Battered women who kill: Perspectives of prosecutors who have tried "burning bed" cases

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BATTERED WOMEN WHO KILL: PERSPECTIVES OF PROSECUTORS
WHO HAVE TRIED “BURNING BED” CASES

A Thesis
Presented to the
Faculty of
California State University,
San Bernardino

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
in
Interdisciplinary Studies

by
Gena Christine Philibert-Ortega
June 1993
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Abstract

In the context of a patriarchal family and culture, the batterer exploits the woman whom he represents power, independence and authority over (Taubman, 1986). The belief that marriage is not an equal partnership gives men more power than they should have in a relationship. With this inequality in power, comes domestic violence (Taubman, 1986). There are many reasons why a battered woman may stay in an abusive relationship. The cycle of violence, learned helplessness, isolation, financial dependence, children, ineffective police response, and lack of protection from restraining orders are just some of the reasons women do not flee abusive relationships. Because of a lack of resources, extreme physical, sexual and psychological abuse, and abuse of the children by the batterers the woman may see no other escape from her situation than by using self-defense and deadly force. In this study, seven prosecutors were questioned regarding cases they have tried where women have killed and have used the battered woman defense. Though this study is too small to generalize, it was found that almost all of the decedents had a history of violent behavior towards the defendant (n=5) and a history of emotional abuse or psychological terrorization (n=5). Some problems arose when conducting this study; memory problems on the part of the prosecutors, lack of verification, and prosecutors apprehension in participating in the study. For future research it would be necessary to gather information from prosecutors, defense attorneys, court transcripts, and police records.
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Chapter One: Historical Perspectives on Violence Against Women.

Throughout history, violence against women has been ignored or condoned. Women have been perceived as being inferior to men. Western civilization's laws have long authorized the use of violence against women in order to chastise and control them (Dowd, 1992). Historically, the oppression of women has been legitimized by laws authored by men, that have encouraged the use of physical force as a means to maintain the man in the seat of power within the family (Bates, 1991). For example, in 16th century Russia, it was cautioned that husbands should not strike their wives on the face or the ear since they would be disadvantaged should their wife become blind or die (Dowd, 1992). In Roman times, it was permissible for a husband to use reasonable force to discipline his wife, including blackening her eyes and breaking her nose (Dowd, 1992). In many parts of Europe, until the latter 1600's, a man could kill his wife without penalty. At the same time a wife who killed her husband was treated as though she had committed an act of treason. The murder of her husband was considered analogous to murdering the King (Browne, 1987; Dowd, 1992). References to a "rule of thumb" comes from the English law that a man could beat his wife with a stick no wider than his thumb (Dowd, 1992). This rule was enacted to protect women from overzealous husbands. The United Stated adopted this rule and it was not until 1910 that thirty-five of the forty-six states had passed legislation that wife beating was classified as an assault (Dowd, 1992).

Throughout history, women have been considered a man's property (Taubman, 1986). At birth a woman was the property of her father, later at
marriage she was the property of her husband. Thus use of force has been justified for a man to control his property (King & Bohan, 1993). Historically, not only have men been permitted to be violent with their wives and children, but their violence has been seen as their duty, as a means to keep women and children 'in their place' (Taubman, 1986). The English principle of coverture established that married women could not own property free from their husband's control (Dowd, 1992). Even when women were victims of rape, it was a crime against the man to whom she belonged to (Dowd, 1992). Even the origin of the word family describes a man's role as the head of the family. The word family is derived from the word familia, which signified the totality of slaves belonging to an individual (Martin, 1981).

In the context of a patriarchal family and culture, the batterer exploits the woman whom he represents power, independence, and authority over (Taubman, 1986). The idea that both partners in a marriage have different responsibilities and power, with the woman having less power and control, gives the husband the perceived right to control and limit his wife's behavior (Taubman, 1986). The belief that marriage is not an equal partnership gives men more power than they should in a relationship. With this inequality in power, comes domestic violence (Taubman, 1986). Some battered women have acknowledged that the violence they experienced was a result of power struggles (Browne, 1987). King and Bohan (1993) report that a 1988 Gelles and Straus finding showed that in the husband/wife dyad, men frequently hold more social and economic power and can therefore hit their wives without fear of serious consequence. As long as our culture accepts and
lawfully denies women equality, domestic violence will continue to exist (Dowd, 1992).

As documented above, domestic violence has always existed in the United States. The idea that wife abuse was a social problem was rarely recognized prior to the 1970’s (Kuhl, 1984). In the previous decade there were few reports of domestic violence and it was thought that the problem was infrequent and the result of a psychopathology (Browne, 1987). Twentieth century American feminists took up the cause of battered women in 1971, when they learned of Erin Pizzey’s work as the founder of the first battered women’s shelter in England (Jones, 1981). It was after learning of Pizzey’s work that American feminists opened shelters and outreaches to assist battered women.

The current statistics demonstrate that domestic violence is an epidemic problem. Some researchers estimate that in any given year as many as 6 million American women will be assaulted by an intimate partner (Ewing, 1987). The F.B.I. reports that there are ten times as many battering incidents than are reported, making domestic violence even more underreported than rape (Archer, 1989). Domestic violence is the single largest cause of injury to women in the United States today. It causes more injury to women than auto accidents, muggings, and rape combined (House of Ruth, 1992b; Nodland, 1992). On a daily basis, a woman is battered every 8 seconds (House of Ruth, 1992b). Four women a day are killed by an intimate partner (House of Ruth, 1992b).

Though the statistics demonstrate the immensity of the problem of domestic violence, there are some who believe that it is a rare occurrence or that the blame is shared by both partners in the abusive relationship. There are
still others who think that violence is acceptable between partners. In a 1968 national sample, 1/5th of the adults polled approved of slapping a spouse on “appropriate occasions” (Stark & McEvoy, 1970). Del Martin (1981) reports in her book, Battered Wives, that 25% of an American sample approved of husband-wife fights. A 1979 study by Kalmess found that 27% of an adult sample attributed equal blame to the wife when she was being abused by her husband (Follingstad, Potek, Hause, Deaton, Bulger, & Conway, 1989).

Facts About Domestic Violence

To understand the battered woman’s life we must first look at the abuse she experiences. A battered woman can best be described as a woman in an intimate relationship, whether heterosexual, homosexual, married, divorced, or dating who is abused by her partner. This abuse can take on many different forms. The battered woman may be physically abused in the form of hitting, kicking, punching, slapping, choking, pushing, lacerating, or any other physical abuse. The battered woman may be the victim of mental, verbal, or emotional abuse. This may include the repeated exclamations, by the batterer, that his victim is ugly, fat, stupid, or crazy. Abusive relationships may also include sexual abuse. It is estimated that every 15 seconds a woman is sexually abused in her home (National Woman Abuse Prevention Project, 1990). Laura X, Director of the Marital Rape Clearinghouse, states that marital rape is two times more prevalent than stranger rape (Laura X, personal communication, September 29, 1993). Some batterers find sexual abuse to be an “optimal” form of abuse, since it can inflict an intense level of pain without killing the victim (Browne, 1987).
Researchers have been interested in why a battered woman would decide to stay with a partner who is repeatedly physically, sexually and psychologically abusive (Ewing, 1990; Walker, 1989). Clinicians and researchers have attempted to explain why these women remain in abusive relationships. These explanations are loosely referred to as the 'battered woman syndrome' (Ewing, 1990). Lenore Walker has identified several features of this syndrome. Walker has identified the cycle of violence and the theory of learned helplessness as reasons why many battered women remain trapped in abusive relationships.

The cycle of violence explains the cyclical nature of violent relationships in three phases. The first phase is the tension building phase. Abusive behavior such as unreasonable demands, humiliation, possessiveness, oppression, and verbal threats are common (House of Ruth, 1992a; Romero, 1985; Walker, 1989). Battered women report feelings of anxiety, depression, sleeplessness, loss of appetite or overeating, and constant fatigue during this phase (Romero, 1985). As the batterer notices his victim withdrawing from him, he becomes more enraged which leads to the second phase.

Phase two is the violence or acute battering incident phase (Ewing, 1990; House of Ruth, 1992a; Walker 1989). In this phase the batterer becomes overcome with anger. He becomes uncontrollable and will not respond to reason (Romero, 1985). Any minor event will trigger the batterer's rage. Batterers commonly go into a blind rage in which afterwards they do not recall the violence that had ensued.

The last phase is the honeymoon phase or "loving contrition" (Ewing, 1990; Walker, 1989). The batterer acknowledges the seriousness of his abuse and
tries to show his victim that he is sorry (House of Ruth, 1992a; Romero, 1985; Walker, 1989). The batterer may make promises that he will seek counseling, attend church, or receive help for alcohol or drug problems. He may shower the victim with gifts. The batterer may promise that the abuse will stop. The victim becomes hopeful that the batterer will change and once again become a loving partner. With the completion of each cycle, the woman is again encouraged to believe that the batterer will change and that the abusive relationship will cease. The woman receives "positive reinforcement" from the batterer for remaining in the relationship (Ewing, 1990). Eventually the honeymoon phase may cease and instead may become a simple lull in the violence. Nevertheless, it is just a matter of time until the tension starts building again and the cycle starts all over.

Lenore Walker has also included the theory of Seligman's "learned helplessness" to explain why battered women stay with their abusers (Ewing, 1990; Walker, 1989). Seligman's 1975 theory of learned helplessness states that when an individual learns through experience that they have no control over an unpleasant environment, that certain events are independent of their behavior, the individual loses the motivation to change the environment or situation (Dutton & Painter, 1981). According to Seligman, the dogs he had tested had "learned" that they were helpless, nothing they did helped their situation. Eventually, when the unpleasant stimuli was removed they had given up trying altogether and it was much more difficult for them to learn to escape. Animals, when exposed to uncontrollable events, appear to learn that responding is futile (Ewing, 1990).
Walker believes that battered women, similar to Seligman’s dogs, respond with symptoms of learned helplessness when they are repeatedly exposed to painful stimuli over which they have no control and from which there is no apparent escape (Ewing, 1990). The battered woman becomes passive, loses her motivation, and comes to believe that nothing that she does will alter her situation. These women cease trying to avoid the abuse and are unable to recognize or take advantage of any available avenues for escape (Ewing, 1990). It should be recognized that the battered woman does not learn to be helpless. She learns that she cannot predict her behavior’s effect on the batterer. She perceives that escape is impossible and learns to concentrate on how to cope with her situation (Bates, 1991).

Walker has also pointed out that there is a similarity between the abuse that battered women go through and the definition of torture that human rights organization, Amnesty International (Ewing, 1987; Walker, 1989). Ewing (1987) reports that batterers will use guns and knives to literally hold their victims hostage. Ewing goes on to state that battered women are political prisoners in that they are prisoners of male dominance with protection of the patriarchal system at stake. Hostages and battered women are similar in that they are in captivity, (isolated), subjected to severe physical and psychological threats, and helpless to end the abuse (Ewing, 1987). Reactions of battered women to the violence they experience corresponds closely with reactions of victims to catastrophe or threat (Browne, 1987). Hostages and battered women may take the point of view of their captor and even feel positive regard for them, just as children sometimes show strong attachment to abusive parents.
(Dutton et al., 1981; Ewing, 1987). One factor that makes battered women different from the hostage is that the intimacy shared between the battered woman and the batterer makes the woman more vulnerable (Romero, 1985).

Researchers have also likened the experiences of Prisoners of War in the Korean war with the experiences of battered women. Three commonalities have been reported: (a) Psychological abuse within an atmosphere of the threat of violence resulted in dread and debilitation of the victim; (b) emotional dependency was intermittently strengthened; and (c) isolation from friends and family served to validate assailant’s beliefs and behaviors (Romero, 1985). Researchers have found a cause and effect relationship between captors brainwashing strategies and POW’s behavior (Romero, 1985). It has been noted that physical abuse, torture, and death appear to be used more by American batterers than the Chinese captors in Korea (Romero, 1985).

Many other theories have surfaced to explain why victims stay in abusive relationships. One such theory is traumatic bonding. Traumatic bonding refers to the development and course of strong emotional ties between two people where one person intermittently loves and harasses, beats and comforts, threatens, abuses or intimidates the other (Dutton et al., 1981). Ewing (1987) reports that traumatic bonding for battered women is the equivalent to the Stockholm syndrome in hostages.

An early theory to explain the relationship between a perpetrator and their victim is Anna Freud’s (1942) concept of “identification with the aggressor.” This theory stipulates that in situations of extreme power imbalance where a person of high power is occasionally punitive, persons in low power will adopt the
aggressors assumed perspective of themselves and internalize aggression or redirect it toward others similar to themselves (Dutton et al., 1981). This may explain why some battered women report that other women in their same situation do not encourage them to get help. It also may explain why some battered women may abuse their children.

Along with the theories on why battered women stay in abusive relationships, there are also practical considerations on the part of the battered woman. No one can pinpoint the reasons why individual women stay with a batterer, however, some contributing factors suggested have been; practical problems, including financial considerations, when separating from the batterer (Browne, 1987; Walker, 1989); fear of retaliation (Brown, 1987; Walker, 1989); reactions of shock to the abuse by the victim (Browne, 1987); emotional dependency based on intermittent reinforcement (Romero, 1985); the feeling that no matter what she does “she can’t win” (Romero, 1985); the unavailability of shelter services; and isolation (Walker, 1989).

Feminist researchers have also recognized that asking why the woman doesn’t leave an abusive relationship assumes that the violence will end should she leave (Browne, 1987). Many battered women are told they will be killed if they leave the abusive relationship. Most studies show that battered women are at a higher risk when they leave (National Woman Abuse Prevention Project, 1990). The Department of Justice Crime Survey (1986) indicates that 70% of domestic violence happens after the partners are separated. Ewing (1987) reports that research conducted by Jones found that 1/3 of 37 battered women that left were forced by the man to come back, some
by gunpoint. Battered women are in a double bind. Leaving is often more
dangerous than staying, and separation is the greatest time of volatility and peril
in battering relationships. Staying with the batterer brings with it inevitable
physical abuse and an ever lingering threat of death. Whatever the battered
woman does, she is not safe (Walker, 1989). These women bear the brutality of
their husbands in silence because they have no where to go and no one to turn
to. They are almost untouchable in our society, even in the traditional marriage
ceremony the minister warns, “whom therefore God has joined together let no
man put asunder” (Martin, 1981). Instead of pondering and researching why a
battered woman doesn’t leave we should be concentrating and questioning
why a batterer abuses and why he doesn’t leave, given the high level of
displeasure he expresses with the woman and the relationship (Jones, 1981).

Battered Women’s Options

When a battered woman is in the abusive relationship she has a few legal
options to the batterer’s violence. One option she can use is to call for police
intervention. Though it is the police’s and the government’s obligation to protect
it’s citizens, there seems to be an informal exception when it comes to men who
beat their partners (Dowd, 1992). The concept of marital privacy and women as
property continues to influence the way the criminal justice system responds to
domestic violence (Venesy, 1991). The low level of police response may also
be a result of very traditional ideas held by police officers. They may feel that
assault on one’s partner is not a crime (Archer, 1989). Statistics from various
police departments in the United States show that approximately one-half of all
calls received by the police are for disruptions caused by family quarrels
One police officer estimated that "family fights" are exceeded only by calls relating to car accidents (Martin, 1981). In Atlanta, Georgia 60% of all police calls on the night shift are domestic violence related (Martin, 1981).

Battered women state that they often don't call the police because of the police's lack of action. The F.B.I. estimates that only one out of ten domestic violence incidents ever get reported (Nodland, 1992). A Texas study found that the police failed to respond to one-third of domestic disturbance calls (D'Antonio, 1991). In one sample of battered women, 60% of the victims asked to have their spouse arrested, but the abuser was arrested only 28% of the time. Another study found that 10% of domestic violence calls result in arrest, even though there are grounds for arrest in over half of the cases (Gondolf & McFerron, 1989). Many police departments justify their lack of action in domestic violence calls by referring to the lack of cooperation on the part of the victim (Archer, 1989). There are a variety of reasons to consider regarding the hesitation a battered woman feels by involving the police.

One study has found that the most common reason women do not call the police is that they consider it a personal matter (49%). Twelve percent reported they did not call the police because they were afraid of reprisal by the batterer (Langen & Innes, 1986). Other researchers have found a parallel between severity of injury and the likelihood the woman will contact the police (Abel & Suh, 1987). However, there are researchers who have found no link between offender's employment, seriousness of incident, and need for medical attention and the likelihood that the victim will call for help (Abel et al., 1987). Some women may hesitate in having the husband arrested because of the husband's
lost time and money at work, thus creating a financial hardship on the family (Archer, 1989).

Findings regarding the effectiveness of calling the police vary. In one study, fifteen percent of women who called the police reported that they were reassaulted. Only 4% of those women who didn't call the police were reassaulted (Langen et al., 1986). Another study found that 27% of the sample stated that their batterers assaults became even more severe after each police contact (Steele & Sigman, 1991).

Police are often reluctant to answer domestic violence calls because of the widely held belief that police officers are more at risk of death on domestic violence calls than any other type of calls. This widely held myth has been recently looked at and found to be untrue (Kukreja, 1993). Kukreja (1993) reports that researchers Garner and Clammer found that the danger to police in domestic violence cases has been overstated, based on statistics from the U.S. Department of Justice. Garner and Clammer found that robbery calls were consistently the most dangerous according to data provided by the F.B.I.

Domestic violence calls are grouped together with other disturbance calls such as "man with a gun," bar fights and people getting involved with weapons. Domestic violence should not be put in this category. When classified independently, family violence calls do not create an additional risk to officers (Kukreja 1993). Kukreja also states that researchers in Los Angeles have found that the rate of any type of danger from domestic disturbances is less than one in a thousand. It also should be considered that by an officer accepting their job, they have also accepted some risks and have been trained in handling
them. By taking the wedding vows or getting involved in a relationship, the woman has accepted no such risks, nor is she trained to handle them (Archer, 1989).

The way police officers handle domestic violence calls reflects the importance of violence against women in our society. If the officer's reactions conveys the attitude that the batterer has not committed a serious crime, it reinforces the victim's feelings that the assault was her fault. It also reinforces her feelings of helplessness and entrapment (Archer, 1989). Police inaction is looked upon by society, the victim, and the batterer as a condoning of the abusive behavior. It is also a violation of a woman's constitutional rights under the 14th Amendment (Archer, 1989). When the officer conveys the attitude that the assault is as criminal as an assault perpetrated by a stranger it will have a positive affect on the woman. Such an attitude would tell her that she is not the guilty party, but rather, she is the victim (Archer, 1989).

The legal system provides two options for the battered woman. The first being the police, as described above. The second option is the court system (Steele et al., 1991). The battered woman may choose to use the court system to obtain a restraining order. The restraining order provides the woman with an order that the batterer cannot assault, molest, strike, sexually assault, telephone or harass her; gives her temporary custody of her children; orders child support payments; and a kick out order that removes the batterer from the home. Restraining orders are not the ultimate protection for most battered women. For one reason, most judges are reluctant to restrain a man's access to his home (Walker, 1989). Many batterers continue to harass the victim after the
restraining order is in affect. Violation of a restraining order is only a misdemeanor violation. To an out of control batterer, restraining orders are only pieces of paper. Advocates point out that most of the time, restraining orders do not provide battered woman with much protection. Batterers may continually violate a restraining order without any repercussions. Police may not arrest a batterer who violates a restraining order, because the batterer is usually gone by the time the police arrive. To take a batterer to court on a restraining order contempt charge can cost the battered woman thousands of dollars in court fees. Because a restraining order may not give a battered woman adequate protection, some may see violence as their only alternative. It is ironic that the justice system prosecutes these victims when it is the system’s lack of protection that leaves the woman with no other options (Steele et al., 1991).

Should a woman be able to escape her batterer she may find safety in a battered woman’s shelter. Battered women’s shelters began opening in the United States in the mid 1970’s (Dowd, 1992). These shelters have been established throughout the United States. It has been estimated that thousands of battered women each year make the decision to leave an assaultive partner and find safety in these shelters (Stone, 1984). The motive for developing these shelters was generated from the growing awareness of the cultural oppression of women, increase in empirical research on the prevalence and causes of domestic violence, and the passage of domestic violence legislation in most states (Stone, 1984). Shelters can be an important place for women in that it gives them a safe place to stay while they recover from physical beatings and it gives them a time to relax, think, and make rational decision about their
futures. All this would be impossible in the violent environment of their homes (Stone, 1984). Shelters help women who feel powerless regain a sense of strength and control of their lives (Stone, 1984). Shelters assist women with counseling, support groups, housing, and legal help. Shelters may also be crucial in whether a woman returns to her batterer. It is estimated that 50% of women who stay in a shelter longer than a week, never return to the batterer (Walker, 1989).

It is important to recognize that although shelters are important to some battered women, they may not be accessible to all battered women. Shelters are often unable to accept women because they are at full capacity. One shelter in Los Angeles County, House of Ruth, receives over 100 inquiries for shelter a month. Yet it only has 20 beds. It is often very difficult to find a shelter that has room and that will accept the battered woman and her children, close to her home. Shelters are only a temporary option (Browne, 1987). Shelters usually allow women to stay anywhere from one to three months. After the stay the woman is on her own to find permanent housing arrangements.

Why do battered women kill their abusers? Battered women who kill their abusers have been the subject of little systematic study. Most of what is known about these women comes from clinical and or anecdotal reports (Ewing, 1990). One reason battered women may kill, as outlined above, is that there simply aren't many options available to them. Police may not have been cooperative in arresting her batterer. Restraining orders do not offer adequate protection. Shelters may be too far away or unable to accept the battered woman and her children due to filled capacities. Battered women that kill their
abusers may be doing so as a last resort (National Woman Abuse Prevention Project, 1990; Walker, 1989). They kill because there comes a time when they perceive themselves in danger of being killed and they see no other remedy that will save their lives (Nodland, 1992). Society expects a woman to be protected by her father or husband. It does not expect a woman to protect herself from assaults committed by one of her “protectors” (Steele et al., 1991).

Women and Homicide

It is important to know some facts about women and homicide before analyzing battered women who kill. Five percent of all people convicted in America for a crime are women (Walker, 1989). Women perpetrate less than 15% of all homicides in the United States (Browne, 1987). The 1982 National Crime Survey reports that 91% of violent crime between spouses was perpetrated by men on women. Only five percent of domestic violence cases were perpetrated by women (Browne, 1987). According to The Federal Bureau of Investigation’s Uniform Crime Statistics for the United States (1990), 34% and 20% of murder victims were wives and girlfriends, respectively. This compares to 15% and 10% of murder victims, who were husbands and boyfriends, respectively. Each year 400-800 women fight back and kill in self-defense (D’Antonio, 1991). In 1987 there were 800 women in prison for murdering a husband or intimate partner (National Woman Abuse Prevention Project, 1990). The rate of murders committed by women has remained steady at 15% for as long as records have been kept (National Woman Abuse Prevention Project, 1990). While homicides by women have declined in the last 20 years,
a woman's chance of being a victim has increased (National Woman Abuse Prevention Project, 1990). In a 1986 study the number of men killed by female partners had decreased by 25% (National Woman Abuse Prevention Project, 1990).

Men kill their female partners at a higher rate than women who kill their male partners. Four women a day are killed at the hands of an intimate partner (House of Ruth, 1992b; National Women Abuse Prevention Project, 1990). In 1988 the risk of being killed by one's spouse was 22% greater for wives than husbands (National Woman Abuse Prevention Project, 1990). When batterers murder their partners it is portrayed as a "crime of passion" caused by the man's intense love for the woman and his inability to live without her (National Woman Abuse Prevention Project, 1990).

Though battered women who kill have much in common with battered women who do not kill, it is difficult to generalize from the limited data available. However, there are some shared characteristics of battered women that kill their abusers (Ewing, 1990). Battered women who kill have been more severely physically and psychologically abused by the men they kill than battered women who don't kill (Ewing, 1990; National Woman Abuse Prevention Project, 1990). They have often suffered more physical injuries than battered women in general. In one sample reported in Ewing (1987) the battered women who had killed had reported that they had suffered beatings more than once a week. The comparison sample of battered women who did not kill, showed that only 13% had suffered beatings more than once a week. Other commonalities of battered women who have killed include; first incident
of abuse was life threatening (Ewing, 1987); perceived their batterers as inflicting greater levels of violence than is typical in battering relationships (Bates, 1991; Browne, 1987; National Woman Abuse Prevention Project, 1990); since their batterers were more likely to use weapons, they consequently had suffered more serious injuries (Abel et al., 1987; Bates, 1991; National Woman Abuse Prevention Project, 1990); received more death threats (Abel et al., 1987; Bates 1991); seriously believed that the batterer was going to kill her (Bates, 1991; Browne, 1987; Dowd, 1992; Maguigan, 1991; National Woman Abuse Prevention Project, 1990); experienced more sexual abuse (Ewing, 1987, 1990; National Woman Abuse Prevention Project, 1990; Walker, 1989); more isolated than battered women that don’t kill (Abel et al., 1987; Ewing, 1987; National Woman Abuse Prevention Project, 1990) less educated (Ewing, 1987, 1990); somewhat older than battered women who don’t kill (Ewing, 1987, 1990); and have fewer resources for coping with the abuse (Ewing, 1990). Some battered women kill to protect their children from physical or sexual abuse (National Woman Abuse Prevention Project, 1990). Lenore Walker has stated that battered women who kill have almost invariably done so after having experienced “...an uncontrollably savage acute incident, and do so in order to keep one from happening again.” Many have said that they did not intend to kill, but rather sensed that the level of violence had escalated so far out of control they sincerely believed that it would not diminish again (Bates, 1991).

Researchers have also identified characteristics of batterers who are most likely to be killed. Many had sexually abused the woman or her children. Some
had extreme suicidal tendencies and would order them to kill them. All the
woman had described their partners as being unusually suspicious or
possessive. They had often threatened to kill relatives or friends. These men
had all threatened the women with guns, knives, or other weapons (Bates,
1991). The batterers also tended to use more alcohol and drugs than other
batterers, their incidents of child abuse was higher, they sexually assaulted
more, and threatened to kill the woman more (Browne, 1987).

For a variety of reasons, including the psychological state that she has
incurred from the continually abusive relationship, a battered woman may
believe that there are only two options: kill her abuser or let him kill her
(Bennett, 1989). It is estimated that only a very small percentage of battered
women kill their abusers to end the violence they experience (National Woman
Abuse Prevention Project, 1990). The actual number of homicides committed
by battered women against their abusers is unknown (Abel et al., 1987). When
these women kill it is out of fear not anger (Walker, 1989). These women hardly
ever kill as a first response to the violence. A woman will emote, plead, and
endure great suffering before resorting to a physical defense of her life. When a
woman does kill she has almost always been horribly, irrevocably hurt
physically and emotionally (Walker, 1989). The assaults the woman endures
have progressively worsened over time (Steele et al., 1991). Most of these
women who committed homicide did not have a history of violent behavior,
when they killed it was the first time they had fought back against their batterer
(National Woman Abuse Prevention Project, 1990). Some see the battered
women who kills as unreasonable because she seems to be violating the norm
of appropriate behavior for women (Ewing, 1987). They may be seen as irrational or insane (Follingstad et al., 1989). It needs to be understood that the behavior of the battered woman that kills is normal, not abnormal. Defending oneself from reasonably perceived imminent danger of bodily harm or death ought to be considered a psychologically healthy response (Walker, 1989).

The Law of Self-Defense

The law has justified violence in the form of self-defense for centuries. However, self-defense as defined by the law applies best to a fight between equals and is not designed for use by a chronic victim of abuse who may be physically and psychologically unable to leave the confrontation. Our society expects battered women to utilize restraining orders and law enforcement. It is believed by society that battered women have effective non-lethal options when escaping a batterer. The recent availability of restraining orders and law enforcement has contributed to the reluctance of many courts to recognize self defense for battered women who kill, except in the most obvious battered woman case (Steele et al., 1991). For women who kill in "non-traditional" self-defense cases, the courts tend to believe that she could have relied on some resource to escape her violent relationship. Many times even if abundant evidence is presented regarding severe abuse perpetrated against the battered woman who killed, these women are still convicted because of the circumstances surrounding their homicidal acts. Many times these circumstances are not seen as having meet current self-defense law requirements, especially if the abuse if psychological (Ewing, 1990).

Cases involving battered women who kill their abusers can be divided into
two general categories. In the first category the battered woman kills during an acute battering incident that more easily meets the traditional elements of self-defense. During the incident, the severe physical abuse inflicted upon the woman establishes that she had a reasonable belief that she faced an imminent threat of serious physical harm or death at the specific moment she killed her batterer. This type of situation fits into the traditional bounds of self-defense although the question of her option to flee or her use of "excessive force" may still be at issue (Bates, 1991; Bennett, 1989). Where the woman kills during an acute battering incident, her self-defense claim is likely to succeed (Venesy, 1991).

In the second category the battered woman kills in a non-confrontational setting (Bates, 1991; Bennett, 1989; Nodland, 1992; Venesy 1991). She kills her batterer during a lull in the beatings, usually when his back is turned or while he is asleep. The battered woman kills either following or in anticipation of a battering incident (Bennett, 1989). The woman may believe that this is her only opportunity to defend herself (Bennett, 1989). These killings most often occur in three instances: when the abuser has verbally threatened the woman, but has not yet acted on it; when the abuser's back is turned; and when he is resting or asleep, usually following a battering incident (Bennett, 1989). The abuser's being asleep or his inattention does not automatically indicate that the woman is safe or is not at risk. From the battered woman's perspective, when he awakens she's had it; wherever she runs, she's had it (Venesy 1991). Often the abuser has promised to kill her when he awakens. However, the testimony that the woman believed she would be in imminent danger when he awoke is
not good enough (Ewing, 1987). These cases test the limits of the traditional self-defense doctrine, particularly the requirement of imminent harm (Bennett, 1989). Since the belief of future imminent danger is not recognized by the law, the woman is often identified as the aggressor. The “reasonable man” standard is interpreted by the courts to mean that a woman should not fear a sleeping man (Bennett, 1989). However, the battered woman knows that the assaults have progressively gotten worse over time. To wait for a batterer to initiate yet another round of potentially deadly assaults before acting in self-defense is far from realistic in many situations and is certainly not reasonable to the battered woman in her situation (Steele et al., 1991).

In the past, battered women routinely pled insanity when they killed their abusers (Follingstad et al., 1989). Now, battered women who kill their abusers are more likely to claim self-defense with the help of the battered woman syndrome and expert testimonies. Under current law in virtually all American jurisdictions, the use of deadly force is justified as self-defense only where the person, who is not the aggressor, using such force reasonably believed that he or she was in imminent danger of death or serious bodily injury and that it was necessary to resort to deadly force to overt that danger (Ewing, 1987, 1990; Dowd, 1992; Venesy, 1991).

The first element of the self-defense doctrine has to do with an honest and reasonable belief as to the imminence of harm and the necessary deadly force to repeal it (Bennett, 1989; Venesy 1991). Reasonableness as to imminence of danger and the need for deadly force is evaluated by a two pronged self-defense test: (1) a subjective standard-the woman’s own sincere and honest
belief that it was necessary to kill in order to defend herself; and (2) an objective standard—how a “reasonable man” would perceive the aggressor’s demeanor (Venesy, 1991). When looking at a self-defense plea, the jury must determine whether an ordinary person in the same circumstance would also have reasonably believed the use of force was necessary. Under this objective standard, a defendant who had an honest but unreasonable belief, as a woman who kills in a non-confrontational setting, would not prevail (Bennett, 1989).

Historically the legal standard of reasonableness has referred to an idealized version of the reasonable man and does not allow for any particular physical differences, unique characteristics or that of a reasonable woman (Bennett, 1989; Steele et al., 1991). The standard was founded on a “man of ordinary prudence” and incorporated community standards of reasonable behavior (Bennett, 1989). This is inadequate when applied to battered women, it does not allow for women’s personal experiences in a repeatedly abusive relationship with her “victim” (Steele et al., 1991). Reasonableness becomes a stumbling block to the battered woman who is defined according to a sex-biased “reasonable man” standard. A battered woman’s reasonable response to physical violence is likely to be different from a man’s response of the atypical self-defense setting in which she acts because of her size, strength, and socialization (Venesy, 1991).

The present self-defense doctrine is male oriented in that it adopts bluff and counterbluff as a norm of social interaction between two aggressors. Because of a woman’s socialization, the rules of bluff and counterbluff may not be so obvious (Steele et al., 1991). When our society thinks of people
defending themselves they think of soldiers or men protecting home and family, or a man fighting off an assailant (Steele et al., 1991). It is believed that these images of self-defense and the use of the words "reasonable man" have women at a disadvantage. In the 1977 case of Washington v. Wanrow, Wanrow and her lawyers believed that the use of the masculine gender implicitly advised the jury to use a male standard in assessing the propriety of a woman's conduct. Using the masculine gender gives the jury the impression that two men have had an altercation (Steele et al., 1991). Women have the right to have "she" and "her" substituted for "he" and "him" when a jury considers a case where a battered woman has used force to defend herself (Dowd, 1992).

The second element of self-defense is that the person must be in imminent danger (Bennett, 1989). The law has traditionally interpreted the imminence requirement to mean that the defendant must reasonably fear serious injury or death at the particular instant that the defendant acted with force (Bennett, 1989). For an attack to be imminent, there must be no time left to summon the police or other aid, or for the aggressor to change their mind (Steele et al., 1991). The problem that arises when battered women claim self-defense is that they may not have defended themselves during the attack. One may not claim self-defense to justify force used to prevent anticipated attacks that are not imminent or to justify acts of revenge for previous acts (Bennett, 1989). Most of these cases that have failed have been the result of failure to satisfy this requirement of imminence (Nodland, 1992).

The idea of imminence to a battered woman is different that the idea of imminence to a man in a bar fight. The battered woman's concept of imminence
is based on her intimate knowledge of the abuser and his history of violent acts (Venesy, 1991). In most instances, the abuser has threatened to kill either the woman, her children, family or friends. The abuser may have also threatened her with weapons before. To the battered woman the threat of violence is continuously imminent. The abuser’s earlier threats are still in force and the imminent danger arguably justifies self-defense even in a period of relative calm (Venesy, 1991).

The third element of self-defense concerns when deadly force is justified. Deadly force is justified if the actor reasonably believes she is threatened with unlawful death or serious bodily harm (Bennett, 1989). Various factors are considered when examining the reasonableness of the actor’s force, such as sex, size, strength of the parties and the attacker’s history of violence. This approach allows jurisdictions to recognize that in some situations, even an unarmed attack can merit the use of deadly force as a response (Bennett, 1989). This element of the self-defense doctrine allows for the use of proportioned force. The amount of force one can legally use has to be proportioned to the harm threatened (Bennett, 1989; Steele et al., 1991).

Battered women may have trouble explaining why their use of force seems excessive in response to the abuser’s violence. For a successful self-defense case she must show that the force she used to repel the violence was justifiable in relationship to the amount of peril she felt herself to be in (Follingstad et al., 1989; Steele et al., 1991). A battered woman may have a problem with the timeliness of her response to the threatened or actual harm (Dowd, 1992). If the woman is seen as having no rational way of leaving the abusive relationship
than these traditional self-defense rules would apply to the battered woman. However, these rules of self-defense do not apply if “irrationality” produces the inability to leave the relationship (Morse, 1990). The proportionate force rule is another example of an underlying perception that the confrontation is between two equal men (Steele et al., 1991).

The fourth and last element of self-defense is the duty to retreat. A person must retreat if possible before defending themselves (Bennett, 1989). Most jurisdictions generally agree with the “castle doctrine.” The castle doctrine states that no one is required to retreat from their own home (Bennett, 1989; Nodland, 1992). It appears that the courts do not apply the idea of the castle doctrine to battered women who defend themselves. The law seems to imply that you do have to retreat from your home if the aggressor is an intimate partner.

Battered Woman Syndrome and Battered Woman Defense

Recently, there has been much controversy over the use of the battered woman syndrome and the battered woman defense. The battered woman syndrome is not a new defense, nor is it a justification for murder. The “battered woman syndrome” refers to a set of common characteristics unique to women who are physically and emotionally abused by their partners (Bates, 1991; Bennett, 1989). The “battered woman defense” is simply the use of expert testimony in a self-defense case, as a way to explain a woman’s acts in the context of her experiences as a battered woman (Dowd, 1992). Some practitioners have erroneously assumed that the battered woman defense is a type of self-defense which include psychiatric dimensions placing it somewhere
between the insanity plea and killing in the heat of passion (Dowd, 1992).

Many courts have an unspoken fear that by recognizing the battered woman syndrome it will give women a license to kill. However, crime statistics do not support this fear. In 1984 and for at least 30 years before that time, women accounted for approximately 13% of those arrested for homicide (Venesy, 1991).

There have been some problems with the use of the battered woman syndrome. The descriptive word “syndrome” has provoked debate and concern and misunderstanding. Feminists fear that the use of the term “syndrome” has resulted in the labeling of battered women as abnormal and consequently absolved society of any responsibility for the battered women’s situation by placing the blame on the victim (Dowd, 1992). The challenge is overcoming the negative implications of the term “syndrome” (Dowd, 1992).

Another problem exists in the contradiction of the use of force by a battered woman that is suffering from learned helplessness (Ewing, 1987). Juries may have difficulty believing that a battered woman is helpless to leave the situation but is not helpless to pick up a gun to defend herself. This can be explained as an instinctual response to a survival situation, where the threatened violence by the abuser exceeds prior violence levels (Dowd, 1992).

As indicated above, part of the battered woman defense is the use of expert testimony. The first case in the United States to admit expert testimony was the case of the United States v. Ibn-Thomas in 1979 (Bates, 1991). Now most battered women who kill their abusers, in efforts not to be convicted, seek to introduce expert psychological or psychiatric testimony regarding the battered
woman syndrome (Ewing, 1990). Most courts do allow expert testimonies in traditional confrontation cases but have excluded expert testimony in “non-traditional” cases. The case of People v. Aris established the acceptance of expert testimony on “non-traditional” cases (West’s Ann. Evid. Code, section 1107). By allowing the testimony in traditional confrontation cases, courts are allowing the testimony where battered women least need it, and denying it to those who need it the most (Bates, 1991).

The expert testimony is introduced to assist the court in determining whether the defendant acted out of a reasonable belief that she was in imminent danger of death or great bodily harm (Bates, 1991). When defense lawyers question the expert they should ask for information on the history of prior abuse and violence and how that affects the battered woman’s mind. The expert must also chart the characteristics of a battering relationship by describing the cyclical nature of the violence and the concept of learned helplessness (Dowd, 1992). The expert must convey that the battered woman is a normal, reasonable person, caught in irrational circumstances responding as any reasonable person would. A lawyer could use the battered woman syndrome to argue that what happened to the defendant could happen to anybody under similar circumstances. The battered woman syndrome transforms the battered woman into “everywoman,” a reasonable person who uses force in self-defense (Dowd, 1992). The testimony is used to overcome historical and stereotypical notions of duty to retreat, and answer the arguments that she should have left; there were courts, community resources, and law enforcement personnel that could have helped; and a host of other obstacles
that point to motive, anger, revenge, cover-up, and murder (Nodland, 1992).

On the general level, the expert must dispel myths and misconceptions about the battered woman, explain the woman's inability to escape the battering relationship and provide juries and judges with an understanding of the circumstances that led to the woman's decision to use deadly force (Dowd, 1992). Expert testimony works to discredit the assumption that the battered woman who killed in non-confrontational situations must have been the primary aggressor (Bates, 1991). Lay people who have not experienced abuse do not really have any frame of reference to understand why a woman would stay with the man who abused her (Steele et al., 1991). The psychological effects of repeated brutal beatings are beyond the understanding of the average person (Venesy, 1991). Without the information provided by the expert, the jury is unlikely to understand that a battered woman acted out of fear, not merely out of hate or anger, and that she sought an end to the violence not just an end to her batterer's life. Studies of battered women who kill indicate a battered woman apparently does not contemplate the death of her victim until the death becomes an actuality. These women then express sorrow, loss, remorse, and depression (Steele et al., 1991).

An expert can explain how the battered woman's experience fits in with each traditional element of self-defense (Steele et al., 1991). The testimony by the expert can boost the woman's credibility by explaining the reasonableness of her belief that she was threatened with death (Ewing, 1987). However, the testimony of the expert can cause problems in two instances. They jury may see the battered woman as having a mental incapacity or disturbance instead of
suffering from battered woman syndrome. The jury may also believe that the expert is concluding that by virtue of having suffered from the battered woman syndrome, the battered woman has a special privilege to kill (Ewing, 1987).

The battered women defense suggests that women who have been chronically victimized act logically though it may not appear so to juries. This is the reason for the battered woman defense. Since juries think about self-defense in traditional male stereotypes of when self-defense is justified, the defense of a battered woman involves an effort to engineer a leap in a jury's consciousness in a few short hours (Nodland, 1992). Without instructions which allow the jury to consider the battered woman's unique circumstances, a jury is left with no other option but to find the woman guilty as charged. Without these instructions the court denies the battered woman the right to a trial by a jury (Steele et al., 1991).

When studies are done on juries that have tried cases involving battered women who kill, it is found that they are likely to acquit a woman they believe has acted to restore or affirm justice. They are also likely to convict a woman that they perceive as a vengeful killer (National Woman Abuse Prevention Project, 1990). It may be difficult for a jury to understand why the woman would consider her batterer a threat when he is asleep. They may be unwilling to apply the self-defense scenario (Follingstad et al., 1989). Male jurors may find it difficult to understand a woman's psychological and material needs, because men are generally in positions of greater power and economic privilege (Walker, 1989). Advocates suggest that women jurors, even those who have experienced abuse, may believe that they would have left before the situation
escalated to deadly violence.

Though men are three times more likely to kill their partners, studies suggest that women who are convicted of murdering a male intimate partner are given longer prison sentences (Browne, 1987; D'Antonio, 1991; National Woman Abuse Prevention Project, 1990). D'Antonio (1991) writes that the National Clearinghouse reports that men who kill their female partners serve an average of two to six years in prison while women who kill their male partners serve an average of fifteen years. Brown (1987) states in her book that FBI statistics show that men who kill their female partners are typically not charged with first or second degree murder as often as women who kill their male batterers. Browne suggests that this explains the discrepancies in prison sentences. Others suggest that women who kill are seen as more dangerous than men who kill, perhaps because of the infrequency of female perpetuated homicides (National Woman Abuse Prevention Project, 1990).

The following study has to do with prosecutor’s opinions and experiences while trying women who have killed and have used the battered woman defense. Though domestic violence affects victims in heterosexual and homosexual relationships, this study is limited to women who have killed male partners. Most data so far has been from the victim’s or defense attorney’s perspective. Prosecutors have been concerned about the validity of the battered woman syndrome since most of the research on the syndrome has been by battered women advocates and have used victim’s stories. They believe that more emphasis should be on other viable options and resources to battered women besides the use of deadly force. They are concerned that the
battered woman defense is not being used by legitimate victims of the battered woman syndrome. By looking from the prosecutor's perspective we can better understand what needs to be done in order for women to get a fair trial and for the battered woman defense is to be used appropriately. In order to change the legal systems treatment of women it is necessary to look at how the prosecutor perceives and tries the woman defendant.

Method

Subjects

Subjects included six prosecutors with district attorney offices in Southern California and one former prosecutor who is now a judge. All participants had tried a case where a woman had killed a male partner and used the battered woman defense in her trial.

Materials

The questionnaire given to the subjects was a twelve page survey developed by Riverside County Deputy District Attorney Barbara Marmor and Geraldine Butts Stahly, Associate Professor of Psychology at California State University, San Bernardino. The questionnaire was originally published by the California District Attorneys Association's Prosecutor's Notebook Volume XI, "When Domestic Violence Supports a Defense to Murder."

The questionnaire asked the subjects to answer the questions regarding any "burning bed" case that they had rejected, pled, or went to trial. The subjects were asked questions regarding the facts of the case, the juries perception of the defendant and the decedent, and their opinions about the battered woman defense.
Results

The seven defendants ranged in age from 27-49. The decedents ranged in age from 30-52. Three of the couples were married or living together and four were divorced or separated. The years that the defendant and decedent were in an intimate relationship ranged from up to four months to ten years (up to 4 months (n=2), 16 months (n=1), 7 years (n=1), and 10 years (n=2), one was unknown). Three of the couples had children. The defendant's education level ranged from junior high school to a Bachelor of Arts degree. The decedent's education level ranged from junior high school to a Medical Doctor degree.

The defendants in this survey, killed their partners either by shooting (n=5), stabbing (n=2), or bludgeoning/striking (n=2). Two defendants combined these methods; one bludgeoned her batterer with a lamp and then stabbed him 11 times; another hit the decedent in the head with a bottle and then stabbed him. None of the killings occurred in the heat of a battering episode, however, four of the killings occurred during or after verbal altercations. Decedents were killed while passed out from alcohol, while face down receiving a back rub from the defendant, while laying on a bed awake, while asleep, while getting dressed to leave the defendant, while outside of a parked car on the freeway, and while turned away from the defendant. Only two of the murders was witnessed by a third party. The killings took place in the home (n=5), the freeway (n=1), and a motel room (n=1).

Six of the women went through a jury trial on charges of murder (n=4) or voluntary manslaughter (n=2). The verdicts ranged from second degree murder (n=2), second degree murder with use of a weapon (n=2), voluntary
manslaughter (n=1). All of the women were found guilty. The prison sentences ranged from, 8 years (n=1), 15 to life (n=1), 16 to life (n=2), and 17 to life (n=1). One woman’s sentence was still pending and another woman’s sentence was unknown to the district attorney, but she was found guilty. Participants had responded that there was “no history of violence for both the defendants and the decedents, although one defendant and one decedent had obtained restraining orders. One of the decedents had a possible misdemeanor conviction. Two of the defendants had felony convictions. According to the district attorney’s the juries perceived the decedents as; exemplary (n=1), solid (n=2), marginal (n=3), and criminal class (n=1) citizens. They reported that the juries perceived the defendants as; exemplary (n=0), solid (n=2), marginal (n=2), and criminal class (n=3) citizens.

During the trial the following evidence, verified or asserted, was presented regarding the decedents. History of drug and/or alcohol abuse (n=5); history of violent behavior towards the defendant (n=5), towards children (n=1); history of emotional abuse of psychological terrorization towards the defendant (n=5), towards others (n=2); history of threats towards defendant (n=4), towards children (n=1), and towards animals (n=1). One of the decedents had secured a temporary restraining order and/or a stay away order.

During the trial the following evidence was verified or asserted regarding the defendant’s behavior: history of drug and/or alcohol abuse (n=2); history of violent behavior towards the decedent (n=2) or towards others (n=2); history of emotional abuse of psychological terrorization towards the decedent (n=2); and history of threats made by defendant towards the decedent (n=2). Only one of
the defendants had obtained a temporary restraining order.

When asked if the prosecutors felt that the defendant's trial testimony appeared to be fabricated to fit a battered woman defense, four out of the seven prosecutors replied yes. Six of the prosecutors had investigated the battered woman syndrome aspects of the case. Four of the prosecutors believed that the battered woman defense and/or syndrome had nothing to do with the defendants they were reporting. Five of the trials used an expert witness on the battered woman syndrome. When commenting on the battered woman syndrome, the prosecutors gave a wide range of perspectives. "I tend to believe just about all allegations of abuse upon women. This case showed me that this could be manipulated. This defendant diminishes all of the true victims of spousal abuse."; "Smoke out the battered woman syndrome. It's rarely a legitimate defense."; "I believe that there are legitimate cases of battered woman syndrome. This simply wasn't one of them."; "...battered woman syndrome did not apply nothing here was done in self-defense."
Chapter Two: Discussion

Though this sample is too small to make generalizations, there were some findings that agree with other researchers. Almost all of the decedents had a history of violent behavior towards the defendant (n=5) and a history of emotional abuse or psychological terrorization (n=5). This supports Ewing (1990) and the National Woman Abuse Prevention Project's (1990) data. Bates (1991) and Abel and Suh (1987) state that battered women who kill receive more death threats. This study indicated that four of the women had claimed to have received threats from the decedent. Browne (1987) wrote that batterers who were more likely to be killed tended to use more alcohol and drugs than other batterers. Five of the decedents in this sample were accused of using alcohol and/or drugs.

These findings were unable to support the assertions made by Bates (1991) or Browne (1987) that batterers who are killed are unusually suspicious or possessive, had threatened the defendants with weapons, have higher incidents of child abuse and sexual assault. This could be attributed to either the prosecutors not being aware of these abuses of these allegations not coming up in the trial of the women.

There were inconsistencies noted in this study. One of the defendants that was used in this study also gave an interview on a radio station (KFI 10/29/92). Her telling of her story was quite different from the story the prosecutor had given. The prosecutor reported in the questionnaire that she had drugged him, hit him in the head with a bottle, and then stabbed him in the back. The defendant, in her radio interview, stated that she hit him in the head with a bottle
and that he died of that wound, because of his brittle bones. She states that he
died from one blow to the head. The district attorney also wrote that the
decedent had no criminal history. The defendant stated in this interview that the
decedent had a warrant out for his arrest at the time of his killing. The
prosecutor wrote that battered woman syndrome was brought up at the trial and
that the defense lawyer was going to use an expert witness but later decided
not to. The defendant stated that battered woman syndrome was not allowed in
her trial.

There could be many answers to why all the inconsistencies occurred with
the above case. The case was tried more than 10 years ago, which would
account for some problems with memory. It is possible that the prosecutor could
not remember all of the facts and perhaps did not refer to transcripts from the
trial in completing the questionnaire. It could also be possible that since the
defendant was on the radio talking about her bid for clemency she conveniently
forgot the stabbing. Whatever the reason for the inconsistencies, it is clear that
just getting one side of the story does not help in reviewing the facts about
battered women who kill. Since most of the literature currently deals with either
just the battered woman or the defense attorney for the battered woman, it is
clear that we need information from both side in order to analyze the treatment
of women as defendants in the criminal justice system.

Another problem that arose from obtaining the sample was in trying to find
prosecutors who had tried these cases. Many district attorney offices were
contacted, however it was difficult to find anyone that would answer whether
there had been cases tried of this nature. Many district attorney offices
stated that they had never tried battered women that killed their alleged abusers. One reason may have been that the prosecutors had tried these cases but had felt that the defendants were not battered women, as did most of the prosecutors who took part in this study. An explanation for this may be the concept of the "good" battered woman and the "bad" battered woman.

Many people have a notion that battered women must must possess certain behaviors. A "good" battered woman is a passive, loyal housewife. She is a loving companion to her abuser. These women have flawless characters and continually appeal to the police and courts for help, regardless of the futility of their efforts (Dowd, 1992). Many of the women in this sample would most likely not be considered the "good" battered woman. Only one had obtained a temporary restraining order. They had not tried hard enough to get outside help for their situation. "Good" battered women probably would have stayed with the batterer longer, than our sample's longest time of 10 years.

The "bad" battered woman is one who fails to possess any of the "good" battered woman traits. She may have obtained an education or pursued a career. Infidelity or abuse of drugs would also be discrediting (Dowd, 1992). According to the prosecutors, two of the women in the sample did have a history of alcohol and/or drug abuse.

Another problem that arose from doing this research was the reaction of the prosecutors. Some were very concerned that they be kept confidential so that their identity would not be known. Others wanted promises that the result of the research would not be used to put down prosecutors and make heroes out of these women. In order to do future research on battered women who kill we
need the prosecutors’ view point. Without their insight we are unable to more completely analyze the battered woman’s dilemma.

While interviewing prosecutors for this survey, most of them were concerned that the battered woman defense is often used inappropriately. They were concerned that women they were reporting on were not “legitimate” victims of domestic violence using the defense. In reviewing the data collected for this study, it appears that this concern is valid. In one of the cases the defendant had a long criminal history, from various states and under several different names. Her previous criminal history had included forgery, welfare fraud, vehicle theft, drug possession, possession of stolen goods, commercial burglary, and petty theft. She had known the decedent less than four months and was taking care of the decedent’s apartment in return for shelter. It appears that the battered woman’s defense was used because she had claimed to have been a victim of domestic violence at the hands of her ex-husband. In another case the defendant had called the decedent at work and told him that she needed help with her car that was stuck on the freeway. The decedent drove out to the sight where the defendant shot him to death. They were separated at the time of the murder.

Something to consider when looking at the cases that were reported is that they all seemed to be non-traditional cases. And as mentioned above, two of the defendants seemed not to be victims of the battered woman syndrome. Prosecutors were asked to report on any case where a female defendant used the battered woman defense, whether it was rejected, pled, or went to trial. One reason that these cases were reported by the prosecutors for this study might be
that they were all found guilty of their crimes, they seemed to "prove" that the battered woman defense has flaws. Interestingly, most were hesitant to give information on these cases. One would assume that they would want to report on cases that were non-traditional so that to show that the battered woman defense is not a viable defense. Perhaps the prosecutors had somewhat believed that the women they had tried were abused. It can only be speculated why traditional cases were not reported. It is suspected that the prosecutors may not file a case against a woman who appears to have been severely abused. In addition, the prosecutors may not have wanted to report on cases in which defendant was found innocent because that may suggest that the battered woman defense is legitimate in some cases.

Advocates of battered women are concerned that women who fight back against their batterers are being unfairly prosecuted because of their being women and because the court does not understand the extreme abuse that battered women live through. The fact that there is a "reasonable man" standard is justification enough that there needs to be more analysis on how the justice system can protect the rights of not only male defendants but also female defendants.

In order to decrease the belief these women have that they must kill in order to save their own lives we, must change the way we handle domestic violence in our society. Society must eliminate the unequal power balance between men and women (Romero, 1985). As long as one group is socialized to consider itself superior to another group or to have more rights than another group or more real power there will be violence (Walker, 1989). This does not
have to be done by increasing the oppressed groups (women) power in order to achieve equality. Decreasing the power of certain groups and individuals (men) is the more functional route to a more equitable and harmonious existence (Bates, 1991). As Susan B. Anthony stated, “Men, their rights and nothing more; women and their rights nothing less (Barry, 1988).”

As long as our institutions are centered around patriarchy, there will be power imbalances. Institutions such as the legal system, must acknowledge diversity of experiences. As long as society judges behavior according to the “reasonable man” standard, there will be a bias against women and their experiences. If women’s voices were held by the police and the court system regarding intimate violence, fewer women would see homicide as an alternative.

Educational programs are needed at all levels of the legal system (Archer, 1989). The police through the judges need to be trained about the dynamics of abuse and the best way to handle batterers. Gondolf and McFerron (1989) report that a study conducted by Sherman and Beck (1984) found that arresting batterers is an effective deterrent. In Ferraro’s (1989) study, it was found that many police officers held stereotypical beliefs about battered women, including the belief that women could leave if they wanted to. One officer in Ferraro’s study went as far as to say that a man’s home is his castle and he should do what he wants to do. Ferraro goes on to suggest that if officers knew that failure to provide adequate protection would result in complaints that included their name and badge number and may lead to disciplinary action, they may become more thorough in their response to victim’s complaints. Police need to not only
be educated about the myths and facts about battered women but also the best way to handle the domestic violence calls that they answer.

In order to support police officers taking a different stand on domestic violence, prosecutors have to start prosecuting domestic violence cases. It will not serve as a deterrent if the officer arrests but the district attorneys office does not prosecute the batterer for the crime that they have committed. Unless more batterers are prosecuted they are going to continue to be violent because they receive no punishment for their crime.

Shelters and domestic violence outreaches need to be supported monetarily in order to meet the increasing demand of domestic violence victims. These agencies need to be supported for the work they do to help victims and make society aware of the problem of domestic violence. With the addition of more shelters, more women would be able to escape abusive relationship and not have to feel that they need to rely on themselves. Shelters, with more funding, would be able to educate more people on domestic violence so that victims would not be so isolated.

In order to fully understand the needs of women who are tried for killing their alleged abusers there must be more research in regards to the way women are treated by the justice system. Future research needs to utilize not only prosecutors perceptions but the perspective of the defense attorney and the court records from the trials. By using all three of these sources the researcher would be able to get a better perspective of the events that led to the woman killing her partner. In order to make suggestions to the legal system regarding women defendants there needs to be a large complete analysis of
the entire history of the woman's victimization and her treatment by the judicial system. This can only be achieved by using data from the police, domestic violence shelters, counselors, district attorneys, defense attorneys, and court records. With this type of accumulation of information, the legal system may better understand the needs of women before and after they become defendants.
Appendix A

Questionnaire: When Domestic Violence Is A Defense To Murder

1. Your name: __________________________________________________________
   Office: _____________________________________________________________
   Address: ____________________________________________________________
   Phone No.: __________________________________________________________

2. Name of case: _______________________________________________________

3. a. Charges requested by law enforcement: _______________________________
    b. Charges considered by District Attorney's office: ______________________
    c. Actual charges filed: _____________________________________________

4. Case resolved by (circle one):
   No file Plea Jury Trial Court Trial
   a. If plea, to what: ___________________________________________________
   Sentence: ___________________________________________________________
   b. If trial, verdict: __________________________________________________
   Sentence: ___________________________________________________________

5. Name of defendant: _________________________________________________
   Name of decedent: _________________________________________________
   Date and time of offense: ____________________________________________
   Location of offense (home, bar, roadway, etc.): _________________________
   Brief summary of offense (e.g., defendant shot decedent during scuffle):
   _________________________________________________________________
   Any witnesses to offense? ____________________________________________
   Who? _____________________________________________________________
Relationship to Parties: ______________________________

Any witnesses involved, injured, or threatened during incident?:

Yes  No

If yes, please explain (e.g., decedent threatened to kill child): _________

6. Relationship of defendant to decedent (circle as appropriate):
   a. currently living together Yes  No
   b. previously living together Yes  No
   c. currently married Yes  No
   d. currently divorced or separated Yes  No
   e. history of separation and reconciliation Yes  No
      If yes please describe: ______________________________
   f. children living in home Yes  No
      If yes, number _______  ages _________________________
   g. years of intimate relationship (dating and cohabitating)________
   h. members of household: _________________________________

7a. Characteristics of decedent and defendant:

<table>
<thead>
<tr>
<th></th>
<th>Decedent</th>
<th>Defendant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sex</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Height</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weight</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical disabilities, if any</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Mental disabilities, if any

Education

Occupation

b. Some background of decedent and defendant (check as appropriate):

<table>
<thead>
<tr>
<th></th>
<th>Decedent</th>
<th>Defendant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full-time</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Part-time</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unemployed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Welfare</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jury perception of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social/Class background:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exemplary citizen</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solid citizen</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marginal citizen</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Criminal class</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Criminal History:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No contacts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contacts only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Misdemeanor convictions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felony convictions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Served time in prison</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Criminal History regarding crimes
of violence: __________  __________

Criminal History regarding impulsive
behavior: (e.g., DUILs, reckless driving)
________  __________

8. Violence within the relationship:

What evidence of violence was presented during the case: Please
notice that we are asking about all evidence presented by either side,
whether it was verified in some way, or a bare assertion.

Headings:

Defendant said, verified - D/V
Defendant said, assertion - D/A
Witness said, verified - W/V
Witness said, assertion - W/A
Document said, verified - DC/V
Document said, assertion - DC/A

I. Decedent (check all that apply)

<table>
<thead>
<tr>
<th></th>
<th>D/V</th>
<th>D/A</th>
<th>W/V</th>
<th>W/A</th>
<th>DC/V</th>
<th>DC/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. History of drug abuse</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. History of alcohol abuse</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| c. History of violent
  behavior by this decedent
  -towards this defendant |     |     |     |     |      |      |
d. History of emotional abuse or psychological terrorization towards
   - the defendant
     __________________________
   - towards others
     __________________________

e. History of threats made by defendant towards
   - Defendant
     __________________________
   - Children
     __________________________
   - Animals
     __________________________
   - Family
     __________________________
   - Home
     __________________________
   - Personal Property
     __________________________
   - Other
     __________________________

f. Any history of past victimization of this decedent please explain
   __________________________

  __________________________

g. History of TROs or stay away orders secured by decedent
   __________________________

In this section, please answer each part of each question, as appropriate, regarding frequency, severity and quality of evidence. Please use the following scales in your answers:
Frequency:  0= never  
          1= rarely  
          2= regularly  
          3= often  
          4= continually  

Severity:  0= none  
          1= minimal  
          2= moderate  
          3= severe  
          4= life threatening  

Quality of evidence:  V= verified in some way  A= bare assertion  

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Severity</th>
<th>Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>h. decedent emotionally abused defendant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. decedent psychologically terrorized defendant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>j. decedent psychologically terrorized defendant's family, property, friends</td>
<td></td>
<td></td>
</tr>
<tr>
<td>k. decedent physically abused defendant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>l. decedent physically injured defendant</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
m. decedent threatened to harm defendant if she left him
   __________  __________  __________

n. decedent threatened to harm someone close to defendant if she left him
   __________  __________  __________

o. decedent pursued defendant when she left him
   __________  __________  __________

p. decedent pursued and was violent with defendant when he found her
   __________  __________  __________

q. Number of times the defendant left this decedent
   __________  __________  __________

r. Any contact while separated? Please explain:____________________________________

s. length of each separation:_____________________________________________________

t. Reason for getting back together:______________________________________________

II. Defendant (check all that apply)

   D/V  D/A  W/V  W/A  DC/V

   a. History of drug abuse
      __  __  __  __  __

   b. History of alcohol abuse
      __  __  __  __  __

   c. History of violent behavior by this defendant
      -towards this decedent
         __  __  __  __  __
      -towards others
         __  __  __  __  __
      whom_________________

   d. History of emotional abuse or psychological
terrorization towards
-the decedent
-towards others

e. History of threats made by defendant towards

- Decedent
- Children
- Animals
- Family
- Home
- Personal Property
- Other

f. Any history of past victimization of this defendant

Please explain:


g. History of TROs of stay away orders

secured by defendant

In this section, please answer each part of each question, as appropriate, regarding frequency, severity and quality of evidence. Please use the following scales in your answers:
Frequency: 0= never
1= rarely
2= regularly
3= often
4= continually

Severity: 0= none
1= minimal
2= moderate
3= severe
4= life threatening

Quality of evidence: V= verified in some way/ A= bare assertion

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Severity</th>
<th>Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>h.</td>
<td>defendant emotionally abused decedent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i.</td>
<td>defendant psychologically terrorized decedent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>j.</td>
<td>defendant psychologically terrorized decedent's family, property, friends</td>
<td></td>
<td></td>
</tr>
<tr>
<td>k.</td>
<td>defendant physically abused decedent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>l.</td>
<td>defendant physically injured decedent</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
m. defendant threatened to harm 
    decedent if he left her  
    ____________________________________  

n. defendant threatened to harm 
    someone close to decedent 
    if he left her  
    ____________________________________  

o. defendant pursued decedent 
    when he left her  
    ____________________________________  

p. defendant pursued and was violent 
    with decedent when she found him  
    ____________________________________  

q. Number of times the decedent  
    left this defendant  
    ____________________________________  

r. Any contact while separated? Please explain:__________________________________________

s. Length of each separation:__________________________________________________________

t. Reason for getting back together:____________________________________________________

9. What kind of objective evidence tended to support a history of violence 
    going into the case?______________________________________________________________
    Did you believe the evidence?_____________________________________________________
    Did it effect your filing decision? Yes NO
    How?___________________________________________________________________________
    Did you consider the battered woman syndrome a viable defense?_______

10. What kind of objective evidence emerged from your investigation that 
    tended to support a history of violence?____________________________________________
    Did you believe it? Yes No
Did you factor that evidence into your assessment of the case?

Yes  No

How?__________________________________________________________

11. What kind of objective evidence emerged during trial that tended to support a history of violence?__________________________________________________________

Did you believe it  Yes  No

Were you prepared for it?  Yes  No

How did it affect your assessment of the case?__________________________________________________________

12. Did you investigate the battered woman syndrome aspects of this case?

__________________________________________________________

What did you do? (e.g., extent and nature of investigation)____________________

What, if anything, was particularly helpful?__________________________

Compared to an "average" 187 that you have tried, the resources that you used to investigate this case were:

less than usual___  usual___

more than usual___  extraordinary___

Did your office give you the investigative support you felt you needed?___

13. Did you use an expert regarding domestic violence in your trial either for preparation or testimony?  Yes  No

Name of expert:__________________________________________________________

Qualifications: (e.g., Ph.D., community worker, M.D., law enforcement)___

What phase of the trial?__________________________

14. Did the defense use an expert witness regarding domestic violence in your trial?  Yes  No
During what phase?

Name of expert:

Qualifications, brief summary of expert's testimony:

15. Did the defendant make a statement to the police?  Yes  No
16. Did the defendant testify?  Yes  No
17. Were the statements and testimony consistent?  Yes  No
   if no, explain:

18. Regarding the defendant's trial testimony, how did the defendant appear?
   | Positive/ | Negative/ |
   |          |          |
   | Appropriate | Neutral | Inappropriate |
   Presentation of self          |  |  |
   Appearance                     |  |  |
   Affect                        |  |  |
   Articulation                 |  |  |
   Physical attractiveness      |  |  |
   Dress and grooming           |  |  |

Was appearance consistent with history?  
If no, please explain:

19. Did the defendant's trial testimony appear to you to be fabricated to fit a
    burning bed defense?  Yes  No
    Please explain:

20. Defendant represented by private counsel or public defender?
21. After the verdict, did you talk with the jury? Yes  No
Did they offer any valuable insight? If so, what_________________

22. Was the battered woman syndrome aspect of the trial important to the outcome? Yes No
Please explain__________________________________________

23. In retrospect what do you believe the facts of your case to be regarding the battered woman syndrome?_____________________________

24. Are you satisfied with the outcome? Why or why not?____________

25. In retrospect, do you feel justice was served in this case? Please explain:
__________________________________________________________

26. Would you do anything different next time? Yes No
What?_____________________________________________________

27. Any recommendations for other prosecutors handling such cases?_____
__________________________________________________________

28. Anything we should have asked and didn’t? Anything you want to add at this time?________________________________________
Table 1
Defendant and Decedent #1

<table>
<thead>
<tr>
<th>Defendant's Age: Unknown</th>
<th>Decedent's Age: Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relationship of Defendant to Decedent: Separated, married for four months</td>
<td></td>
</tr>
<tr>
<td>Children in the Home: None</td>
<td></td>
</tr>
<tr>
<td>Defendant's Education Level: Unknown</td>
<td></td>
</tr>
<tr>
<td>Decedent's Education Level: Unknown</td>
<td></td>
</tr>
<tr>
<td>Defendant's Murder Weapon: Hit decedent in the head an then stabbed him in the back.</td>
<td></td>
</tr>
<tr>
<td>Decedent's Position During Killing: Face down on bed, receiving back rub from defendant.</td>
<td></td>
</tr>
<tr>
<td>Witnesses to the Murder: None</td>
<td></td>
</tr>
<tr>
<td>Location of Murder: Motel Room</td>
<td></td>
</tr>
<tr>
<td>Charges Against Defendant and Case Resolved by: Second degree murder; jury trial.</td>
<td></td>
</tr>
<tr>
<td>Length of Prison Sentence: 21 year to life, reduced to 16 years to life by appellate court.</td>
<td></td>
</tr>
<tr>
<td>Defendant's Criminal History: Prior felony conviction, 459 P.C.</td>
<td></td>
</tr>
<tr>
<td>Decedent's Criminal History: No contacts</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Defendant: Criminal class</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Decedent: Marginal citizen</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Defendant's Behavior: History of violent behavior towards decedent.</td>
<td></td>
</tr>
</tbody>
</table>
Table 1 continued

**Evidence, Verified or Assented, Regarding Decedent's Behavior:** History of alcohol abuse; history of violent behavior towards defendant; history of emotional abuse or psychological terrorization towards defendant, history of threats made towards defendant.
Table 2

**Defendant and Decedent #2**

<table>
<thead>
<tr>
<th>Defendant's Age: 30 years</th>
<th>Decedent's Age: 46 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relationship of Defendant to Decedent: Living Together less than 4 months, not married.</td>
<td></td>
</tr>
<tr>
<td>Children in the Home: None</td>
<td></td>
</tr>
<tr>
<td>Defendant's Education Level: Unknown</td>
<td></td>
</tr>
<tr>
<td>Decedent's Education Level: High School Diploma</td>
<td></td>
</tr>
<tr>
<td>Defendant's Murder Weapon: Bludgeoned victim with lamp, then stabbed him eleven times.</td>
<td></td>
</tr>
<tr>
<td>Decedent's Position During Killing: Awake, laying on a bed.</td>
<td></td>
</tr>
<tr>
<td>Witnesses to the Murder: None</td>
<td></td>
</tr>
<tr>
<td>Location of Murder: Decedent's Home.</td>
<td></td>
</tr>
<tr>
<td>Charges Against Defendant and Case Resolved by: Second degree murder; plea.</td>
<td></td>
</tr>
<tr>
<td>Length of Prison Sentence: 16 years to life</td>
<td></td>
</tr>
<tr>
<td>Defendant's Criminal History: Multiple felony convictions</td>
<td></td>
</tr>
<tr>
<td>Decedent's Criminal History: No contacts</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Defendant: Criminal class</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Decedent: Marginal citizen</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Defendant's Behavior: History of drug and alcohol abuse.</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Decedent's Behavior: History of</td>
<td></td>
</tr>
</tbody>
</table>
Table 2 continued

drug and alcohol abuse.
Table 3
Defendant and Decedent #3

Defendant's Age: Late 20's/early 30's   Decedent's Age: 30's
Relationship of Defendant to Decedent: Divorced but living together.
Children in the Home: Two children, ages 8 and 4.
Defendant's Education Level: G.E.D.
Decedent's Education Level: High School Diploma.
Defendant’s Murder Weapon: Shot decedent in the head.
Decedent’s Position During Killing: Asleep on a bed
Witnesses to the Murder: None
Location of Murder: Defendant and Decedent's Apartment.
Charges Against Defendant and Case Resolved by: Murder, found guilty of voluntary manslaughter; jury trial.
Length of Prison Sentence: 8 years
Defendant's Criminal History: No contacts
Decedent's Criminal History: No contacts
Jury Perception of Defendant: Solid/marginal citizen
Jury Perception of Decedent: Solid/marginal citizen
Evidence, Verified or Asserted, Regarding Defendant's Behavior: History of violent behavior towards decedent; history of threats made towards decedent.
Evidence, Verified or Asserted, Regarding Decedent's Behavior: History of alcohol abuse; history of violent behavior towards defendant and older
Table 3 continued

child; history of emotional abuse or psychological terrorization towards defendant and others; history of threats made towards the defendant, the children and the animals.
Table 4
Defendant and Decedent #4

<table>
<thead>
<tr>
<th>Defendant's Age: 27 years</th>
<th>Decedent's Age: 33 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relationship of Defendant to Decedent: Married for 10-12 years.</td>
<td></td>
</tr>
<tr>
<td>Children in the Home: Two children, 5 and 2 years of age.</td>
<td></td>
</tr>
<tr>
<td>Defendant's Education Level: High School Diploma.</td>
<td></td>
</tr>
<tr>
<td>Decedent's Education Level: Unknown.</td>
<td></td>
</tr>
<tr>
<td>Defendant's Murder Weapon: Shot him five times in the back.</td>
<td></td>
</tr>
<tr>
<td>Decedent's Position During Killing: Passed out on bed from too much alcohol.</td>
<td></td>
</tr>
<tr>
<td>Witnesses to the Murder: People in the house, children asleep in the bedroom that the killing took place.</td>
<td></td>
</tr>
<tr>
<td>Location of Murder: Defendant's and decedent's home.</td>
<td></td>
</tr>
<tr>
<td>Charges Against Defendant and Case Resolved by: Second degree murder; jury trial.</td>
<td></td>
</tr>
<tr>
<td>Length of Prison Sentence: 15 years to life</td>
<td></td>
</tr>
<tr>
<td>Defendant's Criminal History: No contacts</td>
<td></td>
</tr>
<tr>
<td>Decedent's Criminal History: Possible misdemeanor conviction</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Defendant: Criminal class</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Decedent: Criminal class</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Defendant's Behavior: None</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Decedent's Behavior: History of drug and alcohol abuse; history of violet behavior towards defendant; history of emotional abuse or psychological terrorization towards the</td>
<td></td>
</tr>
</tbody>
</table>
defendant; history of threats made towards the defendant.
Table 5

**Defendant and Decedent #5**

<table>
<thead>
<tr>
<th><strong>Defendant's Age:</strong> Mid 30's</th>
<th><strong>Decedent's Age:</strong> Mid 30's</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Relationship of Defendant to Decedent:</strong> Separated, married 7 years.</td>
<td></td>
</tr>
<tr>
<td><strong>Children in the Home:</strong> None</td>
<td></td>
</tr>
<tr>
<td><strong>Defendant's Education Level:</strong> Bachelor Degree</td>
<td></td>
</tr>
<tr>
<td><strong>Decedent's Education Level:</strong> Medical Degree.</td>
<td></td>
</tr>
<tr>
<td><strong>Defendant's Murder Weapon:</strong> Shot decedent four times.</td>
<td></td>
</tr>
<tr>
<td><strong>Decedent's Position During Killing:</strong> Back towards defendant.</td>
<td></td>
</tr>
<tr>
<td><strong>Witnesses to Murder:</strong> None. Defendant did tell a friend that she killed the decedent because he would not come back to her.</td>
<td></td>
</tr>
<tr>
<td><strong>Location of Murder:</strong> Defendant's home.</td>
<td></td>
</tr>
<tr>
<td><strong>Charges Against Defendant and Case Resolved by:</strong> Second degree murder; jury trial.</td>
<td></td>
</tr>
<tr>
<td><strong>Length of Prison Sentence:</strong> 17 years to life</td>
<td></td>
</tr>
<tr>
<td><strong>Defendant's Criminal History:</strong> No contacts</td>
<td></td>
</tr>
<tr>
<td><strong>Decedent's Criminal History:</strong> No contacts</td>
<td></td>
</tr>
<tr>
<td><strong>Jury Perception of Defendant:</strong> Marginal citizen</td>
<td></td>
</tr>
<tr>
<td><strong>Jury Perception of Decedent:</strong> Solid citizen</td>
<td></td>
</tr>
<tr>
<td><strong>Evidence, Verified or Asserted, Regarding Defendant's Behavior:</strong> History of violent behavior towards others; history of emotional abuse or psychological terrorization towards decedent; history of threats made towards decedent.</td>
<td></td>
</tr>
</tbody>
</table>
Table 5 continued

Evidence, Verified or Asserted, Regarding Decedent's Behavior: History of violent behavior towards defendant; history of emotional abuse or psychological terrorization towards the defendant.
Table 6

Defendant and Decedent # 6

<table>
<thead>
<tr>
<th>Defendant's Age: 49 years</th>
<th>Decedent's Age: 52 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relationship of Defendant to Decedent: Married 16 months.</td>
<td></td>
</tr>
<tr>
<td>Children in the Home: None</td>
<td></td>
</tr>
<tr>
<td>Defendant's Education Level: High School Diploma</td>
<td></td>
</tr>
<tr>
<td>Decedent's Education Level: Unknown</td>
<td></td>
</tr>
<tr>
<td>Defendant's Murder Weapon: Shot defendant in the back.</td>
<td></td>
</tr>
<tr>
<td>Defendant's Position During Murder: Getting dressed to leave defendant.</td>
<td></td>
</tr>
<tr>
<td>Witnesses to the Murder: None.</td>
<td></td>
</tr>
<tr>
<td>Location of the Murder: Defendant's and Decedent's home.</td>
<td></td>
</tr>
<tr>
<td>Charges Against Defendant and Case Resolved by: Murder; jury trial.</td>
<td></td>
</tr>
<tr>
<td>Length of Prison Sentence: Unknown but defendant was found guilty.</td>
<td></td>
</tr>
<tr>
<td>Defendant's Criminal History: No contacts</td>
<td></td>
</tr>
<tr>
<td>Decedent's Criminal History: No contacts</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Defendant: Solid citizen</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Decedent: Exemplary citizen</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Defendant's Behavior: History of alcohol abuse; history of emotional abuse or psychological terrorization towards the decedent.</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Decedent's Behavior: History of alcohol abuse; history of emotional abuse or psychological terrorization towards the defendant and towards others;</td>
<td></td>
</tr>
</tbody>
</table>
Table 7

Defendant and Decedent # 7

<table>
<thead>
<tr>
<th>Defendant’s Age: 30's</th>
<th>Decedent’s Age: 30's</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relationship of Defendant to Decedent: Separated, married over 10 years.</td>
<td></td>
</tr>
<tr>
<td>Children in the Home: Two children, ages 13 and 10 years.</td>
<td></td>
</tr>
<tr>
<td>Defendant’s Education Level: Junior High School Diploma</td>
<td></td>
</tr>
<tr>
<td>Decedent’s Education Level: Junior High School Diploma</td>
<td></td>
</tr>
<tr>
<td>Defendant’s Murder Weapon: Gun</td>
<td></td>
</tr>
<tr>
<td>Decedent’s Position During Killing: Beside car on the freeway.</td>
<td></td>
</tr>
<tr>
<td>Witnesses to the Murder: Friend, heard shots but did not see the defendant kill the decedent.</td>
<td></td>
</tr>
<tr>
<td>Location of Murder: Freeway</td>
<td></td>
</tr>
<tr>
<td>Charges Against Defendant and Case Resolved by: Voluntary Manslaughter; jury trial.</td>
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</tr>
<tr>
<td>Length of Prison Sentence: Pending</td>
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<tr>
<td>Defendant’s Criminal History: No contacts</td>
<td></td>
</tr>
<tr>
<td>Decedent’s Criminal History: No contacts</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Defendant: Marginal citizen</td>
<td></td>
</tr>
<tr>
<td>Jury Perception of Decedent: Marginal citizen</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Defendant’s Behavior: History of violent behavior towards others (husband’s girlfriend).</td>
<td></td>
</tr>
<tr>
<td>Evidence, Verified or Asserted, Regarding Decedent’s Behavior: History of violent behavior towards defendant; history of threats towards defendant.</td>
<td></td>
</tr>
</tbody>
</table>
Bibliography


