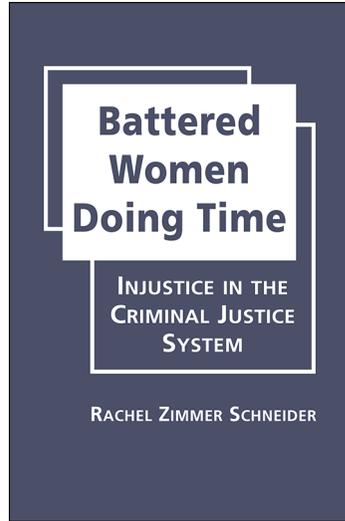


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Battered Women  
Doing Time:  
Injustice in the  
Criminal Justice System

Rachel Zimmer Schneider

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USA  
telephone 303.444.6684  
fax 303.444.0824

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# 1

## Strength, Survival, and Resilience

On a crisp fall day in 2004, I walked into Jackie's home and waited for my eyes to adjust to the lack of light in the dining room where Jackie was sitting with all the shades drawn. Jackie, a 70-year-old African American woman, has trouble getting around since her days in prison 15 years ago. She suffers from arthritis, high blood pressure, and diabetes which she never had until getting out of prison. Meeting her on the street, no one would have guessed she spent 10 years and 10 months in a penitentiary for killing her husband. Jackie doesn't have the look of the women featured on such television shows as *Lock-Down* or *Women Behind Bars*. Nor does she have any resemblance to actors who have played battered women who killed, such as Jennifer Lopez in *Enough*, Julia Roberts in *Sleeping with the Enemy*, or Farrah Fawcett in *The Burning Bed*.

Even though her story is not a featured blockbuster hit, it very well could be. After 25 years of being tied to the bed, burnt with matches, having bottles shoved inside her vagina, and multiple attempts on her life, she reflected back in her interview with me and said she was "tired." Like other battered women who eventually kill their intimate partners, Jackie's story is no different. The abuse she described was extreme, frequent, and sadistic. She was young when she married. She viewed the initial abuse as "just jealousy," and the abuse continued to escalate the longer she was with her husband. This was especially the case after they were married and had children, which made it even more difficult to leave. She explained this saying, "cause after we accumulated so much, material things was there, and the kids was there, and I just couldn't see just walking off, throwing away a whole lifetime of work." Not only did the abuse escalate, the control tactics her husband used increased as well and furthered her isolation from others. She said,

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So then he started locking the doors, taking my car keys, hiring detectives to watch the ... investigators to watch the house. I had to keep a log. If I went to the store, I had to write down what time I went to the store, what time I come back, what did I buy.

Like other abused women who kill, Jackie did make multiple attempts to seek help. In fact, most battered women do eventually leave—it usually just takes time (5-7 attempts is the average).<sup>1</sup> One of Jackie's survival techniques was to stash money in the freezer wrapped up in something like a piece of meat so she could eventually escape. She also relied on the police to help her, but this was the 1970s and '80s and unfortunately the police were still under the impression that intimate partner violence was a private family matter.<sup>2</sup>

It was domestic. And they [police] said they could not interfere. They said, "but we talked to him. So it would be alright." And said, "if something happens, he start up again, call us." I went and got like a ... it's similar to a restraining order ... and he tore it up and threw it on the prosecutor's desk. He said this will not stop me. He said that she's my wife and she's going to do what I tell her. He said this is not going to keep me from hitting her.

This is one of the key differences between battered women who kill and those who do not kill—the ability to successfully leave the relationship.<sup>3</sup> Battered women who kill are often left with very few options. They usually have sought advice and guidance from others and are often blamed for the abuse they are trying to escape. Even though the encounter Jackie had with the police is not as common today because of changes in law enforcement practices, many women who kill still describe situations in which police did not listen to them, their religious leaders blamed them, their families turned a blind eye, and/or shelters were only temporary fixes.

The turning point for Jackie came when her husband began threatening her life and her mother's life—she truly believed he would kill both of them. Most battered women who kill describe a similar realization, that their lives or the lives of their loved ones (frequently their children) were in danger.<sup>4</sup> The idea of "kill or be killed" becomes a reality for them.

The events that led up to Jackie killing her husband started with an argument over money on a Friday afternoon. Jackie's mother, who was present during this fight, stepped in and confronted her son-in-law about the abuse. He then threatened to kill both Jackie and her mother if a certain amount of money wasn't collected by Monday morning.

Jackie shot her sleeping husband with his gun that Friday evening after his threat. When Jackie was interviewed, right after her release from prison, she recalled the shooting and her breaking point,

It's a thing you go through, just all these years, you sit down and it's the mental strain, it's the physical abuse, a lot of it is sexual abuse too. It's like something in your mind just goes blank and you just tired. You just tired. I guess that's the best way I can say it because I didn't even know how many times I had shot him until my trial. All I know is I got the gun and I just kept shooting and shooting and shooting. I do remember he asked: "Why are you doing this? It hurts call an ambulance." And I remember telling him no, I was tired ... I guess really you can't explain, it's hard to explain because it's not something that you would just go and pick up and do. It's just like you're mind goes blank and you just don't care anymore, you just don't care. The only thing that you care about is this person not being able to hurt you anymore. That's all you care about.

Women who kill their intimate partners are more likely to kill in self-defense and there tends to be a history of battering. When Lenore Walker interviewed abused women who killed for her book *Terrifying Love*,<sup>5</sup> she found very few actually killed out of jealousy or revenge. Most reported that they killed out of fear for their lives. According to their accounts, they endured emotional, verbal, physical, and sexual abuse before they killed their partners. They explained that if they did not kill their partners, their partners would kill them. Ironically, leaving an abusive relationship tends to be the most dangerous time for women. Abusers are more likely to kill during this time than any other time in the relationship.<sup>6</sup>

### **Self-Defense Law and Gender Bias**

Jackie, just like the women in Lenore Walker's book, feared for her life and claimed she shot her husband in self-defense. Unfortunately at her trial she was unable to tell her full story of abuse. In *Justifiable Homicide*, Cynthia Gillespie<sup>7</sup> claims that self-defense law was never constructed to take into account women's experiences with battering. In order to argue self-defense, a woman must prove that she was in imminent danger at the time of the attack and that this fear of imminent danger was reasonable. The problem arises when we look at what constitutes a reasonable fear. Traditionally, the assessment of reasonableness was based on an objective standard which compared the person's actions to a white, middle-class man (a reasonable person).<sup>8</sup>

Yet, not everyone perceives the world in the same way. A person's skin color, gender, socioeconomic status, age, and sexual orientation all contribute to different sets of experiences and perceptions. A woman in a battering situation may perceive her options to leave quite differently than a man.

Another area of self-defense law that disregards women is the assumption that the two people fighting are of equal size, height, weight, and physical build. Excessive force is not necessary to defend oneself. Only if the attacker is armed can a woman use a weapon to defend herself. When applying this to a violent intimate relationship, it does not take into account that a person's body can be used as a weapon. Lenore Walker and other researchers<sup>9</sup> found that weapons had not injured most abused women; instead the injuries had resulted from their partners fists. Many of these women reported being thrown across the room, hit, punched, kicked, stomped on, and choked. For these women, using a gun or a knife was the only way they could successfully defend themselves.

The presumptions of self defense law only allowed Jackie to talk about the actual shooting at her trial. She could not disclose the 25 years of battering or the multiple threats against her and her family members. Jackie also could not talk about one of her abuser's favorite pastimes where he would take her to a park and stand her between trees as he used the trees for target practice. The last time he took her to the park he told her next time the trees would not be his only target. Coupled with this experience and the threats against her mother, Jackie felt her life and her family's lives were in jeopardy.

The story the jury heard was how she shot her sleeping (and defenseless) husband and when he awoke and begged her to stop, she continued shooting until he was dead. Jackie was convicted of murder and sentenced to 15 years to life at the Ohio Reformatory for Women.

### **The Battered Woman's Syndrome and the Law**

Throughout the time that Jackie was living her life as an abused wife, the women's movement was also taking shape. One of the more prominent wings of the movement focused on violence against women. Battered women activists defined intimate partner violence as a social problem requiring a community-level response.<sup>10</sup> Battered women's shelters and crisis centers began popping up throughout the United States and activists turned their attention to helping abused women who killed their violent husbands.

One way advocates sought change for battered women who killed was through the introduction of the Battered Woman Syndrome (BWS) into the legal system. The Battered Woman Syndrome is a subcategory of Post-traumatic Stress Disorder (PTSD) and is found in the Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> Edition (DSM IV).<sup>11</sup> When a battered woman has PTSD symptoms she is suffering from BWS.<sup>12</sup> The DSM IV states that there are four distinct symptoms that must be present for PTSD to occur—you must experience a traumatic stressor, unconsciously refer back to this incident through nightmares, flashbacks, or intrusive thoughts, numb your emotions, and experience a heightened sense of awareness. The BWS also adds two additional symptoms which are distortions related to body image and/or physical ailments and sexual intimacy issues. A diagnosis for the BWS must include all six symptoms and they must occur for at least one month and interfere with daily living.

Activists hoped that with the BWS the courts would better understand a battered woman's frame of mind when she defended herself against her abuser.<sup>13</sup> For instance, in this case, when Jackie shot her husband and went to trial, the jury was instructed on the parameters of self-defense law. However, by allowing the BWS into the courtroom, an expert could discuss the dynamics of battering and allow the jury to see how Jackie's history of battering affected her frame of mind such that shooting her sleeping husband was in response to a reasonable fear of continued abuse and even death.

Unfortunately, the legal system was not reasonably convinced this was an acceptable defense for quite some time. In fact, in Ohio where Jackie lived, the courts ruled against allowing expert testimony on the BWS in 1981. Thus, advocates continued to lobby for inclusion of the BWS defense in courtroom testimony, and also began focusing their attention on battered women, like Jackie, who were imprisoned. In 1990, Ohio became the last state to allow expert testimony on the BWS as admissible evidence in self-defense trials.

### **The Battered Women's Clemency Movement**

Abuse advocates sought justice for women like Jackie who had killed and been incarcerated prior to this ruling. With the help of Dagmar Celeste (wife of then Governor of Ohio Richard Celeste), activists in Ohio began a mass clemency review for all incarcerated battered women (the first state to allow this type of review). Clemency can provide either a commutation (reduction of the prison sentence) or a pardon (removal of conviction). Jackie was one of 130 women in the Ohio prison system

to apply for clemency and one of the lucky 26 to receive it. Jackie had served ten years, ten months before her sentence was commuted.

Jackie and ten other women who received clemency in Ohio were interviewed by Patricia Gagné for her book *Battered Women's Justice*<sup>14</sup> soon after their release from prison. The only other study to date on battered women's lives after clemency was conducted by Beattie and Shaughnessy for their book *Sisters in Pain*<sup>15</sup>, which featured nine battered women in 1995 who were granted clemency in Kentucky. The interviews in both of these books revealed that most of the women had lives marked with childhood abuse (most often sexual) and that this abuse continued into adulthood as they entered intimate relationships. Jackie and the other women who received clemency explained that they felt they had killed in self-defense to end the abuse. The efforts to obtain help prior to the killing were unsuccessful. They feared for their lives and felt they had no options. These women also spoke of great inequities within the criminal justice/legal system during their questioning, arrest, sentencing, and trial. Many were unfamiliar with the court system and were terrified of losing their children (which was often used as a threat by their abusers). They spoke of inadequate representation and attorneys who were not knowledgeable or sensitive to battered women.

Since the convictions of the women in both Ohio and Kentucky were commuted and not pardoned, they still had felony convictions on their records.<sup>16</sup> This had a huge impact on their lives after clemency as it was difficult for them to find employment, housing (which is why Jackie was living with her daughter), and assistance. Jackie told of a story about attempting to find clothing after prison and how she was sent one place for three shirts and another place for three pairs of pants. She noted, too, that social service agencies did not make it easy for women coming out of prison.

Moreover, these women struggled with re-establishing their relationships with their children. On top of that, many of them were fighting depression and anxiety on a daily basis. They often felt their families were a source of strain, while at the same time they commented that without the help of their families they could not have made it on their own. These two studies are the only published research on life for women after clemency.

## Lived Experiences of Women Who Applied for Clemency: Denied and Granted

While both of these studies give voice to women granted clemency, to date no one has studied the larger group of women who applied for clemency and were denied. Many questions are left unanswered about these women—questions such as, what makes one abused woman deserving of clemency, while another is not? How did the decision affect the women left to serve out their sentences? What have their lives in prison been like since the clemency decision? How did the clemency decision affect their view of their life circumstances leading up to the killing?

While *Sisters in Pain*<sup>17</sup> and *Battered Women's Justice*<sup>18</sup> provide a picture of life immediately after their release from prison for the women granted clemency, there has been no research on these women over the course of time. Thus, these sources only provide information about short-term adjustment to life on the outside, leaving us to ask what has happened in the ensuing years. What is life like for the women granted clemency sixteen years after their release from prison? What does freedom for these women mean? The goal of this book is to answer these questions by shedding light on the lives of formerly imprisoned battered women who were the subjects of and participants in the clemency movement in Ohio in the early 1990s.

This book is based on research I conducted in 2004 and 2005 when I interviewed four Ohio women who were granted clemency in 1990, and twelve imprisoned women who were denied clemency and were still incarcerated in the state of Ohio. In addition to these interviews, I also used two sources of secondary data. The first dataset includes four interviews conducted in 1990 of women applying for clemency in Ohio. The second includes interviews of eleven women granted clemency in Ohio, conducted between 1992 and 1994. Of note, there is some overlap between data sources. There are two women who received clemency who were interviewed at all three points in time (prior to clemency in 1990, right after clemency between 1992-1994, and eleven years later in 2005), and four women who were granted clemency were interviewed at least twice.

The first set of interviews included 20 women incarcerated at the Ohio Reformatory for Women in 1990 who were a part of a domestic violence support group in the prison. I selected four of the 20 interviews since these four women received clemency and were later interviewed between 1992-1994 and/or 2004-2005. Out of these four, two women were interviewed during the 1992-1994 time period, and the other two

women were interviewed at all three points in time (1990, 1992-1994, and 2004-2005). The 1990 interviews were designed to get a picture of the women's lives prior to prison (i.e., including their experiences with abuse), the crimes they committed that sent them to prison, and about life inside prison.

Between 1992 and 1994, 11 of the 26 women who received clemency were interviewed about their experiences with domestic violence and the crimes they committed, the court proceedings, their lives while in prison, the clemency process, their own personal awareness of family violence issues, and how being a battered woman who received clemency has affected their identities in their lives after release from prison (from several months up to four years).

These two sets of interviews (Time 1 in 1990; Time 2 between 1992-1994) provided background information about the clemency process, but I was also interested in the long-term adjustment of the women granted clemency, as well as the aftermath of clemency on women who were denied clemency and remained incarcerated. I was left wondering what makes these two groups of women so different that one group was set free from prison, while the other group stayed behind bars. I found the names of these women through newspaper articles during the clemency period and contacted the Ohio Department of Rehabilitation and Corrections (ODRC) in order to ascertain whereabouts of the women. It was easier to track down the women denied clemency since most were still incarcerated. If the women were no longer under correctional supervision, the ODRC could not forward an address to me. I was able to interview 12 women denied clemency and all but one were still in prison.

It was more challenging to find women who were granted clemency. Many people leaving prison find themselves floundering from one living situation to the next because they often have a difficult time finding stable employment and housing. Plus, some of these women may have worked hard to stay "invisible" due to all the hype around the clemencies. I sent letters to battered women's shelters around the area requesting assistance in finding these women. I found two women (one clemency recipient and one woman denied clemency who was out on parole) this way. This first interview with a clemency recipient led me to another woman granted clemency. These two women had remained friends after leaving prison and were still in contact with each other. Both of these women gave me the name of a volunteer from the prison who conducted domestic violence support groups and helped the women during the clemency process. I contacted her in order to find my third clemency recipient. Finally, the fourth woman I interviewed who had

been granted clemency was unfortunately back in prison for felonious assault and I was able to find her through the Ohio Department of Rehabilitation and Corrections. See Appendix B: Summary of Women for a review of the women participants.

These interviews that I conducted lasted between 1 to 3 ½ hours and were conversational in style. I interviewed the women out of prison at their homes, places of employment, or various restaurants. The interviews with the women in prison took place at four different correctional institutions for women in the state of Ohio. My initial plan was to pay each woman \$50 for her participation in this research. I was able to pay three of the clemency recipients and one woman denied clemency who was no longer in prison at the time of the interview; however, the Department of Rehabilitation and Corrections would not allow me to compensate the women in prison since compensation could be seen as coercion. In fact, it took some persuasion with the prison staff to allow the women to have water and tissues during the interviews. Two institutions refused to provide these for the women.

I began the interviews by telling each woman how I became interested in this topic. I tried to make it clear that I was interested in their stories and wanted to give voice to their experiences. I used the secondary data to guide my interviews with the women who had been interviewed at a previous point in time. I began the interviews for those not interviewed previously by having them briefly talk about their life prior to prison (their childhood, their life with an abusive partner, the incident that led to incarceration). Most of the women seemed comfortable telling me their life stories, which took on a common pattern across interviews. After they provided me with a history of their lives prior to incarceration, we then moved to their lives in prison, applying for clemency, and how the clemency decision affected them. The interviews with the women granted clemency focused on life after prison and readjusting to the free world. The key focus in my interviews with all the women was on their relationships with others (friends, family, and children); mental/physical health; coping mechanisms (spirituality/religion, alcohol/drugs, exercise); and how everything they have been through has affected their sense of self. As the interviews progressed, I added questions about the programs available in prison, spirituality and religion, and their interactions with the prison staff. For more information on the research process, see Appendix A: The Research Process.

### **Clemency: A Sense of Freedom?**

Once I began talking to the women granted clemency, it became apparent that clemency was only part of the picture for helping previously incarcerated battered women. It did not matter if it was five years or fifteen years after these women were released—they still were not completely free. The women feared commitment in relationships (intimate or friendship). They struggled financially. Guilt took over in their relationships with their children. Despite the negatives, they tried to move on and see the good in life. They viewed themselves as women who were strong, courageous survivors. Living violence free was a common goal for most and they took various means to accomplish this within their lives. Some worked or volunteered at battered women's shelters, while others took an assertive stance with regard to how they expected others would treat them.

Interestingly, the women denied clemency who were still incarcerated had much in common with the women who were granted clemency. These women also endured extreme abuse and killed in self-defense. However, when comparing the two groups of women, there were a variety of factors that appeared to influence the decision to grant clemency—stereotyped ideas of the “good battered woman,” media coverage, length of relationship, witnesses at trial, and the type of conviction, to name a few. The women denied clemency also had similar issues to contend with, such as health complications due to the prior abuse in their lives and difficult relationships with their children and families, but they remained behind bars. They had to deal with a prison system that seemed determined to strip them of any sense of human decency afforded to people on the outside. For instance, the women described the humiliation of strip searches and the prison rule of “no human touch” as completely demoralizing and destructive to their sense of selves. Many of these women had been incarcerated before the huge increases in the prison population and extensive overcrowding. They had opportunities afforded to them that women coming into prison today do not. For example, these women took part in various types of programs (e.g., educational, spiritual/religious, domestic violence) which contributed to significant changes in how they saw themselves and their lives. Like the women who received clemency, the women who did not noted that they were “survivors.”

This identity change and use of the term survivor has garnered a lot of attention and is not always seen as a progressive step for women. This will be discussed later in the book, but it is worth noting here that in order to say one is a survivor, one must first claim the “victim” identity.

In this sense, the “victim” is powerless, helpless, and unable to change her world, and it is subject to debate if battered women should be described in this manner.

Researching battered women who applied for clemency in the state of Ohio makes public the lived experiences of battered women who kill and the clemency process. Their stories shed light on the connection between victimization and criminality. We can learn much from their shared stories.

### **Plan of the Book**

Before we can understand the issues surrounding the battered women’s clemency movement, we must first take a look at these women’s lives prior to prison. The next two chapters are divided into two sections. Chapter Two provides an understanding of the extreme abuse these women endured and gives voice to the women’s strength and resilience in the face of such abuse. It highlights: 1) the women’s childhoods, and 2) the women’s lives with their intimate abusers. For some of the women in this book, it was their abusive childhoods that led to their incarcerations (killed battering father/step-father). Other women’s stories begin with their childhoods where a cycle of abuse was established that later led into intimate relationships where the victimization continued. In both cases, I underscore how the women coped and survived in these violent homes.

Chapter Three focuses on the killings and the legal proceedings to follow. Most of the women noted that the killings happened after an extremely traumatic event. I analyze these turning points, as well as what happened at the women’s trials. The chapter ends with a summary of the women’s convictions and sentences.

I go on to explore the women’s lives once inside prison and what led them to apply for clemency. Chapter Four examines life behind bars for the women and the ways they coped with prison life. I use a gendered framework to understand this incarceration experience.

Chapters Five, Six, and Seven focus on life after clemency. Chapter Five covers life after clemency was denied for the women who remained in prison. This chapter looks at “the good about prison” and “the bad about prison.” It discusses how the women denied clemency tried to “transform” themselves into better people. However, even though the women were trying to make the best out of their situations, I show how the prison system is set up to inhibit any sense of true independence and healing. In order to be the “model prisoner,” one must succumb to the

structure of the prison which promotes a forced dependency on the system, stifles individuality, and revictimizes the women.

The lives of the clemency recipients are discussed in Chapter Six. The most important part of this chapter is the understanding that the women's sentences were commuted and not pardoned. Therefore, even though the women were released from prison early, they still had felony convictions on their records. This affected all aspects of their lives and made it difficult to truly be "free."

Chapter Seven devotes attention to the differences and similarities between the women granted clemency and those who did not receive it. I examine such things as length of relationship; and events at the trial, including witness testimony and character assassination, and media portrayals; and the ideas surrounding what makes a "good" battered woman.

Finally, the book concludes with a chapter that discusses the larger sociological issues connected with this study. I discuss how the women in this book have taken their lives and tried to turn "bad into good." They have challenged the idea that battered women are victims. They also provide testimony for improved gender sensitive programming in prisons, as well as additional insight into post-prison adjustment.

It has been twenty-seven years since the movie *The Burning Bed* first premiered and sparked the debate about battered women who kill. Yet, to this day, when I teach about battered women who kill, many students are dumbfounded as to why a woman does not leave a violent relationship. They are also in awe when presented with research that clearly shows women are not getting away with killing their abusers. Reading this book hopefully will provide some clarity on these issues. For this book, I talked to ordinary women who, because of certain life circumstances, ended up in abusive relationships and who later crossed the line from victim to offender. It has been an insightful and emotional journey hearing their stories and wisdom on this topic. I hope this book provides the same for those who read it.

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<sup>1</sup> Ferraro, "Battered Woman Survival," p. 124-140

<sup>2</sup> Miller, Iovanni, and Kelley, "Criminal Justice System Responses," pp.267-287

<sup>3</sup> Gagné, *Battered Women's Justice*

<sup>4</sup> Browne, *When Battered Women Kill*; Bush, *Finding Their Voices*  
Gagné, *Battered Women's Justice*; Leonard, *Convicted Survivors*; Walker, *Terrifying Love*

<sup>5</sup> Walker, *Terrifying Love*

<sup>6</sup> Bancroft, *Why Does He Do That?*

- <sup>7</sup> Gillespie, *Justifiable Homicide*  
<sup>8</sup> Scheppelle, "The Reasonable Woman," pp. 456-460  
<sup>9</sup> Walker, *Terrifying Love*; Browne, *When Battered Women Kill*  
<sup>10</sup> Kurz, "Violence Against Women or Family Violence," pp. 443-453  
<sup>11</sup> American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 4<sup>th</sup> Edition  
<sup>12</sup> Walker, *The Battered Woman Syndrome*, 3rd Edition  
<sup>13</sup> Gagné, "Identity, Strategy, and Feminist Politics," pp. 77-93  
<sup>14</sup> Gagné, *Battered Women's Justice*  
<sup>15</sup> Beattie and Shaughnessy, *Sisters in Pain*  
<sup>16</sup> Sheehy, Reinburg and Kirchoway, "Commutation for Women Who Defended Themselves"  
<sup>17</sup> Beattie and Shaughnessy, *Sisters in Pain*  
<sup>18</sup> Gagné, *Battered Women's Justice*