way to hurt the mother.

Child Homicide by Mothers with IPV

- Rare
- Parent typically feels distraught or desperate, fearful the child will be harmed by the abusive partner.
- Typically, not for revenge
- Is often a murder-suicide with the thought of (1) saving the child from the world; (2) taking the child to a better place (i.e., heaven)

Do Protective Orders Protect?

Benitez, CT., McNiel, D.E., & Binder, R.L. (2010) Do protection orders protect? *Journal of the American Academy of Psychiatry and Law*, 38, 376-85.

California maintains protective about 880 protection orders for every 100,000 adults, and between 84 and 94 percent of these orders are implemented for domestic violence.

Spitzberg (2002) found that 20% of protection orders are associated with escalation of violence against the victim.

Grau, et.al. (1985) found a trend toward reduction in further abuse, but this was with those who had suffered less severe prior injuries.

McFarlane, et. al. (2004) found that abused women who applied and qualified for a 2-year protection order reported significantly lower levels of violence in the subsequent 18 months.

Holt, et.al. (2003) in a study with 2,691 women found that having a permanent protection order in effect was associated with an 80% reduction in police-reported physical violence in the subsequent year. Women with permanent protection orders were significantly less likely than those without protection orders to be physically abused.

Variables Associated with Violation of Protection Orders

Benitez, CT., McNiel, D.E., & Binder, R.L. (2010) Do protection orders protect? *Journal of the American Academy of Psychiatry and Law*, 38, 376-85.

Perpetrator Characteristics

- History of violence
- Male
- Youthful age
- Less than full-time employment
- Substance abuse
- Other mental health contact.

Men with criminal histories substantially more likely to violate

Men with alcohol and drug histories substantially more likely to violate.

Men who put up more resistance to a protection order have a higher likelihood of violation.

The level of resistance at the time of issuance increases the probability of severe violence, threats, and psychological abuse.

Variables Associated with Violation of Protection Orders

Benitez, CT., McNiel, D.E., & Binder, R.L. (2010) Do protection orders protect? *Journal of the American Academy of Psychiatry and Law*, 38, 376-85.

Time

- Much of the violation activity occurs within the first three months after issuance of the order.

Victim Characteristics

- Women of very low socioeconomic status, and Black women are at higher risk of re-victimization.
- Women with children are more likely to experience new violence or have property damage, particularly when visitation has been ordered.

Possible Convictions [excluding attempted murder]

- First degree murder: Requires forethought and a plan and considering the consequences. Murder for hire fits here
- Second degree murder: No premeditation but intent to kill, malice.
- Voluntary Manslaughter: Heat of Passion or Imperfect Self-Defense. A SUCCESSFUL BWS DEFENSE OFTEN ENDS UP HERE IF NOT AS JUSTIFIABLE HOMICIDE OR PERFECT SELF-DEFENSE.

The Forensic Evaluation and Parole Hearing

Bear in mind, for the woman convicted of murder of attempted murder of an abusive partner:

- Counties in California differ greatly in quality of attorneys representing, quality of experts hired (if even hired), admissibility of this evidence, despite EC 1107.
- You may not have or be able to get information from the trial to explain the conviction
- The inmate may have a poor memory for the crime. She may have had a poor memory even at the trial. This does not mean she is minimizing her responsibility.

Trauma Memory

- ❑ In states of high emotional arousal, memory may be impaired. This is commonly seen in cases where there are no criminal charges.
- ❑ At the time of the trial, there may also be blocking because the memory (memories) are painful.
- ❑ Many who have killed a loved one are in disbelief.
- ❑ The defense mechanism of denial may also be involved, i.e., it may be too painful to admit (even to oneself) that one committed murder.
- ❑ By the time of the parole suitability hearing, which is many years later, time may have eroded the memory (memories).
 - ❑ SO, MANY POSSIBLE REASONS FOR POOR MEMORY

California Laws Related to Domestic Violence

- ❑ Evidence Code 1107 (1991). Permits testimony by an expert about IPV.
- ❑ Family Codes 6203 and 6320: Define Intimate Partner Violence
- ❑ Further definition of Coercive Control
- ❑ Penal Code 4801 (2023): “The fact that a prisoner has presented evidence of intimate partner battering cannot be used to support a finding that the prisoner lacks insight into his or her crime.

Rehabilitation is more than attending groups
and classes....

REHABILITATION

Parole Suitability – Battered Women – Has Change Occurred?

- ❑ “Insight” no longer a defining measure. Psychologists know that insight requires the ability to think abstractly, and many inmates have cognitive limitations making it difficult to acquire “insight.”
- ❑ Other important issues for rehabilitation:
 - ❑ Has the inmate been able to process traumatic life events, where “process” means understand how their life experience(s) created certain ways of thinking, feeling, and behaving.
 - ❑ Has the inmate learned their “triggers.” [e.g, fear of abandonment, fear of new experiences of feeling helpless or worthless]
 - ❑ Has the inmate developed ways to cope when triggers arise?
 - ❑ Has the inmate learned how to recognize healthy adults in order to choose a healthy partner?
 - ❑ Has the inmate developed resources in the community for healthy dependency, and will she use them?

Parole Suitability – Perpetrator of DV – Has Change Occurred?

- ☐ Careful evaluation to recognize Psychopathy (Hare Psychopathy Checklist-R). These offenders have a high risk of future violence.
- ☐ Review Campbell's Dangerousness Factors: Are these resolved?
 - ☐ Substance Abuse, jealousy, anger, etc.
- ☐ Has the inmate's belief system about woman and relationships changed, letting go of patriarchal beliefs?
- ☐ Has the inmate's need for power and control been examined and has he learned new strategies for relationships?
- ☐ Has the inmate recognized his habit of externalizing blame and learned to take responsibility?
- ☐ Has the inmate developed genuine empathy for the partner and children his violence harmed?

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