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Recommended Citation

Leigh Goodmark, *Freddie Gray, Law Enforcement, and Intimate Partner Violence*, 16 U. Md. L.J. Race Relig. Gender & Class 173 (2016).

Available at: <https://digitalcommons.law.umaryland.edu/rrgc/vol16/iss2/5>

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FREDDIE GRAY, LAW ENFORCEMENT, AND INTIMATE PARTNER VIOLENCE

Leigh Goodmark*

Police violence against Freddie Gray brought Baltimore to the attention of the global community during the spring of 2015.¹ However, other forms of violence plague Baltimore as well, particularly in the Sandtown-Winchester neighborhood, where Freddie Gray lived. Intimate partner violence, for example, is a serious issue in Baltimore City. Between 2005 and 2009, approximately forty-one residents per thousand were subjected to intimate partner violence; in Sandtown-Winchester, that figure was about sixty-eight residents per thousand.² This type of intimate partner violence intersects in problematic ways with other forms of violence in Baltimore as a result of the decision to make criminalization the primary response to intimate partner violence in the United States.

Prior to 1984, police frequently responded to intimate partner violence by suggesting that the violent partner (usually a man) take a walk around the block until he cooled down.³ Arrests for intimate partner violence (then called wife abuse or domestic violence) were rare, prosecutions even rarer, and incarceration almost unheard of.⁴ In 1984, however, the Attorney General's Task Force on Family Violence declared intimate partner violence a criminal justice problem that required a criminal justice solution.⁵ In the wake of that declaration, and as a result of the advocacy of the battered women's movement, police and prosecutors began to change their non-intervention policies around intimate partner violence.⁶ That

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¹ See, e.g., Sheryl G. Stolberg & Ron Nixon, *Freddie Gray in Baltimore: Another City, Another Death in the Public Eye*, N.Y. TIMES (Apr. 21, 2015), http://www.nytimes.com/2015/04/22/us/another-mans-death-another-round-of-questions-for-the-police-in-baltimore.html?_r=0.

² BALT. CITY HEALTH DEP'T, 2011 NEIGHBORHOOD HEALTH PROFILE: SANDTOWN-WINCHESTER/HARLEM PARK 7 (Dec. 2011), <http://health.baltimorecity.gov/sites/default/files/47%20Sandtown.pdf>.

³ SUSAN SCHECHTER, WOMEN AND MALE VIOLENCE 25 (1982).

⁴ LEIGH GOODMARK, A TROUBLED MARRIAGE: DOMESTIC VIOLENCE AND THE LEGAL SYSTEM 9 (2012).

⁵ WILLIAM L. HART ET AL., ATTORNEY GENERAL'S TASK FORCE ON FAMILY VIOLENCE: FINAL REPORT 11 (1984).

⁶ GOODMARK, *supra* note 4, at 107–13.

movement was kickstarted by the Violence Against Women Act, which made hundreds of millions of dollars available for law enforcement efforts to combat intimate partner violence.⁷ As a result of changes to law and policy and a significant increase in funding, the criminal legal system is now the best funded and most developed response to intimate partner violence in the United States.⁸

The results of this turn to the criminal legal system to combat intimate partner violence have been mixed. While criminal legal intervention (arrest and prosecution) has increased in the last forty years, those increases do not seem to be deterring intimate partner violence. Rates of intimate partner violence fell between 1994 and 2000, but at the same rate that the crime rate fell overall.⁹ Rates of intimate partner violence decreased less than the decline in the overall crime rate between 2000 and 2010, despite the continued infusion of hundreds of millions of federal dollars into criminal legal system interventions in intimate partner violence cases.¹⁰

Even if these efforts had been effective in deterring intimate partner violence, one would still have to ask at what cost. The collateral consequences of criminalizing intimate partner violence are significant and may, in fact, contribute to that violence. Those who are convicted of crimes of intimate partner violence, for example, may find it more difficult to secure employment.¹¹ Male under- and unemployment is highly correlated with intimate partner violence.¹² It

⁷ 42 U.S.C. § 13925 (2013) *et seq.*

⁸ GOODMARK, *supra* note 4, at 154.

⁹ SHANNAN CATALANO, INTIMATE PARTNER VIOLENCE 1993–2010, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE 1 (Nov. 2012), <https://www.bjs.gov/content/pub/pdf/ipv9310.pdf>.

¹⁰ *Id.*

¹¹ Michael Pinard, *Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity*, 85 N.Y.U. L. REV. 457, 492–94 (2010).

¹² See MICHAEL L. BENSON & GREER L. FOX, CONCENTRATED DISADVANTAGE, ECONOMIC DISTRESS, AND VIOLENCE AGAINST WOMEN IN INTIMATE RELATIONSHIPS, NAT'L CRIM. JUST. REFERENCE SERV., at II-3-5 to II-3-6 (2004), <https://www.ncjrs.gov/pdffiles1/nij/199709.pdf>; see also Jennifer E. Copp et al., *Neighborhood Disadvantage, Strain, and Intimate Partner Violence: Linking Structural Context to Emotional Response* (Bowling Green St. Univ., Ctr. for Fam. & Demographic Research, Working Paper No. 4, 2014), <http://papers.ccpr.ucla.edu/papers/PWP-BGSU-2014-004/PWP-BGSU-2014-004.pdf> (citing studies).

is therefore possible, even likely, that the criminal legal response to intimate partner violence contributes to higher rates of violence by depressing employment among men who abuse. Intimate partner violence is more prevalent in disadvantaged neighborhoods¹³—the same neighborhoods where many who have been convicted of crimes and are economically challenged are likely to live. High rates of incarceration in disadvantaged neighborhoods deprive those neighborhoods of workers contributing to the economic health of the neighborhood and break down social bonds that might help to reinforce norms condemning intimate partner violence.¹⁴ Finally, men who are incarcerated experience significant trauma and abuse in prison—experiences that they take back with them into their neighborhoods and their relationships with their partners. Former prisoners who have experienced trauma show elevated rates of post-traumatic stress disorder (PTSD). PTSD and perpetuation of intimate partner violence are highly correlated.¹⁵ The very mechanisms that are being used to punish intimate partner violence are creating conditions that exacerbate intimate partner violence.

The success of criminalization as a response to intimate partner violence also relies on police officers to enforce the laws prohibiting such behavior. But there is reason to be concerned about the ability of some police officers to do that work. Police officers commit intimate partner violence at high rates—studies suggest that police commit intimate partner violence significantly more often than people in the general population.¹⁶ A recent Department of Justice investigation of the police force in Puerto Rico provides anecdotal support for the research.¹⁷ Between 2007 and 2010, for example, ninety-eight officers in the Puerto Rico Police Department were arrested for intimate

¹³ See Benson & Fox, *supra* note 12, at II-3-5; see also Greer L. Fox & Michael L. Benson, *Household and Neighborhood Contexts of Intimate Partner Violence*, 121 PUB. HEALTH REP. 419, 425 (2006).

¹⁴ Donna Coker & Ahjané D. Macquoid, *Why Opposing Hyper-Incarceration Should Be Central to the Work of the Anti-Domestic Violence Movement*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 585, 612 (2015).

¹⁵ Casey T. Taft et al., *Posttraumatic Stress Disorder and Intimate Relationship Problems: A Meta-Analysis*, 79 J. CONSULTING & CLINICAL PSYCHOL. 22 (2011).

¹⁶ Leigh Goodmark, *Hands Up at Home: Militarized Masculinity and Police Officers Who Commit Intimate Partner Abuse*, 2015 B.Y.U. L. REV. 1183, 1189–92 (2015).

¹⁷ CIVIL RIGHTS DIVISION, U.S. DEP'T OF JUSTICE, INVESTIGATION OF THE PUERTO RICO POLICE DEPARTMENT 16–17 (Sept. 5, 2011), http://www.justice.gov/crt/about/spl/documents/prpd_letter.pdf.

partner violence on multiple occasions; three officers shot their spouses in 2010.¹⁸ The Baltimore City Police Department is not immune from this problem either. Two Baltimore City police officers killed their partners within six months in 2013.¹⁹ Moreover, there is evidence of significant overlap between officers who commit intimate partner violence and officers who are accused of misconduct while on duty. In a study of media reports of officer-involved intimate partner violence, researchers found that 22% of the officers accused of intimate partner violence had also been named as defendants in federal civil rights claims based on police misconduct.²⁰ In fact, one of the officers indicted in the Freddie Gray case had two domestic violence cases filed against him in the Maryland courts.²¹ Criminalization of intimate partner violence cannot succeed as a strategy if those tasked with enforcing the laws are regularly violating them. Confronting officer-involved intimate partner violence would not only protect the partners of officers, but could also decrease complaints of police misconduct.

Freddie Gray's death led to greater scrutiny of various facets of the criminal legal system. One relatively unexplored area was the way in which the criminalization of intimate partner violence helped to create and exacerbate intimate partner and other forms violence in the Sandtown-Winchester neighborhood and the role of law enforcement in that violence. The high rates of violence in neighborhoods like Sandtown-Winchester increase the opportunities for negative interactions between police and residents suspected of committing intimate partner violence, the kinds of experiences documented in the Department of Justice's investigation of the Baltimore Police Department.²² Moreover, the Department of Justice noted pervasive

¹⁸ *Id.*

¹⁹ Goodmark, *supra* note 16, at 137 n. 210.

²⁰ Philip M. Stinson & John Liederbach, *Fox in the Henhouse: A Study of Police Officers Arrested for Crimes Associated with Domestic and/or Family Violence*, 24 CRIM. JUST. POL'Y REV. 601, 625 (2013).

²¹ Jon Swaine & Oliver Laughland, *Baltimore Officer Suspended in Freddie Gray Case Accused of Domestic Violence*, THE GUARDIAN (Apr. 21, 2015, 11:05 PM), <http://www.theguardian.com/us-news/2015/apr/21/baltimore-officer-freddie-gray-case-domestic-violence>.

²² Problematic police practices documented by the Department of Justice include "making unconstitutional stops, searches, and arrests . . . using enforcement strategies that produce severe and unjustified disparities in the rates of stops, searches and arrests of African Americans . . . using excessive force." CIVIL RIGHTS

problems with gender-biased policing in Baltimore, including police and prosecutors' skepticism about women's claims of sexual assault and a failure to thoroughly investigate cases involving sexual violence against women.²³ Similar problems likely exist in investigations of intimate partner violence.²⁴ These deficiencies in law enforcement call into question the efficacy of Baltimore's criminal justice response in gender violence cases. Understanding the interrelationship between intimate partner violence, economic disadvantage, police, and criminalization is essential, however, if we hope to build stronger, more resilient, and less violent neighborhoods, and to safeguard Baltimore's citizens from police abuse.

DIVISION, U.S. DEP'T OF JUSTICE, INVESTIGATION OF THE BALTIMORE CITY POLICE DEPARTMENT 3 (Aug. 10, 2016), <https://www.justice.gov/opa/file/883366/download>.

²³ *Id.* at 122–27.

²⁴ INCITE! WOMEN OF COLOR AGAINST VIOLENCE, LAW ENFORCEMENT VIOLENCE AGAINST WOMEN OF COLOR AND TRANS PEOPLE OF COLOR: A CRITICAL INTERSECTION OF GENDER VIOLENCE AND STATE VIOLENCE 37–40, http://mail.incite-national.org/sites/default/files/incite_files/resource_docs/3696_toolkit-final.pdf (last visited Feb. 5, 2017).