

## Individuals Who Experience Intimate Partner Violence and Their Engagement with the Legal System: Critical Considerations for Agency and Power

Iris Cardenas

Laurie M. Graham

Marcela Sarmiento Mellinger

Laura Ting

Follow this and additional works at: <https://digitalcommons.law.umaryland.edu/jhclp>

---

### Recommended Citation

Iris Cardenas, Laurie M. Graham, Marcela S. Mellinger, & Laura Ting, *Individuals Who Experience Intimate Partner Violence and Their Engagement with the Legal System: Critical Considerations for Agency and Power*, 27 J. Health Care L. & Pol'y (2024).

Available at: <https://digitalcommons.law.umaryland.edu/jhclp/vol27/iss1/7>

This Article is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Journal of Health Care Law and Policy by an authorized editor of DigitalCommons@UM Carey Law. For more information, please contact [smccarty@law.umaryland.edu](mailto:smccarty@law.umaryland.edu).

# INDIVIDUALS WHO EXPERIENCE INTIMATE PARTNER VIOLENCE AND THEIR ENGAGEMENT WITH THE LEGAL SYSTEM: CRITICAL CONSIDERATIONS FOR AGENCY AND POWER

IRIS CARDENAS,\* LAURIE M. GRAHAM,\*\* MARCELA SARMIENTO  
MELLINGER,\*\*\* & LAURA TING\*\*\*\*

## *Abstract*

*This Article explores the complexities of intimate partner violence (“IPV”) victim-survivors’ engagement with the legal system, emphasizing the need for culturally responsive and trauma-informed legal interventions. It highlights how intersectional identities and systemic factors shape the experience and decisions of a victim-survivor regarding legal involvement. The Article critiques current legal responses to IPV for often exacerbating trauma and undermining victim-survivors’ autonomy. It argues for a multifaceted approach that acknowledges the unique needs and challenges faced by diverse victim-survivors and advocates for systemic reforms. The Article underscores the importance of incorporating intersectional and social-ecological perspectives in legal responses, recommending trauma-informed, healing-centered practices and culturally responsive interventions to better support IPV victim-survivors and facilitate their recovery.*

---

\* School of Social Work, University of Maryland-Baltimore, Baltimore, MD, USA.

\*\* School of Social Work, University of Maryland-Baltimore, Baltimore, MD, USA.

\*\*\* School of Social Work, University of Maryland-Baltimore County, Baltimore, MD, USA.

\*\*\*\* School of Social Work, University of Maryland-Baltimore County, Baltimore, MD, USA.

## I. INTRODUCTION

Intimate partner violence (“IPV”) is a prevalent social problem, with wide ranging detrimental impacts on individuals, families, and communities.<sup>1</sup> IPV occurs among current or former intimate partners and can involve physical, sexual, and psychological abuse, as well as coercive control, stalking, or related threats.<sup>2</sup> In the United States, almost 1 in 2 (59 million) women and more than 2 in 5 (52.1 million) men will experience sexual or physical IPV or stalking that involves physical contact in their lifetimes.<sup>3</sup> When psychological or emotional forms of IPV are taken into account, these numbers rise even higher.<sup>4</sup>

Further, many communities with marginalized and minoritized gender and sexual identities and racial or ethnic identities are even more likely to experience IPV.<sup>5</sup> Available studies suggest that people who identify as lesbian, gay, and gender nonbinary or transgender experience similar or higher rates of IPV, with bisexual and transgender individuals at particularly high risk for experiencing IPV compared to all other communities.<sup>6</sup> Regarding race and ethnicity, research indicates that non-Latinx<sup>7</sup> multiracial women (63.8%) experience the highest rates of IPV, followed by non-Latinx American Indian/Alaskan Native women (57.7%), non-Latinx Black men (57.6%), and non-Latinx Black women (53.6%).<sup>8</sup>

Decades of research elucidates common mental, physical, sexual, financial, and social consequences of IPV that occur both in the immediate aftermath of violent incidents and in the long term. In addition to the nonfatal and fatal physical injury and chronic health conditions that may result from IPV, people who experience IPV are at heightened risk of experiencing many mental health

---

1. RUTH W. LEEMIS ET AL., NAT’L CTR. FOR INJURY PREVENTION & CONTROL, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2016/2017 REPORT ON INTIMATE PARTNER VIOLENCE 1 (2022).

2. *Id.*

3. *Id.* at 4.

4. *Id.* at 6.

5. *Id.* at 7; Sarah M. Peitzmeier et al., *Intimate Partner Violence in Transgender Populations: Systematic Review and Meta-Analysis of Prevalence and Correlates*, 110 AM. J. PUB. HEALTH e1, e1 (2020).

6. MIKEL L. WALTERS ET AL., NAT’L CTR. FOR INJURY PREVENTION & CONTROL, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2019 FINDINGS ON VICTIMIZATION BY SEXUAL ORIENTATION 1 (2013); Peitzmeier et al., *supra* note 5.

7. In this paper, we use the gender non-specific term “Latinx” to refer to people who are from Latin America or who have Latin American ancestry. Importantly, this term originated among academics. Although an estimated one in four people in the United States who identify as Hispanic are aware of the term “Latinx,” only about three percent of those in this population personally opt to use this term to refer to their own identity. Luis Noe-Bustamante et al., *About One-in-Four U.S. Hispanics Have Heard of Latinx, but Just 3% Use It*, PEW RSCH. CTR. (Aug. 11, 2020), <https://www.pewresearch.org/hispanic/2020/08/11/about-one-in-four-u-s-hispanics-have-heard-of-latinx-but-just-3-use-it/>.

8. LEEMIS, *supra* note 1, at 30.

concerns, including, but not limited to, post-traumatic stress disorder (“PTSD”), depression, and anxiety, as well as suicidal ideation, suicide attempts, and dying by suicide.<sup>9</sup> Further, IPV may result in financial instability,<sup>10</sup> homelessness,<sup>11</sup> social isolation,<sup>12</sup> and additional negative social consequences, such as unwanted or unplanned pregnancies, emotional dysregulation resulting in difficulties in future relationships, and disproportionate use of substances.<sup>13</sup>

People who experience IPV, hereafter referred to as “victim-survivors,” “people impacted by IPV,” or “people who experience IPV,”<sup>14</sup> may choose to seek help or support while in a violent partnership and/or after exiting such a relationship, and they may do so in a variety of different ways. For the past several decades, multiple systems of care (e.g., legal, health care, human services) were developed to address the needs of people experiencing IPV.<sup>15</sup> Largely an outgrowth of the Battered Women’s Movement, and ultimately, the original passage of the Violence Against Women’s Act (“VAWA”) in 1994,<sup>16</sup> which place a tremendous emphasis on criminalizing IPV, legal remedies or responses for IPV are the best funded and often serve as the primary or

---

9. *Id.* at 1; Jacquelyn C. Campbell, *Health Consequences of Intimate Partner Violence*, 359 LANCET 1331, 1331–32 (2002); Ann L. Coker et al., *Physical and Mental Health Effects of Intimate Partner Violence for Men and Women*, 23 AM. J. PREVENTIVE MED. 260, 265–66 (2002).

10. RICH M. TOLMAN, CTR. FOR FIN. SEC., IMPACT OF INTIMATE PARTNER VIOLENCE ON ECONOMIC WELL-BEING 1–3 (2011).

11. Nihaya Daoud et al., *Pathways and Trajectories Linking Housing Instability and Poor Health Among Low-Income Women Experiencing Intimate Partner Violence (IPV): Toward A Conceptual Framework*, 56 WOMEN & HEALTH 208, 216–218, 220 (2016); *Housing Instability: A Continuum of Risk*, INST. FOR CHILDREN, POVERTY & HOMELESSNESS 5, 7–8 (2013), <https://www.partnering-for-change.org/wp-content/uploads/2019/07/Housing-Instability-A-Continuum-of-Risk.pdf>.

12. Christina Lanier & Michael O. Maume, *Intimate Partner Violence and Social Isolation Across the Rural/Urban Divide*, 15 VIOLENCE AGAINST WOMEN 1311, 1315–16 (2009).

13. Jacqueline B. Mehr et al., *Intimate Partner Violence, Substance Use, and Health Comorbidities Among Women: A Narrative Review*, 13 FRONTIERS PSYCH. 1, 1–2 (2023); M. Muñoz-Rivas et al., *Profiles of Emotion Regulation and Post-Traumatic Stress Severity Among Female Victims of Intimate Partner Violence*, 18 INT’L J. ENV’T RSCH. & PUB. HEALTH 1, 1–3, (2021); Christina C. Pallitto et al., *Intimate Partner Violence, Abortion, and Unintended Pregnancy: Results from the WHO Multi-Country Study on Women’s Health and Domestic Violence*, 120 INT’L J. GYNECOLOGY & OBSTETRICS 3, 5–7 (2013).

14. Both people who experience IPV and service providers (e.g., lawyers, social workers, health care professionals) who support them employ various terms to refer to people who experience IPV. Such terms commonly include “victim,” “survivor,” “person who experienced IPV,” and “person impacted by IPV.” Each of these terms carries specific and often very personal meaning for the user. *See, e.g.*, Michael Papendick & Gerd Bohner, “Passive Victim—Strong Survivor”? Perceived Meaning of Labels Applied to Women Who Were Raped, 12 PLOS ONE 1, 1–3 (2017); Sandra Schwark & Gerd Bohner, *Sexual Violence—“Victim” or “Survivor”: News Images Affect Explicit and Implicit Judgments of Blame*, 25 VIOLENCE AGAINST WOMEN 1491, 1492 (2019).

15. Jami Ake & Gretchen Arnold, *A Brief History of Anti-Violence Against Women Movements in the United States*, in SOURCEBOOK ON VIOLENCE AGAINST WOMEN 3, 3–4, 11 (Claire M. Renzetti et al. eds., 2017).

16. *Id.*

recommended response for aiding people impacted by IPV.<sup>17</sup> In this context, people who experience IPV may often seek domestic violence protective orders (sometimes called no contact or restraining orders), arrest, prosecution, civil claims, custody proceedings, and/or visas.<sup>18</sup>

Every person who experiences IPV has their own story and unique experience of both violence and the systems with which they interact (by choice or otherwise), and these experiences are at least somewhat dependent on the multiple identities one holds, including race, ethnicity, gender, class, ability, documentation status, sexual orientation, and more. Importantly, each of these identities is tied to systems of privilege, power, and oppression that shape everyday experiences of the world, including experiences with the United States legal system.<sup>19</sup> This Article will aim to encourage ongoing dialogue about why accessing or even attempting to access legal remedies is complicated, fraught with challenges, and may result in trauma and a wide range of serious, detrimental mental health consequences for people who experience IPV, with these outcomes experienced differently based on the identities one holds.

## II. CONCEPTUAL FRAMEWORK: AN INTERSECTIONAL SOCIAL-ECOLOGICAL LENS

IPV is not an isolated phenomenon. Yet, historically, the field largely takes a reductionist approach to understanding the experiences of victim-survivors of IPV, considering only their shared identity as victim-survivors, without accounting for the additional complexities that result from holding multiple other individualized identities and experiencing IPV in unique cultural and linguistic contexts.<sup>20</sup> Previous explanations for the occurrence of IPV have predominantly attributed IPV's existence to patriarchal oppression and sexism, ignoring

---

17. Leigh Goodmark, *Reimagining VAWA: Why Criminalization Is a Failed Policy and What a Non-Carceral VAWA Could Look Like*, 27 *VIOLENCE AGAINST WOMEN* 84, 87 (2020).

18. Meredith E. Bagwell-Gray et al., *A Critical Examination of the Influences of Intimate Partner Violence, Help-Seeking, and Social Identity on Women's Experiences Seeking and Obtaining Civil Protection Orders*, *WOMEN & CRIM. JUST.* 1, 1–2 (2023), <https://doi.org/10.1080/08974454.2023.2167060>; Ellen Gutowski & Lisa A. Goodman, "Like I'm Invisible": *IPV Survivor-Mothers' Perceptions of Seeking Child Custody Through the Family Court System*, 35 *J. FAM. VIOLENCE* 441, 441 (2020); SHIREEN S. RAJARAM ET AL., *WOMEN'S VOICES: LATINAS, INTIMATE PARTNER VIOLENCE & IMMIGRATION POLICY (U-VISA)* 32 (2015).

19. Patricia Hill Collins, *The Tie That Binds: Race, Gender and US Violence*, 21 *ETHNIC & RACIAL STUD.* 917, 922 (1998); Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 *U. CHI. LEGAL F.* 139, 140 (1989); Natalie J. Sokoloff & Ida Dupont, *Domestic Violence at the Intersections of Race, Class, and Gender: Challenges and Contributions to Understanding Violence Against Marginalized Women in Diverse Communities*, 11 *VIOLENCE AGAINST WOMEN* 38, 39–40 (2005).

20. For more on this topic, see Tricia B. Bent-Goodley, *Culture and Domestic Violence: Transforming Knowledge Development*, 20 *J. INTERPERSONAL VIOLENCE* 195, 197–99 (2005) and Mariana Ortega, *Being Lovingly, Knowingly Ignorant: White Feminism and Women of Color*, 21 *HYPATIA* 56, 57–58 (2006).

additional intersecting systems of oppression, such as racism, classism, and heterosexism, that amplify the experiences of IPV for victim-survivors from marginalized communities.<sup>21</sup> This myopic view, shaped by the view of the dominant cisgender White demographic,<sup>22</sup> unfortunately gives rise to a culture neutral understanding of IPV and results in an inadequate evidence base for the development of IPV responses.<sup>23</sup> As such, the current system of care continues to fall short; it does not effectively or comprehensively meet the needs of marginalized and minoritized victim-survivors.<sup>24</sup> To address this issue, scholars and practitioners have issued urgent calls for culturally responsive IPV services that consider cultural factors and structural oppression as a part of service delivery,<sup>25</sup> particularly in the legal system.<sup>26</sup>

Legal system responses to IPV, while seen by some as an effective use of authority to ensure the safety of IPV victim-survivors, also lead to additional, presumably unintended, consequences, including the deprivation of power and autonomy of many of the exact individuals the legal system aims to assist. To understand this issue, we must consider the multiple factors functioning at different levels in the lives of victim-survivors.<sup>27</sup> As such, this Article discusses the influences of complex systems on the engagement of victim-survivors with the legal system. In doing so, the Article considers the individual and overlapping identities of IPV victim-survivors in understanding their unique experiences and responses to violence.<sup>28</sup> This intersectional lens brings into focus the multiplicative effects of different forms of oppression people impacted by IPV face, such as racial and gender discrimination, socioeconomic disparities, and systemic barriers to accessing support, all of which shape their IPV experiences and interactions with the legal system.<sup>29</sup>

---

21. Crenshaw, *supra* note 19, at 140.

22. Cisgender refers to when one's gender identity matches their sex assigned at birth. *Cisgender*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/cisgender> (last visited Oct. 21, 2023).

23. Bent-Goodley, *supra* note 20, at 197–98.

24. Carmen Alvarez & Gina Fedock, *Addressing Intimate Partner Violence with Latina Women: A Call for Research*, 19 *TRAUMA, VIOLENCE & ABUSE* 488, 488–89 (2018); Sokoloff & Dupont, *supra* note 19, at 39–40.

25. Alvarez & Fedock, *supra* note 24, at 491; Iris Cardenas, *Advancing Intersectionality Approaches in Intimate Partner Violence Research: A Social Justice Approach*, 32 *J. ETHNIC & CULTURAL DIVERSITY SOC. WORK* 1, 2 (2023).

26. Jordan Fairbairn, *The Nature and Necessity of Intersectionality to Feminist Criminological Work on Intimate Partner Violence*, in *SOCIOLOGY OF CRIME, LAW AND DEVIANCE* 135, 135–50 (Derek M. D. Silva & Mathieu Deflem eds., 2022).

27. *See infra* Section II.A.

28. Crenshaw, *supra* note 19, at 140.

29. *See infra* Section II.A.

While this analysis is informed by intersectionality,<sup>30</sup> the Article also applies the Social-Ecological Model (“SEM”)<sup>31</sup> to underscore the influence of various levels of the environment on victim-survivors’ encounters with the legal system. The SEM posits that individual behavior, and therefore experiences, are shaped by personal characteristics and environmental contexts—ranging from the immediate microsystem (individual) to the broader macrosystem (society).<sup>32</sup> More specifically, this model emphasizes the interplay of experiences across systems—at the individual, relationship, community, and societal levels—while accentuating the permeable and constantly interacting nature of such systems.<sup>33</sup> In essence, an analysis of the intersecting individual characteristics (i.e., varying identities) of IPV victim-survivors that considers its interconnectedness within the multilevel system in which they exist enables us to better understand victim-survivors’ intricate experiences and engagement with the legal system.

#### A. Factors Deterring Engagement in the Legal System

The experiences of IPV victim-survivors are varied and complex. While some of those who experience IPV may choose to interact with the legal system, others may avoid it; many factors influence these decisions. Take, for instance, the fear of retaliation.<sup>34</sup> This is not merely a personal emotion, but an oppressive tool wielded within the relational dynamic between the person who engages in violence and a person who experiences violence.<sup>35</sup> In an abusive relationship, the person who uses violence may threaten to harm the victim-survivor or their family if they report the violence to authorities.<sup>36</sup> This fear can be intense and is typically realistic, especially when the person who uses violence has a history of physical violence or has access to weapons.<sup>37</sup> From an intersectional viewpoint,

---

30. Crenshaw, *supra* note 19, at 140.

31. URIE BRONFENBRENNER, *THE ECOLOGY OF HUMAN DEVELOPMENT: EXPERIMENT BY NATURE AND DESIGN* 16–17 (Harv. Univ. Press 1979).

32. *Id.* at 24–26.

33. Lori L. Heise, *Violence Against Women: An Integrated, Ecological Framework*, 4 *VIOLENCE AGAINST WOMEN* 262, 263–64 (1998); Bushra Sabri, *Domestic Violence Among South Asian Women: An Ecological Perspective*, in *OVERCOMING DOMESTIC VIOLENCE: CREATING A DIALOGUE AROUND VULNERABLE POPULATIONS* 105 (Myra F. Taylor et al. eds., 2014).

34. Brian L. Springer & Jared Brown, *Intimate Partner Violence*, 24 *TRAUMA REPS.* 1, 6 (2023).

35. Megan Marie Parry & Eryn Nicole O’Neal, *Help-Seeking Behavior Among Same-Sex Intimate Partner Violence Victims: An Intersectional Argument*, 16 *CRIMINOLOGY, CRIM. JUST., L. & SOC’Y* 51, 53 (2015).

36. E.g., Carmen Alvarez et al., *Latina and Caribbean Immigrant Women’s Experiences with Intimate Partner Violence: A Story of Ambivalent Sexism*, 36 *J. INTERPERSONAL VIOLENCE* 3831, 3848 (2021); Nia Parson & Carina Heckert, *The Golden Cage: The Production of Insecurity at the Nexus of Intimate Partner Violence and Unauthorized Migration in the United States*, 73 *HUMAN ORG.* 305, 311 (2014).

37. Laura Johnson et al., *Do You Believe Your Partner Is Capable of Killing You? An Examination of Female IPV Survivors’ Perceptions of Fatality Risk Indicators*, 37 *J. INTERPERSONAL VIOLENCE* 594, 607 (2022).

this fear might be heightened in individuals who, due to their race, sexual orientation, or immigration status, might already experience marginalization, thus creating an additional barrier to seeking legal recourse.<sup>38</sup> Indeed, people who engage in IPV often exploit their partner's social identities.<sup>39</sup> For example, some may use threats of outing<sup>40</sup> to exert power and control. For victim-survivors who are vulnerable due to their immigration status, a partner with legal status can threaten deportation.<sup>41</sup> Victim-survivors are also threatened with separation from their children if they disclose or attempt to leave the abusive relationship.<sup>42</sup>

Trust, or the lack thereof, in the legal system becomes a poignant part of victim-survivors' help-seeking experiences at the societal level.<sup>43</sup> Those who historically experienced marginalization by or negative experiences with law enforcement may harbor deep seated apprehensions about seeking help.<sup>44</sup> For example, some victim-survivors may have been blamed for the violence, accused of lying, or not taken seriously when seeking help from the legal system in the past.<sup>45</sup> Engagement with the legal system may feel like an extension of the coercive control survivors experienced in their romantic relationships.<sup>46</sup> The effects of discrimination and systemic biases are not felt equally; these effects disproportionately impact those with intersecting marginalized identities.<sup>47</sup> In other words, the intersection of race, class, gender, and additional identities can further compound this distrust, as individuals may face multiple layers of prejudice and discrimination within the legal system.<sup>48</sup> This issue is particularly relevant for communities of color, in which individuals experience injustice personally, collectively, and historically.<sup>49</sup>

---

38. Springer & Brown, *supra* note 34, at 5.

39. Alvarez et al., *supra* note 36, at 3843; Parry & O'Neal, *supra* note 35, at 53–54.

40. An example of “outing” might be exposing their partner's sexual orientation. Parry & O'Neal, *supra* note 35, at 53–54.

41. Alvarez et al., *supra* note 36, at 3832.

42. Parson & Heckert, *supra* note 36, at 311.

43. Lindsay B. Gezinski, “It's Kind of Hit and Miss with Them”: A Qualitative Investigation of Police Response to Intimate Partner Violence in a Mandatory Arrest State, 37 J. FAM. VIOLENCE 99, 100 (2022).

44. *Id.*

45. Jennifer Koshan, *Challenging Myths and Stereotypes in Domestic Violence Cases*, 35 CANADIAN J. FAM. L. 33, 52–55 (2023).

46. Heather Douglas, *Legal Systems Abuse and Coercive Control*, 18 CRIMINOLOGY & CRIM. JUST. 84, 85–86 (2018).

47. See Crenshaw, *supra* note 19, at 150–51 (discussing how using a single axis framework to understand marginalization fails to accurately reflect intersections of sex and race).

48. Bagwell-Gray et al., *supra* note 18, at 5, 12–15; Cynthia Willis-Esqueda, *Bad Characters and Desperados: Latinxs and Causal Explanations for Legal System Bias*, 67 UCLA L. REV. 1204, 1221–22 (2020).

49. Nicole M. Overstreet & Diane M. Quinn, *The Intimate Partner Violence Stigmatization Model and Barriers to Help Seeking*, 35 BASIC & APPLIED SOC. PSYCH. 109, 119–20 (2013); Willis-Esqueda, *supra* note 48, at 1221–22.



Cultural beliefs woven into the community and societal fabric also play a significant role in engagement with the legal system.<sup>50</sup> While some cultural norms provide strength and resilience, others may discourage seeking help outside the family or community.<sup>51</sup> Some individuals may come from cultures that prioritize family unity or discourage airing their family problems in public; these victim-survivors often struggle to find avenues for help due to stigma.<sup>52</sup> In addition to feeling personal stigma or blame, victim-survivors may also feel that it is their duty to keep the family together and avoid family (or community) shame or stigma.<sup>53</sup> This sense of family and community loyalty is a powerful motivator to keep silent in the face of violence.<sup>54</sup> Marginalized or minoritized communities also face collective stigma stemming from myths and stereotypes and these experiences of collective stigma can likewise impact victim-survivors' behaviors. For instance, Asian Americans may avoid calling the police to maintain their status as the "model minority" and to avoid "losing face."<sup>55</sup> African Americans may want to avoid reinforcing myths of the "angry Black woman" or stereotypes of African American boys and men "behaving as animals."<sup>56</sup> Latinx Americans may want to avoid being perceived as "hot-blooded" or "criminals."<sup>57</sup> These long standing, common stereotypes and implicit biases negatively affect the relationship between communities of color and their interactions with the legal system.<sup>58</sup>

Other factors that need consideration are gender roles and cultural identity. To maintain traditional gender roles is to follow the customs of female existence within a patriarchal system.<sup>59</sup> For instance, religion can influence definitions of gender roles and limit help seeking when abuse is seen as acceptable behavior used to maintain traditional, accepted gender norms within a society.<sup>60</sup> Mothers

---

50. Jane Green et al., *Influence of Cultural Norms on Formal Service Engagement Among Survivors of Intimate Partner Violence: A Qualitative Meta-Synthesis*, TRAUMA, VIOLENCE & ABUSE 1, 2 (2023).

51. *Id.*

52. Laura Ting & Subadra Panchanadeswaran, *Barriers to Help-Seeking Among Immigrant African Women Survivors of Partner Abuse: Listening to Women's Own Voices*, 18 J. AGGRESSION, MALTREATMENT & TRAUMA 817, 818 (2009).

53. Overstreet & Quinn, *supra* note 49, at 112; Alvarez et. al., *supra* note 36, at 3848.

54. Ting & Panchanadeswaran, *supra* note 52, at 823–24.

55. Jessica Walton & Mandy Truong, *A Review of the Model Minority Myth: Understanding the Social, Educational and Health Impacts*, 46 ETHNIC & RACIAL STUD. 391, 408 (2023).

56. Wendy Ashley, *The Angry Black Woman: The Impact of Pejorative Stereotypes on Psychotherapy with Black Women*, 29 SOC. WORK PUB. HEALTH 27, 28 (2014); Evi Taylor et al., *The Historical Perspectives of Stereotypes on African-American Males*, 4 J. HUM. RTS. & SOC. WORK 213, 214 (2019).

57. See Willis-Esqueda, *supra* note 48, at 1212–16 (describing negative stereotypes attributed to people of Mexican descent that pervade legal system).

58. *Id.* at 1212–13.

59. Andrea Llano-Suárez et al., *Gender Roles and Intimate Partner Violence Among Female University Students in Spain: A Cross-Sectional Study*, 16 PLOS ONE 1, 2 (2021).

60. Ting & Panchanadeswaran, *supra* note 52, at 824.

may teach their daughters to submit and to endure, as it is believed to be their expected fate as women.<sup>61</sup> Throughout time, generations of victim-survivors have been taught to accept their gender roles and any relationship problems are blamed upon not living up to accepted expectations.<sup>62</sup> In some Asian cultures, there is pride in the ability to endure and persevere in the face of abuse and problems.<sup>63</sup> Loyalka,<sup>64</sup> Greenspan,<sup>65</sup> and Yuan<sup>66</sup> discuss this traditional concept of “eating bitterness” as making the best of what you have, whether it is struggling to work hard against difficult odds, surviving poverty, or enduring a bad marriage. A person who is able to “eat bitterness” is seen as possessing one of the highest virtues and is valued, especially among women; to complain, or seek help, is to go against the ingrained cultural identity of a victim-survivor.<sup>67</sup>

Two additional values prized by non-Western cultures are: (1) a futuristic orientation, and (2) collectivism.<sup>68</sup> Asian, Latin American, and African collectivistic cultures are more likely to focus on group cohesion and prioritize group needs over individual needs; collectivistic values act as a form of social control within cultures.<sup>69</sup> Sacrificing one’s own needs for the good of the group, family, or community is expected.<sup>70</sup> Evaluation<sup>71</sup> of risk taking and decision making between different cultural groups demonstrates that “collectivism acts as implicit mutual insurance against catastrophic losses.”<sup>72</sup> In immigrant and marginalized communities, an individual act of reporting IPV may result in losses for the whole family and is not worth the risk of a negative reputation in

---

61. Laura Ting & Subadra Panchanadeswaran, *The Interface Between Spirituality and Violence in the Lives of Immigrant African Women: Implications for Help Seeking and Service Provision*, 25 J. AGGRESSION, MALTREATMENT & TRAUMA 33, 35 (2016) [hereinafter *The Interface Between Spirituality and Violence*].

62. Llano-Suárez, *supra* note 59, at 8.

63. Anna Greenspan, *Tiger Moms: The Benefits of Eating Bitterness*, PAC. STANDARD (June 14, 2017), <https://psmag.com/education/tiger-moms-the-benefits-of-eating-bitterness-28029>; MICHELLE DAMMON LOYALKA, EATING BITTERNESS: STORIES FROM THE FRONT LINES OF CHINA’S GREAT URBAN MIGRATION 16 (2012).

64. LOYALKA, *supra* note 63, at 16.

65. Greenspan, *supra* note 63.

66. Li Yuan, *China’s Young People Can’t Find Jobs. Xi Jinping Says to ‘Eat Bitterness,’* N.Y. TIMES (June 1, 2023), <http://www.nytimes.com/2023/05/30/business/china-youth-unemployment.html>.

67. Xiongya Gao, *Women Existing for Men: Confucianism and Social Injustice Against Women in China*, 10 RACE, GENDER, & CLASS 114, 118–22 (2003).

68. Laura Ting, *Out of Africa: Coping Strategies of African Immigrant Women Survivors of Intimate Partner Violence*, 31 HEALTH CARE FOR WOMEN INT’L 345, 351–55 (2010); Harry C. Triandis, *Individualism-Collectivism and Personality*, 69 J. PERSONALITY 907, 907–09 (2001).

69. Triandis, *supra* note 68, at 907–08.

70. *Id.* at 910.

71. Elke U. Weber et al., *What Folklore Tells Us About Risk and Risk Taking: Cross-Cultural Comparisons of American, German, and Chinese Proverbs*, 75 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 170, 174 (1998).

72. *Id.* at 174.

the eyes of the whole community.<sup>73</sup> Help seeking may be seen as an act of betrayal and taking on a “Western” identity.<sup>74</sup>

Orientation towards the future, while a protective factor among those experiencing adversities and noted to provide a sense of hope,<sup>75</sup> can also create a barrier to an IPV victim-survivor seeking help in the legal system. Future time orientation is described as the extent to which the anticipated future is integrated into the present situation, and more attention is given to the future than the past or present, which allows for planning and anticipated future rewards.<sup>76</sup> Time orientation is mostly a product of an individual’s cultural upbringing and background.<sup>77</sup> For those oriented toward the future, this cultural value would discourage current help seeking, as the long term reward of a better future for the family or children (such as gaining citizenship) is seen as worth the current abuse. For example, a victim-survivor may remain in an abusive family situation so that their children can have future economic stability and educational opportunities.

The economic situation of victim-survivors plays a crucial role, adding another dimension to their experiences. The reality of financial dependence upon the abusive family member can reside within the individual and relational levels of the SEM, but also points to wider societal structures of economic inequality.<sup>78</sup> The need for financial support from a partner may disproportionately affect women, particularly those with limited educational or employment opportunities due to their socioeconomic or immigration status or racial identity.<sup>79</sup> Those victim-survivors may fear that reporting the violence will lead to further economic hardship for themselves and their children.<sup>80</sup> When combined with a lack of education and employment opportunities due to language barriers, common among immigrant populations, maintaining basic food and shelter for

---

73. See generally Ting, *supra* note 68.

74. *Id.* at 352–54 (finding that informal and formal support, help seeking, and knowledge of available services empowered women who are coping with intimate partner violence).

75. Jun Sung Hong et al., *Future Orientation and Adverse Outcomes of Peer Victimization Among African American Adolescents*, 30 J. AGGRESSION, MALTREATMENT & TRAUMA 528, 529–31 (2021).

76. Sunghee Lee et al., *Relationship Between Future Time Orientation and Item Nonresponse on Subjective Probability Questions: A Cross-Cultural Analysis*, 48 J. CROSS-CULTURAL PSYCH. 698, 699 (2017).

77. Robert J. Graham, *The Role of Perception of Time in Consumer Research*, 7 J. CONSUMER RSCH. 335, 337 (1981).

78. Sokoloff & Dupont, *supra* note 19, at 58; Guadalupe T. Vidales, *Arrested Justice: The Multifaceted Plight of Immigrant Latinas Who Faced Domestic Violence*, 25 J. FAM. VIOLENCE 533, 535 (2010).

79. Sokoloff & Dupont, *supra* note 19, at 58.

80. See generally Jill Theresa Messing et al., *‘Not Bullet Proof’: The Complex Choice Not to Seek a Civil Protection Order for Intimate Partner Violence*, 27 INT’L REV. VICTIMOLOGY 173 (2021); see Sarah R. Robinson et al., *A Systematic Review of Barriers to Formal Help Seeking for Adult Survivors of IPV in the United States, 2005–2019*, 22 TRAUMA, VIOLENCE, & ABUSE 1, 2 (2020).

themselves or their children may become the top priority.<sup>81</sup> Calling the police and getting involved with the unknown United States legal system would not be an easy decision for a victim-survivor to make, given these circumstances and structural barriers.<sup>82</sup>

Finally, a lack of awareness of or knowledge about available resources is also a barrier to seeking legal help, highlighting a systemic issue at the community and societal levels. For example, some individuals may not know about the services and resources available to them, or how to access these services.<sup>83</sup> This points to a failure to adequately provide and disseminate accessible and comprehensible information about legal rights and resources to those who need them the most.<sup>84</sup> When intersecting with factors such as language barriers, limited education, or marginalized status, the ability to seek and use legal resources among these groups of IPV victim-survivors can be significantly compromised.<sup>85</sup> Consider, for example, immigrant populations; they may come from countries where gender based violence is not seen as a crime.<sup>86</sup> With no knowledge of the law, and facing additional language barriers, it is highly unlikely for such victim-survivors to seek help.

It is important to note that the examples provided above do not represent an exhaustive list of factors that deter engagement with the legal system. As IPV is assessed through an intersectional, social-ecological lens, it is important to acknowledge the additional influence of geographic location (rural vs. urban);<sup>87</sup> age,<sup>88</sup> disability (physical or intellectual);<sup>89</sup> and marital status,<sup>90</sup> among other factors, that also play a role when deciding to engage with the legal system. Because these issues are interrelated—for example, an older person with a physical disability, who is married to the person inflicting the abuse, may live in a rural area—these factors require recognition when intervening in these situations.<sup>91</sup>

---

81. Messing et al., *supra* note 80; Robinson et al., *supra* note 80, at 2.

82. Robinson et al., *supra* note 80, at 10.

83. *Id.* at 2.

84. Sokoloff & Dupont, *supra* note 19, at 52.

85. Bagwell-Gray et al., *supra* note 18, at 4–5, 12–13; Nilpa D. Shah et al., *Factors Influencing the Use of Domestic Violence Restraining Orders in Los Angeles*, 29 *VIOLENCE AGAINST WOMEN* 1604, 1612 (2023).

86. Alvarez et al., *supra* note 36, at 3849.

87. Karen Roush & Ann Kurth, *The Lived Experience of Intimate Partner Violence in the Rural Setting*, 45 *J. OBSTETRIC, GYNECOLOGIC & NEONATAL NURSING* 308, 312 (2016).

88. Sara C. Hare, *Intimate Partner Violence: Victims' Opinions About Going to Trial*, 25 *J. FAM. VIOLENCE* 765, 768–74 (2010).

89. Heather Douglas & Paul Harpur, *Intellectual Disabilities, Domestic Violence and Legal Engagement*, 31 *DISABILITY & SOC'Y* 305, 306–07 (2016).

90. Hare, *supra* note 88, at 770.

91. See Elizabeth P. Cramer & Sara-Beth Plummer, *People of Color with Disabilities: Intersectionality as a Framework for Analyzing Intimate Partner Violence in Social, Historical, and*

*B. Factors Promoting Engagement with the Legal System*

When considering the potential experiences of victim-survivors, the aim is not to paint a picture of insurmountable challenges, but rather to shed light on realities that must be acknowledged and understood. Despite these realities, some of those impacted by IPV choose to engage with the legal system. The protective capabilities of the system may prompt a victim-survivor's decision to seek legal assistance.<sup>92</sup> When the legal system issues protective orders, facilitates the removal of the person using violence from the home, or ensures this person's arrest, it imposes a physical and symbolic barrier between the victim-survivor and the person causing harm.<sup>93</sup> This protective function is not just an immediate relief; it may also provide the foundation upon which victim-survivors begin the process of recovery.<sup>94</sup> They might regain control over their immediate environment, offering a sense of safety.<sup>95</sup> However, this protection is not absolute. It is contingent on many factors: whether individuals responsible for granting protective orders view the victim-survivor's experiences as warranting such an order,<sup>96</sup> the victim-survivor's willingness and ability to report any violation of these protective orders, the adherence to these orders of the person who uses violence, and the efficacy of the system in enforcing these orders.<sup>97</sup>

Another factor facilitating a victim-survivor's decision to engage with the legal system may arise from the provision of legal recourse.<sup>98</sup> Such institutional response embodies the principle of accountability for wrongdoing and serves as a reassurance that the violence is not left unpunished. When victim-survivors see their partners who engaged in IPV facing charges and convictions, they may experience a sense of justice.<sup>99</sup> Nevertheless, this process hinges upon the system's ability to conduct fair trials and minimize the great potential for legal

---

*Political Contexts*, 18 J. AGGRESSION, MALTREATMENT & TRAUMA 162, 166–68 (2009) (providing additional factors that make it difficult for certain individuals to access health care, mental health resources, etc.).

92. Ijeoma Nwabuzor Ogbonnaya et al., *Intimate Partner Violence, Police Engagement, and Perceived Helpfulness of the Legal System: Between- and Within-Group Analyses by Women's Race and Ethnicity*, 14 J. SOC'Y FOR SOC. WORK & RSCH. 211, 216 (2021).

93. Paula Pierce & Brian Quillen, *No Contest: Why Protective Orders Provide Victims Superior Protection to Bond Conditions*, 40 AM. J. CRIM. 227, 238–39 (2013).

94. *Id.* at 250.

95. T.K. Logan & Robert Walker, *Civil Protective Order Outcomes: Violations and Perceptions of Effectiveness*, 24 J. INTERPERSONAL VIOLENCE 675, 677–78 (2008).

96. Bagwell-Gray et al., *supra* note 18, at 4–5, 10–12; Kristy Candela, *Protecting the Invisible Victim: Incorporating Coercive Control in Domestic Violence Statutes*, 54 FAM. CT. REV. 112, 116–17 (2016).

97. Lindsay B. Gezinski & Kwynn M. Gonzalez-Pons, *Legal Barriers and Re-Victimization for Survivors of Intimate Partner Violence Navigating Courts in Utah, United States*, 32 WOMEN & CRIM. JUST. 454, 460–61 (2021).

98. *See* Ogbonnaya, *supra* note 92, at 233 (“[C]onsequences for IPV offenses may be positively associated with IPV survivors' level of perceived helpfulness [of the legal system].”).

99. Pierce & Quillen, *supra* note 93, at 239–41.

processes to revictimize and traumatize victim-survivors, among other negative consequences, while ensuring that the needs and rights of victim-survivors are upheld and prioritized throughout.<sup>100</sup>

Lastly, victim-survivors' engagement with the legal system may lead to accessing a range of resources.<sup>101</sup> Counseling services, support groups, and financial assistance are some of the services that victim-survivors may obtain.<sup>102</sup> These resources provide emotional, social, and economic support that can facilitate their healing, thus, promoting their well-being and avoiding revictimization.<sup>103</sup> Unfortunately, the accessibility and usefulness of these resources vary. Factors such as a victim-survivor's awareness of these resources, their socioeconomic status, and the quality and availability of the resources can impact utilization.<sup>104</sup> Consequently, while the provision of these resources forms a crucial pillar of the legal system's response, their effective and equitable access remains a significant challenge that requires ongoing attention and effort.

### C. Implications of Legal System Involvement

While the services (protection, legal recourse, and resources) offered by the legal system can provide critical support for victim-survivors, their effectiveness and accessibility hinge on various individual, systemic, and socioeconomic factors, underscoring the need for a multifaceted, victim-survivor centric approach to addressing IPV.<sup>105</sup> Engaging with the legal system is not without its challenges and potential repercussions for IPV victim-survivors.<sup>106</sup> Here, we explore two policies that, while well-intended, can and do result in unintended detrimental consequences: mandatory arrest laws and no-drop prosecutions.

---

100. See Leigh Goodmark, *Autonomy Feminism: An Anti-Essentialist Critique of Mandatory Interventions in Domestic Violence Cases*, 37 FLA. STATE U. L. REV. 1, 12–13 (2009) (“[V]ictim empowerment . . . assume[s] successful prosecution of the case and positive treatment of the victim throughout the process.”). *But see* Tami P. Sullivan et al., *Criminal Protection Orders: Implications of Requested Versus Issued Orders on Domestic Violence Revictimization and Mental Health Among Women*, 37 J. INTERPERSONAL VIOLENCE 18445, 18458–59 (2021) (“[W]omen issued more restrictive [protective orders] than they requested had greater improvements in depression symptom severity over time.”).

101. Shah et al., *supra* note 85, at 1611; *see generally* Ryan C. Shorey et al., *Coordinated Community Response Components for Victims of Intimate Partner Violence: A Review of the Literature*, 19 AGGRESSION & VIOLENT BEHAV. 363 (2014) (describing other types of assistance available to victim-survivors as a result of their engagement with legal system).

102. See Jill Theresa Messing et al., *The State of Intimate Partner Violence Intervention: Progress and Continuing Challenges*, 60 SOC. WORK 305, 305, 307–08 (2015) (discussing these services and stating they “are often tied to criminal justice intervention”).

103. *See generally* Günnur Karakurt et al., *Treatments for Female Victims of Intimate Partner Violence: Systematic Review and Meta-Analysis*, 13 FRONTIERS PSYCH. 1 (2022).

104. Shah et al., *supra* note 85, at 1611–16.

105. *See infra* Sections II.C.1–2.

106. *See infra* Sections II.D–E.

### 1. *Mandatory Arrest Laws*

Mandatory arrest laws stipulate that the police must make an arrest if there is probable cause to believe an IPV incident occurred, even if the victim-survivor opposes arrest.<sup>107</sup> The intention behind these laws is to prioritize the safety of people who experience IPV by ensuring that immediate action is taken to prevent further harm.<sup>108</sup> However, it is important to recognize that such policies can also impede victim-survivor autonomy and decision making. By mandating arrests even when victim-survivors oppose them, these laws undermine victim-survivor agency in determining the course of action that aligns with their specific circumstances and preferences.<sup>109</sup> For example, some people who experience IPV: want to maintain the relationship and do not want their partner arrested;<sup>110</sup> fear the consequences of lacking a partner's income or the trauma to their children if a parent is not present;<sup>111</sup> and, simply desire their partner to receive the help they need.<sup>112</sup> Others may not get to choose, but must stay in the relationship due to financial, housing, or immigration status concerns and realize that once the partner is released, they will must still live with this person, which can, in turn, increase safety concerns.<sup>113</sup>

The implementation of mandatory arrest policies led to many unintended consequences. Of significant concern is the arrest of IPV victim-survivors themselves when bidirectional violence occurs, or, when discerning the primary aggressor proves challenging.<sup>114</sup> A manifestation of this concern is the rise in dual arrests, especially when both parties exhibit injuries, making it difficult to disentangle the dynamics of the abusive relationship.<sup>115</sup> In fact, data revealed a

---

107. LEIGH GOODMARK, *A TROUBLED MARRIAGE: DOMESTIC VIOLENCE AND THE LEGAL SYSTEM* 107–08 (2012).

108. *Id.* at 107–11.

109. GOODMARK, *supra* note 107, at 120–24; Andrea J. Nichols, *No-Drop Prosecution in Domestic Violence Cases: Survivor-Defined and Social Change Approaches to Victim Advocacy*, 29 J. INTERPERSONAL VIOLENCE 2114, 2116–20 (2014); Jeanne Belknap et al., *To Go or Not to Go?: Preliminary Findings on Battered Women's Decisions Regarding Court Cases*, in *WOMAN BATTERING IN THE UNITED STATES: TILL DEATH DO US PART* 319, 325 (Helen M. Eigenberg ed. 2001) (describing reasons behind surveyed battered women's participation or non-participation in court system). *But see* R. Michael Cassidy, *Reconsidering Spousal Privileges after Crawford*, 33 AM. J. CRIM. L. 339 (2006).

110. Hare, *supra* note 88, at 771–72.

111. JILL DAVIES, *FAM. VIOLENCE PREVENTION FUND, ADVOCACY BEYOND LEAVING: HELPING BATTERED WOMEN IN CONTACT WITH CURRENT OR FORMER PARTNERS* 3 (2009); Messing et al., *supra* note 102, at 310.

112. DAVIES, *supra* note 111, at 6–7.

113. Angelica S. Reina & Brenda J. Lohman, *Barriers Preventing Latina Immigrants from Seeking Advocacy Services for Domestic Violence Victims: A Qualitative Analysis*, 30 J. FAM. VIOLENCE 479, 483–85 (2015).

114. *See* David Hirschel et al., *A 10-Year Study of the Impact of Intimate Partner Violence Primary Aggressor Laws on Single and Dual Arrest*, 36 J. INTERPERSONAL VIOLENCE 1356, 1366–67, 1381–82 (2021).

115. *Id.*; Messing et al., *supra* note 102, at 306.

troubling uptick in the arrest of IPV victim-survivors following the implementation of mandatory arrest laws,<sup>116</sup> further complicating victim-survivors' paths through the legal process and exacerbating their trauma and discouraging future recourse to legal aid. To address this issue, lawmakers implemented "primary aggressor" policies, which give police discretion before making an arrest to decide who in the scenario is the main offender.<sup>117</sup> These policies led to mixed results, with both dual arrests and warranted single arrests decreasing.<sup>118</sup>

Additionally, data proves that when violence occurs among same-sex couples, officers are less likely to make any arrests.<sup>119</sup> These issues demonstrate the system failures to identify people who experience IPV and people who engage in IPV accurately, resulting in a response that may unintentionally revictimize the very individuals it seeks to protect.<sup>120</sup> In some cases, mandatory arrests could even lead to deportation of victim-survivors; this can happen when a victim-survivor, who does not possess a valid visa or other immigration documentation, is arrested because a spouse or partner falsely accuses the victim-survivor of a crime, or reports the victim-survivor's immigration status in retaliation.<sup>121</sup> When the primary aggressor is not identified and both parties are arrested, or when a victim-survivor uses violence as self-defense, they are at risk of arrest and triggered deportation procedures.<sup>122</sup> These issues can still occur despite the passage of the Victims of Trafficking and Violence Protection Act in 2000,<sup>123</sup> which included the Battered Immigrant Women's Protection Act, allowing victim-survivors without a valid visa or other immigration documentation to apply for a U-visa and avoid deportation.<sup>124</sup> Furthermore, the process of applying and demonstrating eligibility is onerous, time consuming, and costly,<sup>125</sup> and the threat of deportation when victim-survivors are unaware of this visa opportunity is enough to create fear of legal involvement.<sup>126</sup> These

---

116. William DeLeon-Granados et al., *Arresting Developments: Trends in Female Arrests for Domestic Violence and Proposed Explanations*, 12 VIOLENCE AGAINST WOMEN 355, 359 (2006).

117. Hirschel et al., *supra* note 114, at 1358–66.

118. *Id.* at 1375.

119. *Id.*

120. *Id.* at 1382–84.

121. Cecelia M. Espenoza, *No Relief for the Weary: VAWA Relief Denied for Battered Immigrants Lost in the Intersections*, 83 MARQ. L. REV. 163, 193–200 (1999); Anita Raj & Jay Silverman, *Violence Against Immigrant Women: The Roles of Culture, Context, and Legal Immigrant Status on Intimate Partner Violence*, 8 VIOLENCE AGAINST WOMEN 367, 375–76 (2002).

122. Espenoza, *supra* note 121, at 193–96; Raj & Silverman, *supra* note 121, at 380–81.

123. Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended in scattered sections of 18 U.S.C., 22 U.S.C., 27 U.S.C., 34 U.S.C., and 42 U.S.C.).

124. RAJARAM ET AL., *supra* note 18, at 2.

125. *Id.* at 4–5.

126. Vidales, *supra* note 78, at 539.



unintended outcomes commonly result in further trauma and disempowerment for IPV victim-survivors.<sup>127</sup>

Moreover, cases in which law enforcement fails to arrest the person who uses violence when the victim-survivor wants to file charges, despite the existence of mandatory arrest laws, undermine the effectiveness of these policies.<sup>128</sup> These scenarios can leave victim-survivors vulnerable to continued abuse and diminish their trust in the legal system's ability to protect them.<sup>129</sup> This failure to apprehend the person who used violence may perpetuate a cycle of violence as victim-survivors may become discouraged from seeking legal remedies, if they perceive that their partners who used violence will not face appropriate consequences.<sup>130</sup>

## 2. *No-drop Prosecutions*

Similarly, no-drop prosecution policies mandate that prosecutors proceed with an IPV case, independent of the victim-survivor's wishes.<sup>131</sup> No-drop prosecution policies were enacted because of the inability of the criminal system to follow through with prosecution if a victim-survivor chose not to participate in the process.<sup>132</sup> Given that arrests are often not sufficient if charges are dropped or cases are dismissed in court, some believed that the manipulation of the victim-survivor to drop the charges would lessen and retaliation on the part of those inflicting violence would decrease if the responsibility to carry the case forward shifted from the victim-survivor to the state.<sup>133</sup> However, these policies can inadvertently disregard a victim-survivor's autonomy in cases where they wish to drop charges, especially in states where "hard" no-drop policies are in place.<sup>134</sup>

Victim-survivors may want prosecutors to drop charges for several reasons, such as concerns about safety, fear of retaliation, or a desire to stay in the relationship.<sup>135</sup> For example, those who are married to the person inflicting the

---

127. See Vidales, *supra* note 78, at 538–39 (explaining reasons victim-survivors were forced to stay with their abusers and recounting stories in which they “experience[d] a ‘sense of futility’ in dealing with the [legal system]”).

128. See Gezinski, *supra* note 43, at 104 (stating that “inadequate police response” caused survivors to doubt “police officers’ ability or willingness to help them,” and deterred them from “contact[ing] police in the future”).

129. *Id.*

130. Lauren Bennett et al., *Systemic Obstacles to the Criminal Prosecution of a Battering Partner: A Victim Perspective*, 14 J. INTERPERSONAL VIOLENCE 761, 767, 769 (1999).

131. Nichols, *supra* note 109, at 2115.

132. Goodmark, *supra* note 100, at 11–12.

133. *Id.*

134. *Id.* at 13–14. These cases are prosecuted regardless of the survivor's wishes and may even involve compelling the survivor to cooperate.

135. *Id.* at 10–11; Nichols, *supra* note 109, at 2118–19.

abuse are significantly less likely to want to see the case go to trial.<sup>136</sup> Age also plays a role, as older victim-survivors are less likely to want a trial,<sup>137</sup> likely because of the unique circumstances of older individuals who face IPV.<sup>138</sup> As noted earlier, forced financial dependency (e.g., the person inflicting the abuse is the main bread winner or provides child support) can also be a factor when considering charges.<sup>139</sup> Furthermore, because each case is unique, the intent of the “threat” of prosecution is also a consideration.<sup>140</sup> Some victim-survivors may use this threat as leverage to achieve specific objectives, such as asking for a divorce or asking for child support in exchange for dropping the charges.<sup>141</sup>

Another concern regarding these policies is the burden placed on those impacted by IPV when forced to testify (e.g., re-traumatization from reliving the incident, forced to see the person who hurt them, needing to take time off from work to attend hearings or secure childcare to follow through with the process, etc.); in some cases, victim-survivors are threatened with arrest or jailed for non-compliance.<sup>142</sup> To try to address this problem, policymakers implemented “soft” non-drop orders.<sup>143</sup> Soft non-drop orders allow a case to continue even if the victim-survivor wants to avoid involvement in the process.<sup>144</sup> Importantly, when these orders are used, victim-survivors are not compelled to cooperate.<sup>145</sup> Nevertheless, not all jurisdictions allow soft no-drop orders.<sup>146</sup>

As is the case with other legal processes, systemic issues also come into play.<sup>147</sup> Victim-survivors historically report frustration with the system, even when they want to get involved with the process triggered by no-drop

---

136. Hare, *supra* note 88, at 769.

137. *Id.* at 770.

138. See Neha Pathak et al., *The Experience of Intimate Partner Violence Among Older Women: A Narrative Review*, 121 MATURITAS 63, 68 (2019) (discussing “numerous barriers” that “older women experiencing IPV” face when determining whether to engage in “help-seeking behaviours”).

139. See *supra* text accompanying notes 78–82.

140. See Bennett, *supra* note 130, at 763 (“[V]ictims who come to the system are not helpless or passive but, rather, are actively using a strategy to get what they need.”).

141. *Id.*

142. Nichols, *supra* note 109, at 2118–19.

143. *Id.* at 2135–36; Goodmark, *supra* note 100, at 13.

144. Goodmark, *supra* note 100, at 13.

145. *Id.*

146. Nichols, *supra* note 109, at 2117.

147. See Bennett, *supra* note 130, at 766–68 (characterizing confusing and frustrating nature of criminal justice process as reasons that victims might wish to forgo prosecution of abusers); Hare, *supra* note 88, at 766 (discussing “institutional factors” that “impact women’s opinions of the [criminal justice] system”); Dora M.Y. Tam et al., *Racial Minority Women and Criminal Justice Responses to Domestic Violence*, 31 J. FAM. VIOLENCE 527, 529 (2016) (describing “aware[ness] of racial discrimination in Western society” as a “systemic barrier” to criminal justice system for minority victims of domestic violence).

prosecution policies.<sup>148</sup> The extreme length of the legal process, confusion with how the legal system works, fear of retaliation between the time charges are pressed and the case's resolution, and the system's ineffectiveness are some of the obstacles victim-survivors face.<sup>149</sup> For victim-survivors who are not proficient in English, language barriers are an issue from the very beginning of the process and are compounded by other immigration concerns.<sup>150</sup>

Overall, mandatory arrest laws and no-drop prosecution policies can perpetuate a power imbalance between the legal system and those who experienced IPV.<sup>151</sup> The early women's movement advocated for their implementation because they can offer some control over state response;<sup>152</sup> they increase the likelihood that police and prosecutors will not dismiss IPV cases, helping ensure that victim-survivors' experiences are acknowledged, and people who use violence are held accountable.<sup>153</sup> Yet, when critically examining these policies, it becomes evident that they can instigate further problems. An assessment of nationwide FBI data<sup>154</sup> found that IPV homicides increased in the decades since mandatory arrest policies were enacted due to decreased reporting of abuse to avoid mandatory arrests and increased retaliation and reprisal by people who used IPV after mandatory arrests. Systematic review of the research finds that, overall, mandatory arrests did not affect whether an arrestee committed future IPV.<sup>155</sup> Compared to states with no mandatory arrest policies, IPV reporting is actually lower in states with mandatory arrest policies, thus, resulting in less legal help seeking.<sup>156</sup> In addition, victim-survivors may experience more physical and mental harm over time as they remain in violent relationships for longer periods, due to fear of reporting the abuse.<sup>157</sup> As such, understanding these consequences is critical to prevent the replication or reinforcement of the power imbalance seen in IPV at a systemic level.<sup>158</sup>

---

148. See Bennett, *supra* note 130, at 766–68; Hare, *supra* note 88, at 766–67; Tam, *supra* note 147, at 534–35.

149. Bennett, *supra* note 130, at 766–69; Hare, *supra* note 88, at 771, 772; Tam, *supra* note 147, at 532–34.

150. Tam, *supra* note 147, at 529.

151. See *supra* Sections II.C.1–2.

152. GOODMARK, *supra* note 107, at 2–4.

153. *Id.* at 108–10; Nichols, *supra* note 109, at 2126.

154. Radha Iyengar, *Does the Certainty of Arrest Reduce Domestic Violence? Evidence from Mandatory and Recommended Arrest Laws*, 93 J. PUB. ECON. 85, 85–86 (2009).

155. MARNA MILLER & K.M. KELLEY, WASH. STATE INST. FOR PUB. POL'Y, MANDATORY ARREST FOR DOMESTIC VIOLENCE: A SYSTEMATIC REVIEW 1 (2022).

156. Alayna Bridgett, *Mandatory-Arrest Laws and Domestic Violence: How Mandatory-Arrest Laws Hurt Survivors of Domestic Violence Rather than Help Them*, 30 HEALTH MATRIX 437, 460 (2020).

157. *Id.* at 460–62.

158. See *supra* Sections II.C.1–2.

*D. Autonomy in the Legal System*

The decision to engage with the legal system among those who experience IPV is often informed by immediate necessity, rather than a comprehensive understanding of the potential ramifications of such engagement.<sup>159</sup> Numerous factors may drive this immediacy, such as the lack of awareness of alternative institutional support, the imminent need for security, or unfamiliarity with the intricacies of legal system responses and their possible unintended consequences.<sup>160</sup> Nevertheless, for many victim-survivors, this initial decision becomes a pivotal moment as it might be the last autonomous choice available to them within this system.<sup>161</sup> Take, for instance, immigrant communities. IPV victim-survivors may initiate contact with the legal system to end the violence and find safety, without intending to set in motion a process that may result in their (ex)partner's deportation.<sup>162</sup> The (often) irreversible nature of this process can leave victim-survivors with a diminished sense of self-determination.<sup>163</sup> For example, Vietnamese women who experienced IPV, and whose husbands experienced political abuse in their home country, are reluctant to report their abuse for fear that their husband would face deportation to their country of origin.<sup>164</sup>

Economic factors can also complicate victim-survivors' experiences.<sup>165</sup> Individuals who are financially dependent on a partner that engages in IPV might hesitate to push forward with legal action, fearing the potential cessation of financial support or child support following his or her partner's arrest.<sup>166</sup> Faced with the prospect of long term financial instability, victim-survivors may want to disengage from the legal process once it is initiated.<sup>167</sup> However, when legal system processes are inflexible to a victim-survivor's choice by mandating that the process continues regardless of their preferences, these processes inadvertently violate victim-survivor autonomy.<sup>168</sup>

---

159. See *supra* Sections II.C.1–2.

160. See generally Hirschel et al., *supra* note 114; Messing et al., *supra* note 102.

161. See *supra* Sections II.C.1–2.

162. Hoan N. Bui & Merry Morash, *Domestic Violence in the Vietnamese Immigrant Community: An Exploratory Study*, 5 VIOLENCE AGAINST WOMEN 769 (1999); Jill Messing et al., “We Have to Build Trust”: Intimate Partner Violence Risk Assessment with Immigrant and Refugee Survivors, 46 SOC. WORK RSCH. 53, 54 (2022); Raj & Silverman, *supra* note 121, at 386–87.

163. Bui & Morash, *supra* note 162.

164. *Id.*

165. See *supra* text accompanying notes 78–82.

166. Shah et al., *supra* note 85, at 1612.

167. See Tam et al., *supra* note 147, at 529 (stating that “racial minority women generally prefer that their partners not be . . . prosecuted,” in part because they “are economically dependent on their husbands and fear losing this financial support”).

168. Goodmark, *supra* note 100, at 3–4; GOODMARK, *supra* note 107, at 135.

Dynamics of power and autonomy in the legal system are also influenced by race and ethnicity. People impacted by IPV who are from marginalized, racialized communities may grapple with apprehensions about perpetuating damaging stereotypes or stigmatization associated with their racial or ethnic group, if they engage in legal interventions.<sup>169</sup> In addition to the myths and faulty assumptions about IPV with which victim-survivors often contend when trying to demonstrate their credibility (e.g., that they lied or exaggerated claims about IPV out of vengeance, in separation or divorce proceedings, or out of jealousy),<sup>170</sup> experiences of, or the potential for, racially biased responses from law enforcement may further generate hesitations about continuing with legal processes among victim-survivors who are part of marginalized communities.<sup>171</sup> Within communities of color, victim-survivor intentions to disengage from the legal system also may arise from concerns over the use of excessive force or even lethal violence against their (ex)partners.<sup>172</sup> The inability to halt the legal procedures once engaged constrains the autonomy of these victim-survivors, further fueling systemic inequalities faced by these communities within the legal system.

Similarly, navigating the legal system for IPV victim-survivors in lesbian, gay, bisexual, transgender, and queer (“LGBTQ+”) communities adds another layer of complexity. Systemic barriers, resulting from sexist ideologies and heteronormativity, often pose additional challenges to these victim-survivors.<sup>173</sup> As individuals who identify as LGBTQ+ engage with the legal system, they may find themselves subject to marginalization, misinterpretation, or even explicit discrimination.<sup>174</sup> Victim-survivors may not possess the power to end the process and therefore are subjected to heightened exposure to bias and discriminatory behavior.<sup>175</sup> Such potentially prejudiced interaction with the legal system may consequently force victim-survivors to disengage from their cases. This issue further illustrates how the legal system’s rigid policies may unintentionally

---

169. See generally Walton & Truong, *supra* note 55, at 410 (describing structural implications of internalizing “model minority myth” for Asian Americans); Willis-Esqueda, *supra* note 48, at 1222 (stating that researchers “found Latinxs have low confidence in the criminal justice system”).

170. Koshan, *supra* note 45, at 35.

171. Bernadine Y. Waller et al., *Caught in the Crossroad: An Intersectional Examination of African American Women Intimate Partner Violence Survivors’ Help Seeking*, 23 *TRAUMA, VIOLENCE & ABUSE* 1235, 1239, 1241 (2021).

172. See, e.g., Sokoloff & Dupont, *supra* note 19, at 43 (stating that “some women of color, particularly African American women, may fear that calling the police will subject their partners to racist treatment by the criminal justice system”).

173. Autumn M. Bermea et al., *Serving Queer Survivors of Intimate Partner Violence Through Diversity, Inclusion, and Social Justice*, 31 *J. GAY & LESBIAN SOC. SERVS.* 521, 523 (2019).

174. Leigh Goodmark, *Legal System Reform*, in *TRANSGENDER INTIMATE PARTNER VIOLENCE: A COMPREHENSIVE INTRODUCTION* 258, 258 (Adam M. Messinger & Xavier L. Guadalupe-Diaz eds., 2020).

175. *Id.*

perpetuate victim-survivors' disempowerment, further curtailing their decision making autonomy.

The impact of the legal system on the autonomy of IPV victim-survivors is further complicated when accounting for how lengthy the legal process typically lasts, which can prove overwhelming for victim-survivors. The inherent complexity, lengthiness, and demanding requirements of the process create significant barriers.<sup>176</sup> The need for substantial available time, childcare arrangements, transportation, and time compounds the difficulties victim-survivors face as they navigate unfamiliar systems.<sup>177</sup> The stress and trauma associated with legal proceedings can exacerbate their existing emotional burdens, compelling them to reassess their engagement with the legal system.<sup>178</sup> Ultimately, the cumulative impact of these obstacles further restricts victim-survivor autonomy and decision making power.

While we have discussed only some of the challenges victim-survivors may experience, it is evident that the legal system response to IPV, although essential in some cases, may exercise power in ways that reinforce the disadvantages already experienced by people impacted by IPV, particularly those belonging to marginalized communities.<sup>179</sup> Although disempowering those impacted by IPV may not be the intention, the way the system is structured can diminish their decision making power and autonomy, paradoxically disempowering those it aims to protect.<sup>180</sup> Therefore, it is crucial to acknowledge that the legal system's response, while empowering for some people who experience IPV, might concurrently disempower others, underlining the need for a more nuanced, victim-survivor-centric approach to legal interventions in IPV cases.<sup>181</sup>

#### *E. Mental Health Implications*

Engaging in the legal system can lead to profound mental health consequences for people impacted by IPV, due to its potential to diminish victim-survivor autonomy and control over their cases. At times, it can mirror the dynamics inherent to IPV—making the legal system an environment that might not always offer trauma-informed care.<sup>182</sup> Trauma-informed care represents an approach that seeks to comprehensively understand and consider the pervasiveness of trauma and its effects on individuals, families, and

---

176. Shah et al., *supra* note 85, at 1615.

177. Messing et al., *supra* note 80.

178. Shah et al., *supra* note 85, at 1615.

179. *See supra* text accompanying notes 78–82.

180. *See infra* Part III.

181. *See infra* Part III.

182. Douglas, *supra* note 46, at 85–86; *see also* Gezinski & Gonzalez-Pons, *supra* note 97, at 460 (stating that process for obtaining protective orders “took a toll on already traumatized survivors” because they “were required to recount their . . . experiences in order to justify their request”).

communities.<sup>183</sup> In relation to IPV, this care model focuses on prioritizing the restoration of choice, control, and a sense of safety for victim-survivors.<sup>184</sup> This recognition of the victim-survivor's experience and individuality is crucial to fostering their recovery and well-being,<sup>185</sup> even though the current legal system's handling of IPV cases often contradicts these principles.

Victim-survivors might find their autonomy diminished as their ability to make choices regarding their cases is restricted. This Article discussed how mandatory arrest policies and no-drop prosecutions can disempower victim-survivors, removing them from the decision-making process and enforcing a one-size-fits-all approach.<sup>186</sup> In turn, these processes can inadvertently heighten a victim-survivor's feelings of vulnerability and disempowerment, which may also lead to re-traumatization and further strain on their mental health needs.<sup>187</sup>

These mental health implications, stemming from both the violence and potential adversities encountered within the legal system, disproportionately impact minoritized populations—groups already grappling with significant mental health disparities.<sup>188</sup> The mental health impact on victim-survivors, when compounded with the potential effects of discrimination, is even more severe. Take, for instance, the discrimination faced by victim-survivors of color.<sup>189</sup> Empirical evidence suggests a higher prevalence of anxiety in individuals who experienced both IPV and racial discrimination compared to those who experienced either in isolation.<sup>190</sup> In addition, victim-survivors of color, particularly African Americans, experiencing a legal system response rooted in racist ideologies may feel hopeless, deterring further help seeking behaviors<sup>191</sup> and intensifying the detrimental mental consequences of the violence. Therefore, from an intersectional standpoint, we need to consider that the trauma victim-survivors experience as a result of IPV is intensified by their interactions with oppressive structural conditions because of their identities, including interactions

---

183. Joshua M. Wilson et al., *Bringing Trauma-Informed Practice to Domestic Violence Programs: A Qualitative Analysis of Current Approaches*, 85 AM. J. ORTHOPSYCHIATRY 586, 587 (2015).

184. *Id.*

185. *Id.*; Springer & Brown, *supra* note 34, at 9.

186. *See supra* Sections II.C.1–2.

187. Gutowski & Goodman, *supra* note 18, at 451.

188. Thomas G. McGuire & Jeanne Miranda, *New Evidence Regarding Racial and Ethnic Disparities in Mental Health: Policy Implications*, 27 HEALTH AFFS. 393, 395 (2008); AM. PSYCHIATRIC ASS'N, MENTAL HEALTH DISPARITIES: DIVERSE POPULATIONS (2017).

189. *See, e.g.*, Ogbonnaya et al., *supra* note 92, at 213–16.

190. Candace W. Burton & Jeanine D. Guidry, *Reporting Intimate Partner Violence and Sexual Assault: A Mixed Methods Study of Concerns and Considerations Among College Women of Color*, 32 J. TRANSCULTURAL NURSING 370, 375 (2020); Eve Waltermaurer et al., *Black Women's Health: The Effect of Perceived Racism and Intimate Partner Violence*, 12 VIOLENCE AGAINST WOMEN 1214, 1215 (2006).

191. Bernadine Y. Waller & Tricia B. Bent-Goodley, *"I Have to Fight to Get Out": African American Women Intimate Partner Violence Survivors' Construction of Agency*, 38 J. INTERPERSONAL VIOLENCE 4166, 4181 (2022).

with the legal system. These conditions encompass racism, sexism, colorism, xenophobia, and other intersecting systems of discrimination.

It is worth reiterating that other factors further complicate IPV victim-survivor experiences, escalating their mental health needs.<sup>192</sup> A recurrent example is financial hardship.<sup>193</sup> Victim-survivors might financially rely on their partners who use violence, a circumstance that prolongs their exposure to IPV and exacerbates its mental health impact.<sup>194</sup> The financial hardship that victim-survivors face is also associated with mental health issues such as depression and PTSD.<sup>195</sup> Consequently, when victim-survivors are reluctant to continue engagement in the legal system due to unmet financial needs, this hesitancy can further affect their mental and emotional well-being.

Overall, the intersection of IPV, engagement with the legal system, and structural conditions faced by individuals with diverse identities can create a multi-layered trauma landscape.<sup>196</sup> These layers of trauma compound victim-survivors' mental health burden and highlight the shortcomings of current legal practices that are not victim-survivor-centered.<sup>197</sup>

### III. DISCUSSION AND RECOMMENDATIONS

Intersecting identities combined with the multilevel influences of systems shape victim-survivors' experiences of, and their interactions with, the legal system in unique and complex ways. Thus, people who experience IPV need culturally responsive systems level IPV interventions that acknowledge these complexities and attend to victim-survivor's power and agency to meet their unique and diverse needs. Such an approach will pave the way for more effective legal responses to IPV, helping to promote justice and recovery for all victim-survivors, irrespective of their unique identities and contexts.<sup>198</sup>

As established, engagement with the legal system can create challenges and even trauma for victim-survivors of IPV. However, this engagement is improvable, especially if the agency and power of those impacted by IPV are prioritized. Part III provides recommendations for improving the existing service delivery system using an intersectional SEM lens, which emphasizes the

---

192. See, e.g., Lisa A. Goodman et al., *When Crises Collide: How Intimate Partner Violence and Poverty Intersect to Shape Women's Mental Health and Coping?*, 10 *TRAUMA, VIOLENCE & ABUSE* 306, 310–11 (2009) (stating that “when poverty and IPV occur together, their negative effects—including stress, powerlessness, and social isolation—magnify each other”).

193. See *supra* text accompanying notes 78–82.

194. Bridgett, *supra* note 156, at 460–61.

195. Goodman et al., *supra* note 192, at 309; Rachel J. Voth Schrag et al., *Understanding Pathways Within Intimate Partner Violence: Economic Abuse, Economic Hardship, and Mental Health*, 28 *J. AGGRESSION, MALTREATMENT & TRAUMA* 222, 225 (2019).

196. See *supra* Section II.A.

197. See *supra* Section II.E.

198. See *infra* Sections III.A–F.



interplay of experiences across and within those systems.<sup>199</sup> Prevention strategies such as financial empowerment and poverty reduction, youth healthy relationship programs, and more, need to be implemented and evaluated to identify the most effective ways to prevent violence. By adopting a preventative perspective, we open the door to a more comprehensive approach in the effort to address IPV.

National level responses push for trauma-informed interventions for people who experience IPV, because the violence typically results in trauma.<sup>200</sup> A key part of trauma-informed practice is honoring and giving back power, control, and autonomy, helping identify choices, and giving space for self-determination.<sup>201</sup> However, as this Article discussed, legal processes addressing IPV are not always set up to empower victim-survivors or honor their wishes, often instead actively re-traumatizing them and thus, exacerbating mental health and other consequences they experience.<sup>202</sup> As such, pursuing means to implement trauma-informed legal system protocols and processes is warranted.

The United States Substance Abuse and Mental Health Services Administration (“SAMHSA”),<sup>203</sup> describes four “R’s” of trauma-informed care, identifying that when a system is trauma-informed, it: (1) *realizes* that trauma has broad impacts and understands potential paths toward healing; (2) *recognizes* symptoms or signs of trauma in people (as well as their loved ones and employees working to support those served by the system) it intends to serve; (3) *responds* in ways that fully integrate trauma-related knowledge and understanding into every aspect of service delivery (e.g., protocols, policies, interactions); and (4) actively works to *resist re-traumatizing* those served by the system. The National Network to End Domestic Violence describes similar principles of trauma-informed care specifically for victim-survivors of IPV, which include: (1) *awareness* of how trauma impacts victim-survivors; (2) addressing victim-survivor psychological and physical *safety*; (3) establishing *trustworthiness* in the process of service delivery; (4) attending to *empowerment* when there are decisions to be made; and (5) *inclusivity* for all victim-survivors,

---

199. Heise, *supra* note 33, at 264; Sabri, *supra* note 33, at 106. Although beyond the scope of this Article, we should note that macro level efforts to address IPV should also include increased funding for IPV prevention. See Lianne Fuino Estefan et al., *Enhancing the National Dialogue on the Prevention of Intimate Partner Violence*, 63 AM. J. CMTY. PSYCH. 153, 154 (2019).

200. See, e.g., *Understanding the Importance of Trauma-Informed Care*, NAT’L NETWORK TO END DOMESTIC VIOLENCE, [https://nnedv.org/spotlight\\_on/understanding-importance-trauma-informed-care/](https://nnedv.org/spotlight_on/understanding-importance-trauma-informed-care/) (last visited Oct. 22, 2023).

201. *Id.*; Wilson et al., *supra* note 183, at 587.

202. See *supra* Sections II.D–E.

203. SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., SAMHSA’S CONCEPT OF TRAUMA and GUIDANCE FOR A TRAUMA-INFORMED APPROACH 9 (2014).

with an emphasis on those who are part of marginalized and minoritized groups.<sup>204</sup>

To elevate the implementation of trauma-informed care, those working in the legal system could also consider incorporating principles of “healing-centered engagement.”<sup>205</sup> The healing-centered engagement framework propels us to move beyond talking about trauma and its impacts.<sup>206</sup> Instead, this framework urges consideration of an individual’s assets and strengths, in addition to traumatic experiences and trauma responses—encouraging the outcome the victim-survivor desires, rather than simply avoiding negative outcomes of trauma.<sup>207</sup> The healing-centered engagement framework is culturally grounded, strengths based, and assets driven, and acknowledges that those providing support also need to heal.

Within the legal system, although processes are often inflexible and predetermined, there are many ways to increase attention to and engagement in trauma-informed and healing-centered practices. These approaches include, but are not limited to, implementing practices and well-designed versions of the strategies described next: (A) trauma-informed and healing-centered interactions, (B) practice with attention to intersectionality, (C) coordinated community responses, (D) specialized IPV units, (E) interdisciplinary collaboration, and (F) restorative and transformative justice.<sup>208</sup>

#### *A. Trauma-Informed and Healing-Centered Interactions*

At an individual-level, meeting victim-survivors where they are in their journey to address or heal from IPV is critical. Victim-survivor autonomy should be respected and prioritized, recognizing that individual circumstances and experiences may require tailored responses, rather than a one size fits all approach. The World Health Organization (“WHO”) offers insight into what person-centered and empowering practice could look like within any system with their LIVES model.<sup>209</sup> This model recommends that individuals interacting with victim-survivors seek to “listen, inquire about needs and concerns, validate, enhance safety, and support.”<sup>210</sup> This approach is consistent with practicing trauma-informed and healing-centered care. In practice, enacting the LIVES model is as simple as actively listening in order to understand a victim-survivor

---

204. *Id.*

205. SHAWN GINWRIGHT, THE FUTURE OF HEALING: SHIFTING FROM TRAUMA INFORMED CARE TO HEALING CENTERED ENGAGEMENT 3 (2018).

206. *Id.*

207. *Id.* at 3–4.

208. *See infra* Sections III.A–E.

209. WHO DEPT. OF REPRODUCTIVE HEALTH & RSCH., HEALTH CARE FOR WOMEN SUBJECTED TO INTIMATE PARTNER VIOLENCE OR SEXUAL VIOLENCE: A CLINICAL HANDBOOK, AT 14, WHO/RHR/14.26 (Oct. 8, 2014).

210. *Id.*

(rather than listening to question, blame, or discredit), or giving them ample space and time to share the information they wish to share. This can look like saying “I believe you” when someone discloses experiences of violence, or, “it sounds like that was an extremely difficult decision to make” when someone leaves their partner or home. This could also include giving a person who has experienced IPV a choice over where they sit in a room, providing an escort to their car if they are fearful, or engaging them in safety planning alone or with the help of a trained victim-survivor advocate from a local crisis center. Additionally, such practice would certainly include best efforts to provide a clear, transparent overview of the legal process in which a victim-survivor is about to engage, including its limitations and expectations in terms of real life outcomes of the process.

This approach helps build trust and temper expectations of an imperfect system. Notably, such a practice approach requires service providers to also practice self-reflection and check their own biases and assumptions. Those working to support people who experienced IPV should review the LIVES model to learn about additional ways it can inform day-to-day practice with victim-survivors<sup>211</sup> and seek specialized training in the delivery of trauma-informed/healing-centered care.

#### *B. Practice with Attention to Intersectionality*

The IPV field started by centering the needs of White cisgender women (originally labeled as “victims”) and cisgender men (labeled as “perpetrators”); consequently, services developed around their needs, often ignoring the voices of those with diverse identities.<sup>212</sup> Because of this history, it is imperative that today’s providers center the needs of those with multiple identities, especially when those identities are marginalized (e.g., race, gender, sexuality, class, ability, etc.). Research shows that when services are responsive to the needs of specific populations, engagement with the system, mental health outcomes, and utilization of services all improve.<sup>213</sup> Appropriate training must permeate the entire system, including responding officers, lawyers, judges, mental health providers, health care workers, social service workers, and anyone encountering those impacted by IPV. Additionally, intentionality in hiring diverse staff can also positively impact interactions with victim-survivors. Victim-survivors want

---

211. *Id.*

212. *See supra* notes 19–22 and accompanying text.

213. Courtney Ahrens et al., *Creating Culturally Responsive Services for Vietnamese-Heritage Survivors of Intimate Partner Violence*, 37 J. FAM. VIOLENCE 207, 208 (2021); Joyce Chu et al., *A Model for the Theoretical Basis of Cultural Competency to Guide Psychotherapy*, 47 PRO. PSYCH. 18, 20–21, 26 (2016).

to work with providers who share their identities and experiences, so intentionally hiring staff who are qualified and diverse should be a priority.<sup>214</sup>

Ideally, training regarding trauma-informed, healing-centered care and culturally responsive service would be offered as part of professional degree programs. For those involved in the legal system, this should happen in law school. The lens used to teach any specific discipline impacts how these practitioners view their clients, as well as how services are provided.<sup>215</sup> Research shows that specific, interdisciplinary training helps build effective multidisciplinary interventions.<sup>216</sup> One way this can occur is through interdisciplinary collaboration among various degree programs. For example, in an evaluation of a social work and law interdisciplinary course on IPV, knowledge about IPV increased from before to after the course, and the belief in myths about IPV decreased.<sup>217</sup> Additionally, positive attitudes toward interdisciplinary collaboration increased more for the students in the course than for those not in the course.<sup>218</sup> This model of interdisciplinary collaboration can benefit both future lawyers and future social workers, but even more so, those impacted by IPV, as they will be served by individuals knowledgeable about the complexities of IPV and the system that seeks to address it.

### C. Coordinated Community Responses

Consistent with practice at the community level of the SEM, coordinated community responses (“CCRs”) to IPV are designed to provide a cohesive approach to IPV response. These programs include collaborations among community agencies that address IPV (e.g., police, courts, social service providers, advocates, health care systems, educational programs), where representatives from these services come together in committees or councils to work collaboratively when responding to this type of violence.<sup>219</sup> The goal is to develop a seamless process where victim-survivors are given the information and assistance needed for each step in the proceeding.<sup>220</sup> For example, if the individual contacts the police, these officers would rely on their training to understand IPV and provide the assistance needed in the moment, as well as referrals to services needed in the future. These referrals would go to organizations that are part of the CCR and equipped to work with victim-survivors. If the person needs assistance working with the legal system, they

---

214. Bermea et al., *supra* note 173, at 531–32.

215. Lisa Colarossi & Mary Ann Forgey, *Evaluation Study of an Interdisciplinary Social Work and Law Curriculum for Domestic Violence*, 42 J. SOC. WORK EDUC. 307, 308 (2006).

216. *Id.*

217. *Id.* at 318.

218. *Id.*

219. Shorey et al., *supra* note 101, at 364.

220. *Id.*

would receive the necessary assistance to navigate the process and achieve their desired outcome. Those working within the CCR would gain training in IPV and the services needed to make appropriate referrals. Members of the legal system (prosecutors, lawyers, and other court staff) are also part of the CCR, and therefore, they can respond in supportive ways. For example, prosecutors can use evidence-based (sometimes called victimless) prosecution in domestic violence cases.<sup>221</sup> This type of prosecution relies heavily on physical evidence and third party testimony instead of victim testimony.<sup>222</sup> Further, CCRs can facilitate the provision of interdisciplinary training opportunities to ensure that everyone in the CCR learns about topics such as trauma-informed and healing-centered care and culturally responsive practice. Further, these teams can support each other to identify strengths and gaps in the service delivery system and collaboratively determine how to best improve the system for all the people it intends to serve.

Although models differ and not all programs show similar outcomes, the general empirically based consensus is that CCRs can lead to improving outcomes for victim-survivors and those who use violence. For instance, a systematic review of the literature regarding these programs<sup>223</sup> revealed that some CCRs improve police interactions between victim-survivors and the police,<sup>224</sup> engagement of victim-survivors with the legal system,<sup>225</sup> and engagement with protective strategies.<sup>226</sup> Other CCRs showed more referrals to Relationship Violence Intervention Programs (“RVIP,” also known as Abuser or Batterer Intervention Programs or Intervention Programs).<sup>227</sup> Because of the variability among these programs, each community must determine the best approach, tailored to their environment; not all models will work for all communities and not all communities will experience the same positive outcomes using a certain set of strategies.<sup>228</sup> Some CCRs did not show significant changes in the pertinent areas,<sup>229</sup> emphasizing the importance of intentionality in

---

221. Wendy C. Regoeczi & Dana J. Hubbard, *The Impact of Specialized Domestic Violence Units on Case Processing*, 43 AM. J. CRIM. JUST. 570, 572 (2018).

222. *Id.*

223. See generally Laura Johnson & Amanda M. Stylianou, *Coordinated Community Responses to Domestic Violence: A Systematic Review of the Literature*, 23 TRAUMA, VIOLENCE & ABUSE 506 (2020).

224. Carla Smith Stover et al., *The Efficacy of a Police-Advocacy Intervention for Victims of Domestic Violence: 12 Month Follow-Up Data*, 16 VIOLENCE AGAINST WOMEN 410, 417, 419 (2010).

225. Anne P. DePrince et al., *The Impact of Community-Based Outreach on Psychological Distress and Victim Safety in Women Exposed to Intimate Partner Abuse*, 80 J. CONSULTING & CLINICAL PSYCH. 211, 219 (2012).

226. Jill Theresa Messing et al., *The Oklahoma Lethality Assessment Study: A Quasi-Experimental Evaluation of the Lethality Assessment Program*, 889 SOC. SERV. REV. 499, 519 (2015); Messing et al., *supra* note 102, at 307–08, 310.

227. Christy A. Visser et al., *Reducing Intimate Partner Violence: An Evaluation of Comprehensive Justice System-Community Collaboration*, 7 CRIMINOLOGY & PUB. POL’Y 495, 502 (2008).

228. See Shorey et al., *supra* note 101, at 368 (explaining why “marginalized groups [might] avoid contact with traditional IPV services”).

229. Johnson & Stylianou, *supra* note 223.

creating a CCR that is tailored to each unique community. Moreover, for a CCR to be effective, a philosophical and financial commitment among the CCR members or member agencies is necessary to ensure that adequate resources are available to complete the work.<sup>230</sup>

#### *D. Specialized IPV Units*

Another approach to addressing IPV from a systems perspective is the creation of specialized IPV units (e.g., within law enforcement agencies, prosecutor offices, or IPV and domestic violence courts).<sup>231</sup> These units differ in composition, but research shows that they can prove effective in assisting victim-survivors who choose to engage with the legal system.<sup>232</sup> Some jurisdictions employ specialized police units, others use specialized prosecution units, and some utilize a comprehensive approach with dedicated detectives, prosecutors, victim advocates, and judges to address IPV cases.<sup>233</sup>

One positive outcome of the comprehensive approach to specialized IPV units is that judges seem more willing to use alternatives to incarceration, such as Relationship Violence Intervention Programs (“RVIPs”), when dealing with those who cause harm, which might better meet the goals of individuals who experience IPV.<sup>234</sup> Also, these specialized units can move misdemeanor cases forward, conduct a higher number of investigations,<sup>235</sup> and expedite case processing.<sup>236</sup> The presence of a victim-survivor advocate in such units is also a positive aspect of these programs, as victim-survivors benefit from advocates who ensure that their case is investigated instead of stopping after a mere police report.<sup>237</sup> Although these programs demonstrate positive outcomes, advocates note that their structure can build a barrier for victim-survivor engagement with the legal system.<sup>238</sup> When victim-survivors experience a long wait in court, receive notice of hearings only the day before, or lack updates on upcoming court dates, they can disengage with the process and want a speedier end to the case.<sup>239</sup> As these specialized units are created, the developers should address these issues to avoid such negative outcomes.

---

230. *Id.*

231. Regoeczi & Hubbard, *supra* note 221, at 572.

232. *Id.* at 584.

233. *Id.* at 572–73; Angela R. Gover et al., *Courting Justice: Tracing the Evolution and Future of Domestic Violence Courts*, 16 *FEMINIST CRIMINOLOGY* 366, 369 (2021).

234. Regoeczi & Hubbard, *supra* note 221, at 586.

235. *Id.* at 584.

236. Gover et al., *supra* note 233, at 368–69, 373.

237. Regoeczi & Hubbard, *supra* note 221, at 584.

238. *Id.* at 586.

239. *Id.*

### *E. Interdisciplinary Collaboration*

Although having specialized units seems to typically lead to great benefits,<sup>240</sup> not all jurisdictions retain the funds or capacity to create them. If this is the case, building multidisciplinary collaborations is even more urgent. IPV interventions generally are provided in silos where each need is met by a different provider (e.g., shelter, legal aid, criminal prosecution, housing, mental health services, health care, etc.) and each population served separately (e.g., people who experience IPV, those who use IPV, victim-survivors who are impacted by substance use disorders, people with children versus those without children or even people with older children).<sup>241</sup> Although “siloeing” occurred in many cases intentionally to create safety for people who experience violence and focus specifically on IPV (rather than other social issues), it also resulted in some negative consequences, including a general lack of understanding of IPV from one system to the other, blaming attitudes toward victim-survivors, and general mistrust among those who provide services across various systems.

IPV advocates perceive working with the legal system as difficult because of the lack of understanding of the factors that influence victim-survivor decisions regarding their cases and because of victim-blaming attitudes they encountered in this system.<sup>242</sup> One way to remedy this mistrust is to build collaborations with representatives from multiple systems,<sup>243</sup> allowing providers to interact with each other, ask questions about best practices, improve services, and share successes, as well as concerns. It is important to recognize that within the systems assisting those experiencing IPV, staff are often overwhelmed with the number of cases they are assigned.<sup>244</sup> Therefore, increasing funding to hire and train additional staff and including collaboration in job descriptions can facilitate this process.

### *F. Restorative and Transformative Justice*

Some service providers and scholars both in the United States and internationally are considering alternative response models to address IPV,

---

240. See *supra* notes 237–40.

241. See generally Casey Gwinn et al., *The Family Justice Center Collaborative Model*, 27 ST. LOUIS U. PUB. L. REV. 79 (2007).

242. Ga-Young Choi et al., *Understanding the Complexity of Domestic Violence Service Delivery Through the Lived Experiences of Domestic Violence Advocates*, 66 INT’L SOC. WORK 855, 861–62 (2021).

243. See generally Cynthia F. Rizo et al., *Systematic Review of Research on Co-Location Models for Serving Intimate Partner and Sexual Violence Survivors*, 27 J. FAM. VIOLENCE 23 (2022).

244. Lorena Saletti-Cuesta et al., *Opinions and Experiences of Primary Healthcare Providers Regarding Violence Against Women: A Systematic Review of Qualitative Studies*, 33 J. FAM. VIOLENCE 405, 415 (2018); see generally Shanti Kulkarni et al., *Exploring Individual and Organizational Factors Contributing to Compassion Satisfaction, Secondary Traumatic Stress, and Burnout in Domestic Violence Service Providers*, 4 J. SOC’Y FOR SOC. WORK & RSCH. 114 (2013).

including models that draw on restorative and transformative justice practices. Although some believe these approaches can facilitate positive outcomes and are worth exploring, it is important to keep practitioner concerns in mind when applying them to IPV situations. As such, paying attention to the possible coercion that (ex)partners can use on those who were harmed,<sup>245</sup> the safety of those impacted by violence, and even the possible manipulation of not only those harmed but also clinicians<sup>246</sup> is essential when working in this field.

Restorative justice (“RJ”) is commonly understood as a response to individual and/or collective harm<sup>247</sup> that involves some form of matched dialogue: ““dialogue that involves, at [a] minimum, the person who committed harm and the person harmed.”<sup>248</sup> Further, RJ approaches and processes take many forms and are traditionally connected to legal systems or other institutional responses to violence and harm.<sup>249</sup> Some examples of common RJ practices include family-group processing, victim-offender mediation/dialogue, and sentencing circles.<sup>250</sup>

Although RJ is often offered as an alternative to the typical criminal legal system responses to harm (i.e., crime), transformative justice (“TJ”) refers to strategies and practices used to address harm and violence that do not rely on prisons or police and are instead completely disconnected from institutional responses to violence.<sup>251</sup> As stated by Dixon,<sup>252</sup> TJ “approaches often work to prevent violence, to intervene when harm is occurring, to hold people accountable, and to transform individuals and society to build safer communities.” TJ can occur in many formats. For example, some collectives offer groups for people harmed by violence that focus on the identification of their individual needs and boundaries and seek agreement from those causing harm to both respect these boundaries and atone for the harm caused. Others offering TJ conduct violence prevention focused campaigns that aim to educate communities on the dynamics of violence and how to prevent it.<sup>253</sup> If designed

---

245. Jane Dickson-Gilmore, *Whither Restorativeness? Restorative Justice and the Challenge of Intimate Violence in Aboriginal Communities*, 56 CAN. J. CRIMINOLOGY & CRIM. JUST. 417, 422–23 (2014).

246. See e.g. Aileen Cheon & Cheryl Regehr, *Restorative Justice Models in Cases of Intimate Partner Violence: Reviewing the Evidence*, 1 VICTIMS & OFFENDERS 369 (2006).

247. LEIGH GOODMARK, *DECRIMINALIZING VIOLENCE AND THE LEGAL SYSTEM* (2018).

248. Donna Coker, *Restorative Responses to Intimate Partner Violence*, 36 OHIO STATE J. DISP. RESOL. 591, 602 (2021).

249. *Id.*; GOODMARK, *supra* note 247.

250. See Coker, *supra* note 248 for more detailed information on potential restorative responses to IPV.

251. Ejeris Dixon, *Building community safety: Practical steps toward liberatory transformation*, in *BEYOND SURVIVAL: STRATEGIES AND STORIES FROM THE TRANSFORMATIVE JUSTICE MOVEMENT* 14 (Ejeris Dixon & Leah Lakshmi Piepza-Samarasinha eds., 2020).

252. *Id.* at 16.

253. *Id.*



and implemented with victim-survivor's voice and safety at the forefront, RJ and TJ may offer promising avenues for creating culturally responsive alternative legal (and extralegal) responses to IPV that are supportive for (and grounded in the traditional practices of) marginalized and minoritized communities.<sup>254</sup>

#### IV. CONCLUSION

It is essential to recognize the profound complexities and unique experiences that victim-survivors of IPV encounter when navigating the legal system. This recognition necessitates an understanding of how intersecting identities, when interlaced with the multilevel influences of systems, shape interactions with and experiences of the legal system in complex ways. Often, these experiences inadvertently lead to re-traumatization and detrimental impacts on a victim-survivor's mental health, underscoring the need for system-level reforms. Accordingly, culturally responsive interventions and trauma-informed and healing-centered practices must take priority. These approaches would enable legal systems to not only acknowledge the multiple identities and experiences of victim-survivors, but also ensure that power and agency are considered in their interactions with the process. In conclusion, this Article is an appeal for continued dialogue, critical introspection, and continued advocacy towards constructing a legal system that, instead of exacerbating trauma for some, provides a path to meet the needs of all IPV victim-survivors and supports, rather than hinders, their healing processes.

---

254. See, e.g., Amanda Cissner at al., *A National Portrait of Restorative Approaches to Intimate Partner Violence*, CTR. FOR JUST. INNOVATION (Nov. 2019), <https://www.innovatingjustice.org/publications-RJ-IPV>; Erika Sasson & Charlene Allen, *Using Restorative Approaches to Address Intimate Partner Violence: A New York City Blueprint*, CTR. FOR JUST. INNOVATION (Oct. 2020), <https://www.innovatingjustice.org/publications/restorative-approaches-address-intimate-partner-violence> (providing research and information on RJ and TJ responses to IPV).