



CHANGING SYSTEMS
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DEFENSE

NATIONAL DEFENSE CENTER
FOR CRIMINALIZED SURVIVORS

MANIPULATION OF THE CRIMINAL LEGAL SYSTEM AS A TOOL OF CONTROL

BASIC PROPOSITIONS

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BWJP

Abusers often exploit the criminal legal system as a tool of power and control, weaponizing it against their partners.

Abusers may file false police reports alleging abuse by the victim or coerce their participation in criminal activities. Abusers may also use the threat of arrest and criminal court action to exert and maintain control over their victims. Having someone arrested is a highly effective way to “send a message;” it communicates to the victim that their abusive partner is in complete control as even the police will act on their whim.

When abusive partners wield the criminal legal system against survivors in this way, it creates a ripple effect. These survivors are unlikely to look to courts and law enforcement for assistance, and subsequently, survivors with fewer options for help are at greater risk of further harm from their abusive partners.

A criminal conviction can dramatically shift the power dynamic in an abusive relationship. By saddling a survivor with a criminal record, particularly a felony, an abuser ensures potential negative collateral consequences. For example, a conviction can severely limit the victim’s employment opportunities and potentially force them to remain in the abusive situation.

Examples of these dynamics are difficult to capture in the research literature, however, below are some relevant citations that support these points.

Criminalization of survivors helps abusers maintain power and control

“Batterers work to manipulate the [criminal legal] system not only to protect themselves from punishment but also as a way to maintain positions of power in their intimate relationships. Through their own experiences or those of their peers, some male batterers have learned how to behave in ways that reduce their chances of being arrested and prosecuted. Male batterers may also have learned that these behaviors increase their power in intimate relationships. ... It is possible, then, that learned behavior over time on the part of male batterers has allowed them to exploit weaknesses that exist in the criminal justice system. If, for example, policy encourages an arrest in a case of domestic violence, batterers might find themselves that much more able to manipulate an outcome in their favor” (DeLeon-Granados et al., 2006).

Based on interviews with women who had been arrested for assault against a male intimate partner: “Ten [of 19] women reported that their male partner used his knowledge of the criminal justice system (including how mandatory charge policies work) to portray her as the primary aggressor and have her arrested and charged. For instance, they either self-inflicted injuries, phoned the police themselves, or ‘got to’ the police before her once they were called, accusing her of assaulting him first” (Pollack, Battaglia, & Allspach, 2005).

Using the criminal legal system against survivors as a weapon for further abuse

“Often what is most revealing are the antecedents to the incidents that many battered victims share: They often act in self-defense, they may have long histories of victimization, and they may use a weapon to equalize the force or threat used by their partners who are bigger and stronger than they are. Hence, some of these arrests are inappropriate, particularly when battered women act in self-defense or when women are falsely charged by their savvy (male) batterers who have learned how to manipulate the system” (Miller, 2001).

“[W]here the victim was arrested in the wake of false or exaggerated charges filed by someone who had a history of perpetrating domestic violence” (p. 69); “where victims are arrested as a result of an exaggerated or false complaint filed by an abuser, usually in retaliation for measures taken by the victim to protect herself or her children” (Haviland, Frye, Rajah, Thukral, & Trinity, 2001).

“During the two and a half years examined, FVP Helpline staff opened cases for 48 callers who experienced Retaliatory Arrest. In many instances, callers presented a history of previous domestic violence and complained that their partners had filed a complaint that was untrue or had filed a complaint for telephone calls that were made for a legitimate purpose. The caller often identified an attempt to break free from the relationship or an attempt to protect herself or her children as leading to the false or exaggerated complaint. The Helpline received twice as many calls regarding Retaliatory Arrest as for Dual Arrest, making this the leading cause of victim arrest as reported on the Helpline” (Haviland, Frye, Rajah, Thukral, & Trinity, 2001).

“In sum, given the high dismissal rates of these accusations against callers, there is substantial evidence that some perpetrators are using the law to retaliate against their partners” (Haviland, Frye, Rajah, Thukral, & Trinity, 2001).

“It is apparent that batterers are learning how the law works are using it to manipulate their victims and the system... Specifically, abusers are filing false or exaggerated allegations in complaints to the NYPD as well as in petitions for Family Court orders of protection” (Haviland, Frye, Rajah, Thukral, & Trinity, 2001).



Survivors pulled into the criminal legal system by their abusive partners

Fabricated accusations

“Battered women who are arrested for DV have either: (1) used violence against their (abusive) partners, (2) used violence in self-defense and are thus inappropriately arrested, (3) been falsely accused by their batterers and thus inappropriately arrested” (Crager, Cousin, & Hardy, 2003).

Coerced participation

“Domestic violence can have a direct relationship in women’s participation in criminal activity. In a qualitative study using in-depth interviews with 14 battered women, ten participants reported that they had committed a crime because their partner threatened to hurt them or a loved one if they refused, and eleven reported that they were trying to please their partner to avoid abuse or a conflict” (Whaley, Moe, Eddy, & Daugherty, 2007).

Survivors taking the blame

Domestic violence can also lead women to be imprisoned for crimes they did not commit. In a qualitative study, Whaley and colleagues (2007) found that “78% (11/14) reported that they admitted to a crime that was actually committed by a partner or spouse and all but one said that they had lied to authorities to conceal a crime by a partner or spouse. The women often took the blame for a crime either to protect a partner or out of fear for a partner’s reprisal” (Whaley, Moe, Eddy, & Daugherty, 2007).



Tactics used to manipulate survivors and the criminal legal system

“Research suggests that perpetrators of IPV may use the legal system to have their partner criminalized as a perpetrator (Gezinski, 2020; Goodmark, 2008; Mansour, 2014; Miller, 2005; Nancarrow et al., 2020; Reeves, 2020; Wangmann, 2009). They may do so by manipulating responding police officers into believing that they are the victim, engaging in behaviors such as ensuring that they are the first party to call the police, inflicting wounds onto themselves (or framing defensive injuries as offensive injuries), and/or painting the victim-survivor as mentally unwell (Miller, 2005; Nancarrow et al., 2020; Reeves, 2020)” (Reeves, Fitz-Gibbon, Meyer, & Walklate, 2023).

“The respondents in this sample were adamantly clear about the ways that men manipulated the women and/or the criminal justice system. The respondents either directly observed these deceptive behaviors or heard about them from victims. These behaviors included men challenging a woman’s right to trial (rather than accepting a guilty plea) by claiming that the woman would lose her children if she lost at trial and went to jail, men self-inflicting wounds so that police would view the woman as assaultive and dangerous, men being the first ones to call 911 to proactively define the situation, and men capitalizing on the outward calm they display once police arrive (his serenity highlights the hysterical woman)” (Miller, 2001).

“Male batterers use the pending case as another mechanism of control. For example, a woman might not be aware that when a case is dismissed without prejudice, it is rarely reopened, but a batterer may tell her that he can get the prosecutor to reopen the case at any time; this way, he holds it over her head indefinitely” (Miller, 2001).

“The respondents shared several beliefs: Men have become savvy and know the ins and outs of the criminal justice system; men manipulate women with threats, particularly over children and custody issues; and men self-inflict wounds. These findings demonstrate the need for police to thoroughly investigate the context of the situation, not just rely on he said / she said commentary from the combatants or automatically accord greater credibility to the authoritative voice of men” (Miller, 2001).

Losing systems as a safety seeking option



“The findings from this study also capture the ways in which women’s experiences of legal systems abuse shaped their help-seeking behaviors. Women spoke about how being labeled a perpetrator of IPV influenced their lack of trust in, and lack of willingness to reengage with the police not only for IPV matters, but also for non-IPV related matters. This highlights the ways in which this loss of faith is likely to be compounded for women who are not only disbelieved or dismissed when they report abuse, but also face criminalization for crimes that they have been victim to” (Reeves, Fitz-Gibbon, Meyer, & Walklate, 2023).

“However, even where applications or charges are dismissed at court, the impacts of legal systems abuse are still felt by victim-survivors (see, Reeves, 2021). For this reason, among others, relying solely on the court to correct mistakes made by the police is not an effective way for the legal system to address this form of abuse” (Reeves, Fitz-Gibbon, Meyer, & Walklate, 2023).

References

- Crager, M., Cousin, M., & Hardy, T. (2003). Victim-defendants: An emerging challenge in responding to domestic violence in Seattle and the King County region. Seattle, WA: King County Coalition Against Domestic Violence.
- DeLeon-Granados, W., William W., & Binsbacher, R. (2006). Arresting developments: Trends in female arrests for domestic violence and proposed explanations. *Violence Against Women* 12 (4):355-371.
- Haviland, M., Frye, V., Rajah, V., Thukral, J., & Trinity, M. (2001). The Family Protection and Domestic Violence Intervention Act of 1995: Examining the effects of mandatory arrest in New York City. A report by the Family Violence Project of the Urban Justice Center.
- Miller, S.L. & Meloy, M.L. (2006). Women's use of force: Voices of women arrested for domestic violence. *Violence Against Women*, 12, 89-115
- Miller, S. L. (2001). The paradox of women arrested for domestic violence: Criminal justice professionals and service providers respond. *Violence Against Women*, 7, 1339-1376.
- Pollack, S., Battaglia, M., & Allspach, A. (2005). Women charged with domestic violence in Toronto: The unintended consequences of mandatory charge policies. Toronto, Canada: Woman Abuse Council of Toronto.
- Reeves, E., Fitz-Gibbon, K., Meyer, S., & Walklate, S. (2023). Incredible Women: Legal Systems Abuse, Coercive Control, and the Credibility of Victim-Survivors. *Violence Against Women*, 0(0). <https://doi.org/10.1177/10778012231220370>
- Whaley, R. B., Moe, A. M., Eddy, J. M., & Daugherty, J. (2007). The domestic violence experiences of women in community corrections. *Women & Criminal Justice*, 18(3), 25-45.

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