

DOMESTIC VIOLENCE INSIDE THE COURTROOM: THE ROLE OF THE JUDGE
IN PROTECTION FROM ABUSE HEARINGS

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Domestic Violence inside the Courtroom: The Role of the Judge in Protection from
Abuse Order Hearings

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DEDICATION

This thesis is dedicated to all of the victims of Domestic Violence in the United States and around the world. Women across the globe continue to fight for change and secure the equal rights and protections that every woman deserves. The hope is that one day domestic violence will be an issue of the past.

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ABSTRACT

DOMESTIC VIOLENCE INSIDE THE COURTROOM: THE ROLE OF THE JUDGE IN PROTECTION FROM ABUSE HEARINGS

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This thesis describes the nationwide epidemic of domestic violence in the United States. The role that a judge takes in Protection from Abuse hearings and how the judge's demeanor and authority play a vital role in the courtroom is examined as a contributing factor to the social issue of domestic violence. Research was conducted to explore the dynamic between the judge and the victim by using Federal and state legislation, as well as courtroom observations and extensive literature. In the process of researching and writing this thesis, the author conducted courtroom observations to analyze the behavior of two judges in the Commonwealth of Pennsylvania. This thesis is designed for the use of academics and domestic violence agencies to continue research on the development of legislation, regulations, and judge training programs.

CHAPTER ONE-INTRODUCTION

“The judiciary has two options, to use their power to take action on domestic violence, or as seen in the past, strongly imply that domestic violence is not a real crime.”¹ Domestic violence was not always viewed as a serious social issue in the United States. Historical records examined in this thesis show that law enforcement and the court system had no interest in dealing with the problem. Finally, in the late twentieth century, domestic violence became an important issue. Women’s movements, the law enforcement community, the courts, and the United States Government recognized that there is a problem. In the United States, one in every four women will experience domestic violence in her lifetime.²

There are multiple disconnects between the domestic violence sectors. This thesis focuses on the judiciary’s authority and power as one of the contributing factors that affects the lack of consistency in domestic violence Protection from Abuse order hearings. The research also examines the historical context of domestic violence and applies that history to the current legislation that is in place to combat domestic violence in Pennsylvania.

¹ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

² “Domestic Violence Facts.” 2007. *National Coalition Against Domestic Violence*. [http://www.ncadv.org/files/DomesticViolenceFactSheet\(National\).pdf](http://www.ncadv.org/files/DomesticViolenceFactSheet(National).pdf)

Domestic violence historical records can be traced back to 753 BCE when the laws of marriage came into existence in Rome. By the 1500s, the role of the man and a woman were well established. By the 1800s, the Temperance Reform Movement began in the United States to change the belief that a wife was a husband's "property." A clear image of the "suffering wife living in misery" emerged in the United States and women began to take notice. In 1994, a monumental Federal law was established in the United States called the Violence Against Women Act, referred to as VAWA, which aimed to address the lack of proper legal response for violence against women in the United States. This Act aimed to create Federal laws and strengthen Federal penalties. For perpetrators of domestic violence, all states drafted and enacted laws that create harsher consequences and penalties for breaking these laws. VAWA has seen positive change in domestic violence laws, but there is still a lot of work that needs to be done in both drafting laws and enforcing them.

The regional area of focus for the research is in the state of Pennsylvania. Pennsylvania legislation is examined thoroughly and applied to court observations that took place in two courtrooms in one county of Pennsylvania. Pennsylvania has established regulations regarding Protection from Abuse orders that stems from the Protection from Abuse Act that was adopted by Pennsylvania in 1976. These laws have developed in an attempt to create a more progressive process for protecting victims from domestic violence.

The first issue examined in this research is the lack of Federal laws that have been established for domestic violence. Every state is permitted to develop legislation that is specific to their state to protect the victims of domestic violence. The Federal government developed the Violence Against Women Act, which addressed the lack of legal response regarding violence against women in the United States, including domestic violence. However, many of the mandates in VAWA were outlined as recommendations that states could choose to adopt into their laws. With this discretion, states created very different laws, some even contradictory to one another. For example, victims in Pennsylvania do not have to serve their attacker with restraining order papers; however, in California the law is the exact opposite, victims must deliver their own paperwork to the defendant.

The second issue examined in this research is the proper definition of domestic violence and abuse. There is not a universally accepted definition of domestic violence. Domestic violence is known by different titles including intimate partner violence, spousal abuse, domestic abuse, domestic assault, marital dispute, wife beating, woman abuse, dysfunctional relationship, and intimate fighting.³ There is also a distinct difference between abuse and battering. Battering is the outcome of previous acts of violence that occur over a period of time known as abuse that eventually results in power and control over the victim. A man gains control by using different types of violence to enforce the expectations he has for the woman.⁴

³ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO.

⁴ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 71.

The final and most crucial issue addressed in this research is the authority of the judiciary in Protection from Abuse order hearings in Pennsylvania. While many cases of domestic violence are never reported to the authorities, the cases that are reported must go through a legal process that can be overwhelming, confusing and at times demeaning to the victim. This research also looks at the victim's first exposure to the legal process, which is obtaining a Protection from Abuse order. Every state has their own process for obtaining a Protection from Abuse order and this research will focus specifically on the process in Pennsylvania and California. This research extensively examines the judge's role and participation in Protection from Abuse order hearings. The judiciary is the highest level of authority in domestic violence situations. The manner in which judges handle domestic violence is guaranteed to impact the way the rest of the legal system will handle the situations. The courts actions directly affect the decisions that the victim makes and whether or not the victim exits the system by dropping a court order that is already been put in place.⁵

There are five important categories discussed in this research about judiciary practices inside the courtroom. These categories include enforcement of laws, exercising discretion, establishing procedures and policies inside the courtroom, working with the community and domestic violence agencies, and judiciary demeanor. These five categories examine the current issues in judiciary practices and offers solutions to each problem that can create a better environment for both the judge and the victim. It is also

⁵ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 95.

important to understand the judge's behavior through the theories that are presented in the research. The research explores several theories that help to develop the victim narrative that will be brought to the courtroom. Victims often experience severe trauma and the theories provided explain the process of abuse and helplessness that the individuals experience and how those theories also affect the courtroom dynamic between the judge and the victim.

Erving Goffman developed a theory of ceremonial and substantive behavior that is used to analyze the judge's demeanor in the courtroom. Both ceremonial and substantive approaches are taken inside the courtroom and this research examines how these approaches work together. This theory is taken one step further by examining a multitude of different types of demeanor that a judge can use with a victim inside the courtroom. Judges are able to use their personal experiences and knowledge in hearings, which can be seen through the type of demeanor that is presented to the victim. This theory was applied to courtroom observations in one county in Pennsylvania.

The literature offers insight into inconsistencies in the courtroom. The judge can create a safer and less intimidating environment for the victim by instituting courtroom procedures. The judge can also address the seriousness of domestic violence by instituting harsher punishments for defendants that violate the Protection from Abuse orders. There are statutes put in place by Pennsylvania that are available for judges to use as sentencing tools. It is the duty of the judge to use those tools to set a precedent of intolerance for domestic violence behavior. If the judge takes a tough stand on domestic

violence, it shows the defendant that the courts are not going to tolerate violations in the future.

A solution for the defendant may be to require mandatory anger management or counseling to work through the issues that he may be experiencing. Counseling can be part of any jail sentence, probation period, or set as part of the guidelines in the Protection from Abuse order. This method shows that the judge is taking an interest in both parties and is interested in rehabilitation rather than recidivism. It should be the responsibility of the judge to develop a relationship with local agencies and support groups for domestic violence. These agencies work to help women who are coming from domestic violence situations. The judge can make an effort to share these resources with the victim, as well as have advocates present in the courtroom on the day of a hearing. This relationship shows a willingness to work cohesively with domestic violence organizations and to create a more positive experience for the victim at the conclusion of the hearing.

Overall, this research examines the demeanor of the judge in the courtroom and how all the factors mentioned play a role in Protection from Abuse order hearings. Understanding the history and the legislation in Pennsylvania is crucial to understanding the improvements that need to be addressed inside the courtroom. The theories provided in this research will offer another level of explanation to help improve the relationship between the judge and the victim and create a more positive outcome for Protection from Abuse hearings. The judiciary responses play a significant role in the outcome of the hearing. A victim enters a courtroom in a vulnerable condition and the way the judge

presents their demeanor to the victim may play a more substantial role than one may realize. This thesis will address this issue and the surrounding factors that have been examined through extensive research.

CHAPTER TWO-LITERATURE REVIEW

Domestic violence has been a social issue in the United States of America since at least the 1800s. There has been documented legislation and social reforms throughout the United States since the 1800s that has brought change, as well as resistance, regarding how the Government should handle domestic violence. The United States is part of a worldwide epidemic of violence against women.

This research explores domestic violence as a social issue in the United States, as well as the crucial role the judiciary plays in domestic violence protective order hearings. The relationship and dynamic between the judge and the female victim is an important component in all PFA hearings. This research develops a theory about the judge's authoritative position in these hearings and the steps that need to be taken to make the relationship between the judge and the female victim more productive and successful.

The research question explores the dynamic between the judiciary and the female victim of domestic violence in PFA hearings in the United States. The research looks more in depth into the judge's experience and training in domestic violence and how this knowledge affects the outcome of Protection from Abuse order hearings.

At this point in the research it is important to understand the meaning of some key terms and how even the definitions can effect a case.

- I. *Protection from Abuse Order (PFA)*- This is a civil order that is obtained by the victim of violence from the court. This order will protect the victim from future violence by the perpetrator. The victim must file a PFA on his or her own behalf and/or on the behalf of a minor.
- II. *Emergency Protection from Abuse Order*-In the state of Pennsylvania emergency orders will only be granted after business hours or weekends by the local magistrate not by a judge. The orders typically last for 24 hours; however if the order is obtained on the weekend the order will remain in effect until the next working business day when a temporary order can be issued by a judge.
- III. *Ex parte hearing*- An ex parte hearing is a hearing in front of the judge that does not require the defendant to be present. A judge can grant civil orders in ex parte, which will then be set for a final hearing when the defendant will then be given an opportunity to state their case.
- IV. *Temporary Protection from Abuse Order*-A temporary hearing is a hearing that is held to determine if immediate protection is needed. The judge will make a decision based solely on information that the plaintiff brings to the judge. The defendant will have the opportunity to defend their side during the final Protection from Abuse hearing.
- V. *Final Protection from Abuse hearing*-Both the defendant and the plaintiff will have the opportunity to speak during the hearing and the judge will

determine whether a final order will be issued at that time. In

Pennsylvania, an order can be put in place for no more than three years.

VI. Judiciary/Judge-Both terms refer to the same person of power inside the courtroom. The judiciary/judge makes the final decision on any issue related to domestic violence that is brought to the courtroom. Throughout this thesis both terms will be used interchangeably.

VII. Batterer, perpetrator, defendant-These terms refer to the male figure that is committing the abuse. All three terms will be used in this thesis to describe the male figure.

There is no universally accepted definition of violence against women. UNICEF explores arguments of human rights activists who either see violence against women in a broader sense or in a more limited view. Those who argue for a broader definition of violence against women include structural violence of poverty and unequal rights for basic human needs. Other human rights activists argue for a more limited definition so it does not lose its descriptive power.⁶

The United Nations Declaration on the Elimination of Violence Against Women (1993) defines violence against women as “any act of gender-based violence that results in or is likely to result in, physical, sexual or psychological harm or suffering to women,

⁶ Unicef. 2000. “Domestic Violence Against Women and Girls.” *Innocenti Digest*: 1-27. <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>

including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”⁷

Domestic violence is then defined by the United Nations as ‘any violence perpetrated by intimate partners and other family members conducted through physical, psychological, sexual, or economic abuse.’⁸ Margi Laird McCue, a noted author on this subject, expands the domestic violence definition by adding, “Tactics of coercion, terrorism, degradation, exploitation, and violence are used to engender fear in the victim in order to enforce compliance.”⁹ This definition defines the violence as a pattern of behavior rather than a single incident and addresses the type of violence the abuser can use to control the type of relationship he has with the victim.

In eighty-five percent of domestic violence cases, women are the victims.¹⁰ Domestic violence includes physical, sexual, emotional, and occasionally economic abuse. Many times all four types of violence occur in one relationship; while in other instances only one type of abuse is present. The longer the violence continues the more serious and dangerous it can become for the woman. The literature explains that there is a difference between the definition of abuse and the definition of battering. Many times the terms abuse and battering are used interchangeably. Domestic violence often times begins with one isolated incident of ‘abuse’; but when the abuse becomes a recurring

⁷ Unicef. 2000. “Domestic Violence Against Women and Girls.” *Innocenti Digest*: 1-27. <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>

⁸ Unicef. 2000. “Domestic Violence Against Women and Girls.” *Innocenti Digest*: 1-27. <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>

⁹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 3.

¹⁰ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 4.

incident it is then defined as ‘battering.’¹¹ The overall intent of battering a woman is to gain power and control over her. McCue continues to explore different definitions and suggests that; “we are stuck with a vocabulary that is too flimsy for the subject.”¹² Whatever name we choose to give it, domestic violence is a difficult and controversial problem within the United States.

Emotional abuse is almost always present in any domestic violence relationship. While emotional abuse may be the only type of violence present, many women say it is the most difficult type of abuse to overcome.¹³ Emotional abuse can severely distort a victim’s sense of self worth and reality.¹⁴

Sexual abuse is also a very difficult type of abuse because it is difficult for the victim to share those intimate details to another person. Sexual abuse not only includes violent rape, but demands sex when the woman says ‘no’. Other form of sexual abuse include forcing the victim to strip, have sex with the perpetrator and others, engage in sadism and mutilation, and forces sex after beating the victim.¹⁵

Physical abuse can begin nonviolently with neglect, lead to minor assaults and continue to grow more violent as time progresses. Many times the violence is taken out on a part of the body that can be easily hidden with garments. Escalation of violence

¹¹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 3.

¹² Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 3.

¹³ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 6.

¹⁴ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 6.

¹⁵ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 6.

includes pushes and shoves, slaps, punches, strangling, restraining and then hitting the victim, causing broken bones, denying victim medical treatment, or the perpetrator disfigures or murders the victim.¹⁶

UNICEF separates the causes of domestic violence into four main categories: cultural, economic, legal and political. These four categories explain what may trigger domestic violence and why the categories play such a powerful role in domestic violence. Each category explains one potential contributing factor to the overall issue of domestic violence.

The cultural causes of domestic violence are generalized by the accepted gender roles in each society. Cultural expectations and societal views regarding appropriate gender roles are two important factors in domestic violence. Different values, customs of marriage, and a view that the family is a private sphere under male control are all cultural factors to consider in domestic violence situations.¹⁷

The second category highlighted is economic issues. The main economic issue women face in domestic violence situations is their economic dependence on their significant other.¹⁸ Their abuser may be in control of all the funds and the woman may have limited access to cash and credit. Another factor may be a lack of education or training, which leaves the woman without any skills to find employment. The abuser may also restrict the woman from applying for a job to create her own income.

¹⁶ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 9.

¹⁷ Coomaraswamy, R. 2000. Combating Domestic Violence: Obligations of the State. *Innocenti Digest* No. 6, p 11. <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>

¹⁸ Coomaraswamy, R. 2000. Combating Domestic Violence: Obligations of the State. *Innocenti Digest* No. 6, p 11. <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>

The third category to be explored is the legal issues involved in domestic violence. Only in the last several decades have laws and procedures been put into place to help women in domestic violence situations. Certain states are still continuing to address issues with domestic violence laws to make sure both parties are being treated properly according to the law. There is still insensitive treatment by the police and the judiciary that women are experiencing, making the legal system even more difficult to navigate.¹⁹

The final category to be discussed is the political issues in domestic violence. There is under-representation of women in important positions that can make a difference in how domestic violence is viewed and handled, which includes politics, the media, legal professionals and medical professionals. There are limited resources and funds when it comes to helping victims of domestic violence and many times domestic violence is still not taken seriously. If the issue of domestic violence is not taken serious enough, it affects all the parties involved and makes the job of law enforcement very difficult if one sector doesn't view domestic violence in the same severity, especially the judiciary.

Theories of domestic violence

Theories have been developed to explain why domestic violence existed and what roles the victim and batterer play within domestic violence situations. The literature on domestic violence explains a multitude of different theories that are relevant to the research within this thesis. The five theories that were researched help explain domestic

¹⁹ Coomaraswamy, R. 2000. Combating Domestic Violence: Obligations of the State. *Innocenti Digest* No. 6, p 11. <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>

violence from several different angles. All of the theories developed in this research stem from structural violence.

The Structural Violence Theory was developed by Johan Galtung in order to explain a form of violence in a social structure that prevents individuals from meeting their basic needs.²⁰ This theory is vital to understanding the structure of domestic violence inside the abusive home as well as inside the courtroom. The very essence of violence is control over the victim. The perpetrator controls all aspects of the victim's life. A batterer can experience a sense of loss of control over the victim causing extreme anger, which may be evident inside the courtroom, because he may legally lose all control of the victim if a Protection from Abuse order is issued.

Structural violence is linked to social injustice, which is often seen in the courtroom. The judge is in a position of control and power. This power can be intimidating for the victim who is coming from a very controlling and power hungry environment. The victim may not feel worthy of protection or may believe they are somehow at fault.

The literature explores George Homans' Social Exchange and Deterrence theories, which may offer an explanation as to why structural violence occurs between the victim, the perpetrator and possibly the judiciary. The community relies on the legal system to establish deterrence for domestic violence by using the function of punishment.²¹ At the most basic level, social exchange theoretical perspective predicts

²⁰ Galtung, Johan Cultural violence. *Journal of peace research*. (08/01/1990), 27 (3), p. 291-309.

²¹ S. Cosimo. 2012. *Domestic Violence Legal Sanctions and Recidivism Rates among Male Perpetrators*. El Paso: LFB Scholarly PubLLC, 18.

that exchanges between people can create positive or negative reactions. The literature continues by saying that the basis of all social interactions is the exchange of valued resources.²² This theory can clearly be seen in domestic violence when the cost of a perpetrator being violent, does not generate positive rewards, but rather harsh punishments and legal constraints. However, when society defines domestic violence as a personal matter inside the family home; institutions are reluctant to consider this a public matter, then the cost of violence is low.²³ If a perpetrator is able to get away with violence, the cost becomes low and more appealing for him to commit more violent acts. The Deterrence Theory is a theory that suggests that the possible fear of punishment may cause the perpetrator to think about the severity of the consequences.²⁴ The literature views this theory as a psychological process that the perpetrator goes through when he associates the negative relationship between certain behaviors and criminal behavior.²⁵ If domestic violence is defined as a public issue with harsh punishments then the cost of violent behavior increases tremendously.

The next theory that the literature examined is the Feminist Theory. “Gender as power is as much about personal relationships as it is about politics, structures, institutions, and practices” (Fletcher, 1994).²⁶ This theory offers the justification of the

²² S. Cosimo. 2012. *Domestic Violence Legal Sanctions and Recidivism Rates among Male Perpetrators*. El Paso: LFB Scholarly PubLLC, 18.

²³ S. Cosimo. 2012. *Domestic Violence Legal Sanctions and Recidivism Rates among Male Perpetrators*. El Paso: LFB Scholarly PubLLC, 18.

²⁴ S. Cosimo. 2012. *Domestic Violence Legal Sanctions and Recidivism Rates among Male Perpetrators*. El Paso: LFB Scholarly PubLLC, 18.

²⁵ S. Cosimo. 2012. *Domestic Violence Legal Sanctions and Recidivism Rates among Male Perpetrators*. El Paso: LFB Scholarly PubLLC, 18.

²⁶ S. Cosimo. 2012. *Domestic Violence Legal Sanctions and Recidivism Rates among Male Perpetrators*. El Paso: LFB Scholarly PubLLC, 21.

existence of domestic violence throughout history. Feminist theory argues, “Intimate partner violence grows out of inequality within marriage and reinforces male power and female subordination within the home.”²⁷ Throughout history there has been a gender imbalance established that has remained a deep-rooted issue in terms of the gender dynamic within the home. When gender imbalances are present in patriarchal societies, men feel that they can exercise their power and control over a woman inside the home, which may often turn into violence. Society has defined the husband or male partner as the dominant and strong figure in the relationship while the woman is traditionally dependent, passive and submissive in the relationship.

Feminists examine the gender dynamic in domestic violence and view it as understandable, as long as individuals have accepted that the structure of society is designed solely on gender. The current positions of power of men tend to create a patriarchal structure.²⁸ Feminists clearly do not agree that this is a productive structure, however, looking back through history, a patriarchal structure was what was accepted in society. If this structure continues, it is very easy to understand why domestic violence will also continue.

One view of the feminist theory is that domestic violence is a systematic issue. Any advancement made in the issue would require a restructure of the family dynamic and the gender roles currently accepted in the family unit.²⁹ Establishing equal gender

²⁷ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 15.

²⁸ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 15.

²⁹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara,

roles within the home will open up communication and strengthen the family unit. If women continue to be unequal to men in any aspect, domestic violence will remain a serious problem in the United States as well as worldwide.

Feminists have struggled over whether to put their energy toward helping individual battered women or trying to change pervasive social attitudes towards domestic violence.³⁰ Professor David Gil suggested that the way society can overcome domestic violence is to make ‘social-structural changes.’³¹ This proposal would require cooperation between the government and public and private sectors. Professor David Gil’s contribution to the Feminist Theory is to explore policy changes as the way to change the way domestic violence is handled in the United States.

Feminists have been instrumental in making domestic violence a public issue. They have initiated a shelter movement in the United States, started educational programs, created hotlines for women to call for help, and advocate heavily for laws to be implemented to protect women from violence, making sure the batterers are held responsible for their actions.³² These institutional improvements can continue to make a difference if legislation continues to move forward and create more laws to protect all victims of domestic violence.

Calif: ABC-CLIO, 16.

³⁰ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 16.

³¹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 16.

³² Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 16.

Victims are exposed to traumatic situations when they are in a battering relationship. Over time the battering becomes part of a victim's daily life and is something that she has accepted and learns to live with. The literature refers to this concept as the Learned Helplessness Theory. Dr. Martin Seligman, from the University of Pennsylvania, developed the Learned Helplessness theory in 1975. When a battered individual feels helpless in their situation of repeated abuse, that individual develops a distorted perception of reality. This theory is often considered controversial because Learned Helplessness Theory cannot be proven scientifically because it is a psychological disorder brought on by constant violence in the home.

The Learned Helplessness Theory was used by Psychologist Lenore Walker to explain why women found it so challenging to leave their violent relationships. Because of the feelings of helplessness inside the abusive home, women develop various coping mechanisms including denial, minimizing the abuse, dissociation, or splitting the mind from the body during violence.³³ Walker stresses that these defense mechanisms are not passive behaviors, but rather highly developed coping skills. A woman in a highly volatile relationship who feels trapped must develop coping skills to make it through each day. Many times battered women are unable to see a way out of their situation and coping is the only salvation available to them.

Lenore Walker developed her own theory called the Cycle of Abuse, which is a Social Cycle theory. Walker's theory explains how perpetrators gain control over their victims. The cycle of violence has four phases that the victim encounters.

³³ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 19.

The first phase is described as the ‘tension building’ phase. This is where the batterer increases his control over his victim.³⁴ There is a breakdown in communication between the victim and the batterer. As anger builds in the perpetrator, the victim tries to keep him calm by minimizing problems in their relationship. The victim feels as though she needs to placate her batterer in an attempt to avoid violence. She may also feel as though she is ‘walking on eggshells’ because the tension is so high.³⁵ Once the tension reaches the highest level, the abusive incident takes place.

The second phase is the ‘incident’ phase where the major incident of battering occurs. This is the most intense phase because severe violence can occur during this phase. The batterer is highly abusive towards the victim to gain control by using physical, emotional or sexual violence.³⁶ This phase can include intimidation, blaming, threats against the victim, children or pets, arguing, and ultimately abuse that may require medical attention. At this stage, it may be necessary to involve the police and obtain an emergency PFA against the batterer through the local magistrate.

Following the abusive incident the batterer moves to the reconciliation phase. In this phase the batterer will apologize for his actions or even make excuses and blame the victim. This phase is strictly about the batterer making the effort to play down the situation to try to convince the victim that the abuse wasn’t as bad as she claimed or that the abuse would never happen again.

³⁴ “Women and Victimization.” 2014: 135-188. [http://www.sagepub.com/upm-data/44336_4_\(final\).pdf](http://www.sagepub.com/upm-data/44336_4_(final).pdf)

³⁵ “Women and Victimization.” 2014: 135-56. [http://www.sagepub.com/upm-data/44336_4_\(final\).pdf](http://www.sagepub.com/upm-data/44336_4_(final).pdf)

³⁶ “Women and Victimization.” 2014: 135-56. [http://www.sagepub.com/upm-data/44336_4_\(final\).pdf](http://www.sagepub.com/upm-data/44336_4_(final).pdf)

The final phase is the 'honeymoon' phase. During this time there is generally no violence. The perpetrator is often filled with remorse and is very attentive and loving towards the victim. This phase is filled with manipulation of the victim's feelings.³⁷ The victim often forgives the abuse because the perpetrator appears to be sincere in his promise to end the violence. However, this phase does not last very long and the cycle of abuse starts again, each time growing in intensity.

Not every domestic violence situation is going to follow each phase according to the theory, but Walker's theory provides a framework to understand the cycle of battering in domestic violence.³⁸ This cycle is repetitive and will become increasingly more violent every time the cycle reoccurs. As the cycle continues to repeat itself, certain phases like the honeymoon phase may completely disappear from the cycle because the violence has become more frequent.

The Judiciary in the Courtroom

The judiciary retains the potential to lead the criminal justice system by example.³⁹ The judge has the power to ratify or condemn any action taken by the prosecutor or the police as well as the ability to define the parameters and seriousness of any crime committed.⁴⁰ The judge has the ultimate authority over all domestic violence

³⁷ "Women and Victimization." 2014: 135-56. [http://www.sagepub.com/upm-data/44336_4_\(final\).pdf](http://www.sagepub.com/upm-data/44336_4_(final).pdf)

³⁸ "Women and Victimization." 2014: 135-56. [http://www.sagepub.com/upm-data/44336_4_\(final\).pdf](http://www.sagepub.com/upm-data/44336_4_(final).pdf)

³⁹ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 96.

⁴⁰ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 96.

cases and is able to make decisions that can change someone's life forever. Given the extreme time pressures and limited resources, it is not surprising that judges minimize PFA hearings as well as disproportionately dismiss them.⁴¹ It has been seen through studies that the sentencing for offenders of domestic violence has been lenient and very few offenders are sentenced to jail time.

The literature explains the term "vicarious traumatization," which explains how trauma can become contagious for judges.⁴² Spending time with women in the courtroom who have experienced terrorizing violence can become exhausting for a judge. If a judge stays empathetic and understanding, the trauma of the women's testimony can become daunting and maddening. Judges may feel the same fear or anger towards the perpetrator as the victim does, which can lead to dangerously bias hearing results. There is a balance that a judge must find between empathy and professionalism. It is the judge's role to listen to both the victim and the batterer to make the proper decision.

The literature expresses concern for inconsistencies in judge's rulings based on race and class.⁴³ There seems to be an assumption by judges that women of poor and working-class are less honorable citizens.⁴⁴ Judges tend to view these victims as less trustworthy simply because of the social class they come from. Judges may also think that these victims are wasting the court's time. This is an unfair view. Victims deserve

⁴¹ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 96.

⁴² James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 126.

⁴³ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 130.

⁴⁴ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 130.

protection that is guaranteed to them under the law. If this view becomes habitual in domestic violence, the image that the court sets is one of class and race discrimination.

Women's experience in the Courtroom

Protection from Abuse order hearings happen days after the abuse has occurred and the interaction with the victim is crucial. Many victims are under considerable risk by obtaining a Protection from Abuse order for fear of retaliation from the batterer. By claiming their rights under the law to be protected, they were directly challenging the control and power that the batterer had worked so hard to maintain.⁴⁵

The demeanor of the judge in the courtroom plays a key role in the positive or negative experience the victim may have. The research develops the theory of Arlie Russell Hochschild, which explains the importance of courtroom demeanor. The victims feel vulnerable and intimidated by the batterer being present, and the courtroom adds a separate level of intimidation to the victim. It is the judge's responsibility and duty to show a supportive judicial demeanor. Hochschild explains how this type of judicial demeanor is just one of five types of responses a victim can receive from a judge. These five demeanors include good natured, bureaucratic, firm, condescending, and harsh. These demeanors are explored in depth and applied to courtroom observations of one female and one male judge in Pennsylvania.

The judiciary can offer responses that empower victims. Judges can make the courtroom a less intimidating environment by providing a separate office for protection

⁴⁵ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 146.

orders and removing any person viewing the hearing that may appear to be a threat to the victim. The judge can offer supportive demeanor by listening to the victim as well as asking questions, making eye contact, and showing interest in the story the victim is sharing. The judge can also provide victims with the resources to meet with an advocate and the judge can develop relationships with the local agencies and shelters to work more closely with each of them.⁴⁶

The judge can identify the seriousness of the violence by communicating to both the victim and the perpetrator that the courts will not tolerate battering, and encourage her to return to court if further issues arise. The judge must also show concern for any children involved by addressing the safety of the children and recognizing the effects battering can have on children, as they get older.

It is important for the judge to remain tough on the batterer. Refusing to create a bond with the batterer and imposing harsh punishments for violations of court orders shows that the judge takes domestic violence seriously. There is also a responsibility of the judge to acknowledge that men can also be the victims of domestic violence, and to listen to their version of any dispute that went on as to avoid creating bias toward men.⁴⁷

A judge also has the authority to require that child support is paid to the victim and holds the responsibility to alert the victim of resources for financial assistance. The most important judicial response is prioritizing the women's safety by asking about any

⁴⁶James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 176.

⁴⁷James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 176.

fears the woman has and removing all weapons from the home.⁴⁸ A judge can also train their personnel on proper ways to address a victim of domestic violence and create safer waiting areas for victims at the courthouse before a Protection from Abuse order hearing.

Pennsylvania Courtroom Study

The Center for Rural Pennsylvania conducted a study to compare rural and urban domestic violence courts based on female victim feedback. This study was conducted with victims of domestic violence and asked a series of questions that also included their experience with the court system. The study was conducted in 2003. The rural agencies were serving 687 clients and the urban agencies were serving 1,169 clients in 2003. In the rural agencies, fifty-five percent of victims were involved with domestic violence and in urban agencies; twenty-four percent of their victims were involved in domestic violence.

The chart below is separated by rural and urban answers. The answers are separated by disagree, agree, and neutral. The percentages for those that disagreed with the following statements were higher across the board for victims in urban areas. This study is meant to show the victim response to their experience in the courtrooms in Pennsylvania. This study expresses how much work the Pennsylvania court system needs to accomplish to ensure that victims feel that their concerns are being heard to make the process of obtaining a PFA more successful.

⁴⁸ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 176.

Table 2-Pennsylvania Rural and Urban Domestic Violence Court Study

	Disagree	Neutral	Agree
Judges understand Domestic violence laws	Rural-31.6% Urban-42.9%	Rural-21.1% Urban-28.6%	Rural-47.4% Urban-28.6%
Judges ensure fair and expedient domestic violence proceeding	Rural-26.3% Urban-57.1%	Rural-21.1% Urban-14.3%	Rural-52.6% Urban-28.6%
Court systems appropriately handle family cases involving domestic violence and custody issues.	Rural-55.0% Urban-50.0%	Rural-20.0% Urban-37.5%	Rural-25.0% Urban-12/5%
Judges willingly issue PFA's when warranted	Rural-35.0% Urban-37.0%	Rural-20.0% Urban-0.0%	Rural-45.0% Urban-62.5%

Controversies of Domestic Violence

Domestic violence is an important social issue that involves oppression and conflict. There are many controversies that are associated with domestic violence. Often times a mythology can be created and misrepresent the reality of domestic violence. It is important to understand the facts of domestic violence and the controversies that surround the issue. The following section aims to clarify any controversies or myths about domestic violence.

Domestic Violence is Uncommon

According to the National Coalition Against Domestic Violence, domestic violence has declined sixty-four percent since 1994, however 1.3 million women still become victim to physical assault by an intimate partner each year. Eighty-five percent of domestic violence victims are female and there are still a large amount of cases that are never reported due to fear or intimidation by the batterer. Domestic violence is one of the most chronically underreported crimes in the United States.⁴⁹ The number of incidents of violence per year range from 960,000 to 3 million.⁵⁰ The number of incidents is still incredibly high and still accounts for a high percentage of crime in the United States.

Men and Women Abuse Equally

Eighty-five percent of domestic violence victims are women.⁵¹ Eighty-one percent of women are stalked by a current or former intimate partner.⁵² A United States Department of Justice 2000 study showed that one million violent crimes were committed by a spouse, boyfriend or girlfriend and about eighty-five percent of the victims are women while fifteen percent of the victims of violent crimes are men. On average, more than three women are killed everyday in the United States by their intimate partner.⁵³ In 2000, 440 men were killed, compared to 1,247 women killed in the same year by an

⁴⁹ U.S. Department of Justice, Bureau of Justice Statistics, "Criminal Victimization," 2003.

⁵⁰ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 29.

⁵¹ "Domestic Violence Facts." 2007. *National Coalition Against Domestic Violence*. [http://www.ncadv.org/files/DomesticViolenceFactSheet\(National\).pdf](http://www.ncadv.org/files/DomesticViolenceFactSheet(National).pdf)

⁵² "Domestic Violence Facts." 2007. *National Coalition Against Domestic Violence*. [http://www.ncadv.org/files/DomesticViolenceFactSheet\(National\).pdf](http://www.ncadv.org/files/DomesticViolenceFactSheet(National).pdf)

⁵³ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 30.

intimate partner.⁵⁴ While women are primarily the targets of domestic violence, men also become victims, which creates a new set of challenges for advocacy programs to set up services for male victims of domestic violence.

Substance Abuse Causes Domestic Violence

According to the United States Department of Health and Human Services, alcohol and drug abuse do not directly cause domestic violence, but can be a contributing factor in the intensity of the violence.⁵⁵ There is a strong correlation between drug and alcohol abuse and domestic violence, however, simple substance abuse is not the direct cause of domestic violence. Studies have been conducted have shown high rates of substance abuse by batterers. Men often use their substance abuse as an excuse for the violence they commit. They attempt to use the substance abuse as a way to rid themselves of the responsibility for the violence by using the effects of the substance as an excuse.⁵⁶ It has been proven that women in domestic violence situations are more likely to abuse drugs and alcohol. “In 2002, the Department of Justice found that thirty-six percent of victims in domestic violence programs also had substance abuse problems.”⁵⁷ Fifty-one

⁵⁴ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 30.

⁵⁵ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 30

⁵⁶“Domestic Violence and Substance Abuse.” 2014. *National Coalition Against Domestic Violence*. <http://www.ncadv.org/files/SubstanceAbuse.pdf>

⁵⁷ “Domestic Violence and Substance Abuse.” 2014. *National Coalition Against Domestic Violence*. <http://www.ncadv.org/files/SubstanceAbuse.pdf>

percent of domestic violence program directors found that a female victim's substance abuse could become a barrier to leaving a violent relationship.⁵⁸

Domestic Violence Demographics

Women living in rural, suburban and urban areas all experience similar rates of domestic violence. Women from all areas experience different challenges; women of all races and economic standing are almost equally vulnerable to violence by an intimate partner.⁵⁹

Domestic Violence Victims Can Leave

A stereotypical question of domestic violence is “Why doesn't she just leave?” or “Why does she stay?” Leaving a violent home is very dangerous. If a woman tries to leave, the batterer may become extremely violent because he is going to lose control over his victim, especially if the victim is also taking the children with her. It is important to understand a victim's options before criticizing her for not leaving. Many times the batterer will have full control over bank accounts and will not let the victim work. Up to fifty percent of all homeless women and children have come from domestic violence situations.⁶⁰ If a victim does decide to leave it is important that advocacy programs and

⁵⁸ Collins, James J. and Donna L. Spencer. (2002) “Linkage of Domestic Violence and Substance Abuse Services, Research in Brief, Executive Summary.” U.S. Department of Justice. (VIA <http://www.ncadv.org/files/SubstanceAbuse.pdf>)

⁵⁹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 30.

⁶⁰ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 31.

shelters are able to assist with any needs of the victim. Providing the victim and her family with a safe and secure place to stay should be a priority.

Women and Men's Movements

In the 1970s, the Battered Women's Movement started, becoming well known throughout the United States. Women began to take notice of an issue that was not being given the attention that it deserved. Shelters and crisis hotlines were being established across the country to help women who were escaping from violent homes. Pennsylvania started establishing shelters in Pittsburgh and Philadelphia and organizations were being created such as the National Organization for Women, located in Pittsburgh. States began to notice the lack of protection given to women involved in battering situations and began reforming their laws accordingly. Women started seeing change and began coming forward to share their stories of domestic violence and demanded equal protection under the law.

Domestic violence literature also highlights the Men's Movement, which consists of several men's organizations that work to combat domestic violence in the United States. The movement educates groups about domestic violence, and is found to be effective because they are not seen as traditional "feminists."⁶¹ The domestic violence movement is very supportive of these men's groups because domestic violence is an issue that everyone needs to face together. It is important to educate young boys about the

⁶¹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 203.

consequences of violence against women, which is something that the men's group focus on.

Men's Network Against Domestic Violence (MNADV) is one of the organizations that work to end domestic violence. The goal of MNADV is to educate more men about domestic violence and bring more men into the movement and try to create more equality across the United States. MNADV also brings public awareness to domestic violence and educates other men on prevention of domestic violence in their communities. A future hope for these organizations would be to offer support and resources to men who are victims of domestic violence.

Unfortunately, there has been some negative literature regarding the Men's Movement in the United States. Writer Michael Flood wrote a piece for the *International Encyclopedia of Men and Masculinities*, where he highlights some of the negative attributes of the movement. One political view of the movement is removing the public vision of a man-hating society and legal system.⁶² Some goals of the movement include support and healing from past hurt and injustice, as well as developing positive identities for men. While these goals could benefit both parties, the approach does not come across in a positive way and could damage any progress that has already been made as well as damage relationships with the women's organizations. These conflicts are something that both the feminists and men's groups are going to have to sort out together to become a united front against domestic violence.

⁶² Flood, Michael (2007). "Men's Movement". In Flood, Michael; Kegan Gardiner, Judith; Pease, Bob et al. *International Encyclopedia of Men and Masculinities*. London, New York: Routledge. pp. 418–422.

Gaps in the Research

While states have enacted prevention programs, there are numerous gaps in these efforts. These gaps will be highlighted in the following chapters. There is also a lack of societal transformation, inadequate access to the justice system, and overall blindness to structural inequalities, as well as the complex relations of the power dynamics in the private sector, as well as social realities that feminists are bringing to the attention of state legislators. There is more demand for social change to address inequality of women and there are narrow interpretations of those rights. It is the responsibility of the government to create laws that allow the judiciary to make firmer decisions on violence against women in the home. The literature highlights these gaps to indicate that there is still progress that needs to be made in the United States when it comes to women's rights and stricter regulations for domestic violence. All of these gaps will be addressed in the following chapters.

Analysis

The literature reviewed outlines the current issues, key concepts and key theories. After a review of the material, the research offers a new perspective to the original research question. Judges hold all of the power in Protection from Abuse order hearings and what they decide to do with their power and authority sets the tone for how domestic violence is viewed throughout society. How does the judiciary use its authority and power in Protection from Abuse order hearings after listening to women's testimony

about domestic violence? In the coming chapters this question will be explored through history, legislation and judiciary responses in the courtroom.

CHAPTER THREE-METHODOLOGY

Introduction

A qualitative and quantitative methodology approach was utilized throughout the research. Research was conducted through the review of written material, statistical studies regarding domestic violence and courtroom observations focusing on the judge. Both approaches were crucial to developing answers to the research question addressed in this thesis. At the beginning of my research, I made the presumption that the judiciary role in the courtroom would entirely explain why domestic violence is still treated so leniently in the United States courts, but it quickly became clear that the answers to this hypothesis would not be simple.

After further research, I decided to examine the judiciary's demeanor in Protection from Abuse order hearings. Protection from Abuse Order hearings play a significant role in domestic violence situations and may be the first encounter the victim has with the legal system. My hypothesis was that the main disconnect in domestic violence was only between the victim and the judge. Through further research I discovered that miscommunications were occurring on many different levels of the legal system, which ultimately affects the relationship between the judiciary and the victim.

The Judiciary is the highest level of authority in domestic violence cases and through all the research I discovered that there was a strong disconnect between multiple

levels of the legal system. If one sector of the legal system does not take domestic violence seriously, especially the judiciary, then it allows all sectors to view domestic violence less seriously. The judiciary has the duty to set a positive tone in the courtroom by taking the initiative to create a safe environment in the courtroom, as well as take advantage of the advocacy organizations that make themselves available to the courts. This concept is discussed further in my findings.

Sources of Data

The research for this thesis uses a variety of literature including articles, books, state laws and procedural statutes, domestic violence organization websites, and Federal laws and mandates. During the initial stages of research I determined that all of these literary options were necessary to properly examine all components of this complex social issue. I also used the George Mason University Fenwick Library as a resource and reviewed books from their archives on campus.

Domestic violence is an incredibly complex issue that needed to be explored and understood at every level. To further understand the intricacies of domestic violence, I also reviewed victim statements and stories to see how this issue was affecting the victim, children that were involved, as well as the batterer. It was necessary to review the batterers' statements to understand both parties' viewpoints of the violence that had taken place inside the home.

I also reviewed all of the Pennsylvania domestic violence laws and procedural codes, as well as California laws as a comparison between states. It was important to

understand the laws and procedures that judges were using during the hearings. These laws set up the standard for judges to follow when addressing domestic violence. I also reviewed the Protection from Abuse Act to better understand the regulations that must be followed in Pennsylvania. All of these documents are important in order to fully understand all of the laws that are put in place for domestic violence and how these laws are being applied in the courtroom.

I also went to the courthouse in Washington County, Pennsylvania to experience domestic violence PFA hearings first hand. This involvement allowed for observations in court hearings to better understand the legal process. I was able to evaluate the interactions between the judiciary and the victim as well as all court employees and police officers. These interactions also gave me an opportunity to observe the batterer if he was present. These observations gave me an insight to the types of intimidation tactics, pleas for sympathy or blame shifting that the batterer or his attorney might attempt inside the courtroom and how the judge responded to those tactics. I was also able to test the theories that I have used in my research in these real life situations.

Data Gathering Procedure

The first step in the data gathering process was deciding what materials would be the most useful. I explored journals, newspapers, books, domestic violence websites, legislation, international viewpoints on domestic violence and statistical studies conducted on domestic violence in the United States. Once all of the data was collected it was necessary to organize the data historically. It was important to gather both written

material as well as statistical data to understand the percentage of women that are affected by domestic violence. I did not include every study I reviewed in my final research, but I examined several different types of studies to understand the magnitude of the issue.

The next step was to choose two case studies, which allowed a comparison to show how different each state's laws are on domestic violence. In the United States there are very few universally accepted domestic violence procedures or laws so every state is permitted to design their own regulations in accordance to the Violence Against Women Act on domestic violence. For this research it was crucial to focus on two States and learn all the laws and procedures to properly analyze the differences in each state.

The state for the first case study is Pennsylvania. This state was chosen because the Protection from Abuse Act that was established in 1976, long before the Federal Act was established. This act affected Pennsylvania along with the whole country when states began creating new domestic violence laws. I also took note of the slow progression Pennsylvania has made since the Act was established. PFA hearings are often the first exposure to the legal process for victims and this research expands on the deficiencies of this vital legal process as a first step in domestic violence situations.

The second case study is a comparison of Pennsylvania to the state of California, which has made progressive domestic violence law changes. The comparative study is meant to show two separate states and the differences each state has developed in their domestic violence laws. This comparative analysis is important for this research because it highlights the fact that judges have different laws to follow depending on which state

they preside in. This research highlights the multitude of inconsistencies between levels of government and law enforcement, and the comparison between Pennsylvania and California emphasizes this fact even more.

The final step in my research was to explore the judiciary demeanor in the courtroom. The research explored the atmosphere of the courtroom and explored if there are training programs currently available for judges; whether judges are required to go to these training sessions or willingly take advantage of the opportunities on their own. I was able to gather material from the courthouse on the proper procedures for obtaining a protection order. I was also able to observe PFA hearings to explore the theories that have been examined related to the relationship dynamic between the judge and the victim first hand. I was able to observe two different courtrooms that handle PFA hearings. In this particular courthouse I was able to observe one female judge and one male judge. This was a unique experience because I was able to observe their behavior, but also compare a female judge to the male judge and the types of personality and demeanor they exuded in their courtrooms. Once I understood all the laws in Pennsylvania through previous research, I was able to better understand what the judiciary was explaining during the hearings.

To gain further insight into the social issue of domestic violence, these topics are explored:

- The History of Domestic Violence and the Battered Women's Movement
- The Pennsylvania state laws and regulations specifically relating to

domestic violence and Protection from Abuse order hearings.

- The dynamic between the judiciary and the female victim.
- The effect of the judiciary training and personal knowledge and experiences of domestic violence related cases and the role this plays when dealing with a female victim.

Sampling

This research explores two important aspects of domestic violence. The victim and judge relationship is important to understand once domestic violence has reached the courtroom. This relationship is often overlooked and misunderstood, which makes this research important for the development of domestic violence.

1. *Exploring the role of the judiciary and the relationship development with the female victim in protection order hearings.*

- The use of scholarly articles, journals and books.
- The use of researching training opportunities made available by the state of Pennsylvania.

2. *Understanding the judiciary's training and personal knowledge, experience and possible bias in domestic violence protection order hearings.*

- The use of scholarly material to understand the judiciary knowledge or experience with domestic violence.

- The use of literature to explore any training judges may receive in domestic violence.

Strengths and Weaknesses

The value of the methods in this research is that there is a sufficient amount of primary research written on domestic violence and the role of the courts. Narrowing down the thesis topic to only Protection from Abuse hearings allowed for a specific section of the court to be examined. Protection from Abuse hearings are not as extensively written about because each state has their own individual procedures for the victim and judiciary to follow. Choosing two states to focus on allowed me to research every law and statute that both Pennsylvania and California have put in place for domestic violence.

Using California as a comparative case study allowed me to compare the domestic violence laws between the two states. This was an important aspect in the research because it showed that some states were very progressive in the laws that are established for domestic violence such as California, while others were less progressive, like Pennsylvania. This comparison also showed the inconsistencies between states because the Federal Government lacks strict laws that all states must follow in domestic violence cases.

In the initial research plan, interviews were planned with Pennsylvania judges and domestic violence victims as well as reviewing transcripts of different domestic violence cases. Throughout the beginning stages of collecting data and learning more about

domestic violence, interviews were ruled out as part of the final research plan. Women affected by domestic violence go through horrific experiences and often partake in therapy with an intense healing process. As the researcher, I did not feel as though I had sufficient experience in properly interviewing victims, especially domestic violence victims, so I eliminated this from my research.

Very often the women are in shelters that are in unknown locations to the public to protect them from their abuser and anyone else that may be looking for them. Many women also take their children to the shelters to protect them. I felt that I would be able to gather the research I needed without trying to set up special meetings with these women who are already trying to cope with so much in their lives. Once I have acquired the proper interview techniques for speaking with victims of traumatic events, I would like to conduct interviews with victims and the batterers in future research.

Domestic violence transcripts are not available in Washington County, Pennsylvania for the public to view, however, later on in my research I learned that PFA filings were available to the public in other counties. In the initial research, court transcripts were meant to be part of the research but after speaking with the prosecutor in one county in Pennsylvania, I learned that these cases were sealed to protect the victim and many times the children. Once I found this out, I decided that observing hearings in the courtroom would be the best option for my research. Protection from Abuse order hearings are open to the public, so I was able to sit in the courtroom and watch the proceedings first hand. The only hearings that I was asked to step out from were cases

that involved a child and the child would be present in the courtroom to give testimony. Those cases are closed to the public in order to protect minors, and their identities.

A weakness in my process is the tremendous amount of information that is available about domestic violence. Deciding what information would be beneficial to my research was difficult. It was very important to develop the history of domestic violence. There is an extensive history of domestic violence; choosing the most important pieces of the history proved to be a challenge. Narrowing down the two states I would be comparing, as well as the type of domestic violence hearing I would research, was crucial to allow me to eliminate certain information. Another challenging aspect was choosing which theories were most pertinent to my research. There are many different theories that can be applied to domestic violence and the parties involved, but I chose the theories that had the most impact on domestic violence and proceedings inside the courtroom.

Throughout my research I found that I was not familiar enough with the legal terms to understand domestic violence, so I spent time researching certain terms to properly understand the procedure or piece of legislation that was being discussed. This was very helpful when I was observing hearings because I was able to follow what the judge was saying and I was able to understand the terms of each protection order that was granted or denied by the judge.

Domestic violence is a very overwhelming social issue. As the researcher, I often times had to step back from the research to collect my thoughts and process all of the information that I was analyzing. I was reading personal statements of abuse, which often times had continued for years going unnoticed or unreported. The statistics and amount of

recidivism in domestic violence is astounding and took time to process mentally. Overall researching this issue was emotionally draining. I wanted to ensure I was properly representing the victims of domestic violence through my research and offering information that can possibly encourage change in the future.

Analysis

Collecting research through a multitude of outlets allowed me to thoroughly research domestic violence. Through different journals, books, victim statements, and laws on state, federal, and global levels, I was able to review domestic violence on several different levels. This method was beneficial because a myriad of compelling information was reviewed and different viewpoints were examined on the same issue.

My research started out on the local level of two states, but expanded to the international level as well. Domestic violence is a social issue that affects women in every state and every country and agencies and governments are working at every level to create laws and regulations that will hopefully put an end to domestic violence.

The courtroom observations were incredibly insightful and allowed me to experience Protection from Abuse hearings first hand. This experience gave me invaluable knowledge and insight into the courtroom experience that almost every domestic violence victim experiences. Having first hand experience was crucial to see how these hearings were being conducted in Pennsylvania. I chose the case study of Pennsylvania for reasons I explained above, but also because it is the state that I reside in. I was familiar with the

court procedures and I knew I was able to sit in on PFA hearings to conduct further research.

Domestic Violence is an important issue that needs to be understood both legally and historically. This research highlights the importance of the historical context of domestic violence, as well as how it affects not only the victim, but also the entire community. Understanding how women are affected by domestic violence annually and the physical and mental ramifications are as important as the legal steps that are taken to obtain Protection from Abuse orders. The methods used for this thesis critically study every issue raised by the research question.

In the following chapters, I will explain historically how this social issue emerged, as well as explore the legislation in both Pennsylvania and California. The research most importantly examines the judiciary demeanor inside the courtroom and how this behavior affects the victim during the legal process. The use of both qualitative and quantitative methods will be utilized throughout the research to explain the social problem of domestic violence.

CHAPTER FOUR-DOMESTIC VIOLENCE HISTORY

The historical context of domestic violence is important in understanding where this social issue began and the progress that has been made since the 1400s. Domestic violence has been an issue in the world documented back to 753 BCE when the laws of marriage came into existence in Rome. There is a clear pattern of opposition and resistance to women's rights throughout the history of domestic violence, but there is also a strong element of progression and change.

In the year 1500, the roles of a man and a woman were already well established. Former religious leader Martin Luther explained that women were created to keep house and bear and raise the children.⁶³ Around the year 1740 American colonies began making efforts to protect people from public crime that originates outside of the family. Private crimes in the home between a wife and husband or occurrences of child beating were pushed into the background to be dealt with inside the home rather than in a public court setting.

In the 1800s, the Temperance Reform Movement began in the United States. These reformers believed that there was a correlation between alcoholism and wife beating. Through this movement the image of the 'trembling family' emerged and by

⁶³ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 119.

1830 there was a clear image of a suffering wife living a life of misery and no hope.⁶⁴ The Temperance reformers were speaking regularly about wife beating and how this act violates “domestic ideals and destroys feminine virtue.”⁶⁵

In 1824, the case, *Bradley v. State*, was brought to the Mississippi Supreme Court where the court upheld the husband’s right to chastise his wife. It was decided that chastisement should be moderate and only used in emergencies.⁶⁶ This court decision set a precedent for future cases dealing with the topic of spousal abuse.

In 1855, Susan B. Anthony along with Elizabeth Cady Stanton continued their work in the United States with the Temperance Movement. Their main focus was on married women’s right to own and control property.

In 1864, North Carolina courts decided that a husband was permitted to choke his wife in order to control her temper and force the wife to behave in the home. Then in 1866, North Carolina courts made the decision that a husband could legally beat his wife with a stick no larger than his thumb. “This law was created to show an example of a compassionate reform since it modifies the weapons that a husband can use on his wife.”⁶⁷ While the laws were being reformed, states were still allowing for some sort of violence to occur in order to control the wife in the household.

⁶⁴ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 121.

⁶⁵ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 121.

⁶⁶ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 121.

⁶⁷ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 125.

Three years later, England made big strides in the progress of women's rights. John Stuart Mill stood up in front of the House of Commons and demanded equality under the law for women's rights. He states, "The power over women is a power given, or offered, not to good men, or to decently respectable men, but to all men; the most brutal and the most criminal."⁶⁸

After the discouraging decisions made by the North Carolina court system, things seemed to be changing in Alabama. In 1874, Alabama became the first state to declare wife beating illegal. Alabama clarified this law by stating "privilege, ancient as it may be, to beat her with a stick, to pull her hair, choke her, spit in her face or kick her about the floor is not acknowledged by law."⁶⁹ Small changes were starting to happen to remodel the way society viewed domestic violence.

From 1900 to 1920, domestic relations and family courts were being established all across the United States. The beginning of this century was given the name of the 'Progressive Era.' The courts began to examine domestic disputes as criminal matters rather than issues that should be dealt with privately in the home. Reforms were being made all across the country to evaluate the growing issue of domestic violence in the United States.

In the late 1960s, feminist activists propelled the Battered Women's Movement by creating opportunities for women to share their stories of abuse as well as beginning to establish relief centers for victims. Women that were affected by domestic violence

⁶⁸ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 125.

⁶⁹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 125.

began to come forward and break their silence. This silence prompted a widespread change in the way that domestic violence was viewed. This social issue was now being acknowledged as a collective issue rather than an individual issue to be handled within the home.

Across the pond in London in 1971, the Chiswick Center was established, which offered advice to women who were coming from abusive households. Women from the United States visited the center and other shelters that had been put into place and brought the model back to the United States. Shelters began opening all over the country for women involved in abusive situations.

The Battered Women's Movement saw a need for an organization that would help to address the influx of women reporting domestic violence and the Women Against Abuse (WAA) organization was created. This organization was created in Philadelphia, Pennsylvania. This was just one of many organizations that were being established across the country to help combat domestic violence.

In 1973, Nancy Kirk-Gormley, who was involved in an abusive marriage for ten years, founded the first National Organization for Women (NOW) task force for battered women in Pennsylvania. One year later the Women's Center South was opened in Pittsburgh, Pennsylvania with eight beds, and was immediately filled to capacity.⁷⁰

Women started to provide informational services, as well as create temporary shelters being run out of individual's homes. It would take at least twenty more years

⁷⁰ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 125.

before these services would become eligible for government funding under the Family Violence Prevention Services Act.⁷¹

Women began to come together to discuss important issues including their rights in the home and in public. There was very little support for women who fell victim to domestic violence. Without the necessary support, women had nowhere to go once they decided to leave their abusive situation.

On March 4 1976, 8,200 women from thirty-three countries came together for four days for the first International Tribunal on Crimes Against Women. Survivors of domestic abuse publicly testified about the trauma they had gone through. Resolutions were sent back to the thirty-three governments of the countries in attendance to take action.

In 1977, a caucus on Battered Women meets to develop a national coalition in Houston, Texas.⁷² While this coalition was being established, one state after another began putting laws into place to start combatting domestic violence. Minnesota became the first state to allow probable cause arrests in suspected domestic assault. By the late 1970s, all the states except for six had established laws about wife abuse and funding for shelters, reporting procedures, domestic violence programs and more effective criminal court procedures.⁷³ Former President Jimmy Carter established the Office of Domestic

⁷¹ “Women Against Abuse: About Us: Our History.” 2014. *Our History*.
<http://www.womenagainstabuse.org/index.php/about-us/waa-history>

⁷² Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 134.

⁷³ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 136.

Violence in 1979, however the department closed in 1981 due to budget cuts and a lack of support.⁷⁴

In 1980, the United States Congress was presented with domestic violence legislation for the third time and two Senators made a bold statement for the opposition, “Legislation represents one giant step by the federal social service bureaucracy into family matters which are properly, more effectively and democratically represented by the states and local communities (Orrin Hatch and S.I. Hayakawa).”⁷⁵ This Bill ultimately failed and the Bill is withdrawn.

The Family Protection Act of 1981 went directly against the views of the Domestic Violence Bill of 1980. The Family Protection Act was constructed to ‘eliminate federal laws that support equal education, forbid the intermingling of sexes in sports and school related activities, require marriage and motherhood courses be taught in school as the proper career for a woman and repeal all federal laws protecting battered wives from their husbands.’⁷⁶ The Bill also would make sure that women seeking an abortion or divorce would not be able to use federally funded legal aid.⁷⁷ This bill was supported by the Reagan administration but ultimately failed to gain enough votes to come to fruition.

It wasn’t until 1984 when the Family Violence Prevention Act was authorized that domestic violence programs and services were eligible for government funding. In 1994,

⁷⁴ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 136.

⁷⁵ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 136.

⁷⁶ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 138.

⁷⁷ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 138.

the Federal Violence Against Women Act (VAWA) created the first legislation acknowledging domestic violence and sexual assault as crimes.⁷⁸ This law propelled states to start putting laws in place to protect individuals from domestic abuse inside the home.

Former President Bill Clinton signed the Violence Against Women Act (VAWA) into law on September 13, 1994. In March of 1995, former President Clinton opened up the Violence Against Women Office and allocates \$26 million dollars available to the office to help states open up shelters and establish crisis hotlines and provide more training on domestic violence.⁷⁹ Former President Clinton continued his work with domestic violence and signs an anti-stalking Bill into law in 1997. This law will now make interstate stalking and harassment a Federal offense.⁸⁰

In 2000, The Violence Against Women Act was reauthorized by former President Clinton to keep the Federal mandates in place for domestic violence. Between the years 2002 and 2005, the Defense Task Force, U.S Preventive Services Task Force and Centers release several studies for Disease Control and Prevention regarding domestic violence and the effects of violence on women in the United States. In 2005, The Violence Against Women Act was reauthorized by former President Bush and by President Obama in 2013.

⁷⁸ “Women Against Abuse: About Us: Our History.” 2014. *Our History*.
<http://www.womenagainstabuse.org/index.php/about-us/waa-history>

⁷⁹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 146.

⁸⁰ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 148.

The Violence Against Women Act-VAWA

The Violence Against Women Act (VAWA) was drafted to be the answer to the lack of legal response to violence against women in the United States. Then Senator Joseph Biden and Senator Barbara Boxer were the driving force behind VAWA in 1994. There were clear shortcomings in the legal response and before the Act there was a need for a change in attitude at every level toward violence against women. The main objective of The Violence Against Women Act is to create stronger laws and programs for victims of violence.

The White House currently offers an informational section on their website explaining the mission and goals of The Violence Against Women Act. VAWA aims to improve the criminal justice response for violence against women including domestic violence. The Violence Against Women Act created Federal laws for interstate domestic violence, stalking and firearms crimes. VAWA also strengthened the Federal penalties for sex offenders and also required all states and territories to enforce protection orders issued by other states.⁸¹ VAWA is not a set of mandatory laws, but rather, a tool for states to use to create stricter laws for domestic violence.

VAWA also aims to uphold all protection orders across state lines, tribal areas, and territorial jurisdictions in the United States, regardless of where the order was originally obtained. VAWA also ensures that police responds to all crisis calls and that

⁸¹ “History of VAWA.” 2014. *Faith Trust Institute* : 3-3.
<http://www.ncdsv.org/images/historyofvawa.pdf>

judges fully understand the realities of domestic violence through training sessions for judges, police officers, prosecutors, and victim advocates.

VAWA established the National Domestic Violence Hotline, which fields over 22,000 calls every month.⁸² Other services include reducing recidivism by developing a community of diverse stakeholders to prevent and respond to violence against women and legal relief for battered immigrants to exclude the possibility to use their immigration status as a way to dissuade them from contacting the police to seek safety.⁸³

VAWA has seen positive changes in regards to states engaging in stricter laws to protect victims of violence since it was passed in 1994. The biggest change is that fewer people are experiencing domestic violence. How this change has occurred is still unclear. According to the VAWA statistics percentages of victims of violence has decreased. From 1993 to 2010 intimate partner violence declined sixty-seven percent.⁸⁴ The rapid declination is astounding for a short period of time. Between 1993 and 1997 both the rate of intimate partner homicides declined for both females at thirty-five percent and males at forty-six percent.⁸⁵

All states have passed laws that take violence against women more seriously. All states have reformed laws that previously made spousal rape lesser of a crime than stranger rape and all states have made stalking a crime. In July 1993, all fifty states

⁸² “Fact Sheet: The Violence Against Women Act.” 2014.
http://www.whitehouse.gov/sites/default/files/docs/vawa_factsheet.pdf

⁸³ “Fact Sheet: The Violence Against Women Act.” 2014.
http://www.whitehouse.gov/sites/default/files/docs/vawa_factsheet.pdf

⁸⁴ “Fact Sheet: The Violence Against Women Act.” 2014.
http://www.whitehouse.gov/sites/default/files/docs/vawa_factsheet.pdf

⁸⁵ “Fact Sheet: The Violence Against Women Act.” 2014.
http://www.whitehouse.gov/sites/default/files/docs/vawa_factsheet.pdf

criminalized marital rape. However, some states allowed for exemptions from prosecution if simple force is used or the woman is legally unable to consent due to a physical or mental disability. This reform is an example of the need for stronger consequences for violating Protection from Abuse orders. All fifty states have made violations of civil protection orders a criminal offense, as well as authorizing warrantless arrests in domestic violence situations if probable cause exists.

VAWA was first passed by both the Senate and House of Representatives in 1994 and signed into law by then President Bill Clinton. The Office on Violence Against Women (OVW) was also created in 1995, which handled all VAWA grants and any Department of Justice legal issues regarding violence against women.

In 2000, VAWA was reauthorized by then President Bush. This reauthorization kept critical grants in place and established new programs that addressed elder abuse, violence against women with disabilities and supervised visitation for domestic violence situations.⁸⁶ The reauthorization of 2000 also strengthened current laws by improving protections for victims of dating violence, sexual assault, and battered immigrants.⁸⁷ The new authorization also allows for victims of domestic violence who flee across state lines to obtain custody orders without returning to their state.⁸⁸

VAWA was reauthorized again in 2005, and a fourth time on March 7, 2013. The newest reauthorization strengthened laws relating to sexual assault and violence against

⁸⁶ “History of VAWA.” 2014. *Faith Trust Institute* : 3-3.
<http://www.ncdsv.org/images/historyofvawa.pdf>

⁸⁷ “History of VAWA.” 2014. *Faith Trust Institute* : 3-3.
<http://www.ncdsv.org/images/historyofvawa.pdf>

⁸⁸ “History of VAWA.” 2014. *Faith Trust Institute* : 3-3.
<http://www.ncdsv.org/images/historyofvawa.pdf>

women in the American Indian community. VAWA has continued to be reauthorized because the Federal government sees the value in providing protection and rights for women against violence.

World View

The UN commission of Human Rights appointed Radnika Coomaraswamy as the rapporteur for the years 1994 to 2003. During these years, Coomaraswamy examined information related to violence against women and made recommendations about the actions that could be taken to combat violence against women. She affirmed that domestic violence is a human rights violation by proposing three key aspects: due diligence, equal protection and torture. These were three areas that Coomaraswamy examined which brought her to the final conclusion that domestic violence is a human rights violation.

First, it is the duty of the state to refrain from committing human rights violations as well as its duty to protect women from private acts of violence. If the state fails to provide such protection for women and hold the perpetrators accountable then it has failed in due diligence to “prevent, investigate and punish human rights violations.”⁸⁹

Second, international law requires all states to provide equal protection for all their citizens. Many times stranger violence is given more importance and a higher priority than domestic violence. States fail to provide equal protection in these cases by a

⁸⁹ Coomaraswamy, R. 2000. Combating Domestic Violence: Obligations of the State. *Innocenti Digest* No. 6, p 11. <http://www.unicef-irc.org/publications/pdf/digest6e.pdf>

lack of police response, lack of consistent health care for domestic violence incidents and when judges give greater punishments to stranger violence over domestic violence.⁹⁰

Lastly, domestic violence is a clear form of torture. According to international law “torture is an action against a person that causes severe physical and psychological pain; is inflicted intentionally for a specific purpose; and includes some form of official involvement, whether active or passive.”⁹¹

The Universal Declaration of Human Rights of 1948 was the first formal document to acknowledge people’s rights to live a violence free life. While this document states that every human has the right to be protected from violent atrocities against them, there is no mention anywhere in this document of specific rights of women. There are two important articles in the Universal Declaration of Human Rights, Articles three and five. Article three states that “everyone has the right to life, liberty and security of the person” and article five states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁹²

The UN has stated that women’s rights have always been a primary concern since the beginning of the organization. It wasn’t until December 1993 that the UN acknowledged the global issue of violence against women with the adoption of the Declaration on the Elimination of Violence Against Woman. This is the first declaration that exclusively deals with women’s issues. The Declaration defines violence against

⁹⁰ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 80.

⁹¹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 80.

⁹² Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 81.

women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life (UN General Assembly 1993, Articles 1, 2a).”⁹³ The progress made by the UN is definitely a step in the right direction, but there is certainly a lot more work and progress that needs to be made to end domestic violence.

The UN adopted the Committee on the Elimination of Discrimination Against Women (CEDAW) in 1979. It is the first document to address women’s rights in all areas including social, political, economic, cultural, and family. CEDAW aims to eliminate discrimination against women and promote respect for women’s rights and human rights around the world. The United States was an active member of the drafting process, however, the United States Senate blocked the treaty from being voted on and the treaty was sent back to the Senate Foreign Relations Committee in 1995 and no action has been taken since then.⁹⁴ This blatant lack of decision-making and progress on behalf of the United States Government is only making the job of the activists more difficult to secure rights for women in domestic violence situations.

Those who oppose CEDAW being ratified in the United States have made compelling arguments. The first argument stems from fear of implementing CEDAW in the United States. Opposition fears that ratifying this treaty will give the international

⁹³ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 82.

⁹⁴ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 84.

community too much power over the United States. The convention would supersede United States Federal law and state laws.⁹⁵

CEDAW, however, clearly states that no authority is given to the international community for enforcement purposes. International states can express concerns or reservations where they feel there are discrepancies between international and domestic law. However, for the most part, the United States law is in compliance with the convention.⁹⁶

Another main issue the opposition has brought forward is that the term ‘discrimination’ is defined too broadly and leaves open the possibility of frivolous lawsuits. CEDAW defines discrimination as ‘the results from intentional prejudice and that which results from laws, policies, and practices, even when unintended.’⁹⁷

The United States already has discrimination laws and policies for both private and public employment separate from CEDAW. There is a difference between the policies between sex discrimination and race discrimination and there is a possibility that CEDAW could help to clarify the differences between the two discriminations.

The final concern of the opposition is that CEDAW could potentially destroy the traditional family structure and redefine the roles of men and women and disrupt the ‘hierarchy’ that has been established by society for centuries.⁹⁸ CEDAW was not created

⁹⁵ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 85.

⁹⁶ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 85.

⁹⁷ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 85.

⁹⁸ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 85.

to regulate family structures. According to the UN Commission for Human Rights of 1979, it was created to “urge states to adopt education and public information programs, which will eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women.”⁹⁹

CEDAW 2014 is continuing to move forward with their goals of gender equality. Countries around the world are using CEDAW in combatting sex trafficking, domestic violence and female genital mutilation. CEDAW is also being used as a tool to encourage primary education, vocational training for women, allowing women the right to vote, improve health care, and protect women from discrimination.

⁹⁹ Margi Laird McCue. 1995. *Domestic Violence a Reference Handbook*. Santa Barbara, Calif: ABC-CLIO, 85.

CHAPTER FIVE-CASE I-PENNSYLVANIA LAWS AND REGULATIONS

Pennsylvania laws lack many of the enforcement provisions regarding domestic violence, which could help to combat domestic violence. These concerns will be addressed further in this chapter. There are six main concerns that are discussed regarding the domestic violence criminal laws in Pennsylvania. For example, enforcement provisions of court protection orders need to be strengthened, including increased penalties for violations of protection orders.

Pennsylvania made progressive steps in addressing domestic violence in 1976 with the Protection from Abuse Act, but since then the Pennsylvania laws regarding domestic violence have stalled in making progressive changes. As noted above, there are six major concerns relating to the Pennsylvania laws, criminal and civil statutes, as well as the procedural codes addressing domestic violence, which will be discussed below.

Assessing State Legislation

Pennsylvania developed Title 23 to address domestic violence and Protection from Abuse orders. This legislation explains all of the laws that are put in place for domestic violence hearings that are brought to the court.

The state of Pennsylvania defines abuse in domestic violence cases as, “the occurrence of one or more of the following acts between family or household members,

sexual or intimate partners or persons who share biological parenthood:

Attempting to cause intentional harm, places another in reasonable fear, the infliction of false imprisonment, and knowingly engaging in acts that may cause bodily harm.”¹⁰⁰

Pennsylvania legislation is comprised of two types of laws, substantive criminal law and criminal procedure. Substantive law is written law that outlines the rights and duties, civil rights, and responsibilities in civil law. Criminal procedure code is the process of formal criminal charges and the process to a conviction or acquittal.

The following six points are the main concerns with the development of Pennsylvania law that is currently in place for domestic violence situations. The lack of solid and precise laws leave room for extreme interpretation for both prosecutors and judges alike. Ambiguous laws can create difficult situations for a judge for decision making for violations and sentencing.

The first concern is that Pennsylvania law does not have a separate domestic violence criminal statute, which can be found in thirty-eight other states.¹⁰¹ While there are penalties in place for violations of PFA orders, there are no penalty increases for repeat offenders. It is at the judge’s discretion to choose the punishments each time the defendant comes in for another violation. There are also no penalties in place for recurring domestic violence perpetrators.

The second concern is that Pennsylvania does not have spousal sexual assault laws

¹⁰⁰ *Abuse of Family. Chapter 61, Title 23.* 1990.

<http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/23/00.061..HTM>

¹⁰¹ Miller, Neal. 2010. “Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers.” *Institute for Law and Justice.*
http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

in place.¹⁰² In 1995, Pennsylvania repealed the laws that permitted a spousal exception to rape for individuals that still resided together. This means that Pennsylvania retracted the law that permitted husbands to rape their wives. This change provides victims with more protection under the law.

The third concern is with the procedures established for violations of Protection from Abuse orders. Any violation of an order is considered a contempt charge, rather than a felony offense.¹⁰³ Other states including California have made violations of protection orders a felony offense. In Pennsylvania, the consequences for violations of orders can be limited since it is left to the judge to choose a punishment. The law has not set up an increasing penalty guide for judges to use when repeat offenders come into the courtroom for violations against protection orders. The consequences can range from six months in prison to fines ranging from \$300 to \$1000 dollars. While those are the most severe punishments, a judge can choose a less severe option such as a warning.

The fourth concern is that Pennsylvania has very limited penalties established for first time stalking offenses. Thirty-eight other states have created laws that make stalking a felony offense. Pennsylvania does not consider first time stalking offenses to be a felony, but rather a misdemeanor.¹⁰⁴ If a perpetrator of stalking has a previous conviction against the same victim then the charge would be a felony of the third degree.

¹⁰² Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*. http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹⁰³ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*. http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹⁰⁴ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*. http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

The fifth concern is that Pennsylvania does not have any provisions in place to secure a victim's right to file a report with the police department, seek shelter, or protect themselves once they have found shelter.¹⁰⁵ Pennsylvania does acknowledge intimidation of a witness or retaliation toward a witness as a felony offense.¹⁰⁶

The sixth concern is that the laws in Pennsylvania do not require firearms to be removed from the defendant's possession in a simple domestic violence conviction. The state only provides a firearm ban for stalking or aggravated assault convictions as well as Protection from Abuse orders.¹⁰⁷ This gap allows for a discrepancy between different types of domestic violence cases and can cause confusion for the victim.

There are also four concerns with the procedural codes in Pennsylvania that need to be addressed by state legislation. The first concern of the current procedural code is that there are no statutory requirements established in Pennsylvania that requires mandatory arrest for domestic violence.¹⁰⁸ This means that police officers are not obligated to make an arrest if they are called for a domestic violence incident. In many domestic violence situations, both partners are arrested so that an investigation can be done to see who the aggressor was. This can cause even more trauma for the victim. Pennsylvania also allows

¹⁰⁵ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*. http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹⁰⁶ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*. http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹⁰⁷ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*. http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹⁰⁸ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*. http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

for leniency in arrests in domestic violence cases if physical injuries are not visible.¹⁰⁹

There are times that a victim is arrested and spends time at a precinct or jail before she is formally considered a victim by the judge. This process adds further trauma that the victim must endure. However, Pennsylvania does authorize arrests if a batterer has violated a Protection from Abuse order.¹¹⁰

The second concern relates to the responsibilities of law enforcement. Pennsylvania does not have any provisions in place for non-arrest duties for domestic violence victims.¹¹¹ This means that the police are not obligated to assist the victim in finding a shelter to stay in, seek medical treatment, or help remove belongings from her home. Police are required to give the victim notice of her rights under the Victims Rights Act.¹¹² There is also no law for firearm seizure at the time of the arrest, so the police run the risk of allowing those firearms to be used in future domestic violence incidents if they are not removed at the time of the first incident.

The third concern is the lack of required domestic violence training in Pennsylvania for prosecutors. Prosecutors of domestic violence are not required to attend training

¹⁰⁹ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.
http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹¹⁰ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.
http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹¹¹ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.
http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹¹² Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.
http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

programs on domestic violence.¹¹³ This requirement is found in seven states.

Pennsylvania also does not require prosecutors to have policies in place for non-compliant witnesses.¹¹⁴ Police agencies are required to have statutory training to learn the laws however, the training does not have to include in-service training.¹¹⁵ Police agencies are not required to have written procedures or policies for domestic violence arrests.¹¹⁶

The fourth concern is that citation release in domestic violence cases is not permitted.¹¹⁷ A citation release means that the defendant is given the charges that are brought against him in written form, as well as court appearance information.

Overall, the analysis of domestic violence laws in Pennsylvania demonstrates a lack of proper protection for domestic violence victims. It is almost as if the first incident of domestic violence has no penalty. You have to be a repeat offender before the court system takes notice. The law is lacking mandatory arrest laws and the enforcement of Protection from Abuse orders are weak. Pennsylvania judges need to impose stronger punishments for perpetrators that violate the conditions of the Protection from Abuse order. There is also a need for heightened penalties for repeat offenders of domestic

¹¹³ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.

http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹¹⁴ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.

http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹¹⁵ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.

http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹¹⁶ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.

http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹¹⁷ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.

http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

violence. Many states consider stalking to be a felony offense and it is something that needs to be considered for Pennsylvania to create a stronger defense against domestic violence. All of these revisions to the current laws could greatly benefit judges by making the decision-making process for domestic violence more straightforward and unbiased. One positive step Pennsylvania has taken is the state registry that is in place for Protection from Abuse orders. Pennsylvania has a state registry for domestic violence orders, which also processes out of state orders for victims that flee their jurisdiction and enter into Pennsylvania.¹¹⁸ Pennsylvania is one of the first states to establish this system. It is the job of the Prothonotary to notify the State Police of any Protection from Abuse order that goes into the system.

Judge Training

Judges in Pennsylvania are required to participate in domestic violence training within one year of being assigned to domestic violence cases.¹¹⁹ The Administrative Office of Pennsylvania Courts approves the training. Judges must complete six hours of training annually to stay up to date on all the developments in domestic violence. The judges are not required to partake in any other training opportunities: it is up to the judge's discretion if they wish to continue any education on domestic violence. The Judicial Education Department of Pennsylvania has put together bench books for the

¹¹⁸ Miller, Neal. 2010. "Domestic Violence: A Review of State Legislation Defining Police and Prosecution Duties and Powers." *Institute for Law and Justice*.

http://www.ilj.org/publications/docs/Domestic_Violence_Legislation.pdf

¹¹⁹ "Mandatory Domestic Violence Training for Judges." *Resource Center on Domestic Violence: Child Protection and Custody*. Accessed 2013. <http://www.ncjfcj.org/sites/default/files/chart-mandatory-dv-training-for-judges.pdf>.

judges to refer to for issues including, Sexual violence, dependency, witness and jury intimidation, and PA public health.¹²⁰ There is no “Bench Book” prepared for the judges regarding domestic violence or any mention on their website of domestic violence seminars or training.

Pennsylvania Protection from Abuse Act

Pennsylvania enacted the Protection from Abuse Act in 1976. This act allowed the courts to hold hearings and issue permanent protection orders that bans the batterer from future contact with the victim. The Act also permits temporary hearings to be conducted without notifying the defendant. A final hearing is scheduled shortly after, which the defendant is given notice beforehand. Pennsylvania’s Protection from Abuse Act became the template for other states to model when establishing similar laws.

The main objective of the Protection from Abuse Act is to give full faith and credit to any foreign protection orders. This statement means that all protection orders will be recognized inside Pennsylvania jurisdiction as they were written in outside jurisdictions. If a victim is moving to a new state, any protection order will still be in effect. Every state adheres to this procedure. A plaintiff in possession of a protection order may file a certified copy with the Prothonotary in any county in the Commonwealth of Pennsylvania. A written notice copy of the protection order should be available to the victim’s residing county law enforcement agency. Each law enforcement agency should provide oral and written notice of all protective services available to an abused person.

¹²⁰ "Judicial Education." The Unified Judicial System of Pennsylvania. 2014. <http://www.pacourts.us/judicial-administration/judicial-education>.

Pennsylvania Protection Order Procedures and Regulations

Under the Protection from Abuse Act, there is certain criterion that is required to apply for an order. There is defined behavior that qualifies a victim for a Protection from Abuse order. A victim must have experienced physical harm with or without a weapon, serious bodily harm, being held against her will, rape or sexual assault, and repeat stalking and harassment. Verbal abuse does not qualify in itself for a Protection from Abuse order.

In Pennsylvania, there are different procedures for obtaining a Protection from Abuse order (PFA) for each county. In Southwestern, Pennsylvania there are three major counties that have procedures put in place, Washington County, Greene County, and Fayette County. Each county has an office where a victim can go to fill out the paperwork. An advocate will assist the victim in filling out the paperwork and provide information about legal aid. If the police are first involved with a domestic violence situation, it is the duty of the police to inform a victim orally and with written notice of all protective services that are available to the victim. The written notice contains the following information:

"If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the Protection from Abuse Act (23 Pa.C.S. Ch. 61), which could include the following:

- (1) An order restraining the abuser from further acts of abuse.*
- (2) An order directing the abuser to leave your household.*
- (3) An order preventing the abuser from entering your residence, school, business*

or place of employment.

(4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.

(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.”¹²¹

There are three types of Protection from Abuse orders that a victim can obtain from the courts. The first order is an emergency order. This order is only effective for 24 hours or until the next working business day. This order will then go in front of a judge for a temporary Protection from Abuse hearing.

The next step is to appear in front of the judge for a temporary PFA hearing. If a plaintiff petitions for a temporary order for Protection from Abuse and alleges immediate and present danger in the home, the court can conduct an ex parte proceeding, which is a hearing that does not require notice to be given to the defendant in an effort to avoid irreparable harm.¹²² The judge will hear testimony from the victim and decide if there is reason to believe the victim is in imminent danger. If the judge grants the PFA, a final hearing will be set within ten days. The temporary order will remain in effect until the court modifies or terminates the order. Temporary orders for Protection from Abuse may also require the defendant to relinquish all firearms for the duration of the order.

Once a final order hearing is set, the defendant will have the opportunity to be represented by counsel, or be self represented and give testimony valid to the case.

¹²¹ “Protection from Abuse Act.” 2014. *PCADV*: 1-27.
http://www.pcadv.org/Resources/PFA_Act.pdf

¹²² “Protection from Abuse Act.” 2014. *PCADV*: 1-27.
http://www.pcadv.org/Resources/PFA_Act.pdf

During the final hearing a judge may require the victim to testify to the information filed in the PFA. The judge will then make a final decision on the order and the order can be effective for up to three years. There will be set terms with the order including no contact and if a child is involved, a custody clause may be written in the order as well.

Mutual orders of protection may also be an option that the court chooses to use. A mutual order of protection is used when both parties file petitions and two separate hearings are held to determine the validity of both orders at separate times.

A victim can ask the judge for certain requests to apply to the PFA. The judge can choose to grant all of the requests or just a few of them. Requests can include ending the threats, stalking, harassment, evicting the abuser from the home, if the victim and batterer share the home, keep any current address confidential, gain temporary custody of children, require child support or reimbursement for expenses, require no contact at the victim's place of employment, relinquish firearms, and return any personal items that may have been taken by the batterer.

A Protection from Abuse order has a duration time of no more than three years. The court is able to amend the order over those three years, as well as extend the order after another hearing is held to determine whether an extension is necessary.

If the defendant violates the Protection from Abuse order, there are several steps that will be taken. The first step is for the victim to call the police immediately. The victim can have the defendant arrested for any violations that have been highlighted in the order except for financial provisions. The defendant may be released shortly after being arrested and will most likely go before the judge to determine consequences for

violating the order.

Protection orders differ from criminal prosecution in two respects. Protection orders are heard in civil court, not criminal court, and they originate out of a court's civil power to adjudicate disputes to resolve marital and family matters.¹²³ A protection order is not meant to punish the offender by using past criminal behavior, rather, it is meant to prevent future unlawful conduct.¹²⁴ "Civil protection orders have the potential to assume a central role in society's response to domestic violence."¹²⁵ If protection orders are being executed properly, as well as monitored properly, there is the opportunity for the community to experience a high level of success and possible decrease in violence. However, if the system remains at the same level it is currently performing at, then protection orders may continue to be seen as simply a piece of paper.

While protection orders are meant to stop the violence, it is at the judiciary's discretion if an order is given and enforcement after issuance is problematic. Reasons for this include the temperament of the judge as well as judiciary concerns about the process, which make them reluctant to issue orders.¹²⁶ This reluctance can cause the victim to rethink any Protection from Abuse order that she may want to pursue. The victim must

¹²³ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

¹²⁴ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

¹²⁵ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

¹²⁶ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

actively pursue the protection order and she can sometimes come across difficult requirements as well as hostility from the court personnel or the judiciary.¹²⁷ Every state has their own process for acquiring a protection order so there is no uniformity of the statutes or policies between states.

The first step a judge can take in PFA hearings is to carefully determine which individual in the case is the victim and demonstrate concern about any events that have taken place. It is crucial that the judge creates a relationship built on trust with the victim. The victim is often traumatized and the ability to trust another person may not be completely possible. Victims come from very hostile environments where an error in judgment by the court could be lethal. It is important that the judge takes a proactive approach to hopefully gain the trust of the victim in moving forward with further hearings. This can be done by listening to the needs of the victim and making eye contact, as well as taking the women's words seriously.¹²⁸ Judges must take the time to explain all of the options and services that are available to her. Judges need to take advantage of all of the organizations and services available to provide safety and comfort to the victim.¹²⁹

While many judges are experimenting with innovative approaches in their courtrooms, there are still judges that are unsympathetic to domestic violence cases due

¹²⁷ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

¹²⁸ "Domestic Violence & The Courtroom Understanding The Problem, Knowing The Victim." 2014. *American Judges Association*. <http://aja.ncsc.dni.us/>.

¹²⁹ "Domestic Violence & The Courtroom Understanding The Problem, Knowing The Victim." 2014. *American Judges Association*. <http://aja.ncsc.dni.us/>.

to certain legislation that has been established that could possibly impinge on the offender's rights.¹³⁰ This stigma is something that needs to be addressed.

Until recently there was little reported empirical research on the use of Protection from Abuse orders, which made it difficult to measure the effectiveness.¹³¹ Temporary protection orders give the judiciary the opportunity to intervene to prevent further violence until final PFA hearings can take place. Protection orders may be the best option for victims to prevent the current abuse patterns from escalating to a more severe situation.¹³² Until specific domestic violence statutes were passed, protection orders were used infrequently and were often considered an imposition on citizenry rights.¹³³ These impositions caused the courts to require a high standard of proof in all domestic violence cases. Originally an attorney was the only person who could request a protection order and at that time the primary purpose of the court was not for domestic violence situations, so consequently, judges used these orders sparingly.¹³⁴

¹³⁰ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

¹³¹ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

¹³² "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

¹³³ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

¹³⁴ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

Pennsylvania Coalition Against Domestic Violence

The Pennsylvania Coalition Against Domestic Violence (PCADV) is a non-profit organization in Pennsylvania that works to end domestic violence. The organization was started in 1976 and has grown to over sixty community-based programs. The programs help nearly 100,000 victims of domestic violence on a yearly basis.¹³⁵ Since 1976, PCADV has helped more than 2.5 million victims through intervention services including hotlines, crisis centers, counseling, shelters, court accompaniment and assistance in filling out Protection from Abuse petitions.¹³⁶

PCADV also offers a variety of different informational resources including training opportunities, support of pending legislation and lobbying, current state and Federal domestic violence legislation, and supporting victim services in Pennsylvania and throughout the United States.

Pending Legislation

Pennsylvania is currently discussing new legislation, which may be voted on. This legislation addresses many aspects of domestic violence in an effort to try to strengthen the current laws that are in effect. Several laws are focusing on child abuse and the process of reporting abuse and prevention. These new laws will focus on child abduction by an abusive parent, proper reporting and use of the child abuse registry.

¹³⁵ “Our History.” 2014. *History*. Pennsylvania Coalition Against Domestic Violence. <http://www.pcadv.org/About-Us/History/>

¹³⁶ “Our History.” 2014. *History*. Pennsylvania Coalition Against Domestic Violence. <http://www.pcadv.org/About-Us/History/>

House Bill 939 is currently pending in Pennsylvania. This Bill requests that domestic violence victims are exempt from paying debts or given an extended period of time to do so. Currently the law only excludes victims who have obtained a Protection from Abuse order. This new Bill proposes that court records, police records, and medical records will be sufficient documentation, if the victim is unable or unwilling to seek a Protection from Abuse order. These exemptions include no liability for debts and arrearages accrued by the abuser, additional flexibility to make up front payments, longer repayment periods, and increased notice prior to termination.¹³⁷ The current economic barriers make it difficult for victims of domestic violence who have not been able to apply for a Protection from Abuse order, but possess police reports or medical reports identifying abuse.

Senate Bill 850 addresses domestic violence fatalities. In the last year there were 158 domestic violence deaths and 107 of those deaths were victims.¹³⁸ This Bill would amend the current Bill that is in place to create more rights and privileges for organ donation. PCADV is concerned that this Bill needs to include provisions to make sure that the domestic abuser is not given any rights as to how the body is handled, regarding organ donation, as well as securing any confidential medical information.¹³⁹

¹³⁷ “Pending Legislation.” 2014. *History*. Pennsylvania Coalition Against Domestic Violence. <http://www.pcadv.org/Public-Policy/Pending-Legislation>

¹³⁸ “Pending Legislation.” 2014. *History*. Pennsylvania Coalition Against Domestic Violence. <http://www.pcadv.org/Public-Policy/Pending-Legislation>

¹³⁹ “Pending Legislation.” 2014. *History*. Pennsylvania Coalition Against Domestic Violence. <http://www.pcadv.org/Public-Policy/Pending-Legislation>

CHAPTER SIX-JUDICIAL RESPONSES

“The judiciary retains the potential of leading the criminal justice system by example or direction.”¹⁴⁰ The judiciary is the highest authority in the legal system and has the power to condemn any decision the police or prosecution make and the ability to set the parameters for any crime involving domestic violence that is brought to their courtroom.¹⁴¹ The relationship between the judge and the victim is crucial to the success or the destruction of a beneficial outcome in the courtroom. The judiciary’s attitude toward domestic violence can also affect how the general public views the issue. The judiciary has two options, to use their power to take action on domestic violence, or as seen in the past, strongly imply that domestic violence is not a real crime.¹⁴²

There are five clear concerns with how the court is currently handling domestic violence cases, which will be addressed in this chapter. The issues found in the current judiciary practices fall into five separate categories including 1. Enforcement of laws, 2. Exercising discretion, 3. Establishing procedures and policies inside the courtroom, 4. Working with the community and other domestic violence agencies and 5. Judiciary

¹⁴⁰ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications., 96.

¹⁴¹ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 96.

¹⁴² Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 96.

demeanor, which is examined through theories, written material, and courtroom observations.

The first category examined is the enforcement of current laws. Although judges can protect victims by enforcing the laws that are currently set in place by the state, it is not always that simple. Critics believe that the court has too much discretion and can cause irreparable harm by ignoring the statutes. Along with enforcing current laws, the enforcement of Protection from Abuse orders is just as important to ensure the safety of the victim. An issue that is seen in the court is routinely dismissing domestic violence cases, which effectively undermines police arrests. Dismissals and light sentencing may reflect the disparaging attitudes judges have toward female victims.¹⁴³ Research has shown that short jail sentences for all violations of Protection from Abuse orders show the seriousness of the judiciary in deciding domestic violence cases.¹⁴⁴ Judges need to inform batterers of the consequences of violating Protection from Abuse orders. Research also shows that giving verbal instructions of what is involved in a Protection from Abuse order, as well as alerting the batterer of the consequences for violating an order will increase the likeliness that he will comply with the order.¹⁴⁵ Giving abusers multiple chances shows flexibility in how the court addresses domestic violence, as well as leniency in the enforcement of Protection from Abuse orders.

¹⁴³ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 96.

¹⁴⁴ "Judicial Responses to Domestic Violence." 2014. Stop Violence Against Women . <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

¹⁴⁵ "Judicial Responses to Domestic Violence." 2014. Stop Violence Against Women . <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

The second category examines the procedures and policies inside the courtroom. The judiciary is able to establish courtroom policies that must be followed in an attempt to enhance victim safety. It is crucial that the judge and personnel remove any intimidation from the courtroom that may be present. A judge is able to use their authority and enforce every relevant law in the case.¹⁴⁶ If the judge is able to set a “zero tolerance” policy for domestic violence it will become clear to the victim, and the abuser, that domestic violence behavior will not be tolerated, nor will courtroom antics of intimidation. Mismanagement of domestic violence cases, as well as inconsistent performances by both the prosecution and the judiciary have been found in the courtroom.¹⁴⁷ This mismanagement is something that has not gained saliency or importance as a public issue.¹⁴⁸ If the judge is not an advocate for enforcement of the statutes, the victim may face further abuse right there in the courtroom.

The judiciary can require that a victim be notified when the defendant is released from police custody or jail. This will provide her with the necessary time to plan for her safety from the batterer by leaving their shared home or contacting police to make sure the batterer does not return to the home if there is a PFA in place. Other court policies can be revised to provide more access to the victim, such as emergency hours in locations

¹⁴⁶ “Domestic Violence & The Courtroom Understanding The Problem, Knowing The Victim.” 2014. *American Judges Association*. <http://aja.ncsc.dni.us/>.

¹⁴⁷ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 172.

¹⁴⁸ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 172.

where a victim can file Protection from Abuse orders.¹⁴⁹ Judges can also change their courtroom procedures by developing checklists, protocols, and shortening the process for obtaining Protection from Abuse orders.¹⁵⁰

The third category looks in depth at the strategies set forth by the community and domestic violence agencies for judiciary reform. Advocates can play an important role in the judicial process by using different strategies. A common strategy that can be used is court monitoring. Court monitoring consists of identifying areas of concern by observing the courtroom and reporting those concerns to the community. Regular observations can increase awareness of how the judiciary is handling domestic violence. This process may also increase a judge's self-awareness of how they handle domestic violence cases and the effect their decisions can have on perpetrators.¹⁵¹ Although a judge may try to clear the courtroom during testimony, it is the public's right to observe whether they are family of their party or not. It is also the public's right to report on how the cases are handled and how the judge is relating to the both the victim and defendant.

The training for judges and their courtroom personnel can have a positive impact on the judiciary response in the courtroom regarding domestic violence. Training can provide judges with more knowledge about domestic violence and how to better address situations like violations of PFA orders or making their courtroom an intimidation free

¹⁴⁹ "Judicial Responses to Domestic Violence." 2014. Stop Violence Against Women. <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

¹⁵⁰ "Judicial Responses to Domestic Violence." 2014. Stop Violence Against Women. <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

¹⁵¹ "Judicial Responses to Domestic Violence." 2014. Stop Violence Against Women. <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

environment. “Training can focus on the myths of domestic violence, the effects abuse has on the victim, victim experiences in the courtroom, and how judiciary demeanor affects the victim.”¹⁵²

Training can teach judges how to become more sensitive to domestic violence situations and more aware of the needs of victims. Innovative training programs for the judiciary were originally financed by Federal or state grants, but they eventually became the financial responsibility of the locality.¹⁵³ At the present time, the public sector and current laws do not view domestic violence as a top priority for program development so the programs often fall victim to budget exigencies in the public sector.¹⁵⁴ Proper funding is the main reason for the loss of programs to help educate judges on domestic violence and supply them with tools to effectively handle these cases in the courtroom.

Unfortunately, research is less advanced for innovative techniques that work well with the judiciary. Many judges feel that with the overwhelming time demands for more high profile crimes that they have devoted satisfactory resources to domestic violence.¹⁵⁵

The fourth category looks into judiciary discretion inside the courtroom and how those decisions can affect the courtroom atmosphere. Judges in Pennsylvania have discretion when it comes to sentencing perpetrators of domestic violence since Pennsylvania does not have strict domestic violence laws in place. At times, this can

¹⁵² “Judicial Responses to Domestic Violence.” 2014. Stop Violence Against Women. <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

¹⁵³ “Judicial Responses to Domestic Violence.” 2014. Stop Violence Against Women. <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

¹⁵⁴ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 172, 172.

¹⁵⁵ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 172.

undermine the safety of the victim as well as diminish the batterer's accountability.¹⁵⁶ Prosecutors are able to recommend sentences to the judge for violations of orders, but the judge has the authority to choose different penalties. Leniency in the laws can allow personal judgment and bias to enter into the judge's decision. The judiciary may be able to deny release from jail, impose certain conditions upon release, or issue no contact orders while other judges may choose to impose a fine and allow the batterer another opportunity to follow the terms of the Protection from Abuse order. Since Pennsylvania does not regulate strict sentencing guidelines for domestic violence, it is completely at the discretion of the judge.

“A suspended sentence reinforces the batterer's belief in his right to use violence to establish power and control over his partner.”¹⁵⁷ This statement outlines a disturbing idea that if a judge chooses a lighter punishment, it will affirm to the batterer that his behavior is acceptable.

A recent innovation of the courts response to domestic violence has been to adopt statutes that grant protection orders that stop abuse immediately referred to as an Emergency PFA.¹⁵⁸ Another innovation states are beginning to explore is a “no-drop” policy.¹⁵⁹ This policy will help judges maintain the firm stand against domestic violence in the courtroom when victims come in for a hearing to have their Protection from Abuse

¹⁵⁶ “Judicial Responses to Domestic Violence.” 2014. Stop Violence Against Women . <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

¹⁵⁷ “Judicial Responses to Domestic Violence.” 2014. Stop Violence Against Women . <http://www1.umn.edu/humanrts/svaw/domestic/link/judges2.htm>.

¹⁵⁸ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 188.

¹⁵⁹ Eva Schlesinger Buzawa and Carl G Buzawa. 1990. *Domestic Violence : The Criminal Justice Response*. Newbury Park, Calif: Sage Publications, 188.

orders dismissed. If the states take this decision out of the hands of the judges then there is not as much pressure put on them by victims to let them potentially return to violent situations.

Judiciary Demeanor inside the Courtroom

“The judge’s behavior and demeanor matter greatly. Much more by example than by precept does he or she communicate expectations of gender-neutral professionalism in and out of the courtroom (Judge Harold Flannery).”¹⁶⁰

The final category focuses on the judiciary demeanor and attitude in the courtroom and with the victim. Judges can affect both victim safety and batterer accountability through the demeanor they put forth in court.¹⁶¹ The judiciary’s demeanor can also set the tone for their personnel. If the judge takes domestic violence seriously in his courtroom, it sets the tone for how the courtroom staff is expected to handle cases related to domestic violence. How a judge chooses to act can greatly affect everyone involved in the process, including the victim.

¹⁶⁰ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 92.

¹⁶¹ “Domestic Violence & The Courtroom Understanding The Problem, Knowing The Victim.” 2014. *American Judges Association*. <http://aja.ncsc.dni.us/>.

Erving Goffman created a theory of authority and how demeanor and ceremonial behaviors affect the authority of a judge in the courtroom. Goffman defines demeanor as, “the element of an individual’s ceremonial behavior.”¹⁶² This is found in the way a judge dresses, attitude, posture, and expressions throughout a hearing. Ceremonial behavior is something that can instantly be recognized by the victim; simply by the way the judge first greets her in the courtroom. Goffman concludes that the most accurate assessment of judicial demeanor is through the women’s perspective, while they are standing before the judge.

Theoretically, ceremonial aspects can be differentiated from the substantive behavior. Substantive behavior includes signing a protection order, issuing an arrest warrant, or ordering the payment of child support.¹⁶³ The way the judge expresses either empathy or indifference while conducting the substantive acts, represents the ceremonial dimension of behavior. Very rarely are these two behaviors found without the other. They are distinct concepts, but the two are present in the same behavior.¹⁶⁴

Applying Goffman’s theory to judicial demeanor in Protection from Abuse order hearings includes a “what” and “how” aspect. The “what” is whether a judge issues the protection order or not and the judge demeanor represents the “how.”¹⁶⁵ The “what” are the actions that the judge takes inside the courtroom. The how explains all of the judge’s

¹⁶² James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 94.

¹⁶³ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 94.

¹⁶⁴ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 94.

¹⁶⁵ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 94.

behavior towards the victim, defendant, court officers, and legal representation. The major question of this research is whether the judiciary uses his or her power to create a positive relationship with the victim and empower them; or if the judge shows impatience, disapproval, and hostility towards women coming from domestic violence situations.

Goffman argues that there is a relationship between demeanor and emotional presentation of authority by judges. The way the judge accomplishes an emotional impact on a victim is the central question of demeanor. Judges have an exceptional amount of authority in the courtroom. It is important to understand the amount of power a judge has in the courtroom because the notion of “doing authority” is constantly happening while a hearing is going on.¹⁶⁶ “Doing authority” means that even if the judge develops a positive relationship with the victim, the judge will always have more power to decide the fate of a victim’s Protection from Abuse order.

“The weight of judge’s institutionalized power imbalances every interaction.”¹⁶⁷ Demeanor is applied to the judge’s authority by how he or she uses that authority with everyone in the courtroom. It requires a certain type of management inside the courtroom and an understanding of the impact the judge’s power has on a victim.

¹⁶⁶ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 95.

¹⁶⁷ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 95.

Goffman offers five ceremonial aspects that are further theorized by Arlie Russell Hochschild by exploring the emotional dimensions of a judge's demeanor.¹⁶⁸ The way judges speak, the way they ask questions, how close they allow victims to come to the bench and how diligent they are assisting women ceremonially expresses how the judge uses the authority they have in the courtroom.¹⁶⁹ Hochschild's sociological view of demeanor can be interpreted as emotional labor.¹⁷⁰ Jobs that require emotional labor, such as a judge, require three things; face-to-face or voice-to-voice contact with the public, the worker creates an emotional response in another person such as gratefulness or fear, and the employer is permitted to exercise a level of control of the emotional events.¹⁷¹ The five following demeanors cover all spectrums in behavior towards women.

A good-natured demeanor in the courtroom means that the judge is courteous and pleasant, even friendly. Judges, who possess this type of demeanor, use their authority to help women feel welcome in the courtroom, acknowledge the suffering they have endured and supply them with domestic violence resources. Judges using this demeanor also express themselves ceremonially by greeting women in a friendly tone, allowing them to stand closer to the bench and understanding that speaking publicly about the

¹⁶⁸ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 95.

¹⁶⁹ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 95.

¹⁷⁰ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 96.

¹⁷¹ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 96.

violence can be difficult.¹⁷² Judges also take the time to explain the legal process and clarify any miscommunications during the hearing.

A bureaucratic demeanor in the courtroom shows a passiveness and detachment. A bureaucratic judge tends to be impersonal, routine and neutral in outward behavior towards the victim. Any interactions tend to be emotionally flat and businesslike.¹⁷³ Bureaucratic judges ask fewer questions during the hearings and do not properly explain the Protection from Abuse order process. Bureaucratic judges are less likely to ask women why they want to drop the protection order that were previously put in place. Hearings were short and normally only last minutes until counsel is present.¹⁷⁴

A firm or formal demeanor may show their authority towards the defendant rather than the victim. A judge may be courteous and non-verbally greet the victim but lacks supportiveness and may appear to be strict and have little patience.¹⁷⁵ Differing from the bureaucratic judges, formal judges show a firm tone and take an active stance to emphasize their power.¹⁷⁶

The following two types of demeanor are often seen in firm and formal demeanor but can also be seen without another type of demeanor, which can mean that a judge is extremely intolerant of the victim. Condescending demeanor towards women by the

¹⁷² James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 99.

¹⁷³ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 102.

¹⁷⁴ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 101.

¹⁷⁵ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 102.

¹⁷⁶ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 101.

judge can show a sense of patronizing or demeaning behavior. Condescending behavior can include judgmental expressions and an intimidating sense of authority. The defendant may mistake the judge's behavior as being on his side and condoning his actions. A harsh demeanor is nasty and abrasive behavior. This behavior far surpasses condescending or firm demeanor. Judges can be punishing and intolerant to domestic violence and show unwillingness and anger in helping the victim.

Pennsylvania Courtroom Observations

Courtroom observations were completed at the Washington County Courthouse in Washington, Pennsylvania. This study was conducted specifically for this research. Court observations took place in two different courtrooms in the same county. One judge was a female and the other judge was male. The cases are divided between the two judges according to the alphabet. This study observed eight cases per judge. Both judges are new to the county and have been ruling on domestic violence cases since January of 2014. On the assigned day for Protection from Abuse hearings, the judges can hear ex parte hearings, final order hearings, and violation hearings. During these observations I observed both male and female victims because I wanted to observe the judge during every hearing that took place.

Male Judge:

The first judge observed was the male judge. According to Goffman's five different types of demeanor, this judge showed a mixture of ceremonial behavior that would put him in both good natured and bureaucratic demeanor categories. Within the first case the judge conveyed a sense of patience and willingness to explain the process to both the defendant and the victim. If the defendant arrived without proper counsel, the judge would explain that he or she had the right to have counsel present. He did make it clear to any unrepresented defendant that testimony was not an opportunity to argue, but rather an opportunity to ask questions pertaining to the case. Throughout every hearing the judge maintained the same demeanor and asked a lot of questions to understand any detail that he might have been unclear about.

The judge's ceremonial behavior was shown through his eye contact, his greeting to the victim, and his professional attire. Some negative ceremonial behaviors shown were his lack of punctuality. Hearings would always start a half hour late causing the victim and defendant to wait outside in the same area for a longer period of time, resulting in the sheriff having to separate several couples from arguing. The victim could possibly view this behavior in a negative light. The victim could feel like her case isn't important enough to the judge, potentially causing more emotional damage to the victim. This court hearing could be a matter of life or death to the victim and the judge should show the same amount of interest as he would high profile cases.

He was not overly empathetic towards either party, which showcased his bureaucratic behavior, but he listened intently and spoke with a calm and non-

condescending tone in his voice. Throughout the hearings, the judge referred to Pennsylvania procedural codes as they pertained to domestic violence. He would read the procedural code out loud to both the defendant and the victim so that both parties understood what was being discussed. He took his time with each case and even excused himself to clarify an important detail on one of the cases. He also allowed for breaks or continuances if either party needed more time to prepare their argument. The judge did not rush through his cases, but tried to keep the process moving. Once he felt like he had all of the information he needed to make a ruling, he would make a decision either way in regards to the PFA.

Overall the judge expressed positive ceremonial behavior, but remained neutral toward both parties. He showed no empathy toward either party. The judge did not alert any of the victims of the resources that are available to her, such as the Women's Shelter or the Domestic Violence Services office in the courthouse. This is problematic because victims need to know that there is assistance available to help with housing, employment, and any other service that the victim may need. The judge is well aware that these services exist and this announcement needs to become a priority for every hearing that enters the courtroom. Through the cases that were observed, not once did he mention potential resources to a victim.

The attire is noted in the observations for a very specific reason. The male judge had a policy posted on his door regarding proper dress attire. Proper attire excluded jeans, shorts, cut off t-shirts, and sweats. The policy also noted that any individual dressed in these items would be asked to leave the courtroom. As noted in the charts, many

individuals involved in PFA hearings were not dressed properly according to the policy, but were permitted to stay in the courtroom. A simple policy put in place by the judge was not enforced by any of his staff members. By not enforcing the policies that have been made may open up opportunities for either the victim or the defendant to not take the judge seriously because he is not enforcing his own policies inside the courtroom.

Table 2-Male Judge-Case 1

Type of hearing:	PFA violation-criminal
Type of Victim:	Female
Judge Demeanor:	Patient, calm tone, listened to both parties, and explained legal process to defendant without counsel, did not speak about resources or support for victim
Victim Attire	T-shirt, sweat pants
Defendant Attire:	Cut off t-shirt, jean shorts, black work boots
Finding:	Not Guilty of violation

Table 3-Male Judge Case 2

Type of hearing:	Final PFA hearing-civil
Type of Victim:	Female
Judge Demeanor:	Fully examined court procedures, called for a recess to ask a colleague about a procedure, asked a lot of questions, calm tone, not overly emotional towards the victim, did not speak about resources or support for victim
Victim Attire	Sweatshirt, jeans, tennis shoes
Defendant Attire:	Did not appear in court
Finding:	PFA granted for 3 years

Table 4-Male Judge-Case 3

Type of hearing:	Final PFA hearing-civil
Type of Victim:	Male
Judge Demeanor:	Patient, calm tone, listened to both parties,

	and explained legal process to defendant without counsel, spoke to defendant with a stern tone at times,
Victim Attire	Jeans, button up shirt
Defendant Attire:	Blouse, suit pants, heels
Finding:	PFA granted for one year

Table 5-Male Judge-Case 4

Type of hearing:	Final PFA hearing-civil
Type of Victim:	Female
Judge Demeanor:	Patient, calm tone, reviewed the document with both parties, asked if either party had questions about the order
Victim Attire	Capri pants, stripped shirt
Defendant Attire:	Jeans, polo shirt
Finding:	PFA granted-time not specified

Table 6-Male Judge-Case 5

Type of hearing:	Ex parte hearing-temporary PFA order
Type of Victim:	Male, behalf of minor female child
Judge Demeanor:	Patient, asked a lot of questions, showed concern for the child, clarified that the order would go into effect the same day, scheduled a final hearing two weeks from the date of the temporary order.
Victim Attire	Mechanics work uniform
Defendant Attire:	Did not appear in court
Finding:	Temporary PFA order granted, final hearing scheduled

Table 7-Male Judge-Case 6

Type of hearing:	PFA violation-criminal
Type of Victim:	Female, also wished to drop the PFA
Judge Demeanor:	Appeared to be annoyed with both parties because they willingly were together when defendant was caught. Listened to both parties and accepted the sentencing proposal from the victim's attorney.

Victim Attire	Jeans and a blouse
Defendant Attire:	Orange jumpsuit, shackles
Finding:	Violation was upheld, defendant was given probation and was to be released from jail.

Table 8-Male Judge-Case 7

Type of hearing:	Final PFA hearing-civil
Type of Victim:	Male
Judge Demeanor:	This was a continued case from the previous week. The judge greeted the victim. There was a mix up with the paper work and the defendant did not appear in court. The judge was not pleased with the confusion that took place. Let the attorneys address the issue and just sat at his desk.
Victim Attire	Polo shirt and jeans
Defendant Attire:	Not present
Finding:	Hearing continued until next week.

Table 9-Male Judge-Case 8

Type of hearing:	Final PFA hearing-civil
Type of Victim:	Female
Judge Demeanor:	Case was settled outside of court and the judge approved the agreement. The judge did not ask any questions of the defendant.
Victim Attire	Not present since there was agreement
Defendant Attire:	Suit and black shoes
Finding:	Temporary order agreement reached outside of court.

Female Judge:

The second judge that was observed was the female judge. According to Goffman's five types of demeanor, the judge showed a bureaucratic demeanor mixed with some condescending behavior with both the victims and the defendants. The judge was very impersonal with each victim and proceeded through each hearing in a routine

manner. The judge used a very stern tone if either party did not follow the rules or were confused about the process. She would explain the process with an annoyed tone of voice. For certain cases she would refer to the procedural codes to make sure the ruling was correct, and had a very professional tone of voice during each hearing in the courtroom. She did show interest by making eye contact with whichever party was speaking. She showed no emotion towards the victims. At times she was looking through paperwork while the victim was speaking. Each hearing was quick, and few questions were asked.

She expressed her ceremonial behavior by dressing professionally, but she did not greet the victims when they entered the courtroom. She did prefer to have both parties standing in the front of her bench as opposed to sitting behind the two desks. She appeared to be very disengaged with each victim; simply moving through the process each time a new victim entered the courtroom.

Several female victims came into the courtroom to terminate their PFA. The only question that the judge asked was if anyone was pressuring them to terminate the order. She did not ask any follow up questions about why the victim wished to terminate the order. The orders were simply terminated. This behavior clearly showed a lack of interest towards the situation and she was eager to move on from each case.

During each hearing the judge sat quietly listening to each party, but many of her cases were continued due to the defendants not being served the hearing papers in a timely manner. The judge extended all of those Temporary orders until the papers could be properly served to the defendants to attend a final PFA hearing. At no point during any

of the hearings did the judge address further services or resources that were available to the victim. Not supplying victims with this information showed a lack of interest in the PFA process.

Overall the judge showed a general lack of interest and neutral behavior towards the victim. The judge did not express concern for the victims nor spend too much time on each individual case. Again the judge did not tell victims about the services that are available. Since this judge showed a general lack of concern for domestic violence victims, she could potentially write up all of the services that are available to avoid spending her time verbalizing this information.

Table 10-Female Judge-Case 1

Type of hearing:	PFA termination
Type of Victim:	Female
Judge Demeanor:	Judge asked the victim if she was dropping the PFA on her own free will. No other questions were asked.
Victim Attire	Long skirt and blouse
Defendant Attire:	Not present in the courtroom
Finding:	PFA termination granted

Table 11-Female Judge-Case 2

Type of hearing:	Final PFA hearing
Type of Victim:	Female
Judge Demeanor:	Spoke to the judge regarding a continuance since the defendant was not served paperwork to appear in court.
Victim Attire	Jeans and t-shirt
Defendant Attire:	Not present in the courtroom
Finding:	Temporary PFA in effect until papers can be served and a hearing is scheduled.

Table 12-Female Judge-Case 3

Type of hearing:	PFA final hearing
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Type of Victim:	Female
Judge Demeanor:	Spoke to the judge regarding a continuance since the defendant was not served paperwork to appear in court.
Victim Attire	Pant suit
Defendant Attire:	Not present in the courtroom
Finding:	Temporary PFA in effect until papers can be served and a hearing is scheduled.

Table 13-Female Judge-Case 4

Type of hearing:	PFA final hearing
Type of Victim:	Female
Judge Demeanor:	Listened to the victim's testimony, asked limited clarifying questions, showed no emotion during testimony.
Victim Attire	Skirt, blazer
Defendant Attire:	Not present in the courtroom
Finding:	Final PFA granted

Table 14-Female Judge-Case 5

Type of hearing:	PFA final hearing
Type of Victim:	Female
Judge Demeanor:	Spoke to the judge regarding a continuance since the defendant was not served paperwork to appear in court.
Victim Attire	Dress pants, sweater, heels
Defendant Attire:	Not present in the courtroom
Finding:	Temporary PFA in effect until papers can be served and a hearing is scheduled.

Table 15-Female Judge-Case 6

Type of hearing:	PFA final hearing
Type of Victim:	Male
Judge Demeanor:	Listened to the victim testimony, asked limited questions, showed no emotion and granted the order based on the victims testimony.
Victim Attire	t-shirt, jeans, work boots
Defendant Attire:	Not present in the courtroom
Finding:	Final PFA granted

Table 16-Female Judge-Case 7

Type of hearing:	PFA final hearing
Type of Victim:	Female
Judge Demeanor:	Attorneys came to an agreement, Judge asked to hear the agreement, no testimony was asked of either party, joked around with the attorneys after the hearing was over and clients were still present in the courtroom.
Victim Attire	Blouse, dress pants
Defendant Attire:	Suit
Finding:	Temporary order to continue to custody hearing, then reevaluated

Table 17-Female Judge-Case 8

Type of hearing:	PFA final hearing
Type of Victim:	Male
Judge Demeanor:	Asked the defendant about attorney, learned that the defendant had not been served and would not continue with the hearing. Asked the sheriff to serve her papers in the courtroom.
Victim Attire	Jeans and a polo
Defendant Attire:	Pants, blouse
Finding:	Continued

Analysis

Both judges that were observed for this thesis were just assigned to domestic violence PFA hearings. They were both assigned to these hearings in January 2014. The domestic violence services office in the Washington County Courthouse provided this information. The first day of observations was chaotic because there were no signs pointing anyone to the right areas to wait for the hearings to begin. Everyone seemed to

be congregated outside of the judge's courtroom, but was unsure if they could enter or not.

An observation that was disconcerting was the amount of hearings that were continued because paperwork was not properly distributed to the defendant by the sheriff's department, or one party had not properly prepared with their attorney, or one party needed more time conferring with an outside agency such as Child Protective Services. During one observation, the defendant showed up for court even though she had not been properly served by the Sheriff's department with paperwork and was without counsel. The female judge continued the hearing since the Sheriff's department had not completed their job. When the judge asked the sheriff sitting in the courtroom to go find the paperwork since it was reported not in the system, the process took over thirty minutes to complete. These different instances of incompetency slow down the court proceedings and prolong the process for the victim. Many individuals have to take time off from work or find proper childcare to come into court each time the hearing is continued.

An unexpected aspect of the observations was the magnitude of different hearings that were presented in the courtroom. Hearings were presented on every level of Protection from Abuse orders ranging from temporary orders, to orders being dropped by women, to violations and defendants being brought up from the jail. The expectation was to observe final PFA hearings. Another unexpected aspect of the hearings was that many of the defendants did not have legal representation. All defendants are guaranteed representation if they cannot afford it and both judges expressed this several times while

the defendant still chose to proceed without counsel. Since there were no domestic violence advocates present there was no one in the courtroom for the judge to turn to if the defendant had decided he would like counsel present.

There is a clear need for the judges that are going to be involved in domestic violence cases to take more training sessions to learn more about the social issue and the legislation that is working to combat it. Even though Pennsylvania judges are required to take a six hour yearly course, there needs to be more provided for judges either through the state or through each county.

CHAPTER SEVEN-CASE II- CALIFORNIA LAWS AND REGULATIONS

California is considered to be one of the leading states in America in the fight against domestic violence.¹⁷⁷ Domestic violence has been a priority for California government since the 1970s, however public awareness of the issue began to flourish in 1994, as the OJ Simpson murder trial was ongoing in California.

California laws define domestic violence as physically or sexually hurting someone intentionally, any form of sexual assault, threats of harm or general fear of the abuser, stalking, harassment, any form of hitting including punching, kicking, pulling hair, and destroying property.¹⁷⁸

In 2000, California began to notice an increase in domestic violence arrests, which rose by seventeen percent.¹⁷⁹ California's Women's Health Survey from the Department of Health Services estimated that six percent of adult women were physically abused in one year in California. Taking these facts into consideration, it was important for California to develop laws that were specifically for cases of domestic violence.

¹⁷⁷ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁷⁸ "Domestic Violence." 2014. California Courts. <http://www.courts.ca.gov/selfhelp-domesticviolence.htm>

¹⁷⁹ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

California Legislative History

A movement began in the 1960s and 1970s in California to establish safe houses for domestic violence victims. Most of the leaders of this movement were women that wanted to help other women in horrible situations.¹⁸⁰ Towards the end of the 1970s, advocacy groups and organizations began pushing legislators to create legislation to protect women's rights. Several key Bills, which are addressed in this chapter, were passed by California Legislation to begin the process of protecting victims from domestic violence. In the 1980s, The California Alliance Against Domestic Violence sat as an advisory member to give legislative ideas and help to coordinate writers for proposed Bills.¹⁸¹

Assessing State Legislation

In 2003, California began developing new laws and new procedures to improve the response of the justice system. The new laws were meant to generate more arrests, prosecutions and convictions when domestic violence was reported to authorities.

Certain laws were created to require ongoing training for officers who dealt with domestic violence and encourage the arrest of alleged abusers. California also requires the arrest of any person in violation of a protection order. California also eliminated the option to choose a treatment program for rehabilitation over facing prosecution in

¹⁸⁰ Sproul, Kate. "California's Response to Domestic Violence." June 2003.
<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁸¹ Sproul, Kate. "California's Response to Domestic Violence." June 2003.
<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

domestic violence cases.¹⁸² California also has eliminated the option to pay damages to the victim rather than face prosecution.

California had developed procedures that encourage the justice system to improve responses to domestic violence. The first procedural change is assigning one prosecutor to follow a case from beginning to end.¹⁸³ The prosecutor works closely with the victim so maintaining contact throughout the entire process allows the victim to feel a sense of stability during her court process. California created domestic violence courts in each county to handle cases and provide training for court personnel that are interacting with victims of domestic violence.¹⁸⁴ California also requires that all firearms are removed from the scene of a domestic violence incident and notifies victims when their batterer is being released from jail.¹⁸⁵ California communities have also made efforts to end domestic violence in recent years. Communities have led fundraisers, created educational events in the schools, and supported local shelters.

California enacted four crucial Bills specifically for domestic violence. SB 91, Chapter 892 was created to dispense money to create four to six domestic violence pilot centers.¹⁸⁶ AB 1019, Chapter 720 was created to give California courts the authority to grant temporary restraining orders for domestic violence. SB 92, Chapter 908 and SB

¹⁸² Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁸³ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁸⁴ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁸⁵ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁸⁶ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

691, Chapter 912 created separate provisions for child abuse and spousal abuse.¹⁸⁷ These laws were all created to establish stricter regulations for domestic violence and offer more protection and support for the victims.

California has always been in the forefront of developing domestic violence laws that protect their citizens. In 1979, fifteen years before the Violence Against Women Act was created, California voted to make spousal rape a crime, which could be punished as a felony or misdemeanor. Before this law was created, it was not illegal to rape your spouse. In the early 1980s, increases in marriage license fees were created to help fund more shelters for battered women.¹⁸⁸ Law enforcement now has the authority to temporarily remove firearms that are in plain sight as well as require law enforcement to give victims the phone number and location of the nearest shelter to escape the abuse. This can be very helpful for a victim that has no idea where she can go or how to obtain a restraining order. California created a law that requires mandatory jail time for men who have violated a restraining order by causing physical injury to the victim. California also allows for emergency restraining orders to be issued when court is not in session and these orders are valid for two to five days.¹⁸⁹

The State Department of Justice has an extensive computer database system that keeps a computerized registry of restraining orders. The system is called Domestic Violence Restraining Order System (DVROS). This system is part of the California Law

¹⁸⁷ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁸⁸ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁸⁹ Sproul, Kate. "California's Response to Domestic Violence." June 2003. <http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

Enforcement Telecommunications System (CLETS).¹⁹⁰ Another database that is set up is called the Domestic Violence-Related Calls for Assistance database. This database collects monthly summaries of the total number of domestic violence-related calls that law enforcement receives.¹⁹¹

A new strategy that has been implemented in California is the use of domestic violence response teams (DVRT). These teams are made up of a victim's advocate, a law enforcement officer, a district attorney, a probation officer, and a health care provider.¹⁹² The Office of Criminal Justice Planning (OCJP) currently funds twelve teams through the funding of VAWA. California has not conducted any studies to date of the effectiveness of these teams, however, The Urban Institute analyzed VAWA grants. The report concluded that the coordination of community response teams improved the treatment of women victims and held more perpetrators accountable for their acts of violence.¹⁹³

California Partnership to End Domestic Violence

The California Partnership to End Domestic Violence is a statewide coalition that was formed in 2005 after the merging of the California Alliance Against Domestic Violence and the statewide California Coalition for Battered Women. This organization is rooted in the Battered Women's Movement, which works toward social justice, self-

¹⁹⁰ Sproul, Kate. "California's Response to Domestic Violence." June 2003.

<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁹¹ "State Summaries." Domestic Violence, Sexual Assault, and Stalking Data Resource Center.

<http://www.jrsa.org/dvsa-drc/state-summaries.shtml#california>.

¹⁹² Sproul, Kate. "California's Response to Domestic Violence." June 2003.

<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

¹⁹³ Sproul, Kate. "California's Response to Domestic Violence." June 2003.

<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

determination, and ending the oppression of women.¹⁹⁴ CPEDV has the resources to create connections between the national coalition and law enforcement to help end domestic violence. The vision of the CPEDV is simple, “A California free from domestic violence.” The mission of CPEDV makes this vision possible by increasing public awareness of domestic violence and participating in the discussion for public policy change.¹⁹⁵ CPEDV provides professional training and services, networking, victim resources and referrals, and statewide communication.

California Protection Order Procedures and Regulations

The California courts define a restraining order as, “A court order that protects an individual from being physically or sexually abused, threatened, stalked or harassed.”¹⁹⁶ In California, the victim is given the title of a Protected Person. Restraining orders can also include other protected people that live in the household with the victim.

A victim can apply for a restraining order if the victim and the abuser have a close relationship, including married, divorced, currently dating or previously dated, living or previously lived together, parents of a child together, or a close relative. If a victim is applying for a Temporary restraining order, she must fill out paperwork that will be submitted to the judge for review. It is at the discretion of the judge if he or she wishes to

¹⁹⁴ "About Us." California Partnership to End Domestic Violence. <http://www.cpedv.org/About%20Us>.

¹⁹⁵ "About Us." California Partnership to End Domestic Violence. <http://www.cpedv.org/About%20Us>.

¹⁹⁶ “Domestic Violence.” 2014. California Courts. <http://www.courts.ca.gov/selfhelp-domesticviolence.htm>.

grant the restraining order based on the information supplied in the paperwork and any testimony the victim provides. If the judge grants the order, the victim must then serve the abuser with the restraining order and the final hearing date. The defendant then has the opportunity to file an answer to the restraining order and appear in court to share his version of the story.

There are four restraining orders that are specific for domestic violence victims. The first order is called an Emergency Protective Order (EPO). This order can only be obtained by law enforcement. Judges can issue these orders 24 hours a day. An emergency order can last for seven days and a judge can order that the abuser leave the home and stay away from the victim until she can apply for a temporary restraining order.¹⁹⁷

A Temporary Restraining order (TRO) is an order that a victim would obtain from the courts. A victim would share the details of the incident and the judge would decide if the testimony warrants a restraining order. If the order is granted then the order is in effect for 20 to 25 days, until a final hearing can be scheduled.

A Permanent Restraining order hearing is scheduled after the Temporary Restraining order has been put in place. The judge can choose to implement the restraining order for up to three years. These orders are technically not “permanent” because they become ineffective after three years, but a victim can reapply if the defendant commits another violent act.

¹⁹⁷ “Domestic Violence.” 2014. California Courts. <http://www.courts.ca.gov/selfhelp-domesticviolence.htm>.

The final type of domestic violence restraining order is a Criminal Protective. This order can be obtained if the district attorney is filing criminal charges against the abuser. The criminal court will usually issue a criminal protective order while the criminal case is going on and if the defendant is found guilty, the order would remain in place for three years.¹⁹⁸

Once a victim obtains a restraining order, the order is entered into the statewide database CLETS and all law enforcement in the state of California has access to this computer system. Any order that was obtained in California is also valid in any other state if the victim chooses to relocate.

There are also several other types of restraining orders that the state of California uses. The first order is called a Personal Conduct order. This order requires that certain acts discontinue against all persons named as protected persons in the order. These actions can include any contact, battering, stalking, sexually assaulting, harassing, destroying personal property, and disturbing the peace.¹⁹⁹ The second type of restraining order is called a Stay-Away order. This order requires that the perpetrator maintain a certain distance away from the victim. This restriction includes all places the victim travels to including her home, place of work, children's schools or childcare facilities, vehicle, and other places she may travel to such as her place of worship.²⁰⁰ The final type of order a victim can obtain is called a Residence Exclusion order. This order requires the

¹⁹⁸ "Domestic Violence." 2014. California Courts. <http://www.courts.ca.gov/selfhelp-domesticviolence.htm>.

¹⁹⁹ "Ask for a Restraining Orders." 2014. California Courts. <http://www.courts.ca.gov/1264.htm>

²⁰⁰ "Ask for a Restraining Orders." 2014. California Courts. <http://www.courts.ca.gov/1264.htm>

restrained person to move out of the home that the victim is residing in. This type of order may only be requested in domestic violence situations or elder abuse cases.

Marsey's Law

On November, 8, 2008, California approved Proposition 9, the Victim's Bill of Rights.²⁰¹ This unique process was designed by the California Attorney General's office. Marsey's Law was implemented to provide victims with their rights and due process.²⁰² These rights can be found on a form that is called Marsey's card. This card is pocket sized and highlights a list of victim's rights. This resource is a card that victims can carry with them in their wallet.

Domestic Violence Training For Judges

California Department of Public Health has been conducting the Domestic Violence Training and Education Program for fifteen years. This is a statewide program that is funded by the Domestic Violence Training and Education Fund.²⁰³ This fund collects fees paid by convicted batterers, which is a condition of their probation. The Domestic Violence Training and Education Program has trained hundreds of individuals

²⁰¹ "Victim's Bill of Rights of 2008: Marsey's Law." State of California Department Of Justice. 2014. http://oag.ca.gov/victimservices/marsys_law.

²⁰² "Victim's Bill of Rights of 2008: Marsey's Law." State of California Department Of Justice. 2014. http://oag.ca.gov/victimservices/marsys_law.

²⁰³ "Domestic Violence Training and Education Program." California Department of Public Health. 2014. <http://www.cdph.ca.gov/programs/Pages/DomesticViolenceTrainingandEducationProgram.aspx>.

who are involved with domestic violence, including probation officers, judges, court personnel, and domestic violence practitioners.²⁰⁴ Community training is also available through local domestic violence agencies.

Pending Legislation and Future Improvements

California legislation and community members have made significant progress in the last thirty years. California has created stronger laws to respond to domestic violence, stronger services and protection techniques for victims, as well as holding perpetrators at a higher standard and creating harsher punishments for violators.

California can continue to strengthen existing services and develop research projects to measure the efficiency of current policies and programs. Shelter funding has grown in California through state funding and community involvement, however shelters still remain under-funded. Victims are turned away because of a lack of space or available resources. It is very costly for care for a large quantity of victims. It would be beneficial to conduct a study of the average cost of one victim per month or annually; that knowledge would be very valuable to local and state governments.²⁰⁵ Studies can be conducted on many different levels to further assess the progress or possible areas of

²⁰⁴"Domestic Violence Training and Education Program." California Department of Public Health. 2014.
<http://www.cdph.ca.gov/programs/Pages/DomesticViolenceTrainingandEducationProgram.aspx>.

²⁰⁵ Sproul, Kate. "California's Response to Domestic Violence." June 2003.
<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

²⁰⁵ "About Us." California Partnership to End Domestic Violence.
<http://www.cpedv.org/About%20Us>.

improvements through the health department and law enforcement agencies, as well as reaching out to the Federal government.

Data collection is another critical method to assess the effectiveness of the current domestic violence policies, as well as evaluate where the state could make improvements.²⁰⁶ Collecting personal statements from victims who have gone through the legal process could offer vital information for improvement. This process can be problematic since certain information, such as, batterers in intervention programs, are not collected statewide.

California could create a prevention program for domestic violence. A proactive program can include additional public education and prevention projects throughout schools. Implementing statewide media campaigns has the potential to raise awareness for individuals who were not aware of the seriousness of domestic violence in their communities and create a statewide cooperation to end the violence.²⁰⁷

California Court Observations

Statewide courtroom observations were collected through a study completed by the Judicial Council of California, to examine how the courts were operating. The Judicial Council of California evaluated thirty-nine specialized domestic violence courts

²⁰⁶ Sproul, Kate. "California's Response to Domestic Violence." June 2003.
<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

²⁰⁶ "About Us." California Partnership to End Domestic Violence.
<http://www.cpedv.org/About%20Us>.

²⁰⁷ Sproul, Kate. "California's Response to Domestic Violence." June 2003.
<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

²⁰⁷ "About Us." California Partnership to End Domestic Violence.
<http://www.cpedv.org/About%20Us>.

located in thirty-one counties for their study in 2000. Specialized courts consist of judges, prosecutors, defense attorneys, and other personnel that all specialize in domestic violence cases.²⁰⁸ Each courtroom took a different approach to the process of issuing restraining orders, sharing information with other offices, providing victim services, and handling sentences.²⁰⁹ The study defines domestic violence courts as, “The assignment of civil or criminal cases, or both, involving domestic violence to one department of the superior court or municipal court, consistent with the jurisdiction of those courts.”²¹⁰ This study focuses on judicial officers that are used in specialized domestic violence cases. The courts have seen four areas of improvement since creating specialized courts.

The first aspect of the court that was examined through this study was the policies and procedures. Twenty-six out of the thirty-nine courts said that they assist victims in finding domestic violence services including child care, job training, mental health or substance abuse treatment referrals, emergency medical services, and temporary shelter.²¹¹ This is vastly different from the Pennsylvania judges that were observed, who did not mention available services to any of the victims they spoke with in court. Twenty

²⁰⁸ Sproul, Kate. "California's Response to Domestic Violence." June 2003.
<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

²⁰⁸ "About Us." California Partnership to End Domestic Violence.
<http://www.cpedv.org/About%20Us>.

²⁰⁹ Sproul, Kate. "California's Response to Domestic Violence." June 2003.
<http://publichealth.lacounty.gov/mch/reports/DomesticViolence03.pdf>.

²⁰⁹ "About Us." California Partnership to End Domestic Violence.
<http://www.cpedv.org/About%20Us>.

²¹⁰ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web.
<<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²¹¹ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web.
<<http://www.courts.ca.gov/documents/dvreport.pdf>>.

of the twenty-six courts that refer victims to services also appoint an advocate to the victim.

The specialized courts of California also conduct monitoring of the orders that they have issued. Thirty-six of the thirty-nine courts regularly order perpetrators to participate in a batterer intervention program.²¹² It is important that the courts hold the perpetrators accountable for their actions, and using intervention programs is a way to monitor the improvement. Twenty-four courts also set up regular judicial reviews of the progress the perpetrator is making in the intervention program.²¹³ The judges stay involved with their cases because they only specialize in domestic violence cases, so all of their attention is focused on one issue.

Judges of these specialized courts also use technology to reach out to other government agencies and share information. The judge may need to take extra time in explaining the process or courtroom procedures to victims who have come to court without representation. It is important that the judge has a staff that he relies on, as well as the tools and the funding to assist all the victims.

The major drawback of this research is that there is no research available to assess the impact all of these services are having on the victims and batterers that come in to the specialized courts. This research included a questionnaire section for court personnel to

²¹² MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>

²¹³ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

describe their observations on how the domestic violence courts are working for the victims. The court personnel contributed observations in four main areas; improved procedures, enhanced understanding, increased resources, and accessibility and safety.

The first area of improvement was procedures. Court personnel believed that victims found the process to be easier, less stressful, and more accommodating.²¹⁴ One advocate noted that, it is helpful when one judge hears the case all the way through.²¹⁵ This way the judge becomes familiar with the situation, the victim and the defendant. Another interesting finding is that the judges encourage the advocates to participate in the hearing and offer support to the victim. Court personnel stated that these procedures seemed particularly effective in both the civil and criminal courts.²¹⁶

The second area of improvement is an enhanced understanding of domestic violence. Court personnel and advocates noted that an enhanced understanding of domestic violence by the judges is beneficial for the victims.²¹⁷ The longer that a judge is involved in the specialized courts, the more knowledgeable and experienced they are about the dynamics of domestic violence. Respondents also cited that if the key participants in the courtroom, including the judge, are not well informed about domestic

²¹⁴ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²¹⁵ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>

²¹⁶ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²¹⁷ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

violence they the victims can at a disadvantage. Court personnel argue that if a victim has a bad experience in court, they may be discouraged from calling the police or seeking future restraining orders.²¹⁸ Another responder brought up a concerning idea; if there is only one judge in the specialized court, then everyone becomes dependent on the views of that one judge.²¹⁹ This is a concern that California can look into in the future to further develop the success of these courts.

The third area of improvement is on increased resources. The specialized courts are meant to focus strictly on domestic violence, which has allowed many courts to provide services that may not have been possible in the past. Working with other agencies has also made other services available to the judges to use in court. A new resource the courts have started using is “fax filing,” which allows women’s shelters to send information to the courts quickly, ultimately expediting the restraining order process.²²⁰

The fourth area of improvement is accessibility and safety. Specialized courts hope to provide a safe place for victims to present their cases and obtain restraining

²¹⁸ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²¹⁹ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²²⁰ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

orders.²²¹ One court noted that they created a secure area for the victim to fill out paperwork. Other courts noted that they assigned court personnel or bailiffs who had experience with domestic violence, to oversee areas where the victims were waiting.²²²

These improvements do not come without obstacles for the specialized courts to address in the future. Responders noted limited resources pose the biggest challenge to establishing specialized courts.²²³ A lack of funding is also a serious concern for domestic violence courts. Responders also expressed concern for the potential lack of training.²²⁴ There is a need for more training on domestic violence for court personnel, judges, probation officers, and lawyers. There is a need for more training concerning patterns of domestic violence and the effects of abuse, as well as properly managing cases. Courts can overcome these obstacles by working with the community and sharing information with other specialized courts.²²⁵ Visiting other courts and conducting workshops to discuss the techniques that are effective and the obstacles that still need addressed can create a community between the courts to strengthen the current practices.

²²¹ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²²² MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²²³ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²²⁴ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

²²⁵ MacLeod, Dag, and Julia Weber. "Domestic Violence Courts: A Descriptive Study." (2000): n. pag. Judicial Council of California Administrative Office of the Courts. Web. <<http://www.courts.ca.gov/documents/dvreport.pdf>>.

Analysis

Pennsylvania and California have established very different laws, which have been highlighted. There are several differences that have transformed each state's laws and procedures to develop at different levels of effectiveness.

Pennsylvania created the Protection from Abuse Act of 1976. This Act was meant to propel the state forward in creating laws that would guarantee victims protection from violent partners. Pennsylvania made some positive changes to the laws, however, there are clear disconnects between the laws and the people who are implementing them. California has created laws and policies that make it very difficult for perpetrators to get away with their acts of violence. Legislation has created laws specifically for domestic violence cases, as well as specialized courts that only hear domestic violence related offenses. These two factors have pushed California's progress far beyond that of Pennsylvania.

California's Emergency Restraining orders are very different from Pennsylvania's. The first difference is that the only person that can apply for an ERO is law enforcement. Law enforcement can contact the judge 24 hours a day to obtain an ERO which stays in effect for up to seven days, unlike Pennsylvania's Emergency Orders, which sometimes only stay in effect for a 24 hour time period. The victim must also personally obtain an Emergency order in Pennsylvania after the incident occurs; in California, law enforcement obtains an Emergency order for the victim. The victim must also serve her abuser the temporary restraining order paperwork and the final restraining

order hearing date in California. This process exposes the victim to the possibility of aggravating the abuser and may lash out at the victim.

Research has proven that California government has made more progress in their domestic violence laws between the studies that have been conducted and the use of specialized processes specifically for domestic violence situations. California continues to improve the processes that are already in place and work to develop prevention programs and community involvement.

CHAPTER EIGHT-SYNTHESIS

Over the past two decades, there has been an emphasis placed on prevention of domestic violence through the use of rehabilitation services or through protective orders to restrain the batterer from continuing to use violence against his victim.²²⁶ There are, however, still many issues that need to be addressed to make these prevention plans successful. Domestic violence is a social issue that affects women all over the United States. One in four women will be a victim of domestic violence in her lifetime.²²⁷ Women who chose to report the violence must engage in a legal process that can be lengthy, confusing, intimidating, demeaning and at times unfair. This thesis examined the judge's authority and demeanor in Protection from Abuse order hearings, and how that behavior affects the victim in the courtroom and the long term effect. There are many important factors regarding domestic violence that have been discussed throughout this thesis. It is not sufficient enough to simply understand the laws; you must understand the history of domestic violence and how the government and advocates worked to transform the treatment of domestic violence as a Criminal act.

²²⁶ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

²²⁷ "Domestic Violence Facts." 2007. *National Coalition Against Domestic Violence*. [http://www.ncadv.org/files/DomesticViolenceFactSheet\(National\).pdf](http://www.ncadv.org/files/DomesticViolenceFactSheet(National).pdf)

The historical progression of this social issue brought forward by the Battered Women's Movement has generated the support for legislation to be created to protect victims from their abusers. The time periods that have proven to propel change for domestic violence are the 19th century women's rights movement and in the 1970s when the cause was revitalized when a significant social concern was developed for women's safety.²²⁸ While there were few changes made to the laws in the 19th century, awareness was brought about by public attention, feminist ideologies, and attempted reforms.²²⁹ This awareness would propel changes when the movement was rediscovered in the 1970s. Women began to speak up against their batterers and organizations were being formed to help protect victims of domestic violence. The judicial system also seemed to shift from simply maintaining social order, to allowing victims to pursue legal protection to gain the security they were guaranteed through the law. History has proven that states have made progress in creating more developed laws, but at the same time there is still more that needs to be done to establish harsher punishments and clearer laws.

The laws and procedures regarding domestic violence were examined to provide clarity for a set of rules that can be confusing and at times ambiguous. Every state has created domestic violence laws and procedures with the guidance of the Violence Against Women Act regulations. Every state has passed different legislation to fit the needs of

²²⁸ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

²²⁹ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

that particular state. Pennsylvania was the main focus of this thesis with a comparison between the domestic violence laws in Pennsylvania and the domestic violence laws in California. After examination, it was clear that California has adopted many more progressive legislation to protect victims. They have also established statewide databases to keep track of all of the restraining orders that have been issued across the state. The comparison proves that each state is treating domestic violence differently by creating different laws and different consequences for the perpetrators of these crimes. After examination, Pennsylvania proved to have less progressive legislation than California.

The judge's role in the courtroom plays an integral part in the victim's experience in the courtroom. A judge's demeanor can make the victim's experience traumatic or comforting; just in the way a judge chooses to interact with the victim. After extensive research, the underlying issue became clear; there are many factors that play into the relationship dynamic between the judge and the victim. Originally, the assumption was that there was just one contributing factor to the possible breakdown in communication between the judge and the victim. After further research it became clear that the breakdown in the relationship was due to several factors including the lack of enforcement of current laws, ambiguous procedures and policies, lack of communication between advocates and the judge, too much discretion by the judge, and a lack of proper demeanor towards victims. All of these factors play a role in the judge and victim relationship and how these factors are transformed will determine if domestic violence courts will make positive steps to help end domestic violence.

The Feminist theory is very evident throughout domestic violence history. The Battered Women's Movement and advocates brought social awareness to an issue that was not being taken seriously by the Federal or state governments. Society had previously defined the husband as a dominant and strong figure in the home and defined the women as a passive and submissive member of the family structure.

The Deterrence theory is applied in the courtroom and can be seen in the way that the judge sentences perpetrators of domestic violence. If the judge is known to give out harsh sentences, then it will deter a perpetrator from becoming a repeat offender of domestic violence. If a judge does not take domestic violence seriously and has a reputation for giving multiple chances to violators of protection orders, then a perpetrator may view the cost of violence very low. These theories are applied to domestic violence situations to provide a theoretical perspective on the relationship between all the parties involved in these situations.

This thesis addressed the concept of authority and how a judge can use that authority in the courtroom. Arlie Russell Hochschild theorizes the concept of authority and describes it as a process of emotional labor.²³⁰ The judge is involved in emotional contact with the public and must learn to cope with the struggles of balancing their emotional involvement with a victim and how their authority plays a role in the dynamic that is formed between the judge and victim in the courtroom.

²³⁰ James Ptacek. 1999. *Battered Women in the Courtroom : The Power of Judicial Responses*. Boston: Northeastern University Press, 96.

The courtroom observations were utilized to examine real life situations of domestic violence and apply the theories as well as the written research to the cases that were being presented. The judge's demeanor was examined during Protection from Abuse hearings and Goffman's demeanor theory was applied. It was interesting to examine the judge in courtroom situations to be able to see their relationship with the victim, as well as the prosecutor, defense attorney, defendant, and the court personnel. Court observations were crucial to the thesis to prove that the research previously conducted was correct in the assessment of current courtroom behavior and procedures.

Through the development of the research question for this thesis, the information indicated that judges are not necessarily using their authority and power for positive change. There are some judges who want to make a difference, but research showed that there is resistance by many judges, who feel that the courts are already using too much of their resources on domestic violence. It is crucial that judges take domestic violence seriously because they are the highest authority in the court system. Other sectors look to the judge to see how to view domestic violence. If a judge treats victims of domestic violence with disinterest, it allows law enforcement to do the same. A judge has the authority to transform the way Protection from Abuse hearings are conducted and provide more security and safety measures inside and outside of the courtroom, as well as start to create a new, more positive image for the protection of victims of domestic violence.

There are five main areas where action can be taken to improve the judicial policies that are currently in place. These areas include, discretion and judgments, bail decisions, protection orders, sentencing alternatives, and specialized courts.

As society becomes more aware of domestic violence, the hope is that judges will also become more responsive towards the cases that appear before them. If the state creates stronger legislative mandates and the prosecutors and police work together to bring more domestic violence cases to the attention of the courts, it will be the judge's duty to step up and exercise their power in a positive manner to protect the victims.²³¹ If public awareness continues to increase regarding domestic violence, society will begin to put more pressure on the judge and expect a higher level of inquiry on cases of domestic violence. The final expectation is that judges will receive more intense training in the prevention techniques available to end domestic violence.

The amount of time that a batterer is held in jail is contingent on the judge's ruling on bail. A judge can choose to release the perpetrator immediately after the arrest or the judge can choose to hold the perpetrator until the pretrial. This holding period can give the victim time to remove belongings from the residence and find a safe place to live away from the batterer. State legislation can also make provisions in statutes to examine the perpetrator's criminal intent towards the victim and the public.²³²

A crucial goal for the future is the accessibility of Protection from Abuse orders. This process needs to become streamlined especially for victims who are proceeding to

²³¹ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

²³² "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

court without counsel; there is a need for a user-friendly court system.²³³ There needs to be legislative changes regarding court costs, civil intervention and criminal action taken on violations of protective orders. These adjustments to the legal system will provide judges with a stricter set of rules to follow and less discretion or grey areas that will begin to punish offenders with the severity that is deserved.

Judges can choose alternative methods of sentencing for domestic violence perpetrators. Choosing a jail sentence may be the way to convey that domestic violence is a serious offense and will not be taken lightly by the courts, however, overcrowding of jails and prisons may force the judge to select another method of sentencing.²³⁴ Judges may also choose rehabilitative methods for perpetrators of domestic violence. Research needs to be conducted to assess the effectiveness of court-mandated rehabilitation and what type of batterer would succeed in treatment. Judges also have the ability to sentence perpetrators to probation or impose strict conditions related to Protection from Abuse orders.²³⁵

Finally, specialized courts will provide jurisdictions with the ability to move all domestic violence cases to one location where the courts can work directly with the

²³³ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

²³⁴ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

²³⁵ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

relevant agencies.²³⁶ Specialized courts offer a holistic approach to issues of domestic violence and are able to help the victims by providing advocates in the hearings and facilitating the information a victim may need to find shelter or other services.²³⁷

²³⁶ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

²³⁷ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215- 63. Thousand Oaks, CA: Sage Publications, 1996.

CHAPTER NINE-CONCLUSION

Over the past two hundred years there has been a shift in the judicial system's response towards domestic violence. Domestic violence has transformed from a private family matter to an issue that is now being treated as a criminal act and the state is now intervening.

The 1994, the Violence Against Women Act started a trend in changing attitudes towards domestic violence. VAWA stimulated a transformation in how domestic violence is addressed. This transformation included training and technical assistance such as domestic violence hotlines, community intervention through fundraisers, supporting local shelters, and continuous research of every facet of domestic violence including judge demeanor.²³⁸ There have also been changes in social norms and values. Two hundred years ago laws supported a husband's right to use force to control the wife. Today, laws have made progressive steps to protect a women's right to live in a violent free home. The hope is that in the future, there will be a widespread acceptance of these changes and there will continue to be domestic violence policy developments.²³⁹

²³⁸ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

²³⁹ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

One concern that is accompanied by this optimistic view of the future is that there is a conflict between the goal of protecting women seeking help by the courts and the state's interest in making domestic violence a crime against the state and could potentially risk the security and safety of a victim by the state's aggressive action against the defendant.²⁴⁰ Judges play an exceptionally important role in this conflict. Judges are involved in every critical decision made during the process; approving warrants, deciding on evidence, setting bond amounts, issuing protective orders for victims, sentencing defendants and making decisions on violations of orders.²⁴¹

This thesis addresses three main topics consisting of domestic violence history, comparisons between state legislation, and the role of the judiciary through theories and courtroom observations. After extensive research these areas emerged as critical topics that would address the research question of how the judiciary uses their authority and power in Protection from Abuse order hearings after listening to women's testimony about domestic violence. Discussing the demeanor of judges began to clarify the role a judge chooses to take inside the courtroom and how their demeanor affects the victim.

²⁴⁰ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

²⁴¹ "12 Effects of Restraining Orders on Domestic Violence Victims." In *Do Arrests and Restraining Orders Work?*, edited by Eva Schlesinger. Buzawa and Carl G. Buzawa, 215-63. Thousand Oaks, CA: Sage Publications, 1996.

Examining procedural concerns, and issues with the current laws, also played a profound role in how a judge handles domestic violence.

Through the research process many more questions were raised that could be future topics to take the research to another level. One question that came up through the research was to explore the rate of recidivism of victims that return to the courts for a PFA after the current one expires. Another interesting topic that needs to be developed is the effect of a PFA on the defendant and how effective a PFA is to deter the batterer from repeating the same behaviors. Through this research it is clear that there is a great deal of information that still needs to be explored regarding domestic violence. A comparison of each state's current laws may be helpful for the Federal government to assess possible country wide laws that everyone must follow to create a more unified stance on domestic violence.

The major weakness throughout the entire research process was the lack of Pennsylvania domestic violence studies, training information, and specific information on judges in Pennsylvania. While this was a challenge, it showed the amount of work the Commonwealth of Pennsylvania needs to do to protect victims of domestic violence, as compared to the state of California. While this was a challenge, it was of value to the research to assess all the areas that Pennsylvania was lacking in and then evaluate those inconsistencies first hand through the courtroom observations. Taking these improvements into consideration, Pennsylvania could generate positive progress in domestic violence through mandatory training, support, and enforcement.

Domestic Violence Resources:

National Coalition Against Domestic Violence (NCADV)

1120 Lincoln Street, Suite 1603

Denver, CO 80203

Phone: (303)-839-1852

Website-federal.ncadv.org

Email-mainoffice@ncadv.org

National Domestic Violence Hotline

P.O. Box 161810

Austin, Texas 78716

Hotline-(800)-799-7233

Website-federal.ndvh.org

Pennsylvania Coalition Against Domestic Violence (PCADV)

6400 Flank Drive, Suite 1300

Harrisburg, PA 17112

Phone-(717)-545-6400

Website-federal.pcadv.org

California Partnership to End Domestic Violence

P.O. Box 1798

Sacramento, CA 95812-1798

Phone-(916)-444-7163

Website-federal.cpedv.org

Email-info@cpedv.or

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BIOGRAPHY

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