“Jails are not the shelters battered women need”: A Feminist Genealogy of Domestic Violence Criminal Legal Interventions in Ontario from 1980 to 2000

by

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Author's Declaration

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

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Abstract

For the past four decades, criminal legal interventions, such as mandatory arrest and specialized courts, have characterized the dominant response to domestic violence (DV). The predominately American literature has shown that criminalization has failed to decrease rates of violence against women (VAW) and support victims, is reactionary rather than intervening early to end abuse, and has led to the heightened criminalization of women victim-offenders. Building on this literature, this Canadian genealogical study shows how the criminal legal system came to be seen by many as a logical component of the Ontario VAW movement and its consequences on women criminalized for DV. This research utilizes a unique pairing of insights from feminist genealogy and Institutional Ethnography (IE) to analyze hundreds of historical records and 30 interviews with VAW activists, front-line service providers and criminal legal officials who were active during the 1980s and 1990s. With this weaving of theoretical and methodological tools, I reveal the narratives used by the dominant VAW movement in Ontario to frame experiences of violence that contributed to placing the response to DV within the purview of the criminal legal system. In addition, I show how activism at the community-level created protocols and legal interventions that were governed locally and implemented by front-line workers and institutional actors informed by the feminist lenses of their local advocates. I then trace the governance of the DV criminal legal interventions from their communities of origin to the expansion by the Ontario provincial government, demonstrating how the expansions contributed to the criminalization of women victim-offenders. I also interrogate the consequences of the DV criminal legal interventions on women experiencing violence and marginalized communities more broadly and explore the acts of resistance some advocates and front-line workers engage in to counter the harms of these interventions. Lastly, I draw attention to three historical strategies that existed

prior to the expansion of the DV Courts that create opportunities for advocates, service providers, criminal legal officials and governments to intercede differently to address the contemporary problems of increasing rates of DV and criminalization of women victim-offenders. By interrogating historical records and centring the perspectives of participants, my study contributes important Canadian perspectives of how the DV criminal legal interventions in Ontario coordinated people's actions as they relate to the carceral response to women arrested for domestic assault. In addition, through the inclusion of both institution-based and community-based archives, I demonstrate a methodological strategy for including marginalized voices when conducting historical research. My research also expands the use of IE into the study of the criminal legal system and their community-based partners and contributes to the broader feminist literature that interrogates the collaboration of advocates and the state in criminalizing VAW.

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List of Abbreviations

BWAC	Battered Women's Advocacy Clinic
CSC	Correctional Service of Canada
DV	Domestic Violence
DVDRC	Domestic Violence Death Review Committee
IE	Institutional Ethnography
IPV	Intimate Partner Violence
LCCEWA	London Coordinating Committee to End Woman Abuse
MP	Member of Parliament
MPP	Member of Provincial Parliament
MWAC	Metro Woman Abuse Council
NDP	New Democratic Party
OAITH	Ontario Association of Interval and Transition Houses
OWD	Ontario Women's Directorate
PAR	Partner Abuse Response
PCP	Progressive Conservative Party
PIP	Partner Intervention Program
VAW	Violence Against Women
VAWCCs	Violence Against Women Coordinating Committees

Chapter 1: Introduction

After decades of a carceral response to violence against women (VAW), there is a lack of empirical evidence that the domestic violence (DV) criminal legal interventions are effective in preventing violence (Bridgett, 2020; Bumiller, 2010; Dixon, 2008; Guzik, 2007; Hooper, 1996; Landau, 2000; Mosher, 2024). Statistics Canada (2022, 2023) found that police reported family violence increased for a fifth consecutive year, with a rate of violence two times higher for women and girls than for men and boys[1] and in Ontario, DV calls to police have increased. Many contemporary feminist socio-legal scholars argue that there is a need to problematize the domination of criminal law in the imaginative space of the societal response to VAW (Goodmark, 2018; Gruber, 2020; Henry et al., 2015; McMahon & Pence, 2003). My study takes up this challenge by focusing on the Ontario VAW movement during what has been referred to as "a critical decade in the movement's development from the mid-1980s to the mid-1990s" (Philips, 2002, p. 380). This decade culminated in the creation and implementation of DV criminal legal interventions that would function as the dominant response to VAW for decades to come. My study explores how these interventions came to be seen as a seemingly logical response to VAW, despite the negative consequences of their implementation and failure to decrease rates of VAW.

The unquestioned embrace of criminal legal interventions targeting DV, such as mandatory arrest and specialized DV Courts, has resulted in the criminalization of the women they were designed to protect. Existing research has shown that women victim-offenders (women who are victims of domestic abuse and may use physical force to protect themselves

[1] 457 victims versus 212 victims per 100,000 population.

from on-going abuse by their partner) experience higher rates of arrest and prosecution when DV criminal legal interventions are implemented in their communities (Burgess-Proctor, 2012; DeKeseredy, 2020; Dowd, 2001; Fraehlich & Ursel, 2014; Johnson & Dawson, 2011; McMahon & Pence, 2003; Miller, 2001; Pollack et al., 2005; Ursel et al., 2008). However, what remains underexamined are the institutional practices and responses that lead to the criminalization of women through these legal interventions in Canada.

Through an analysis of historical records retrieved from institutional and community-based archives and interviews with service providers, front-line workers and criminal legal officials, this study traces the creation and expansion of two DV criminal legal interventions (mandatory arrest directives and specialized DV Courts) in Ontario during the 1980s and 1990s and the impact they had on women. Ontario is the focus of this research for several reasons. Ontario is Canada's most populous province and during the period of this study, as I will discuss further in the following chapters, experienced the most significant political upheaval in Canada with the election of Mike Harris as Premiere in 1995 (Malloy, 2003). In addition, according to Canadian political scientist Cheryl Collier (2008), provincial governments have assumed more responsibility for programs of particular interest to women, including those addressing VAW. As a result, the coordination of people's work within institutions relevant to this study are governed by the provincial government. Lastly, this study aims to trace the impact of DV criminal legal interventions on women victim-offenders. Women's groups in Ontario were more politically active and placed greater emphasis on DV than in other provinces (Collier, 2005; Malloy, 2003). The emphasis placed on DV by Ontario advocates led to the implementation of Canada's first mandatory arrest directive in London in 1981. In addition, Ontario has one of Canada's most

comprehensive criminal legal responses to VAW with specialized DV Court Programs operating in every court jurisdiction across the province (Cassell et al., 2015; Johnson & Dawson, 2011).

To understand the impact of these interventions on women, I interrogate the practices of the Ontario VAW movements that contributed to the creation of the DV criminal legal interventions. The study then reveals the variations that occurred at the community-level during the expansion of these interventions by the provincial government, and how advocates and criminal legal officials understand their participation and response to the interventions, which ultimately led to the criminalization of women victim-offenders. By exploring the negative consequences of the DV criminal legal interventions for women victim-offenders, my dissertation contributes to the broader feminist literature that examines the complex alliance between advocates and the state in criminalizing VAW (see Bernstein, 2010; Bumiller, 2008; Burgess-Proctor, 2012; Comack, 2018; Corrigan, 2013a; Crenshaw, 1991; Goodmark, 2018; Gotell, 2015; Kim, 2015; Martin & Mosher, 1995; Musto, 2013; Quinlan, 2017; Sheehy, 2014; Smart, 1989; Snider, 1994; Whalley & Hackett, 2017).

Carceral Responses to VAW

Early VAW activists worked toward the goal of raising public awareness while simultaneously creating systems of support for women fleeing violence. Their efforts during the 1970s placed the harm women experienced by their male partners into the Canadian public consciousness (DeKeseredy & MacLeod, 1997; Weldon, 2002). The first women abuse shelters opened across Canada in 1973 (Goodhand, 2017; Johnson & Dawson, 2011). These shelters established a network of safe houses for women and children fleeing abusive men, while also creating support groups in which women shared their experiences and came to understand how gendered violence shaped their lives (Sheehy, 2014; Weldon & Htun, 2013). Through these

consciousness raising interactions, women who had experienced male violence and the shelter workers (many of whom were also survivors of DV) became the early advocates within the movement. Based on the experiential knowledges of women, advocates developed sophisticated analyses of VAW that informed their strategies for raising public awareness and policy change (Sheehy, 2014). These policy changes involved advocating for a broad number of interventions, including the strategic use of the criminal legal system. Through historical records analyzed and "work knowledges" (Smith, 2005, p. 44) shared by participants, my study shows that during the 1980s and 1990s, it was not self-evident that the only thing to be done with a perpetrator of DV was to incarcerate him.

Mandatory Arrest Directives

Mandatory arrest directives were the first criminal legal intervention to be implemented and instruct police to arrest an offender when there is probable cause to believe that an assault has occurred (Brown, 2002; Conners & Johnson, 2017; Grace, 2019; Martin & Mosher, 1995; Singh, 2010). These directives remove discretion from police officers, as well as choice from victims, about whether charges are laid when an alleged domestic assault takes place. Removing the discretion of police officers was seen as necessary by some VAW advocates during the 1980s to have domestic assault taken as seriously as other violent crimes within the criminal legal system (Bumiller, 2008; Burgess-Proctor, 2012; Johnson & Dawson, 2011; MacLeod, 1980; Miller, 2001).

Existing literature suggests mandatory arrest directives led to several serious harms for women. For example, women express feelings of disempowerment when charges against their partner proceed contrary to their wishes (Kuennen, 2007; Landau, 2000; Lehrner & Allen, 2008; Snider, 1994). In addition, women experiencing violence in their relationship are less likely to

contact the police knowing that charges will be laid, leaving them vulnerable to future violence by a partner (Bridgett, 2020; Epstein et al., 2003; Ferraro, 1996; Gover, 2009; Gillis et al., 2006). VAW scholars have also found a more punitive response from the criminal legal system toward families from marginalized communities (Goodmark, 2018; Kajeepeta et al., 2024; McMahon & Pence, 2003; Poon et al., 2014; Richie 2012; Singh, 2010).

As this study will make clear, the most significant consequence of mandatory arrest directives was the increase in the number of dual charges, and worse, women being solely charged instead of their abuser (Burgess-Proctor, 2012; Johnson & Dawson, 2011; Miller, 2001; Ursel et al., 2008). For example, Dowd (2001) found that in one American community, the referral rate of women mandated to attend a counselling program for batterers increased by 12-fold following implementation of mandatory arrest policies, whereas the referral rate for men merely doubled. Following the creation and wide scale implementation of the DV Court Program in Ontario, feminist researchers Pollack et al. (2005) reported mandatory arrest directives were put into practice in a more consistent manner, contributing to an even more alarming increase in the number of women arrested for DV.

DV Court Program

The formation of specialized DV Courts created a new criminal legal intervention and further entrenched a carceral response to VAW for decades to come. Canada's first specialized DV Court opened in 1990 in Winnipeg, Manitoba (Ursel, 2002). In Ontario, the first DV Courts opened in Toronto (Old City Hall and North York) in 1997. After that the Ontario DV Court Program expanded rapidly into six more jurisdictions (Brampton, Hamilton, London, North Bay, Oshawa and Ottawa). By 2001, the Ontario government had more than doubled the number of courts in operation and committed to introducing the DV Court Program in all jurisdictions by

2004 (Ontario Ministry of the Attorney General, 2001). With DV Courts operating in every jurisdiction, the Ontario program is the most extensive in Canada (Cassell et al., 2015; Dawson & Dinovitzer, 2008; Johnson & Dawson, 2011).

The Ontario Ministry of the Attorney General (2001) governed the implementation and operation of the DV Courts across Ontario through written guidelines. According to these guidelines, the goals of the Ontario DV Court Program are: "to intervene early in the cycle of domestic violence, improve support to victims, and more effectively investigate and prosecute domestic violence cases" (p. 4-1). Existing literature suggests that meeting the goals of the DV Court Program required extensive coordination of services between police, crown attorneys, Victim/Witness Assistance Program staff, probation services staff, Partner Abuse Response (PAR) program staff and community agencies. Evaluation studies of DV Courts across North America emphasize the importance of the role of community-based agencies for the successful operation of the Court, especially with respect to the provision of the mandated PAR programs for offenders (see Eley, 2005; Holder, 2020; Johnson & Fraser, 2011; Levey et al., 2001; Mirchandani, 2005; Singh, 2011; Tsai, 2000; Wellman, 2013).

The relationship between the DV Court Program and their local PAR program was a key piece of community coordination and generated new alliances between the state and VAW service providers. According to socio-legal scholars Hannah-Moffat and Maurutto (2012), specialized courts, such as the DV Court, offer a different method of administering justice by coordinating social services "with the goal of imposing meaningful sanctions, enlisting the help of community agencies to keep offenders in the community by providing intensive support, treatment and monitoring" (p. 204). DV Court participants are mandated to attend a PAR program. These programs provide participants an opportunity to examine their abusive behaviour

(Williams, 2004). PAR programs are based on the Duluth Model (Pence & Paymar, 1993), which was developed with male perpetrators in mind. Women who are mandated to attend a PAR program rarely have the same program options as those available to men, resulting in longer involvement in the criminal legal system than their male counterparts (Ad Hoc Federal-Provincial-Territorial Working Group, 2003; Hannah-Moffat & Maurutto, 2012; Henning et al., 2003; Kernsmith & Kernsmith, 2009).

The Study's Context: DV Criminal Legal Interventions in Ontario

The consequences women face when their responses to violent partners are criminalized run counter to the initial goals of the VAW movement. Scholars have found that the majority of women processed through DV Court Programs report extensive histories of victimization, making them the very women these programs were designed to protect (Abel, 2001; Dowd, 2001; Gardner, 2007; Hirschel & Buzawa, 2002; Hooper, 1996; Larance & Miller, 2017; Martin, 1997; McMahon & Pence, 2003; Pollack et al., 2005; Williams, 2004). Despite the well-documented numbers of women arrested and negative consequences faced, there remains a lack of research examining the institutional practices and responses to women victim-offenders processed through DV criminal legal interventions (Fraehlich & Ursel, 2014; Henning et al., 2003; Holmes, 2015; Poon, 2018). Responding to this gap in the literature, this study investigates the institutional practices and responses to women processed through Ontario's DV criminal legal interventions. More specifically, I examined communities with active VAW networks who initiated mandatory arrest directives and DV Courts in Ontario.

In 1981, the City of London became the first jurisdiction in Canada to have a police force institute a mandatory arrest policy instructing officers to lay charges of assault in wife abuse cases (London Family Court Clinic Inc., 1991). As I demonstrate in Chapter 4, London's

mandatory arrest directive was first conceived as part of a broader community-based response to VAW governed by the London Coordinating Committee on Family Violence. London's Coordinating Committee is the oldest and most well-known coordinated community response in Canada (Hague et al., 2001; Singer, 2012). The initial mandatory arrest directive was embedded within London's existing network of supports and created an additional pathway of support for women experiencing violence in their relationships (Leger, 1984). Five years later, the Solicitor Generals of all Canadian jurisdictions had issued pro-arrest directives or guidelines to coordinate the actions of police officers when responding to cases of wife assault (Ad Hoc Federal-Provincial-Territorial Working Group, 2003).

The creation of the first DV Courts in Ontario in 1997 occurred through a similar network of interventions and supports for both victims and perpetrators of relationship violence in Toronto under the feminist governance of the Metro Woman Abuse Council. Building on the existing literature of the historical narrative detailing the sequence of events that brought the Courts to fruition (see Dawson & Dinovitzer, 2008; Green, 1997; Singh, 2011, 2012, 2017), my research traces the initial feminist governance of the Court Program through its expansion by the provincial government to five new jurisdictions (Brampton, London, Oshawa, Ottawa, and North Bay).[2] As I will discuss further in the following chapters, the creation and expansion of the DV Court Program occurred during a period of significant events that shaped the response to VAW in Ontario, including the defeat of the social-democratic New Democratic Party by the neo-conservative Progressive Conservative Party in 1995, *The Toronto Star's* publication in 1996 of an investigative series critiquing the criminal legal system's response to DV cases, and two

[2] The City of Hamilton was also a site of the first DV Court Program expansion. As I discuss in my Methodology chapter, no historical records or participants could be located, so I excluded the city from my study.

femicides (in 1996 and 2000) that resulted in Coroner's Inquests. I offer a detailed list of key events discussed in the dissertation in Appendix A.

My study interrogates the work of advocates at both the community- and provincial-level, as well as the governance of the DV criminal legal interventions by the provincial government. As mentioned above, provincial governments oversee the majority of social institutions and programs that have a direct impact on women, including those addressing VAW (Collier, 2008). My genealogical analysis traces how the actions of advocates within the Ontario VAW movements intersected with the governance of the provincial government to contribute to the criminalization of women victim-offenders.

Research Questions

This study offers a feminist genealogy of DV criminal legal interventions in Ontario from 1980 to 2000 through the interrogation of the practices and responses that contributed to women victim-offenders being charged with domestic assault. This genealogical account traces how the criminal legal system came to be seen by many as a logical component of the Ontario VAW movement and its consequences on women criminalized for DV. Specifically, my dissertation is guided by the following three research questions: (1) What practices of the VAW movement contributed to the DV criminal legal reforms in Ontario resulting in the criminalization of women victim-offenders? (2) What variations in the institutional practices of the criminal legal system occurred at the community-level during the implementation of the DV criminal legal reforms? and (3) How do activists and criminal legal officials understand their participation and response to the DV criminal legal reforms that criminalize women victim-offenders? As I detail below, these research questions are informed by a unique combination of the theoretical and methodological insights from feminist genealogists (Bell, 1999; Cain, 1993; de Lauretis, 1993;

Egeland, 2011; Keary, 2012; MacLeod & Durrheim, 2002; Pillow, 2003; Tamboukou, 2003a) and institutional ethnographers (Campbell & Gregor, 2002; Doll & Walby, 2019; Pence, 2001a; Smith, 2001, 2005; Smith, G. 1988; Smith & Griffith, 2022; Walker, 1990, 1995; Wilson & Pence, 2006).

The purpose and analysis of my study was shaped by my personal history as a front-line worker in Toronto. During the early 2000s, I was employed by the Elizabeth Fry Society which operated Toronto's initial PAR program for women victim-offenders. In my role with the agency, I provided one-on-one and group counselling to women mandated by the specialized DV Court to attend a PAR program. As a result of my experience, I recognize that I possess a unique and subjective understanding of the struggles faced by both the women who come into contact with the DV criminal legal interventions, and the service providers involved in implementing community-based support.

My experiences supporting women through the unintended consequences of criminalization fueled my curiosity to better understand how the DV criminal legal interventions came to be. Other VAW scholars have also called for activists to hold themselves accountable for the consequences of the polices and responses they advocated for (Abraham & Tastsoglou, 2016; Guo, 2021; Lehrner & Allen, 2009; McMahon & Pence, 2003; Richie, 2000). Socio-legal scholar Corrigan (2013b) argues that "a truly nuanced understanding of feminist activist strategies requires greater attention to simultaneous struggles over identities, strategies, and broader historical developments" (p. 491). My research questions build on these calls for reflection and accountability from within the VAW movement.

"Turning to the Archive": The Study's Empirical Significance

My study makes important contributions to the historical record of the Ontario VAW movements and the contemporary problem of criminalizing women victim-offenders through a critical analysis of the practices that contributed to the criminalization of women through these DV criminal legal interventions. The policies implemented during the 1980s and 1990s, including the creation and expansion of mandatory arrest directives and DV Courts in Ontario, not only expanded the possibilities for DV survivors to be criminalized, they also further entrenched the criminal legal system as the dominant response to VAW for decades to come.

Existing literature on DV criminal legal interventions marginalizes the voices and advocacy work of VAW activists and community-based workers (Goodman & Epstein, 2008; Miller & Meloy, 2006; Nichols, 2014). For example, Judy Rebick (2005), President of the National Action Committee on the Status of Women from 1990 to 1993 raised the concern that,

> Much of the experience of the second wave of feminism, that of my generation, is getting lost. Most assessments focus on what was accomplished, which laws were changed, the number of positions women now occupy. What is not mentioned is *how those changes happened* [emphasis added]. (pp. xii–xiii)

By interrogating historical records and centring the perspectives of advocates, service providers and criminal legal officials who were active during this pivotal period, my study contributes important Canadian perspectives of how the DV criminal legal interventions in Ontario coordinated people's actions as they relate to the carceral response to women arrested for domestic assault. This contribution also addresses a general gap in feminist historical data that frequently results in Canadian studies being overshadowed by American scholarly work (Cattapan & DuPont, 2016; Grace, 2019).

In addition, my study focuses on the institutional practices that criminalize women victim-offenders through the Ontario DV criminal legal interventions. As stated by McMahon and Pence (2003), and more recently by Hunnicutt (2019), there is a need for reflective and critical analyses of the VAW movement's decisions, particularly the reliance on the criminal legal system to criminalize DV that does not diminish the accomplishments of activists but provides a meaningful analysis of the outcomes of their advocacy. One significant outcome of the dominant VAW movement's advocacy is the heightened criminalization of women that these legal reforms were designed to protect, yet there remains a lack of focus on women victim-offenders in the DV Court Program literature (Ad Hoc Federal-Provincial-Territorial Working Group, 2003; Fraehlich & Ursel, 2014; Holmes, 2015; Kernsmith & Kernsmith, 2009; Larance & Miller, 2017; Poon, 2018; Williams, 2004). As Singh (2012) notes, there is also a lack of empirical data regarding the implementation of the DV Court Program outside of Toronto. When the DV Court Program first expanded to communities outside of Toronto (such as Brampton, Hamilton, London, North Bay, Oshawa, and Ottawa) there is no historical record of what, if any role, advocates and community-based agencies played in the implementation of those courts. By focusing on the institutional practices and "work knowledges" (Smith, 2005, p. 44) of VAW advocates, front-line service providers and criminal legal officials, my study addresses this significant empirical gap in the existing literature on community-based and criminal legal responses to DV.

Theoretical and Methodological Framing

Informed by Foucault's genealogical method (1977, 1991, 1994), feminist genealogists (Bell, 1999; de Lauretis, 1993; Keary, 2012; Pillow, 2003; Tamboukou, 2003a), and Smith's Institutional Ethnography (IE) (2001, 2005), this study uses archival records and interviews with

activists, service providers and criminal legal officials to address the empirical gap in the Canadian DV literature regarding the implementation of DV criminal legal interventions in Ontario during the 1980s and 1990s, and the impacts on women victim-offenders. Foucault's genealogical method "traces how contemporary practices and institutions emerged out of specific struggles, conflicts, alliances, and exercises of power, many of which are nowadays forgotten" (Garland, 2014, p. 372). In addition, the genealogical approach reveals that the categories and conditions that have become naturalized over time are by no means unquestionable features of our everyday lives. In this way, genealogy is both an historical methodology and a powerful political intervention into the present (Eichhorn, 2013). Genealogy as a method poses the question: which kinds of practices within which kinds of external conditions determine the different knowledges we generate (Tamboukou, 2003a)? Feminist genealogy builds on Foucault's work by paying particular attention to how gender, race, and class shape knowledge generation (Pillow, 2003).

This study pairs the insights from feminist genealogy, in particular its focus on knowledge and power production, with IE's focus on knowledge and power dissemination through the coordination of people's work. Institutional ethnographies are built from the examination of work processes and the study of how those processes are coordinated across time and space (DeVault, 2006). The problematic[3] guiding this research study is the everyday experience of VAW activists, service providers and criminal legal officials in the criminalization of DV, which is governed through the regulatory texts of legal and social institutions. According to feminist sociologist Dorothy Smith (2005), "the frontline work of converting people's experienced worlds into the textual realities of institutions is articulated to regulatory texts—

[3] In Institutional Ethnography, a *problematic* refers to "the translation of an actual property of the social relations or organization of our / people's doings into a topic for ethnographic research" (Smith, 2005, p. 39).

laws, administrative rules, systems of accountability, policies, and so on—that frame and authorize the institutional capacity to act" (p. 191). This study traces the institutional practices within their historical context and how the activation of regulatory texts contributed to the criminalization of women.

Methodological Approach

I employed two primary data gathering methods, interviews and archival research. I conducted 30 semi-structured interviews with participants identified through archival documentation, newspaper articles, internet searches and snowball sampling. All participants were actively engaged in the Ontario VAW movements and/or criminal legal system during the 1980s and 1990s, and/or are currently involved in the VAW sector as activists, Executive Directors, Program Managers, counsellors and support workers in community-based VAW organizations, Crown Attorneys, victim support workers, and other criminal legal officials. Interviews provided an opportunity for participants to share their work knowledge, which Smith (2005) defines as, "a person's experience of and in their own work, what they do, how they do it, including what they think and feel … [and] … the implicit or explicit coordination of his or her work with the work of others" (p. 151).

In addition to my interviews, I gathered over 350 historical records from government and academic archives and libraries, community-based organizations, and the personal records of participants and myself. According to Foucault (1977), genealogy "requires patience and a knowledge of details and it depends on a vast accumulation of source material" (p. 140). I accumulated "regulatory texts" (Smith, 2005, p. 191) that govern the DV criminal legal interventions, such as Policing Standards Manuals, Crown Policy Manuals, and the guidelines governing the implementation of the DV Court Program in Ontario. I also obtained copies of

Hansard transcripts and reports published by various provincial Ministries and organizations, manuals and reports written by activists and VAW organizations, and newsletters and media articles from national and local publications. Throughout my study, I drew on my "work knowledge" (Smith, 2005, p. 44) to provide additional context to the understandings of DV and the role of key agencies that were absent from the formal archival record. I also made use of personal historical records from my time as a counsellor at the Elizabeth Fry Society of Toronto.

"Telling Stories Differently": The Study's Theoretical and Methodological Significance

Informed by Foucault (1977, 1991, 1994) and feminist genealogists (Bell, 1999; de Lauretis, 1993; Keary, 2012; Pillow, 2003; Tamboukou, 2003a), my study turns the feminist genealogical lens inward by asking VAW activists and criminal legal officials to reflect on their practices and responses toward the women whom the DV criminal legal interventions were designed to protect. In her book, *Why Stories Matter*, Hemmings (2011) conducted a critical interrogation of broad historical feminist narratives of progress, loss, and return in order "to intervene by experimenting with how we might *tell stories differently* [emphasis added] rather than telling different stories" (p. 16). Browne (2014) argues that further research is required in which feminism draws "productively on its own history, without passively conforming to expectations of the past, or elevating the past as a nostalgic ideal against which to measure and compare the present" (p. 1). My study contributes to this literature by placing the impact of the DV criminal legal interventions on women within the broader feminist literature that interrogates the collaboration of advocates and the state in criminalizing VAW (see Bernstein, 2010; Bumiller, 2008; Burgess-Proctor, 2012; Comack, 2018; Corrigan, 2013a; Crenshaw, 1991; Goodmark, 2018; Gotell, 2015; Kim, 2015; Martin & Mosher, 1995; Musto, 2013; Quinlan, 2017; Sheehy, 2014; Smart, 1989; Snider, 1994; Whalley & Hackett, 2017).

This study pairs feminist genealogy with archival research. Genealogy complements archival research by understanding that "a turn toward the archive is not a turn toward the past but rather an essential way of understanding and imagining other ways to live in the present" (Eichhorn, 2013, p. 9). Along a similar vein, contemporary understandings of the archives acknowledge that the historical record does not merely preserve but also produces meaning through its inclusions and omissions (Carter, 2006; Dever, 2014; Morra & Schagerl, 2013). Through a genealogical search to understand how it came to be that women are criminalized through the DV criminal legal interventions implemented in Ontario, this study uncovered details that have "remained unnoticed and unrecorded in the narratives of mainstream history" (Tamboukou, 1999, p. 207). These narratives were uncovered through my inclusion of historical documents from both institution-based and community-based archives, and thus, my study demonstrates a methodological strategy for including marginalized voices when conducting historical research.

My research begins with the "problematic" (Smith, 2005, p. 39) of how the subordination of women is produced through institutional practices. IE pays particular attention to the standardizing and mediating role that texts play in organizations (DeVault & McCoy, 2006). According to IE scholars Campbell and Gregor (2004), "Smith coined the term 'textually mediated social organisation' to express the notion that engagement with texts concerts and coordinates the actions of people" (p. 170) across time and space enabling institutions to achieve their prescribed functions. By focusing on textually mediated social organizations, IE uncovers the social knowledges that have rendered the coordination of everyday work invisible (Weinberg, 2002). The criminal legal system is a textually mediated organization that governs the DV interventions (Pence, 2001a) through "regulatory texts" (Smith, 2005, p. 191), such as

the guidelines written by the Ontario Ministry of the Attorney General (2001) for the DV Court Program. IE enables the exploration of intra-organizational variation and difference to understand both the generative links and points of fracture within organizations (Chen, 2018). The creation and implementation of the DV criminal legal interventions throughout Ontario were shaped by local knowledges of VAW, resulting in regional variation. By exploring regional differences in the practices and responses to women victim-offenders this study contributes to the IE literature that examines the link between social relations and disparate application of policies within textually mediated organizations (Naples, 1998; Parada, 2004; Pence, 2001a; Sinding, 2010; Smith, 1987; Welsh & Rajah, 2014). In addition, Doll and Walby (2019) argue that IE has not been used as widely as it should be, especially by socio-legal scholars. This dissertation contributes to expanding the applications of IE into the study of the criminal legal system and their community-based partners.

A Note on Language

The intentional use of language and terminology shapes the ways we think about and understand VAW. The debate around language within the VAW literature is beyond the scope of this study. However, throughout my dissertation I chose specific terminology that reflects my standpoint as a critical feminist writing in the socio-legal field. I employ the term *VAW* movements, to reflect the terminology advocates used in the 1980s and 1990s to identify their joint efforts toward ending VAW. I refer to both *feminisms* and *VAW movements* in plural to recognize that there is not, nor ever was, a singular feminism or movement to end VAW. However, I do frequently refer to the dominant feminist narrative of cis-gender, white, middle-class women in the singular in my historical analysis. This reflects the historical context of the

study, a time when an illusion of a unified feminist narrative was broadly recognized in the media and by people in positions of power.

Throughout my study, I use the terms *advocates* and *activists* interchangeably. In her examination of institutional advocacy within the American battered women's movement, Ellen Pence (2001b) defines an advocate as "one who speaks for or takes up the cause of another … As advocates, we claimed the role of articulating the needs of women to the system, not the reverse" (p. 330-331). In addition, advocates engage in "various activities designed to influence the actions of state institutions either directly or indirectly, often by influencing public opinion" (Rankin & Vickers, 2001, p. 2). I draw on these understandings to centre the voices of the advocates within the Ontario VAW movements to demonstrate the ways in which they shaped the response to DV through their work.

Following the stance of critical carceral studies scholar Terwiel (2020a), I use the term criminal *legal* system rather than criminal *justice* system, "in order to unsettle the assumption that this system delivers justice" (p. 438, note 3). The role of officials within the criminal legal system is to enforce laws and policies that *criminalize* specific activities or behaviours by defining them as a crime. Criminalization also involves the establishment of penalties or consequences for engaging in the behaviour or act. When mandatory arrest directives came into effect in 1982, police responding to a DV call became legally obligated to lay criminal charges against the aggressor, and in the process, criminalized women victim-offenders. I use the terms *offender* and *victim-offender* to refer to a person's status within the criminal legal system. At times, I use the term *perpetrator* in a broader discussion about the criminal legal framing of individual men as perpetrators in the discourse of the VAW movement. Most often, I refer to *men who use violence* and *women who experience violence* within their relationships to

recognize that the violence is one aspect of a person's life and to acknowledge the capacity individuals have for changing their behaviour.

Lastly, my research focuses on the use of violence within heterosexual relationships, and I use gendered terminology (women victim-offenders and men who use violence) throughout my dissertation. That is not to suggest that women do not perpetrate relationship violence, that violence does not occur within same-sex relationships or to gender-diverse people. However, during the 1980s and 1990s, advocates framed DV within the context of heterosexual relationships to draw attention to VAW specifically. In addition, according to Statistics Canada women continue to experience all forms of intimate partner violence (IPV) at higher rates than men and to experience more severe forms of violence, including being more likely to be killed by an intimate partner (Cotter, 2021a). Additional research by Statistics Canada found that Indigenous women (Heidinger, 2021), sexual minority women (Jaffray, 2021), women with disabilities (Savage, 2021a), younger women (Savage, 2021b), and visible minority women (Cotter, 2021b) experience the highest rates of IPV. My study focuses on the criminalization of women because they are the population the DV criminal legal interventions were designed to protect.

Chapter Outlines

In Chapter 2, *Methodology*, I discuss my qualitative research design that uniquely weaves together aspects of Michel Foucault's (1984a, 1991, 1994) genealogical approach and feminist variations of it (Bell, 1999; Carter, 2006; de Lauretis, 1993; Hemmings, 2011; Keary, 2012; Pillow, 2003), with Dorothy Smith's (2001, 2005, 2006) IE. I begin with a discussion of these theoretical and methodological approaches, concentrating on three elements from each that most significantly shaped my study's design and analysis. The three key ideas within genealogy that I

drew from were problematization, the relationship between power and knowledge, and its concern with "subjugated knowledges" (Foucault, 1994, p. 41). With respect to IE, I drew on the "work knowledges" (Smith, 2005, p. 44) of myself and my participants, the role of "regulatory texts" (p. 191) in coordinating people's actions, and how texts reveal the institutional capacity to act, enabling the criminalization of women victim-offenders. I then explicate how pairing the historical elements of genealogy with insights from feminist genealogy and IE led to the unique theoretical and methodological approach of my study. I also detail my data collection process, including how I overcame barriers, such as collecting my data during the COVID-19 pandemic. Lastly, I outline the data analysis procedures I used to reveal the discourses and processes of the VAW movement and criminal legal system that led to the creation and expansion of the DV criminal legal interventions contributing to the criminalization of women victim-offenders.

In Chapter 3, *Discursive and Collaborative Practices of the Ontario Violence Against Women Movement*, I demonstrate how the discursive and collaborative practices of the Canadian movements to end VAW during the 1980s and 1990s set the stage for the contemporary problem of the criminalization of women victim-offenders through DV criminal legal interventions. Informed by social movement theory (Cress & Snow, 2000; Fine, 1995; Lehrner & Allen, 2008) and critical race theory (Agnew, 1998; Crenshaw, 1991; Harris, 1990), the first half of the chapter interrogates how the "bundle of narratives" (Fine, 1995, p. 128) used by the dominant VAW movement revolved around a victim discourse that stated all women in society were at equal risk for experiencing violence, focused on physical violence as a hallmark of gender-based violence, located the family as the main source of oppression, and that women need protection. I argue that taken together, these narratives contributed to a conceptualization of violence that made the criminal legal system a seemingly logical response to VAW, which contributed to the

criminalization of women victim-offenders. In the second half of the chapter, I build on the insights from IE (Smith, 2005) and feminist genealogy (Tamboukou, 2003a), to explore the various collaborative practices employed by VAW activists to engage with the state to create services for women experiencing violence and advocate for structural-level changes needed to end VAW. Through this exploration, I demonstrate how some advocates engaged directly with the state to shape institutional understandings and responses to VAW, how funding forced other advocates into coalitions with state institutions that replicated dominant practices of VAW governance, and how two communities (London and Oshawa) governed local responses to VAW prior to the implementation of province-wide DV criminal legal interventions. I also show how political shifts in the 1990s changed the collaborative practices of advocates and centred the criminal legal response to VAW contributing to the criminalization of women victim-offenders.

In Chapter 4, *Implementation of Domestic Violence Criminal Legal Interventions*, I trace the creation and implementation of two key DV criminal legal interventions from their inception as community-based responses shaped by feminist understandings of VAW to their translocal governance and expansion by the provincial government. Through a genealogical analysis of the creation of Canada's first mandatory arrest directive in London and Ontario's initial DV Courts in Toronto, I demonstrate how advocates in both communities governed their interventions through a "'legal mobilization' approach" (McCann, 1991, p. 227) and close collaboration with criminal legal officials and service providers. Informed by the role of "regulatory texts" (Smith, 2005, p. 191) in coordinating people's actions and drawing on the "work knowledges" (p. 44) of advocates, service providers and criminal legal officials, I also compare the initial advocate-led interventions with the provincial-wide expansion into five court jurisdictions. I argue that the expansion of the DV Court Program, in particular, was a "critical juncture" (Mahoney, 2000, p.

513) in which the investment in this singular intervention supplanted local community-based responses to VAW, and as a result, contributed to the criminalization of women victim-offenders.

In Chapter 5, *Navigating the Consequences of Domestic Violence Criminal Legal Interventions*, informed by a feminist genealogical lens, I "call into question self-evidences of the present by exposing the various ways they were constructed in the past" (Tamboukou, 2003b, p. 203). To do so, I explore the historical and contemporary pathways, consequences and responses to the criminalization of women victim-offenders. I begin the chapter with an interrogation of the direct, indirect and systemic pathways through which the DV criminal legal interventions criminalize women. These pathways include police arresting women directly when they do not understand and ignore the complexities of violence within an abusive relationship and indirectly, when prosecutors and judges ignore the wishes of the victim regarding charges and the use of no-contact orders. In addition, systemic pathways result in higher rates of involvement with the criminal legal system for visible minority women and their families (Balfour, 2021; Bruckert & Law, 2018; Kajeepeta et al., 2024; Richie, 2012; Gotell, 1998; Poon et al., 2014; Snider, 1990; Walker, 1995). I then show how the criminalization of women victim-offenders increases their vulnerability to future violence and decreases their access to resources limiting their ability to remove themselves from the abusive relationship. Lastly, I draw on my own experiences as a counsellor in the Elizabeth Fry Society of Toronto Partner Intervention Program to demonstrate how we mitigated and resisted the consequences of criminalization for the women enrolled in our court-mandated program. I also explore additional strategies used by advocates, service providers and criminal legal officials to navigate and resist institutional responses that leave women vulnerable to violence and criminalization.

In Chapter 6, *Lessons from the Past: Intervening Differently to End Violence Against Women*, I demonstrate how VAW and the criminalization of women victim-offenders is a contemporary problem. To address this problem, I present three strategies informed by the historical records and "work knowledges" (Smith, 2005, p. 44) of my participants, that if they had been invested in, might have changed the path of Ontario's response to VAW. These interventions include: (a) initiatives created and implemented by personally invested individuals who are able to recognize and act upon opportunities for "endogenous shifts" (Edelman et al., 2010, p. 672) across all sectors, (b) opportunities for men to voluntarily seek support for ending their use of violence prior to any involvement with the criminal legal system, and (c) a community coordinated response to VAW that reflects the varying needs of individuals experiencing violence with a clearly defined role for the criminal legal system. The strategies highlighted throughout this chapter contribute to the goal of genealogy to use historical research to disturb contemporary problems (Garland, 2014) and would enable advocates, front-line workers and criminal legal officials to intervene differently in response to VAW and mitigate the criminalization of women victim-offenders.

Chapter 2: Methodology

In this dissertation, I investigate the practices of the violence against women (VAW) movement that contributed to the creation and expansion of domestic violence (DV) criminal legal reforms in Ontario. I also interrogate the variations in the institutional practices of the criminal legal system that occurred at the community-level during the implementation of these reforms, and how activists and criminal legal officials understand their participation and response to these reforms, which ultimately led to the criminalization of women victim-offenders. To answer my research questions, I utilized a qualitative research design that uniquely combines theoretical and methodological tools from Michel Foucault's (1984a, 1991, 1994) genealogical approach and feminist variations of it (Bell, 1999; Carter, 2006; de Lauretis, 1993; Hemmings, 2011; Keary, 2012; Pillow, 2003), with Dorothy Smith's (2001, 2005, 2006) Institutional Ethnography (IE). Genealogy "provides a forum for decentring what we think we know and for tracing how we come to know it" (Pillow, 2003, p. 149). In doing so, genealogy questions the claim of traditional historians of the linear trajectory of history by revealing the relationship between power and knowledge that contribute to the creation of particular discourses and the subjugation of others (Cain, 1993). Building on Foucault's work, feminist genealogy focuses on how gender, race and class shape decision-making by situating policy problems within their historical and cultural context (Bell, 1999). In addition, this study draws on insights from IE by exploring the "work knowledges" (Smith, 2005, p. 44) of individuals directly involved in the institutional settings under examination. By combining elements of these two approaches, this study utilizes a unique approach to trace the institutional practices and responses during the 1980s and 1990s that led to the role of DV criminal legal interventions as a seemingly logical response to VAW and the consequences for women victim-offenders.

I analyzed hundreds of archival records related to the heightened criminalization of women through the DV criminal legal interventions. In addition, I conducted 30 interviews with individuals identified within archival records as being active members of the VAW movement at the time, and with community-based agencies and criminal legal officials responsible for implementing and/or currently working within the initial five DV Court locations in Ontario. The combination of data collected from historical records and interviews enabled me to explore how the discourses within the Ontario VAW movement, advocates' engagement with the state and the institutional practices governing the DV criminal legal interventions contributed to the criminalization of women victim-offenders during this significant period in the VAW movement.

In what follows, I outline the theoretical and methodological approaches that inform this study, focusing on the three ideas from each approach that most significantly impacted the study's design and analysis. I then explicate how I wove together tools from feminist genealogy and IE to inform the methodological approach of this study. I then detail the data collection and data analysis methods I employed, including the procedures I used for coding and mapping my data to reveal the discourses and processes of the VAW movement and criminal legal system that led to the creation and expansion of the DV criminal legal interventions contributing to the criminalization of women victim-offenders.

Theoretical and Methodological Approaches

Genealogy

Foucault's genealogical method informed where, how, and what to focus my study on to uncover a nuanced understanding of the Ontario VAW movement during the 1980s and 1990s. According to Foucault (1984a, 1991, 1994), genealogies uncover subjugated knowledges by dismantling the linear construction of history as a path of comprehensive and continuous

development. Within the genealogical approach, current practices are not theorized as the outcome of a logical progression but rather as an event produced through the interweaving of relations of power and domination at the local and institutional levels (Coole, 2009; Tamboukou, 2017). When describing his own genealogical study of prisons, Foucault (1991) stated he was:

> aiming to write a history not of the prison as an institution, but of the *practice of imprisonment*: to show its origin or, more exactly, to show how this way of doing things – ancient enough in itself – was capable of being accepted at a certain moment as a principal component of the penal system, thus coming to seem as altogether natural, self-evident and indispensable part of it. (p. 75)

Drawing on this approach, this study traces how the criminalization of women through Ontario's DV criminal legal interventions 'was capable of being accepted' by some within the VAW movement as a seemingly necessary 'component' of the criminal legal system.

The genealogical approach reveals that the categories and conditions that have become naturalized over time are by no means unquestionable features of our everyday lives and thus, genealogy is both an historical methodology and a powerful political intervention into the present (Eichhorn, 2013). Genealogy as a method poses the question of which kinds of practices within which kinds of external conditions determine the different knowledges we generate (Tamboukou, 2003a). Genealogy as a theoretical method is appropriate for this study given its aim to question taken for granted ways of understanding how to respond to VAW, which were transmitted through various discourses and texts by advocates in the VAW movement and state institutions. I drew specifically on three concepts within the genealogical approach that were most useful for framing my study: (1) problematization, (2) relationship between power and knowledge, and (3) concern with subjugated knowledges.

Problematization. The starting point for a genealogy is to focus on a "particular problem and then try to see it in its historical dimension" (Tamboukou, 1999, p. 213). In that sense, the intention of genealogy is to problematize the present by revealing the power relations upon which it depends and the contingent processes that have brought it into being (Dean, 1994). Garland (2014) argues that "the critical efficacy of Foucault genealogies is attributable not to his historical analyses but instead to his initial specification of the problem to be explained" (p. 377). In this way, the genealogical method guided me on where to focus my analysis. Rather than evaluate the DV criminal legal interventions in the present, my genealogical analysis focused on the conditions that led to their creation to understand how these interventions came to be understood as a seemingly logical response to VAW.

According to Foucault (1984b), problematization is a form of critique that focuses on "the development of a domain of acts, practices, and thoughts that seem to me to pose problems for politics" (p. 384). In addition, Terwiel (2020b) argues that "problematization is radical because it questions the very terms in which problems are presented … the task is not so much to find solutions to problems as they are posed, but rather to pose the problem in new ways" (p. 72). By creating a genealogy that traces the development and implementation of the DV criminal legal interventions, I posed the problem in a new way to reveal the practices of the VAW movement in Ontario that were missing in the existing literature. Problematization of the criminalization of women victim-offenders also guided me to pay close attention to the conditions under which these interventions emerged, enabling me to reveal "historically how effects of truth are produced within discourses" (McNay, 1992, p. 25).

Relationship Between Power and Knowledge. Foucault's genealogical method instructed me to focus on the broader practices of the VAW movement and engagement with the

state, rather than the intentions or strategies of individuals, and to situate those practices within the historical and cultural conditions of the 1980s and 1990s. According to Tamboukou (2003a) "genealogy is concerned with the processes, procedures and apparatuses whereby truth and knowledge are produced" (p. 6). Foucault does not attribute the causes and responsibilities to the tactics of individuals, but instead with historical struggles, conflicts, alliances, and exercises of power that shaped the character of contemporary institutions (Dreyfus & Rabinow, 1982; Garland, 2014). Foucault stressed the importance of focusing on "power at its extremities" (Foucault, 1980, p. 96) in the everyday lives of people. This focus requires investigating the practices of power, rather than the intentionality of them, to understand how power installs itself and produces real effects (MacLeod & Durrheim, 2002). My study interrogates the 'real effects' of the criminalization of women victim-offenders that occurred as a result of the knowledges disseminated by the dominant discourse of the VAW movement in Ontario.

Subjugated Knowledges. Genealogical analysis attempts to emancipate historical knowledges from subjugation, and by doing so, trace discontinuities and recurrences that challenge traditional historical methods that visualize the past as a linear path of development (Foucault, 1994; Tamboukou, 1999). By dismantling the linear path of development, the genealogical approach also considers how "contemporary discourses came into being, and the alternatives that were suppressed along the way" (Cain, 1993, p. 93). To conduct my genealogical analysis of the DV criminal legal interventions, I focused on uncovering "subjugated knowledges" (Foucault, 1994, p. 41) by acquiring documents from institutional archives and through extensive on-line searches for community-based resources, what Foucault (1984a) refers to as the "grey documents" (p. 76) of genealogy. The 'grey documents' I located reveal the subjugated knowledges of advocates who raised concerns about relying on the

criminal legal system as the primary response to VAW. These documents also contain strategies and interventions at the community-level that existed prior to the governance of the DV criminal legal interventions by the provincial government.

Feminist Genealogy

Feminist genealogy builds on Foucault's work by paying particular attention to how gender, race, and class shape knowledge generation (Pillow, 2003). Specifically, feminist genealogies attend to taken for granted ideas, language usage and the constitution of gendered subjects to show how new truths emerge in political discourse. Feminist genealogy scholars achieve this aim by "creat[ing] sites for the 'unspeakable' to be read as 'speakable'' (Keary, 2012, p. 128) by excavating women's lived realities from omissions in archival texts and silences in political discourse (Carter, 2006; de Lauretis, 1993). Existing feminist genealogies have analyzed practices and decision-making processes with respect to pregnant teenage bodies (Pillow, 2003), the Catholic mother-daughter relationship (Keary, 2012), and the relationship between home and neoliberal discourse (Franklin, 2014).

The above feminist genealogies apply the genealogical method to topics that exist outside feminist movements. This study uniquely employs a feminist genealogical approach to examine practices (the DV criminal legal interventions) that developed through the VAW movements and were inspired by feminist political imagination. Thinking genealogically about the feminist political imagination emerges out of an understanding that the present is formed and informed by the past, by the way in which the past is remembered, and by paying attention to the connections that are deemed relevant and irrelevant (Bell, 1999).

In her critical mapping of the trajectory of Western feminism, Hemmings (2011) questions the extent she internalized oversimplified accounts of feminist thought and activism. Hemmings

challenges her own assumptions by interrogating three feminist narratives (progress, loss, and return) about the past. This interrogation shows the ways in which competing knowledges within feminism are often glossed over in feminist history by "exploring and challenging the relations among subject, history, and exclusion in the dominant narratives of Western feminist storytelling" (p. 194). Similar to Hemmings' excavation of feminist narratives, this genealogy places the VAW movement within a broader contextual understanding that feminism operates along certain lines of exclusion (Bell, 1999) and interrogates how activists, service providers and criminal legal officials understand their participation in the practices that led to the heightened criminalization of women through the DV criminal legal interventions in Ontario.

Institutional Ethnography

This study pairs the insights from feminist genealogy's focus on the impact of knowledge and power production on women with IE's focus on knowledge and power dissemination through the coordination of people's work. Institutional Ethnographies are built from the examination of work processes and the study of how those processes are coordinated across time and space (DeVault, 2006). The examination of work processes in IE requires the researcher to identify a problematic by noticing and naming the social relations being experienced by people in the research setting (Campbell & Gregor, 2002). The development of a problematic "translates actualities of people's doings from forms of organization implicit in the everyday world into the forms of discursive representation in which they can be subjected to inquiry" (Smith, 2005, p. 40). This study is guided by the problematic of the everyday experience of VAW activists, service providers and criminal legal officials in the criminalization of DV, which is governed through the "regulatory texts" (p. 191) of legal and social institutions.

According to founder Dorothy Smith (2005), IE addresses the character of institutions in contemporary society: "they are themselves forms of social organization that generalize and universalize across multiple local settings" (p. 42). The goal of IE is to make visible the ways institutions coordinate the conditions of individual experience (McCoy, 2006). To reveal these processes, IE asks broad research questions: how are the actions at local sites coordinated, how are these relations organized, and most importantly for this study, how does the coordination of these actions contribute to a disjuncture between women's experience and institutional accounts (Campbell & Gregor, 2002; Doll & Walby, 2019).

IE is well suited to my study of the criminalization of women victim-offenders through DV criminal legal interventions across multiple jurisdictions as "ethnographic projects are explorations oriented by the researcher's interests and experience. They are concerned with what is happening and how it is organized within relations that reach across local experience" (Smith & Griffith, 2022, p. 79). Institutional Ethnographies draw attention to clusters of ruling organized around specific functions, such as health care, law, or social services (McCoy, 2006). Drawing on the "work knowledge" (Smith, 2005, p. 44) I gained as a service provider working with women victim-offenders and the work knowledges of my participants, I carried out an investigation to make visible the coordination of action across the province with respect to the creation and implementation of the DV criminal legal interventions. The ability to move beyond the locally observable is made possible within an IE "through the work knowledges of participants and through innovative methods of incorporating the coordinating functions of text into ethnographic practice" (Smith, 2005, p. 38). In this study, I drew on three key ideas from IE: (1) the work knowledges of myself and my participants, (2) the role of regulatory texts in

coordinating people's actions, and (3) how texts reveal the institutional capacity to act, enabling the criminalization of women victim-offenders.

Work Knowledges. According to Smith (2005) "work knowledges" (p. 44) refer to what people know of their work and how it is coordinated with the work of others. This study draws on my work knowledge as a former front-line counsellor for women victim-offenders mandated to attend the Partner Intervention Program at the Elizabeth Fry Society of Toronto, as well as the work knowledges of the activists, front-line service providers at community organizations, and criminal legal officials I interviewed. IE shaped the way I conducted my interviews to illuminate how the workers' organization and production of knowledge inform their work (Kaufman & Welsh, 2021) and to learn from participants "in a work of discovery that goes beyond what any one individual knows" (Smith & Griffith, 2022, p. 14). As a result, I focused on how participants understood their work to be coordinated as part of the creation and implementation of the DV criminal legal interventions. As discussed by DeVault and McCoy (2006), to keep the focus on the institutional processes described by participants, I chose to identify my participants by their institutional locations (activist, lawyer, counsellor, etc.) rather than provide their personal demographic information.

Role of Texts. IE encouraged me to uncover the role of texts in coordinating people's actions. Smith (2005) argues that the ability to move ethnography beyond the local of people's everyday work requires drawing texts into ethnographic practice. IE is well suited for my study because of the focus on criminal legal organizations and those who work alongside them, as they are governed by regulatory texts (Doll & Walby, 2019). According to Smith (2005), "the frontline work of converting people's experienced worlds into the textual realities of institutions is articulated to regulatory texts" (p. 191). The importance of including texts within the analysis

to understand how people's actions are coordinated across space and time, paired with the importance of including "subjugated knowledges" (Foucault, 1994, p. 41) within feminist genealogy guided my extensive search for historical records that led me to locate and analyze documents generated by community-based organizations not contained in institutional archives. As I explore in my dissertation, these documents played an important role in coordinating the actions of activists as they engaged with criminal legal and state actors.

Institutional Capacity to Act. The third idea from IE that informed the methodological choices I made in this study was to employ "regulatory texts" (Smith, 2005, p. 191) and "work knowledges" (p. 44) to reveal how the institutional capacity to act enabled the criminalization of the women the DV criminal legal interventions were initially designed to protect. IE has proven to be a powerful analytic lens through which to examine the work that professionals do (Campbell & Gregor, 2002; de Montigny, 1995; Diamond, 1992; Welsh & Rajah, 2014). As with genealogy's emphasis on the struggles of power and knowledge that take the emphasis off an individual within that struggle, rather than ask why individuals take a particular action, IE instructs us to ask, how the individual is institutionally organized to take the action. For example, in their IE study examining whether DV criminal legal interventions in the United States are oriented to the experiences of Indigenous women who are abused, Wilson and Pence (2006) stated that they did not "try to distinguish between good workers or bad workers, but rather focused on the way all workers were coordinated to participate in institutional processes that either do or do not protect Indigenous women" (p. 202). My study does not aim to evaluate the actions of any one person but instead reveal the practices and "critical junctures" (Mahoney, 2000, p. 513) that enabled the criminal legal system to become the seemingly logical response to VAW and enable the criminalization of women victim-offenders.

Framing my Study

The "problematic" (Smith, 2005, p. 39) guiding this study – the everyday experience of VAW activists, service providers and criminal legal officials in the criminalization of DV – required me to design a study that traces the historical processes that led to the creation of the DV criminal legal interventions. Feminist genealogy provides a lens through which to understand these historical processes and the impact on women victim-offenders. However, the role of institutions, and specifically "regulatory texts" (p. 191), in governing the DV criminal interventions was absent from a genealogical lens. Although IE studies are rarely historical, the methodological emphasis on revealing how texts are activated through the everyday work of my study participants was a key theoretical contribution to making sense of the competing discourses and "work knowledges" (p. 44) contained in the historical documents.

My unique weaving together of insights from feminist genealogy and IE enabled me to pair the historical elements of genealogy with an emphasis on the role of texts in coordinating the action of workers across time and space. As discussed above, Foucault (1980) stressed the importance of focusing on "power at its extremities" (p. 96). IE investigates "empirical linkages among local settings of everyday life, organizations, and translocal processes of administration and governance" (Doll & Walby, 2019, p. 150). Focusing on how local settings are governed through regulatory texts, reveals where power "installs itself and produces real effects" (Foucault, 1980, p. 97). These 'real effects' are the authorized categories to which people's actualities are shaped by front-line workers, and according to Smith (2005), "are the only means by which those actualities can be made actionable" (p. 188). It is through this lens that IE reveals the tension at the heart of this study to understand how advocates make sense of practices and discourses that fail to protect victims. IE proceeds from actualities of people's lives and explores

problems that matter to those people. By linking these everyday problems to systems and their translocal institutions, IE reveals how these processes can constrain the ability of professionals to support the persons they serve (Doll & Walby, 2019; Rankin & Campbell, 2006; Wilson & Pence, 2006).

One final way in which the pairing of feminist genealogy and IE were important for my project was that both enable an activist lens. Garland (2014) argues that the aim of genealogy is to use historical research to disturb contemporary conceptions and help bring about change. The goal of my research is to understand how criminal legal interventions that were initially designed and implemented by VAW advocates led to the criminalization of the women they were created to protect. Feminist genealogy and IE enable me to not only shed light on this contemporary problem but to reveal "the contingencies of the past. Seeing what was and what happened enables us to see what might have been otherwise and what still might become otherwise" (McWhorter, 2005, p. 85). In addition, DeVault (2006) argues that IE studies offer "the kind of 'map' that could help those working politically to see what they are up against and where they might want to apply pressure" (p. 295). The strategies I highlight in Chapter 6 are informed by the "subjugated knowledges" (Foucault, 1994, p. 41) of the past to address the contemporary problem of the criminalization of women victim-offenders.

Data Collection

Informed by feminist genealogy's focus on knowledge generation and the role of texts in IE, I undertook extensive searches of institutional and community-based archives. Tamboukou (2003a) states that "genealogy involves searching meticulously in the most unpromising places, reading and rereading dusty documents, paying attention to unimportant details, trying to discern unheard voices" (p. 8). My searching was hindered by the COVID-19 pandemic, as there were

travel restrictions and no physical access to many archives during my data collection period. Despite these challenges, I was able to collect data from more than 25 sources for archival records and recruit 30 participants for my study.

Semi-Structured Interviews

I conducted 30 targeted, semi-structured interviews between February and October 2021. I generated a potential participant list through preliminary searches of my historical documents and media articles to identify individuals named as having played a key role in the creation and/or implementation of the DV criminal legal interventions or the broader VAW movement in Ontario. Given the study's empirical focus on Ontario, I excluded individuals who conducted the majority of their advocacy work at the federal-level. I then conducted an internet search to locate contact information and sent inquiry emails to potential participants asking if they would be willing to be interviewed for my study. I interviewed nine activists who were current or former members of advocacy organizations, such as the London Coordinating Committee to End Woman Abuse; 14 front-line service providers at community organizations, such as shelter staff and PAR program counsellors; and seven criminal legal officials, such as Crown Attorneys and Victim/Witness Assistance Program staff. See Table 1 for a breakdown of the jurisdictions each participant represented.

Table 1.

Interview Participants by Jurisdiction

Role	Brampton	London	North Bay	Oshawa	Ottawa	Toronto	Ontario
Activist	1	3	1	0	0	2	2
Front-line	6	2	1	2	3	0	0
Legal	0	1	0	1	2	2	1
Totals	7	6	2	3	5	4	3

The initial expansion of the DV Court Program in 1997 and 1998 included the City of Hamilton. However, I was unsuccessful in finding any participants from Hamilton willing to be interviewed nor was I able to locate any relevant historical documents. As a result, I removed Hamilton from my analysis and chose to focus on Toronto (site of the initial DV Courts), as well as the other five cities involved in the first expansion governed by the provincial government.

I conducted 29 of my semi-structured interviews over Zoom and one interview through questions and answers exchanged via emails with the participant. My virtual interviews ranged from 35 to 110 minutes, with an average length of 62 minutes. While some qualitative scholars writing in the 1990s questioned whether remote interviewing would limit the quantity, nature and depth of responses, more recent comparative studies have demonstrated that the mode of interview does not negatively influence the data in these ways (Hammond & Wellington, 2012; Holt, 2010; Sturges & Harahan, 2004). In addition, qualitative researchers have noted some distinct advantages of remote interviewing, including that it enables the inclusion of geographically disperse participants, has fewer logistical constraints, and as long as both participants have internet or telephone connections, provides greater scheduling flexibility (Deakin & Wakefield, 2014; O'Connor et al., 2008; Sedgwick & Spiers, 2009). For interviews conducted virtually with video enabled, the interview most closely resembles a face-to-face interview (Mann, 2016).

My interviews provided participants with an opportunity to express their conceptualizations of VAW, share their "work knowledges" (Smith, 2005, p. 44) regarding their role in the VAW movement and/or the creation and operation of the DV criminal legal interventions, as well as provide a range of interpretations of key events and practices, which frequently included details missing from the dominant historical record (see Appendix B for my

semi-structured interview guides). The professional experience of participants in their respective fields ranged from four years to more than 40 years. Several participants are still active in VAW movements and/or the criminal legal system. Kim (2015) reported the significant contribution that interviewees made to her examination of early interventions in DV strategies in the United States by providing information regarding legislative events that moved beyond data gathered through legislative records alone. Participants in my study made a similar contribution for the VAW movement in Ontario.

Archival Research

To locate relevant historical records published between 1980 and 2000, I conducted archival database and internet searches using variations on the phrase "violence against women" (e.g. domestic violence, family violence, wife abuse, partner assault), legal terminology (e.g. domestic violence court, family violence court, mandatory arrest) and the jurisdictions included in the DV criminal legal interventions (Brampton, Hamilton, London, North Bay, Oshawa, Ottawa, Toronto, and Ontario). I excluded documents that focused primarily on advocacy or responses to VAW in other provinces or at the federal-level. The final collection of historical records included in this study are 115 media articles (see Appendix C for a list of media sources) and 215 documents from institutional and community-based archives (see Appendix D for a detailed list of archives and collections accessed). Community archives often preserve narratives not found in institution-based archives because groups and movements marginalized by the state are generally marginalized by the archive as well (Carter, 2006; Caswell et al., 2017; Cifor & Wood, 2017; Morra & Schagerl, 2013). By including records located in both institutional and community-based archives (see Appendix E for a chart of the types of historical records

analyzed), I was able to uncover previously marginalized voices in tracing the development of the DV criminal legal interventions in Ontario during the 1980s and 1990s.

Archives open up the opportunity to be in time and history differently (Eichhorn, 2013). Archival research represents the researcher's account of the past framed by present-day concerns creating a hybrid temporal structure, which includes aspects of both now and then, rather than being a straightforward retelling of the past (Stanley, 2017). Thus, the archive is "always capable of giving rise to *another* reading, another context, another framework that will animate it in different ways" (Grosz, 2000, p. 1020). My analysis of archival records brings to light the processes that led to the DV criminal legal interventions as a seemingly logical response to VAW and the consequences for women victim-offenders.

To overcome pandemic restrictions which prohibited travel and access to most physical archives, I worked closely with archivists at the following institutional archives to receive digital copies of materials I requested: Archives and Special Collections of the University of Ottawa, City of Toronto Archives, Law Society of Ontario Archives, Legislative Library of Ontario, Region of Peel Archives, and Western Archives and Special Collections. In June 2021, I was able to access the University of Waterloo Special Collections and Archives in person. I retrieved additional historical records from: Deborah Sinclair's personal records,[4] my personal records, emailed copies of relevant documents from participants following our interview, Department of Justice Canada online library, historical newspaper databases, *Internet Archive*, *Alternative Toronto Archives*, *Rise Up!* (a digital archive of feminist activism in Canada), Library and Archives Canada, Public Safety Canada Archive, Legislative Library of Ontario eArchive, Ontario Association of Interval and Transition Houses online library, regional City Council

[4] Activist-scholar Deborah Sinclair mailed to me original faxes, reports, and newspaper clippings that she had saved in her home.

records, regional Police Services Board websites, university library holdings, and websites of various community-based agencies.

Barriers to Data Collection

I was able to overcome many of the data collection barriers related to pandemic restrictions by obtaining digital copies of archival records from archivists and through extensive on-line searches. However, I did run into two barriers. First, the Archives of Ontario remained closed to the public longer than any other physical institutional archive I contacted and unlike many other archives, did not provide any alternative means for accessing their collection during the pandemic closure. According to their website, they are the largest provincial archive in Canada, with a significant portion of their collection documenting the decisions, functions and activities of the Government of Ontario (www.archives.gov.on.ca/en/about/index.aspx). There were several documents that I had hoped to access through the Archives of Ontario. Despite the pandemic-related barriers I faced in accessing the provincial archive, I was able to find some of the key historical documents through my extensive on-line searches. There remain some documents, especially from the Ontario Ministry of the Attorney General that are housed within the archive that I was not able to access and that is a limitation of my data.

The second barrier I experienced was in recruiting crown attorneys and the five-month long process I faced to get approval for Crowns to participate in my study. This barrier emerged on February 17, 2021, when a Crown forwarded my request for their participation in an interview to the Office of the Assistant Deputy Attorney General, Criminal Law Division. The Correspondence and Issues Officer requested copies of my Information and Consent Letter, a list of Crowns I had contacted, and my interview questions. Their response was to control my access to the Crowns by acting as the intermediary and requesting that Crowns submit their answers to

my questions in writing. When I responded asking for clarification if this was the standard procedure for Crowns participating in research studies, the sampling process they would be using, as well as whether the answers would be reviewed before being sent to me, I did not receive a response. I sent a follow-up email a month later requesting the status of my request. I was again asked for the list of Crowns, which I provided, and was told that my request would then "move through an approval process" (personal correspondence, April 8, 2021). I sent a follow-up email on May 17, 2021 inquiring about the status of the approval process. I received a response on June 11 requesting that I send the documents that I included in my initial response. On July 7, I was informed that participation in my study had been approved and that through this formal channel, a single Crown had agreed to participate in my study. Although I had successfully recruited other Crowns directly, I have no way of knowing if additional Crowns would have been willing to participate if this process had not been so onerous. I was able to mitigate this limitation through the knowledge participants shared during their interviews of direct interactions with Crowns in their communities when their local DV Court opened. In addition, several of my archival records included quotations from Crowns, especially newspaper articles in which Crowns were interviewed about their role in enforcing the DV criminal legal interventions.

Data Analysis

All my interviews were transcribed verbatim. I began my analysis with a close, detailed reading of the transcripts and historical documents I had collected. Following the approach to qualitative data analysis outlined by Miles et al. (2014), Rapley (2016), and Saldaña (2016), as well as discourse analysis as outlined by Girard (2009), I developed codes to capture key phrases and ideas. These codes were not used for the purposes of developing a theoretical explanation, as

in some qualitative analysis traditions (Glaser & Strauss, 1967). Instead, in this study, these codes served the purpose of identifying discursive practices and conceptualizations of VAW. While developing my codes, I paid particular attention to repetition to identify dominant discourses across the various documents and traced disjunctures in the narratives to identify "subjugated knowledges" (Foucault, 1994, p. 41) and interventions for responding to VAW that existed prior to the DV criminal legal interventions. According to Girard (2009), discourse analysis is well suited to research that draws on feminist and Foucauldian insights because both perspectives focus on knowledge creation and sensitize "the researcher to how socially created discourses connect to the ways individual experiences come to be regarded" (p. 9). In a similar vein, my analysis was also informed by IE to code for language that reflects how workers make institutional categories actionable. In this way, IE analysis keeps the institution in view when analyzing transcripts (McCoy, 2006). I compiled a list of emergent themes (see Appendix F), and following Miles et al.'s (2014) approach, grouped my initial codes into broader categories.

Drawing on both feminist genealogy and IE methodologies, I then created a map to reveal the coordination of texts and dominant discourses across time and space. According to Smith (2005), "the ethnographer's analysis assembles the work knowledges produced by her or his collaborative work with informants to create a map or model of that aspect of institutional organization relevant to the research problematic" (p. 160). The goal of my map was to help me visualize the ways that VAW and the women who experience violence were conceptualized and categorized by advocates, community-based organizations and the criminal legal system, and how texts and institutional processes coordinated and controlled the work of everyone who comes into contact with these women.

My map revealed the discourse and processes that connect the activities of my participants across space and time working in different institutions. These revelations led to the delineation of the relevant sequences of action and interchanges for the "problematic" (Smith, 2005, p. 39) of my study, which form the basis for my arguments in the chapters that follow. The discursive themes of the VAW movement are discussed in detail in Chapter 3, where, guided by feminist genealogy, I interrogate how the dominant discourses of the movement produced the "real effects" (MacLeod & Durrheim, 2002, p. 42) of the criminal legal system as a seemingly logical response to VAW. I also draw on IE's focus on texts by tracing the development of historical documents through community collaboration that coordinated the actions of advocates, service providers and criminal legal officials at the local level in two cities (London and Oshawa) prior to the creation and implementation of "regulatory texts" (Smith, 2005, p. 191) that govern the response to VAW at the provincial-level. Chapter 4 then develops a genealogical account of the creation of the DV criminal legal interventions (mandatory arrest in London and DV Courts in Toronto) by VAW advocates in both communities to the eventual expansion and governance of the interventions by the provincial government. In Chapter 5, I interrogate the pathways and consequences of criminalization for women victim-offenders, as well as revealing how activists, service providers and criminal legal officials employ their "work knowledges" (Smith, 2005, p. 44) to respond and resist the negative impacts of DV criminal legal interventions on the women they were designed to protect. The concluding chapter of my study emancipates "subjugated knowledges" (Foucault, 1994, p. 41) to highlight strategies that shift the response to VAW away from the criminal legal system by building the capacity of communities to provide support and accountability mechanisms for all community members.

Chapter 3: Discursive and Collaborative Practices of the Ontario Violence Against Women Movement

> Leading up to 1995, there was a tremendous sense of hope, inspiration … it was pretty powerful, heady stuff because feminists were completely influencing the curriculum … Everything that has been good, has come through feminist activism, and this notion of government initiating things is a complete lie. I mean government responds, they don't initiate, generally speaking. (Activist participant, P28)

Introduction

This chapter explores how the discursive and collaborative practices of the movement to end violence against women (VAW) set the stage for the contemporary problem of the criminalization of women victim-offenders through domestic violence (DV) criminal legal interventions. Malloy (2003) argues that the women's movement in Ontario was "very heterogeneous and resists easy characterization" (p. 87) but was politically active and visible at the local level by focusing on specific social problem areas, such as DV. It is this subset of the broader women's movement that I focus on here, looking specifically at the VAW movement in Ontario from the 1980s to 2000. During this time period, "the opening of a policy field around 'violence against women'" (Gotell, 2007, p. 130) occurred. This chapter examines how VAW activists, front-line workers and criminal legal officials operated within the VAW policy field, employed victim narratives and engaged with the state to create services for women experiencing violence and advocate for structural-level changes needed to end VAW.

Drawing on social movement theory (Cress & Snow, 2000; Fine, 1995; Lehrner & Allen, 2008) and critical race theory (Agnew, 1998; Crenshaw, 1991; Harris, 1990), the first half of this chapter interrogates how the VAW movement's discursive practice revolved around a victim

discourse, which, I argue, contributed to a conceptualization of violence that fueled the criminalization of women victim-offenders. As I show, this victim discourse, or as Fine (1995) calls a "bundle of narratives" (p. 128) suggested that all women in society were at risk for experiencing violence, that severe physical harm was a hallmark of gender-based violence, that family was the key site of oppression, and that women needed protection. Taken together, these claims codified an understanding of VAW that prescribed a response from the criminal legal system contributing to the criminalization of women victim-offenders.

Building on the insights from Institutional Ethnography (IE) and feminist genealogy, the second half of this chapter interrogates the various collaborative practices of VAW activists and how those collaborations sought to challenge, yet more often replicated, the systemic oppressions that enable VAW. By linking everyday functioning of local settings, organizations, and translocal processes of administration and governance, IE provides analytical tools for understanding how these processes constrain the ability of service providers to support the persons they serve (Rankin & Campbell, 2006; Smith, G., 1990; Wilson & Pence, 2006). Adding a historical dimension, the genealogical approach "traces how contemporary practices and institutions emerged out of specific struggles, conflicts, alliances, and exercises of power, many of which are nowadays forgotten" (Garland, 2014, p. 372). Through my analysis of historical records and participant interviews, I show how direct engagement with the state enabled some advocates to shape institutional understandings and responses to VAW, how funding for direct services forced advocates into coalitions with state institutions that replicated dominant practices of VAW governance, and how two communities (London and Oshawa) created coordinated, community-based interventions that governed local responses to VAW prior to the creation of the provincial-level DV criminal legal interventions. Lastly, I demonstrate how the election of

Mike Harris's Progressive Conservative government in 1995 altered the collaborative practices of the VAW movement and ultimately, centred the criminal legal response to VAW contributing to the criminalization of women victim-offenders.

By drawing on feminist genealogy and IE to examine the discursive and collaborative practices of the Ontario VAW movement, this chapter addresses several gaps in the existing literature. First, as discussed in my Introduction, there remains a gap in the feminist historical record about the Canadian VAW movement (Rebick, 2005). This chapter's focus on the practices and resulting processes of knowledge production by VAW advocates and front-line workers in Ontario, addresses the gap Rebick identified by contributing important Canadian perspectives.

Additionally, the dominant historical narrative of the Canadian VAW movement in the existing literature suggests that the engagement of activists with the state led to the cooptation of feminist goals (Currie, 1990; Hilton, 1989; Lakeman, 2005; Rodgers & Knight, 2011; Snider, 1989). My analysis reveals a more nuanced understanding of the agency of advocates who strategically engaged with the state and actively shaped the government's response to VAW. As feminist activist-scholar Ellen Pence (2001b) stated, "Every community has its own advocacy story" (p. 337). By examining the discursive and collaborative practices of the VAW movement, I reveal multiple advocacy stories from communities across Ontario. These stories are significant because as feminist genealogy reminds us, the aim is not to write a "truer history" (Hemmings, 2011, p. 15) of the past but to uncover "the politics that produce and sustain one version of history as more true than another" (pp. 15–16).

Discursive Practices of the Ontario VAW Movement

To shift the focus of gender-based violence from a private to a public concern, advocates had to make claims about VAW that resonated with society-at-large. Making claims about a social problem is a key strategy of social change movements, and as scholars Lehrner and Allen (2008) state, "The domestic violence movement provides an excellent case study of the central role of meaning-making for social change movements" (p. 220). They argue that because a fundamental socio-cultural change was required to shift the societal response, the VAW movement had to re-frame the cultural understanding of DV, placing meaning-making at the centre of the movement's goals. In addition, social movement theorists Cress and Snow (2000) argue that when social movement activists can frame their message in a way that elicits public interest, they may gain the public's support in persuading lawmakers to invest in the issue. How activists frame the problem is also important because it influences how professionals, including state actors, understand and conduct their work (Chiarello, 2013; Johnson & Dawson, 2011; Walker, 1995). Prior to the work of VAW activists in the 1970s, the harm women experienced by their male partners did not exist in the Canadian public consciousness (Currie, 1990; DeKeseredy & MacLeod, 1997; Weldon, 2002).

Framing the social problem through a shared identity is a necessary step for a movement to achieve effective social change (Benford & Snow, 2000; Vanhala, 2011; Weldon, 2006). Social movement scholar Gary Fine (1995) suggests that ‘‘it is helpful to conceive of a social movement as a bundle of narratives" (p. 128). The bundle of narratives chosen by advocates in the VAW movement shaped the development of services and interventions, as well as what was being communicated to the community at the grassroots level (Lehrner & Allen, 2008). This chapter traces the bundle of narratives used in the Canadian movement that framed discourses of

VAW by (a) framing VAW through a gender essentialist narrative, (b) narrowing the understanding of abuse through an over-emphasis on physical violence, (c) locating (White) women's oppression in the home through a focus on individual men as perpetrators, and (d) creating victims in need of protection through an undermining of the agency of women. As I will argue, this narrative framing of violence and victims converged VAW interventions toward the criminal legal system and in so doing, aided in the development of a system that criminalizes women victim-offenders.

Framing VAW Through a Gender Essentialist Narrative

The dominant discourse in the VAW movement framed 'all women' as being at risk for experiencing violence in their intimate relationships. Framing VAW in this way creates a gender essentialist narrative that assumes all women experience violence similarly, which fails to account for the harm compounded by systemic factors, such as race, culture, and class (Leisenring, 2006; Razack, 1998; Richie, 2000; Ruttenberg, 1994). In 1990, critical race theorist and feminist legal scholar Angela Harris defined gender essentialism as "the notion that a unitary, 'essential' women's experience can be isolated and described independently of race, class, sexual orientation, and other realities of experience" (p. 585). The following year, civil rights scholar and critical race theorist Kimberlé Crenshaw challenged the American VAW movement for focusing on gendered violence only after White women identified themselves as potential victims. In her critique, Crenshaw (1991) expressed concern that public interest in VAW, and DV in particular, centred around politicizing the problem within the dominant community: "the experience of violence by minority women is ignored, except to the extent it gains white support for domestic violence programs in the white community" (p. 1260). Picking up similar ideas, intersectional feminist scholar Vijay Agnew (1993, 1998) argued that by

ignoring race and class and assuming all women are alike, with the source of their oppression found primarily in gender, the practices of the VAW movement in Canada reproduced existing relations of domination and subordination. Expanding the Canadian contribution to this literature, my findings trace how the 'all women' narrative within the Ontario VAW sector erased the impact of intersecting identities while simultaneously individualizing the responsibility for stopping oneself from becoming a victim. In addition, a gender essentialist narrative masked the dramatically unequal impact of DV criminal legal interventions on marginalized communities (Crenshaw, 1991; Gruber, 2020; Kim, 2020; Razack, 1998; Richie, 2000). As a result, many VAW advocates failed to recognize how the criminalization of DV for *all* women would result in the criminalization of *some* women (Balfour, 2021; Bruckert & Law, 2018; Walker, 1995).

Documents from 1980 to 2000 reveal the popularity of the 'all women' risk narrative in the Canadian VAW movement. This narrative, which claims battered women "come from all cultural/ethnic backgrounds" (London Battered Women's Advocacy Clinic, 1986) and that VAW "affects rich and poor alike" (Vienneau, 1991, pp. A1, A25), was most commonly found at the beginning of documents produced by advocates, community-based agencies and varying levels of government. Sociologist Joel Best (1987) wrote: "By arguing that anyone might be affected by a problem, a claims-maker can make everyone in the audience feel that they have a vested interest in the problem's solution" (p. 108). By placing the narrative of risk at the beginning of a text, the authors are using the rhetorical function identified by Best to garner social investment in strategies for ending VAW. IE founder Dorothy Smith (2005) also recognized the role that "*instructions* … the kind of guide to how to read what follows that is often presented in the introductory paragraph of a text" (p. 114) play in creating an interpretative frame for how the

reader is to understand the text. The location of the claim 'all women' at the beginning instructs the reader to then interpret various descriptions of abuse throughout the remaining text as evidence of the equality of risk shared by women.

The consistency with which the 'all women' narrative occurred also shaped how VAW was understood. According to Smith (2005), the constancy of reproducible text is essential to the role it plays in institutional standardization by regulating discourse across various local sites of people's work. This attempt at standardization within the VAW sector is visible in texts created by advocates for advocates in other locations. For example, a 1984 *Resource Kit* compiled by Education Wife Assault for front-line workers assisting women experiencing violence contained a document outlining "Strategies for Community Education" that read, "demonstrate that wife assault crosses all barriers, is found in all social groups" (p. 23). Fifteen years later, the narrative that 'all women' are at risk still existed within texts produced by VAW advocates. A guide written to help family resource centres provide support to women and their children experiencing violence opened with the following statements: "Wife abuse transcends all class, age, economic, race, cultural and ethnic boundaries" (McDonald, 1999, p. x) and "All forms of abuse against women and children reflect a society in which women and men have unequal power and status" (p. x). Taken together, these statements create a gender essentialist narrative that frames the risk of violence as generated based on gender and the same for all women. According to sociologists Smith and Griffith (2022), discourse in IE "refers to a specialized practice in reproducible texts that constitutes for participants a world in common" by "establishing a conceptual order that identifies and connects what become objects of knowledge … and in doing so it also excludes" (p. 39). The texts written and disseminated by advocates established the discourse of what could

be recognized and done about VAW. However, this discourse was often exclusionary about the unequal risks faced by women within marginalized communities.

Public awareness campaigns and reports published by the provincial and federal governments during the 1990s and early 2000s also reproduced the gender essentialist narrative. For example, a two-page factsheet, *Wife Assault: Dispelling the Myths*, published by the Ontario Women's Directorate (OWD)[5] (1992), included the following claim:

> Myth: Wife assault occurs more often among certain groups of people.
>
> Fact: Wife assault occurs in all ethnic, racial, economic, social and age groups. However, violence in more affluent groups is often hidden because these women use shelters, legal clinics and other social services less often. (p. 1)

The factsheet was cited in an article, "Empowering Women in a Violent Society" (Archer, 1994) published in *Canadian Family Physician*, which encouraged physicians to become knowledgeable about the prevalence of VAW and to provide gender-sensitive care when women disclose experiences of abuse. According to IE, a text is 'activated' by a reader who then "inserts the text's message into the local setting and the sequence of action to which it is read" (Smith, 2005, p. 105). The OWD factsheet was activated by the author of this article who then provided the terms under which family physicians respond to disclosures of VAW. These terms reflect the translocal organization of the gender essentialist discourse surrounding the 'all women' risk narrative. Throughout the factsheet and article, there is no discussion of other systemic risk factors individuals may face outside of, or in addition to, being a woman. As critical race scholar Crenshaw (1991) warned, a claim that VAW affects all races and classes equally, politicizes the

[5] According to political scientist Malloy (2003), the Ontario Women's Directorate operated within the provincial government with a discrete agenda focused on policy development and coordination targeting pay and employment equity, non-traditional career paths for girls, and prevention of violence against women.

social problem only in the dominant culture, which the OWD reinforced with a reference to the 'hidden' violence in more affluent groups on the factsheet.

Another example of the exclusionary narrative of the 'all women' risk discourse was contained in texts authored by Canadian Status of Women Ministers. Published in 1999, *Preventing Violence Against Women,* contained a framework to guide policy development and key strategies for ending VAW. The framework contextualized VAW in the following way: "Violence against women has devastating human, social, and economic consequences. This violence touches all social classes, and cultures" (Federal-Provincial-Territorial Status of Women Ministers, 1999, p. 4). Three years later, in a follow-up report also aimed toward policy development, the "Introduction" emphasized the extent to which public recognition of VAW, as a gendered issue, had occurred: "Greater media attention to this phenomenon in recent years has revealed both its prevalence and its horrific impact on women from all walks of life" (Federal-Provincial-Territorial Ministers Responsible for the Status of Women, 2002, p. 2). These government documents replicated the gender essentialist narrative that 'all women' are at risk for experiencing violence and acknowledged the proliferation of that narrative through the media.

The advocates, front-line workers, and criminal legal officials I interviewed for my study who were active in the Ontario VAW movement during the 1980s and 1990s, also spoke about VAW in ways that reflected the 'all women' risk discourse. For example, a study participant, who identifies as a radical feminist, stated: "all women, every single woman is at risk of being abused, assaulted, tortured, killed, in her life. We're all at risk of that for no other reason than we were born girls" (P22). This participant's essentialist framing reflects the discourse contained in the texts described above demonstrating how these texts shaped the understanding of VAW that advocates expressed.

When women disclose their experience of violence, the narrative they tell enables them to access supports and institutional resources while simultaneously enacting erasures, invisibilities, and violences of their own. Gender and sexuality theorist Sweet (2019) calls this process "the paradox of legibility … to become a legitimate domestic violence survivor amidst institutions of aid, women must tell stories of psychological survival, even as those very stories erase the structural context of their victimization" (p. 143). A participant, with extensive experience working with visible minority women in the Ontario shelter system, expressed concerns about how this type of paradox was not recognized in the risk discourse of the early VAW movement:

> For me [violence against women] is systemic … I think one of the challenges for intervenors … is trying to simplify it … the more I talk to women who are at this point experiencing the violence, the more complex I realize the whole situation is and although, it's not specific to any one particular culture or socio-economic group, I think we have not taken into consideration the influence that has both on the way that women experience violence but also on the decisions they make about their lives. (P17)

This participant acknowledged that the complexity of VAW was often erased by the discursive practices of advocates. In addition, this quote demonstrates how institutional processes constrain the ability of front-line workers to support the persons they serve (Rankin & Campbell, 2006). The essentialist framing of the 'all women' risk discourse created significant erasures in how the problem of VAW could be understood. These erasures are important because "how and why violence is understood to occur underpins the directions taken by policy makers, service providers, and community activists to intervene and prevent male violence against women" (Johnson & Dawson, 2011, p. 13). When I asked how policies to end VAW might have looked different if intersectionality had been incorporated in the 1980s and 1990s, one activist replied:

> I think some certain policies would not and funding decisions would not have been made in a way to continue to make invisible those that are the most vulnerable amongst us, anything from the Solicitor General's directive [for mandatory arrest], to funding certain organizations that were not mandated to and accountable to reach out and support women that were not from White and fairly privileged backgrounds. (P01)

This participant identified a link between the gender essentialist framing of 'all women' being equally at risk for experiencing violence and policy decisions, such as the DV criminal legal intervention of mandatory arrest. This activist also recognized that the interventions supported by this framing furthered the harm experienced by marginalized communities.

Literary scholar and feminist critic Gayatri Spivak (1996) argues that members of marginalized groups may engage in "a *strategic* use of positivist essentialism" (p. 205) in which they consciously present a simplified unified public image to achieve specific political objectives.[6] However, there are a number of risks associated with this strategy, including when the practice is not the result of a deliberate choice, the 'essential' attributes are assigned by outsiders rather than the group itself, and when it is not used as a temporary political strategy (Eide, 2010, 2016; Gandhi, 2015). As critiqued by critical race scholars discussed above, the dominant discourse of the VAW movement reinscribed existing relations of domination by failing to capture the ways in which the essentialist narrative should be strategically engaged and remain within the narrative control of members of the marginalized community for whom the gender essentialist narrative is an oversimplification of their experiences.

The 'all women' risk discourse made some interventions appear more logical than others. In addition, this discursive practice in the VAW movement shifted focus away from systemic

[6] See also the discussion below regarding what Collins (2017) calls a "flexible solidarity" (p. 1469) within Black feminist politics.

oppressions and toward an individualized understanding of victimization risk.[7] In their study exploring the degree to which DV work can still be characterized as a social change movement, activist-scholars Lehrner and Allen (2008) point out that claiming "anyone can be a victim," and "anyone can be a perpetrator" undermines the VAW movement's aims "by suggesting that if anyone can be a victim or perpetrator, only individual-level factors are relevant" (p. 230). Focusing on individual-level risk factors justified interventions for ending VAW that hold people individually responsible for perpetrating violence, such as the criminal legal system.

The discursive practices of mainstream VAW activists in Canada frequently included contradictory messaging regarding the role of individual-level risk factors in VAW. For example, an advertisement for the Wen-Do Women's Self-Defence Course printed in two issues of *The Womanist* asserted that women who took responsibility for protecting themselves would be protected from victimization. The advertisement read:

> Fear is not the answer. In this 12-15 hour program, designed to meet the needs of women today, you will be presented with a combination of: 1) Simple physical techniques to defend yourself; 2) Discussion to raise awareness. This results in an integration of mental and physical preparedness. It gives you a sense of choice and *an alternative to being a victim* [emphasis added]. ("Wen-do women's self-defence", 1993a, p. 41; "Wen-do women's self-defence", 1993b, p. 7)

This individualistic messaging erased the role of systemic violence in some women's lives and contradicted the stated aims of *The Womanist* to reflect an intersectional and "integrated

[7] For discussions of neoliberal governance shifts from social to private responsibilities, see Cruikshank (1999), Hannah-Moffat (2000) and Ilcan (2009), and for the impact on the VAW movement, see Bumiller (2008), Corrigan (2013a), and Silverstein and Spark (2007).

approach to feminism" (Riggs & Tyler, n.d.).[8] In the Spring 1993 issue, the self-defence course advertisement was on the same page as a critique of the media's coverage of the arrest of serial killer and rapist Paul Bernardo (see Figure 1). In the article, the author, who volunteered with a Rape Crisis Centre when the assaults took place, described how police and journalists were telling women not to go out alone at night. However, at the time, there were no crisis calls from women being assaulted by strangers, instead "the litany of women naming their attackers remained the same: my father, brother, my boss, my co-worker, my classmate, my neighbour, my doctor, even police officers – but not a single stranger" (Darby, 1993, p. 41). Darby also discussed numerous myths perpetuated by the media, including that 'normal men' do not commit rape, and concluded the article by accusing the media of skewing public perceptions of what

Figure 1.

Sexual Assault Story Juxtaposed with Self-Defence Advertisement



Spring 1993 page 41

Sexual assault in the media: are you worth a story?

by Jan Darby

The recent arrest of a suspect in both the "Scarborough Rapist" case, and the murders of Kristen French and Leslie Mahaffy, has sparked extensive media coverage. Much of this reporting has been sensational, focusing on the grisly details of these brutal crimes, and on the personal life of Paul Bernardo, the accused. *The Toronto Sun* even went so far as to purchase and publish Bernardo's wedding pictures, replacing the regular "Sunshine Girl" pin-up shot with a photo of the bride and groom.

The irresponsible journalism associated with this case has received intense criticism. Debbie Mahaffy, Leslie's mother, has made a public statement denouncing the media for adding to her family's pain with insensitive and misleading reports. She berated the press for attempting to profit from others' tragedies.

While the media's sensational treatment of this particular case has indeed been morbid and tasteless, it is most problematic in the way it distorts issues of violence against women. The media's coverage of this, and other high-profile cases of sexual violence, reinforces many of our society's myths about rape and womanslaughter.

For example, media reports tend to focus on sexual attacks committed by strangers, even though this type of assault accounts for a small percentage of violent crimes against women. Cases of date rape, acquaintance rape, wife battering and "domestic" murder receive much less attention, if they are covered at all. Women are thus wrongly led to believe that they are most likely to be attacked by strangers, rather than by the men with whom they live or work.

At the time that the "Scarborough Rapist" assaults were taking place, I was working as a volunteer counsellor with a Rape Crisis Centre. Police and journalists were warning women not to venture out alone at night, and to take extra safety precautions when using public transit. During that time, I received countless calls from women wanting information about self-defence courses, deterrent sprays, and alarm gadgets. But during that time, I did not receive a single crisis

call from a woman assaulted by a stranger. The litany of women naming their attackers remained the same: my father, my husband, my boyfriend, my brother, my boss, my co-worker, my classmate, my neighbour, my doctor, even police officers - but not a single stranger.

The media's emphasis on attacks by strangers thus skews public perception of what constitutes rape. An American study found that one quarter of the college women surveyed had been forced to have sexual intercourse by a male partner, yet the researchers noted that "such assaults tend not to be reported to any authorities and often are not defined as 'rape' by either participant."

Another closely-related myth about rape is the belief that "normal" men don't rape, that rape is a crime committed by only a few isolated monsters. By focusing on serial rapists and murderers, the media reinforces this myth.

In the Mahaffy and French murders, the press began suggesting a possible link between the cases, and the murders of other young Ontario women, even before police had found evidence of a connection. When Bernardo was arrested on suspicion of these murders, and also charged in connection with the assaults in Scarborough, the CBC Radio News emphasized the "relief" felt by women living in the area, as if this one man were the sole source of all violence against women in those communities. Indeed, the press continues to speculate that Bernardo may be responsible for countless other unsolved rapes and murder in Canada and the United States.

By demonizing particular high-profile rapists in this way, the media obscures the prevalence of male violence towards women in our society. The "Rapist" is seen as an abberation, an identifiable "weirdo," like the hypothetical "bad men" lurking in the ravines of Margaret Atwood's fiction.

Yet in studies conducted in the United States over the last three decades, one quarter of male college students consistently admitted to having attempted to force a woman to have intercourse, with five percent actually admitting having raped a woman. Contrary to the myth, violence against women is clearly a widespread social phenomenon, a crime committed by apparently "normal" men.

Much of the fascination with the Bernardo case, however, centres around the accused rapist/murderer's apparent normality. Journalists express astonishment at his "boy-next-door" looks, his university degree, and his employment as an accountant, as if white, middle-class men were incapable of committing rape and murder.

Press coverage of the Mahaffy and French murders has also reinforced the myth that only young, attractive women are at risk for sexual violence. Rosi DiManno, in a *Toronto Star* article, began an eulogy for the two murdered young women with the phrase "Pretty young girls". The women assaulted by the "Scarborough Rapist" have also been described as predominantly young, with long hair. After Kristen French's body was found, a great deal of attention centred on the fact that her "flowing chestnut hair" had been cut short. Journalists also continue to report that she was last seen wearing her school uniform, even though that information was no longer necessary for purposes of identification.

The media portrayal of Leslie Mahaffy and Kristen French as young, innocent, and pretty, heightened public outrage over their murders. After their deaths, these young women were turned into "celebrities". Yet, this focus on youth and beauty glosses over the reality that women of all ages and appearances are subject to sexual violence.

In contrast to the Mahaffy and French murders, the murder of Donelda Moran received little media attention. The sixty year old Toronto woman was raped and beaten to death in October 1991. She was found behind a hockey arena, naked, bleeding, and in a coma. She died two days later in hospital, without regaining consciousness. No public outcry followed her death.

The Toronto Star's account of her murder was brief. It stated that she had been drinking in a café on the night of her death. A friend reported to police that she had left the café with a man in his thirties, whom she had met that evening. This same source was quoted as saying that she had been flirting with the man, and had had a lot to drink. The *Star* also quoted the woman's neighbours, who said she was a heavy drinker and often took younger men back to her apartment. The tone of the article implied that the murdered woman had brought about her own death through her drinking and sexual behaviour.

Donelda Moran's murder was as brutal and horrific as those of Leslie Mahaffy and Kristen French, yet the press showed little interest. Donelda Moran was portrayed as "asking for it" - an older woman who drank too much and picked up young men. Because she was not young, pretty and "innocent," the media saw her death as being somehow less of a tragedy.

Clearly, myths about rape and womanslaughter influence the media's coverage of such crimes. By choosing to emphasize certain cases, while virtually ignoring others, and by stereotyping both the victims and the attackers, the media distorts public perceptions of violence against women.

Jan Darby is a freelance researcher/ writer in the field of women's health.

STOP THE
. . teachers . . . shrinks . .
. . brothers . . . professors . .
. . landlords . . . busdrivers . .
. . . . . .
RAPE
. . . . . .
. . judges . . . cops . . . dates . .
. . husbands . . . strangers . .
MEN WHO RAPE

Vancouver Rape Relief and Women's Shelter 872-8212
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WOMEN'S SELF-DEFENCE
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In this 12-15 hour program, designed to meet the needs of women today, you will be presented with a combination of:

1) *Simple physical techniques to defend yourself* 2) *Discussions to raise awareness*

This results in an *integration of mental and physical preparedness*. It gives you a sense of choice and an alternative to being a victim.

Appropriate to all women regardless of fitness level, age (12 and up) or physical ability.

Cost: $60.00

Information/registration: *837-2017, 741-6162*

The Womanist

From *The Womanist, 4*(1), p. 41. Copyright 1993 by Joan Riggs and Lynne Taylor. Reprinted with permission.

[8] *The Womanist* was published and circulated nationally from 1988 to 1993 by feminist activists Joan Riggs and Lynne Tyler. When describing what they hoped to achieve with their newspaper, Riggs and Tyler (n.d.) stated: "the opportunity to move beyond a form of feminism which, at that time, had not facilitated an inclusive voice for black women and women of colour. We were striving to have an integrated approach to feminism" (para. 4)

constitutes VAW. Printed right below the article was the advertisement for the Wen-Do Women's Self-Defence Course.

The advertisement appeared again in the Fall 1993 issue of *The Womanist* (see Figure 2), this time on the same page as an article discussing the importance of the Rape Shield Law in limiting further victimization of women by the criminal legal system (Wicksted, 1993). The location of the self-defence course advertisement activates conflicting understandings of VAW for the reader. The article critiques the role media and the criminal legal system play in perpetuating VAW, while the advertisement displaces responsibility onto women through its written claims. The advertisement reinforced the discourse that all women are at risk for experiencing violence, that there is something each woman should do to minimize that risk, and that learning to fight back will protect them

Figure 2.

Rape Shield Law Story Juxtaposed with Self-Defence Advertisement



Fall 1993 page 7

A welcome victory

Keeping rape crisis centres safe

by Anne Marie Wicksted

Try to imagine this scenario: You have just been sexually assaulted; you are confused and terrified but know that you must reach out for help if you are to survive. So you call the one place you know will be a safe place; you call the local Rape Crisis Centre and speak to a counsellor. After several appointments in which you sort through your most intimate feelings, you feel strong enough to report the crime to the police and soon will have your day in court.

Later, when your assailant goes to trial, his attorney subpoenas the records as well as the counsellors at the Rape Crisis Centre. You remember all the private, embarrassing things you spoke of, and once again feel betrayed.

The defendant believes he has a right to have access to all your statements about the alleged assault so that he may have a fair trial. But you are thinking, "what rights do I have?" If you had known that everything you said could be revealed to your attacker, would you have made the decision to report? Would you have even reached out for help? Would any victim?

The women working at the Rape Crisis Line in Simcoe County, Ontario recently faced this scenario. As Executive Director of Barrie and District Rape Crisis Line, I was recently subpoenaed by a defense attorney, along with another counsellor, Bonnie Bobbette, and our records of a client we had recently assisted. We were being asked to disclose everything the woman had said in her counselling sessions. In Canada, only the confidentiality between a client and their lawyer is recognized by law, not the confidentiality between a client and their counsellor. We believed we had no choice but to risk a contempt of court charge and possible jail sentence.

It has taken many years to build our agency into a safe haven for survivors. The needs of victims of sexual assault as they have defined them are for confidentiality and the security of the information given to our staff and volunteers. Victims need to know – need to be **guaranteed** that nothing would ever be disclosed to anyone.

We did not want to participate in the further victimization of this woman and we also wanted to give a strong message to all victims that we would protect their privacy, at all costs.

Therefore, our agency attempted to have the subpoena quashed by maintaining our client's right to "privilege" within the courts. In our defense on May 19, 1993, our agency's lawyer, Gavin May, argued on the Rape Crisis Line's behalf, making the following points.

Each year the Rape Crisis Line responds to an increasing number of callers; last year more than 1200 victims received assistance within Simcoe County. An additional 500 people used our crisis line anonymously, too frightened to identify themselves. We could not convince them that their identity would be protected either because they were under the age of 16 (and therefore we are legally obligated to report the abuse) or for other reasons.

Approximately 15-30% of our callers eventually report their abuse to the police. This percentage fluctuates with the information that is heard in the media about the consequences of reporting. For example, the intense media exposure given to the striking down of the Rape Shield Law saw a dramatic **decrease**, in the following six months, in the number of women wanting to enter the Criminal Justice System. Women felt they no longer had protection if their private life was to be open for review and scrutiny.

We can learn from the experience of the children, when they fear being exposed. Most of the children who call our service do **not** follow through with treatment because we cannot guarantee them confidentiality. Minors frequently express their intense fear of not feeling safe due to our legal obligations to reveal their identity and the circumstances of their abuse. They cite this specific reason for not seeking help and most remain in their abusive situations instead.

In 1987 I responded to a 13-year-old girl who called the crisis line late one evening asking for help. She described that her step-father was regularly having sexual intercourse with her as well as forcing her to perform fellatio on him. We spoke for several hours one evening and I was unable to convince her to follow through with continuing support or to report her abuse. She would not agree to reveal herself unless I promised to protect her identity.

This young girl eventually did call back several years later - on precisely the day she turned 16 and I could protect her. Sadly, she had to endure several more years of abuse before she could get the help she deserved. I am sure that if she had been able to get the support she needed to feel strong enough to escape her abuse, she would have been saved from the continuing damage of her step-father. This damage tormented this young girl until she finally took her life in 1990.

Our counsellors work diligently to promote a feeling of safety. All of us sign a confidentiality statement in which we promise to protect the identity of callers and any information regarding them. Any breach of this promise will, and has, resulted in their immediate dismissal and/or disassociation from our agency. It is a promise they must renew annually.

I am convinced that if victims of sexual assault heard that their identity and file information could be accessed by defense attorneys, they would no longer feel safe at our agency nor at any Rape Crisis Centre in the country. The security and mandate of our services would be lost even if the risk of disclosure of information is minimal. There would no longer be a **guarantee**, a solid promise that we could make to survivors of sexual assault. Victims of sexual assault would stop calling and crimes would go unreported and unpunished. What deterrence would there be if no one reported this crime?

On August 10, 1993, we walked into the courtroom supported by a large group of people peacefully protesting outside the building, to hear the judge's decision. We felt confidant but had our bags packed just in case.

Judge Robert Main began reading his decision and from the very beginning we knew we had won. "...to understand the issue in the balance, one must have some sense of why a sexual assault or rape victim talks to a counsellor. Sexual assault is unique. As a society we are just beginning to understand the profound and often permanent trauma experienced by victims of sexual assault...That there be a source of counselling available to such a victim is essential." He went on to say, "I do accept that if such disclosures between the sexual assault victim and her counsellor were made accessible it would result in injury to the victim, and to the relation between her and the counsellor. As an axiom of common sense, the spectre of having these most intimate disclosures made open for public scrutiny would be most inhibiting. For some victims, this would be an insurmountable hurdle that would prevent or delay them from seeking counselling and therapy."

The Judge concluded his decision by stating, "...I am persuaded that the relative values in favour of privilege in these circumstances outweigh those in favour of the defense...I do uphold the assertion of a privilege with respect to communications between this complainant and her sexual assault counsellor."

We walked out of that courtroom victorious and elated - an unfamiliar feeling for women within the Criminal "Justice" System.

Anne Marie Wicksted is the Executive Director of the Barrie and District Rape Crisis Line. She has worked with more than 2500 victims of sexual assault.

The Womanist

From *The Womanist, 4*(2), p. 7. Copyright 1993 by Joan Riggs and Lynne Taylor. Reprinted with permission.

from being a victim. However, as discussed in greater detail in Chapter 5, women who use self-defence during a DV incident are more likely to be criminalized.[9]

Advertisements encouraging women to report their abuse are another example of how the VAW movement's 'all women' risk discourse individualized responsibility for ending VAW. A criminal lawyer from Ottawa I interviewed discussed how billboards directed at victims perpetuate this discourse, similar to the Self-Defence advertisement:

> I see the billboards. If you see domestic violence, call 1-888. If you're experiencing it, we can help … We're saying it's your fault and at the end of the day, we're saying if you're not phoning the one-triple-eight number, well you know what, it's your problem. (P29)

This participant makes a clear link between how messages that place responsibility on the victim to reach out for help simultaneously reinforce the message that she is responsible for ending the violence in her life.

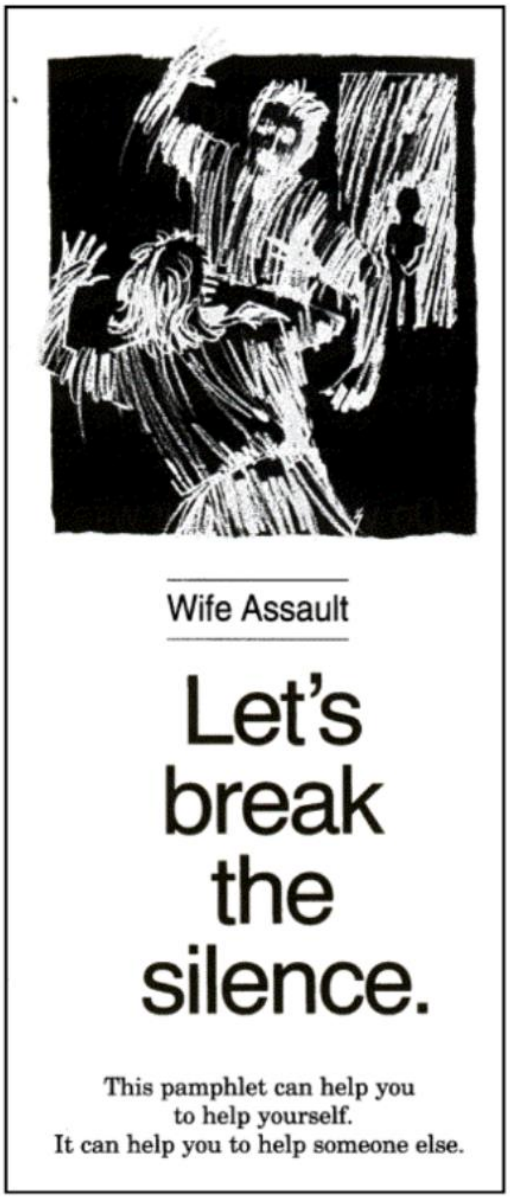
In 1984, the OWD launched "an expensive and far-reaching publicity campaign, urging women to 'break the silence on wife battering'" (London Battered Women's Advocacy Clinic, 1984, p. 27). The front of the campaign pamphlet (see Figure 3) read: "Wife Assault. Let's break the silence. This pamphlet can *help you to help yourself* [emphasis added]. It can help you to help someone else" (OWD, 1991, cover). The messaging of this campaign, as well as the billboards the participant above discussed, oversimplified the ease with which woman can leave abusive relationships, erased the responsibility of the man committing the violence, and assumed that outside intervention would be effective in stopping the violence.

[9] For further discussion, see Chesney-Lind (2002), DeKeseredy (2020), Hamberger and Guse (2002), Henning et al. (2003), Hirschel and Buzawa (2002), Hooper (1996), Kernsmith and Kernsmith (2009), Miller (2001), Larance and Miller (2017), Pollack et al. (2005), Polletta (2009), and Poon et al. (2014).

The dominant discourse of the VAW movement that framed 'all women' of being at risk for violence in their relationship inadvertently shifted the responsibility for ending the violence from social change to individual responsibility. This individualized focus occurred through a gender essentialist narrative and advertisements telling women to 'break the silence' shifted the response to VAW to within the purview of established institutions and more specifically the criminal legal system. The role of the criminal legal system is to intervene in the use of violence within society and protect vulnerable victims. By claiming that all women are at risk of experiencing violence, the criminal legal system became the seemingly logical institution to respond to incidences of individual-level violence and enabled the criminalization of women victim-offenders under the guise of protection and support.

Figure 3.

"Break the Silence" Brochure



From *Wife Assault: Let's Break the Silence* [brochure], by Ontario Women's Directorate/Ministry of Children, Community and Social Services. Copyright 1991 by King's Printer for Ontario. Reprinted with permission.

Narrowing the Understanding of Abuse Through an Over-Emphasis on Physical Violence

A second discursive practice of the Canadian VAW movement was to frame DV through an almost exclusive focus on severe examples of harm (Cross, 2022). Social problems scholar Donileen Loseke (1991) argued that early advocates within the VAW movement succeeded in equating wife abuse with "extreme, repeated, and unstoppable acts of physical violence" (p. 251). Narratives of physical harm were frequently shared publicly by the women themselves, something the following London-based activist I interviewed addressed:

> My involvement was then to put me on the front stage of any feminist organizing activities to tell my story. I'm critical about that now … I still see it. I call it a kind of *political pornography* [emphasis added]. I wish we could let that go. It was damaging to me and others that were put on the stage. (P01)

Relying heavily on narratives of personal experience that centred physical harm, the dominant VAW movement discursively constructed the forms of violence publicly recognized as abuse. To gain attention in the media, social movement activists often relied on the media's preference for dramatic events believing these events would hold the audience's attention (Kielbowicz & Scherer, 1986; Stark, 2012). As a result, personal narratives based on extreme forms of violence were used to garner public sympathy and create a public construction of battered women (Leisenring, 2006).

Although the VAW movement was built on the consciousness raising of survivors (Bumiller, 2008; Currie, 1990; Goodhand, 2017; Hanisch, 1970), as the movement gained public attention, the pressure on women to share their experiences of violence leaned more toward the needs of the movement as a whole and less toward the well-being of individual survivors. In

September 1992, at the *Towards Women's Safety Forum*,[10] survivors of assault, women's advocates, leaders of men's programs and other Ontario service providers came together to develop principles and guidelines for provincially funded programs for abusive men. The conference organizers collected written feedback from attendees and published the comments in a final report. With respect to the role of survivors at the conference, one attendee wrote, "I have the impression that since participants were not consulted before hand re. [*sic*] group topics, focus, point of discussion, we might be used to rubber stamp government agenda for political expediency" (Gardner & Nelson, 1993, p. 50). A second conference attendee also raised concerns about the involvement of survivors: "use of survivors as political tool … we have to arrive together at a conclusion and not be used in a political way without our consent" (p. 54). The use of victim narratives, what the activist participant above called "political pornography," by the VAW movement to garner public interest in the issue and establish a discourse regarding the severity of harm of the violence frequently came at the expense of the emotional well-being of the survivors asked to share their experiences.

The need to balance the goals of the movement and the use of victim narratives was echoed by a survivor who joined the Accountability Group to provide experience-based feedback for *Creating A Community Response to Abused Women & Their Families: The Durham Region Experience*. The survivor cautioned, "Never recommend that an abused woman be involved in this type of process without being very aware of how difficult this can be for her" (Mathes & Farquhar, 1995, p. 0 - 15). In a paper interrogating the role of experience in feminism, gender studies scholar Alison Phipps (2016) critiques the VAW movement's use of first-person narrative, arguing that "personal narrative can *actively* be used as a tool of silencing which works

[10] Co-sponsored by the Ministries of Community & Social Services, Correctional Services, and Ontario Women's Directorate.

to reinforce the power of the dominant through capitalising upon emotional responses and invisibilising structural dynamics" (p. 4). Working in a similar way as the gender essentialist discourse that framed 'all women' as being at risk for abuse discussed previously, the use of first-person narratives to demonstrate the severity of harm women experience individualized their experiences of violence, rather than emphasizing the structural oppressions that contribute to VAW. In addition, because the criminal legal system is tasked with intervening in incidents of violence between individuals, the emphasis placed on physical violence reinforced the criminal legal system as the seemingly logical response to VAW.

In his foundational piece, *Rhetoric in Claims-Making*, sociologist Best (1987) analyzes a similar discursive practice used in the social construction of missing children. Best found that media articles "routinely began with accounts of one or more atrocity" (p. 105) to attract attention to the social problem while simultaneously shaping the perception of the problem. In a 1994 government report, activist-scholar Linda MacLeod[11] acknowledged the Canadian VAW movement's reliance on personal narratives: "In an attempt to make the horrible problem of widespread violence manageable both financially and emotionally, we tended to concentrate primarily on the acts of violence experienced by individual women" (p. 9). The "atrocity tales" (Best, 1987, p. 105) of violence experienced by women shaped the problem into one in which physical assault became the most recognized form of abuse. MacLeod (1994) goes on to discuss the impact of this narrowing:

> Perhaps the most important consequence was that policy makers, government funders, police, hospital workers, social workers and the media increasingly limited the operational definition of abuse to physical and/or sexual abuse, in accordance with the

[11] MacLeod conducted the first survey to measure rates of VAW systematically in Canada, see *Wife Battering in Canada* (1980).

> legal definition of assault and in accordance with the types of abuse that are generally seen as requiring crisis intervention. (p. 9)

The emphasis placed on physical harm, which utilized individual narratives of violence to draw attention to the social problem of VAW, constrained public and political knowledges regarding what constitutes abuse. This constraint aligned the understanding of abuse with the criminal legal definition of victimization.

A front-line service worker in Brampton who provides support to women experiencing all forms of abuse, described the detrimental impact of narrowing the understanding of VAW to physical violence in the 1990s:

> I remember a woman I was working with actually said to me, "I wish he would hit me and I would show you the bruises because then I'll have something to show" … those are the women that I think we are failing, the women that are not being physically assaulted, yet they are being damaged big-time, them and their kids. (P16)

The severity of harm discourse erased the experiences of women who did not have "atrocity tales" (Best, 1987, p. 105) to share, limited their access to support, and defined which interventions appeared warranted.

In her article advocating for the VAW movement to adopt a new narrative, sociologist Francesca Polletta (2009) argues that, "current approaches to woman battering gained traction through a narrative of violent victimization" (p. 1493) and as a result the "existing approaches to domestic violence, focused as they are on individual incidents and physical injuries, are simply not equipped, legally, and more important, conceptually, to combat the problems that battered women face" (p. 1499). The practice within the VAW movement to have women share their first-person narratives of violent victimization replicated the discourse focused on physical

violence that transcended the everyday experiences of women in abusive relationships. In addition, the emphasis placed on physical violence most closely aligned with a *Criminal Code* violation, making a criminal legal intervention the most logical response to women's violent victimization. However, as discussed in greater detail in Chapter 5, framing VAW as severe physical harm constrained public and policy knowledges of other forms of abuse and shaped the implementation of the DV criminal legal interventions. For example, when police have a limited understanding of the dynamics of abusive relationships that emphasize discrete acts of physical violence, they are more likely to arrest women victim-offenders following the implementation of a mandatory arrest policy (e.g. Chesney-Lind, 2002; Hirchel & Buzawa, 2002; McMahon & Pence, 2003).[12] In addition to centring physical violence, the reliance on victim's individual narratives framed the family as the primary site of oppression for gender-based violence.

Locating (White) Women's Oppression in the Home by Focusing on Individual Men as Perpetrators

The dominant discourse of the Canadian VAW movement claimed that the greatest risk of violence faced by all women was in their home from their intimate partner. Feminist activist-scholar Gillian Walker (1990) recalled, "We also became involved in a critique of 'the family' … the feminist analysis of the family as an institution that embodies the political oppression of women at its most personal" (p. 98). The conceptualization of family as the primary site of oppression, and more specifically on individual men as perpetrators, disregarded the experiences of some women of colour for whom dependency on family and ethnic community increases within a racist and classist society (Agnew, 1993; Ruttenberg, 1994; Singh, 2016). The discursive practice by the VAW movement to frame men as "solely responsible for their abusive

[12] For more discussion, see also Abel (2001), Comack et al. (2000), Fraehlich and Ursel (2014), and Poon et al. (2014).

behaviour" (Loseke, 1991, p. 251), erased the systemic violence experienced by marginalized communities. In this way, locating women's oppression within the home, similarly echoed the emphasis placed on individual-level violence within the gender essentialist and physical harm narratives, justifying intervention by the criminal legal system. VAW advocates in favour of DV criminal legal interventions equated the safety of women with the surveillance and prosecution of individual men (Brockbank & Greene, 2022; Gruber, 2020; Kim, 2018; Terwiel, 2020a).

By framing individual men as the perpetrators of VAW, the dominant discourse of the Canadian movement precluded men from being part of the solution for ending VAW. Several participants and various documents discussed the tension that arose between some advocates regarding the role of men in ending VAW. An activist I interviewed acknowledged the hostility and expressed regret about her own behaviour toward men, "We needed to be accountable to ourselves for our own almost fascist views in those days … I'm ashamed about how I treated men who were taking responsibility" (P01). In a transcript from the London Women's History Group,[13] activist Marion Boyd (2010) shared that "there were a lot of times that I was taken aback by the hostility and anti-male expressions that some people have" (p. 5). During her oral history interview, activist Gail Hutchinson (2010) made the connection between the negativity directed toward individual men and how that shifted the focus of advocates away from systemic issues: "so all men were the enemy, which wasn't right … there wasn't the fighting against oppression and violence … it became hard to put on a conference for example because everyone would be fighting" (p. 6). The reference Hutchinson made to the difficulty in putting on a

[13] The London Women's History Group was established in 1999 to gather and preserve records documenting the history of the women and women's organizations involved in feminist activism since the late 1960s. The Group partnered with Western University in 2010 to interview London activists to capture the oral history of their contributions to the women's movement. The transcripts are housed in The London Women's History Group Collection (AFC 100) in the Western Archives. Interviewees gave permission for their names to be disclosed in publications using the transcripts (R. Coulter, personal communication, June 9, 2024).

conference was well documented in the final report of the *Towards Women's Safety Forum* discussed above. According to the report, no consensus could be reached among attendees regarding whether former abusers should be involved in the design and implementation of intervention strategies to end VAW. The report refers to this as a "bitter dispute [that] resulted in [among other things]: a decision to ask a self-identified former abuser to leave the forum" (Gardner & Nelson, 1993, p. 26). The report also documented comments made by women of colour who were in favour of including men: "Black women are not leaving their men behind; they want perpetrators in their groups because they want to 'sit on them', to challenge their sexism and violence" (p. 28). Another quote by a woman of colour demonstrated the tension between the dominant practices of White VAW advocates and the subjugated practices of advocates from marginalized communities: "Looks like big disaster in this conference. White women are against men's groups and Black and South Asian women are in favour" (p. 53). Lastly, a Black woman "told white feminists that they were too narrow in their views, in their understanding of violence and challenged them to change" (p. 28). Black advocates at the *Forum* denounced the harmful practices of the VAW movement that ignored the impact of race and class, as well as the emphasis placed on individual male perpetrators, when framing women's experiences of violence. Critical race and feminist scholar Collins (2017) draws attention to a distinctive Black feminist politics that is characterized by a "flexible solidarity," (p. 1469) where alliances within African American communities are navigated through both compromise and contestation. According to Collins, "Black women were more likely to see the ways in which they were simultaneously in solidarity with Black men regarding racism as well as the ways in which such solidarity was problematic regarding sexism and homophobia" (p. 1469). The women of colour participating in the *Towards Women's Safety Forum* expressed their "flexible

solidarity" (p. 1469) and offered a critique of how the perspective of White women shaped the VAW movement.

Some interview participants recognized how White activists influenced the knowledge and understanding of VAW in their communities. One White activist reflected:

> We started to scrutinize every aspect of society and understand the history of men feeling entitled, based on the history of property and being a wife … that analysis was a Western analysis, it did not penetrate or start to be open to listening to the intersectionality issues around women with disabilities, women who had been racialized and the men that were in their lives and the diversity, I have to acknowledge that. (P01)

Another White participant recalled being publicly criticized by a well-known intersectional feminist scholar for her Western analysis of wife abuse in a text for front-line workers:

> When you're reading about yourself as this White liberal feminist who basically doesn't know what she's doing, it hurt. But she was right. And that was kind of my introduction to intersectionality and to recognize that I had problems that I couldn't unpack by myself and that kind of drove me to trying to understand much more about what intersectionality is all about. What is Whiteness all about? (P28)

Both participants above acknowledged that a lack of diversity within the VAW movement shaped the dominant understanding of gender-based violence. As a result, the perspectives of White activists determined which interventions appeared justified in responding to abuse.

A 1995 report by the Federal-Provincial-Territorial Working Group on Multicultural and Race-Relations in the Justice System examining barriers to justice for ethnocultural minority women read, "the needs of ethnocultural minority women who are *abused within their homes* [emphasis added] cannot be separated from the needs of ethnocultural minority women in

general" (Roboubi & Bowles, 1995, p. 1). In the section on "Institutional Barriers, Access to Services and Benefits," the report stated further:

> There is a lack of representation of ethnocultural minority women in women's shelters and other services (legal, health, social services). Battered women from immigrant or ethnocultural minority communities may feel reluctant to ask for assistance if they feel the service providers have values, beliefs and experiences which are quite different from their own. (p. 7)

In an article based on her own experiences and those of other immigrant, Jewish, and women of colour shelter workers in Toronto, feminist and anti-racism scholar Rita Kohli (1993) described how jobs in shelters "have not been *empowering*. The silencing, invisibility, fear of reprisals, the greater demand for accountability, profound sense of betrayal, powerlessness, implicit coercion and punishment speak of grievous contradictions between the feminist mandate of shelters and the actual practice therein" (pp. 414–415). During a joint interview, two participants for this study discussed how they worked together to overcome the invisibility of women of colour by designing and implementing services for racialized women within their shelter:

> We were the only two women of colour I think at that point working at the shelter, so a mutual interest in working with immigrant women, racialized women, developing techniques and strategies to help them increase their access to the shelter and understanding of what was going on. We actually ran multicultural groups for women who were experiencing violence. (P17)

These participants advocated for immigrant, racialized women within their shelter, demonstrating the importance of diversity in creating supports and interventions when responding to VAW. However, in a study examining the relationship between the Canadian

women's movement and state feminism, political scholars Rankin and Vickers (2001) reported that not all shelters were as willing to incorporate diverse perspectives:

> There have been conflicts in some shelters for battered women in Canada, for example, because mainstream shelter workers believe violence is part of 'man's nature,' while many Aboriginal women and women of colour believe poverty, racism and colonialism affect men's behaviour. Some of the (still too few) Black, Asian and Aboriginal women working in shelters believe White women won't admit complicity in the structural violence of racism, pointing out that young, poor, non-White men are the most frequent victims of violence, often at the hands of the (still mainly White) police. (p. 39)

The emphasis the predominately White VAW movement placed on framing men as perpetrators is something that interview participants also acknowledged. A front-line worker from Ottawa, with experience facilitating Partner Abuse Response (PAR) programs for men, reflected on how the discursive practices of the VAW movement may have hindered opportunities for early interventions with men:

> We've kind of in such a negative way stigmatized men who use violence, that the thought of them reaching out and disclosing that before it gets to the point of criminal involvement is really daunting to them because I think they are reluctant or afraid to be judged and to be labelled and to be tossed away. (P23)

The conceptualization of VAW as an isolated act perpetrated by individual men shaped the interventions available to men who use violence. Community-based interventions were replaced by government-funded PAR programs that could not be accessed by men without involvement in the criminal legal system. An activist participant discussed being confronted about the punitive treatment of men within the dominant narrative of the VAW movement, "I had an Indigenous

woman say to me … 'Oh you White women, you throw your men away'" (P28). The discursive practice of focusing on individual men as perpetrators of violence in the home led the mainstream VAW movement to justify 'throwing men away,' specifically into the carceral system. The racist and classist underpinning of the criminal legal system has meant that DV criminal legal interventions are disproportionately applied to families of colour, resulting in higher rates of criminalization for both men and women from marginalized communities (Arnold & Ake, 2013; Bumiller, 2010; Buzawa & Buzawa, 1996; Gotell, 1998; McDermott & Garofalo, 2004; Polletta, 2009; Snider, 1994; Walker, 1995; Weiss, 2020).[14]

Creating Victims in Need of Protection by Undermining the Agency of Women

The VAW movement's construction of the 'battered woman' created a victimhood that implied women experiencing violence in their homes needed saving from themselves and their partner increasing the risk of criminalization for women victim-offenders. In the transcript from the 1997 Consultation on VAW, a meeting between Anne McLellan (Minister of Justice and Attorney General of Canada) and attendees representing over 60 women's groups, Hedy Fry, then Secretary of State (Multiculturalism, Status of Women) made the following comment:

> I think we need to look at the fact that *we continue to portray women as victims* [emphasis added]. I believe that women should be seen as people who have a great deal to offer, as a resource, as having an equal role to play in the economic, the political, the cultural and the social life of our country. (Department of Justice Canada, 1997, p. 43)

In their gender-based analysis of Canadian social policy from 1994 to 2004, political scientists Brodie and Bakker (2007) also discuss how in Canada and elsewhere, there was an overwhelming narrative of "'victim feminism,' which allegedly cast all women as an exploited

[14] Discussed in greater detail in Chapter 5.

economic underclass or as the prey of batterers and rapists" (p. 35). Portraying women as victims created a discourse in which women who experience violence were seen as incapable of keeping themselves and their children safe. This discourse of protection places agency and victimhood in opposition with each other (Dunn & Powell-Williams, 2007; Hunnicutt, 2019; Loseke, 2000; Mahoney, 1994; Polletta, 2009; Schneider, 2000). Feminist scholar Pidduck (1995) argues that when "our only basis of unity as women may be our shared status of looming potential victimhood" (p. 149), the VAW movement, by emphasizing women's vulnerability rather than agency, provides a justification for government-administered interventions. For example, while developing *Creating A Community Response to Abused Women & Their Families: The Durham Region Experience*, some service providers supported the idea of mandatory reporting of VAW (similar to child abuse reporting laws). The justification for this type of intervention read, "As abused women are in danger and terrified and assault is a crime, the system needs to take responsibility for decisions regarding their safety" (Mathes & Farquhar, 1995, p. 0 - 40). The claim that 'the system needs to take responsibility for decisions' infantilized abused women and implied they are incapable of making their own decisions about how to keep themselves and their families safe. In addition, taking responsibility for protection away from the woman experiencing violence can lead to more risk, not less, as one front-line worker discussed in their interview:

> I can remember one time being asked to attend a doctor's appointment for a new family, for a woman who was new to Canada but some serious reports had come in, I think it had been police involvement and CAS [Children's Aid Society] wanted me to be there while they talked to her and it completely backfired because number one, her first language is not English. She was expecting to come to the doctor to talk about whatever was going

> on for her and here's two agencies, she doesn't know the people. It did not go well at all … I will not participate in ambush situations like that; women need to have a voice and a choice around next steps … I never heard from that woman ever. (P25)

This participant demonstrates how intervening without the woman's consent may prevent the woman from reaching out for assistance in the future leaving her isolated and at greater risk for future violence.[15] In their critical literature review of DV policy and legal discourses, scholars Abraham and Tastsoglou (2016) argue that when women experiencing DV are portrayed as victims, with limited agency, a discourse of state paternalism is created where these women are seen as needing to be supported and regulated by the state. A criminal lawyer I interviewed also discussed how the discourse of protection undermined the agency of women, "Well women are weak and they're not that smart and they can't take care of themselves, so we need to scoop them and to protect them" (P29). The discursive practices of the VAW movement that shaped the understanding of abuse based on extreme narratives of individual-level violence perpetrated by men within their homes while simultaneously claiming that all women are at risk, created an image of women experiencing violence as victims in need of protection.

In his foundational piece, *Who is the Victim?*, critical criminologist Richard Quinney (1972) argued that victims are socially constructed through a rhetoric of victimization and that the "conception of the victim—*precedes* the definition of an act as criminal. If a victim cannot be imagined, a criminal law is neither created nor enforced" (p. 315). Building on Quinney's work, sociologists Holstein and Miller (1990) analyze the descriptive practices through which victim status is assigned to individuals and groups and claim that victim status was "widely allocated to abused women" (p. 119) thus "justifying the intervention of others intent on 'protecting' their

[15] See also discussion in Chapter 5 that makes a link between charges proceeding against the woman's wishes and an increased likelihood that she will not reach out to the police for protection in the future.

interests" (p. 120). The discursive practices of the VAW movement successfully framed VAW as a crime and the women experiencing violence as victims in need of protection. The Ministry of the Attorney General is specifically tasked with "administering the justice system in Ontario and *protecting the public* [emphasis added]" (King's Printer for Ontario, 2023). The VAW movement's framing of women experiencing violence as needing protection placed the intervention to end VAW within the mandate of the criminal legal system.

By placing VAW in the purview of the criminal legal system through a discourse that codifies abuse through victimhood, activists made DV criminal legal interventions a seemingly logical next step in ending VAW. However, this discourse silenced the experiences and responses to violence from marginalized women and their communities (Agnew, 1993; Arat-Koç, 2012; Collins, 2017; Crenshaw, 1991; Phipps, 2016). In addition, the reliance on "atrocity tales" (Best, 1987, p. 105) created an image of a physically assaulted woman in need of protection from individual-level violence. This placed too great an emphasis on physical violence, creating a hierarchy of harm and limiting the support available to women experiencing all forms of abuse. Lastly, the discourse of protection created an image of a victim with no agency and prescribed an intervention by the criminal legal system. This victim status, however, can be assigned and then withdrawn in response to changing circumstances and is dependent on the interpretation of those reporting and describing events (Holstein & Miller, 1990). Women victim-offenders experience a change in victim status when they are shifted from 'victim' to 'offender' through DV criminal legal interventions that fail to consider the systemic and on-going patterns of abuse they experience. This shift was enabled through the discursive practices of the dominant VAW movement.

Collaborative Practices of the Ontario VAW Movement

The discursive practices of the VAW movement were effective in gaining public attention for what had traditionally been seen as a private family matter. In addition, VAW advocates sought to influence and change public policy (Beaudry, 1985). The necessary changes in public policy required the government to become a legitimate source of response to the problem of VAW (Hilton, 1989). In a study examining feminist organizations' influence in producing policy outcomes, Fletcher and Star (2018) found that collaboration was the most commonly used activist technique to achieve change. My analysis of interview transcripts and documents revealed the following collaborative practices of the Ontario VAW movement, discussed in detail below: (a) intentionally engaging with the state to directly influence institutional responses, (b) interacting with the state through forced coalitions to ensure delivery of direct services for women, and (c) coordinating with community-level state actors to govern local responses to VAW. In the final section, I interrogate how shifting political priorities led to changes in the collaborative practices of the VAW movement, which ultimately centred the criminal legal response to VAW contributing to the criminalization of women victim-offenders.

Engaging with the State to Shape Institutional Responses to VAW

VAW activists both chose and resisted engaging with state institutions. Feminist sociologist Reinelt (1995) described the dilemma facing advocates:

> Engaging with the state is a strategy that has risks … state funding is contingent on economic and political forces that one does not control … state engagement can threaten movement solidarity. But any strategy that has risks also has benefits. Funding for movement activities, access to policymakers, and opportunities for educating many people about issues of violence against women are not trivial. (p. 101)

Many feminist scholars argue in favour of state engagement, seeing the state as an essential source of resources (Girard, 2009; Mazur, 2009; Ursel, 1997) and collaboration between feminist organizations and policy makers as the most effective method of producing policy change (Lyons, 2008). In their study of eight national-level American feminist organizations, political scientists Disney and Gelb (2000) found that institutionalization often resulted in "gaining greater legitimacy, getting into the public discourse, and altering the political agenda" (p. 66). They also noted that institutionalization did not equate to deradicalization, something many activists raise as an argument against state engagement. IE founder Smith (2007) asserts that "making change from below" requires activists to participate in the relations of social organization that coordinate people's work through texts.

Other feminist scholars highlight the challenges associated with state engagement, including the concern that it makes women more dependent on the state and more vulnerable to punitive state interventions (Bumiller, 2008; Hunnicutt, 2019; Weldon, 2002). In their study interviewing feminist activists from across Canada, sociologists Rodgers and Knight (2011) reported that growing dependency on government funding by organizations in the women's movement resulted in activists who felt that they were no longer able to set their own agenda. This level of cooptation is supported by findings from Weldon and Htun's (2013) study of 70 countries that found autonomous feminist activism was the strongest and most powerful method of creating policy change from 1975 to 2005, more so than increased women's participation within parliament and legislative roles.

The Ontario VAW movement was equally conflicted about engaging with the state (Boucher, 2021; Collier, 1997; Malloy, 2003; Quinlan, 2017; Ursel, 1991; Whitzman, 2007). A number of activists and organizations worked collaboratively to create and implement

interventions for ending VAW, while others remained disengaged from the state. While the dominant historical narrative on the Canadian VAW movement frames the engagement of activists with the state as one of cooptation (Currie, 1990; Hilton, 1989; Lakeman, 2005; Rodgers & Knight, 2011; Snider, 1989), my analysis reveals a more nuanced strategy in the movement which recognizes the agency of advocates who chose to engage in strategic collaborations with the state to shape the government's response to VAW. Feminist activist-scholar Walker (1995) recounted, "We wanted to maintain control of the definition of the issue against attempts to remove it from its context in a political movement" (p. 71). In addition, the "regulatory texts" (Smith, 2005, p. 191) created through these collaborations by governing institutions, as well as VAW advocates, reflected the discursive practices of the movement, which as discussed above, shaped the understanding of VAW into an individualized problem warranting intervention by the criminal legal system.

Interview participants shared their own understanding of why and how engagement with various governing bodies was necessary for the continued growth and legitimacy of the Canadian VAW movement. One advocate explained:

> We fought for funding for shelters because remember they started on the backs of volunteer women, not funded at all. All of those early women never made a penny until we fought for that. Then we fought for childcare in shelters. We felt strongly that government should, services should be publicly funded. (P28)

This activist saw a link between engaging with the state for funding of services and how that funding acknowledged society's accountability for the harms caused to women experiencing violence in their relationships. Another activist participant stressed the importance of not being left out of policy discussions: "I think it's always a good idea to partner, if it's going to happen,

you may as well get in at the table and have some influence and be able to talk about whatever your concerns are" (P08). These participants recognized the importance of ensuring that VAW advocates took part in shaping the practices and textual realities of institutions that frame and authorize the institutional capacity to act in response to VAW (Smith, 2005).

Creating Regulatory Texts through Collaborations with the State

Some collaborations between VAW advocates and state institutions led to the creation of regulatory texts that reflected the movement's framing of VAW. According to Smith (2005), "regulatory texts" (p. 191) frame and authorize the institutional capacity to act by coordinating people's actions across multiple settings and times. For example, the *First Report on Family Violence: Wife Battering* written by the Standing Committee on Social Development contained 45 recommendations for changes within the criminal legal system, transition houses, health care, social services, education, and the convening of a federal-provincial conference on the issue (Legislative Assembly of Ontario, 1982). The recommendations resulted from public consultations and written submissions from shelters, women's centres, social services, teachers, and police forces from across the province.[16] Trudy Don, coordinator of the Ontario Association of Interval and Transition Houses (OAITH),[17] made the main presentation to the Committee on the first day of consultations. According to IE scholar Walker (1990), Don's presentation to the Committee provided more than just information on VAW, "it was part of a process of exchange in which particular ways of defining, understanding, and coming to grips with the issues of abuse as represented by wife-battering were being put into place" (p. 142). Smith (2007) argues that the

[16] See Walker (1990) for an extensive IE informed analysis of the Standing Committee's consultation process and final report.

[17] OAITH was formed in 1978 to coordinate the activities of the existing 10 women's shelters in the province and then provided support and mentorship for activists opening new shelters during the 1980s and 1990s. OAITH remains an active organization, offering training courses and continued advocacy work for ending VAW.

success of the women's movement relied on a collaboration with the social institutions that "organizes social consciousness via the medium of texts" (p. 11). Walker (1990) drew a clear link between the VAW advocates engagement with the Committee and the report: "The achievements of the women's movement representatives were considerable. Their testimony had a substantial impact on how the issue was taken up and dealt with by the committee" (p. 192).

The collaborative practice by some VAW advocates in contributing to the creation of this regulatory text is significant because this report and its recommendations are credited with setting the stage for government initiatives targeting VAW introduced in the following years (Campbell, 2015; Ontario Ministry of the Solicitor General and Correctional Services, 1994a). For example, Recommendation 26 read: "The Ontario Housing Corporation should revise its points-rating system for admission to its rental housing units in order to give preference to victims of wife assault" (Legislative Assembly of Ontario, 1982, p. 58). Five years later, the Minister of Housing announced that the Ontario Housing Corporation created "new guidelines giving top priority to battered women and their children, many of whose lives may depend on such readiness to give shelter" (Curling, 1987, p. 1530).[18]

Although IE scholar Walker (1990) credited advocates with shaping the understanding of VAW contained in the report, she was critical of the emphasis on the criminal legal system. Walker claimed that the report "implicates the work of the women's movement in producing a generalized account and engaging in strategies for action concerning wife-battering as assault" turning the matter "into a social-problem apparatus designed to intervene in the problems faced by individual women within their families and intimate relationships" (p. 193). Walker may not agree that 'producing a generalized account' was the aim of the advocates appearing before the

[18] This priority placement on the waiting list for rent-geared-to-income housing remains in place today for women escaping a violent relationship.

Committee, however, the report appears to reflect the discursive practices of the VAW movement laid out in my arguments above. As a result of framing VAW as a risk experienced by all women, that most often occurs through physical violence perpetrated by men within the home, and from which women need protection, VAW advocates contributed to the understanding of VAW as a social-problem which warrants intervention by the criminal legal system.

Leading risk assessment scholar Zoe Hilton (1989) argued that the focus on criminal legal recommendations in the report resulted from the testimony provided by Dr. Peter Jaffe (member of the London Coordinating Committee to End Woman Abuse) and the London City Police Force. Walker (1990) also recognized Jaffe's testimony as being "particularly influential" (p. 145) on the recommendations and noted that "the representatives of the London program, Jaffe in particular, demonstrated the impact of women's movement activities and the feminist position on the work of professionals in the city" (p. 151). Jaffe's testimony situated the London model of mandatory arrest within a feminist understanding of VAW. This feminist understanding was shaped by local advocates who coordinated a community-based intervention to women experiencing violence.[19] The recommendations from the Standing Committee regarding criminal legal interventions, as informed by the London model, played a direct role in the creation of the mandatory arrest directive issued by the Solicitor General instructing police to lay charges in all cases of wife assault where reasonable and probable grounds exist (Farge & Rahder, 1991). The mandatory arrest directive was the first DV criminal legal intervention to coordinate police responses to VAW through a text and was the result of a collaboration between VAW advocates and state institutions.[20]

[19] See below for a discussion of how the London Coordinating Committee to End Woman Abuse created a community-based intervention to VAW that mobilized the criminal legal system within a network of social supports for women experiencing violence.

[20] The creation and implementation of the London model of mandatory arrest is discussed in detail in Chapter 4.

The Role of Regulatory Texts in Constraining VAW Advocacy Work

The restrictive impact of "regulatory texts" (Smith, 2005, p. 191) in governing the VAW movement was well documented in reports generated by advocates and expressed in my interviews with advocates and front-line workers. Some activists raised concerns about the power-dynamics in the forced collaborations mandated through funding agreements. In the 1993 activist policy document, *99 Federal Steps to End Violence Against Women*, written by the National Action Committee on the Status of Women, the "condition of funding to secure 'partnerships' with universities, police departments, corporations or professional associations of government" (Lakeman & Crean, 1993, p. 10) was critiqued for its implication "that underfunded local women's groups can expect to be equal partners with multimillion dollar institutions" (p. 11). This concern is supported by feminist scholars who report that advocacy work by VAW activists is more effective when they remain independent of state institutions (Rodgers & Knight, 2011; Weldon & Htun, 2013). An activist participant recalled that "there was a lot of controversy" about whether to participate in these coalitions because "some people felt that that's not our role, you shouldn't be working with those systems … they're kind of the enemy" (P05).

For example, a report from a community development project coordinated by the Canadian Association of Sexual Assault Centres claimed that "Existing women's groups twist themselves inside out to meet the criteria of serving government agenda's, not their own" (Lakeman, 2003, p. 111). Several interview participants also discussed how some VAW agencies became more responsive to the government than the women they were supporting because of their funding partnerships. A Toronto-based activist recounted that "many organizations have changed their policy because they're reporting and are accountable to their funders, more than

their stakeholders in the community, who are the service users" (P04). A former shelter worker in Brampton also detailed how some agencies tailored their reports to state institutions to focus on the number of clients they served because funders want agencies that "can process people through the system" but the participant cautioned, "that's not really what this is all about, right?" (P14). Lastly, another former shelter worker summarized that when agencies twist themselves inside out to meet the governance demands of state institutions, "we are no longer responding to the needs of the women" (P17). The concerns raised by these participants supports the dominant historical narrative about government funding restricting VAW agencies' service provision and advocacy work (see Bumiller, 2008; Hunnicutt, 2019; Lehrner & Allen, 2008; Rodgers & Knight, 2011). This funding relationship drew advocates into the dominant practices of VAW governance. The dominant practices coordinate people's work through processes translocally governed by social institutions. According to IE scholars Campbell and Gregor (2002) these processes are generally seen as legitimate and as a benefit to the client but, as discussed by the participants above, the priorities and interests served through the process are neither those of the advocate or clients they serve.

By contrast, there are other instances in the history of the Ontario VAW movement where institutionalization did not equate to deradicalization. For example, a Toronto-based activist shared how their organization navigated the government's restrictions on advocacy work:

> I remember I was a person who was doing fundraising and some of the grant writing … there was a change in the policy where the government was giving you money that no more than 10% of your funding could have gone to political action … they specifically said to us, they will not give us money to bad mouth them or to fight them. So political action, the whole definition in the movement changed, right? … one of the actions we

> engaged in is "Take Back the Night," that we then defined as an educational event rather than a political event. But the goal of it is political because we wanted to bring awareness to what was taking place and happening to women in all areas of their life. (P04)

This activist shared how they were able to maintain their agency's advocacy work by strategically changing a program's definition so that it aligned with the institutional categories determined by regulatory policies governing VAW interventions. Likewise, feminist scholar Boucher (2018) found that activists at two feminist organizations in Ontario engaged in similarly creative strategies to subtly circumvent restrictions on advocacy and retain their social movement roots within an increasingly restrictive funding regime. Finding a balance between maintaining funding, providing services, and conducting advocacy work was a challenge that some agencies were able to navigate more successfully than others.

Providing Direct Services at the Expense of Advocating for Structural Change

The consequences of having to navigate a precarious funding relationship with the state is illustrated through the impact of service delivery at the expense of the Canadian VAW movement's broader goals of structural change. The VAW movement created services for women experiencing violence that had not previously existed, as many scholars have argued (Boucher, 2018; Brodie & Bakker, 2007; Currie, 1990; Hague et al., 2001; Johnson & Dawson, 2011; McIntyre, 2002). As one activist participant recounted: "We were creating agencies and services for women … places that made sense for survivors to make use of" (P01). The early DV shelters, in addition to providing safe places for women, were sites of consciousness raising and advocacy work to enact structural-level change to end VAW (Bumiller, 2008; DeVault, 1996; Goodhand, 2017; Smith, 2005). However, by the mid-1980s and early 1990s, a noticeable shift in the focus and energy of VAW advocates occurred.

In a 1984 questionnaire sent to women's organizations across Canada, 80% of shelters who responded indicated that they had tried to influence governments on the issue of VAW (Burt, 1990). Nevertheless, the majority of organizations also selected "provision of services to the members and informing the public about their goals" (p. 20) over "the pressure tactic of organizing protests" (p. 20) as the main goal of their group. Sociologists Rodgers and Knight (2011) report that during the 1990s, the organizational base of the VAW movement became "a service-oriented structure" (p. 578). The focus on direct service provision began to hinder broader advocacy work, as acknowledged by community activist Marilyn Struthers[21] in a 1994 article published in *Canadian Woman Studies*, "From the micro-perspective of the rural community, it becomes strikingly obvious that we need to reconsider the framework that suggests individual healing is a solution to a systemic social problem of the unprecedented magnitude of violence against women" (p. 2). Five years later, feminist scholars Denham and Gillespie (1999) identified this choice in their government report: "Crisis intervention took precedence over advocating for the longer-term goal of preventing woman abuse through extensive structural changes" (p. 9). In their oral histories for the London Women's History Group, several activists made similar arguments. Julie Lee (2010) stated, "the violence against women movement has turned into a therapeutic movement … I don't think its [*sic*] ever really transcended" (p. 5). Constance Backhouse (2010) expressed regret that the emphasis placed on services overshadowed more radical demands for change:

[21] Struthers would later be appointed to the Joint Committee on Domestic Violence created by the Ontario government in 1998 to provide advice to the Attorney General on the government's implementation of the May/Iles jury recommendations. Struthers lived in the same rural community in which the femicide occurred.

> I think that is one direction that we spent too much of our energy in retrospect. Trying to create fundraising campaigns and lobby for money that would sustain a whole set of direct service organizations … we lost sight of some of our radical politics. (p. 9)

It is not only in hindsight that advocates recognized that providing support for individual victims should not come at the expense of advocating for wider systemic change. For example, in 1993 the forum, *Ending Violence Against Women: Moving into Action*, drew attention to these concerns in the brochure for the event: "the movement to deal with this violence has lost some of its momentum for grass roots change" (London Battered Women's Advocacy Centre, 1993, p. 2) and instructed that "now is the time to refocus our agenda to bring about societal change that deals with the roots of the problem rather than responding to its 'symptoms'" (p. 2). The aim of this forum was to 'refocus' the energy of the VAW movement and overcome the challenge of expending too much energy on supporting individual women and not enough on the wider-systemic changes required to end VAW. More than a decade later, this challenge remains for both the agency that hosted the forum and the broader movement. In 2001, the London Abused Women's Centre[22] published a report investigating the criminal legal system's response to men's VAW. The report acknowledged the continuing tension between direct service and advocacy work: "while the safety of an individual woman is the fundamental priority of intervention, enhancing the rights of women as a group must be the fundamental priority of advocacy" (Walker & Hanington, 2001, p. 3).

The findings discussed above demonstrate how some activists expressed concerns that the VAW movement was too focused on an individualized response to VAW. Feminist activist-scholar Walker (1995) described this shift in focus as a reorganization of "the work of feminists

[22] Formerly London Battered Women's Advocacy Centre.

away from their initial political undertaking and towards a role as marginalized providers of crisis shelter services" (p. 66). In addition, the emphasis placed on direct services reinforced the VAW movement's discursive practices that relied on victim narratives of risk, severity, and protection and facilitated the criminal legal intervention of responding to each incident of gender-based violence as an isolated act.

Collaborative Practices at the Community-level

While some advocacy efforts stagnated at a broader systemic-level, other advocates were able to govern VAW interventions through community-based coordination. Sociologist Carol Wharton (1987) argues that the decentralized structure of the VAW movement enabled groups to respond more effectively to local conditions when establishing goals and strategies. Some VAW agencies created independent strategies by engaging directly with local-level state actors. According to sociologist and leading coercive control scholar Evan Stark (2001), coordinated community responses create an infrastructure to address the problem of VAW holistically by bringing together law enforcement, courts, social service agencies, and community activists. The goals of the infrastructure created through a coordinated community response are to "provide victim protection, offender accountability, coordinate and evaluate existing services, develop new services, and to change the social climate of tolerance for domestic violence" (Salazar et al., 2007, p. 632). Membership on a Coordinating Committee relies on a personal investment in these shared goals, as members often participate voluntarily, sometimes outside of their working hours (Stark, 2001). During an appearance before the House of Commons in 1994, feminist activist Lee Lakeman acknowledged the relationship between the effectiveness of this advocacy strategy and the personal interest of local state officials, "in small communities, if you have a

coordinating committee in which the local police chief actually participates, then you can get somewhere" (House of Commons Canada, 1994, p. 66:24).

In addition to the voluntary nature of Coordinating Committees, most committees operate without any formal funding attached, something one activist participant from London identified as a strength for their advocacy work: "the power we have is that we're not tied to funding" (P07). Without the same funding restrictions experienced by VAW agencies, Coordinating Committees could be more critical of existing systems and more creative in their solutions. As a result of this creativity and as a reflection of the level of advocacy work and engagement with local state actors, coordination looked different across jurisdictions in Ontario. The Coordinating Committees of London and Oshawa, which are discussed in greater detail below, were examples of how two different models of coordination at the community-level changed the understanding and governance of VAW locally. London's Committee created a one-of-a-kind advocacy centre for women experiencing violence in conjunction with the first mandatory arrest policy in Ontario. Whereas Oshawa's Committee spearheaded the creation of a regulatory text to coordinate the actions of local social institutions by establishing clear expectations and protocols for responding to VAW that is still in effect today in the region.

Several activist-scholars strongly endorsed the creation of coordinated community responses to VAW. For example, in the final report of a project on interdisciplinary responses to DV funded by the Canadian government, lead researcher Dianne Kinnon (1988) concluded that community coordination was a logical response to VAW because "few other social issues have so dramatically crossed the boundaries of responsibility in the criminal justice, health care, education and social services systems" (p. 6). The crossing of institutional boundaries was also acknowledged in the final report of the Canadian Panel on Violence Against Women (1993),

"Often a perpetrator is known to several agencies but the information is not shared. A comprehensive, coordinated approach to address violence issues is needed" (p. 215). The need for knowledge sharing between social institutions within a community was also addressed during the May/Iles Inquest.[23] The Coroner argued that the circumstances of May's murder were sufficiently representative of the experiences of abuse and femicide to justify using it as a case study to provide a province-wide inquiry into dealing with DV in Ontario (Canadian Press, 1996). The Inquest jury made 213 recommendations[24] and emphasized that, "Coordination of services within each local community is essential to ensure that everyone shares a common understanding of the issues relating to domestic violence, and that safety of women and their children remains the top priority" (Office of the Chief Coroner, 1999, p. viii).

In response to the jury recommendations in both the May/Iles and Hadley[25] Inquests, the Ministry of the Solicitor General established the Domestic Violence Death Review Committee (DVDRC). The DVDRC (2002) was tasked with helping to "reduce domestic violence generally, and domestic homicides in particular" (p. 3). To date, the committee conducts investigations and reviews of DV homicides and publishes their recommendations for effective intervention and prevention strategies in an Annual Report. In their 2002 Annual Report, the Committee recommended "greater use of case conferencing systems that share information" (p. 36) because their case reviews revealed that multiple agencies and professionals "held important information

[23] Arlene May was murdered by her former common-law husband. May contacted the police in November 1995 about the abuse, at which point the offender appeared in court 11 times and was released on bail four times in two different jurisdictions. The offender murdered May while he was out on $200 bail with no surety, using a gun he purchased on the day of the femicide despite the bail condition that his Firearms Acquisition Certificate be confiscated. See Sampson (2003) for a detailed account of the Inquest and its contribution to the goals of reducing domestic violence in Ontario.

[24] Inquest jury recommendations are non-binding thus, the government and other entities to which recommendations are directed have no legal obligation to implement them.

[25] Gillian Hadley was murdered by her estranged husband in June 2000. The jury for the Inquest into her femicide made 58 recommendations.

about the case, but had no formal mechanism to share that information. Had they known the totality of the information, might there have been a more effective response to ensuring the safety of the victim?" (p. 36). With this recommendation, the DVDRC recognized the importance of coordinating people's work through texts. The creation of written protocols, such as the one developed in Oshawa and discussed in detail below, create a shared understanding of VAW, establish information sharing strategies and formalize institutional responses to VAW.

Community-level advocacy work enabled local coordination across sectors, something that individual-level advocacy work was not able to achieve. Denham and Gillespie (1999) in their overview of Canadian initiatives, recognized Coordinating Committees as a significant change in the response to VAW during the 1990s: "Collaborations that only 10 years ago would have seemed impossible are now a reality in some communities: police departments working with shelters to develop protocols" (p. 11). The engagement between VAW activists and local state officials on these Committees accounts for the inventiveness and regional variation of community-based responses to VAW before the prioritization of the DV criminal legal interventions. Coordinating Committees governed their community's response to VAW through frames and "regulatory texts" (Smith, 2005, p. 191) developed and utilized locally. As a result, the breadth of responses from social institutions at the community-level more closely aligned with the broader aim of the VAW movement for structural-level change. The initiatives spearheaded by the Committees in London and Oshawa are examples of coordinated community-based interventions that were in place prior to the DV criminal legal directives from the provincial government. These examples, discussed in greater detail below, show how the governing of VAW interventions could have been otherwise if coordinated responses were not isolated within their own communities.

London Coordinating Committee to End Woman Abuse. The City of London's Coordinating Committee to End Woman Abuse (LCCEWA) is the oldest and most well-known coordinated community response in Canada (Hague et al., 2001; Singer, 2012). The LCCEWA was formed in 1980, "to oversee a research study into the effectiveness of the criminal justice system's response to wife assault in London" (Luton, 1996, p. 5). A brochure published in 1992 stated that the goal of the Committee was to provide: "an integrated community response to prevent violence against women in intimate relationships" through "a network of social, health, education and justice services" (LCCEWA, 1992, cover). By 1996, over 40 state institutions, community organizations, groups and individuals sat on the Committee (Luton, 1996). In her oral history for the London Women's History Group, former member Barbara Lent (2010) recalled the Committee's contribution to the community's response to VAW, "it was much more comprehensive than what other communities had. The issues that came up there were really leading edge issues … How do we get people to work across agencies?" (p. 12). A 1987 article in the National Action Committee on the Status of Women newsletter, *'London Model' is community response to wife abuse*, linked the success of the LCCEWA with the members: "participants are usually in a position to speak on behalf of their organizations and to make commitments on the spot" ("London model", 1987, p. 3). Ten years later, an OWD report that assessed VAW initiatives acknowledged that the LCCEWA worked more effectively than other similar Committees in Ontario because of its broad composition and ability "to move from information exchange to real collaboration" (McGuire Associate Consultants, 1996, p. 22). An activist I interviewed explained that the LCCEWA was able to achieve "systemic organization and structural advocacy" because it "put everybody that needed to be in the room to think about what their agency was doing, hold them accountable" (P01). IE founder Smith (2005) argues that

the capacity of individuals to act is derived "from the organization and social relations that they both produce and are produced by" (p. 18). In this way, the LCCEWA created an opportunity for advocates to engage with local state actors and shape what was institutionally actionable.

Although the initial purpose of the LCCEWA was to study the effectiveness of the criminal legal system's response to wife assault, Committee members worked together to facilitate a community-based response to VAW. In the 1991 report, *Wife Assault as a Crime*, published by the Department of Justice Canada, the authors discussed the impact of the LCCEWA's community-based interventions: "We would suggest that abused women in London are far more likely to be treated with greater understanding and sensitivity, provided with consistent information and referred to appropriate services than victims elsewhere in Canada" (London Family Court Clinic Inc., 1991, p. 13). Victims received greater support in London through a unique community-based intervention initiated by the LCCEWA.

The London Battered Women's Advocacy Clinic (BWAC) was founded in 1982 to address a gap in services for abused women identified by the LCCEWA to create linkages between the criminal legal system and social services (Luton, 1996). In its first two years, the BWAC provided counselling to more than 600 women. During the public hearings on spousal abuse held in 1982 by the Ontario Standing Committee on Social Development, Lorraine Greaves[26] testified that the BWAC was designed "to create opportunities for women to make their own informed choices and help them to plan their actions … [which] may involve the initiation of criminal charges" (as cited in Walker, 1990, p. 161).[27]

[26] Representative of the Board of Directors engaged in opening the BWAC.
[27] See Chapter 4 for a discussion of how the linkage between the criminal legal system and social services through the BWAC led to advocates in London framing mandatory arrest as an opportunity for women to mobilize the criminal legal system on their behalf without fully acknowledging the negative impact on marginalized communities and the criminalization of women victim-offenders.

According to the 1994 program outline, the BWAC was created as a feminist organization with a stated mission of combining direct service with "social action aimed at ending violence against women of diverse communities in the London area" (London Battered Women's Advocacy Centre, 1994, p. 1). Unlike many of the direct service agencies discussed earlier in the chapter, the BWAC was able to enact their advocacy goals while providing support to women in their community. Julie Lee, Executive Director, discussed the agency's success in 1993 at a meeting of Correctional Service of Canada (CSC) funded project directors and staff. During her presentation, Lee provided an example of the BWAC's successful advocacy work for changing what is institutionally actionable when she explained how the London CSC office "had to initiate a creative and unparalleled legal arrangement in order to respect B.W.A.C.'s 'empowerment focussed' relationship with its clients" (CSC, 1994, p. 128). Lee described the negotiation process as an opportunity for the BWAC to educate CSC officials about empowerment for women experiencing violence, while the BWAC staff learned about CSC's responsibility and liability for community safety. The collaboration between CSC and BWAC specifically, and the LCCEWA's operation more broadly, are examples of locally coordinated engagement with the state. For more than 15 years, advocates in London governed the local community-based response to VAW through their Coordinating Committee's feminist framing of VAW. However, the arrival of the DV Court Program in 1998 would supplant their role and shift "women's actual experiences of being battered into the textual representations of institutionally mandated courses of action" (Smith & Griffith, 2022, p. 122). The translocal governance by the provincial government of the DV criminal legal intervention removed the LCCEWA's feminist framing of VAW and contributed to the criminalization of women victim-offenders.

Oshawa's Community Response to Abused Women Protocol. Another form of community-based response to VAW in place prior to the expansion of the DV Court Program was *Creating A Community Response to Abused Women & Their Families: The Durham Region Experience* (Mathes & Farquhar, 1995). Written in 1995 by the Durham Region[28] Violence Prevention Council, this protocol was one of the first of its kind in Canada and is still in effect today. A front-line worker participant involved in the creation, stated that the protocol "laid out the different functions of each agency … so there was less tripping over each other's hands, there was more of an understanding of what happened when" (P15). Another front-line worker participant discussed how the protocol continues to shape responses to VAW locally, "how we are going to triage and the basics of what we all agree to in servicing victims of domestic violence" (P21). Both participants see the protocol as successfully coordinating the actions of people involved in responding to VAW. In 2000, activist Deborah Sinclair wrote: "Durham Region is developing a well-deserved reputation for its unique and innovative programming in addressing the needs of woman abuse survivors, their partners and their children" (p. 3).

While developing the protocol, the Violence Prevention Council asked the following questions of themselves and the agencies involved: "Do we produce a protocol that meets the needs of abused women but cannot be done by systems? or Do we produce a protocol that may fall short of the needs but is realistic for systems to achieve?" (Mathes & Farquhar, 1995, p. 0 - 39). These questions reflect what IE founder Smith (2006) argues about textually-mediated processes: "People's doings are no longer just that but become interpretable as expressions or instances of a higher source of organization, independent of particular people" (p. 82). The

[28] Oshawa is part of Durham Region.

Council aimed to establish a protocol that made the needs of women experiencing violence institutionally actionable regardless of the individual actors involved (Sinclair, 2000).

The Violence Prevention Council created the protocol through a consultation process that engaged with relevant sectors in the Region and the formation of an Accountability Group comprised of women who had experienced abuse. The final protocol was more than 200 pages long and involved commitments from over 50 formal services. According to Kinnon (1988), Coordinating Committees often overlooked the role of individual professionals, such as clergy and private practitioners, in responding to DV locally. Durham's protocol addressed this gap in interdisciplinary responses to DV with written agreements between police, crown attorneys, probation and parole services, shelters, hospitals and health services (including family physicians), distress centres, Children's Aid Society, income support program, counselling services, and churches in their region.[29]

By engaging directly with local legal officials, the protocol acknowledged and attempted to mitigate some of the harms that occur from a carceral response to VAW. The protocol specifically addressed the criminalization of women victim-offenders through DV criminal legal interventions and instructed crown attorneys on how to minimize that risk:

> If, at the time of trial, the woman is a hostile witness, the Crown Attorney will utilize necessary efforts to establish a true and accurate account of the assault from her. The Crown Attorney will proceed with a charge of perjury or mischief only as a last resort, recognizing that this would be a complete re-victimization and should be avoided if any other avenue or solution is available. (Mathes & Farquhar, 1995, p. 3 - 5)

[29] This was the most extensive list of coordinated systems across any of the historical documents I analyzed for this study.

The extensive use of charging women victim-offenders with perjury or contempt of court when they are unwilling to testify against their partners is one of many negative consequences of the DV criminal legal interventions.[30] VAW advocates in Durham Region recognized and worked to lessen the harms of the criminalization of women victim-offenders through DV criminal legal interventions several years before the DV Court Program opened in Oshawa.

Another way the protocol addressed the potential harms of a carceral response to VAW was by creating connections between front-line workers and local institutions, such as the police. As a result of these connections, a participant I interviewed explained how the protocol enabled them to raise concerns with local police officers about institutionally mandated courses of action:

> They just go at it. This is the law. Let's put a reality perspective over this law and let's look at how this plays out, they don't do that … that's why the collaboration piece is critical, so you can hear perspectives from people in the front-line who are doing the work with the bodies of humanity that you're affecting with this policy. (P11)

The participant's concern that without their collaboration state actors would fail to understand the impact of laws on 'the bodies of humanity' is in line with findings from Wilson and Pence's (2006) study of the impact of legal interventions on the lives of Indigenous women. IE scholars Alex Wilson and Ellen Pence found that texts used by the police transformed women's experiences into something institutionally actionable and in the process "distorted the reality of the situation" such that "there was little relationship left between what the woman needed and what the institution had produced as her *case*" (p. 214).

[30] For more discussion, see Balfour (2021), Dayton (2003), Ford (2003), Kaba (2021), Landau (2000), McDermott and Garofalo (2004), Messing et al. (2015), Nichols (2014), Pence (2001a), Sheehy (1999), Snider (1990), and Weissman (2007).

The extensive network of services involved in creating the protocol, and the grassroots methods used, supported the goal of the protocol to reflect the complexities of responding to VAW. The consultants who wrote the final documentation claimed, "Durham succeeded, not in having all the answers, but in creating a group of individuals who can challenge themselves personally and professionally and thus their systems" (Mathes & Farquhar, 1995, p. xvii). The protocol enabled front-line workers to confront professional and systemic issues by creating a clear division of responsibility and acknowledging the complexity of the lives of women experiencing violence:

> When a woman contacts a community service she will not be mandated to report the offence [to police to access services]. This division ensures that a range of responses, which recognizes the dynamics and realities of wife abuse, will exist within the community. (p. 1 - 2)

The protocol created a coordinated community-based response to VAW in which DV criminal legal interventions were but one option for women. This network of support minimized the potential harms from a carceral response, such as the criminalization of women victim-offenders.

The genealogical tracing of community coordination in London and Oshawa reveals "what might have been otherwise" (McWhorter, 2005, p. 85). In both communities, VAW advocates governed the response to VAW at the local level through strategic engagement with state actors and the creation of "regulatory texts" (Smith, 2005, p. 191). These coordinated responses embedded the criminal legal system within a broader community-based response. However, the strategies utilized by advocates within these communities remained isolated and

were eventually supplanted by DV criminal legal interventions governed by the provincial government.[31]

Isolation of Community Coordination. The lack of knowledge mobilization between communities meant that successful VAW interventions in one community were not replicated in another. For example, a 1984 funding application from the BWAC in London included plans for "education in other communities to foster the provision of a similar service delivery model" (p. 2) of advocacy and empowerment. However, the funding for this form of knowledge mobilization never occurred and the BWAC remains a one-of-a-kind agency for abused women in Ontario. In addition, communities who had similar goals of achieving a coordinated response often ran into barriers they could not overcome and may have benefitted from the knowledge of how another community successfully navigated those barriers. For example, knowledge of Durham Region's successful implementation of their protocol might have helped Toronto, who were unable to establish one:

> Regarding the discussion of Protocols, the Woman Abuse Council of Toronto actually started out as the 'Metro Toronto Protocol Project.' However, quite soon we realized that it is impossible to create 'Protocols' for all of the sectors involved in responding to woman abuse. (P28, personal communication, November 4, 2021)

If the Woman Abuse Council of Toronto had had access to the strategies utilized by the Durham Violence Prevention Council to establish their protocol, they might have found a way to collaborate more effectively in their own city, despite its larger size. A front-line worker participant also reflected upon the lack of knowledge mobilization about effective historical strategies:

[31] Discussed in detail in Chapter 4.

> One thing our agency could have done … if when we started that process of the community collaboration, if we'd gone to the province and said look, we need to help other communities do this and it was a made in Ontario thing as opposed to bringing it in from Duluth, I think it might've been good. (P15)

The above participant acknowledged that the DV interventions governed by the Ontario government might have looked very different if knowledge about successful community-level initiatives had been disseminated across the province.

As early as 1991, the Royal Commission on Violence Against Women documented the consequences of the isolation of community-based interventions. Front-line advocates who testified at the Commission expressed their frustration that "the considerable expertise and good work that exists in communities in Canada and the innovative approaches being taken at the community level are fragmented and uncoordinated. As a result, there is duplication of both effective and ineffective programs" (Canada, 1991, p. 51). Five years later, while conducting comparative research on feminist organizing at the provincial- and territorial-levels, women's studies scholar Pauline Rankin (1996) documented the on-going need for advocates to have opportunities to share their knowledge. Rankin reported that communication gaps about initiatives became obvious when the focus groups for the study turned into information sharing sessions between participating VAW advocates. The following activist I interviewed connected the lack of knowledge mobilization to the underfunding of the VAW sector as a whole:

> A lot of the work, and this is one of the flaws of our movement … not that it's our fault, we're so underfunded, so under-resourced … we have kind of a bare necessity existence … we write some excellent reports but because there's no funding attached to distribution, they end up sitting on a shelf. (P28)

In 1998, Canadian intersectional feminist scholar Vijay Agnew warned that the knowledge developed within community-based organizations had limited circulation and as a result, the records of these groups were likely to disappear as funding cuts continued to threaten their existence. Almost a decade later, in an article advocating for the creation of a Canada-wide national partnership between violence research centres, family violence scholar Carmen Gill (2006) argues that the knowledge gap remains: "Years of experience in Canadian research on violence issues has not necessarily facilitated the sharing of local, community-applied, research with others in the country" (p. 56). The barriers communities faced in replicating their effective interventions translocally are directly related to the willingness of the provincial government to assist the VAW movement through collaboration and funding of community-based initiatives.

Changes in Collaborative Practices in Response to Shifting Political Priorities

The ability of the VAW movement to advocate and organize at the provincial-level changed from the early 1970s to 2000s. According to Canadian political science scholar Jonathan Malloy (2003), Ontario women's groups were never able to sustain the coordination of their efforts at the provincial-level. Participants discussed several reasons for this lack of sustained coordination during interviews, including the lack of funding and opportunities to meet with advocates from across the province, which prevented them from mobilizing knowledge of their local non-carceral initiatives outside of their communities. Despite these challenges, feminist activist-scholar Lise Gotell (2007) describes the 1980s and 1990s as a time when feminist scholars and advocates were able to insert political and structural context into public discussions. According to these activists, the collaborations were productive and reflected the movement's multi-tiered, multi-institutional response to ending VAW. The productivity of engaging with the provincial government is directly linked to how willing the government is to address the problem

of VAW (Malloy, 2003). In her oral history for the London Women's History Group, activist Backhouse (2010) recalled:

> There seems to be a sense that in the 70s we got rolling, in the 80s we were in the peak in our power in our demand for change, and in the 90s we saw significant movement, and then there was a backlash starting in the late 90s and onward. (p. 10)

The 'backlash' came with the election of Mike Harris as Premier of Ontario in June 1995. Under Harris, the Progressive Conservative Party (PCP) defunded the systems of support that had been built over the previous decades to assist women experiencing violence, from which the VAW sector has never fully recovered (Ready, 2016). While simultaneously defunding the existing support network for women experiencing violence, the Harris government funded and expanded the DV Court Program, changing the shape of VAW interventions at the local level in communities across Ontario and increasing the criminalization of women victim-offenders.

During the time period under examination in my study, Ontario was governed by two ideologically opposed political parties. From 1990 to mid-1995, Bob Rae, leader of the social-democratic New Democratic Party (NDP) was Premier of Ontario. Rae was defeated in 1995 by Mike Harris, leader of the neo-conservative PCP. According to Canadian political scientist Cheryl Collier (1997), Rae's NDP government enacted a significant number of women-centred policies: mandatory employment-equity law for public-sector workers, deductions from income of defaulting spouses for child-support, over 10,000 new child-care spaces, improved parental leave, new funding for sexual assault centres and women's centres, increased access to abortion services, elimination of time limits on filing sexual assault cases, and legalized midwifery. In addition to these initiatives, the NDP government demonstrated a commitment to ending VAW. Community activist Struthers (1994) wrote that Rae's "provincial government has bought into

the movement to stop the violence [against women] in a big way" (p. 16). In an interview conducted by Sue Colley for the Rise Up! Feminist Digital Archive Collective (n.d.), Toronto Rape Crisis Centre worker and activist, Deb Parent, recalled the impact of the election of the NDP on VAW support centres: "we saw a huge shift … our funding increased 400 percent. So that's how little previous governments had given us, and that's how much the NDP understood was necessary at that time to do the work" (p. 8). In fact, despite a provincial recession, the NDP government did not reduce funding to anti-violence programs during the five years they were in power (Collier, 2008). A government report detailing VAW initiatives in Ontario from 1985 to 1995 emphasized the permanent commitment to violence prevention programs made by the NDP as well as the government's effort to seek input from those active in the VAW movement: "Service providers, advocates, and survivors were consulted on the integration of the wife assault and sexual assault initiatives, and on the development of a Violence Against Women Strategy" (Campbell, 2015, p. 6). OAITH also emphasized the importance of this level of collaboration in their 1994 *Social Action Report*, "Women's advocates were consulted regularly about policy changes" (p. 6). The *Report* goes on to acknowledge that, "public and political focus on violence against women and their children is at an all-time high" (p. 7). An activist participant recalled the positivity within the VAW movement right up until the election of Harris in June 1995: "We were moving in the right direction. What changed it? I think a very negative, mean-spirited, anti-feminist government and people who say governments don't matter, doesn't matter who's in office, have no idea what they're talking about" (P28).

The change in political parties in mid-1995 was a significant turning point in the governing of VAW interventions within Ontario. As detailed above, up until this moment, advocates had established an extensive network of direct service supports for women and

children fleeing violence and governed coordinated community-based responses to VAW in various communities throughout the province. These achievements occurred under provincial governments who were at least willing to hear, if not prioritize, the concerns of advocates and survivors. The election of Mike Harris as Premier of Ontario in June 1995 started an era in which the achievements of the VAW movement were decimated through swift budget cuts and hostile interactions with government officials.

The rapid dismantling of programs and removal of funding was highlighted by several activists and journalists as being the most critical setback experienced by the Ontario VAW movement. Harris's cuts were national news within the movement, making the front page of the November 1995 issue of a monthly newsletter published by the National Action Committee on the Status of Women. The article titled, *Mike Harris Declares War on Women*, reported:

> In one fell swoop, Harris cut funding for second-stage housing for battered women and their children; front-line emergency shelter budgets; outreach, education and counselling programs to end violence against women; and interval houses for supervising the integration of offenders into the community. ("Mike Harris declares", 1995, p. 1)

The extensive nature of the cuts to services was also covered in *The Toronto Star* in which battered women were described as "being mowed under by the provincial Tories' social safety net demolition machine" (Tesher, 1995, p. A2). During her oral history for the London Women's History Group, activist Susan Macphail (2010) recalled: "the '90s were kind of bad years … work that we had done for 20 years we watched it being dismantled right before our very eyes very important community development work and work around women's issues" (p. 10). According to OAITH (1997), the cuts to funding for community-based VAW programs accounted for only .002% of total government program spending, suggesting that these cuts were

more ideologically aimed against the grassroots VAW movement, rather than about saving the province money.

In the wake of the decimation of the community development work of the VAW movement, the Harris government published their own strategic framework for responding to VAW, *Prevention of violence against women: An agenda for action*. (Ontario Ministry for Women's Issues, 1997). The document began with a message from Dianne Cunningham, Minister Responsible for Women's Issues, which introduced her government's emphasis on carceral responses to VAW: "I look forward to the day when violence against women is unacceptable to each and every one us [*sic*]. Today, let us reaffirm that domestic and sexual violence is a crime, and that abusers and offenders will be held accountable" (p. 1). The following year, in the Legislative Assembly of Ontario, Cunningham (1998) pointed to how the framework was a regulatory text translocally governing VAW initiatives: "the first province-wide strategy aimed to provide coordinated and seamless services across nine ministries for abused and assaulted women" (p. 8). The framework was heavily criticized by VAW advocates for its emphasis on institutional-based services. For example, Eileen Morrow of OAITH, argued that the government's strategy results in a shift "from independent, autonomous women-controlled services to institutional, generic mainstream services" (Rusk, 1997, p. A6). This shift was especially noticeable in the framework's increased funding for criminal legal interventions, including the expansion of the DV Court Program.

The emphasis placed on DV criminal legal interventions by the Harris government coincided with the removal of opportunities for VAW advocates to collaborate with the state at the provincial-level. Previously, activists who believed that engaging the state was necessary for structural change did so in a receptive political climate, even though not all changes were agreed

to or adopted. Feminist political scientists Rankin and Vickers (2001) described the impact of Harris's ideological attack on advocates: "[it] changed the political opportunity structure for women in Ontario quite radically … The tenure of the Harris Government has also begun to foster an anti-state orientation to participation in official politics among Ontario activists" (pp. 17–18). Political scientist Malloy (2003) acknowledged that the Harris government was "openly hostile to many feminist demands and more generally to consultations" (p. 90). A request for an opinion from the Integrity Commissioner written by MPP Marilyn Churley (Riverdale) in November 1995 documented this hostility. Churley asked for an investigation into MPP Cunningham (London North), Minister Responsible for Women's Issues, who had allegedly made threats regarding the funding for advocacy organizations. MPP Cunningham's opening message in *An Agenda for Action*, discussed above, referred to meeting "with a great many individuals and stakeholder groups" (Ontario Ministry for Women's Issues, 1997, p. 1) over the previous two years. The Integrity Commissioner's Final Report regarding this matter included copies of letters submitted in support of the investigation. One such letter was a signed oath by Julie Lee, BWAC Executive Director, that recounted the following statement made by MPP Cunningham during a meeting with three agencies serving abused women in London:

> Within the context of this government, you need to understand that groups or agencies that are seen not to be working with this government, providing an oppositional voice, [at this point she made reference to Harmony House, an Ottawa second stage housing project which has been strongly voicing opposition to the cuts] [*sic*], will be audited and their funding eliminated. (Office of the Integrity Commissioner, 1995, p. 6)

Lee went on to describe her response to this threat as "shocking and very hurtful to come to understand that it appears that Ms. Cunningham and her government does not wish to work with

us in an open and collaborative manner but chooses instead to impose fear and silence" (p. 9). In addition to the threat made regarding funding for agencies who publicly critique the government, Lee reported that MPP Cunningham "indicated that her government was considering an *alternative model* [emphasis added] for responding to woman abuse" (p. 6). This statement suggests that the Harris government saw the DV criminal legal interventions as an 'alternative' to the current coordinated, community-based response to VAW led by advocacy organizations, such as BWAC. A second letter of support for the investigation into MPP Cunningham was written by Eileen Morrow from OAITH testifying that other agencies for abused women "have been given a clear signal that opposition to current political funding cuts to abused women might be punished by further funding cuts" (p. 17). Although the Integrity Commissioner sided with MPP Cunningham and agreed there were no grounds for an inquiry (Office of the Integrity Commissioner, 1995), the hostility between the Harris government and VAW advocates undermined the work of community-based initiatives. A 2003 report also documented the impact of the hostility on advocates when the Ottawa Sexual Assault Support Centre withdrew from a collaborative project,[32] no other agency in Ontario would participate: "We were not successful in interesting another centre from Ontario. They were totally engaged in protecting themselves from the Harris government" (Lakeman, 2003, p. 46). It was within this hostile political climate that the provincial government created and expanded the DV Court Program across Ontario.

The need to protect themselves from the provincial government transformed the focus of many VAW organizations. As reported by political scientist Malloy (2003), a provincial organization that suffered significant funding cuts under Harris, "no longer had any resources to

[32] A five-year research and community development project coordinated by the Canadian Association of Sexual Assault Centres to bring together Canadian feminist VAW groups to share crisis work, collaborate on research, and engage in joint political activity.

conduct research or produce policy suggestions, neither of which were welcome in any event" (p. 107). The funding cuts, combined with removing advocates from policy decisions, narrowed the viable responses to VAW within communities. One activist participant recalled the elimination of a public education program in the 1990s, "the education system had a curriculum, it started in grade school, and it was about respect, non-violence, and then Mike Harris's government came along, and they got rid of it" (P27). It is worth noting that written recommendations from the Joint Committee on Domestic Violence (1999) and the DVDRC (2002), both created under the Harris government in response to recommendations from the May/Iles and Hadley Inquests, emphasized the importance of public education about DV. The DVDRC listed awareness and education as their number one area for intervention and specifically recommended that "youth-oriented programs should be incorporated into school curriculum" (p. 7). The Committees' recommendations supported the broader, coordinated community-based interventions advocates had worked for decades to implement and not the carceral funding priorities of the Harris government.

In 1996, OAITH published a scathing report, *Locked In Left Out*, about the impact of the Harris government's budget cuts and policy initiatives on abused women and children in Ontario. The report accused the Harris government of taking a "'slash and burn' approach to social programs" (p. 1) and critiqued the government's endorsement of carceral responses to VAW:

> In the wake of the erosion of support for women's services, the announcement of funding to so-called "victims' services," in "law and order" systems is a significant shift away from recognition of the social and political roots of violence against women. It focuses on violence against women as a crime-based problem, rather than as an experience of oppression that affects every aspect of survivors' lives. (pp. 67–68)

A 1999 government report also acknowledged the shift toward carceral responses to VAW: "The expansive activity of the 80s has given way in the 90s to an era of economic cutbacks, increased demands for accountability, and a heightened emphasis on criminal justice solutions" (Denham & Gillespie, 1999, p. 4). The government's emphasis on criminal legal interventions for VAW was articulated directly by Premiere Harris during a press conference held in the wake of the murder of Gillian Hadley by her estranged husband. Harris claimed that his government keeps "bringing in new initiatives and new measures but we're still faced with these horrific stories of domestic violence" and that his government will "look at various options, including tougher sentencing, tougher laws, tougher judges or restraining orders that actually mean something and substantially increase penalties for breaking those restraining orders" (as quoted in Brennan, 2000, p. B05). According to Harris, 'various options' for responding to DV only involved increasing punitive responses from within the criminal legal system. As will be discussed in greater detail in the next chapter, while some VAW advocates agreed with a carceral response to VAW, this study's participants expressed and historical documents reflected a more nuanced approach, in which the criminal legal system forms only one part of society's interventions. As a result of the Harris government's carceral response to VAW, interventions outside of the criminal legal system continue to be under-funded and under-imagined.

Conclusion

This chapter interrogated the "bundle of narratives" (Fine, 1995, p. 128) used in the Canadian VAW movement from 1980 to 2000 to frame the discourse of VAW as a risk experienced by all women that predominately occurs as physical harm within the home from which women need protecting. Activists in the VAW movement used these narratives to make claims about abuse, gain public support for ending the violence, and shape the institutional

responses to VAW (Cress & Snow, 2000; Chiarello, 2013; Lehrner & Allen, 2008; Walker, 1995). As a result of the discursive practices of the Ontario VAW movement to enact social change, a criminal legal intervention seemingly became the most logical response to women's violent victimization.

The discursive practice of framing VAW as risk experienced equally by all women was evident in documents from the 1980s and 1990s. This framing created a gender essentialized narrative that erased the harms compounded by the systemic oppression of intersecting identities (Crenshaw, 1991; Harris, 1990; Razack, 1998; Richie, 2000; Ruttenberg, 1994). In addition, by claiming that anyone can be a victim (and a perpetrator) of violence, the VAW movement inadvertently implied that only individual-level risk factors are relevant (Lehrner & Allen, 2008).

Additional discursive practices that narrowed the understanding of abuse through an over-emphasis on physical violence and located women's oppression in the home by focusing on individual men as perpetrators reinforced the individualized responsibility placed on women for stopping their own victimization. Simultaneously, the VAW movement constructed the image of the 'battered woman' portraying women as victims who are incapable of keeping themselves and their children safe. The emphasis on physical violence perpetrated by individuals against helpless victims justified state intervention and placed the response to VAW within the purview of the criminal legal system. These discourses also silenced the experiences and responses to violence from marginalized women and their communities (Agnew, 1993; Arat-Koç, 2012; Ruttenberg, 1994; Singh, 2016) and contributed to the creation of DV criminal legal interventions that are disproportionately applied to families of colour (Gotell, 1998; Polletta, 2009; Snider, 1994; Walker, 1995; Weiss, 2020). As a result, the discursive practices of the Ontario VAW movement aided in the development of a system that criminalizes women victim-offenders.

This chapter also revealed the various ways that advocates actively chose to collaborate with state institutions to shape the understanding of VAW that is made institutionally actionable through "regulatory texts" (Smith, 2005, p. 191) and to establish community-based interventions for ending VAW. Other advocates and organizations who were forced to engage with the state to establish direct services for victims reported that their advocacy work was hindered by the limitations imposed on their funding. Some advocates were concerned about the overemphasis placed on individual-level services and the loss of focus on structural change within the VAW movement.

Advocacy work at the community-level achieved greater success in making structural changes through coordinated community responses. Salazar et al. (2007) argued that coordinated community responses are effective by bringing together all sectors to address the problem of VAW. The LCCEWA and Oshawa's protocol provided successful examples of a coordinated response to VAW. In both cities, advocates worked closely with local state officials to empower women experiencing violence while minimizing systemic harms through education and advocacy of those officials. The greatest drawback of community-level advocacy was that it most often occurred in isolation. The lack of knowledge mobilization between communities hindered the ability of the VAW movement to replicate effective strategies more broadly (Gill, 2006), and enabled the DV criminal legal interventions to override the isolated initiatives that did exist.

Advocacy through collaboration with the provincial government changed drastically during the 1980s and 1990s. Provincial-level engagement by the Ontario VAW movement was inconsistent and short-lived (Malloy, 2003). During the first two decades of the VAW movement, advocates frequently collaborated with the provincial government and successfully lobbied for legislative changes and funding to support women experiencing violence (Findlay,

1988). However, the election of Mike Harris's PCP government in 1995 halted the successful momentum the VAW movement had up until that time (Ready, 2016). As described above, most of the records and participants discussed the dismantling of support services and loss of funding as a 'backlash' by the Harris government. The carceral response to VAW is the only area in which the Harris government increased funding, despite criticism by advocates that DV criminal legal interventions were insufficient on their own for ending VAW. As Phillips (2002) reported "at the end of the twentieth century, the women's movement in Canada faced a more closed political opportunity structure than it had just a decade earlier" (p. 400). The next chapter examines how during the 1980s and 1990s some VAW advocates successfully embedded carceral responses to VAW within a broader community-response shaped by feminist understandings of VAW. However, as the chapter explores, the eventual translocal governance of the DV criminal legal interventions across Ontario occurred without sufficient funding, consultation with advocates, or recognition of local contexts resulting in the criminalization of women victim-offenders.

Chapter 4: Implementation of Domestic Violence Criminal Legal Interventions

> For me to say to them, 'this is better for you,' it just always made me so profoundly uncomfortable and always felt so profoundly wrong … a woman, I can still picture her face, asking me to withdraw the charges … she got down on her knees and begged me and I said no … I never forgot it and I think it was probably the singular moment that made me understand the situation these women find themselves in. (Former Crown Attorney, P06)

Introduction

The discourse and practices in the Ontario violence against women (VAW) movement, along with the 1995 election of the Progressive Conservative Party government, under Mike Harris, discussed in Chapter 3, paved the way for the criminalization of women victim-offenders through domestic violence (DV) criminal legal interventions. This chapter interrogates the creation and implementation of two key DV criminal legal interventions: mandatory arrest and specialized DV Courts. Canadian scholars have reported a link between these two interventions and an increase in the criminalization of women victim-offenders through domestic assault charges (Holmes, 2015; Fraehlich & Ursel, 2014; Moyer et al., 2000; Poon et al., 2014) and contempt of court charges (Balfour, 2021; Landau, 2000; Sheehy, 1999; Snider, 1990). Building on this existing work on the impacts and consequences of the interventions, my interrogation demonstrates how and why these interventions came to be by tracing the provincial-wide expansion of the DV criminal legal interventions. I show how, once expanded by the provincial government, these interventions lacked the community-based integration necessary for decreasing VAW and as a result, contributed to the criminalization of women victim-offenders.

Mandatory arrest was first conceived in London (Ontario) as part of a broader community-based response to VAW governed by the London Coordinating Committee to End Woman Abuse (LCCEWA). Within London's existing network of supports, mandatory arrest created an additional pathway to provide support and resources to women experiencing violence in their relationships (Leger, 1984). Similarly, the creation of the first Ontario DV Court Program occurred through the feminist governance of the Metro Woman Abuse Council (MWAC) within a broad network of interventions and supports for both victims and perpetrators of relationship violence in Toronto. In both communities, the initial DV criminal legal intervention was created through close collaboration with local criminal legal officials. These collaborations were embedded within a broader framework in which local VAW advocates utilized what McCann (1991) calls a "'legal mobilization' approach" (p. 227) with respect to the criminalization of VAW. When the provincial government led the expansion of these interventions outside of the initial jurisdictions of London and Toronto, their translocal governance centred a carceral response to VAW that lacked the initial feminist understandings of VAW and necessary community-based networks discussed in Chapter 3. In this chapter, I argue that as a result, the DV criminal legal interventions contributed to the criminalization of women victim-offenders and ignored the more nuanced criminal legal approach utilized by the original advocates.

The shift in the DV criminal legal interventions from a community-based response to a purely carceral response is significant. Many scholars equate the dominant North American VAW movement of the 1980s and 1990s with carceral feminism (Brockbank & Greene, 2022; Bumiller, 2008; Coker, 2001; Goodmark, 2023; Gruber, 2020; Kim, 2015, 2020; Martin & Mosher, 1995). Criminologist Jonathan Simon (2007) describes the American VAW movement

as “one of the clearest cases where a movement has turned to criminalization as a primary tool of social justice” (p. 180). When writing about contemporary antitrafficking feminists who sought to abolish prostitution through punitive governance by the neoliberal state, feminist sociologist Elizabeth Bernstein (2010) coined the term, carceral feminism. Although Bernstein’s initial use of the term was narrowly focused, carceral feminism is now used more broadly to refer to “decades of feminist anti-violence collaboration with the carceral state or that part of the government most associated with the institutions of police, prosecution, courts, and the system of jails, prisons, probation and parole” (Kim, 2018, p. 220). Critical feminist scholar Kristin Bumiller (2008) provides an extensive critique of the alliance formed between American feminists and the state, resulting in harmful carceral responses that continue to define the state’s response to gender-based violence. Similarly, governance feminism scholars Elizabeth Whalley and Colleen Hackett (2017), argue that the appeal by mainstream feminist organizations for access to more protection through legal reforms demonstrates advocates’ continued belief that “a successful intervention to patriarchal violence for ‘all’ (white and cis-) women can be secured through legislation, greater police presence, and a general expansion of penal power” (p. 457). More recently, feminist legal scholar Aya Gruber (2020) provides the following summary of the dominant American VAW movement: “Their reform agendas expanded police and prosecutorial power, emphasized criminals’ threat to vulnerable women, diverted scarce resources to law enforcement, and ultimately made many feminists soldiers in the late twentieth-century war on crime” (p. 6). The majority of the existing literature is American-centric and implies that the criminalization of VAW was the end goal of feminists who colluded with the state. However, the findings presented in this chapter show that the existing carceral feminism literature does not

accurately reflect the Ontario VAW movement, which, in contrast, utilized a legal mobilization approach by embedding carceral interventions within activist-led community-based responses.

As a result of the carceral feminism framing of the mainstream VAW movement historically, some American contemporary feminists have argued that what is needed now is a decisively, anti-carceral approach to end VAW. Critical race scholars Angela Davis et al. (2022) describe carceral feminism as being in "direct political opposition to abolition feminism" (p. 107). Anti-carceral feminists argue that the VAW movement must sever all ties with the state for both funding and service delivery and operate outside of the legal framework (Brockbank & Greene, 2022; Kim, 2018; McGlynn, 2011; Taylor, 2018). Gruber (2020) asks feminists to "adopt an unconditional stance against criminalization, no matter the issue" (p. 197). These activist-scholars have established a clear binary between carceral and anti-carceral feminisms, in which any engagement with the criminal legal system is criticized as carceral and community-based justice efforts are lauded as non-carceral (Terwiel, 2020a). The argument in favour of non-carceral interventions is premised on the assumption that communities are both willing and capable of responding to VAW in ways that address its root causes and do not replicate systemic oppressions (Heiner & Tyson, 2017). However, in 2003 the *Critical Resistance-Incite! Statement on Gender Violence and the Prison-Industrial Complex* raised the following concern:

> The various alternatives to incarceration developed by anti-prison activists have generally failed to provide a sufficient mechanism for safety and accountability for survivors of sexual and domestic violence. These alternatives often rely on *a romanticized notion of communities* [emphasis added], which have yet to demonstrate their commitment and ability to keep women and children safe or to seriously address the sexism and homophobia that is deeply embedded within them. (p. 143)

More recently, scholars have argued that the divide between carceral and non-carceral interventions is not as clear-cut as many anti-carceral feminists propose. Feminist sociologist Amy Masson (2020) posits that the provision of community-based justice advocated for by anti-carceral feminism falls within the neoliberal turn to privatization and thus, faces the same cooptation as carceral feminist approaches in advancing the hegemonic neoliberal project. Bernstein (2010) noted that neoliberal governance is "enacted through a combination of state and non-state agencies" (p. 67). Lastly, socio-legal scholar Hadar Aviram (2015) warns that anti-carceral feminism could provide an opportunity for states to cut public spending while also meeting bi-partisan demands for criminal legal reform, including the scaling back of prisons. Thus, decoupling responses to VAW from the state, and specifically the criminal legal system, is not as anti-state as many anti-carceral feminists have argued.

Recognizing that the binary thinking between carceral and anti-carceral feminists may not be as clear cut as feminists on either side maintain, some scholars have opted for a more nuanced approach. Feminist theorist Anna Terwiel (2020a) suggests that "feminist prison abolition is better served by envisioning a *spectrum of decarceration*" (p. 421) that provides a more expansive approach to ending VAW while also reducing carceral interventions. Legal scholar Clare McGlynn (2022) echoes Terwiel's suggestion for continuum thinking by suggesting the use of "practices seeking to support survivors and ameliorate the worst harms of criminal justice systems, at the same time as demanding fundamental change" (p. 4).

The carceral feminist debate predominantly focuses on the American VAW movement. For this study, it is important to place carceral feminism within the different punitive landscapes of Canada. Criminologists Cheryl Webster and Anthony Doob (2007), argue that although Canada experienced similar police recorded and violent crime rates as the United States from the

1960s to early 2000s, Canada's imprisonment rate (at both the federal and provincial levels) remained relatively stable while the incarceration rate over the same period rose dramatically within the United States. In addition, Webster and Doob claim that "restraint in the recourse to custody is entrenched in Canada's formal statements of criminal justice policy" (p. 333). As a result, Canada did not experience the same punitive turn as the United States (Hatt et al., 1992; Meyer & O'Malley, 2005; Roberts et al., 2002). This different context shaped what carceral feminism looked like in Canada.

In this chapter, I advance the carceral feminist debate by centring the voices of the Canadian VAW movement to illustrate the different context that was occurring in Canada, and more specifically within Ontario. Feminist activist-scholar Lise Gotell (2015) insists that Canadian feminists have had a more nuanced approach to law than critics of carceral feminism acknowledge. Gotell argues that feminists who successfully campaigned for sexual assault legislation reform in the 1990s in Canada simultaneously critiqued the racism and classism of the prison, and were cognizant that the problem of sexual assault needed to be addressed in multiple ways, and not through punishment alone. According to Gotell, escalating incarceration rates were never the primary objective of feminist sexual assault legislation reform. Gotell's recounting of Canadian feminists' aims for legal reform demonstrate an early attempt at a 'spectrum of decarceration.'

When discussing the lack of a clear binary, Terwiel (2020a) further asks: "Could a crucial difference between carceral and anti-carceral feminist efforts be not whether they engage with the state but how they do so?" (p. 430). Building on Gotell's extensive work on documenting sexual assault law reform in Canada and answering Terwiel's question, this chapter makes unique theoretical and empirical contributions by demonstrating how VAW activists in Ontario

framed their DV criminal legal interventions through a legal mobilization approach embedded within broader community-based interventions.

Through a genealogical analysis of the creation and implementation of Canada's first mandatory arrest directive in London and Ontario's initial DV Courts in Toronto, I demonstrate how the successful operation of these criminal legal interventions relied on existing collaborations between service providers and local state actors. Informed by the role of "regulatory texts" (Smith, 2005, p. 191) in coordinating people's action and drawing on the "work knowledges" (p. 44) of advocates, front-line workers and criminal legal officials, I compare the initial activist-led strategies with the provincial government's expansion of the DV criminal legal interventions across the province. Through this comparison, I expose how the activists spearheading the initial interventions understood the role of the carceral as a resource to be mobilized by women experiencing violence, and how the loss of this more nuanced approach to the carceral system created the pathways that enabled the criminalization of women victim-offenders when the governance of the DV criminal legal interventions by the provincial government supplanted local community-based responses to VAW.

Legal Mobilization Approach

VAW activists in Ontario predominantly drew upon a legal mobilization perspective rather than a carceral feminist approach. Legal mobilization focuses on the "intersubjective power of law in constructing meaning" (McCann, 2006, p. 21) by drawing attention "to how legal discourses and symbols intersect with and are expressive of broader ideological formations within societies" (p. 21). Legal mobilization scholars recognize that law serves a symbolic function by sending a signal about the moral status of a particular act and that the state has a role and responsibility in targeting and eliminating that act (Gotell, 2015; McGlynn, 2022; Snider,

1990). According to public policy scholar Susan Phillips (2002), legal mobilization serves three purposes: "to frame issues so as to establish particular sets of meanings or discourses; to mobilize support in the form of allies, public opinion, and financial resources; and to have an impact on legal, policy, and procedural outcomes" (p. 379). VAW activists were as conflicted over pursuing an agenda of criminal legal reforms as they were about engaging with the state (Bruckert & Law, 2018; Comack, 2014; Currie, 1990; Pence, 2001b; Smart, 1990). However, advocates who chose to mobilize the law saw it as equivalent to any other social institution with resources, such as money and status, that social movements have access to and whose utility depends on the circumstances and way those resources are deployed (Edelman et al., 2010; Levitsky, 2015; McCann, 1991; Scheingold, 1974).

In her book, *Up Against a Wall*, socio-legal scholar Rose Corrigan (2013a) examines the history of rape law reform. Corrigan refers to the American anti-rape movement of the 1970s as a "textbook case of what scholars today call legal mobilization: the use of legal concepts and language to articulate grievances, translate individual experiences into social problems, and create or transform legal mechanisms for redress of those problems" (p. 1). Corrigan argues that anti-rape activists saw the law "as a social movement 'tactic' that could be used and discarded at will" (p. 21) and that activists "articulated a sophisticated and nuanced understanding of how law reform fit into the movement's larger goals" (p. 33). Corrigan goes on to trace the de-mobilization of the movement over the past four decades, including the loss of the clear link between law reform and social change that existed within the advocates' original campaigns. In what follows below, I trace a similar decoupling of legal mobilization from its origins within community-based VAW interventions in London and Toronto to an isolated and dominant intervention strategy implemented by the provincial government.

Focusing on advocates in Canada, feminist sociologist Jennifer Fraser (2017) explains that the goal to identify DV as a social problem by the dominant VAW movement "included a desire for domestic violence to be recognized as a crime, but this recognition would be one component of a broad, multifaceted understanding" (p. 43). With respect to wife assault, reports and newsletters produced by advocates demonstrate how the VAW movement understood the ideological role of law in society and its importance for condemning the act. For example, in a 1984 report written for the Ministry of the Solicitor General of Canada, activist-scholars Peter Jaffe and Carole Anne Burris (1984) outlined the assumptions framing London's mandatory arrest policy[33] including that "police officers have the responsibility of informing batterers that society does not condone violence" (p. 32) and that "the criminal justice system is a major initiator of social change" (p. 52). Advocates in London clearly saw a link between the rights of women and the importance of shifting responsibility away from civil litigation to the mobilization of the criminal legal system:

> Women assaulted by their partners were seen to be victims that had a fundamental right to police protection and personal safety … victims should not be left to defend themselves, but rather the police forces across the country should lay charges under the Criminal Code of Canada. Victims were not to seek individual, civil solutions to the violence, but rather law enforcement professionals were to act on behalf of all citizens to indicate that wife assault would not be tolerated or deemed a lesser offence. (London Family Court Clinic Inc., 1991, p. 8)

Lastly, the mandatory arrest directive was placed within a framework which saw "the use of charges as a form of victim assistance" (Leger, 1984, p. 5).

[33] Discussed in greater detail below.

A *Resource Kit* published and circulated by Education Wife Assault (1984) for direct service providers contained a similar framing of carceral interventions to assist victims. An information sheet included in the *Kit* stated that, "Effective service is built on the belief that wife assault is a crime and therefore a public issue" (p. 1). In multiple texts, the seemingly carceral feminist stance was not about the punitive response from the criminal legal system but rather an attempt to mobilize 'effective service' for victims through the legal system. Similarly, a front page article of the June 1998 Education Wife Assault newsletter claimed that the social context of abuse is "reflected in our laws and the enforcement of them" (Currie, 1998, p. 1) and we need to understand the importance of that social context in order to "guide [men's] programs to become a part of a community intervention" (p. 1).[34] Once again, the connection to the symbolic power of the law is used to advocate for community-based services, this time for men who use violence. Lastly, during her appearance before the Standing Committee on Justice and Legal Affairs in 1994, advocate Lee Lakeman[35] clarified what she and the broader VAW movement were asking for with respect to the criminalization of VAW: "I'm not under any circumstances calling for more police, more money to police or more power to police. I am calling for a change of priorities about what to police and how to police it" (House of Commons Canada, 1994, p. 66:23). Lakeman was clear that the dominant Canadian VAW movement was not demanding an expansion of police power, which is seen as a defining feature of American carceral feminism (Bumiller, 2008; Gruber, 2020; Kim, 2018), but instead that existing police powers be mobilized differently in response to incidences of VAW.

[34] David Currie was a male activist who specialized in counselling men who use violence in their relationships.
[35] Testifying as Co-chair, Violence Against Women Committee, National Action Committee on the Status of Women.

Several of my study participants also articulated a distinct legal mobilization perspective when discussing the purpose of the DV criminal legal interventions. A criminal lawyer in Toronto expressed the role of the criminal legal system in sending a message that "VAW is worthy of prosecution and of sort of public and social condemnation" (P06). A Toronto-based advocate clearly stated that mobilizing the law was but one of many strategies, "So the court was never a be-all and end-all for the issue. We recognized that the government and the system has a role to play … it was one of the options that was available" (P04). As this advocate indicates, intervention by the criminal legal system was seen as part of a broader push by VAW advocates to mobilize all social institutions to respond to VAW. A former shelter worker from Brampton articulated the connection they saw between using the criminal legal system and mobilizing supports for women experiencing violence:

> I think in terms of sending the signal that it was a criminal offence, that was important. It was an important message for women to hear and it was an important message for perpetrators to hear. Also, it helped people to access services. (P17)

In addition to the symbolic function of the law in condemning VAW that the advocates above discuss, the criminal legal system was seen by some advocates as another pathway to reach victims and provide services to families experiencing violence. In legal scholars McGlynn and Westmarland's (2019) study examining sexual violence survivors' perceptions of justice, many survivors equated justice with criminal justice based on a perspective of criminal justice rooted in consequences, rehabilitation, dignity, voice, prevention, and connectedness. In the quotes above, VAW advocates (many of whom are survivors themselves) demonstrate a similarly varied perspective of justice achieved through interventions initiated by the criminal legal system. The documents I analyzed and participants I interviewed consistently described how using the legal

system for ending VAW was not intended to be the final intervention, but one in a series of supports for victims and their families.

The DV criminal legal interventions created and implemented in two communities, London's mandatory arrest policy and Toronto's DV Court Program, exemplify the legal mobilization approach of Ontario's VAW activists. Both interventions emerged from close collaboration between VAW advocates, community agencies, and criminal legal officials in each jurisdiction, as discussed in Chapter 3. In what follows, I identify the initial purpose and goals of each model intervention, the ways in which advocates saw their models as successful, and the shortcomings of the translocal governance by the provincial government of these criminal legal interventions into other communities. According to Smith (2005), translocal governance through texts transforms "the local particularities of people, place, and time" (p. 101) to coordinate and standardize people's activities. My findings show that as a result of the government's shortcomings, the provincial mandatory arrest directive and expansion of the DV Court Program contributed to the criminalization of women victim-offenders.

Mandatory Arrest: City of London Model

In 1981, the London Police Department became the first police force in Canada to institute a mandatory arrest policy that instructed their officers to lay charges of assault in wife abuse cases (London Family Court Clinic Inc., 1991). While this directive relieved women of the responsibility of laying private informations (charges), it also disregarded the woman's wishes about whether charges were laid at all. In a report for the Ministry of the Solicitor General of Canada, activist-scholars Peter Jaffe and Carole Anne Burris (1984) described the research study and recommendations that shaped London's response to wife assault, including the creation of the mandatory arrest policy. The research study examined how wife assault cases were processed

through the criminal legal system in London. Between January and June 1979, the study found that 222 women called police reporting an assault or threatened assault by their partner or ex-partner. Police laid charges in only 3% of the sample, 62% of the women were advised about laying private informations, and only 5% of the victims were advised by police to contact the local shelter for battered women (Jaffe & Burris, 1984). Follow-up interviews were conducted with 62 of the women and 61% of them said they had wanted the police to lay charges at the time of their call. However, at that time in London, "the majority of women who call the police are informed that if they want further action within the criminal justice system, they must pursue it themselves" (p. 26) by laying private informations through a lengthy process involving a Justice of the Peace.

Based on the findings from their study, Jaffe and Burris (1984) made four recommendations: (a) have the London Police Force implement a mandatory arrest policy, (b) establish treatment programs for men who use violence and have their attendance be court-mandated, (c) create a victim advocacy service, and (d) improve public and professional education on the issue of wife assault. The scholars also emphasized the importance of embedding the mandatory arrest policy within a broader community response: "The effectiveness of the criminal justice system is dependent on the response of other human services such as the medical, mental health, educational, and social service systems" (p. 53). In London, advocacy for a mandatory arrest policy was always paired with advocacy for community-based interventions.

In response to the recommendations from Jaffe and Burris (1984), the LCCEWA created a multi-pronged approach to wife assault within London (Leger, 1984). The details of this approach were outlined in a report in which the title itself, *Criminal Charges as a Means of*

Assisting Victims of Wife Assault, reflected the underlying framing and motivation of London's mandatory arrest policy. According to Leger (1984) London's mandatory arrest policy was created "to cease the practice of directing the victim to lay private informations" (p. 13) in recognition that wife assault is a criminal offence not condoned by society and not simply a private family matter. Leger also emphasized that "this charging policy was not established in isolation of other initiatives by the other agencies on this Committee" (p. 13). Additional initiatives included probation officers creating the Changing Ways program for men who use violence, developing guidelines for crown attorneys and judges regarding which sentencing options could be used to assist victims, conducting public and professional education campaigns through various workshops and the media, and the opening of the London Battered Women's Advocacy Clinic (BWAC) as a feminist agency. As discussed in Chapter 3, the BWAC "offers legal advocacy to victims, providing them with the information, support, and referrals they need *to use the criminal justice system* [emphasis added] appropriately to intervene in criminal violence" (London Coordinating Committee on Family Violence, 1989, p. 9).

On May 8, 1981, the Inspector, Court Services Branch of London, issued a written directive to all ranking police officers "instructing officers to lay assault charges when they have reasonable and probable grounds to believe the assault took place" (London Family Court Clinic Inc., 1991, p. 69). This directive was a "regulatory text" (Smith, 2005, p. 191) that standardized the actions of the police across time and space. My analysis of the City of London's model of mandatory arrest reveals three essential characteristics of this regulatory text in coordinating the actions of local police, activists, and community agencies. These characteristics include: (a) active support from the police for the policy change, (b) framing mandatory arrest within the Coordinating Committee's feminist approach, and (c) embedding the intervention in a broader

community-based response. In what follows, I discuss these defining characteristics to demonstrate how the initial mandatory arrest model more closely aligned with a legal mobilization approach and reflected the goals of the dominant VAW movement. In addition, by identifying the essential characteristics of the model, I compare the model in other contexts, specifically the translocal expansion of the mandatory arrest policy across the province through the 1982 Solicitor General's directive, to show what was not taken up and how that directly contributed to the criminalization of women victim-offenders.

"Way ahead of their time": Providing Support for the Mandatory Arrest Policy Change

Active support from the police for the creation of a mandatory arrest directive was discussed by activist participants in the London Women's History Group transcripts. In her oral history interview, activist Constance Backhouse (2010) recounted how the collaborations between advocates, community services and police generated support for the change in the policing response to VAW:

> The work we did on the London coordinating committee for violence against women, which had on it, the police, the crown attorneys, the judges, the family court clinic, and so on … the police chief who attended some of these meetings made a decision that the police would get more involved in battering, and they would lay formal charges. (p. 4)

Activist Susan Macphail (2010) discussed how "the police in London were way ahead of their time … [and started to] charge men themselves and not leave it up to women … that really was a radical thing" (p. 9). The mandatory arrest policy of the London police reflected shifting police attitudes toward the criminalization of VAW. The policy, as a "regulatory text" (Smith, 2005, p. 191) successfully coordinated the actions of the police, as seen by a significant increase in arrests after the implementation of the policy. As presented earlier, in 1979 police laid charges in only

3% of reported cases of wife assault. However, by 1983, two years after the mandatory arrest policy came into effect, police laid charges in 67% of reported cases of wife assault (London Family Court Clinic Inc., 1991). Although police laid significantly more charges, it is worth noting that the implementation of the mandatory arrest policy in London did not and has not acted as a deterrent in decreasing VAW. According to the same report, the number of incidents of wife assault reported to police remained relatively stable during the 1980s despite the presence of the mandatory arrest policy. In addition, the data does not provide any information about the outcome of the cases. However, it does indicate the willingness of the London police to treat wife assault as seriously as other assaults, one of the stated goals of the mandatory arrest policy.

"Priority is the safety of abused women": Framing Mandatory Arrest Using the LCCEWA's Feminist Approach

The second characteristic of London's model was the framing of the policy through a feminist lens. While there are many definitions of feminism, in their 1994 strategic plan, the LCCEWA defined their feminist approach as follows:

> acknowledges that we live in a world where sexist ideas, attitudes and structures give rise to discrimination, violence and oppression of women and, that ending sexism, along with other forms of oppression, requires that we challenge abuses of power in individual and family situations, as well as within political, economic and structural systems. (p. 4)

For the London VAW activists, the mandatory arrest policy reflected their broader goals of systemic change. Leger (1984) discussed how the creation of the mandatory arrest policy embedded within the feminist-led Coordinating Committee was seen as an opportunity to have all agencies involved, including the criminal legal system, "adopt common unifying goals" (p. 14) to assist victims.

The LCCEWA's feminist approach was also captured in the gendered wording of the directive. The use of the term 'wife assault' in the regulatory text signaled a feminist understanding of the problem of VAW by providing direction to the police about what was institutionally actionable. According to Smith (2005) regulatory texts establish the "authorized categories to which people's actualities are fitted by those working at the front line [and] are the only means by which those actualities can be made actionable" (p. 188). Thus, the choice of terminology endorses certain responses to violence and abuse and precludes others, and as criminologists DeKeseredy and Dragiewicz (2009) argue, feminists actively resist the use of gender-neutral language (such as spousal violence and domestic abuse) so as not to obscure the link between violence and gender inequality. Degendered conceptualizations of VAW also conceal the fact that women are the central targets and suffer the most severe consequences of violence in relationships (Nixon & Tutty, 2010).

In addition to the use of gendered language, the feminist approach in London was adopted throughout the criminal legal response, including at Changing Ways, the court-mandated treatment program for men. An activist participant from London claimed, "we're one of the most successful Coordinating Committees … Changing Ways, which is a PAR organization, was created out of our Committee" (P07). Changing Ways was established in 1984, after the creation of the local mandatory arrest policy, and the goal of the program was to help men "eliminate their abusive and violent behaviour in their relationships" (Correctional Service of Canada, 1994, p. 138). The agency's accountability principles clearly stated they were a "pro-feminist agency" (p. 139) whose "most basic priority is the safety of abused women and their children" (p. 139). In addition, the program was "committed to consulting with, and acknowledging women's advocates and survivors of men's violence" (p. 139) and "will be an advocate for social change

particularly as it pertains to the issues of male responsibility for violence against women and children" (p. 139). The creation of Changing Ways, as a feminist-based PAR program that supported men charged with wife assault, is an example of the legal mobilization strategy employed by VAW activists in London and how the mandatory arrest policy coordinated the criminal legal system and community-based interventions to VAW.

"It is not just a matter of one measure, it is a matter of several": Embedding Mandatory Arrest within a Broader Community-based Response

The final characteristic of London's mandatory arrest model was that it was embedded in their community's well-established network for responding to VAW. The Honourable Audrey McLaughlin (leader of the federal New Democratic Party) discussed the strengths of London's model in the House of Commons on December 6th, 1994:

> One can look for example at what some police forces have done across the country with their family violence prevention units. London, Ontario comes to mind. It has a very progressive program of going to a home where a call has been made, making sure that a social worker is present, that there is an option for ongoing counselling. It is not just a matter of one measure, it is a matter of several. (McLaughlin, 1994, p. 8684)

Although McLaughlin uses gender-neutral language to describe the initiatives in London, her acknowledgement of the emphasis placed on the importance of several measures, rather than arrests alone, captured the multi-pronged approach that defined London's model.

Another community-based aspect of the London model was the provision of extensive support to women experiencing violence so that they could understand the strengths and limitations of the carceral response to their abuse:

> Women's Community House, Rotholme [Family Shelter], the Victim/Witness Assistance Program and the Battered Women's Advocacy Clinic work together to assist victims and their children to devise clear safety plans in case of further violence, encouraging them to call the police for assistance and *helping them communicate effectively with criminal legal personnel* [emphasis added]. (London Coordinating Committee on Family Violence, 1989, p. 9)

Helping women learn to advocate for themselves within the criminal legal system was an important aspect of the London model and acknowledged that merely increasing the number of charges laid was not a guarantee of increasing the safety of women and children. The BWAC operated using a "radical education model" (Greaves et al., 1995, p. 317) that combined empowerment with advocacy. A service provider in London discussed how "police officers need to make sure women know that if they're going to proceed, it's a mandatory charge policy." The participant went on to explain how BWAC assists women to mobilize the law when reporting their assault to police:

> police will come to our office for those meetings, and we'll sit with the women and support them and when they go through the whole thing [of reporting the abuse], they often then at that point knowingly do so and are appreciative of the opportunity to do so and they don't regret that decision often. The decision often is more likely to be regretted when they haven't had all that preliminary work. So, it's about the original relationship with the woman, knowing she's going to be supported through the process, knowing that we are advocates and so we're going to, if they [the police] screw up, we're going to be on them. And for us, that generally works. (P22)

This community-based program of advocacy and empowerment for women experiencing violence was a cornerstone of the coordinated response to VAW in London.

A 1991 review of the effectiveness of the mandatory arrest policy in London found that police officers responded positively to the directive, more victims participated in the criminal legal process when charges were laid by police (rather than through private informations), and victims reported high-levels of satisfaction with police officers' intervention of laying charges (London Family Court Clinic Inc., 1991). However, since the apparent success of the London model would form the basis of the argument for the creation of a Canada-wide mandatory arrest policy, it is important to note that the authors of the study warned: "the progressiveness of the London service system is a serious limitation in generalizing the research findings to other communities" (London Family Court Clinic Inc., 1991, p. 13). The authors drew attention to the long-standing commitment from the London Police Force to implement the mandatory arrest policy and warned that a less progressive police force may not express the same "positive police attitudes on the importance of the policy" (p. v). The authors also discussed the demographics of the City of London as a limitation in understanding the impact of a mandatory arrest policy on racial minorities given that visible minorities constituted only 4.3% of the municipal population. In addition, in the original research study (Jaffe & Burris, 1984) from which the mandatory arrest policy was derived, almost all the men and women (91.5%) involved in the calls to police were White. The advocacy for the creation and implementation of the London model of mandatory arrest is based on interactions with predominately White families and therefore, lacked the critical understanding of the harmful impacts for visible minority families of mobilizing the criminal legal system.[36]

[36] See Chapter 5 for a detailed discussion of the negative consequences of DV criminal legal interventions on women and families from marginalized communities.

The City of London's mandatory arrest policy was created through close collaboration of the members of the LCCEWA, including VAW advocates and local criminal legal officials. The Coordinating Committee recognized that a charging policy "is not a 'quick fix' for the issue of woman abuse … [and] the *community response to victims through the criminal justice system* [emphasis added] needs to be examined as a coordinated intervention rather than piecemeal policies" (London Family Court Clinic Inc., 1991, p. 29). Peter Jaffe, one of the founders of the policy, appeared before the Sub-Committee on the Status of Women and made the following statement regarding effective mandatory arrest policies, included in their 1991 report, *The War Against Women*:

> If the laying of charges is seen as an overall community response, where the police and support services from the shelter or other agencies work with the police from the moment the charges are laid, from the moment the assault had taken place through to the court appearance, then you are providing proper community service. (p. 39)

Jaffe's assertion to the Sub-Committee indicated that he did not understand the mandatory arrest directive as an isolated criminal legal intervention, but rather as a "regulatory text" (Smith, 2005, p. 191) that coordinated community-based interventions for ending VAW. Thus, Ontario VAW activists framed the London model of mandatory arrest as a legal mobilization strategy as part of a feminist-based response embedded within community-based services. As a result of the gendered wording of the directive, as well as the collaboration between advocates and police to implement the policy using a feminist understanding of VAW, the London model was designed to minimize the risk of the criminalization of women victim-offenders.

Mandatory Arrest: Provincial Model

At the provincial-level, the topic of laying charges in wife assault cases was raised in the House of Commons by MP Arnold Malone on July 8, 1982:

> Many police forces are hesitant to lay charges of assault in instances where women have been beaten by their husbands, and their frequent failure to lay charges places a heinous burden on a wife who has to ascertain whether or not it is prudent for her to have charges laid, and since the all-party parliamentary committee on wife battering recommends "that police regularly lay charges in wife assault cases", and because the police department of the City of London, Ontario, has adopted a very commendable policy of laying assault charges in all wife battering cases where they have "reasonable and probable grounds." (Malone, 1982, p. 19119)

MP Malone's statement made a clear link between the existing mandatory arrest policy in London and his motivation to see a similar policy enacted in all police forces across Canada. In addition, his explanation of the need for such a policy reflects one feminist understanding of VAW by using gendered language to describe the violence. An article in *The Globe and Mail*, reported that MPs from all three political parties applauded when MP Malone made the above statement ("Police should lay charge", 1982). Immediately after MP Malone's introduction of the issue, the House of Commons unanimously adopted the motion to enact a mandatory arrest policy. This motion formed the basis for the "regulatory text" (Smith, 2005, p. 191) written on July 15, 1982, by the Solicitor General of Canada to the Canadian Association of Chiefs of Police that provided the following directive: "police should lay charges of assault in all cases of wife assault where reasonable and probable grounds exist. Moreover, the directive clearly stated that the officer did not need to witness the assault to have reasonable and probable grounds"

(Farge & Rahder, 1991, p. 3). By 1986, the Solicitor Generals and Attorney Generals of all Canadian jurisdictions had issued pro-arrest and pro-prosecution directives or guidelines to coordinate the actions of police officers and crown attorneys with respect to wife assault cases (Ad Hoc Federal-Provincial-Territorial Working Group, 2003). According to Canadian feminist scholar Lisa MacLeod (1987), Canada was the first country to adopt mandatory arrest policies nationwide.

The mandatory arrest directives issued by the provincial Solicitor Generals lacked the community awareness and police support that were the cornerstones of the London model. An advocate from London discussed the challenges of issuing a directive from the top-down:

> What they were trying to do was create a crisp to-do for police officers who really didn't want to see it, but the easier and crisper you made it, the more you could say there's a directive and we're dealing with it. But looking at officers, where they come from, what their learning is, what their understanding, what their biases are, what their privilege is, whatever, is so much more nuanced, so much more complex. And a directive is impossible. It's just impossible. (P01)

This participant expressed concerns about the effectiveness of a directive issued to govern police translocally without additional feminist framing regarding VAW. This concern was warranted, as the provincial model of mandatory arrest did not coordinate the actions of police in other jurisdictions with the same consistency and reliability as the London model. Examining data from 1987 and 1988, the London police laid a higher percentage of charges in wife assault calls compared to the provincial average[37] (London Family Court Clinic Inc., 1991).

[37] 65.1% versus 46.6% and 70.8% versus 50.8% for 1987 and 1988 respectively.

In 1991, the Assaulted Women's Helpline conducted a study of calls to the helpline to examine the response from Metropolitan Toronto area police forces responding to 911 calls involving wife assault.[38] The study found that:

> Despite a clear directive made almost 10 years ago by the Solicitor General to the police that they must lay charges in all cases of wife assault, the police continue to refuse to lay charges in 60% of all cases where women call them for help. (Farge & Rahder, 1991, p. 1)

In an academic research study conducted the same year, socio-legal scholar Kelly Hannah-Moffat (1995) interviewed 17 Metropolitan Toronto police officers and found that only six of the officers supported the mandatory arrest policy. According to Hannah-Moffat, the officers "resented the interference of the government and community advocates in policing activities" (p. 43). Years later in an interview with *The Globe and Mail*, the Assistant Director of Toronto Red Door family-abuse shelter, Michele Bell, recounted that police officers "still ask victims if they want charges laid, which 'is not what is supposed to happen. They are just supposed to go in there and lay the charges'" (Silcoff, 1996, p. A3). Based on the provincial data, academic research and responses documented by the Women's Helpline and the Red Door shelter, a translocal directive at the provincial-level was not effective in coordinating how some police officers responded to VAW, unlike the London model, which was written by police officers who were motivated to change the way they responded to incidences of VAW.

Although the provincial mandatory arrest directive has been coordinating police activity since 1982, several media articles and studies reflected a lack of awareness of the policy. For example, an article published in *The London Free Press* in 1994 read, "'London has been a model for the world in relation to dealing with family violence,' he [Deputy Police Chief Fred

[38] Of the six cities examined in my study, Toronto is the only one for which I could locate research regarding the implementation of the province-wide mandatory arrest directive.

Goebel] said, adding that Ontario's solicitor-general *adopted the same policy recently* [emphasis added]" (Gannon, 1994, p. B4). Four years later, an article featuring interviews with police officers in Ottawa about how they respond to suspected DV calls reported that "Now most say their hands are tied" (Brown, 1998, p. A8) with respect to having to make an arrest.

In addition to the media framing mandatory arrest as a new policy more than a decade after it was implemented to coordinate the response from police, victims also lacked knowledge about the directive. The lack of victim knowledge is at odds with the London model, which prioritized educating women about the policy prior to police involvement. A 1998 qualitative study undertaken by the Community Abuse Program of Rural Ontario (Biesenthal & Sproule, 2000) to examine women's experiences of violence while living in rural Ontario reported that "some women expressed that they did not know that *police were now instructed* [emphasis added] not to ask the woman if she wanted to press charges" (p. 33). The newspaper articles and research study demonstrate that there remained a lack of awareness about the provincial mandatory arrest directive long after it was implemented. As discussed in greater detail in the next chapter, when victims and community-based services are not aware of the criminal legal system's response to VAW, victims are left vulnerable to intimidation and coercion by police and face increased risk of arrest.[39]

Lastly, the collaboration between police and VAW activists that existed in London prior to the implementation of their mandatory arrest policy was not in place in other jurisdictions in the province. As a result, there was resistance by police to the feminist approach of the initial

[39] The negative consequences of police implementing mandatory arrest policies are examined in greater detail in Chapter 5. For more discussion, see also Bridgett (2020), Chesney-Lind (2002), Comack et al. (2000), Dasgupta (2001), Dayton (2003), Duhaney (2022), Fraehlich and Ursel (2014), Goodmark (2021), Gruber (2020), Henning et al. (2003), Hirchel and Buzawa (2002), Martin (1997), McMahon and Pence (2003), Miller (2001), Poon et al. (2014), and Saunders (1995).

policy. The final report of the Canadian Panel on Violence Against Women (1993) acknowledged this resistance:

> Local women's groups across the country have displayed a willingness to work with police to equip them better in responding to violence against women. Too often this offer is refused and, even when it is accepted, tensions arise over the reluctance of police to respect a feminist analysis of violence against women, the approach which has proven the most effective in creating the changes that bring access to justice for women. (p. 214)

The activation of the mandatory arrest policy by police who do not understand the complexities of VAW from any multitude of feminist perspectives has led to high rates of dual arrest or counter-charging of victims, police that continue to use their discretion despite the policy, and police who are unable to identify the primary aggressor in the relationship (Chesney-Lind, 2006; Goodmark, 2021; Grace, 2019; Hirschel & Buzawa, 2002; McDermott & Garofalo, 2004; Miller, 2001; Pollack et al., 2005). The consequences of this inconsistent and gender-neutral application of DV criminal legal interventions is discussed in detail in the next chapter.

In the years following the mandatory arrest directive, some Canadian feminist scholars, criminal legal officials, politicians, and VAW advocates began raising concerns (Ruttenberg, 1994; Hannah-Moffat, 1995; MacLeod, 1987; Martin & Mosher, 1995). Feminist socio-legal scholar Laureen Snider (1990) argued that the dependence of feminist movements on the criminal legal system to improve women's lives and decrease VAW was "practically, theoretically, and morally wrong" (p. 144). At a symposium on wife assault held in Ottawa in 1990 with 120 criminal legal and VAW community-based workers, Elizabeth Lynch (Victim Crisis Unit, Ottawa Police Department) acknowledged that "the Criminal Justice System is not well designed to handle the complexity of domestic assault cases" (Paiement, 1990, p. 14). In

1994, several years before the opening of the first DV Court Program, the Honourable Audrey McLaughlin called for an evaluation of existing DV criminal legal interventions based on findings from an Ontario study that reported women were disappointed with the response from the criminal legal system. With respect to the mandatory arrest directive, McLaughlin (1994) stated:

> A lot of us at the time felt it was a good directive. Perhaps it is time to look at whether it has been effective for women. We should look at all laws that have been put in place to accomplish these ends. (p. 8682)

Currie's (1995) report titled, *Ethnocultural Minority Women, Spousal Assault and Barriers to Accessing and Problems in Using the Justice System*, described mandatory arrest policies as "one of the most critical components of a criminal justice response to spousal assault because it sets in motion a range of other criminal justice activities which may be seen as problematic within some ethnocultural communities" (p. 1). The report goes on to explain that many ethnocultural minority women "may call the police for short-term protection but find they have engaged the whole weight and complexity of the criminal justice system" (p. 41). Similarly, a report published by the Commission on Systemic Racism in the Ontario Criminal Justice System found that VAW advocates for abused racial minority women were highly critical of the mandatory arrest policy (Gittens & Cole, 1995). In an article published in *The Toronto Star* covering the publication of the report, the Commissioner was quoted: "Far from increasing the safety of women, they indicated, mandatory charging may be driving family abuse underground" (Tyler, 1996, p. A21).[40] Despite the concerns that emerged during the early 1990s regarding the negative

[40] See Chapter 5 for a more detailed discussion of the concerns raised by critical race scholars and some VAW advocates regarding the consequences of DV criminal legal interventions on women and families from marginalized communities.

outcomes from the provincial translocal governance of the mandatory arrest policy, rather than evaluate the use of the criminal legal system's response to VAW, pressure mounted to implement new criminal legal interventions. These interventions created new pathways for the criminalization of women victim-offenders.

Hitting Home: Media Shaming of the Criminal Legal System's Response to VAW

Some of the greatest pressure to expand the criminal legal response to VAW came in the form of an extensive report published in *The Toronto Star* in March 1996. For eight months, a team of *Star* reporters (Rita Daly, Jane Armstrong and Caroline Mallan) tracked 133 cases of DV through the courts and published their findings over seven days in the *Hitting Home* series.[41] The series was the first of its kind to investigate DV cases in Ontario. On the first day the series was published, *Star* editor Lou Clancy (1996) wrote: "Today we launch a compelling and controversial series looking into our society's inability to come to terms with the issue of spousal abuse. The conclusion is frightening. It's not that the system is broken. It never worked" (p. A4). The journalists reported that "most batterers, many of them repeat offenders, are released with little or no punishment" (Armstrong et al., 1996a, p. B4) and that over one-third of the cases were withdrawn because the victim either recanted or did not attend court, and no other evidence (such as 911 tapes or witness statements) was presented in court (Daly et al., 1996a). A report by the MWAC credited the *Hitting Home* series with demonstrating "how frequently charges were dropped and offenders were free to be able to continue to abuse either the same victim or different women, year after year" (Green, 1997, p. 41).

[41] The outcome of 100 of these cases were as follows: 60 convictions, resulting from 90% of the accused pleading guilty; 50% of the guilty pleas involved charges that had been reduced or the withdrawal of other charges; 23 of the convicted offenders received jail time and 37 received probation; 43% of offenders were ordered to attend anger management courses; and 40 acquittals. In addition, 46% of the 85% of accused persons released on bail broke their bail conditions by either harassing, stalking, or going back to live with the woman they had been charged with assaulting (Daly et al., 1996a).

The *Hitting Home* series raised public awareness about incidences of VAW and critiqued the criminal legal response to DV. An article summarizing phone calls from readers to *The Toronto Star's* feedback line following the first two days of publication reported that "It has been a long time – if ever – since readers have been so stirred up as they were by The Star's eight-month project examining domestic violence and society's failure to stop it" (Bill, 1996, p. A6). According to the same article, most of the calls were "highly critical of crown attorneys who refuse to prosecute cases when the woman refuses to testify against the man" (p. A6). Vivien Green (1997), Coordinator of the MWAC, summarized the results of the investigation as "shocking to those in the community who had little or no contact with the court system" (p. 41).

The crux of the series' criticism of the criminal legal system's handling of domestic assault charges was the high numbers of crown attorneys withdrawing charges when the victim was unwilling to testify. An article early in the series connected mandatory arrest policies with the pressure on victims to comply with the criminal legal system:

> On paper, this [mandatory arrest] was a progressive plan of action, designed to have society, not the victim, dictate what is a crime. In reality, it hasn't worked. The police are laying charges, but the victims, overwhelmingly women, are not left to decide whether the charges will stick: unless the accused pleads guilty, victims must testify in court. The onus on them has simply moved out of the home and into the courthouse. (Armstrong et al., 1996a, p. B4)

The frequent withdrawal of charges by Toronto crown attorneys demonstrates another way in which the mandatory arrest directive by the province was activated by police in isolation. Although police were instructed to lay charges regardless of the victims' wishes, no additional systemic changes were implemented to reinforce the condemnation of VAW as a crime without

having to rely on the victim. The initial article in the *Hitting Home* series included quotes from a Provincial Court Trial Judge criticizing the crown attorneys' approach to DV cases: "I'd say there's more they could do but they don't and unfortunately, it's not my job to tell a crown what evidence they should introduce," as well as a police officer who stated, "If he'd gone all the way and killed her, then would we have needed her testimony?" (Daly et al., 1996a, p. A4). See Figure 4 for an editorial cartoon that also illustrates this critique of crown attorneys. By tracking the progress of cases through the criminal legal system, the journalists found that "without the accuser's testimony, the crown does not even try for a conviction" (Mallan et al., 1996, p. E4). In addition, the reporters revealed that "not once was other evidence, including photographs of injuries, 911 tapes, witness testimony or police testimony used to secure a conviction" (Armstrong et al., 1996b, p. A1). Throughout the series,

Figure 4.

Editorial Cartoon from "Hitting Home" Series



From "Editorial Cartoon," by Patrick Corrigan, *The Toronto Star*, p. C2. Copyright 1996 by Patrick Corrigan. Reprinted with permission.

the journalists emphasized that case law existed in Ontario that enabled Crowns to submit these other forms of evidence. No new legislation or expansion of DV criminal legal interventions was therefore required to remove the victim as the central witness in a domestic assault case.

The emphasis placed on Crowns submitting other forms of evidence in DV cases was embedded within a broader narrative of the entire series that reinforced a carceral response to VAW. All the articles assumed that mandatory arrest and prosecution were proper outcomes for all domestic assaults. For example, the subtitle of a special section published on the second day of the series criticized the case outcomes for not being punitive enough: "Few of the accused were jailed; most received little more than a slap on the wrist" (Armstrong et al., 1996a, p. B1).

Despite the pro-prosecution position of the journalists, there are multiple quotes from crown attorneys within the *Hitting Home* series acknowledging that the criminal legal response to VAW was not effective. Toronto's Chief Prosecutor, Paul Culver, told the journalists that "the system of dealing with domestic violence isn't working and he'd like to see significant change … He added that an overzealous prosecution of a domestic violence charge is not always the best answer for the victim" (Armstrong et al., 1996b, p. A1). In addition, a Crown who withdrew an assault charge at the request of the victim said, "I'm not here to make people's lives more miserable if they want to get back together" (Daly et al., 1996a, p. A4). This Crown recognized that the DV criminal legal intervention can make 'people's lives more miserable' and is not necessarily a path towards victim safety and ending VAW. In addition to the Crown Attorney's admission that the criminal legal response is ineffective, the following comment from a Judge to a victim who recanted was included in the series, "He now knows you won't testify against him … and in the end you become a double victim. You may be in a worse position now than you were when the assaults took place" (Mallan et al., 1996, p. E5). The quotes from criminal legal

officials demonstrated a clear awareness that the carceral response may be putting victims at greater risk for further harm, yet at no point during the series do the journalists present alternative non-carceral options for responding to VAW. This lack of alternatives is especially noticeable given that one article in the series acknowledged that most women do not favour a punitive response to their partner: "Most women interviewed in The Star study said that while they didn't want their partner jailed, they wanted him to face some sort of consequence. Usually, that meant counselling" (Daly et al., 1996b, p. A19). However, rather than giving greater attention to the community-based outcome victims wanted, the journalists reinforced a carceral framing of VAW and advocated for a new DV criminal legal intervention, the creation of a specialized DV Court. This carceral framing contrasts with the form of legal mobilization spearheaded by the London advocates who embedded their model of mandatory arrest within a broader community-based response to VAW to ensure that involvement with the criminal legal system created new opportunities to support women experiencing violence in their relationships.

Creating the DV Court Program Through a "Synchronicity of Interest"

According to one activist, who played a key role in Toronto's VAW movement, the creation of the DV Court Program "was this real synchronicity of interest in the Crowns, this newspaper thing [*Hitting Home* series] that really had a lot of impact back then, and then the PAR agencies, well, the batters' programs getting together" (P30). The *Hitting Home* series was referenced as a key instigating factor for the move toward a specialized DV Court in Toronto in almost every document that discussed how the Court came to be. For example, a report commissioned by the Ontario Women's Directorate stated, "A recent study and series of articles in the Toronto Star has drawn attention to deficiencies in the existing court system. The government has responded with the development of two spousal abuse court pilots" (McGuire

Associate Consultants, 1996, p. 26). In an interview with a reporter, Christine McGoey, one of four assistant crown attorneys on the newly developed Toronto DV prosecution team, also linked the DV Court with the government's response to the series, "She said in a telephone interview that the concept of special courts developed from a 1996 Toronto Star study" (Marr, 1997, p. A8). A 1999 report published by the National Clearinghouse on Family Violence on Canadian initiatives to end VAW described how the *Hitting Home* series revealed the increasing number of cases being withdrawn at the prosecution phase and as a result, "two different specialized courts are being tested in an effort to create a more effective response" (Denham & Gillespie, 1999, p. 33). Lastly, in a feminist critique of the DV Court Program, legal scholar Frances Salvaggio (2002) detailed how "the findings of a series of articles in the *Toronto Star*" (p. 10) shaped the DV Court model, which emphasized the collection of additional evidence beyond victim statements to increase the likelihood of a conviction.

In what would turn out to be a "critical juncture" (Mahoney, 2000, p. 513) for the Ontario VAW movement, Ontario resident Arlene May was murdered by her ex-boyfriend the day before the *Hitting Home* series began. When *The Toronto Star* first reported the femicide, "Abuser on bail slays mother of 5, kills self" (Rankin, 1996, p. A1), it shared the front page with the *Hitting Home* series, "Our system isn't working top crown says" (Armstrong et al., 1996b, p. A1; see Figure 5). Alongside the series, May's murder and subsequent Coroner's inquest, fuelled the creation of the DV Court Program. A retired Judge I interviewed recalled, "The idea for the requirement of a Province wide DV model came directly out of the May/Iles Coroner's Inquest" (P03). The Ontario Ministry of the Attorney General (2001) acknowledged this link in the

Figure 5.

Femicide and "Hitting Home" Share the Front Page of "The Toronto Star"



THE SUNDAY STAR

Sunny. High -1C | March 10, 1996 | Metro Edition

HITTING HOME: SPOUSAL ABUSE

Our system isn't working top crown says

Abuser on bail slays mother of 5, kills self

'He (Randy Iles) was very clever. He didn't beat her with people around. He knew it was her word against his.'

INSIDE: A 5-page report starting in Context, E1

From *The Sunday Star*, p. A1. Copyright 1996 by *The Toronto Star*. Reprinted with permission.

guidelines published for operating a DV Court: "The domestic violence court program is a response to the recommendations of the May/Iles inquest and the Joint Committee on Domestic Violence" (p. 4-1).

At the time, no one could have predicted how these events would create a 'synchronicity of interest' as described by the activist participant quoted above. Path dependency theorists would label this period of institutional genesis as a "critical juncture." According to comparative-historical researcher James Mahoney (2000):

> Critical junctures are characterized by the adoption of a particular institutional arrangement from among two or more alternatives … once a particular option is selected it becomes progressively more difficult to return to the initial point when multiple alternatives were still available. (p. 513)

The choice to create and expand the DV Court Program throughout Ontario was a critical juncture in the response to VAW because it supplanted other non-carceral interventions and has remained the dominant response for several decades. As outlined below, the initial framework for the Toronto DV Courts did not preclude alternative community-based responses but aimed to work in close collaboration with them. The Ontario activists leading these interventions were advocating for a more nuanced relationship to the carceral system than that expressed by American activists, who have been heavily criticized for their carceral form of feminism. However, as with the provincial mandatory arrest policy, which failed to replicate the London model, the expansion of the Toronto DV Court Program to other jurisdictions followed a similar trajectory that emphasized the carceral components of the Program without the necessary knowledge and input about VAW from advocates, criminal legal officials, and service providers.

Translocal Governance by the MWAC: The Toronto Model of the DV Court Program

The initial DV courts opened in Toronto through a tightly woven network of advocates and criminal legal officials. Historical narratives detailing the sequence of events that brought the Courts to fruition can be found in the existing literature (see Dawson & Dinovitzer, 2008; Green, 1997; Singh, 2011, 2012, 2017). Building on this work, this section focuses on three significant characteristics of the initial DV Court Program: (a) coordination by a feminist-led advocacy organization, (b) crown attorneys motivated to make changes to the response to VAW from within the criminal legal system, and (c) the assessment and accountability of community-based interventions for men who use violence and their victims. By analyzing these characteristics, I demonstrate how the expansion of the DV Court Program could have been otherwise and thus, not led to an increase in the criminalization of women victim-offenders.

"Community response to assaulted women": MWAC's Feminist-led DV Court Model

The MWAC established the framework for the DV Court Program by building on the coordinated response to VAW they had already developed in Toronto since 1991. According to Vivien Green (1997), Coordinator of MWAC at the time, the MWAC was formed to provide "the leadership needed to: *create an integrated (coordinated) community response* [emphasis added] to woman abuse which ensures the most effective and efficient provision of services in Metro Toronto for assaulted women and their families" (p. 2). A major achievement of the MWAC in its early years was the development of *Best Practice Guidelines* for support services, public education, and the health care and criminal legal systems. The MWAC *Guidelines* aimed "to create a system of standardized service that would ensure a high quality of intervention and accountability" (Green, 1996, p. 21) for all sectors in Toronto responding to VAW. In addition, the *Guidelines* recognized that "there are various modes of intervention and models, however all must include a feminist understanding of violence against women" (Green, 1997, p. 7).

The MWAC's goal of coordinating institutional responses to VAW within a feminist approach, was influenced and supported by the early involvement of American feminist, Ellen Pence. The activist participant responsible for spearheading this effort in Toronto described yet another moment of 'synchronicity':

> I started looking into coordination and reading about it and came upon Duluth and Ellen Pence … I called Duluth and they say, "Oh, Pence isn't here. She's in Toronto." So, I tracked her down in Toronto and she was a real mentor. I mean we did not dream this stuff up all on our own for sure. I mean we worked with her very closely and a lot of other people. (P30)

Ellen Pence, along with her colleagues at the Domestic Abuse Intervention Project, developed the Duluth Model in Minnesota. One of the earliest mentions of the Duluth Model in the documents analyzed for this study was an article written by feminist journalist Michele Landsberg in 1991, *Community Mobilizes Against Wife Abusers*. The article emphasized that the Duluth Model was a community initiative that worked in collaboration with the police by providing daily monitoring of the response of all criminal legal officials, as well as ensuring that a woman's advocate was immediately called to assist victims when their partner was arrested. Pence was quoted in the article: "We aim to protect the victim, not to fix the batterer" (Landsberg, 1991, p. G1). This aspect of the Duluth Model closely aligns with the London model of mandatory arrest which utilized the criminal legal system intervention to connect victims to services. More broadly, the elements of the Duluth Model "may be understood as the men's [re-education] curriculum, the use of a mandatory arrest policy, the use of a tracking system to monitor the criminal justice system, or interagency coordination" (Pence & Shepard, 1999, p. 4). In an article critical of carceral responses to VAW, activist-scholar Mimi Kim (2015) acknowledges that the Duluth Model "rested on a deliberate, integrated and, most importantly, *domestic violence advocate-led coordination between local advocates and law enforcement* [emphasis added], all focused on one goal, that is, safety for women victims of domestic violence" (p. 18). According to Mark Holmes (2015), coordinator of Ottawa's PAR program for 30 years:

> Although the Duluth Model is sometimes simplistically used to describe a curriculum for use in groups for men who are abusive, it actually refers to a coordinated community response to end domestic violence, of which groups for men form only one part. (p. 204, note 5)

According to feminist governance scholar Rashmee Singh (2011), "the aim of the [Duluth] model is to create the infrastructure for the police, courts, social service agencies and community organizations to *work conjointly* [emphasis added] to monitor abusers" (p. 272).[42]

The Toronto model mirrored the Duluth Model, with leadership by the MWAC, a feminist advocacy organization. In a news release announcing the DV Courts in Toronto, the Ontario Ministry of the Attorney General (1996) stated that Vivien Green "was consulted on the development of the courts" (p. 1). In addition, in 1999 then City Councillors Jack Layton and Olivia Chow acknowledged the role of the MWAC in coordinating a "*community response* [emphasis added] to assaulted women and children. Thanks to their lobbying, there is now a special domestic violence court" ("They run for office against violence", 1999, p. S11). In a study conducted during the first year of operation of the initial DV Court at City Hall, sociologists Myrna Dawson and Ronit Dinovitzer (2008) reported that of the 474 cases processed by the court, 93% involved male offenders. In addition, significant factors that increased the likelihood of prosecution included the offender being male and the victim having met with a Victim/Witness Assistance Program support worker. Similar to the London model of mandatory arrest, the Toronto DV Courts were coordinated by a community-based advocacy organization and adopted that organization's feminist understanding of VAW.

"Current system doesn't work well enough": Making Change from Within the Criminal Legal System

The second significant aspect of the initial DV Court Program was the motivation of the crown attorneys to implement changes to the criminal legal intervention for VAW. In July 1996,

[42] See Pence (1983) for a more detailed description of the policy revision and implementation process that the original participating agencies, including the police, city attorneys, probation, women's shelter and social services, underwent to create the Duluth Model.

four months after the *Hitting Home* series was published, an article by one of the investigative journalists appeared in *The Toronto Star* outlining how crown attorneys in Toronto were advocating for a specialized DV Court:

> Calling domestic violence a "tenacious epidemic," Metro's downtown crown prosecutors want to establish a separate courtroom to deal exclusively with people accused of battering their partners, according to a memo obtained by The Star. They say they need a designated courtroom because the current system doesn't work well enough … The crowns cite some of the Star's [*Hitting Home* series] findings in their 16-page proposal. (Armstrong, 1996, p. A1, A4)

Green (1997) reported that MWAC worked closely with the assistant crown attorneys who were seeking change and organized a consultation with Gael Strack, the lead prosecutor of the San Diego DV Team, including "an informal and lively dinner meeting … with a number of interested Crown Attorneys from Old City Hall" (p. 41). According to Singh (2012), San Diego's DV Courts were "widely considered to be paragons of feminist criminal justice reform within the anti-violence movement" (p. 91). In 1996, Gael Strack was interviewed for an article in the *Hitting Home* series in which she outlined the central tenants of the San Diego DV Court (Armstrong et al., 1996c). These tenants included the requirement that police take photographs of the victim's injuries, a recording of the victim's 911 call be introduced as evidence, and prosecutors must interview as many witnesses as possible. In addition, attorneys must request to work in the DV unit and volunteer on the city's DV council, which makes recommendations on how to reduce DV. As a result, San Diego's DV Court is implemented by crown attorneys personally invested in ending VAW. The crown attorneys involved in the initial DV Courts in Toronto were similarly personally invested. During her interview, a former Assistant Crown

Attorney recounted being approached by the Crown Attorney while on maternity leave to see if she would be interested in joining a new DV Court pilot project. The participant stated, "it meant I'd be coming off of leave earlier than I wanted, but I decided I wanted to and that was the sort of beginning" (P06). This participant's willingness to end her maternity leave early to help develop and then implement one of the first DV Courts in Toronto shows how invested some crown attorneys were in changing the system. Some crown attorneys were also willing to work closely with the feminist advocates at MWAC to design the DV Court process. One Toronto-based participant recalled the collaboration between MWAC and the four crown attorneys who were spearheading the project: "the point of the specialized courts is that it has to be a coordinated and an integrated system" (P30). One of those initial four Crown Attorneys, Christine McGoey, stated in an interview published in *The Hamilton Spectator* that "the key to the court's effectiveness are the strong links between the Metro Women's Abuse Council, police and the Crown" (Marr, 1997, p. A8). The collaboration between MWAC and the various crown attorneys in Toronto demonstrates both a willingness of the criminal legal officials to work with feminist advocates and the advocates goal to mobilize the criminal legal system to respond to VAW in a way that connects families experiencing violence with community-based supports. In an article analyzing effective DV Court practices, criminologist Angela Gover (2009) concludes that "there must be solid collaborative relationships between the court and other state, county, and community agencies and organizations so that the appropriate services can be delivered to victims and offenders" (p. 124).

The collaboration between the Toronto crown attorneys and MWAC resulted in two different court procedures for intervening in DV cases. The DV Court in North York developed an *early intervention model* for responding to first-time offenders who did not inflict significant

physical injury on their victim. The DV Court at Old City Hall (often referred to as 'K Court' for its location in the courthouse), utilized a *coordinated prosecution model* that relied on the specialized investigation and prosecutorial techniques employed by the San Diego DV Court.

"Safety and protection of potential victims as the highest priority": Holding PAR Programs Accountable

A final aspect of the MWAC's governance of the Toronto DV Court Program was the assessment and accountability of community-based interventions for men who use violence and their victims. These PAR programs are expected to work toward changing men's attitudes towards violence, provide support and referrals to women victims of the men's violence, and participate as part of a larger network promoting change in men's abusive behaviour (Scott, 2006). Long before the DV Court Program came to fruition, the MWAC held city-wide monthly accountability meetings of all agencies who ran programs for abusive men (Correctional Service of Canada, 1994). These meetings were part of MWAC's local coordination of responses to woman abuse within Toronto. In an article published in an issue of Education Wife Assault's newsletter, Vivien Green (1998) outlined the procedure for integrating existing programs for men who use violence into the DV Court Program. Green detailed how the MWAC had already created *Standards and Intervention Guidelines* (Green, 1996) for intervention programs for batterers. These guidelines stated that: "**ALL** interventions with men who abuse must regard the safety and protection of potential victims as the highest priority" (p. 44) and "ensure that women partners are made aware of advocacy services through community/education outreach strategy" (p. 44). Programs prioritized the safety of women and children by making a firm commitment to contact victims to offer them information and referrals. For the attendee, the program had to ensure the man took responsibility for his use of violence by monitoring and holding him

accountable for his behaviour. In addition, intervention programs had to be active participants within the community-wide response to VAW. Once the Toronto DV Court Program began, MWAC interviewed prospective programs and identified ten agencies that met the criteria of their *Standards and Intervention Guidelines*. These ten programs were placed on a roster to receive referrals of men from the two DV Courts. Through the *Guidelines*, MWAC translocally governed and coordinated the response to VAW in Toronto following the Duluth Model. The Duluth curriculum locates the roots of VAW within unequal power relations between men and women (Singh, 2011). MWAC's coordination and assessment of what would become court-mandated PAR programs in Toronto, helped to disseminate their feminist framing of VAW through the re-education of men perpetrating violence and the support offered to women who were victims of that violence.

It is worth noting that the initial DV Court Program deviated significantly from the Duluth Model and San Diego DV Court Program on one key factor: the length of the PAR program. For example, men prosecuted through San Diego's DV Court were mandated to attend a year-long batterer's program (Armstrong et al., 1996c; Singh, 2012). However, the Toronto agencies provided a 16-week program subsidized by the Ontario Ministry of the Attorney General. One Toronto activist discussed how the length of the PAR program was chosen based on funding:

> We came up with this plan and [name redacted] who had access to money through her position, I mean this whole idea of why did we pick 16 sessions? It was completely what she thought the province would pay for because the money came out of the Victim Surcharge. So, you know, there was no analysis. We knew that in the States these things

> are 25 weeks or 52 weeks, but she said we're never going to get that but what we could get is money for this amount. (P30)

While the length of the PAR program was initially chosen based on funding and not empirical data, the MWAC *Standards and Intervention Guidelines* stated that "All interventions with men who abuse must include evaluations, the focus of which should be increasing women's safety" (Green, 1996, p. 62). As will be discussed in greater detail below, the PAR programs have been minimally evaluated and the number of sessions men are court-mandated to attend has decreased to 12 over the last two decades. Given the limited amount of time the PAR program has contact with men who perpetrate violence and their victims, how VAW is framed by the program becomes even more important.

Tracing the development of the framework for the DV Court Program in Toronto through historical records makes it clear that the priorities and success of the initial Courts were frequently attributed to the leadership of the feminist, advocacy-oriented MWAC in creating a locally coordinated response to VAW. Singh (2012) notes that this leadership mirrored the Duluth Model "in which community organizations would perform *just as critical a role* [emphasis added] as traditional justice institutions in the governance of domestic violence" (p. 77). Green (1997) discussed how the MWAC ensured that all relevant parties provided input into the process and how "the implementation of these two [Court] projects has taken place within a context of inter-agency cooperation and collaboration. This has strengthened the projects immeasurably and has created a strong community commitment to their success" (p. 40). Feminist legal scholar Salvaggio (2002) acknowledged the link between the achievements of the DV Court and the role of collaboration: "The 'success' of K-Court is attributed to the coordination between the police, V/WAP, Crown attorneys, batterers' programs, probation and

community agencies" (p. 11). Similar to the development and implementation of the City of London's model of mandatory arrest, the creation of Toronto's DV Court Program brought together VAW advocates, community-based agencies, and local criminal legal officials who were motivated and informed about the complexities of intervening in cases of VAW. In addition, this DV criminal legal intervention provided a pathway to enroll men who use violence into pre-approved intervention programs that prioritized the safety of women and children by offering support and referrals to women experiencing violence. Lastly, when the DV Court Program was launched, there was no ambiguity around defining the problem the courts were designed to address: "Two specialized Ontario courts will begin experimenting this January with a co-ordinated approach to the problem of what Attorney-General Charles Harnick yesterday called 'the sickos' who beat their wives or girlfriends" (Platiel, 1996, p. A3).

For the first two years in which the courts operated, all Ontario Ministry of the Attorney General news releases, as well as newspaper articles analyzed for this study, that quoted key partners in the operation of the DV Court Program, used gendered language to describe the goals of the program. The announcement of the first expansion of the Program to jurisdictions outside of Toronto was framed as being part of the Ontario government's "plan designed to curb violence against women" and that "men who abuse their partners will be held accountable for their acts of violence" (Rusk, 1997, p. A6). However, as discussed in greater detail below and mirroring the path of the provincial mandatory arrest directive, provincial governance of the DV Court Program failed to replicate the community coordination, personal investment, and MWAC's feminist approach that were the cornerstones of the initial DV Courts in Toronto.

Translocal Governance by the Ministry of the Attorney General: The Provincial Model of the DV Court Program

Six months after the Toronto DV Courts began, Attorney General Charles Harnick announced the expansion of the DV Court Program to six new jurisdictions: Brampton (Peel), Hamilton, London, North Bay, Oshawa (Durham) and Ottawa (Rusk, 1997). According to the Ontario Ministry of the Attorney General (2001) publication, *Implementing the Domestic Violence Court Program* (The Guidelines), the Program goals are to intervene early in the cycle of domestic violence, improve support to victims, and more effectively investigate and prosecute domestic violence cases. With respect to implementation specifically, the "regulatory text" (Smith, 2005, p. 191) stated:

> Based on what was learned in the existing domestic violence court sites, the following are considered to be essential components of the domestic violence court program: *active local coordination* [emphasis added]; interpreter services to give victims linguistic access to services; police services to develop and maintain procedures for undertaking and managing investigations into domestic violence that address *enhanced investigative procedures* [emphasis added]; designated Victim/Witness Assistance Program staff specially trained to give support and information to victims in domestic violence cases; *designated Crown Attorneys specially trained* [emphasis added] to prosecute and to provide consistency and continuity to domestic violence cases; *specialized counselling programs* [emphasis added] for persons found guilty of domestic violence offences and *support for their victims* [emphasis added]; specialized processing of cases to ensure that cases are appropriately handled and fast-tracked, whether the accused pleads guilty or proceeds to trial. (p. 5-1)

From this list of essential components, it is clear that the Ontario Ministry of the Attorney General recognized the importance of community coordination and the specialized training of criminal legal officials. However, it is also worth noting that between when the Toronto DV Courts opened in January 1997 and the publication of The Guidelines for the translocal coordination of the DV Court Program, the feminist use of gendered language was removed and replaced by gender-neutral terminology. In their analysis of Canadian policymakers' degendered conceptualization of VAW, activist-scholars Kendra Nixon and Leslie Tutty (2010) warn that gender-neutral policies targeting family violence may be dangerous for women experiencing violence because the portrayal of "relationship violence as symmetrical denies the seriousness of violence against women and may lead to the reduction (and perhaps, elimination) of essential services for abused women" (p. 76).

The Guidelines outlined the two different streams of the DV Court Program. The early intervention model, initially used in North York was expanded to Brampton and Oshawa in December 1997, and to North Bay in early 1998. This model was to be used when the offender had no previous convictions for violence-related offences, did not cause significant injuries or harm, did not use a weapon, and the offender chose to take accountability for their violence by pleading guilty and enrolling in a PAR program (Ontario Ministry of the Attorney General, 2001). In addition, The Guidelines clearly stated that the victim was to be consulted prior to the crown attorney providing the offender with the early intervention option.

When an offender did not meet the criteria for the early intervention model, they were processed through the coordinated prosecution model. This model was initially used at Old City Hall and expanded to London, Ottawa, and Hamilton in February 1998.[43] Coordinated

[43] As discussed in my Methodology chapter, due to a lack of participants and documentation from Hamilton for this study, the regional variation discussion will focus solely on the other five jurisdictions.

prosecution required enhanced evidence gathering by specially trained police, prosecution of the case by specially trained and designated crown attorneys, and if convicted, the crown attorney was instructed to ask the court to order the offender to attend a PAR program as a condition of their probation (Ontario Ministry of the Attorney General, 2001).

Regional Variation: Deviations in the Provincial Model of the DV Court Program

In addition to the "work knowledges" (Smith, 2005, p. 44) provided by interview participants for this study, the exploration of regional variation in the implementation of the DV Court Program draws heavily from information contained in the document, *The Evaluation of the Domestic Violence Courts: Their Functioning and Effects in the First Eighteen Months of Operation, 1998 to 1999* (The DV Court Evaluation) (Moyer et al., 2000).[44] This historical evaluation provides an invaluable "snapshot of the start-up and early functioning of the two models" (Moyer et al., 2000, p. 6). This snapshot informs the discussion about the lack of translocal coordination across the new DV Courts. Other than what was captured by The DV Court Evaluation, there is a lack of empirical data regarding the implementation of the DV Court Program outside of Toronto (Singh, 2012). The following discussion addresses this significant empirical gap.

According to The DV Court Evaluation (Moyer et al., 2000), the regional expansion of the DV Court Program included additional assistant crown attorneys for the coordinated prosecution sites (London and Ottawa), additional Victim/Witness Assistance Program staff for all jurisdictions, and new contracts with eight PAR programs (there are three programs serving Peel Region). The Ontario Ministry of the Attorney General did not provide additional funding

[44] The DV Court Evaluation was conducted by Moyer & Associates (2000) on behalf of the Ontario Ministry of the Attorney General. The research team had access to all relevant criminal legal officials and files at each of the six new DV Courts, as well as the community partners (PAR programs) and victims involved in the cases.

to police services in any of the jurisdictions, which meant that the police in the two coordinated prosecution sites were asked to conduct enhanced investigative procedures without increased resources. The following discussion explores how the key components of the framework developed by MWAC were not replicated when five of the DV Courts (Brampton, London, North Bay, Oshawa, and Ottawa) opened outside of Toronto.

With respect to regional variation, The Guidelines acknowledged that the "implementation of domestic violence court program varies depending on the volume of cases, size and characteristics of the community" (Ontario Ministry of the Attorney General, 2001, p. 5-1). In addition, The DV Court Evaluation warned that "each court is designed and operated in response to the needs and circumstances of the community it serves. Because of their local environments, Projects using the same model may differ among themselves" (Moyer et al., 2000, p. 3). However, in their 2001 investigation of the criminal legal system's response to men's VAW, a report by the BWAC stated, "there is little evidence available that demonstrates these [Domestic Violence] courts are operating according to the originally proposed guidelines" (Walker & Hanington, 2001, p. 19).

When asked about the opening of London's DV Court, a community-based participant recalled, "I remember thinking, oh, this is going to be great but then not actually, you know, seeing it play out" (P25). Through analysis of my data, as well as the data reported in The DV Court Evaluation (Moyer et al., 2000), I identified a number of reasons for why the DV Court expansion did not 'play out': (a) lack of personally invested, specially trained criminal legal officials, (b) failure to protect women through under-funded, inconsistent PAR programs, and (c) absence of community coordination and displacement of existing community-based responses. As a result of these deviations, my analysis sheds light on how translocal governance by the

Ontario Ministry of the Attorney General of the DV Court Program struggled to meet the stated goals of the program and contributed to the criminalization of women victim-offenders.

Lack of Personally Invested, Specially Trained Criminal Legal Officials. Many participants with experience of the implementation of their regional DV Court, as well as The DV Court Evaluation (Moyer et al., 2000), reported that their Program operated without specially trained or dedicated criminal legal officials. According to The DV Court Evaluation, no specially trained police officers were assigned for the early intervention models in North Bay and Brampton, and London had trouble implementing the coordinated prosecution model due to the slow uptake of the enhanced investigative techniques required by police. These techniques were easier to implement in Ottawa, because a specialized DV detective unit existed prior to the opening of the DV Court. The specialized unit made procedural changes to bring them in line with The Guidelines, including the use of more videotaped evidence, increased use of 911 audiotapes, and police officers checking more often for prior DV occurrences (Moyer et al., 2000). The police department in Oshawa made specialized officers available 24 hours a day to take photos of victim injuries resulting in more photographs being used as evidence in Oshawa's early intervention Court than any other Program site (Moyer et al., 2000). According to a participant, although the Oshawa police enhanced their investigative techniques, the crown attorney's office did not abide by The Guidelines: "in the beginning we had a dedicated Crown DV team, but it was very short-lived … now, well since almost inception, any crown attorney can process a DV case" (P11). There was also no specialized Crown for the North Bay DV Court Program shortly after the court opened (Moyer et al., 2000).

The Ottawa DV Court struggled with consistency between Crowns and victims. Contrary to The Guidelines, the Crown who reviewed the case with the victim was often not the same

Crown who prosecuted the case: "Dissatisfaction with the lack of continuity was evident in interviews with Ottawa victims" (Moyer et al., 2000, p. 52). Although there was lack of continuity, a lawyer involved with the Ottawa DV Court discussed the positive impact of the process on a Crown's understanding of VAW:

> I actually think that the Domestic Violence Court is very good for that because it required prosecutors to become familiar with those issues and to expand their understanding of this type of offending and why victims think, you know, why would a victim recant? Well maybe not because she's lying but maybe because she's afraid, maybe because she wants to preserve the family. (P29)

This participant recognized the importance of having specially trained crown attorneys working in the DV Court Program. However, an activist participant, who interacted with various court jurisdictions throughout the province recalled: "We used to have specialized training for Crowns … that's gone, but it existed and parts of it worked well when Crowns were well educated on how to deal with these issues. Same thing with cops" (P28). According to these participants, well-trained criminal legal officials improve the handling of DV cases. In 2001, the London Abused Women's Centre also raised concern that DV Court "cases are not being heard by designated Judges nor handled by designated Crowns" (Walker & Hanington, 2001, p. 19).

In addition to being specially trained, the involvement of personally invested officials appears to increase the likelihood that the DV Court Program will meet its goals. A 2003 report published by the Canadian Association of Sexual Assault Centres of a five-year research and community development project included their participants' experiences with DV Court Programs, "In the early days, the concentration of professionals particularly interested in the problem and the coordination of their energy paid off" (Lakeman, 2003, p. 102). This study

found that the success of the DV Court Program was related to the individuals involved in the implementation and operation. This condition becomes problematic when the DV Court is implemented through a top-down directive, such as the provincial government's expansion of the Program. When recounting the opening of their local DV Court, one front-line worker stated:

> The Domestic Violence Court in Brampton was a shit show, really. First of all, the initial Crown Attorney … didn't even think this was real work as a Crown … the crowns would kind of cycle in and cycle out and they would really vary, and they kept having to be retrained. (P10)

This participant reported that the initial Brampton Crown Attorney lacked the personal investment the Toronto crowns demonstrated in creating and implementing the initial Program. The challenge with assigning Crown Attorneys was recognized in a secondary evaluation of the DV Court Program. The secondary evaluation examined sites that opened after The DV Court Evaluation concluded and reported that "Some Crowns expressed reservations about how Crowns receive the DV designation. Because DV Crowns are assigned, *they may not have an interest in working in this area of law* [emphasis added]" (Prairie Research Associates Inc. 2006, p. 93). These reservations acknowledged that lack of personal investment may hinder the Crown's dedication to the principles of the DV Court Program. A 1993 resource manual on strategies for confronting DV published by the United Nations raised a related concern: "Often, policies are introduced at the top levels and are never properly explained to the people who have to put them into practice" (Centre for Social Development and Humanitarian Affairs, 1993, p. 17). Implementation literature shows that strategies for ending VAW with greater partner involvement are more comprehensive, stronger, and more likely to be implemented as intended (Hawkins et al., 2002; Heslop et al., 2016). The lack of personal investment and specially trained

police officers and crown attorneys meant that the Ontario Ministry of the Attorney General's translocal governance of the newly expanded DV Courts were less likely to be implemented as intended, when compared to the translocal governance of the Toronto DV Court Program by the MWAC.

Failure to Protect Women Through Under-funded, Inconsistent PAR Programs. As many interview participants noted, the lack of personal investment and specialized training required for crown attorneys to both understand the complexities of the victim-offender relationship surrounding abuse and the underlying principles of the DV Court Program can have life-threatening risks for victims. When Crowns lack this specialized knowledge, there can be the inclusion of high-risk cases in the early intervention process. When I asked a criminal legal official from Oshawa about their DV Court Program, they explained how the early intervention model has become a catch-all procedure:

> The intent of that early resolution process was for low end, as I said, first time or not too many DV incidents but it morphed quickly into being a process that can be used for those cases where they don't have a probable likelihood of conviction, so it's better to put them in there than get nothing … there's a lot of different offenders who go in that program, from high risk to first time. (P11)

The results of The DV Court Evaluation indicated that the inclusion of high-risk offenders was a problem from the beginning of the DV Court Program expansion. The DV Court Evaluation (Moyer et al., 2000) reported that both Brampton and Oshawa were accepting more serious cases, including those that involved the use of a weapon, contrary to the regulatory Guidelines. In addition, the authors made the following recommendation regarding Oshawa's

implementation of the DV Court Program: "The criteria for admission of cases into the Project should be reviewed, and 'borderline' cases should be carefully assessed" (p. 43).

The inclusion of high-risk cases in the early intervention stream was an area of concern for many interview participants. One participant, with direct experience of a PAR program in Ottawa, discussed the high rate of early intervention referrals of inappropriate offenders:

> There are guys who are clearly not, at least when you look at the initial criteria for who's eligible for early intervention approach … you look at the police occurrence report and you wonder how did anyone ever sign off on this guy being early intervention? You know, because there were significant injuries, and it was the third or fourth time he's been arrested. (P23)

The inclusion of offenders with previous DV charges and who caused significant injury to their victims was also discussed at a 2004 meeting of the Toronto Police Services Board (2004):

> Already there have been a number of cases in the E.I. [Early Intervention] Courts where the offender has been mandated into a PAR program and a risk assessment completed at the PAR program has identified the individual as being at high risk for lethal / serious violence. This has caused great concern for the partner's safety and the system has to take the time to send the offender back to court for sentencing. (p. 11)

In addition to the concerns for safety of the victim, these minutes demonstrate how the expansion of the DV Court Program within Toronto (to five additional locations) failed to maintain the initial MWAC framework. An activist participant with extensive knowledge of the Toronto DV Court Program discussed these deviations during their interview, "I find out that the five Courts in Toronto, even they now have different processes" (P30). The participant also shared that while conducting research in 2020 to 2021 with a Toronto-based PAR program, they found that "more

than half of the cases that came through EI [early intervention] were high-risk cases, which is shocking" (P30). In a study examining the administration of community-based punishment through Toronto's DV Courts, Singh (2011) reported that PAR providers "expressed considerable discomfort, and in some instances, downright outrage" (p. 283) about high-risk offenders being mandated to attend PAR programs. The concerns raised about including high-risk offenders in the early intervention process occurred because the PAR program was not designed to provide the level of accountability and surveillance required to manage the risk these offenders pose to their partners.

The risk to women is exacerbated by the lack of funding for the PAR program. The DV Court Evaluation (Moyer et al., 2000) reported: "Representatives of several [PAR] programs said that the amount allocated for an offender's participation does not cover the expenses incurred. In particular, there is concern that the amount is inadequate to provide proper victim contact and service" (p. 207). The DV Court Evaluation goes on to report that none of the PAR programs met the standard set by The Guidelines to have four contacts with each victim while the offender was in their program. While some victims may have refused to be contacted after the initial phone call, overall, the lack of appropriate funding for PAR programs directly impacted their ability to meet the monitoring responsibilities of these programs and limited the amount of support they could provide victims, contrary to the goals of the DV Court Program.

According to one activist participant from Toronto, PAR programs "have not had an increase in funding for 20 years" (P30). As a result of their consistent underfunding, the majority of PAR programs have a waitlist, as this community-based participant in Ottawa discussed: "I was just in a meeting with our PAR director, and he was saying … they can't even keep up with the demand … they aren't funded enough to be able to properly deliver those programs" (P09).

Longer waiting times hinder the success of PAR programs (Gondolf, 2004) and prolong a family's involvement with the criminal legal system. The limited funding received by each PAR program from the Ontario Ministry of the Attorney General has contributed to overcrowded, shortened (from 16 to 12 weeks) programs with minimal support to victims when compared to the original PAR programs in Toronto. The inability of PAR programs to operate as intended undermines the victim safety goals of the DV Court Program, leaving women vulnerable to on-going violence as well as criminalization as a result of that on-going violence.

Absence of Community Coordination and Displacement of Existing Community-Based Responses. The final way in which the provincial model deviated significantly from the MWAC Toronto model was the expansion of the DV Court Program in communities without well-coordinated networks of support and at the expense of pre-existing community-based services and responses to VAW. For example, The DV Court Evaluation (Moyer et al., 2000) reported that in Ottawa "representatives of community agencies dealing with domestic violence are not directly involved in the Project" (p. 53). In addition, the North Bay DV Court Program opened without community involvement and failed to address the incidences of VAW that occurred in the region. According to The DV Court Evaluation, no community consultation occurred prior to the opening of the DV Court Program in North Bay: "one agency expressed concern that there was insufficient time to gain meaningful community input, and that much of the developmental work had been done without community involvement" (Moyer et al., 2000, p. 47). When asked about coordination between their DV Court and VAW service providers, a Program Director in North Bay told me:

> What we find is that we have more day-to-day relationships with probation but that the DV Court itself is kind of sealed off. And it's fairly challenging to have contact with the

> DV Crowns or even lawyers that work in the Court unless they actually are seeking that out. (P26)

An activist participant also acknowledged the 'sealed off' nature of the DV Court in North Bay and raised concern about the impact on the families that the Court is designed to help, "Truthfully, it's its own entity and I think that that's a problem for our community, that people don't know what's going to happen to them if there is legal involvement at all" (P02). In addition to the lack of collaboration within North Bay, the early intervention model did not appear to address the problems the community faced. The DV Court Evaluation (Moyer et al., 2000) reported that only 15 cases were referred to the DV Court Program during the research period. However, a footnote about the case numbers stated:

> Although participation in the program has been lower than expected there are *a large number of ineligible domestic violence cases* [emphasis added] in North Bay. The Assistant Coordinator position in VWAP [Victim/Witness Assistance Program] has been used to provide services to over 250 domestic violence cases annually. (p. 44)

By choosing North Bay as an expansion site for the early intervention model of the DV Court Program, the Ontario Ministry of the Attorney General failed to address the instances of VAW that were occurring locally as most cases did not meet the inclusion criteria for the model. In addition, the response from local criminal legal officials following the opening of the DV Court led to the criminalization of women victim-offenders. As one Program Director reported, "We share the distinctive dishonour of having one of the highest [rate of] charges against women in the province" (P26). North Bay is an example of how the translocal coordination of the DV Court Program by the Ontario Ministry of the Attorney General did not work to meet the goals of the initial Toronto model to improve the safety of women experiencing violence.

The absence of community consultation also created challenges in London. As discussed in the previous chapter, prior to the arrival of the DV Court Program, London had a well-established community-based response to VAW. Thus, it is not surprising that in The DV Court Evaluation (Moyer et al., 2000), participants raised concerns about the lack of a clearly defined role for London's VAW advocates within the new DV Court Program:

> Initially there was discontent within LCCEWA that community involvement in the Domestic Violence Courts Project was not mandated. Although there is participation now, some community representatives fear that the concerns of the grass roots movement are 'overshadowed by a different agenda'. (p. 57)

The lack of involvement from the well-established LCCEWA prior to the opening of the DV Court Program demonstrates how different the provincial model for the DV Court Program is from the initial Toronto Courts, which were coordinated and monitored by the MWAC. The absence of the feminist-led coordination provided by MWAC in Toronto, especially with PAR programs, is further demonstrated by the confusion that occurred with Changing Ways, the PAR program provider in London:

> Changing Ways staff were not adequately informed about the DVC Project … Staff were under the impression that the Victim/Witness Assistance Program would provide counselling to the partners of offenders referred to the program. Changing Ways is unable to cope with the volume of partner contacts and requests for service, and other community agencies are over-burdened. (Moyer et al., 2000, p. 203)

The confusion regarding who would be responsible for particular duties in administering the DV Court Program is another example of how the provincial model was rolled out without the necessary community consultation to ensure proper service delivery. In addition, consideration

for the increased demand on community-based agencies was not adequately addressed by the Ontario Ministry of the Attorney General. The DV Court Evaluation (Moyer et al., 2000) reported that concerns were also raised that the DV Court did not bring additional funding for VAW agencies. This concern illuminates a gap in the provincial model for the DV Court Program and the lack of funding to achieve one of the stated goals of the program: "improve support to victims" (Ontario Ministry of the Attorney General, 2001, p. 4-1). If the DV Court Program is implemented as intended, then agencies in the VAW sector in each jurisdiction where a Court operates would see an increase in referrals for victims as a result of their interaction with the Victim/Witness Assistance Program and/or PAR program partner contact workers. However, without additional funding to support these victims, the 'over-burdened' sector cannot provide the support needed.

In addition to the absence of community consultations prior to the expansion of the DV Court Program, the translocal governance of the DV Court Program displaced the pre-existing local response to men perpetrating violence that already existed in Brampton. The DV Court Evaluation (Moyer et al., 2000) reported that there was a lower number of cases referred to the DV Court Program than anticipated and there was an under-utilization of the existing PAR programs. One reason provided by the research team was that men lacked incentive to opt for the early intervention process (where they would need to plead guilty) because most first-time offenders already received conditional discharges before the DV Court opened. In addition, the men who did opt into the DV Court Program created a challenge for the PAR program:

> One problem encountered is the attitude and demeanour of the Domestic Violence Court referrals, who are described as having strong attitudes of denial. Their attitudes initially led to the separation of the DVC clients from clients from other sources, but this

> approach has been dropped. Domestic Violence Court referrals attend 15 sessions (plus an assessment session) but the program for other clients is 32 weeks. According to program staff, the shorter program length allows clients to minimize the seriousness of the abuse that resulted in the court involvement. (Moyer et al., 2000, pp. 190–191)

Men enrolled in the PAR program, either voluntarily or as a condition of their probation, were more willing to accept responsibility for their use of violence than men who plead guilty through the early intervention model. In addition, the PAR program was twice as long for men who came through these other pathways, indicating that Brampton had a more attentive response to men who use violence prior to the DV Court Program opening in their region.

In addition to supplanting local responses, the DV Court Program expansion shifted financial resources away from non-carceral interventions. In a 2003 interview with *The Globe and Mail*, Eileen Morrow, director of OAITH, discussed the expansion of the Program:

> It is dispiriting to watch governments throw money into domestic abuse prosecutions while they starve transition houses and programs that provide welfare, social housing or other social services to women who are suddenly rearing children on their own … Many women feel the process doesn't really change his behaviour or keep them safe. (Makin, 2003, p. F6)

Reflecting on this context, feminist journalist Michele Landsberg (2011) wrote: "All available anti-violence resources were poured into law-and-order structures like 'domestic violence courts,' which fell far short of their objectives" (pp. 168–169). As a result, even when the DV criminal legal interventions were failing to meet their goals, very few suitable alternatives existed. A front-line worker with experience facilitating PAR groups discussed the challenges this creates: "In many ways the PAR program has become a bit of a dumping ground and I think

courts are at a loss in some ways, I mean what are we going to do with these guys?" (P23). PAR programs remain one of the only options for 'treatment' for men who perpetrate violence, despite the lack of funding for the programs.

In the late 1990s, advocates, front-line workers and journalists raised concerns about the speed with which Mike Harris's Progressive Conservative government expanded the DV Court Program. For example, feminist advocates Barbara Anello and Fiona Sampson wrote in the final report from an Inter-Sectoral Workshop on Violence Against Women with Disabilities and Deaf Women and Access to the Justice System held in North Bay in 1998: "Because the final assessments have not been completed on these Pilot Projects [in Toronto] … it's ridiculous that the DVC's have been expanded, without proper evaluation. This was politically expedient for the government" (Anello, 1998, p. 10). A newspaper article published in 2000 raised similar concerns, "Attorney General Jim Flaherty says the Tories are expanding the domestic violence court program because it works. However, the minister had no details on the number of charges and convictions for spousal abuse to back his claim" ("Ontario-domestic violence", 2000, para. 2). Although the number of charges and convictions are not considered a valid measure of success by many VAW advocates (Ursel, 1997), The Guidelines clearly stated that the swift and effective prosecution of DV charges are a goal of the DV Court Program (Ontario Ministry of the Attorney General, 2001).

The expansion of the DV Court Program continued without clear evidence of its success. In 2003, the LCCEWA wrote a letter to then Ontario Premier Dalton McGuinty questioning the quality of the regional DV Courts: "The implementation of effective, specialized domestic violence courts have not been equally developed in all communities" (Kelly et al., 2003, p. 4). In addition, one of my study participants clearly stated, "the specialized courts are in name only

now, they're really not working at all the way they should" (P30). According to institutional political economists, Jamie Peck and Nik Theodore (2010), "emulation often runs ahead of the evidence, though the latter can help to legitimate and consolidate the former" (p. 199). The DV Court Program may have looked different had the province invested the time and resources necessary to better emulate the MWAC-led Toronto model. The DV Court Evaluation concluded with recommendations that would bring the provincial model in-line with the Toronto model:

> Develop model provincial policies, procedures, and protocols for all sectors involved in the Projects, which can be adapted to meet local needs. Provide sufficient start-up time for policies, and protocols to be adapted in each community. Encourage the participation of all sectors (police, Crown attorneys, Victim/Witness Assistance Program staff, abusive men's programs, and Probation and Parole) in initial decision-making and ongoing operations of the Projects. This participation and the ensuing coordination that should result are essential in every Project. Consider the benefits of greater involvement of local violence against women agencies in the Projects. (Moyer et al., 2000, p. 277)

The translocal governance by the provincial government failed to replicate the characteristics of the Toronto model which contributed to the success of the initial courts. The lack of personally invested specially trained criminal legal officials resulted in the inclusion of high-risk offenders in under-funded, inconsistent PAR programs placing women at greater risk for further harm and criminalization. In addition, the absence of community coordination prior to and during the operation of the expanded DV Courts led to limited supports for women experiencing violence and failed to replicate the feminist understanding of VAW present in the Toronto model.

Conclusion

In this chapter, I traced the creation and implementation of two key DV criminal legal interventions – mandatory arrest and specialized DV Courts – from their inception as activist-led initiatives embedded within a broader community-based network of services to the translocal governance and expansion of these interventions by the provincial government. The expansion of the criminal legal interventions was guided by the regulatory texts of the Solicitor General 1982 mandatory arrest directive and the Ontario Ministry of the Attorney General (2001) Guidelines of the Implementation of the DV Court Program. According to Smith (2005) "regulatory texts" (p. 191) coordinate the actions of people across space and time by instructing them about what is institutionally actionable. In the case of the VAW movement in Ontario, the top-down directives failed to replicate the nuanced legal mobilization approach of activists in both London and Toronto, and as many Canadian scholars have reported, the DV criminal legal interventions contributed to an increase in the criminalization of women victim-offenders (Balfour, 2021; Holmes, 2015; Fraehlich & Ursel, 2014; Landau, 2000; Moyer et al., 2000; Poon et al., 2014; Sheehy, 1999).

This interrogation of the DV criminal legal interventions contributes to the historical record of the Ontario VAW movement by revealing the more nuanced legal mobilization strategy of the activists in London and Toronto. Legal mobilization strategies aim to deploy the resources of the criminal legal system in the same manner as resources from any other social institution (Fraser, 2017; Gotell, 2015; Leger, 1984). In addition, my genealogical analysis of the creation of the DV Court Program reveals the expansion of the DV Court Program as a critical juncture. According to Mahoney (2000), "critical junctures" (p. 513) occur when institutions adopt a particular option from multiple alternatives and once adopted decrease the likelihood of

returning to the point when multiple alternatives were still available. Lastly, the documentation and "work knowledges" (Smith, 2005, p. 44) of participants from the jurisdictions in which the DV Court Program first expanded in 1997 fulfills a gap in the existing current literature (Singh, 2012), a gap that has since endured.

The analysis of the DV criminal legal interventions presented in this chapter is significant because two recent judicial decisions have called attention to the inadequate response to VAW provided by these interventions. In *R. v. Valentine* (2021), Justice Moore wrote, "Domestic violence is a horrible scourge on our society, and the justice system in Canada has, historically, been complicit in enabling offenders to continue to perpetuate their abuse" (para. 4). Two months later, Justice Chapman argued that "historically, the justice system's response to the complex problem of domestic violence has been wanting" (*R. v. Sarahang*, 2021, para. 12). Over the past four decades, the DV criminal legal interventions have been the primary response to VAW and contributed to the under-development of non-carceral, community-based responses for both men who perpetrate violence and the women and children who experience violence (Gotell, 1998; McMahon & Pence, 2003; Messing et al., 2015; Sampson, 2003; Walklate et al., 2018).

In the next chapter, I interrogate the pathways through which the DV criminal legal interventions lead to the criminalization of women victim-offenders. In addition, I explore the consequences women experience as a result of their criminalization. I also demonstrate how some activists, front-line workers and criminal legal officials navigated and resisted the implementation, and continued operation, of the DV criminal legal interventions that criminalize the very population they were designed to protect.

Chapter 5: Navigating the Consequences of Domestic Violence Criminal Legal Interventions

> It really, really bothers me when a woman calls for help and she gets arrested, like there's something very wrong with our system when that happens. (Criminal legal official, P11)

Introduction

The 1990s were a pivotal decade in the response to violence against women (VAW) in Ontario. The decade was characterized by the creation and implementation of domestic violence (DV) criminal legal interventions that would function as the dominant response for decades to come. Mandatory arrest directives, pro-prosecution policies and the creation of specialized DV Court Programs coordinated criminal legal officials' response to domestic violence. These carceral interventions in the communities where they were initially developed occurred within community-based feminist frameworks shaped by local activists' understandings of VAW.[45] However, the province-wide expansion of these interventions occurred without the liberal feminist frameworks of the original DV interventions or a critical race feminist understanding of the intersections of gender, race, class and DV. According to socio-legal scholar Snider (1990), the first two people jailed in Ontario under mandatory arrest and pro-prosecution directives were women victims, both of whom refused to testify against their abuser and were incarcerated for contempt of court. The gender-neutral application of the DV criminal legal interventions fuelled the criminalization of women victim-offenders.

During the early stages of implementation of the DV criminal legal interventions, Hooper (1996) pointed out that women prosecuted under DV laws were largely invisible in the existing literature. Contemporary scholars have also noted that there remains a significant empirical gap

[45] See discussion of London (mandatory arrest) and Toronto (DV Courts) in the previous chapter.

in the DV literature on institutional procedures and responses to the criminalization of women victim-offenders (Fraehlich & Ursel, 2014; Grace, 2019; Holmes, 2015; Larance & Miller, 2017; Poon, 2018; Singh, 2012). Informed by Foucault's genealogical project, this chapter "call[s] into question self-evidences of the present by exposing the various ways they were constructed in the past" (Tamboukou, 2003b, p. 203). By placing the historical alongside the contemporary problem of the criminalization of women victim-offenders, I offer insight into the institutional procedures and the responses from activists and criminal legal officials to the criminalization of women victim-offenders. With respect to DV criminal legal interventions, feminist scholar Nichols (2014) argues that "advocates' voice in the research literature is marginalized, both in their perspectives and in the practice of advocacy" (p. 2122). This chapter centres the voices of advocates by drawing on the "work knowledges" (Smith, 2005, p. 44) of participants within their historical and contemporary contexts.

I begin this chapter by interrogating, what I characterize as the direct, indirect and systemic pathways through which the criminalization of women victim-offenders occurred historically and continues today. I chose the term 'pathway' to describe the course of action undertaken by criminal legal officials and service providers that result in the unintended consequence of criminalizing the very population DV criminal legal interventions were developed to protect. I begin by exploring three direct pathways of criminalization for women victim-offenders when police arrive at the scene of a DV 911 call. Direct criminalization occurs when: (a) police ignore the context in which women use violence as a form of self-defence, (b) police are unable or unwilling to identify the primary aggressor in the relationship, and (c) men who use violence are given an opportunity to manipulate the response from the legal system resulting in the arrest and prosecution of their victims. Then, I trace two indirect pathways to

criminalization that occur when crown attorneys and judges charge women who refuse to cooperate with the prosecution of their perpetrator and when individuals breach no-contact orders that are implemented regardless of the communication needs of the family. I also discuss the systemic pathways that result in visible minority women and their families facing greater risks from DV criminal legal interventions, including higher rates of arrest, prosecution, incarceration, and enrollment in PAR programs (Balfour, 2021; Bruckert & Law, 2018; Gotell, 1998; Kajeepeta et al., 2024; Poon et al., 2014; Richie, 2012; Snider, 1990; Walker, 1995).

Next, I interrogate the consequences of the criminalization of women victim-offenders. I show how the criminalization of women increases their vulnerability to future harm because they are less likely to call the police for assistance in the future (Epstein et al., 2003; Gillis et al., 2006; Miller, 2001; Nichols, 2014; Pollack et al., 2005). Criminalized women also face an increased risk from future violence because they are not eligible for victim support services and lose access to resources that help women leave abusive relationships (Chesney-Lind, 2002; Dasgupta, 2001; Miller, 2001; Pollack et al., 2005). In addition, women remain vulnerable to future incidences of DV when the criminal charges against their perpetrator proceed regardless of their wishes (Landau, 1998). I discuss how the DV criminal legal interventions contribute to the disempowerment of women by replicating the coercive control strategies of abusers by removing the discretion of police and victims (Fitz-Gibbon & Walklate, 2021; Hanna, 1996; Messing et al., 2015; Mills, 1999; Ryan et al., 2022).

Drawing on my experience as a counsellor at the Elizabeth Fry Society of Toronto in the court-mandated Partner Abuse Response (PAR) program for women, I share how we mitigated and resisted the consequences of criminalization for women enrolled in our program. I then explore additional strategies advocates, service providers and criminal legal officials use to

navigate and resist institutional responses that fail to protect victims and contribute to the criminalization of women.

Criminalization of Women Victim-Offenders

In the late 1990s and early 2000s, multiple North American studies reported an increase in the number of women charged for DV, either as sole perpetrators or as dual perpetrators with their alleged abusers.[46] For example, scholars Hamberger and Arnold (1990) reported that in one American city the referral rate for women mandated to attend counselling increased 12-fold, compared to a doubling of the referral rate for men, following the implementation of a mandatory arrest policy. According to the DV Court Evaluation (Moyer et al., 2000), the newly expanded coordinated prosecution sites reported an increase in the arrest of women following the opening of their local DV Court. In addition, Mark Holmes (2015), director of Ottawa's PAR program for 30 years, reports that the program received its first court referral for a woman only after their DV Court opened. When discussing the court referrals of women as offenders to their program, Holmes states that "their violence is almost always used to either resist the partner's abuse or is situationally motivated" (p. 202).

Pathways of Direct Criminalization of Women Victim-Offenders

The most direct route to criminalization for women victim-offenders is through the arrest and prosecution of the woman herself. My analysis of historical data and participants' "work knowledges" (Smith, 2005, p. 44) reveals three pathways through which women are directly criminalized when police are governed by the DV criminal legal intervention of mandatory arrest: (a) when police ignore the context of abuse, (b) when police are unable or unwilling to determine the primary aggressor and solely arrest the woman or arrest both partners (dual arrest),

[46] For further discussion, see Chesney-Lind (2002), Comack et al. (2000), Dayton (2003), Henning et al. (2003), Hirchel and Buzawa (2002), Martin (1997), McMahon and Pence (2003), Miller (2001), and Saunders (1995).

and (c) when police fail to conduct a thorough investigation to identify the primary aggressor, they create an opportunity for the perpetrator to manipulate the response from the criminal legal system to further intimidate and control his victim. I discuss these pathways below.

Victim's Use of Self-Defence and Accountability. According to the 1994 *Policing Standards Manual*, "Police shall lay charges in all incidents of wife assault where there are reasonable grounds to do so" (Ontario Ministry of the Solicitor General and Correctional Services, 1994b, p. 4). As defined by Smith (2005), the *Policing Standards Manual* acts as a regulatory text that coordinates the actions of police officers by framing and authorizing their institutional capacity to act. As discussed in the previous chapter, the gendered wording of the initial policy reflected the goals of some VAW activists to mobilize the law to protect women from violence. However, the implementation of mandatory arrest led to more women being charged with domestic assault (Belknap & Grant, 2020; Bridgett, 2020; Chesney-Lind, 2006; Goodmark, 2021; Gruber, 2020; Miller & Becker, 2019). In an overview of Canadian initiatives to end VAW between 1989 and 1997, Denham and Gillespie (1999) discussed the increased emphasis on carceral responses during this period and included the following quote from a VAW activist: "It is amazing and frightening to see just how easily changes to laws designed to protect abused women can be turned around and used very effectively against us" (p. 10). The mandatory arrest policy was turned around and used against women who attempted to defend themselves from on-going violence by their partner. When asked about the assault, research suggests that women are more likely to admit their use of force, and that women's use of force is more likely to cause an immediately visible injury (such as scratches) when compared to men's use of force, which is more likely to be denied by the man and take longer to appear (such as strangulation marks) (Gardner, 2007; Miller & Meloy, 2006). However, most women use force

as a form of self-defence, the context of which the police generally fail to consider (Buzawa & Buzawa, 1990; DeKeseredy & Schwartz, 1998; Grace, 2019; Martin, 1997; Miller, 2001; Poon et al., 2014; Ruttenberg, 1994).

As discussed in the previous chapter, there was not universal support for DV criminal interventions across VAW movements. During the 1980s and early 1990s, some activists expressed concerns regarding the criminalization of women victim-offenders in resource manuals, newspaper articles and at conferences. For example, a resource kit compiled by Education Wife Assault (1984) declared that "Husband assault should be distinguished from 'fighting back'. Many women who have been physically abused engage in 'husband abuse' to protect themselves from potential harm" (p. 14). In addition, the final report of the *Symposium on Wife Assault* held in Ottawa in 1990 with policy makers and service providers read, "Women charged with crimes of violence against men are identified/labelled as violent offenders and are usually victims of abuse themselves. Their acts of violence are often against their oppressors and abusers" (Paiement, 1990, p. 26). These activists were rightly concerned that the context in which women used violence would be ignored in the implementation of mandatory arrest policies. In 1993, leading feminist journalist Michele Landsberg raised awareness about the context of women's use of force in her column in *The Toronto Star*:

> National crime studies, court records, police statistics, hospital files and scholarly research all show that only about 4 to 6 per cent of domestic assaults are committed by women against men, almost always in defence of self or children, in response to the threat of imminent assault by the man. (p. J1)

Similarly, during the same year the final report for The Canadian Panel on Violence Against Women (1993) was published and read, "The women in conflict with the law are victims before

they become offenders … They have more in common with other women than with male perpetrators of crime" (p. 224). When testifying before the House of Commons as a representative of the National Action Committee on the Status of Women, activist Lee Lakeman also drew attention to the issue: "women who have been in prison have been, in large numbers, women who responded to violence against women … for having been battered, essentially, and having defended themselves when the justice system would not" (House of Commons Canada, 1994, p. 66:33). Legal scholar Melissa Hooper (1996) argued that a criminal legal system that prosecutes women who act in self-defence punishes those women twice: once for having endured the violence committed against them in their relationship, and a second time by criminalizing them and their choices in response to the abuse.

In 1997, the Minister of Justice and Attorney General of Canada, Anne McLellan, hosted a meeting with activists representing over 60 women's groups from across the country. The summary report included four themes VAW advocates identified, including how governments contribute to VAW by "charging women who complain of abuse with a crime" (Department of Justice Canada, 1997, p. 6). During the workshop on criminal law, a VAW advocate "reported that police seemed to be charging women more and men less often" (p. 18). In addition to the summary, there is a transcript of the presentations made to the Minister of Justice and other government officials in attendance. During these presentations, Jeanette Angus, representing the Native Women's Association of Canada, drew attention to the harmful consequences of DV criminal legal interventions on Indigenous women:

> The shocking over-representation of aboriginal [*sic*] women incarcerated in Canadian prisons and the fact that the majority of those aboriginal women are victims of family

violence, male violence against women and the circumstances of defending themselves and their children against this violence. It is overwhelmingly distressing. (p. 21)

According to feminist socio-legal scholar Gillian Balfour (2021), the intersection between the over-incarceration of Indigenous women in Canada and the high rates of violence perpetrated against them is often under-theorized. Balfour argues that the over-incarceration of Indigenous women exposes how the criminal legal system's response to women's victimization is linked to how Indigenous women are policed, how their moral culpability is established, and how their level of risk is assessed. The concerns raised by VAW advocates at the meeting regarding the criminalization of women victim-offenders were succinctly summarized by Kim Pate, Executive Director of the Canadian Association of Elizabeth Fry Societies, who stated: "Jails are not the shelters battered women need" (Department of Justice Canada, 1997, p. 33). See Figure 6 for a campaign run during the 1990s by the Canadian Association of Elizabeth Fry Societies to draw attention to this issue.

Figure 6.

Criminalization of Women Victim-Offenders Post Card Campaign



From *The Womanist*, *4*(2), p. 6. Copyright 1993 by Canadian Association of Elizabeth Fry Societies. Reprinted with permission.

During the interviews I conducted for this study, several participants discussed the regularity with which the women they interact with are arrested for domestic assault while defending themselves from abuse. A front-line worker from Brampton stated that while conducting intake interviews with criminalized women using their services, "what we found was women acting in self-defence, women just trying to protect their children, women who were fed up and they were trying the fighting back strategy, as a way to try to stop what was going on" (P10). A Program Director from Oshawa shared a similar experience:

> We're seeing more women coming to us who've been charged. The stories tend to be quite similar … 'I've endured abuse for how many years, and I just had enough.' … And the police charged her because she says, 'Yeah, I pushed him out of the way, but he's been doing this for twenty years.' (P21)

When discussing women being solely or dually charged for domestic assault, other participants also emphasized the forthrightness with which the women shared their use of force with police. A former PAR counsellor from Ottawa reported that criminalized women arrived at their agency and said, "I slapped him. Yeah, of course I did. And it was after he had threatened me or he had pushed me … the police got there, I admitted I slapped him and so I was arrested and charged" (P23). When describing their experience as a counsellor in programs for both men and women charged with domestic assault, a front-line worker from North Bay stated, "what I find most fascinating is that the women are almost always victims … and the women also seem to take ownership of their behaviour much more quickly" (P26). These participants provided examples of how women disclosed their use of violence to police, believing that the context of that violence would be taken into consideration. However, when asked about the criminalization of women victim-offenders, a former Crown Attorney in Toronto explained: "I think the term self-

defence is also problematic because I think the way women tend to use violence often in these situations, it's pre-emptive. So, it doesn't fit the sort of legal conception of self-defence" (P06).[47]

There is an extensive body of academic literature examining how women's use of force may be perceived as mutual rather than defensive when police and prosecutors ignore the context in which it occurs (e.g. Buzawa & Buzawa, 1990; Dasgupta, 2002; Gardner, 2007; Hamberger & Guse, 2002; Hirschel & Buzawa, 2002; Martin, 1997; McMahon & Pence, 2003; Miller et al., 2011; Poon et al., 2014). In a national study of Canadian dating violence, DeKeseredy et al. (1997) argued that although a crude counting of violent acts implies that women are frequently as violent as men, results from their survey found that the more often women had been victimized (physically or sexually), the more likely they were to report acting in self-defence. A report published in 1999 by the federal government on *Husband Abuse* found that men claimed they used violence primarily to dominate and control their partners, whereas women reported using violence in self-defence or in retaliation for prior abuse (Tutty, 1999). Additional studies found similar differences in motivation between men's use of violence for control and women's use of violence for self-defence (Dowd, 2001; Hooper, 1996; Kernsmith & Kernsmith, 2009; Miller & Meloy, 2006; Nixon & Tutty, 2010).

Mandatory arrest policies contributed to the criminalization of women victim-offenders by coordinating the actions of police. According to Smith (2006), texts establish the "concepts and categories in terms of which what is done can be recognized as an instance or expression of the textually authorized procedure" (p. 83). Thus, the mandatory arrest policy instructs police to

[47] Although the Supreme Court case, *R. v. Lavallee* (1990), re-framed the legal defence of self-defence for assault and murder through a gendered lens, none of my participants or historical documents referenced this case with respect to women victim-offenders processed through the DV criminal legal interventions. Instead, the second evaluation of the DV Court Program recognized the limitations of the legal conception of self-defence and reported that "stakeholders cautioned that the police and Crown should consider the history of the relationship in deciding whether to lay charges because the woman may have been defending herself, even though she may not have been in immediate physical danger" (Prairie Research Associates Inc., 2006, p. 90).

proceed with an arrest when there are probable grounds that an assault has occurred. However, as the research discussed above has shown, women will use violence to defend themselves and their children and will admit to the use of that violence when police ask. The failure by criminal legal officials to consider the context in which women's situational violence takes place has been termed the *abuse-to-prison pipeline* by feminist and critical race scholars (Buzawa & Buzawa, 1990; Comack, 2014; Fraehlich & Ursel, 2014; Gardner, 2007; Hooper, 1996; Kaba, 2021; Kernsmith & Kernsmith, 2009; Richie, 2000; Williams, 2004). This pipeline creates challenges for advocates and criminal legal officials. According to feminist activist-scholar Miller (2001) the question at the heart of the matter is:

> What is the appropriate criminal justice response to battered women who assault (as legally defined) their abuser or do other illegal acts and end up getting arrested, particularly when these acts of violence committed by victims are qualitatively different from acts of violence committed by batterers? (p. 1340)

One answer to this question was the introduction of a policy to further coordinate the actions of police by instructing them to identify the primary aggressor at DV incidents (Bridgett, 2020; Hirschel et al., 2021; Walklate et al., 2018).

Inability or Unwillingness of Police to Identify the Primary Aggressor. A primary aggressor policy was introduced in the Ontario *Policing Standards Manual* in 2000. The *Manual* coordinates the actions of police by stating that mandatory arrest procedures should "highlight the importance of determining the primary offender in order to distinguish assault from defensive self-protection" (Ontario Ministry of the Solicitor General and Correctional Services, 2000, p. 7/12). Primary aggressor policies were implemented when it became apparent that police were unable or unwilling to understand the dynamics of DV when enforcing mandatory arrest policies

and continued to criminalize women victim-offenders (Chesney-Lind, 2006; Goodmark, 2021; Hirschel & Buzawa, 2002; Miller, 2001; Pence & McDonnell, 1999; Pollack et al., 2005). One Brampton activist I interviewed recalled how the police response to mandatory arrest policies was "like little kids having a temper tantrum … 'I'll just arrest both of them'" (P27). Similarly, a former Crown Attorney in Toronto described dual arrest as "a lazy police officer's way out … they didn't want to have to make the call so let's pass it down the river to the Crowns" (P06).

In addition to police arresting both parties rather than investigating the incident to determine the primary aggressor, scholars find that the initial implementation of mandatory arrest polices increases the criminalization of women victim-offenders. In 1983, gender and crime scholar Visher reported that women were more likely to be arrested when they did not conform to traditional middle-class expectations for acceptable feminine behaviour, such as being submissive and non-antagonistic toward police. In addition, socio-legal researchers find that women are more likely to be arrested when police have previously been called to a DV incident at the same address (Fraehlich & Ursel, 2014; Martin, 1997; McDermott & Garofalo, 2004). These findings demonstrate a link between the criminalization of women victim-offenders and the attitudes of the police responding to the incident, regardless of legal procedures. In the 1980s and early 1990s, VAW advocates, as well as the Ontario government, documented concerns about police officers' personal beliefs biasing their response to DV. In 1984, the research study that informed London's mandatory arrest policy, acknowledged that personal attitudes toward VAW could hinder the official response from police: "in order to be effective in implementing change, the Police must first change their own attitudes and approaches to the problem [of wife assault]" (Jaffe & Burris, 1984, p. i). A manual compiled by Community Legal Education Ontario in 1990 to provide information for VAW advocates contained a clear directive

regarding how women should seek assistance: “advisable not to mention that the abuser is her partner. It is the view of some people that the police may not respond as quickly to calls to attend at domestic scenes” (Lobu & Hrnjez, 1990, pp. 3-4). Similar advice about calling 911 was provided by the Ontario Ministry of Community and Social Services (1990) in their *Wife Assault Resource Manual*: “it is best for her to tell the dispatcher that ‘a man’ is beating her and that she fears for her life because police respond faster to an emergency than to domestic violence” (p. 82). In 1991, VAW advocates from the Ontario Association of Interval and Transition Houses (OAITH) presented a brief to the Standing Committee on the Administration of Justice that identified “Poor Police Attitudes to Abused Women” as a barrier in the criminal legal system for abused women: “Abused women and their advocates continue to protest inappropriate attitudes of police officers who feel ‘put upon’ when they are called to wife assault scenes, and who blame women for the assaults against them” (OAITH, 1991, pp. 4–5).

The concerns raised by OAITH advocates and women regarding the harmful attitudes of police officers were reflected in the 1993 *DV Policy* of the Metropolitan Toronto Police. The *Policy* contained an “Internal Communications Strategy” that read, “The challenge faced by police services is not only to educate officers in the proper procedures, but also to encourage them to examine their own attitudes and biases towards domestic violence” (Metropolitan Toronto Police, 1993, p. 23). This Strategy acknowledged the difficulty of coordinating the actions of police officers whose personal beliefs were at odds with the mandatory arrest and primary aggressor directives. In a research study examining the perceptions of the mandatory charging policy of 17 Toronto police officers, socio-legal scholar Kelly Hannah-Moffat (1995) found that officers wished to avoid DV situations, did not view DV as a legal problem, and considered most abused women to be uncooperative, weak, and unreliable. In addition, some of

the officers resented the interference of the government and community advocates in policing activities, and although they had received training on woman abuse, continued to hold a limited understanding of the dynamics of abusive relationships.

Over the past four decades, several participants in this study were involved with educating police officers about VAW. A former shelter worker in Brampton recalled training sessions in the 1980s when the mandatory arrest directive first came into effect:

> It was the hardest training I've ever done. The snide remarks, the jokes … I remember this one OPP officer asking, "Well you know, I tell my wife to fuck off, is that emotional abuse?" Everybody in the room had a great laugh … I remember coming out of those trainings and having to debrief because they were just so difficult. (P17)

This participant's experience training police officers about the dynamics of VAW illustrates the difficulties and concerns of having the mandatory arrest policies implemented by officers who allow their stereotypes and prejudices to shape their response to DV incidents.[48]

The newsletter *Action NOW!*, published quarterly during the 1990s and early 2000s by the National Action Committee on the Status of Women referred to the arrest of women who called police for assistance during a DV incident as "an institutionalization of the worst elements of police attitudes that 'family violence' is a fight among equals!" (Blaney, 2000, p. 3). The link between police officers seeing DV as 'a fight among equals' and therefore arresting women was also discussed by several study participants. An activist participant in Toronto recalled how women were being charged because "some of the dynamics that was not being addressed is the power and control issue that was also happening in the relationship" (P04). Another activist

[48] The importance of having DV criminal legal interventions implemented by individuals invested in and educated on how to end VAW was discussed in the previous chapter and is presented as part of the recommendations made in the next chapter.

participant stated that police officers who made dual arrests of women victim-offenders were doing that "cover your ass strategy" and when she confronted them about the dual arrests, she received the following response:

> "Our job is just to say an assault happened. We don't know who did it. They're both telling different stories." I'd say, "well who do you think likely did it?" And they'd say, "Well how am I supposed to assess that?" (P28)

A Program Director in London stated, "if the police are not fully trained on who the primary aggressor is, we see too many women being charged" (P22). The secondary evaluation of the DV Court Program also reported a link between mandatory arrest policies and the criminalization of women victim-offenders, "The decision to prosecute women has been found to occur without identifying a primary aggressor in spite of serious ramifications for the women" (Prairie Research Associates Inc., 2006, p. 5). The responses from police discussed by these participants demonstrate the ways in which over the past four decades some police officers fail to consider the dynamics of abusive relationships, despite their training, and how that leads to the unintended consequence of the criminalization of women victim-offenders.

In 1999, the Joint Committee on Domestic Violence who were tasked with reviewing the 213 jury recommendations from the May/Iles Coroner's Inquest and making recommendations on DV initiatives, gave the following instructions regarding dual arrests: "guidelines should contain a stronger, more directive approach … officers are discouraged from making a dual arrest in domestic occurrence situations … training should assist Police to identify self-defence injuries and encourage them to arrest the primary aggressor" (Joint Committee on Domestic Violence, 1999, p. xiii). The aim of primary aggressor policies was to address the dual arrest (or sole arrest) of women victim-offenders by shifting the focus of the criminal legal response to DV

from an incident-based response to one that considers the cumulative nature of VAW (Polletta, 2009). According to a resource kit written in 2003 by activist-scholar Deborah Sinclair for community agencies, a primary aggressor tool was adopted into the curriculum used in the DV Investigators course for police services across Ontario because "it is believed that a well-trained police department, using a primary aggressor theory and monitoring compliance among arresting officers, would eliminate more than fifty percent (50%) of arrests of women" (Sinclair, 2003, p. 44). Sinclair further explained that within a primary aggressor framework, "the perpetrator is defined as the party whose actions, both during this specific incident in question and throughout the history of the relationship, have caused the most fear and intimidation in the other" and that a police officer at the scene of a domestic incident must ask, "If I walk away and do nothing, who do I think is most likely to seriously harm the other?" (p. 45). In her study on how police in Ottawa responded to women during a DV incident for which they were charged, feminist scholar Anita Grace (2019) reported that DV crown attorneys, community groups, and the Ministry of Community Safety and Correctional Services in Ontario worked together to create an *Investigative Aid for Police Officers* aimed at reducing the rate of dual charges through the identification of the primary aggressor. The *Aid* informs officers that the primary aggressor may not be the individual who initiated the violence, but instead is the principal abuser with a history of violence and provides guidance on how to identify power and control indicators such as emotional abuse and isolation.

Canadian VAW scholars Fraehlich and Ursel (2014) found that after the implementation of primary aggressor training for police officers in Winnipeg, the dual arrest rate declined from 9% in 1999 to 2000 to 3% in 2004 to 2005. However, a decrease in dual arrests is often accompanied by a decrease in the overall arrest rate for DV incidents (Hirschel et al., 2017;

Powell & Liston, 2020). In addition, despite receiving training on the dynamics of domestic abuse and primary aggressor identification, a Program Director in London shared a recent conversation they had with a police officer in their city's DV Unit after 24 women were charged:

> The police officer in charge is, "Hey, look if anybody can help me with mandatory charge policy and how you understand who is the primary aggressor" … this has been going on since forever and you don't know and now we're seeing women charged because the police don't know. You got new cops coming in being trained by a guy that doesn't know. (P22)

Despite the introduction of primary aggressor policies to assist police officers in identifying the principal abuser within a relationship, women continue to be criminalized.[49]

Perpetrator's Manipulation of the Criminal Legal System. The direct criminalization of women victim-offenders also occurs when offenders manipulate the response from the criminal legal system. Several scholars examining DV criminal legal interventions report that enhanced knowledge of how the criminal legal system operates, often obtained first-hand through their own charges for DV, enables abusive men to manipulate the system's response resulting in the criminalization of women victim-offenders (Bohmer et al., 2002; Bumiller, 2010; Chesney-Lind, 2006; Grace, 2019; Miller, 2001; Miller & Meloy, 2006; Osthoff, 2002; Poon et al., 2014). For example, when examining an increase in the rate of women victim-offenders being charged in Toronto, feminist researchers Pollack et al. (2005) found that male offenders used their knowledge of mandatory charging policies to portray the woman as the primary

[49] The on-going process of legal reform to reshape DV criminal legal interventions when the implementation fails to address the issue of VAW the way feminist advocates intended is an example of the broader discussion that legal reforms will never address these issues appropriately because the law reinforces patriarchal standards [see socio-legal scholars Coker (2001), Currie (1990), Martin (1998), Smart (1989) and Snider (1990), and critical race feminist scholars Davis (1981) and Harris (1990)].

aggressor to police resulting in her being charged. A criminal legal participant in Oshawa shared how abusers are using the criminalization of women to threaten their partners: "the word's out there … 'I will make sure you're arrested too. I will make sure you lose your children'" (P11). Activist-scholar Donna Gardner (2007) discusses how male offenders added another tool in their arsenal of abuse when they realized they had the criminal legal system at their disposal to maintain power and control over their victim in ways that are far more damaging than before.

Several participants discussed how some police officers enable offenders to manipulate the response by engaging in the bare minimum amount of investigation. An activist participant in Brampton reported, "guy said she hit me, and they'd take his word for it and there'd be no evidence and then they charge her" (P27). Front-line workers expressed similar concerns, stating that police are "charging right away and in some cases, because maybe the guy's talking first, she's getting charged" (P26) and that police "rarely these days interview both parties, instead they'll often go to the man and get everything they need … that he's overwhelmingly the victim and they go to the woman to arrest her" (P22).

A 1995 discussion paper on the barriers to justice faced by ethnocultural minority women warned that when the police respond to a DV incident and the woman is unable to speak English, "the assaultive husband may give only his version of the facts since the wife may speak only her native language. This means that the police will be unable to gather information on the abused woman's experience of the assault" (Roboubi & Bowles, 1995, p. 2). The inability of some racial minority women to speak directly to the police demonstrates one of the differential impacts of DV criminal legal interventions on racialized women and how it increases their risk for criminalization. In her study of women charged with DV in Ottawa, Grace (2019) reports that police were more likely to believe men when they got to tell their story first. In addition to

fabricating information and ensuring they are the first (and only) partner to speak directly to the police, other strategies used by offenders that result in the criminalization of women include calling the police in jurisdictions where it is well-known that whoever calls the police first is assumed to be the victim regardless of degree of evidence, past criminal record, or other factors (Gardner, 2007), counter-charging the victim in retaliation for their own charges (Bumiller, 2010; Chesney-Lind, 2006), and self-inflicting wounds (Miller, 2001).

The direct criminalization of women victim-offenders shows how mandatory arrest policies, initially designed to protect women, have been weaponized by the police and perpetrators to punish women who fight back or stay with their abusers. As discussed above, several participants, reports published by advocates and government officials, as well as many academic studies (Buzawa & Buzawa, 1990; DeKeseredy & Schwartz, 1998; Hooper, 1996; Martin, 1997; Ruttenberg, 1994), demonstrate that police criminalize women when they ignore the context surrounding women's self-defensive use of force. In addition, some participants shared that although police officers began receiving primary aggressor training in the early 2000s, many officers were and continue to be unable or unwilling to investigate incidents of domestic assault to identify the individual who has caused the most fear and intimidation during the current incident and throughout the history of the relationship. Lastly, several participants and scholars (Bohmer et al., 2002; Bumiller, 2010; Chesney-Lind, 2006; Grace, 2019; Miller & Meloy, 2006; Osthoff, 2002; Poon et al., 2014) argue that offenders often use their knowledge of mandatory arrest directives to manipulate the police into arresting their victim.

Pathways of Indirect Criminalization of Women Victim-Offenders

Women victim-offenders still face the risk of criminalization through the DV criminal legal interventions, even when it is their partner who is initially arrested. I label these pathways

'indirect' because at first glance, it may appear that the DV criminal legal interventions are working as intended. However, closer examination of the procedures initiated following the arrest of a man who uses violence reveals that the woman faces potential criminalization through additional unintended consequences. This indirect criminalization occurs through two pathways in which the criminal legal system disregards the preferences of the victim: (a) proceeding with the prosecution of the man who used violence against the woman when she refuses to participate as a witness and/or requests the charges be withdrawn, and (b) implementing a no-contact order despite the woman wanting or needing to maintain contact with the perpetrator.

Proceeding with Prosecution Regardless of the Victim's Preferences. During the 1990s, many jurisdictions in Ontario and elsewhere followed their mandatory arrest policies with the introduction of pro-prosecution, also known as no-drop policies, for domestic assault charges (Ad Hoc Federal-Provincial-Territorial Working Group, 2003; Epstein et al., 2003; Hague et al., 2001; Hanna, 1996; Ryan et al., 2022; Tutty et al., 2008). The 1998 *Crown Policy Manual*, the text which coordinates the actions of crown attorneys in Ontario, instructed Crowns to pursue the "vigorous prosecution" (Ontario Ministry of the Attorney General, 1998, p. 3) of spouse/partner assault and with respect to dropping charges, read:

> The control of the prosecution is with Crown counsel and not with the victim. It is hoped that this philosophy will mean that less pressure will be brought to bear on victims to withdraw the charge if it is understood that they are not the one prosecuting. Crown counsel may *proceed with a prosecution against the wishes of the victim* [emphasis added]. (SP-1, p. 21)

Not only can the prosecution proceed regardless of the victim's wishes, but the criminal legal system may actively pursue criminalization against the victim if she refuses to participate in the

proceedings. During a ten-month Court Watch Project spearheaded by Metro Woman Abuse Council (MWAC) in 1996, volunteers monitored and recorded judge's responses to DV cases in three provincial division courts, including the initial DV Court at Old City Hall. Volunteers reported that multiple judges charged women with contempt of court and issued material witness warrants for their arrest when they did not appear for their offender's court case (Sheats, 1996).

Several scholars have examined how victims are forced to participate in criminal legal proceedings under the threat of criminal sanctions, including the use of bench warrants and contempt of court charges (Balfour, 2021; Ford, 2003; Kaba, 2021; Landau, 2000; McDermott & Garofalo, 2004; Messing et al., 2015; Nichols, 2014; Pence, 2001b; Sheehy, 1999; Snider, 1990; Weissman, 2007). Feminist lawyer Dayton (2003) refers to the forced cooperation of victims through the threat of legal repercussions as "institutionalized abuse [that] further victimizes a woman who has already suffered through an abusive relationship … the victim faces further abuse by those deemed responsible for her protection" (p. 291). For example, a 1991 brief written by OAITH to the Standing Committee on the Administration of Justice included a case example of the criminalization of a woman who testified against her partner: "her story on the stand differed from the police statement. The crown attorney … charged her with perjury without verifying any other evidence" (OAITH, 1991, p. 6). In 1994, feminist activist Lee Lakeman testified in the House of Commons regarding the threat of criminalization that victims face, "We have the police in every province threatening women that they will charge them with various crimes if they don't proceed as witnesses" (House of Commons Canada, 1994, p. 66:10). In an article published as part of the *Hitting Home* series, a police officer told the journalists that it is sometimes necessary to force a woman to testify (Daly et al., 1996b). Additionally, the DV Court Evaluation quoted a victim who recalled that the police "threatened to take me and my two

children to jail if we didn't make statements because they had been called to the house before" (Moyer et al., 2000, p. 163). In 1997, Crown Attorney Robert Morris expressed a similar sentiment in an opinion piece on prosecuting DV cases when he recommended that a Crown should advise a victim that "she will be subpoenaed and will be expected to tell the truth in court even if she does not wish to do so … [and] … she may be held in contempt if she refuses to testify" (pp. 30–31).

A former shelter worker from Brampton also discussed how pro-prosecution policies resulted in the criminalization of victims by judges who were "threatening to issue bench warrants for their arrest for not showing up to court" (P17). Some participants reported that the DV Court in their jurisdictions made good on the threat and criminalized women for failing to appear in court as a witness. An activist participant in London recalled that when an uncooperative victim "didn't show up, she was charged" (P08). When asked to discuss her experience of proceeding against the wishes of the victim, a former Crown Attorney who participated in the operation of one of Toronto's initial DV Courts recalled:

> I had become very uncomfortable, progressively more uncomfortable with what we were doing in the DV Courts … I would have a team and I would train them. The first thing I would say to them is if you think anybody's going to thank you, you're wrong. They're not going to thank you … what I realized very quickly was that we were not giving women what they wanted. (P06)

According to extensive academic and community-based research, women are not seeking punitive carceral responses to violence but rather interventions that will stop the abuse (Buzawa & Austin, 1993; Currie, 1990; Landau, 2000; MacLeod, 1987; Miller, 2001; Ruttenberg, 1994; Snider, 1994; Ursel, 1997). Around the same time that the Crown Attorney quoted above was

realizing the DV Court was not helping women, activist-scholar Deborah Sinclair, when asked in an interview for Education Wife Assault about strategies for improving the effectiveness of mandatory arrest policies, replied, "If the assaulted woman does not wish it, the process should not include conviction of an abuser. There may be consequences that the court may have no control over and from which it cannot protect her" ("Reflections", 1997, p. 7).

There are many reasons that a victim may not want to cooperate with the prosecution of the man who used violence against them, including that victims fear for their and/or their children's safety from retaliatory actions by the abuser and/or his family, past negative experiences with the criminal legal system, financial and/or emotional dependence on the abuser, concerns about their family's immigration status, and lack of tangible resources (time, money, transportation) to participate in the prosecution (Coker, 2001; Dayton, 2003; Epstein et al., 2003; Erez & Belknap, 1998; Ford, 2003; Martin & Mosher, 1995; Singh, 2016). The coercion of victim participation in the DV criminal legal interventions through the threat of criminalization directly contradicts the stated goals and aims of these interventions to protect women.

Enforcing No-Contact Orders. In addition to victims being charged and incarcerated for failure to testify as a witness against their partner, women and their partners face further criminalization risks when the court issues a no-contact condition as part of the offender's release on bail, while attending PAR programs, or as part of a probation order. No-contact orders are intended to provide security to women who feel threatened or have been abused by mandating that their abusers stay away from them (Guzik, 2007). According to the *Hitting Home* series published in 1996, 46% of the 85% of accused persons released on bail broke their bail conditions by either harassing, stalking, or going back to live with the woman they were ordered to stay away from (Armstrong et al., 1996a). Despite the high rate of breaches reported by the

journalists, a similar number of cases processed through the early DV Court Programs also involved a no-contact order, "Eighty percent or more of accused in all sites were released with a condition not to associate with the victim" (Moyer et al., 2000, p. 96). A Crown Attorney involved in the operation of the initial DV Court Program in Toronto recalled that many women were not happy and "the biggest issue for them was the no-contact orders of the bail … that was where we got the most pushback" (P06).

Similar to women not wanting charges against their partner to proceed, there are a number of reasons why a victim may oppose a no-contact order. The DV Court Evaluation reported that while there was a substantial increase in the use of no-contact orders in jurisdictions where the DV Court Program was implemented, offenders processed through the early intervention model were more likely to have the condition removed (Moyer et al., 2000). The Evaluation found that some victims wanted the condition removed because of "the expense and child rearing hardships associated with living separately" (p. 256). A front-line counsellor from Brampton also discussed how no-contact orders create additional stress on families, "if the person was providing childcare to their kids … now mom needs to find somebody else to have to do that. Or they were paying the bills … are they going to continue to pay the mortgage?" (P20). The use of no-contact orders in DV cases fails to consider the complexities of the relationship between the victim and offender. A court support worker in Ottawa discussed how the dynamics of an abusive relationship increases the likelihood of a breach of the order:

> If you have a woman for example, who has no job and five kids and is totally dependent on an accused person … of course, she's going to want him home … She's completely dependent on him and he's made it that way … I understand that and it kind of invites a breach. (P24)

In an ethnographic study of the power and practice of mandatory prosecution, sociologist Guzik (2007) found that criminal legal officials frequently anticipated the violation of the no-contact order. The knowledge that the order is most likely to be breached implies that criminal legal officials are knowingly creating a situation where the family is at risk for further criminalization. A front-line worker from Brampton discussed the increased likelihood of further criminalization: "there would just be blanket orders … many families suffering and then try to figure out how to get around it. How to break the law in order to survive" (P10).

For families who have emotional, financial, or other practical reasons for maintaining contact following a DV incident, no-contact orders create additional stressors which can exacerbate situations of abuse. The anticipation that the family will break the no-contact order resulting in further charges also increases the risk of the criminalization of victims. A criminal legal participant from Oshawa reported that she confronted the DV police sergeant and Crown when she noticed a significant increase in the number of women being charged with breaching the offender's no-contact order in her community: "I presented the stats … and said, you can't be doing this, you can't be arresting women because they're breaching his conditions, it's a ploy he uses as power … how is she ever going to feel safe?" (P11).

In many high-risk situations, no-contact orders are insufficient to protect women from future harm. The Inquest into the femicide of Arlene May by her ex-partner in March 1996, who was under an order to have no contact with her, acknowledged the complexity of these cases:

> Domestic violence cases are different than other criminal cases. In most situations the accused and the victim would normally never meet again. With domestic violence, the accused often must have contact with the victim due to property, support and child issues.

> The criminal justice system will have to be changed to deal effectively with these differences. (Office of the Chief Coroner, 1999, p. 27)

Four years after May's murder, Gillian Hadley was murdered by her estranged husband in June 2000, who was also under a no-contact order at the time of the femicide (Eyherabide & Shess, 2000). Journalist Margaret Philp (2000) pointed out, "While there is a new domestic-violence court in Oshawa, Ont., it played no role in sparing the life of Gillian Hadley" (p. A3). With respect to the femicides of Arlene May and Gillian Hadley, activist Lee Lakeman also drew attention to the limitations of the DV criminal legal interventions in the 2003 final report of a project coordinated by the Canadian Association of Sexual Assault Centres:

> Both women had struggled to leave abusive men and had tried to use the state for protection. Both men had a history of violence and were under court orders to stay away from the women. Both men could have been detained and were not. They are typical, not atypical. (Lakeman, 2003, p. 155)

The ineffectiveness of no-contact orders to protect women from future violence, while at the same time increasing the risk of criminalization for women victims, demonstrate the complexities when DV criminal legal interventions are the dominant response to VAW.

Systemic Pathways that Contribute to the Criminalization of Women Victim-Offenders

In addition to the direct and indirect pathways that lead to the criminalization of women victim-offenders, there are also a variety of systemic factors that contribute to this outcome, including systemic racism, classism, sexism, ableism, homophobia, and transphobia in the criminal legal system, and the lack of well-funded alternatives to DV criminal legal interventions. Many VAW scholars express concerns about the harms faced by women and their families because of their class, ethnicity, race or gender as a consequence of DV criminal legal

interventions, including the increased likelihood of surveillance and control from involvement with state authorities, such as criminal legal and child welfare systems (Bumiller, 2010; Buzawa & Buzawa, 1996; Coker, 2004; Goodmark, 2018; Kajeepeta et al., 2024; McMahon & Pence, 2003; Poon et al., 2014; Richie 2012; Singh, 2010; Snider, 1994; Sweet, 2019). In addition, according to feminist legal scholar Koshan (2014), concerns about the impact of DV legal reforms on marginalized communities are largely absent from the existing institutional documentation on DV Courts.

Feminist legal scholar Ruttenberg (1994) argues that White VAW activists who advocated for DV criminal legal interventions "to protect all women" from violence reinforced "their racial privilege over Black men and women" (p. 174). Support received for the implementation of DV criminal legal interventions represents a policy process in which the most influential are the least likely to experience police intervention (Bruckert & Law, 2018; Manning, 1996; McDermott & Garofalo, 2004; Rankin & Vickers, 2001). As one White activist participant acknowledged:

> I don't know if I would have supported mandatory arrest, if I had been much more aware of how racist the criminal justice system was. I mean I knew it was pretty sexist, I don't think I had an understanding of race and class, and I think, why did I not? (P28)

Another participant discussed how "ethnic minorities and Indigenous clients … do not trust calling the police in the first place, there is a lot of discrimination and racism in the system" (P19). This lack of trust was also captured in a 1995 report by the Commission on Systemic Racism in the Ontario Criminal Justice System. The most relevant findings include the over-representation of Black women among prison admissions when compared to Black men, who are also over-represented when compared to White adults (Gittens & Cole, 1995). In addition, the

report stated that the most dominant issue of systemic racism raised by victims concerned mandatory arrest policies, including the following statement jointly submitted by three women's organizations, "The strategy of 'wife assault as a crime' is not responsive to the complexities of violence against women in the context of a racist society" (p. 212).

When DV criminal legal interventions are implemented within a racist and classist system, women from marginalized communities face a greater risk of criminalization. For example, when discussing mandatory arrest policies at the 1997 *Consultation on Violence Against Women* an attendee reported that these policies "encourage the police to lay more charges … this has a greater impact on groups targeted for over-policing, such as immigrants and visible minorities" (Department of Justice Canada, 1997, p. 18). In *Overcoming the Backlash*, activist-scholar Sinclair (2003) reported that poor and racialized women are disproportionately more likely to be affected by a gender-neutral application of the DV criminal legal interventions. In her study examining criminalized Black women's experiences of DV in Canada, critical race feminist Duhaney (2022) found that, "Black women who have had a long history of victimization and defend themselves against an abusive partner are criminalized for their actions, which leads to harsh and punitive treatment in the criminal justice system" (p. 2769).

In Toronto, activist-scholars Pollack et al. (2005) interviewed 19 criminalized women and nine DV crown attorneys. Several of the women reported that their arresting officer made racially and culturally biased and discriminatory statements toward them. In addition, the crown attorneys Pollack et al. interviewed revealed cultural biases embedded within the criminal legal system, including a perception that immigrant and racialized women were more violent than other women. In a study of the Winnipeg Family Violence Court, activist-scholar Ursel (2001) found that all the accused were of lower socio-economic status than the general population in

Canada. Studying the same court years later with respect to the criminalization of women victim-offenders, scholars Fraehlich and Ursel (2014) found that race and class predicted the likelihood of prosecution. For example, unemployed women were more likely to be prosecuted than employed women, and Indigenous women and women from other visible minorities were more likely to be prosecuted than White women. More recently, the National Inquiry into Missing and Murdered Indigenous Women and Girls (2019) reported that Indigenous women, girls, and 2SLGBTQQIA people have "very real concerns that reaching out to the police may lead to their being arrested or charged because the police already believe they are guilty" (p. 632). The DV criminal legal interventions increased the likelihood of the direct criminalization of visible minority women victim-offenders (Bruckert & Law, 2018; Richie, 2012).

In addition to the risks faced by visible minority women through direct criminalization, they are also at a heightened risk of indirect criminalization through the increased risk of arrest and prosecution of their partners. Weiss (2020) conducted a participant observation study to understand a DV organization's reliance on criminal legal interventions and found that, "police officers do not arrest perpetrators if they seem like generally good guys … law enforcement see *some* men, specifically racial minority men, as perpetrators" (p. 279). A participant in Brampton discussed the ethnic make-up of men in their agency's PAR program:

> The racism of the police and the Court process was so obvious because of the higher number of men of colour in our programs … that was a factor we had to address in the programs, like acknowledging part of why you're here is racism, if you were White, the police might not have charged you. (P10)

Several studies of mandatory arrest and pro-prosecution policies have shown that men who are convicted of DV are not representative of men who engage in violence but rather are more likely

to have lower economic status, be Indigenous or from a racial minority (Gotell, 1998; Snider, 1990; Walker, 1995). The DV Court Evaluation found that "mandatory charging policies disproportionately affect disadvantaged and minority group women" (Moyer et al., 2000, p. 9) through the overrepresentation of their partners in the PAR program. In the same year, a newspaper article stated, "zero tolerance for domestic violence may have backfired and now counts among 'questionable government policies' that increase the 'criminalization' of the poor" (Chwialkowska, 2000, p. A04). Years earlier, in her testimony to the House of Commons, activist Lee Lakeman addressed the inherent racism and classism in the criminal legal system,

> Once a man has been charged, if he's not protected by wealth or influence he's more likely to go to jail, and women are only too aware that he goes to jail because he's poor, because he's black, because he's aboriginal, not because he has committed violence against women. (House of Commons Canada, 1994, p. 66:7)

The DV criminal legal interventions that emphasized a carceral response to VAW operate within a system in which wife assault is a crime for only some families.

DV criminal legal interventions also placed lower socio-economic and visible minority women experiencing violence in a difficult position. For example, the final report of the Canadian Panel on Violence Against Women (1993) read, "Systemic racism in Canadian society and in the institutions of justice place racial minority women between a rock and a hard place – we have forced them to choose between their loyalty to community and their personal safety" (p. 81). Similarly, the National Association of Women and the Law (1993) submission to the Ontario Commission on Systemic Racism in the Criminal Justice System stated, "An immigrant woman of colour may be caught in a dilemma about calling the police for help if her community has been a target of police harassment or violence" (p. 6). The following year, a report prepared

for the annual public lobby of MPPs published by OAITH (1994) expressed concern that, "Abused women will have to choose between their human rights and the human rights of their partners" (p. 16). The debate about whether to call the police for assistance when women are experiencing violence would be less consequential if the DV criminal legal interventions were not the only well-funded response to VAW in Ontario.

During the 1990s, many government reports, activist newsletters and mainstream media articles reflected a recognition for the need for alternative responses based on the racist and classist biases underpinning the DV criminal legal interventions. In 1995, a report published by the Federal-Provincial-Territorial Working Group on Multicultural and Race-Relations in the Justice System stated, "many ethnocultural minority women are being forced into risky situations in which they feel they have to defend their abusive partner against the police … Alternative strategies should be explored" (Roboubi & Bowles, 1995, pp. 12–13). In addition, in an interview published in 1997, when asked if there had been any difference in impact of mandatory arrest policies according to women's socio-economic location, activist Deborah Sinclair replied,

> There has been considerable criticism levelled against it, largely from Native women and women of colour, who believe it to be another form of discrimination against Native men and men of colour. Rather than subject their partners to a racist criminal justice system, these women are looking for alternative ways to hold their men accountable. ("Reflections", 1997, p. 4)

In an article published in *The Globe and Mail*, Marsha Sfeir, a spokeswoman for Education Wife Assault, stated that many women of colour, "would rather deal with the violence in their own communities than turn the man over to the police … If there's any alternative to involving police, many women will opt for it" (Hess, 1997, p. A8). Unfortunately, the alternatives to

involving police that many of these women and advocates were seeking failed to receive reliable funding and support from the government. In a synthesis of research findings on DV, feminist scholar Landau (1998) reported that due to "the current emphasis on mandatory charging as the main social response to violence against women … little research appears to be directed towards [criminal legal] alternatives, unless they can be absorbed into the prosecutorial process" (p.15).

In a feminist analysis of Toronto's first DV Courts, legal scholar Salvaggio (2002) also acknowledged the lack of non-carceral options, "attention to a criminalization response to domestic violence may leave other supports under-serviced, even where the over-arching program is alleged to be interdisciplinary or community-based" (p. 15). In an article critiquing aggressive DV criminal legal interventions, Dr. Peter Jaffe, one of the founding members of London's mandatory arrest policy, defended zero tolerance "as a necessary response to years of inaction by police" (Makin, 2003, p. F6). However, he went on to say that "the solution wasn't to turn the pendulum to the other extreme … the blunt instrument of the criminal law is now being overused at the expense of other programs to reduce spousal violence and help victims" (p. F6). In addition to the lack of non-carceral options for women who do not turn to the criminal legal system for assistance, the under-funding of community-based programs hindered the successful implementation of victim support within the DV Court Program. The second evaluation of the DV Court Program found an increase in demand for services from community agencies but with no additional funding, which meant agencies were "unable to consistently provide victims with the level of support and services they need" (Prairie Research Associates Inc., 2006, p. 144). As discussed in the previous chapter, the initial DV Court Program was embedded within a network of community-based supports that were seen by many as instrumental to a successful response to ending VAW. The provincial expansion failed to replicate funding and integration for

community-based programs, hindering the goals of the DV Court Program to increase support to victims, while increasing the risk of criminalization for women victim-offenders.

Consequences of Criminalization of Women Victim-Offenders

Once criminalized, women victim-offenders face several consequences that hinder their ability to protect themselves and their children from further abuse. These consequences may include loss of employment, immigration status issues, involvement with child welfare agencies, denial or loss of public housing, and denial or loss of welfare benefits (Chesney-Lind, 2002; Dasgupta, 2002; Miller, 2001). In addition, when women are charged with a criminal offence, they often become ineligible for victim support services, such as transportation to a safe location, temporary housing in a shelter for abused women, ability to request a no-contact order, and participation in victim assistance programs (Hirschel & Buzawa, 2002; Pollack et al., 2005; Williams, 2004).

Participants discussed the negative impact women experience as a result of their criminalization. A front-line worker in Toronto stated, "Things are very difficult for women due to the charges, maybe losing their employment, the cost of childcare … looks nice on paper, mandatory charges, but there are so many things underneath that" (P19). A former PAR program counsellor from Ottawa also connected the mandatory arrest policy 'on paper' to the consequences experienced by criminalized women victim-offenders: "if there were other ways that those women could have gotten the support they needed without the intervention of the court system, I'd be all for it" (P23). As an activist from London summarized, "Now we have mandatory charging, and we wish we didn't. I wish we didn't" (P07).

In their study of how practices in Canadian specialized courts shift the parameters of punishment toward penal governance, socio-legal scholars Hannah-Moffat and Maurutto (2012)

found that women processed in Ontario's DV Court Program had more difficulty accessing a mandated PAR program in comparison to men, resulting in extended periods of bail supervision and sentencing delays. Activist-scholar Gardner (2007), who provides direct services to battered women arrested for violent behaviour against their abusers, also discusses the disparity women and men experience in American DV Courts. Gardner reports that women often agree to the early intervention process based on their partner's previous experience with the Court for which they did not face significant consequences and then find that they have greater barriers to attend mandated treatment. In addition, some of the women in Gardner's program had to delay moving out of state to leave their abusive relationship, as a result of the conditions of their release.

Increasing Women's Vulnerability to Domestic Violence

In addition to limiting access to victim supports and resources, a woman who has been criminalized through DV criminal legal interventions is less likely to engage with the criminal legal system in the future, leaving her more vulnerable to harm from future violence by a partner (Epstein et al., 2003; Gillis et al., 2006; Miller, 2001; Nichols, 2014; Pollack et al., 2005). An activist participant in North Bay, succinctly stated that the criminalization of women victim-offenders "led to people wanting to report less" (P02). Similarly, a Program Director from Oshawa discussed how the future safety of women is affected because when women have called the police for help as a DV victim but are then charged, "they are then hesitant or refuse to call the police themselves should they need them in the future. And that could mean life or death for some women" (P21). Risk of death was a reality discussed by an activist participant from Brampton. The former Victim/Witness Assistance Program worker recalled how the criminalization of a woman victim-offender may have contributed to her femicide:

> She had been charged in another jurisdiction awhile before and had got a peace bond, and he held that [peace bond] over her head. "You're the one who's bad, no one's going to believe I did anything" … it really froze her from acting quickly … it was a moment for the Crown prosecutors … You think you're doing her a favour by withdrawing the charge and getting her to sign this document. You're actually nailing her coffin because it says to him that she did something wrong. (P27)

This femicide is another example of how abusers can manipulate the response from the criminal legal system to exert further control over their victims. In addition, several studies report that arresting women victim-offenders increases her risk of being further victimized and decreases the likelihood that she will contact the police for assistance (Bridgett, 2020; Dasgupta, 2002; Hirschel & Buzawa, 2002; Martin, 1997; Pence & McDonnell, 1999). Feminist scholar Grace (2019) reported that the criminalized women victim-offenders in her study were adamant that they would never turn to the police for help again, even if they continued to experience abuse.

In addition to the direct criminalization of women, mandatory arrest also increases a woman's risk of harm from future violence through the indirect criminalization of victims. As this former shelter worker stated, mandatory arrest "began to cause women not to reach out to the police for help because they realized that charges were going to be laid against their partner and it was just out of their hands" (P17). Several historical reports and media articles discussed the negative impact proceeding with prosecution against the victim's preference has on her willingness to engage with the criminal legal system in the future. For example, the United Nations manual, *Strategies for Confronting Domestic Violence*, published in 1993 reported:

> Women have been imprisoned in England and in Canada for refusing to testify at their husband's criminal trial. This means that a woman may decide not to call the police when

> she is being assaulted because she does not want to be forced to testify at her husband's trial later. (Centre for Social Development and Humanitarian Affairs, 1993, p. 18)

The manual drew specific attention to the criminalization of victims in Canada who refused to cooperate with the prosecution of their partner. Similarly, the final report of the Commission on Systemic Racism in the Ontario Criminal Justice System stated that mandatory charging "made women believe they have no choice or voice in charging and prosecution decisions. The danger is that women who do not want the abuser prosecuted may decide not to call the police when intervention is essential" (Gittens & Cole, 1995, p. 211). The Commission went on to recommend that crown attorneys should withdraw charges when they are "satisfied that a woman has decided voluntarily, and not as a result of coercion by the accused or others, that prosecution of an assault charge will harm her" (p. 212). In 1997, a Statistics Canada brief noted a decline in the rate of wife assaults reported to police. In an article published in *The Globe and Mail*, VAW activists asked to comment on the brief, including Dr. Peter Jaffe (London) and Vivien Green (Toronto), countered that DV shelters continue to see an increase in demand and suggested that the decline "could mean that policies making charges mandatory are making women more reluctant to call police" (Hess, 1997, p. A8). Six years later, in another article published in *The Globe and Mail* critiquing the zero-tolerance approach of DV criminal legal interventions, Eileen Morrow, director of OAITH, reported that many women say, "I wish I had never called the police. I didn't get justice, I just got revictimized" (Makin, 2003, p. F6). The DV Court Evaluation found that 43% of victims would not call the police again because "the entire process had been too difficult either emotionally (particularly being separated from their partner or having the children separated from a parent) or financially, as the cost of maintaining two residences caused considerable strain" (Moyer et al., 2000, p. 149). Despite the stated goals of

the DV Court Program to provide greater support and protection for victims, the process is not any less daunting and, in many cases, creates greater emotional and financial stress for families, while also placing the victim at an increased risk of criminalization.

Disempowering Women who Experience Violence

The practical and material consequences, as well as the increased vulnerability to future violence that criminalized women victim-offenders face, is compounded by the disempowerment victims experience through DV criminal legal interventions. Scholars have drawn attention to how the disempowerment of women who experience violence is at cross-purposes with the empowerment model of battered women at the heart of VAW movements (Kuennen, 2007; Landau, 2000; Lehrner & Allen, 2008; Snider, 1994). Feminist activist-scholars Johnson and Dawson (2011) highlight how DV criminal legal interventions can punish women for seeking help by restricting the control they have over their lives during a time when women need the most control. As a result of DV criminal legal interventions depriving women of their ability to choose whether the charges and prosecution against their partner proceed, these interventions relocate the control and coercion of the woman from the perpetrator to the criminal legal system (Fitz-Gibbon & Walklate, 2021; Hanna, 1996; Messing et al., 2015; Mills, 1999; Ryan et al., 2022). According to the Ontario Ministry of the Attorney General (2001), "The domestic violence court program is designed to provide better support to victims" (p. 8-1). However, the disempowerment of victims through the coercive actions of police and crown attorneys directly contradicts the stated goals of the DV Court Program.

Several participants and historical government documents acknowledged how the DV criminal legal interventions failed to provide better support to victims. The 1993 manual published by the United Nations based on a draft prepared by the Canadian Department of

Justice reviewing strategies used around the world to confront VAW discussed the potentially negative impact of mandatory arrest on a victim's emotional well-being, "Eliminating the victim's choice may increase her distress and feelings of powerlessness, as she cannot control what happens" (Centre for Social Development and Humanitarian Affairs, 1993, p. 42). During the House of Commons Debate on December 6th, 1994, Liberal MP Catterall (Ottawa West) expressed a similar sentiment, "women tend not to report crimes against themselves as easily or as readily. They know that doing so immediately places them in a situation where they again are powerless" (Catterall, 1994, p. 8686). A court support worker in Ottawa acknowledged their own complicated feelings when asked about mandatory arrest, "It's tricky and it's something that I've struggled with personally for years. You know, the whole idea of taking someone's power away, for me, is problematic" (P24). Feminist scholar Landau (1998) described mandatory arrest as "a transfer of power from the batterer to the criminal justice system" and that as a result, "women report feeling as disempowered by this process as they were before the policy" (p. 4).

Other participants, as well as government documents and media articles, discuss how the mandatory charging policy coordinates the response from police and prosecutors in ways that fail to capture the complexities of the situation. An activist from London draws attention to the disempowerment of both police and victims through the mandatory arrest policy, "It was a directive telling police officers they had no choice. Telling survivors, no choice. It's out of your hands … How do you do that in a nuanced way? I don't think you can" (P01). The lack of choice in the DV criminal legal interventions and the impact on a victim's ability and willingness to cooperate with the system was also addressed by activist Lee Lakeman in her testimony to the Standing Committee on Justice and Legal Affairs:

> The justice system seems so far incapable of dealing with women as anything other than either to be dismissed or to be blackmailed; and neither one works particularly well. So far we do not have the system relating to the women who call for assistance as autonomous, capable, intelligent, thoughtful, fully adult persons. They would be more than willing to cooperate with a just justice system. (House of Commons Canada, 1994, p. 66:10)

The strategies the system uses to coerce women into cooperating are reminiscent of those used by abusers. A former Crown Attorney from Toronto recalled their concerns about replicating the power dynamic of an abuser when proceeding with charges:

> The huge problem I had with it philosophically and in practice, to be honest, was we are accusing these men of being controlling and these women have, not all of them, have histories of not being allowed to make choices and then we bring them into the system, we say, "Don't care what you have to say." I think it's hugely problematic in terms of women's agency. (P06)

Another Crown Attorney participant in Ottawa disclosed that to reassert their agency, some women will hire a lawyer to provide an "affidavit saying that she lied" and will threaten to sue the Crown because "you're causing all of these difficulties to my client" by trying to coerce her to testify against her partner (P29). In an article that explored the initial Toronto DV Court's "aggressive criminal justice intervention in domestic violence" (p. 6) legal scholar Salvaggio (2002) explained,

> The use of such mandatory policies is premised on two unsavoury assumptions: that all women will react to domestic violence in much the same way, and unquestioningly welcome prosecution to the fullest extent of the law, or more ominously, that individual

> women's experiences and desires ought not factor in state responses to domestic violence. (p. 8)

The disempowerment of women through DV criminal legal interventions is rooted in the discourse of VAW movements that framed victims in need of protection. When discussing mandatory charging, a criminal legal participant from Oshawa expressed this narrative to justify removing the victim's choice, "you can't rely on the woman or the victim's choice because they're so controlled in the worst cases, they'd be protecting him and that's not protecting her, to listen to her voice when she's been so controlled and damaged" (P11). Reflecting on an American context, feminist scholar Bumiller (2010) argues that a woman's failure to pursue a carceral response is framed as a symptom of being a battered woman rather than as an expression of autonomy. A former Crown Attorney discussed this expression of autonomy during our interview,

> Although a big part of my issue with the criminal justice response has always been that we imagine every woman is that woman, that they all are saying they want contact and they don't want prosecution because they're afraid, because that's not true either. They're not all afraid, right? … who am I to say, as I sit in my fake leather chair … that it's better for her to not be with him and suffer whatever that means than to be with him and get hit once a month … I don't get to make that choice … the reality is these are adult women. People are entitled to make bad choices. So, it's complicated. (P06)

The discursive practices of the VAW movement, discussed in Chapter 3, that framed women who experience violence as victims in need of protection from themselves and their abusers contribute to the contemporary justification of having the criminal legal system remove agency from women through mandatory arrest and pro-prosecution policies. The current DV criminal

legal interventions reinforce the narrative that the choice to remain in an abusive relationship is maladaptive and therefore, excessive intervention by the state is warranted (Hanna, 1996; Kuennen, 2014; Walklate et al., 2018).

Opponents of DV criminal legal interventions see the removal of a victim's decision-making power as patronizing. These advocates believe that a policy of victim choice is preferable to mandatory arrest and pro-prosecution policies and is the only way to achieve true victim empowerment (Buzawa & Austin, 1993; Miller, 2001). During a 1997 interview asking advocates to reflect on mandatory arrest, feminist legal scholar Janet Mosher succinctly stated, "Whether or not charges are laid needs to be the choice of the abused woman" ("Reflections", 1997, p. 5). Similarly, when asked whether mandatory charging has been a useful policy, a front-line counsellor in Brampton discussed the possible dangers inherent in a blanket approach, "Sometimes it's actually riskier for an ex-partner to be charged … those are the cases where I wish mandatory charging wasn't there, because a woman would know in their situation that it puts them more at risk" (P20). The original DV Court Evaluation found that women resented being told they were 'victims' and that many community partners argued that "she knows her situation best and is in a better position to make judgements about her future safety than is the Crown attorney" (Moyer et al., 2000, p. 194).

As early as 1990, socio-legal scholars Buzawa and Buzawa expressed concerns regarding the removal of a victim's choice,

> Despite her emotional involvement and trauma, the victim is usually in a better position than patrol officers to determine the likely impact of an offender's arrest … It appears presumptuous that 'women's rights' advocates can determine what is best for the entire category of battered women. (p. 103)

According to risk assessment studies, women's perception of their safety is one of the best predictors of future incidences of violence (Gondolf, 2001; Hanson et al., 2007; Morgan et al., 2019; Northcott, 2012). Also, Ford and Regoli (1993) found women were less likely to experience further abuse only if their choices were respected and they were not coerced into participating in the prosecution of their abuser. Given that the goals of the DV criminal legal interventions are to end VAW, listening to the preferences of victims may be more effective than pursuing charges against the victim's wishes. In addition, the disempowerment of victims may appear as a logical necessity because the emphasis placed on the criminalization of DV has left community-based interventions under-theorized and under-funded.

Acts of Resistance: Responding to the Criminalization of Women Victim-Offenders

The DV criminal legal interventions resulted in the criminalization of women victim-offenders, an outcome that was at odds with the stated goals of the interventions and the dominant VAW movement in Ontario. Although all DV Courts were governed by The Guidelines (Ontario Ministry of the Attorney General, 2001), according to the initial DV Court Evaluation of the expanded sites, "there were considerable variations in the operations of the program at each court location … Although the programs had the same goals, each site went about implementing them differently" (Moyer et al., 2000, p. 63). In their study of Canadian specialized courts, socio-legal scholars Hannah-Moffat and Maurutto (2012) found that each court incorporates a particular set of community players that create unique inner workings of the court through the production and accumulation of knowledge. These new forms of knowledge shape how offenders and victims are perceived, assessed, and managed within the criminal legal system and the VAW sector more broadly. In addition, previous Institutional Ethnography (IE) literature has revealed that at each point of intervention for responding to a DV incident (i.e.,

police investigation, prosecution, and sentencing), practitioners coordinated by institutional guidelines apply categories relevant to the institutional mandate and in so doing, may hinder rather than facilitate the protection of victims (Campbell & Gregor, 2002; Pence, 2001a; Wilson & Pence, 2006). In what follows, I interrogate the variation created in the DV Court jurisdictions by exploring advocates' "work knowledges" (Smith, 2005, p. 44) of how to resist the consequences of the criminalization of women victim-offenders in the various regions. Exploration of these strategies contributes to the literature on DV criminal legal interventions, which tends to marginalize the perspectives and advocacy work of VAW activists and community-based workers (Goodman & Epstein, 2008; Miller & Meloy, 2006; Nichols, 2014).

Political scientist Michael Lipsky (1980) referred to front-line workers at social service agencies with limited but powerful discretionary authority as "street-level bureaucrats" (p. 3). These street-level bureaucrats, including VAW sector workers and advocates, use their discretionary authority to navigate their role in implementing policies that they view as unjust or ineffective toward ending VAW. They do this work often while working under conflicting mandates with limited resources and minimal power to effect systemic change (Franke & Shdaimah, 2022). The founder of the field of study of human service organizations, Yeheskel Hasenfeld (2000) used the term "moral entrepreneurship" (p. 336) to describe how street-level bureaucrats use their autonomy to advocate against system or agency policies they consider problematic or dangerous for their clients and communities. A Toronto-based activist participant shared their belief in moral entrepreneurship, "we should be able to say, I don't agree with this. I have to do it, but I don't agree with it … that's a piece that comes in as we activists advocate within the context of domestic violence" (P04). My analysis of interview transcripts and documents reveal five acts of resistance utilized by advocates and criminal legal officials in

response to the DV criminal legal interventions: (a) tailoring the PAR program for criminalized women, (b) strategic use of the media, (c) direct communication with legal officials, (d) providing front-line services for victims, and (e) disseminating texts within VAW movements.

Tailoring the PAR Program for Criminalized Women

Once the DV Court Program began in 1996, community-based PAR programs were faced with the challenge of needing to address the emotional and legal challenges encountered by criminalized women victim-offenders, while maintaining an awareness that providing them a formal program to do so could potentially cause the women further harm (Hooper, 1996; Miller, 2001; Larance et al., 2019). The challenge arose because the most widely adopted theory of batterers and batterer intervention programs, The Duluth Model, was developed with only male perpetrators in mind (Pence & Paymar, 1986, 1993). The Duluth Model, with its focus on power and control and a perpetrator's negative attitudes toward women, was likely to have limited utility for women victim-offenders (Dasgupta, 2002; Henning et al., 2003; Miller & Meloy, 2006; Tutty et al., 2006). Some program facilitators warned that referring women to PAR programs was tantamount to revictimizing them (Abel, 2001; Larance et al., 2019). As a result, agencies began to explore creating specialized programs to address the differing needs of women victim-offenders more effectively (Gardner, 2007; Hamberger & Potente, 1994; Holmes, 2015).

For the initial DV Courts in Toronto, MWAC coordinated the referrals of individuals criminalized through the early intervention courts to one of the several PAR programs operating throughout the city. According to an activist participant familiar with the initial referral process, "in terms of women charged, the idea was that only E Fry should do those because we really wanted to make sure that an agency did those who understood what was going on for women" (P30). The Elizabeth Fry Society of Toronto had a mandate to serve women who are in conflict

with the law or who are at risk of being in conflict with the law. In 2002, the Ontario Ministry of the Attorney General granted the Elizabeth Fry Society funding to create the Partner Intervention Program (PIP) as a pilot project to address the increasing needs of women charged with domestic assault in Toronto (Williams, 2004).

It was shortly after the creation of the program that I was hired as a counsellor to conduct intake interviews, provide individual and group counselling, and write letters of completion and referral for women referred by the Toronto DV Courts and probation officers. The initial co-ordinator of PIP, Natasha Williams, wrote her doctoral thesis analyzing the effectiveness of the first year of the pilot project. According to Williams (2004), the goal of PIP was to create a program that took the use of violence by women seriously while recognizing the differing patterns of male and female violence within intimate relationships, that the violence happens within a gendered context with dissimilar consequences, and that both the violence itself and the barriers to ending violence are related to the societal inequalities faced by women. During the first year of PIP, the DV Court Program referred 37 women and probation officers referred 32 women (Williams, 2004). Of the 69 women, 15 had been dually arrested with their male partner (Williams, 2004). The PIP was a 16-week program consisting of two individual intake sessions, a 12-week closed group, and two individual closure and evaluation sessions. This format differed from the men's 16-week PAR program offered by other agencies.

The PIP utilized several resistance strategies in recognition of the criminalization of women victim-offenders. The structure and content of the program acknowledged that the actions of the women arose from their experiences of victimization over a period of time within their current and/or previous relationships. For example, unlike the curriculum used in PAR programs that requires men to remain focused on their behaviour in order "to challenge a lifelong

pattern of thinking, rationalizing, and acting that leads to violence and other forms of abuse" (Pence & Paymar, 1993), the PIP curriculum provided education around early warning signs of abuse, increasing self-esteem, and decreasing social isolation by identifying and building a social support network to help minimize the risk of future victimization (Elizabeth Fry Society of Toronto, 2005). In addition, during the intake sessions, we conducted an extensive risk assessment to determine if the woman was in any immediate danger and developed an appropriate safety plan. This strategy is more in-line with the work of the partner contact component of the PAR program, rather than the sessions with the men. The partner contact component of PIP required a greater level of care and confidentiality than in the men's PAR program. My personal copy of the PIP *Participant Agreement Form* from 2005 demonstrates how this concern was acknowledged, "If there are safety issues related to me [the woman enrolled in the program] personally, the partner contact will be reviewed prior to further contacts" (Elizabeth Fry Society of Toronto, 2005, p. 6). When conducting partner contact, most men would state they had no concerns about their safety and did not require any additional support. When there were safety concerns for the woman, the man would often ask me questions trying to determine the location of our program or where their former partner was currently living. In these instances, I provided no information regarding the program details or the woman's progress in the program. This was a direct contrast to the information provided to women victims by PAR program Partner Contact Workers (Heslop et al., 2016; *R v. Sarahang*, 2021; Scott, 2006). Lastly, our *Closing Report*, which provided confirmation that the woman had completed the PIP and would become part of her criminal legal case file, contained the following statement: "Ms. X accepted responsibility for her actions on the day of the incident. However, Ms. X reported that her use of force was a direct result of being a victim of woman abuse"

(Elizabeth Fry Society of Toronto, 2005, p. 11). As Hannah-Moffat and Maurutto (2012) found in their study of specialized courts, community partners who provide treatment services and information to the court shape how offenders and their behaviours are perceived. The PIP *Closing Report* provided us an opportunity to contextualize the woman's use of violence to the criminal legal system, even if it occurred after her criminalization.

Participants in Brampton and Ottawa also discussed how their agencies responded when new DV Courts began referring women to their local PAR program. Similar to the response from the Elizabeth Fry Society, a front-line worker in Brampton stated, "we had to start a PAR women's program … and we made sure we developed a curriculum that was different, that understood the particular socialization of women" (P10). Another participant, familiar with the approach to women victim-offenders in Brampton, described it this way, "every woman brought to the table a garbage bag of history, and this was the last thing that they needed as an end result, for them to be charged by the system" (P27). The Ottawa PAR program also acknowledged the 'garbage bag of history' that criminalized women victim-offenders brought with them: "Pretty different than our men's groups. First of all, a lot more time and space for the women to talk about their experiences of their partners and the violence that they experienced" (P23). The second evaluation of the DV Court Program also discussed that some agencies struggled with the lack of flexibility within the PAR program because they recognized that women victim-offenders had different needs and issues than men who use violence (Prairie Research Associates Inc., 2006). As with PAR programs more generally, there is limited research into the effectiveness of programs tailored for women. However, the minimal research that does exist indicates that specialized programs that acknowledge the differing needs of women are more effective and appropriate for criminalized victims (Kernsmith & Kernsmith, 2009; Larance, 2006). In addition,

in its 2011 Annual Report, the Ontario Domestic Violence Death Review Committee recommends the development of gender-specific intervention programs to address the unique issues faced by women victim-offenders (Office of the Chief Coroner, 2012).

Participants also discussed how by making space within their programs for criminalized women to discuss their past experiences of violence, they were able to provide services and support that were more similar to those provided by Victim Services. In 1994, scholars Hamberger and Potente found that the majority of criminalized women victim-offenders in their study had not previously used supports for battered women and that providing court-ordered services was an opportunity to connect women to services. Similarly, a former PAR counsellor shared how their program in Ottawa explored strategies for leaving an abusive relationship: "helping them see options that would allow them to consider maybe moving on from the relationship, in a way that we probably did differently than with men" (P23). By creating a curriculum in the women's program that contextualized her use of violence, a front-line worker in Brampton stated that women "realized, 'Oh, okay, I've been being abused.' They then went into the Woman Abuse Program and were able to get other services" (P10). A front-line worker from Toronto, who provides counselling for women charged with domestic assault discussed how their program finds a balance between meeting the requirements for the DV Court Program and building the capacity of women within the context of their abusive relationships:

> Things are very difficult for women due to the charges … So, this is where we come in and provide all of the supports and connect women to other agencies within the city as well, to help them take responsibility for what happened. To be able to move forward for your own healing, but to also prevent this from happening ever again. (P19)

While participants discussed how they engaged in "moral entrepreneurship" (Hasenfeld, 2000, p. 336) to provide both the counselling required by the DV Court Program and begin to meet the needs of women as victims, the consequences of having women enrolled in the programs can still outweigh these benefits. In their interviews with individuals processed through Ontario's specialized courts, scholars Hannah-Moffat and Maurutto (2012) found that women often spent longer under court supervision than their partners due to a lack of program space. In addition, once women attend a program, there are additional barriers, such as transportation, childcare, time off work, and even a delay in moving away from the perpetrator due to program requirements (Gardner, 2007).

Strategic Use of the Media

A second resistance strategy used by advocates and criminal legal officials was their choice to mobilize the media to raise awareness about the ways in which the DV criminal legal interventions are causing harm rather than protecting women. As discussed in the previous chapter, the extensive coverage by feminist journalists Daly, Armstrong and Mallan in the 1996 *Hitting Home* series published in *The Toronto Star* is often cited as a motivating factor for the creation of the DV Court Program. A program director in London shared how their agency now uses the media in a similar way, "for me the media is a powerful tool and so we use the media a lot to make sure that the deficits, I would say, in the criminal courts are exposed to the public" (P22). Another participant from London stated that when advocating on behalf of women experiencing violence, they will often remind government and criminal legal officials that, "we're not afraid to go to the press. And the press is taking our calls" (P07). An activist participant in Toronto recalled how the MWAC "called press conferences constantly" and how they used "a lot of media stuff to pay attention to the issues" (P30). One participant shared how

they missed an opportunity in 1999 to use the media to raise awareness about important recommendations made by the Joint Committee on Domestic Violence, whose mandate was to review the recommendations from the May/Iles jury and advise the Attorney General on their implementation:

> Publicity is the key to the implementation phase. The community must be aware of the issues and how to address them. I made an error in retrospect here. When the Committee turned in the Final Report, I was asked by the government if I wanted to hold a Press Conference … I declined. I believed that implementing recommendations like an annual Provincial Forum on DV would provide the desired result. That recommendation was never picked up. I should have let the Community Members on the Committee hold the offered press conference. (P03)

While working within the system, these participants recognized the power the media had to help them advocate for change.

In addition to the use of the media by VAW advocates, newspaper articles published in the 1990s demonstrate that criminal legal officials utilized the media to express their own concerns about DV criminal legal interventions. For example, in a 1994 opinion piece published in *The Toronto Star*, Felix Tam, member of an urban police force in southwestern Ontario, raised concerns about the limitations of the mandatory arrest policy for ending VAW. Tam expressed frustration with victims who recant or return to their abuser, and concluded the piece by stating:

> As a police officer, I have no easy answers. But it must be recognized that the police are mandated only to enforce the law, while the roots of domestic violence are psychological. Perhaps just as the so-called 'war on drugs' cannot be won by interdiction alone,

> domestic violence should be fought the same way and eradicated through education. (Tam, 1994, p. A15)

In Makin's critique of DV criminal legal interventions in 2003, a DV Court Judge claimed, "They want to make me a social worker" and that "many of the cases she sees don't belong in the criminal courts" (p. F6). An article in the *Hitting Home* series, opened by asking the questions: "Why won't a woman testify in domestic abuse cases? And if she won't, should she be forced to?" (Daly et al., 1996b). In the article, North York senior Provincial Court Judge Lauren Marshall stated, "victims used to be charged with public mischief if they recanted on the stand. I put a stop to that up here" (p. A19). This Judge's "moral entrepreneurship" (Hasenfeld, 2000, p. 336) from within the criminal legal system was aimed at decreasing the risk of criminalization of women victim-offenders through the DV criminal legal interventions.

Direct Communication with Criminal Legal Officials

In addition to strategically mobilizing media attention to address concerns about DV criminal legal interventions, advocates and front-line workers develop and maintain relationships with their local criminal legal officials. These relationships enable "moral entrepreneurship" (Hasenfeld, 2000, p. 336) through direct communication with officials when advocates and workers become concerned about the actions of their local police officers and prosecutors. A London-based activist discussed the importance of these relationships for "calling them on their shit" (P08) when women complained about, or advocates directly witnessed, inappropriate behaviour by officers. A court support worker from Ottawa discussed how they use their relationship with criminal legal officials to ensure that "the actual players in this very cold system of ours and very legal system of ours are aware of the human element" (P24).

As previously discussed, IE scholars Wilson and Pence (2006) report that at each point of intervention within the criminal legal system, officials proceed within institutional rules and guidelines but that the categories used to define the relevance of women's experiences of violence within institutional mandates obstruct rather than promote the protection of victims from on-going abuse. The "moral entrepreneurship" (Hasenfeld, 2000, p. 336) strategies discussed here demonstrate ways in which activists and criminal legal officials recognize and resist the translocal coordination of their actions through "regulatory texts" (Smith, 2005, p. 191) that may work against their goal of ending VAW. Archivist Rodney Carter (2006) argues that "resistance need not be recognized by the powerful for it to be an assertion of power by the marginal" (p. 228). The "work knowledges" (Smith, 2005, p. 44) shared by participants show how they resist institutional policies that they consider problematic or dangerous for women experiencing violence.

Other participants spoke about how they challenge the institutional categories and policies by discussing specific concerns with the relevant official directly. For example, a front-line worker in London said that their agency is so well known for advocacy work that criminal legal officials "don't want us getting involved" and that when they contact their local Crown's office, "they know that they better set up a meeting" (P22). In Oshawa, a front-line worker shared that there are "individual police officers who are completely against" mandatory arrest and women often share concerning interactions with the police with their agency, so they "call the desk sergeant, sometimes that had an impact, other times it didn't" (P15). An outreach worker in London reported that women were being charged for breaching their no-contact order when their abuser was harassing them:

> One woman I'm working with is just being hounded by text messages … the police actually told her, 'Well the conditions are on you, so you're the one that has the responsibility to not engage.'… which is not the case, just because you've been charged doesn't mean you can be harassed by someone. So that's the kind of advocacy piece that we try to assist with. (P25)

Another London-based participant, whose agency is mandated to work directly with victims, discussed their "moral entrepreneurship" (Hasenfeld, 2000, p. 336) strategies, "I've done so many front-line ride-alongs with officers … we could actively show them, this is what we can do to support you … we've tried every avenue we possibly can to get them to call us" (P12). Advocating on behalf of the victims with individual criminal legal officials is a strategy several participants deploy. A front-line counsellor in Brampton explained how they contact police officers who have arrested women victim-offenders in cases where the woman has previously been in contact about abuse in the relationship and the worker knows she is not the primary aggressor. The participant acknowledged that "once charges are laid, I can't do anything about it" but also that "If I could just reach that one officer who can hear a different perspective, then maybe it changes it for the next woman that they work with" (P20).

Participants shared that they often contact criminal legal officials directly to advocate on behalf of victims. Through this contact, advocates and front-line workers engage in what socio-legal scholars Edelman et al. (2010) labeled an "endogenous shift" (p. 655). This shift occurs through diffusion processes when those who work across the boundaries of social movements, organizations, and legal fields, such as advocates working in the VAW sector, shift the consciousness of practitioners in the adjacent fields. Several participants shared examples of their role in successfully achieving this type of 'endogenous shift' within the criminal legal

system. For example, an advocate working with victims in Oshawa reported that they had noticed "a huge increase in the number of women being charged with assault" and their agency was concerned about the rate of dual charging, so they "did a training all about the dominant offender with the police and how they have to take that lens when they're looking at it … and it got better" (P11). An activist participant from Brampton also discussed how their advocacy work created an "endogenous shift" (Edelman et al., 2010, p. 672) with local court officials "by getting Crown prosecutors to understand the different dynamics for women" and although the prosecutors were "kind of bound when someone was charged by the system, at the same time they manipulated the system … they wanted to know what had happened to her prior" (P27) and that provided a chance to introduce the context of the abusive relationship. The advocacy work with crown attorneys, as well as the other examples discussed above, demonstrate the "moral entrepreneurship" (Hasenfeld, 2000, p. 336) strategies of advocates to make a positive difference in the response to VAW in their own communities, despite the harms that occur through DV criminal legal interventions.[50]

Providing Front-line Services for Victims

In addition to advocating on behalf of victims within the criminal legal system, several participants discussed how they directly support victims through a system that oftentimes disempowers them by failing to respect their choices, placing them at risk for criminalization and making their lives more dangerous. These "moral entrepreneurship" (Hasenfeld, 2000, p. 336) strategies include ensuring victims make informed choices about involving the criminal legal system, proactively contacting victims prior to abuse reaching the threshold required for DV

[50] The ability of VAW advocates to use "endogenous shifts" (Edelman et al., 2010, p. 672) to reform the criminal legal system will be discussed in greater detail in the next chapter.

criminal legal interventions and reframing the 'lack of choice' victims experience once involved with the legal system.

Two London service providers, currently working at different agencies, emphasized that informing women about mandatory arrest policies prior to their contact with the police remains a priority in their community. One participant stated, "part of my role is in helping women to understand that if you call police and give a statement … charges could get laid, and you may have no control over any of that" (P25). The participant went on to explain, "that's information I want women to have, not to deter them from calling, but just so that they're informed because I never know what the outcome is going to be." Given the discussion in the previous chapter, as well as above, about how police and prosecutors may proceed with charges against the woman's preferences, or worse, the woman herself may be arrested, helping women to make informed choices is a form of advocacy. As discussed in Chapter 4, a Program Director shared how they provide education, support and space within their agency for women to "knowingly" make a formal report to the police so "they don't regret that decision" (P22). The education about mandatory arrest and support provided to victims by these participants captures the advocacy work recommended by Canadian feminist legal scholars Martin and Mosher (1995) to both de-centre and improve DV criminal legal interventions. The advocate's role, according to Martin and Mosher, is to communicate accurate information about the criminal process and to "assist a woman in working through the harm-benefit calculation of proceeding with a criminal charge" (p. 42).

The participants quoted above provided information to victims when the women reached out to their agencies or were already involved with the criminal legal system. Another participant shared that through an agreement with Oshawa police services, their workers can access the

police database. As a result, support workers "proactively call every single person who is deemed a victim in the database to offer our services. Even domestic no charges, which there are a ton of" (P18). Providing victims support without requiring further involvement with the legal system decreases the disempowerment of victims and may increase their safety (Bridgett, 2020).

A court support worker in Ottawa I interviewed shared how they help victims reframe their lack of choice to lessen feelings of disempowerment. Instead of focusing on the prosecution proceeding regardless of their wishes, the worker places responsibility for next steps back onto the accused:

> We say you've done everything you can, I've given your input to the Crown … the onus rests with the accused to do something with their charges and plead guilty if they think they're guilty and if they don't, well, they're saying they didn't do it … and sometimes that fires up victims in a good way. (P24)

This participant helps victims shift the responsibility for ending the relationship violence, as well as involvement with the criminal legal system, from themselves to the accused. As discussed in Chapter 4, VAW movements have placed too great a responsibility on women for ending the violence against themselves. An activist participant, who worked in the Victim/Witness Assistance Program previously, also discussed the importance of reframing responsibility: "[women] are not responsible for the violence. We are responsible for how we deal with it … I believe, for their behaviour, [men] have got to learn to deal with it" (P27). A front-line counsellor also acknowledged that for other women "if their partner was charged it creates a kind of distance and barrier, they feel safer and gives them an avenue to express what was going on" (P20). The "moral entrepreneurship" (Hasenfeld, 2000, p. 336) strategies of these front-line workers, from ensuring that victims make informed choices about how and when to engage the

criminal legal system, to reframing a victim's lack of choice, acknowledge and resist DV criminal legal interventions that undermine the priorities and interests of advocates and victims in the VAW movement.

Disseminating Texts within VAW Movements

A fifth form of "moral entrepreneurship" (Hasenfeld, 2000, p. 336) that VAW activists engaged in was through written documentation. Although community-based initiatives received minimal attention outside of the community in which they were created, as discussed previously, VAW advocates often produced texts with the aim of informing other advocates about the strategies they were employing at the local-level. These reproducible texts create "a world in common" for advocates that establish "a conceptual order that identifies and connects what become objects of knowledge" (Smith & Griffith, 2022, p. 39). Analysis of these texts reveals the ways in which advocates devised strategies to respond to institutional responses to VAW that were harmful and demeaning to women and aimed to coordinate the responses of advocates in other jurisdictions to DV criminal legal interventions.

In 1985, the BWAC[51] published the *Handbook for Advocates and Counsellors of Battered Women*. The Forward includes the following statement:

> Part of our advocacy role involves us in speaking out against the barriers and the injustices which battered women experience … often this role involves us in critical analysis of the criminal justice, medical, and social service systems … We hope our work will encourage others to advocate vigorously on behalf of battered women in every available forum. (pp. ii–iii)

[51] See Chapter 4 for a discussion of the goals and advocacy work of the Clinic.

This introduction provided instructions, as defined by Smith (2005), on how other advocates in different spaces and times activate the *Handbook* to make visible the translocal coordination across institutions that enable VAW to persist. Advocates were encouraged to lobby all levels of government to increase access to affordable housing, childcare, and financial assistance so that women could access the tangible resources needed to leave a violent relationship. In addition, the *Handbook* provided detailed information about procedures within the criminal and family court systems so that advocates could provide women with well-informed information about her involvement in the legal system. These sections further demonstrate the BWAC's legal mobilization strategy and "radical education model" (Greaves et al., 1995, p. 317) discussed in the previous chapter and shaped the community-level response to DV in London. In addition, more than half of the *Handbook* was dedicated to advocacy work within the community and court systems and emphasized the importance of "public advocacy" by declaring that "those of us who work with battered women demand that they take enormous personal risk in changing their violent lifestyles. Surely, we must be prepared to do the same" (p. 50). This declaration demonstrates how the BWAC saw themselves as engaging in "moral entrepreneurship" (Hasenfeld, 2000, p. 336) and encouraged other VAW advocates to do the same.

The same year that BWAC published their *Handbook*, activist-scholar Deborah Sinclair wrote, *Understanding Wife Assault: A Training Manual for Counsellors and Advocates*. The *Manual* included a counselling approach developed by Sinclair, along with Doreen Lichtenstein and Susan Harris, while they provided front-line services to women and children experiencing violence, as well as men who use violence, at the Family Service Association of Metropolitan Toronto. The goal of the *Manual* was to disseminate their counselling strategies and advocacy work, "we realized that counselling was not enough … it would require social solutions"

(Sinclair, 1985, p. 6). More specifically, Sinclair clearly stated her view on moral entrepreneurship in the instructions at the beginning of the *Manual*: "Every counsellor must be prepared to act as an advocate, although every advocate does not have to be a trained counsellor" (p. 12). In addition to the printed manual, Sinclair undertook knowledge mobilization of their whole-family counselling approach by training over 2,000 front-line workers.

The *Manual* was activated by other advocates across space and time, as evidenced by the number of participants who mentioned the text during their interview, including a former shelter worker from Brampton who described Sinclair's work as "ground-breaking" (P14). In Sinclair's doctoral thesis, she shares that her *Manual* "was the first teaching manual in Ontario written on this topic and from a feminist perspective. It was designed as a hands-on, practical guide for how to do direct service work with women, their partners, and their children" (Sinclair, 2019, p. 133). An activist participant discussed the impact on their own work, "[The *Manual*] had people starting to think about how do I do this and our *Best Practice Guidelines* … they talked about how advocacy has got to be part of this because it's a systemic issue" (P30). The *Guidelines* this participant is referring to were published by the MWAC between 1993 and 1996 (Green, 1996). The *Guidelines*, as discussed in the previous chapter, were written to address the range of existing services for assaulted women that are "fragmented, inconsistent and un-coordinated" because "this inconsistent response is not only ineffective, but, in some cases, serves to 'revictimize' the women and children it is supposed to support" (p. 19). The *Guidelines* aimed to create an integrated and coordinated community response to VAW based on feminist principles.

Another activist-led text published in 2000 aimed to coordinate the community response within rural areas. A *Workbook for Community Action* was published by the Community Abuse Program of Rural Ontario (2000) to provide "Rural Solutions to Rural Concerns" (p. 3). Rural

communities could use the workbook "as a framework to help individual communities develop action plans to address violence and abuse and make changes at the local level" (p. 5). The framework instructed communities to take ownership of the problem, create inclusive partnerships, identify community leaders, raise awareness, educate the public, conduct resource inventories and community-based research, strategically mobilize local media, identify funding sources, and develop a resource list.

In 2003, Deborah Sinclair published another text for advocates and community agencies, *Overcoming the Backlash*. The document opened with the names and circumstances of 163 women, 21 children, and 10 family and friends murdered in Ontario by a current or former intimate partner since June 1995. The list was compiled from media reports and included details about the criminal legal response to the offender, including previous threats of harm made by the offender and whether the offender was on bail or probation at the time of the murder. Two examples relevant to the criminalization of women victim-offenders and the police understanding of DV were the femicides of Stephanie Tanaskow who "had been charged by police the night before when she went to the police station to ask that a charge be laid against her husband" (Sinclair, 2003, p. vi) and Carol Butler who was **"**shot to death by her common-law husband … with a gun returned to him by police … Police described it as the '*perfect example of domestic violence*' [emphasis added] but no one could explain why weapons charges had been dropped" (p. v). Placing the details of these femicides at the beginning of the text, Sinclair provided "instructions" (Smith, 2005, p. 44) to the reader to question the effectiveness of the current DV criminal legal interventions for protecting women. *Overcoming the Backlash* aimed "to reclaim expertise and reflect the truth about women's lives as seen, known, and understood on the front lines of the violence epidemic" (Sinclair, 2003, p. 11). Through this text, Sinclair

made visible service providers' "work knowledges" (Smith, 2005, p. 44) of resistance within the Ontario VAW sector.

The DV criminal legal interventions placed advocates and front-line workers in the position of having to respond to the criminalization of the women these interventions were designed to protect. As a result, many engage in "moral entrepreneurship" (Hasenfeld, 2000, p. 336) strategies to use their work knowledge to navigate and resist a system that fails to protect victims. These strategies include tailoring PAR programs to better meet the needs of women victim-offenders, strategically using the media to draw attention to specific cases and harmful interactions with the criminal legal system, developing personal relationships with local legal officials, ensuring victims make informed choices about engaging with the criminal legal system by providing supports more in line with victim services than batterer programs, and distributing texts written by activists to coordinate the work of front-line service providers.

Conclusion

Informed by Foucault's genealogical project, this chapter "call[s] into question self-evidences of the present by exposing the various ways they were constructed in the past" (Tamboukou, 2003b, p. 203). Drawing on this, I interrogated the historical and contemporary institutional procedures and "work knowledges" (Smith, 2005, p. 44) of activists and criminal legal officials to the problem of the criminalization of women victim-offenders. Implementation of DV criminal legal interventions, including mandatory arrest directives and the creation and expansion of DV Courts during the 1980s and 1990s led to an increase in the criminalization of women across North America (Chesney-Lind, 2002; Comack et al., 2000; Dasgupta, 2001; Dayton, 2003; Henning et al., 2003; Hirchel & Buzawa, 2002; Martin, 1997; McMahon & Pence, 2003; Miller, 2001; Saunders, 1995). This criminalization occurs through a variety of direct,

indirect and systemic pathways discussed throughout this chapter. As a result of their criminalization, women victim-offenders experience harmful consequences that increase their vulnerability to further violence and decrease their ability to remove themselves from the abusive relationship.

As this chapter has shown, recognizing the harmful consequences of the DV criminal legal interventions for women experiencing violence, VAW activists and criminal legal officials engage in "moral entrepreneurship" (Hasenfeld, 2000, p. 336) through acts of resistance. These acts of resistance include tailoring PAR programs to recognize the context in which women use violence to defend themselves from on-going abuse, mobilizing the media to draw attention to the criminalization of women victim-offenders, engaging in direct communication with local legal officials to shift their de-gendered implementation of the DV criminal legal interventions, providing 'victim services' to criminalized women, and disseminating these resistance strategies through documentation created by advocates for advocates in other communities.

The consequences of criminalization of women victim-offenders discussed throughout this chapter occur within the larger context of a lack of empirical evidence that the criminal legal system is in fact effective in preventing violence (Bridgett, 2020; Bumiller, 2010; Dixon, 2008; Goodmark, 2018; Guzik, 2007; Hooper, 1996; Landau, 2000). For example, in a study with a group of women, all of whom had partners charged with assault and processed through the Ontario criminal legal system, Gillis et al. (2006) found that women continued to fear for their safety because the court provided little or no follow-up regarding the completion of probation conditions and the women themselves were offered no protection from further violence after their partner completed his sentence. Similarly, a former Crown Attorney discussed a case in which "[the victim] did everything right. The Crown did everything right … he was held in

custody, everything and still he came at her and got to her one day" (P06). As another criminal legal participant explained:

> By prosecuting them, the violence won't necessarily stop because … they want us to fix them and you know what, I think the community sometimes thinks that the criminal justice system has the ability to do that. We do not. The criminal justice system is a very blunt instrument, and we can't fix people, that's not what we do. (P29)

As discussed previously, IE scholars Wilson and Pence (2006) demonstrate that what is institutionally actionable within the DV criminal legal interventions cannot capture the severity and extent of abuse by a perpetrator. In addition, feminist legal scholar Ruttenberg argued in 1994:

> Due to the racist and sexist oppression of the criminal justice system, as well as the evidence that arresting abusers may not deter but can actually increase repeat violence, an alternative, community-based model to the current system of governmental intervention into domestic violence situations is necessary. (p. 195)

Contemporary research with abused women, service providers and police in Ontario also emphasized "a need for community supports in order to achieve benefits and reduce negative consequences of the [mandatory arrest] policy" (Johnson & Conners, 2017, p. 1). In my final chapter, informed by the strategies of advocates from the early Ontario VAW movement, I present recommendations to shift government-funded services away from the over-reliance on the DV criminal legal interventions and toward a multitude of responses for ending VAW.

Chapter 6: Lessons from the Past: Intervening Differently to End Violence Against Women

> It's a bit frustrating because some of the themes that we raised back in 1990 are being talked about now, almost as though it's just been discovered … for those folks who are talking about it now, there's not a reference made to the earlier stuff and the fact that nothing has changed, which I think would be a powerful thing to say, "Geez, this was identified in 1990." (Activist participant, P05)

Introduction

For the past four decades, the dominant response to intimate partner violence (IPV) has been through domestic violence (DV) criminal legal interventions. As this study has shown, criminalization has failed to achieve the goals of intervening early in abuse and supporting victims and has resulted in the heightened criminalization of women victim-offenders. In 1998, in response to the jury's verdict and recommendations from the Inquest into the femicide of Arlene May, then Secretary of State for Multiculturalism and Status of Women, Hedy Fry wrote: "The jury investigating this tragedy *rightly noted that domestic violence has reached epidemic proportions* [emphasis added] in our society" (Office of the Chief Coroner, 1999, p. 268). More than 25 years later, there is a renewed call to declare IPV an epidemic. On March 7, 2024, Private Members' Bill 173, *The Intimate Partner Violence Epidemic Act, 2024*, was introduced to the Legislative Assembly of the Province of Ontario. The Act requires the Government of Ontario to recognize that IPV is an epidemic in Ontario (Bill 173, 2024), something they have yet to do.[52] After passing second reading, the Bill was sent to the Standing Committee on Justice

[52] The first recommendation from the 2022 Inquest into three femicides in Renfrew County also asked the Ontario government to "formally declare intimate partner violence as an epidemic" (Office of the Chief Coroner, 2022, p. 1).

Policy for consideration and further study. The Committee received written submissions and heard testimony from more than 100 Canadian experts and violence against women (VAW) organizations, including several scholars and activists cited in this study. In their calls to designate IPV an epidemic, advocates and other experts emphasized the continued failure of the criminal legal system to address IPV. During her testimony, feminist legal scholar Janet Mosher (2024) stated, "there's no academic literature that shows criminal justice intervention helps to reduce intimate partner violence" (p. JP-995). In addition to the failure of DV criminal legal interventions in reducing VAW, the expansion of the DV Courts in 1997 in what Mahoney (2000) terms a "critical juncture" (p. 513) supplanted alternative community-based strategies and created a dominant carceral response to VAW contributing to the criminalization of women victim-offenders. In this final chapter, I provide a review of my findings, highlighting the contributions my study makes to the existing literature. I then focus on three strategies that existed prior to the expansion of the DV Courts that create opportunities for advocates, service providers, criminal legal officials and governments to intervene differently in the on-going epidemic of IPV[53] and mitigate the criminalization of women victim-offenders. I close the chapter with my concluding thoughts by drawing attention to key insights revealed through my genealogical tracing of the creation and expansion of the DV criminal legal interventions.

Summary of Findings

Through this study's unique methodological framing, I paired feminist genealogy's historical tracing of knowledge and power production with Institutional Ethnography's emphasis on the role of texts in the coordination of people's work across time and space to answer my

[53] Declarations by all levels of government that IPV is an epidemic are important because it will move the response to IPV out of the purview of the criminal legal system by drawing attention to its widespread nature and negative health and social impacts. A declaration would give public services the mandate to build a more comprehensive response to IPV through increased funding, research and prevention tools.

research questions: (1) What practices of the VAW movement contributed to the DV criminal legal reforms in Ontario resulting in the criminalization of women victim-offenders? (2) What variations in the institutional practices of the criminal legal system occurred at the community-level during the implementation of the DV criminal legal reforms? and, (3) How do activists and criminal legal officials understand their participation and response to the DV criminal legal reforms that criminalize women victim-offenders? The findings presented in the previous chapters reveal how the criminal legal system came to be seen by many as a logical component of the Ontario VAW movement through a genealogical account of the creation and implementation of the DV criminal legal interventions in Ontario from 1980 to 2000.

By uncovering the "bundle of narratives" (Fine, 1995, p. 128) used by the dominant VAW movement in Ontario to shape the understanding of VAW, Chapter 3 answered my first research question and addressed a gap in the feminist historical record about VAW movements in Canada identified by Rebick (2005). VAW advocates used their narratives to frame VAW as a risk equally shared by all women creating a gender essentialized narrative that ignored the harms compounded by the systemic oppression of intersecting identities (Crenshaw, 1991; Harris, 1990; Razack, 1998; Richie, 2000; Ruttenberg, 1994). The narratives also narrowed the understanding of abuse to physical violence perpetrated by individual men within the home and from which women need protection through state-led intervention. Taken together, my analysis of the narratives showed how they contributed to a conceptualization of violence that placed the response to VAW within the purview of the criminal legal system. The chapter also revealed a more nuanced understanding of the agency of advocates who strategically engaged with the state to shape institutional responses to violence against women, making a unique contribution to the broader feminist literature that interrogates the collaboration of advocates and the state in

criminalizing VAW (see Bernstein, 2010; Bumiller, 2008; Burgess-Proctor, 2012; Comack, 2018; Corrigan, 2013a; Crenshaw, 1991; Goodmark, 2018; Gotell, 2015; Kim, 2015; Martin & Mosher, 1995; Musto, 2013; Quinlan, 2017; Sheehy, 2014; Smart, 1989; Snider, 1994; Whalley & Hackett, 2017). Through a focus on community-level coordination, the chapter presented how VAW advocates in London and Oshawa collaborated with local state officials, including criminal legal officials, to establish two different models of understanding and responding to VAW locally. Due to the "bare necessity existence" (P28) and limited circulation of community-based initiatives (Agnew, 1998), advocates were unable to replicate their strategies translocally and the provincial expansion of the DV criminal legal interventions led to their subjugation. The chapter closed by placing the advocacy work of the VAW sector within the shifting political climate of the 1990s in Ontario and showed how the election of Mike Harris in 1995 diminished collaborative opportunities and permanently centred the legal response to VAW contributing to the criminalization of survivors for decades to come.

Chapter 4 addressed my second research question by tracing the creation and expansion of the DV criminal legal interventions from their feminist-led roots in London and Toronto to the variations in the institutional practices of the criminal legal system that occurred at the community-level through the provincial expansion of these interventions. The genealogical analysis of the initial mandatory arrest directive in London and creation of Ontario's first DV Court in Toronto revealed how VAW advocates in each city governed the interventions utilizing a "'legal mobilization' approach" (McCann, 1991, p. 227) through close collaboration with local criminal legal officials and service providers. Informed by the role of "regulatory texts" (Smith, 2005, p. 191) in coordinating people's actions and drawing on the "work knowledges" (p. 44) of my participants, the comparison between the initial advocate-led interventions and the

provincial-wide expansion into five new court jurisdictions revealed how the provincial translocal governance failed to replicate the feminist leadership, invested criminal legal officials and accountability of community-based interventions for men who use violence of the initial interventions. This analysis also showed how the expansion of the DV Court was a "critical juncture" (Mahoney, 2000, p. 513) in which the provincial investment in this singular carceral response supplanted local community-based responses to VAW, and as a result, contributed to the criminalization of women victim-offenders. By centring the voices of Ontario advocates to illustrate the different carceral context that was occurring in Canada, this chapter made a unique contribution to the feminist carceral debate which has to date primarily focused on the American context (Masson, 2020; McGlynn, 2022; Terwiel, 2020a). This chapter also contributes to the IE literature that reveals the link between social relations and disparate application of policies within textually mediated organizations through its exploration of regional differences following the expansion of the DV Court Program into five jurisdictions (Naples, 1998; Parada, 2004; Pence, 2001a; Sinding, 2010; Smith, 1987; Welsh & Rajah, 2014).

Chapter 5 placed the historical alongside the contemporary problem of the criminalization of women victim-offenders to answer the third research question regarding how activists and criminal legal officials understood their participation and responded to the DV criminal legal interventions. Informed by methodological insights from feminist genealogy and IE to reveal how institutional responses to VAW are coordinated across time and space, my analysis revealed the direct, indirect and systemic pathways through which women victim-offender are criminalized. Direct pathways of criminalization occur when police ignore women's contextual use of violence as a form of self-defence, when police are unable or unwilling to identify the primary aggressor in the relationship, and when men who use violence have the

opportunity to manipulate the response from the criminal legal system leading to the arrest of their victim. The indirect pathways to criminalization occur when criminal legal officials proceed with charges and/or a no-contact order against the wishes of women experiencing violence in their relationship. Systemic pathways contribute to higher rates of arrest, prosecution, incarceration and enrollment in PAR programs of visible minority women and their families (Balfour, 2021; Bruckert & Law, 2018; Kajeepeta et al., 2024; Richie, 2012; Gotell, 1998; Poon et al., 2014; Snider, 1990; Walker, 1995). The chapter also presented the consequences criminalized women face, including increased vulnerability to future violence and limited access to resources necessary for removing themselves from an abusive relationship. Lastly, the chapter makes a unique contribution to the existing literature by revealing the "moral entrepreneurship" (Hasenfeld, 2000, p. 336) strategies utilized by VAW advocates and criminal legal officials in Ontario to minimize and resist the harmful consequences of the DV criminal legal interventions for women victim-offenders. These acts of resistance included my work at the Elizabeth Fry Society of Toronto to tailor the mandated PAR program to the needs of women experiencing violence. The "work knowledges" (Smith, 2005, p. 44) of participants revealed additional strategies, including strategically using the media to draw attention to the criminalization of women victim-offenders, engaging directly with their local legal officials to shift de-gendered implementation of the DV criminal legal interventions, providing 'victim services' to criminalized women, and disseminating these resistance strategies through texts created by advocates for advocates in other communities. Together these chapters reveal how the discourse of the VAW movement and interventions implemented during the 1980s and 1990s, including the creation and expansion of mandatory arrest directives and specialized DV Courts, expanded the possibilities for women victim-offenders to be criminalized and further entrenched the

criminal legal system as the dominant response to VAW for decades to come. The three strategies presented below emerge from the history of the DV criminal legal interventions and the impact on women victim-offenders discussed in the previous pages.

Envisioning Change and the Importance of History

The feminist genealogical tracing of the DV criminal legal interventions implemented during the 1980s and 1990s, showed how the translocal governance by the provincial government contributed to the contemporary problem of the criminalization of women victim-offenders. According to Garland (2014), the aim of genealogy is to use historical research to disturb contemporary problems and help bring about change. As one activist participant exclaimed when talking about the Inquest recommendations for ending VAW from the 1990s, "It's there. It's been said, just fucking do it" (P30). Informed by the historical documents and "work knowledges" (Smith, 2005, p. 44) of my participants, in this chapter, I explore what other strategies, if they had been invested in, might have changed the path of Ontario's response to VAW. In so doing, I create a "'map' that could help those working politically to see what they are up against and where they might want to apply pressure" (DeVault, 2006, p. 295). I have chosen to focus specifically on three community-based interventions that were frequently named in this study's historical records and by participants as strategies that were in place prior to the expansion of the DV criminal legal interventions: (a) initiatives created and implemented by personally invested individuals who are able to recognize and act on opportunities for "endogenous shifts" (Edelman et al., 2010, p. 672) across all sectors, (b) opportunities for men to voluntarily seek support for ending their use of violence prior to any involvement with the criminal legal system, and (c) a community coordinated response to VAW that reflects the varying needs of individuals experiencing violence with a clearly defined role for the criminal

legal system. These strategies are grounded in and emerge from the "subjugated knowledges" (Foucault, 1994, p. 41) revealed throughout my study. The genealogical approach demonstrates how the dominant discourse came to be and unearths alternatives that were suppressed along the way (Cain, 1993). The retrieval of subjugated knowledges creates a "knowledge of resistance and struggle" (MacLeod & Durrheim, 2002, p. 52). Advocates, service providers, institutional actors and policy makers can use the strategies I highlight here to intervene differently in VAW to revive the knowledges and resistance of the past.

The strategies outlined below are significant not only because of their existence prior to the implementation of the DV criminal legal interventions but also because they would create interventions that are more accessible to women experiencing violence and men perpetrating harm than the current DV criminal legal interventions. The emphasis placed on DV criminal legal interventions by the government and media during the 1990s implied that most individuals experiencing violence preferred to have contact with the legal system. However, the unwillingness of women experiencing violence to engage with the criminal legal system was well-documented by feminist scholars at the time (Bumiller, 2010; Dawson & Dinovitzer, 2001; Goodmark, 2018; Johnson & Dawson, 2011; Sheehy, 2017; Tutty et al., 2008; Walklate et al., 2018). This unwillingness was also noted within several government reports. In their 1996 analysis of 30 projects funded by Health Canada, activist-scholars MacLeod and Kinnon (1996) reported that while "a significant number of women who are abused use and need effective justice system responses, projects revealed that women are *more likely to use health services than legal services* [emphasis added] to deal with their abuse" (p. 30). In addition, feminist scholars Denham and Gillespie (1999) reported a similar finding in their summary of initiatives for ending VAW: "Women who are abused are more likely to contact health professionals,

clergy or other spiritual advisors, friends and relatives than the police" (p. 5). In 2003, the London Coordinating Committee to End Woman Abuse (LCCEWA) wrote to Ontario Premier Dalton McGuinty regarding solutions for ending VAW:

> We would like to point out that the previous government's focus in addressing violence against women was primarily within the jurisdiction of the justice sector … We would also advise that the majority of victims of woman abuse do not have contact with the criminal justice system. Abused women seek assistance through a variety of sectors including health care, social services, community based counselling, advocacy and support services and shelters, all which are grossly under-funded. (Kelly et al., 2003, p. 1)

The committee goes on to recommend that "a core of essential community based services for abused women" (p. 2) be consistently funded within each of the 54 court catchment areas in Ontario. The historical data in this study revealed a need and a call for interventions that exist outside of the criminal legal system.

While discussing the contemporary shelter movement, several participants expressed a similar sentiment. A front-line worker in Ottawa stated, "of the people who come to the shelter, like if we have 10 people staying with us, maybe one of them will have their partner charged or maybe not any" (P13). A participant familiar with the current shelter system in London reported, "most of the women in the shelter have not called the police even once. So, they're not involved in the criminal justice system, for the most part and that's true historically" (P08). A retired Judge also emphasized the limited reach of DV criminal legal interventions decades later, "It is still a fact today, that most DV victims do not turn to the Justice system for help. They rely entirely on the community resources for their protection and support" (P03). The fact that some women do not turn to the criminal legal system for protection was also highlighted by a Crown

Attorney participant who discussed their experience prosecuting femicides and recalled that "in every one of those cases, they were first-time [criminal legal] offenders" (P29). Similarly, an outreach worker in London stated that lots of men who use violence "could be considered high-risk because of the behaviours that they exhibit, the tactics that they use, and nobody's ever called the police on them" (P25). As a result of the number of individuals who will not have contact with the DV criminal legal interventions, advocates and front-line workers need to have options that enable them to provide support for women experiencing violence and for men using violence that exist outside of the legal system. Taking up this call for alternatives, the following three strategies address the needs of families who do not have contact with the legal system, and for families who do have contact with the criminal legal system, re-centre the feminist models that governed the initial DV criminal legal interventions, both of which can help to mitigate the risk of criminalization of women victim-offenders.

Implementing Change Through Personal Investment and Endogenous Shifts

My genealogical tracing of the VAW movements in Ontario throughout the 1980s and 1990s revealed that interventions aimed at ending VAW were created and implemented by personally invested individuals at the community-level and within the criminal legal system. These individuals engaged in cross-sectoral collaboration enabling what socio-legal scholars Edelman at el. (2010) refer to as an "endogenous shift [that] occurs through gradual changes in consciousness, which in turn produce new systems of meaning, rituals, and practices" (p. 672). In addition, the acts of resistance discussed in Chapter 5 required people to engage in "moral entrepreneurship" (Hasenfeld, 2000, p. 336) to overcome institutional barriers that work against the aim of ending VAW. The historical records examined in this study demonstrate the ways in which advocates paired working with individuals who voluntarily became involved in VAW

interventions along with "endogenous shifts" (Edelman et al., 2010, p. 672) to create institutional change.

As discussed in Chapter 4, the London model of mandatory arrest and the Metro Woman Abuse Council model of the DV Court Program were both designed and implemented by individuals who expressed personal interest in the initiatives. The report that activist-scholars Peter Jaffe and Carole Anne Burris (1984) wrote that described the research study and recommendations that shaped London's response to wife assault, including the creation of the mandatory arrest policy, stated: "The London Co-ordinating Committee on Family Violence was formed by a number of community professionals, particularly criminal justice agents, who where [*sic*] interested in providing better services to battered women" (p. 68). With respect to the original DV Court Program in Toronto, a former Crown Attorney participant recalled "coming off of leave earlier than I wanted, but I decided I wanted to" (P06) to be involved with the development of the program. In addition, according to Deputy City Attorney Gael Strack, head of San Diego's DV Court, which the initial Toronto Program was modeled after, "attorneys who prosecute domestic violence cases must request to work in this unit" (Armstrong et al., 1996c, p. C4). The original DV criminal legal interventions were thus spearheaded by individuals personally committed to creating new initiatives for ending VAW.

In addition to the initial DV criminal legal interventions, there were other initiatives examined in this study that prioritized individuals who volunteered to be involved. For example, the criteria for selection of police officers who joined the Domestic Response Unit, a short-lived initiative in Toronto in the early 1980s in which police officers responded to domestic assault calls with a social worker, included "interest in the project, ability to work well with others who were not necessarily police officers, commitment, and a willingness possibly to forgo a

promotional opportunity in the short-term" (Sutcliffe Group Incorporated, 1984, p. 9). Similarly, an initiative by the Ottawa Police Chief in 2000 to create a Partner Assault Centralized Service Delivery Model stated that the model would be implemented by front-line officers who "expressed and demonstrated an interest regarding spousal abuse investigations" (Ottawa Police Service Partner Assault Unit, 2002, p. 11). These early criminal legal strategies were implemented by police officers who expressed a personal interest in responding to DV calls.

When asked to reflect on the changes they have experienced as a front-line worker, a participant from Brampton stated, "in the early days the police officers that we worked with in particular were passionate about this. They really believed in this issue" (P10). An activist from Toronto expressed a similar sentiment, "programs that started, especially outside of Toronto … it was a Crown who was really interested in this and a counselor who was really interested in this, and I don't see or hear it in the same way now" (P30). The importance of working with individuals personally invested in ending VAW was summed up by activist-scholars Denham and Gillespie (1999) in their overview of Canadian initiatives to end VAW from 1989 to 1997: "Choose who participates in partnerships. Creativity, flexibility, patience, acceptance of differences, being change-oriented and personally committed to ending violence against women– these are some of the personal characteristics identified as making partnerships work" (p. 35). Through their engagement with 'change-oriented and personally committed' state actors, advocates were able to create "endogenous shifts" (Edelman et al., 2010, p. 672) within various institutions.

Socio-legal scholars Edelman et al. (2010) provide a framework for understanding the mutually constitutive relationship between law, social movements, and organizations. They argue that the institutional logics of each field have the potential to be reconfigured and that "the

overlap among social fields is key to endogenous shift" (p. 672) and "occurs largely through the work of field actors, especially those who work across the boundaries of fields" (p. 673). One activist recalled the ways in which some people resisted opportunities for "endogenous shifts" (Edelman et al., 2010, p. 672) in the early days of the VAW movement:

> Some people felt that's not our role, you shouldn't be working with those systems … I think probably a more effective approach would have been to look for allies in that field and sort of build alliances and build bases of support to move forward … I just think there were a lot of opportunities missed there, where there were people that were open to learning and who sort of got it. (P05)

In contrast, the Oshawa protocol discussed in Chapter 3, documented the ways in which their community utilized "endogenous shifts" (Edelman et al., 2010, p. 672) to change responses to VAW. The final report reflected on the ways endogenous shifts positively impacted the work of service providers to end VAW:

> We have defined personal accountability as individuals experiencing or knowing the feelings and realities for abused women in a way that keeps them strongly committed and motivated. As this shift occurred in more and more members of the committee, they took back into their organizations attitudes and commitments that they would do what they could do to ensure responses. They also became more open to responding to the concerns from other organizations. (Mathes & Farquhar, 1995, p. 0 - 27)

The protocol created opportunities for individuals to incrementally reconfigure the institutional logics of their own institution through their shared commitment with committee members in other fields. Some of the participants currently working in VAW organizations discussed how they draw on the successful collaborations of the past and continue to take up opportunities for

"endogenous shifts" (Edelman et al., 2010, p. 672). An activist participant from North Bay stated, "I'm a person who believes that we all can benefit from education and some new knowledge and so I believe that even if it's a small shift, that's helpful. It may not be everything, but it's a start" (P02). A shelter worker in Brampton discussed how they arrange tours of the shelter for police officers, so that when an officer is speaking to a woman experiencing violence he can speak with a more informed perspective about the shelter, "I've seen the shelter, it's not what you think it is. It's really great and the staff is really great too" (P20). The participant went on to explain, "any time we're bridging those relationships [with police] it ultimately benefits the clients we're all working with" (P20). A current member of the LCCEWA discussed how they prioritize working with the police officer who attends their Committee meetings, now that the officer is mandated to attend rather than choosing to voluntarily be involved as they once were:

> The police officers on the street really respect him and so it's getting us closer to the officers on the street … I keep saying to the other agencies, this is important work, because it's allowing us to change the opinions of the 'Men in Blue,' so it doesn't matter if it's a lot of work, it's the work that we haven't been able to do before. (P07)

As one activist clearly stated, "you need to have champions within a sector, and you have to search for your champion and that's our activist work … I think we really need to embrace them and back them up" (P28).

The "work knowledges" (Smith, 2005, p. 44) of activists and historical records examined in this study from the 1980s and 1990s acknowledged both the importance of working with individuals personally invested in ending VAW regardless of their institution and the missed opportunities for "endogenous shifts" (Edelman et al., 2010, p. 672) that occurred in the early days of the dominant VAW movement in Ontario. Participants currently working in VAW

organizations and on Coordinating Committees shared the ways in which some of them are taking up the historical strategy of prioritizing and creating opportunities for endogenous shifts. Pairing personal investment with endogenous shifts works toward overcoming institutional barriers and finding new opportunities for acts of resistance that do not require additional funding for advocates to initiate. While this strategy is viewed as effective by those engaging in voluntary involvement with VAW interventions, I acknowledge that, as with any of these strategies, there are barriers for implementation. For example, within unionized workforces, committee participation is often restricted or assigned to a specific employee role rather than a person. In addition, as the historical records of the implementation of the DV Court Program revealed, although the initial Program involved crown attorneys who volunteered, over time officials were assigned to the Court rather than given the opportunity to volunteer. Overcoming these barriers requires advocates to build connections with individuals who are mandated to respond to VAW while still seeking allies and personally invested individuals who can shift the practices of their institution from within to intervene differently in response to VAW.

Providing Voluntary Interventions for Men

As the DV criminal legal interventions expanded throughout the province, services for men experienced a parallel shift away from voluntary involvement in community-based interventions aimed at ending VAW. In recounting the creation of the men's program in Oshawa, counsellor David Currie (1985) wrote, "women initiated the men's program [in 1980] themselves by asking that some sort of intervention be provided for their partners" (p. 120). A participant involved in the creation of the community-based men's program discussed how the "wife-mandated" (P15) men compared to the court-mandated men: "generally they were more amenable to looking at their behaviour, taking responsibility for it and they were beginning to

show some understanding of how damaging their behaviour had been" (P15). Voluntary enrollment by men was also common in London prior to the opening of the DV Court Program. In 1994, the pre-existing PAR program created as part of the LCCEWA's community-based response to VAW, Changing Ways, reported that 75% of the men enrolled were voluntary clients (Correctional Service of Canada, 1994). An activist participant discussed the loss of voluntary options for men in London during the late 1990s:

> All of the PAR in Ontario was cut back so that volunteer PAR programs weren't getting funded, so only if you had a criminal charge could you get supports. So, if your guy is saying, "Hey, the wheels have fallen off my wagon, I'm behaving in ways that don't make sense." How are you going to get support? (P07)

A participant with direct experience of the PAR program in Ottawa also recalled that "when Mike Harris was elected … one of the early things that happened was that all funding for voluntary clients was cut" (P23). In 1999, the Joint Committee on Domestic Violence acknowledged the need to reinstate voluntary spots and recommended that the Ontario government fund PAR "services for the 8,000 men convicted of abusing their partners and an additional 7,000 men who abused their partners and seek assistance independent of the justice system" (p. xi). This recommendation was never acted upon and the Ottawa-based participant above discussed the long-term impact they observed as a result of the funnelling of resources through the DV criminal legal interventions:

> In 2020, probably a couple of dozen voluntary guys might contact the program in a year and in 1990, it was a couple of hundred. So, something has happened in that intervening 25 years or so that seems to have made men less likely to ask for help before it gets to the

> Court system … I think it's a kind of stigmatization of those men who do have some capacity to change but who are afraid of self-identifying as, "I'm an abuser." (P23)

A front-line service worker in Brampton also discussed the ways in which the stigmatization of men inhibits ending VAW: "how are you going to hold him accountable if you keep saying to them, 'You're bad, go away, you don't have a right to see your child'?" (P16). An activist participant recounted the anti-male sentiment of the dominant VAW movement during the 1970s and 1980s. The activist shared that she was "publicly attacked for working with men" (P28) while employed at a family services agency. The discussion in Chapter 3 regarding how the Ontario VAW movement focused on individual male perpetrators when framing women's experiences of violence, included quotes from activists in this study who regret the way they negatively treated men who were willing to take responsibility for their behaviour. In addition, I presented the critiques from some feminist and critical race scholars about how the emphasis placed on individual men failed to consider the intersections of race and class on men and women's experiences of violence (Agnew, 1993; Loseke, 1991; Ruttenberg, 1994; Singh, 2016).

In a study examining contemporary DV policy discourse in Queensland (Australia), social policy scholars Kuskoff et al. (2022) argue that perpetrators are constructed as "compromised individuals and thus undeserving of community support" (p. 9) and that this construction "encourages the community to respond to perpetrators through social stigmatization rather than social reintegration. In doing so, the policy under-prioritizes perpetrator programs and—ironically—reduces the onus on perpetrators to change" (p. 9). As also discussed in Chapter 3, the dominant VAW movement prioritized direct services for victims. In their review of feminist-centred decarceration strategies, scholars Pali and Canning (2022) conclude that leaving men out of the systems of support has resulted in a decades long "gap for recognising the

reality that some perpetrators are aware of their actions as being problematic or harmful, and indeed that they too have a lot to lose" (p. 76). A shelter worker in Ottawa said, "I do wonder if there were alternatives for men who actually want to or who self-select, I think that is probably worthwhile exploring and considering if that might be a better response" (P13). The stigmatization of men over the past 40 years in the discursive practices of the dominant VAW movement and through the DV criminal legal interventions in Ontario work against the goals of advocates to end VAW by narrowing the options available to men and their families.

Voluntary program options for men would also help to achieve the goal of the DV Court Program "to intervene early in the cycle of domestic abuse" (Ontario Ministry of the Attorney General, 2001, p. 4-1). As discussed throughout this study, domestic abuse rarely begins at a level that meets the threshold required by the Criminal Code for police to proceed with a charge. A 1998 report commissioned by the Criminal Justice Review Committee explored alternative solutions for cases that lack sufficient evidence to obtain a conviction for DV and acknowledged that, "to a great extent, domestic violence is necessarily but not sufficiently criminal" (McTavish & Nwabuogu, 1998, p. 26). Intervention from the criminal legal system rarely occurs early within DV, instead the legal system is more likely to intervene after the violence has become severe. A shelter worker from Ottawa discussed this limitation: "the criminal justice system doesn't work cause it only captures the worst of the worst of the worst, it doesn't really capture the less obvious cases" (P13). Early intervention also requires recognition of other forms of abuse, something another front-line worker in Ottawa stated that the legal system continues to disregard:

> It's that identification of who qualifies, who gets that status of victim and who doesn't because we have some clients who it is emotional abuse, or it is psychological abuse and

> there isn't anything physical in nature happening and they might not get that victim label by a formal institution. (P09)

A booklet published for counsellors by Health Canada's National Clearinghouse on Family Violence in 2000 contained information on effective interventions with men who use violence. The booklet discussed the importance of acknowledging the severity of other forms of abuse that a victim might have experienced, "although a woman who experiences frequent psychological abuse often lives with ongoing fear of her partner, she may never have been the victim of an act that could have brought the man before the courts" (Trimble, 2000, p. 3). DV criminal legal interventions are limited in their ability to address non-physical forms of abuse.

The narrow focus of the DV criminal legal interventions is linked to how activists initially framed abuse when demanding a societal response to VAW. As discussed in Chapter 3, by placing an emphasis on physical violence, interventions and support for women experiencing other forms of abuse are limited. In addition, there is minimal opportunity for the criminal legal system to intervene early in DV. Instead, community-based responses may be better suited to providing support for all family members at the first instance of abuse in a relationship. In 1994, the LCCEWA wrote a letter to the Attorney General expressing concern about the funding for male batterer programs shifting entirely into the jurisdiction of the Ministry of Corrections:

> The mandate, legislation and focus of the Ministry of Corrections with respect to woman abuse has been restricted to a narrow, criminal code based, definition of woman abuse, (i.e., physical/sexual assaults and threats to harm). Currently, our community based programs work with a definition of abuse that is much more comprehensive. (Savage & Lee, 1994, p. 1)

Community-based programs, as discussed throughout this study, can provide support and services to a wider range of women experiencing abuse, as well as men who use violence and other forms of abuse. These services can be coordinated to respond earlier in an abusive relationship than the DV criminal legal interventions. As a front-line worker in North Bay argued, "we would see over time that more men would self-refer, if they had that option" (P26). Contemporary DV policy research found "perpetrators reported that feeling accepted by others and having a support network to help deal with problems and encourage positive change were important factors in their journey for change" (Kuskoff et al., 2022, p. 13). The historical records analyzed in this study revealed that more men were enrolled in local community-based programs prior to the expansion of the DV criminal legal interventions and therefore, fewer men are receiving support for ending their use of violence following the expansion of the DV Court Program. Current front-line workers and advocates should be actively seeking collaborations with organizations who continued to support men over the past four decades to build additional opportunities for earlier intervention with men who are motivated to change their abusive behaviour, and all levels of government should provide funding to increase voluntary spots in men's programs, including PAR.

Community Coordinated Responses to VAW

This study has shown how the discourse within the dominant Ontario VAW movement and the expansion of the criminal legal DV interventions contributed to the criminalization of women victim-offenders: criminalization of the very population that these interventions were designed to protect. In addition to the criminalization of women, this study has also interrogated several other negative consequences of the expansion of the DV criminal legal interventions, which together, reveal the importance of changing how contemporary communities respond to

VAW. The negative consequences include the over-policing and increased punitive response to marginalized communities (Balfour, 2021; Bruckert & Law, 2018; Duhaney, 2022; Gotell, 1998; Kajeepeta et al., 2024; Poon et al., 2014; Richie, 2012; Snider, 1990; Walker, 1995), the disempowerment and future risk of violence women face when the choice about whether or not to proceed with charges is taken away from them (Epstein et al., 2003; Gillis et al., 2006; Miller, 2001; Nichols, 2014; Pollack et al., 2005), and as discussed above, that too often the abuse being experienced by women and their children does not meet the threshold required for criminal charges. In conjunction with the two strategies discussed above to engage with personally invested individuals who can utilize opportunities for "endogenous shifts" (Edelman et al., 2010, p. 672) and increase voluntary options for men seeking support, the final strategy embeds the DV criminal legal interventions within community-based responses to VAW, as was the initial intention of the feminist-led models of mandatory arrest and DV Court.

This recommendation is informed by the historical records and "work knowledges" (Smith, 2005, p. 44) of participants in this study that revealed the current DV criminal legal interventions are not operating as intended. It is also informed by the current political climate in Ontario under Premiere Doug Ford's Progressive Conversative government regarding mandatory arrest. The jury from the 2022 Coroner's Inquest following the triple femicide of Carol Culleton, Anastasia Kuzyk, and Nathalie Warmerdam in Renfrew County (Ontario) made 86 recommendations, including: "Commission a comprehensive, independent, and evidence-based review of the mandatory charging framework employed in Ontario, with a view to assessing its effect on IPV rates and recidivism, with particular attention to any unintended negative consequences" (Office of the Chief Coroner, 2022, p. 10). In a report written by activist-scholars Mercer et al. (2024) to inform advocates on how to move some of the Inquest's non-binding

recommendations forward, the Ontario government's response to the above recommendation reads: "At this time the Ministry of the Solicitor General does not have plans to commission an independent review of the mandatory charging framework" (p. 24). The report goes on to argue that "there is near-unanimity among advocates" (p. 25) regarding the harms caused by mandatory arrest and that "there is absolutely no justification for continuing a policy that is creating harm in the name of protecting survivors" (p. 25). With no clear pathway forward for having mandatory arrest repealed, advocates should look to the historical record as guidance for embedding the existing DV criminal legal interventions within a local community-based response to bring them closer in line with the feminist models that initially governed these interventions.

As discussed throughout the previous chapters, working at the community-level, advocates created and governed responses to VAW by collaborating with state actors and generating "regulatory texts" (Smith, 2005, p. 191). These strategies do not require new legislation or funding and can help to reveal resources in communities that are currently under-utilized due to the emphasis placed on the DV criminal legal interventions. In addition, since the majority of women are more likely to disclose experiences of abuse to community-based service providers or family and friends, advocates should continue to work toward strengthening referral pathways outside of the criminal legal system. Advocates can learn from the protocol outlined in Chapter 3 that was established in 1995 by the Durham Region Violence Prevention Council. Participants shared that the protocol is still in effect today and that it coordinates their response to VAW by laying out "the different functions of each agency" (P15) and creates a process "to triage" (P21) support services. A clearly defined role for each agency in a protocol also means that workers better understand the roles and institutional limitations of other agencies, including the criminal legal system.

Protocols that involve all local community agencies responding to VAW can also help to educate front-line workers about mandatory arrest policies. This awareness can help advocates to inform women about mandatory arrest and empower them to mobilize the criminal legal system when appropriate for her family, bringing the policy closer to the original London model. Socio-legal scholars Edelman et al. (2010) argue that "law is not a set of fixed mandates but rather a continuously evolving institution … [and] … legal endogeneity tends to evolve at the intersection of organizational and legal fields" (p. 656). Advocates working with police officers are thus well positioned to effect institutional change at the local-level and can increase the support provided to women who do interact with the criminal legal system. In 1999, the Jury recommendations from the Inquest into Arlene May's femicide acknowledged the importance of police referrals: "Police should develop protocols … to ensure that victims in cases which do not go to court continue to receive appropriate community referrals and supports. Victims cannot be permitted to 'fall between the cracks'" (Office of the Chief Coroner, 1999, p. 33). More recently, a comprehensive review of mandatory arrest policies in Ontario reported that survivors found the police to be helpful even when they did not lay a charge when police connected them with community resources (Johnson & Conners, 2017).

My recommendation that advocates coordinate at the local level in a way that is historically informed, places significant responsibility back onto communities for responding to VAW. In 1989, activist-scholars, MacLeod and Picard argued that the prominence given to the criminal legal system to intervene in wife assault cases "has contributed to the tendency among other agencies and individuals to abdicate their own responsibility for action" (p. 21). More than thirty years later, scholars Pali and Canning (2022) argue that non-carceral responses to VAW,

> should not be viewed as an 'easy alternative' to punitive justice, but even more aligned with victims' and survivors' needs and perpetrator (and community) accountability. It requires *more* intense labour and reflection from perpetrators of violence and communities, *not less*. (p. 73)

This increased level of commitment was briefly discussed by a participant who described the work she is currently doing with an Elder Council in her community. She stated that the work was "reminiscent of my experience in the [London] Coordinating Committee where we would triage with everybody at the table" (P01). The activist went on to explain that this strategy involves "wraparound support triage for every member of a family if an incident of either child abuse or violence against women, intimate partner violence occurs, and that may be much more culturally sensitive" (P01).

In Ontario, the Ministry of Children, Community and Social Services funds 48 Violence Against Women Coordinating Committees (VAWCCs) and in 2011, the Building a Bigger Wave Ontario Network was created to provide the infrastructure to connect VAWCCs across the province. The provincial-wide Network creates opportunities for knowledge sharing and collaboration for projects and strategies working toward ending VAW (Building a Bigger Wave, n.d.). Community coordination at the provincial-level did not exist previously and helps to address the historical barrier of community-level initiatives operating in isolation while contributing to greater intersectional accountability to ensure that VAWCCs more accurately reflect the cultural makeup of their community.

The successful implementation of this recommendation relies on a willingness of local state actors to embed the DV criminal legal interventions within a community-based response to VAW. As discussed earlier in the dissertation, feminist scholars have raised concerns about the

effectiveness of advocates in the underfunded VAW sector being able to partner with well-funded social institutions (Lakeman & Crean, 1993; Rodgers & Knight, 2011; Weldon & Htun, 2013). Future research is needed to uncover additional strategies that advocates can use when resistance to collaboration occurs and the conceptualizations of VAW activated by local state actors contributes to greater harm for women experiencing violence.

Concluding Thoughts

Throughout the 2024 Standing Committee on Justice Policy hearings, Canadian experts presented consistent recommendations for how to end the epidemic of IPV: the need for stable funding for all VAW related services, early intervention through school-based curriculum, public awareness campaigns, culturally responsive services, and addressing socio-economic risk factors, including unemployment and lack of affordable housing (Ontario, 2024). The majority of these recommendations are the same ones made decades earlier by the Inquest jury into the femicide of Arlene May (Office of the Chief Coroner, 1999) and the first annual report of the Domestic Violence Death Review Committee (2002). The implementation of these recommendations requires significant increases in funding and socio-economic changes, all of which are important avenues of advocacy for VAW movements. However, while these changes take time to implement, women continue to be victims of relationship violence and remain at increased risk of criminalization through the DV criminal legal interventions. The strategies I have highlighted throughout this chapter provide opportunities for VAW service providers to mobilize their "work knowledges" (Smith, 2005, p. 44) to intervene within the current institutional constraints of unstable funding and policies to provide opportunities for earlier intervention and support for all individuals to end VAW.

The unique methodological framework of this study enabled the weaving together of feminist genealogy and Institutional Ethnography to uncover how the criminal legal system came to be the seemingly logical response to VAW. By examining the historical records of the five jurisdictions for the initial DV Court Program and interviewing advocates, service providers and criminal legal officials, this genealogical account uncovered three key insights about the interventions that existed prior to the DV criminal legal interventions becoming the dominant response to VAW contributing to the criminalization of women victim-offenders.

First, looking backward revealed that the original DV criminal legal interventions were feminist-led. In London, the initial model of mandatory arrest was created and governed by VAW advocates on their local coordinating committee. The relationship between the feminist-led coordinating committee and all member agencies, including the police, meant that the mandatory arrest policy was an opportunity to "adopt common unifying goals" (Leger, 1984, p. 14) to assist victims and entrench a feminist understanding of DV within a "regulatory text" (Smith, 2005, p. 191). In Toronto, the Metro Woman Abuse Council (MWAC) had been governing responses to VAW through *Best Practice Guidelines* for support services, public education, and the health and criminal legal systems for years. These *Guidelines* stated that while there are multiple forms of intervention, "all responses must include a feminist understanding of violence against women" (Green, 1997, p. 7). The MWAC then went on to coordinate the creation of the first DV Courts in Toronto.

Second, the expansions also failed to embed the DV criminal legal interventions within a community-based response. In London, mandatory arrest created an additional pathway within an existing network of responses to provide support and resources to women experiencing violence in their relationships and was conceived as part of a broader community-based response

to VAW governed by the LCCEWA. Similarly, the creation of the first Ontario DV Court Program occurred through the feminist governance of the MWAC within a broad network of interventions and supports for both victims and perpetrators of relationship violence in Toronto that existed prior to the new specialized courts.

Finally, my study revealed that the initial DV criminal legal interventions were nuanced legal mobilization strategies governed by VAW advocates at the local level. By centring the voices of advocates through a close read of the historical documents, my analysis revealed that the activists governing the original interventions in London and Toronto understood the role of the carceral as a resource that could be mobilized by women experiencing violence. Advocates who chose to mobilize the law saw it as equivalent to other social institutions with resources to be deployed, as another pathway to reach victims and provide services to families experiencing violence, and that the role of law in society was to condemn acts of VAW.

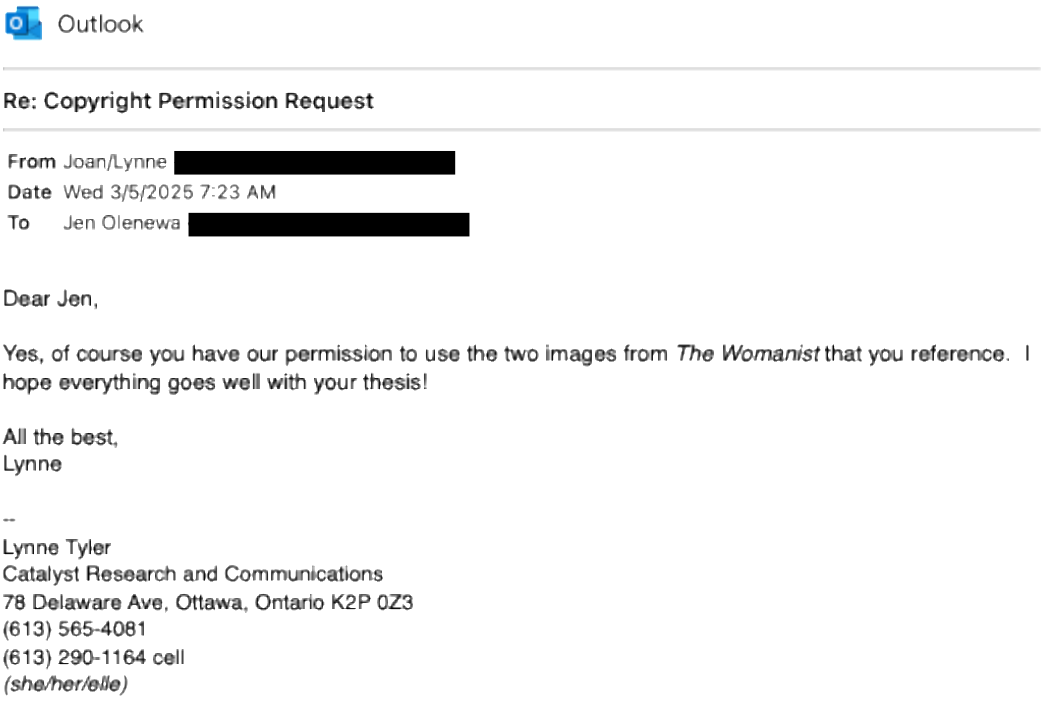
The strategies presented in this chapter, to engage with personally invested individuals, create more opportunities for men to self-refer for support and to embed the DV criminal legal interventions within a community coordinated response, draw on "subjugated knowledges" (Foucault, 1994, p. 41) and address the key insights laid out above to develop ways to intervene differently in VAW. These strategies, and this study overall, demonstrate the strengths of an historical analysis and the unique methodological framework that can be used to address contemporary problems. As Eichhorn (2013) asserts, "what makes the archive a potential site of resistance is arguably not simply its mandate or its location but rather how it is deployed in the present" (p. 160). In my current role as the Coordinator for the Stop Violence Against Women Coordinating Committee of Perth County, I am implementing the insights I gained throughout my study. In my collaborations with VAW service providers and organizational leaders, I see

how starting with personally invested individuals and creating more community-based opportunities for self-referral for men helps to increase the capacity of VAWCCs to strengthen referral pathways outside of the criminal legal system and intervene earlier in cases of DV. My implementation of the strategies discussed throughout this chapter demonstrates how turning to the archival record grounds the non-carceral interventions in the knowledge of the past to address the contemporary problems of increasing rates of DV and criminalization of women victim-offenders.

Letters of Copyright Permission

Figure 1. *Sexual Assault Story Juxtaposed with Self-Defence Advertisement*

Figure 2. *Rape Shield Law Story Juxtaposed with Self-Defence Advertisement*



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To Jen Olenewa [redacted]

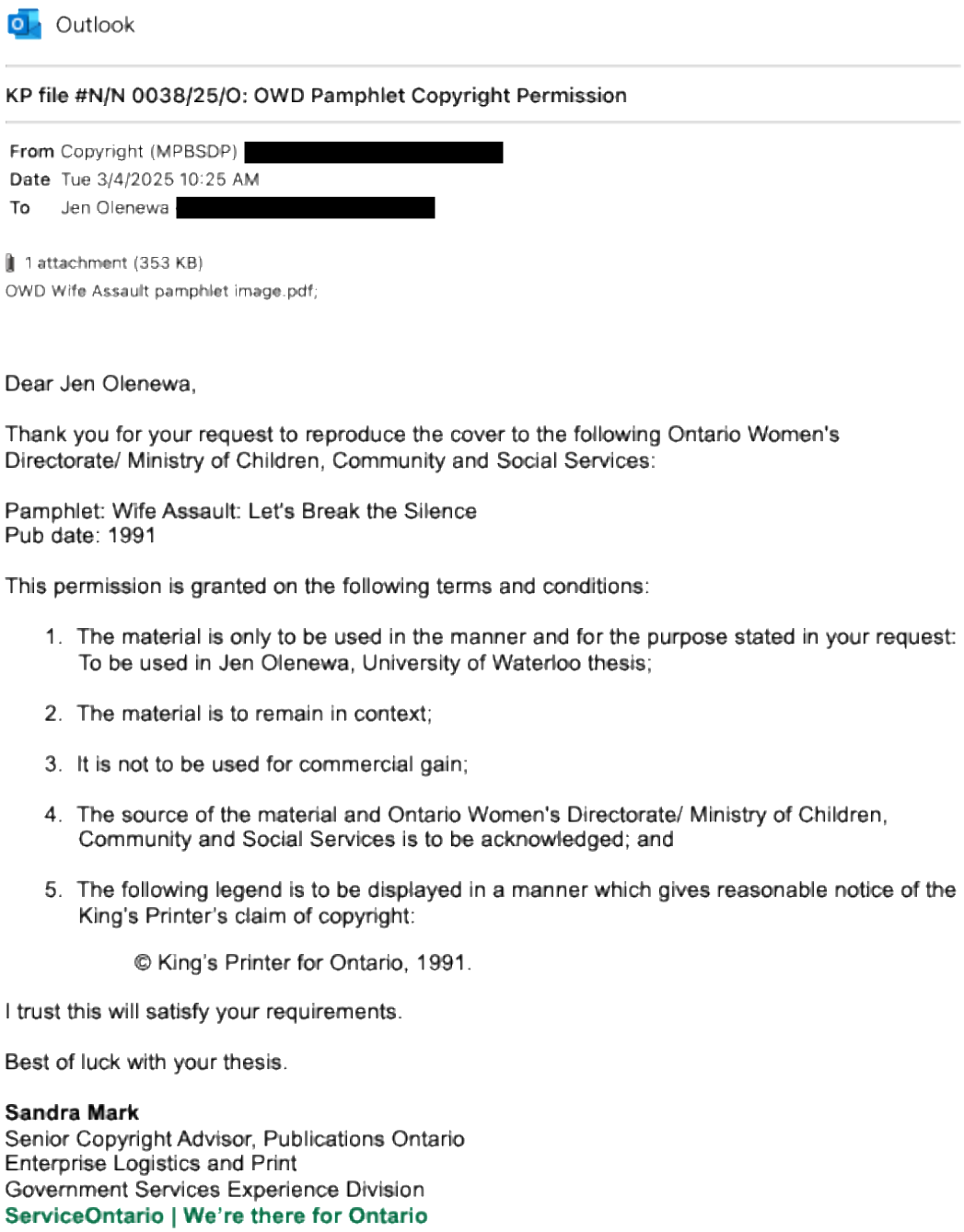
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All the best,
Lynne

--
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(she/her/elle)

Figure 3. *"Break the Silence" Brochure*



Outlook

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To Jen Olenewa [redacted]

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Figure 4. *Editorial Cartoon from "Hitting Home" Series*



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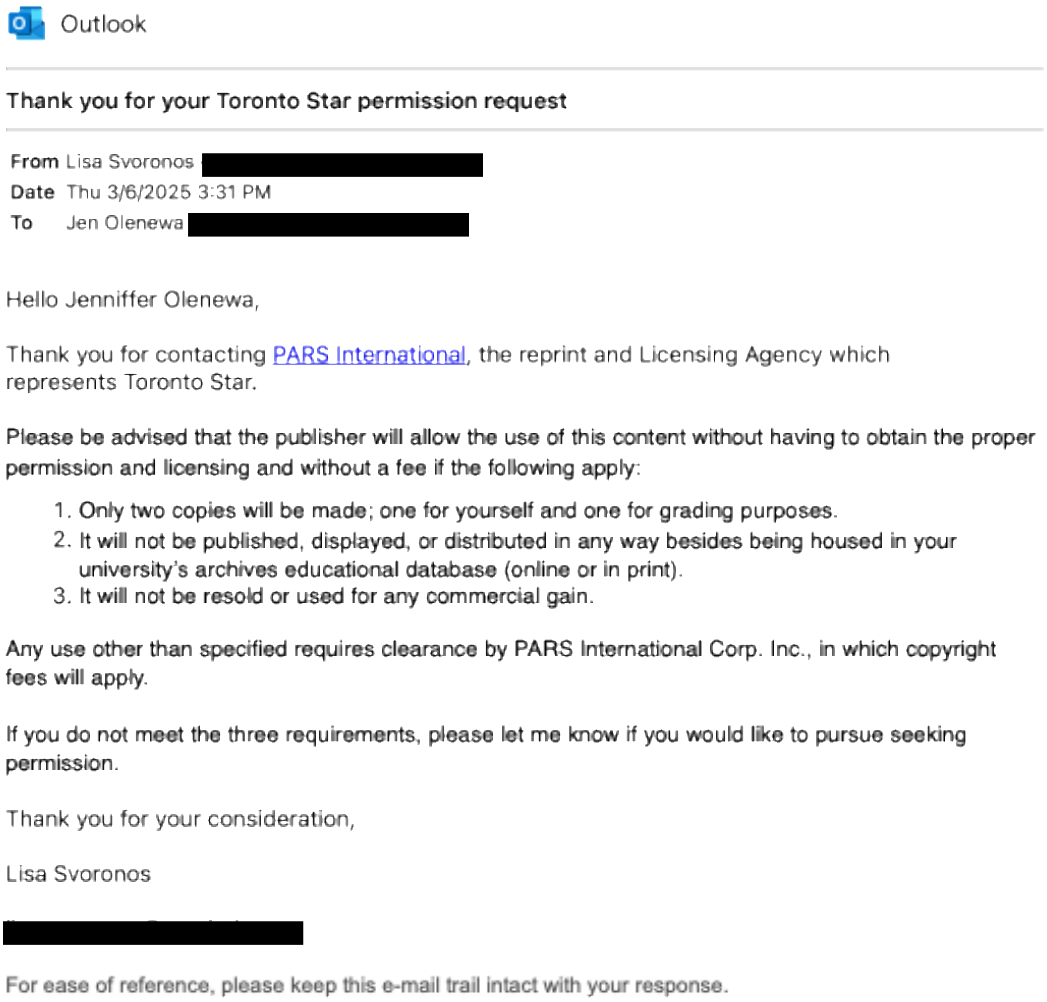
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To Jen Olenewa [redacted]

Jen
Permission granted!....
Thanks for using it!

Cheers
Patrick C

Figure 5. *Femicide and "Hitting Home" Share the Front Page of "The Toronto Star"*



Outlook

Thank you for your Toronto Star permission request

From Lisa Svoronos [redacted]
Date Thu 3/6/2025 3:31 PM
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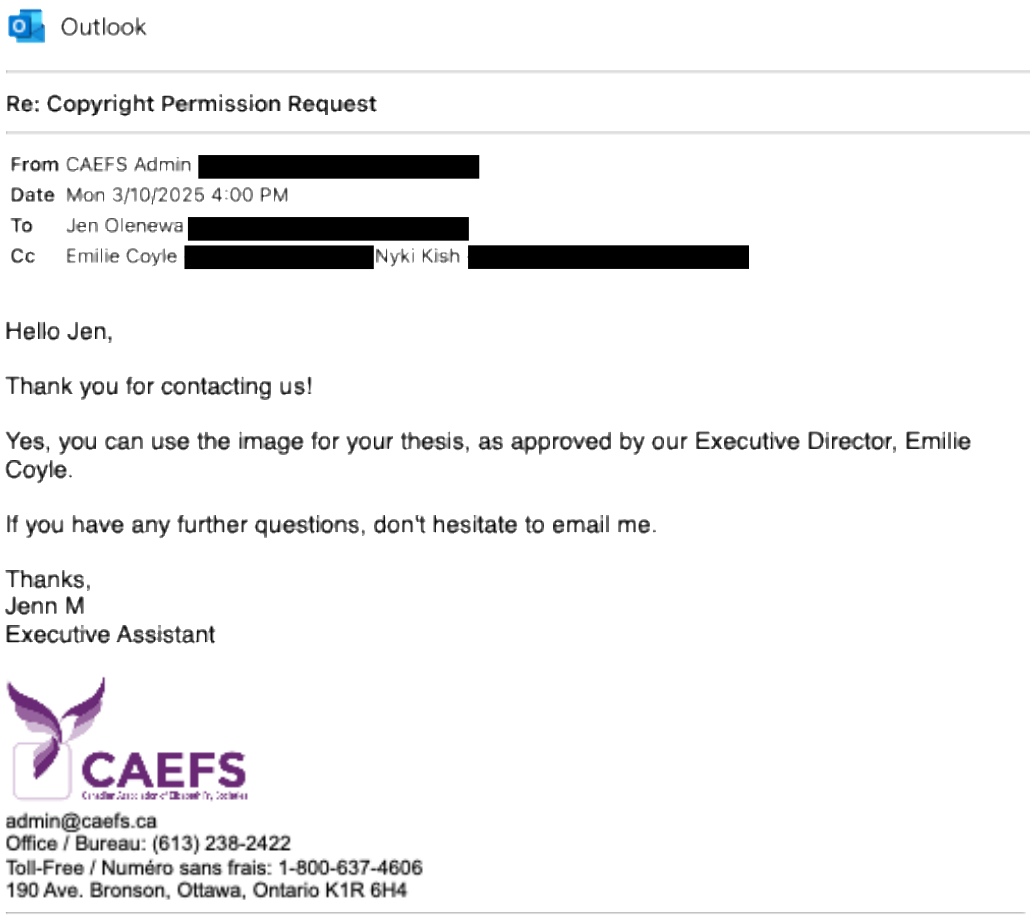
Thank you for your consideration,

Lisa Svoronos

[redacted]

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Figure 6. *Criminalization of Women Victim-Offenders Post Card Campaign*



Outlook

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Date Mon 3/10/2025 4:00 PM
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Cc Emilie Coyle [redacted] Nyki Kish [redacted]

Hello Jen,

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If you have any further questions, don't hesitate to email me.

Thanks,
Jenn M
Executive Assistant

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190 Ave. Bronson, Ottawa, Ontario K1R 6H4

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Appendix A

Timeline of Key Events Discussed

Year	Event
1973	First domestic violence shelters open
1978	Ontario Association of Interval and Transition Houses (OAITH) is formed
1980	London Coordinating Committee to End Woman Abuse (LCCEWA) is formed
1981	London Police Force institutes first mandatory arrest policy in Canada
1982	London Battered Women's Advocacy Clinic (BWAC) is established
	Standing Committee on Social Development publishes, *First Report on Family Violence: Wife Battering*
	Ontario Solicitor-General issues mandatory arrest directive instructing police forces to lay charges in cases of wife assault
1983	Ontario Women's Directorate (OWD) is formed
1984	OWD launches *Break the Silence on Wife Battering* campaign
1985	Deborah Sinclair publishes, *Understanding Wife Assault: A Training Manual for Counsellors and Advocates*
1985	BWAC publishes, *Handbook for Advocates and Counsellors of Battered Women*
1990	Bob Rae is elected Premier of Ontario
1991	Metro Woman Abuse Council (MWAC) is established
1992	Education Wife Assault is established
	Towards Women's Safety Forum is held
1993	Canadian Panel on Violence Against Women publishes their final report, *Changing the Landscape: Ending Violence-Achieving Equality*
	Ending Violence Against Women: Moving into Action forum is held
1995	Mike Harris is elected Premier of Ontario
1995	Durham Region Violence Prevention Council publishes, *A Community Response to Abused Women & Their Families: A Protocol for Durham Region*
1996	*The Toronto Star* publishes "Hitting Home" series
1997	First Domestic Violence Courts open in Toronto (Old City Hall and North York)
	Ontario government releases their framework, *Prevention of Violence Against Women: An Agenda for Action*
	Consultation on Violence Against Women is held
	Domestic Violence Courts open in Brampton and Oshawa
1998	Domestic Violence Courts open in London, Ottawa, Hamilton and North Bay
	May/Iles Coroner's Inquest and Recommendations
	Joint Committee on Domestic Violence is formed
1999	London Women's History Group is established
2000	Coroner's Inquest into femicide of Gillian Hadley announced
2002	Elizabeth Fry Society of Toronto creates the Partner Intervention Program (PIP)
	The Domestic Violence Death Review Committee (DVDRC) is formed

Appendix B

Semi-Structured Interview Guides

Questions for Violence Against Women Advocates

1. Can you tell me about your involvement with the violence against women movement in Ontario, especially during the 1980s and 1990s?
2. How do you, and how did you in the past, understand violence against women?
3. What do you think is the most effective response to individuals who engage in domestic violence in their intimate relationships? Should the response differ depending on gender?
4. What was your position on violence against women advocates engaging with the criminal justice system to improve women's safety?
5. What was your perception of the opening of the DV Court?
6. How would you describe the involvement of community organizations (such as agencies providing PAR Programs) in the operation of the DV Court?
7. Did the involvement of community organizations differ based on the gender of the offender? How?
8. What, if any, consideration was given to women who would be arrested and prosecuted for domestic assault?
9. Did you see a difference in the number of women arrested before and after the DV Court opened in [jurisdiction]?
10. What, if any, written documents impacted your daily work? How did you use these documents in your work?
11. Has your understanding of domestic violence changed over time? If so, in what way, and what factors contributed to the change?
12. Looking back on your experiences within the violence against women movement, what, if anything, do you think could have been done differently and why?
13. Is there anything you would like to add or is there anything else you think I should know about the violence against women movement or the criminalization of women through the DV Court Program in Ontario?

Questions for Community-based Workers

1. Can you tell me about your role at your organization during the 1980s and 1990s?
2. How do you, and how did you in the past, understand violence against women?
3. What do you think is the most effective response to individuals who engage in domestic violence in their intimate relationships? Should the response differ depending on gender?

4. What, if any, interaction did you have with women arrested for domestic assault prior to the opening of the DV Court in your jurisdiction?
5. What was your perception of the opening of the DV Court?
6. How would you describe the involvement of community organizations in the operation of the DV Court? Did the involvement differ based on the gender of the offender?
7. What, if any, written documents impacted your daily work? How did you use these documents in your work?
8. Has your understanding of domestic violence changed over time? If so, in what way, and what factors contributed to the change?
9. Looking back on your experiences within a violence against women organization, what, if anything, do you think could have been done differently and why?
10. Is there anything you would like to add or is there anything else you think I should know about the response to women criminalized through the DV Court Program in Ontario?

Questions for Criminal Legal Officials

1. How would you describe your role in the implementation of your local DV Court (e.g. Crown Attorney, Defense Counsel, Partner Abuse Program provider/counsellor)?
2. What, if any interaction did you have with women arrested for domestic assault prior to the opening of the DV Court in your jurisdiction?
3. What was your perception of the opening of the DV Court?
4. Once the DV Court opened, what interaction, if any, did you have with women arrested for domestic assault?
5. How did the DV Court respond to women arrested for domestic assault? What differences, if any, did women experience compared to men processed through the same court?
6. What, if any, written documents impacted your daily work? How did you use these documents in your work?
7. How do you, and how did you in the past, understand domestic violence?
8. Has your understanding of domestic violence changed over time? If so, in what way, and what factors contributed to the change?
9. What do you think is the most effective response to individuals who engage in domestic violence in their intimate relationships? Should the response differ depending on gender?
10. Looking back on your experiences with the DV Court and women victim-offenders, what, if anything, do you think could have been done differently and why?
11. Is there anything you would like to add or is there anything else you think I should know about the criminalization of women through the DV Court Program in Ontario?

Appendix C

List of Media Sources

News Databases Accessed

- Factiva
- PressReader
- Ontario Community Newspapers
- Globe and Mail, Canada's Heritage from 1844 [digital archive]
- Toronto Star [digital archive]

Source of Newspaper Articles Analyzed

- *Brampton Guardian*
- *Canada NewsWire*
- *Canadian Press*
- *The Globe and Mail*
- *The Hamilton Spectator*
- *The London Free Press*
- *National Post*
- *Orono Weekly Times*
- *Oshawa This Week*
- *Ottawa Citizen*
- *The Toronto Star*

Appendix D

Sources of Historical Records

	Name	Collection(s) Accessed
Institutional Archives	Archives and Special Collections of the University of Ottawa	• Canadian Women's Movement Archives • National Association of Women and the Law • National Action Committee on the Status of Women • Ontario Advisory Council on Women's Issues • Education Wife Assault
	City of Toronto Archives	• Michele Landsberg
	Department of Justice Canada	• Online library
	Law Society of Ontario Archives	• Continuing Legal Education
	Legislative Library of Ontario	• Legislative Research Papers • eArchive
	Library and Archives Canada	• Royal Commission on Aboriginal Peoples
	Public Safety Canada Archive	
	Region of Peel Archives	• Social Planning Council of Peel
	University of Waterloo Special Collections and Archives	• Action Now
	University library holdings	
	Western Archives and Special Collections	• The London Women's History Group • Western's Caucus on Women's Issues
Community-based Archives	Alternative Toronto Archives	
	Community-based agency websites	
	Internet Archive	
	Ontario Association of Interval and Transition Houses Online Library	
	Regional Police Services Board websites	
	Rise Up! Digital Archive	
Personal Archives	Deborah Sinclair's personal records	
	My personal records	

Appendix E

Types of Historical Records Analyzed

	Author/Publisher				
Document Type	**Government**	**Criminal Legal System**	**Advocate**	**Community Organization**	**Totals**
Non-academic Book	1	-	1	2	4
Brochure	6	-	6	4	16
Guideline/Protocol	3	7	4	1	15
Handbook/Manual	2	2	1	6	11
Hansard Transcript	8	-	-	-	8
Interview Transcript	-	-	-	10	10
Letter	-	-	9	3	12
Minutes	-	5	5	1	11
Newsletter	-	4	21	10	35
Press Release	2	3	4	-	9
Report	11	28	33	3	75
Resource Guide	3	-	3	3	9
Totals	36	49	87	43	215

Appendix F

List of Key Themes

VAW Movement		
• root cause of VAW • creating a social movement • maintaining a social movement • success of other social movements • collective voice • using a feminist analysis / feminist approach • advocacy role • achievements • "all women" • vulnerability to abuse • human rights framing • social problem framing	• VAW as a health issue • no institutional memory • internalized patriarchy • "political pornography" • personal responsibility • creating victimhood • believing women • drawing on personal experience • assumption of male privilege • recognizing lack of diversity within • maintaining hegemony • acknowledging intersectionality	• having expertise • bare necessity existence • prioritizing women's safety • personally invested • professionalization • training cjs officials • role of men • diversity within • building capacity (personal) • collaboration with cjs • importance of networking • endogenous shift opportunity
Community		
• transformative justice / community justice program • community network • educating local health care providers (and other social service providers) • empowering front-line workers • gendered wording • gender-neutral wording	• emphasizing broader community response • urban vs rural representation • recognizing regional variation • rural challenges • building capacity • knowledge mobilization • community-level representation	• community initiative • mandatory screening • challenges of intra-community abuse • addressing concurrent problems • assessing risk • assessing gaps in VAW supports • community accountability

Criminal Legal System		
• policing response • family law responses • judicial response • accessing justice • acknowledging racism/sexism/classism • "evading accountability" • carceral harms • early DV Court policy • dual charging • (anti-) carceral framing of VAW	• gendered wording • gender-neutral wording • assessing risk • women victim-offenders / criminalization of women • (against/contradicting) DV Court policy/policies • withdrawing charges • creating DV Court • early intervention model • coordinated prosecution model	• measuring effectiveness • limitations of cjs response • funding the DV Court • advocacy role • comprehensive model • (anti-) mandatory arrest • Crown response • variation within cjs • getting victim input • supporting victims • responding consistently to VAW
Targeting Men		
• focusing on men (as the problem) • removing men • evading accountability • manipulating the system • batterer-generated risks • accountability	• supporting men who are battered • acknowledging racism/sexism • measuring change • working with men • excluding men	• self-referral / voluntary enrolment in PAR • funding men's programs • reforming men • addressing concurrent problems • advocacy role
Media		
• raising awareness • trivializing violence • advocacy role • *Hitting Home* series	• gender-neutral wording • perpetuating VAW myths • scapegoating individual men	• censoring women / women's movement • role of feminism • gendered wording