

September

20
26



The Criminalization of Domestic Violence Survivors

WRITTEN BY:

Luciana Tysinger

By the Future Justice Lawyers of Chicago

One in three women will experience physical or sexual abuse in their lifetime. There are nearly 200,000 incarcerated women in the United States, and 86% of them report experiencing some form of abuse or sexual violence. In many cases, abuse plays a significant role in incarceration rates. Rather than receiving support, survivors often face prosecution. This is especially concerning because women, especially women of color, already face significant disparities in the justice system. Domestic violence survivors are far too often criminalized because trauma, systemic bias, and failures within the legal system prevent them from receiving protection while increasing their likelihood of incarceration.

Women face unique challenges within the American prison system. Over 60% of women in prison have minor children, and 60% of that group are single mothers. Incarceration rates also disproportionately affect minorities. Black women, for example, have an imprisonment rate of 1.5x that of white women. African American women represent 14% of the entire U.S. population but a staggering 32% of the incarcerated population. Additionally, one in five women identifying as transgender will experience incarceration at some point during their lifetime. The incarceration rates of women have faced a steep growth curve over time, in sharp contrast to their male counterparts. These injustices run deeply and often start young, with 84% of girls in juvenile detention already experiencing some form of domestic or sexual abuse. These factors lay the foundation for the injustice of the criminalization of domestic violence survivors. It is incredibly hard to find support in a system already built to work against you. (Issacs)

Experiencing abuse causes significant damage to both a person's physical and mental state. "Battered Woman Syndrome" is a term commonly used to describe the psychological and emotional effects of long-term intimate partner violence. It is commonly used to help explain why women would stay in abusive relationships. For example, abuse often leads to isolation from family, friends, and support systems, which makes it even harder for them to have people to lean on or for others to recognize what's going on. Abuse is also often gradual, making it harder for survivors to recognize over time. Threats of harm, manipulation, and gaslighting are common tactics used by abusers. The cycle of abuse often includes tension building, abuse, apologies, calm periods, and repetition. Survivors may also miss work or responsibilities to manage safety and avoid conflict at home. This can make it harder for these women to have the money and stability to feel safe leaving the relationship. Many women also suffer from

psychological effects, which can include low self-worth, guilt, shame, anxiety, and depression. Abuse is sadly all too common, with one in three American women reporting abuse from an intimate partner, and 77% of women wouldn't leave the situation. As a society, we must look more deeply at the systemic injustices that keep these women trapped. (Cleveland Clinic Health Essentials)

Understanding how abuse affects survivors psychologically helps explain why these patterns often continue into adulthood and eventually intersect with the criminal justice system. Abuse has many direct and indirect links to the circumstances that cause imprisonment. Directly, abusers can force survivors to participate in a crime through force or threat, or by simply wielding uneven power dynamics. Alternatively, the survivor may resort to illegal means to survive. They may attempt to make money or find the freedom and means to leave their abuser. Abuse-related trauma can also frequently cause PTSD or a substance use disorder. Both of these disorders lead to impaired decision-making and make people more susceptible to committing crimes. Another frequent cause of the imprisonment of survivors is harming or killing their abuser. In some cases, they are being charged with neglect or child endangerment due to failing to protect their children from abuse. This can occur even if the survivor didn't have the means to protect herself. Consequently, this can mean a woman goes to prison and comes back having either lost custody of her children to foster care or her abuser. (Georgia Coalition Against Domestic Violence)

In abuse situations, a frequently asked question is, "Why didn't the survivor call the police to explain the situation?" This is often difficult for survivors due to many reasons. Survivors are frequently wary of or uncomfortable with the police and not willing to explain the situation fully. Women may not feel seen or supported by a male police officer, which is a major concern when 87% of police officers are men. Police officers are also less responsive to certain survivors. For example, they are more likely to arrest black women who fight back against their abusers than white women who do the same. Occasionally, victims are so heavily coerced that they don't believe they were being abused. A survey of nearly 700 women who experienced domestic violence provides some insights into their experience regarding law enforcement. 70% believed calling the police would make things worse or have negative consequences. 59% believed the police wouldn't believe them or would be unwilling to help. Of those who called,

only 20% felt safer or more supported afterward. 43% felt that the police discriminate against them, either on the basis of race or gender. Over half felt judged for not being a 'perfect victim.' One quarter were arrested or threatened with arrest while seeking help. One woman reports on her experience with the police and says, "I was homeless...I was running from a bad situation and trying to be safe...[The police] didn't even ask me questions; they just arrested me. They didn't know why I was there, where I was at; they didn't ask me why I was in here, even though I had bruises and scratches all over me." (Logan)

On a more personal note, I have had the tremendous fortune to work with a program called Women Initiating New Directions (WIND) under their Writing for Empowerment branch (WFE) as a feedback coach. I have had the opportunity to work with incarcerated women and take on a role somewhere between a pen pal and a teacher. Each week, they receive a worksheet with assignments ranging from poetry and thank-you notes to drawings, personal reflections, letters to potential employers, and everything in between. Then, I receive the work from the women I'm partnered with for that session and respond to it, detailing what they did well and, occasionally, a couple of things to work on for next time. Although it may seem simple, this partnership goes far beyond spelling and grammar corrections. Over the course of the sessions, I grow to know these women closely. I learn about their families, lives, childhoods, hopes, dreams, regrets, post-prison aspirations, and oftentimes, the circumstances that led them to be incarcerated. Every single woman, in the many years I've been doing this program, has confided in me that she is a survivor of domestic or sexual violence. Whether that be going to jail for failing to protect her children from an abusive boyfriend, or experiencing sexual abuse as a child that left her with complex trauma and a drug addiction, their experiences with abuse are deeply intertwined with their imprisonment. Working with these women is rewarding beyond measure and deeply eye-opening to the many flaws in our justice system. I feel it is important to remember these women are people with complex lives, many of whom have experienced terrible circumstances that led them to this place in life. I believe that this knowledge should help inform the structure of our justice system.

In addition, the legal system often fails people. One attempt to create justice for survivors was the DVSJA, an act created in New York to reduce survivors' sentences. While the intentions were good, it had several flaws that made it less effective in execution. New

York has a strict post-conviction system, which makes reducing sentences difficult. A main barrier in this act is that it requires survivors to corroborate abuse, as domestic violence is often underreported, undocumented, and difficult to prove with formal records. Because of this, many survivors lack the necessary evidence the statute demands, such as police reports, medical reports, and witnesses. Courts often make early credibility judgments, which can lead to denial without a hearing. These barriers can keep survivors from even getting a chance to present their side in court. Around 50% of unsuccessful DVSJA resentencing applications were denied before the hearing stage. Another important consideration is the risk of retraumatization from survivors having to justify and relive abuse in legal settings. The significance of these barriers is that they prevent people from applying at all and can unintentionally reinforce bias against survivors. So, while the intentions are good and legislation like this is necessary, it's important to consider the nuances and how it would work in practice. (H.U.D)

Now that we recognize the flaws in our justice system, it's important to work for a change. People too often believe, "I'm only just one person, what can I do?" but if 8 billion people were sitting and thinking, "I'm only just one person, what can I do?" they could do more than they imagine. Even if there are just a few hundred people, or a dozen, or even just one, there is so much you can accomplish. A simple Google search will lead you to your congressperson's contact information. You can and should call them, leave a voicemail, or send an email explaining why this issue matters to you and urging them to act. We often forget that these congresspeople and politicians exist to be the voice for the people, and it's important to remember that. Also, keep researching and educating yourself so you can advocate for these women. Websites such as [The Criminalization of Survival: National Information - Georgia Coalition Against Domestic Violence](#) provide many resources to learn more. This is even something you can bring up in everyday life; for example, if a friend is talking about a domestic violence survivor and makes a comment such as "I wonder why she didn't call the police," you can remind them that not everyone has positive experiences with or trust in law enforcement for a myriad of reasons. Small acts of activism like this can help to increase awareness and reduce stigma around the criminalization of domestic violence survivors. If there's an organization near you similar to WIND, it could be a great place to get involved. These women often benefit from

having a mentor in their lives. (The Sentencing Project)

The criminalization of domestic violence survivors is an issue deeply rooted in many of our country's existing biases, such as sexism and racism. While addressing this issue will require significant reform, it is not insurmountable. Efforts such as New York's DVSJA demonstrate that progress is possible, though additional reforms are needed to ensure survivors receive meaningful protection and access to justice. A justice system worthy of its name should recognize survivors not as criminals first, but as people whose experiences deserve understanding, protection, and fairness.

Works Cited

“Battered Woman Syndrome: Signs and Support.” *Cleveland Clinic Health Essentials*, 3 June 2025, <https://health.clevelandclinic.org/battered-woman-syndrome>.

“The Criminalization of Survival: National Information - Georgia Coalition Against Domestic Violence.” *GCADV.org*, <https://gcadv.org/sji/criminalizedsurvival/national/>. Isaacs, Elizabeth Langston. “The Mythology of the Three Liars and the Criminalization of Survival.” *Yale Law & Policy Review*, <https://yalelawandpolicy.org/mythology-three-liars-and-criminalization-survival>. Logan, T. K. “WHO WILL HELP ME? Domestic Violence Survivors Speak Out About Law Enforcement Responses.” *National Domestic Violence Hotline*.

“Sentencing Reform for Criminalized Survivors.” *The Sentencing Project*,

<https://www.sentencingproject.org/app/uploads/2024/02/Sentencing-Reform-for-Criminalized-Survivors.pdf>.

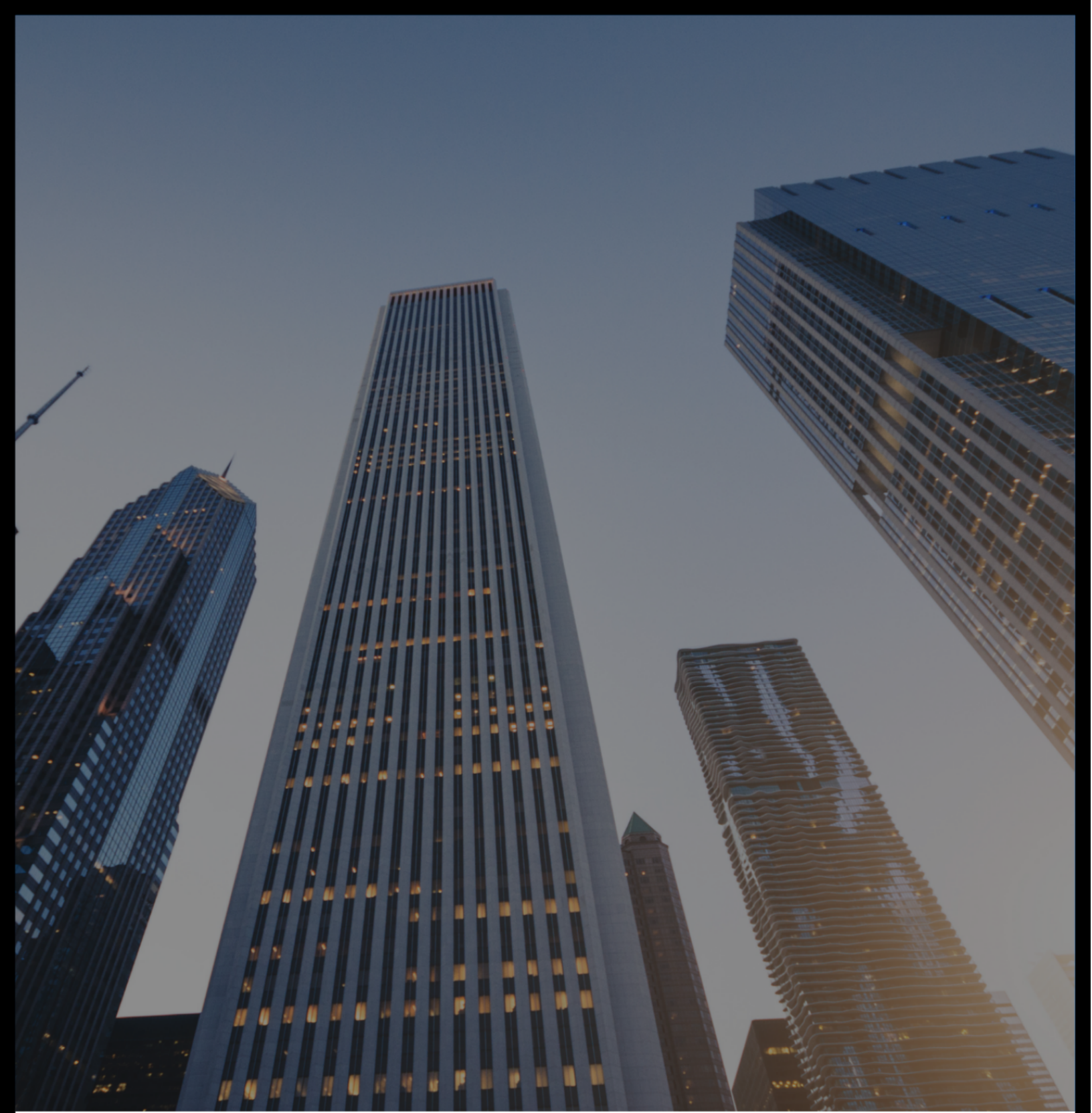
“Violence Against Women Act (VAWA) | HUD.gov / U.S. Department of Housing and Urban Development.” *HUD*, <https://www.hud.gov/vawa#faq>.



Chicago Appleseed Center for Fair Courts is a collaborative 501(c)(3) non-profit organization advocating for fair, accessible, and anti-racist courts in Chicago, Cook County, and across the state of Illinois.



The Chicago Council of Lawyers is Chicago's public interest bar association, advocating for the fair and effective administration of justice.



FUTURE JUSTICE LAWYERS

CHICAGO APPLESEED & CHICAGO COUNCIL OF LAWYERS