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Changing the Message: Battered Women's Advocates and Their Fight Against Domestic Violence at the Local, State, and Federal Level, 1970s-1990s

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CHANGING THE MESSAGE: BATTERED WOMEN'S ADVOCATES AND THEIR FIGHT
AGAINST DOMESTIC VIOLENCE AT THE LOCAL, STATE, AND FEDERAL LEVEL,

1970-1990s

by

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ABSTRACT

CHANGING THE MESSAGE: BATTERED WOMEN'S ADVOCATES AND THEIR FIGHT AGAINST DOMESTIC VIOLENCE AT THE LOCAL, STATE, AND FEDERAL LEVEL, 1970-1990s

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Old Dominion University, 2017
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This thesis analyzes congressional hearings, reports to Congress, government statistics, acts of Congress, Supreme Court rulings, and newspaper articles to examine how, in the 1970s, 1980s, and 1990s, battered women's advocates altered their rhetoric when dealing with local, state, and federal governments in order to change policies, laws, and to obtain funding for domestic abuse shelters. In the 1970s, battered women's advocates used anti-patriarchal language to help survivors of sexual assault and of domestic violence understand the pervasive and systemic nature of violence against women to liberate survivors from the belief that the violence was their fault. In the 1980s, however, battered women's advocates altered their language from an anti-patriarchy message to an equal protection under the law message as a strategy to gain the cooperation of local police departments. When testifying before Congress to obtain funding for shelters, advocates adjusted their language to emphasize the vital and life saving social services that shelters provided as a tactic to gain Congressional support. By reframing their message, advocates mobilized and motivated members of Congress to pass the Family Violence Prevention and Services Act of 1984, the Indian Child Protection And Family Violence Prevention Act of 1990, and the Violence Against Women Act of 1994. All three of these acts provided shelters with much needed funds. The Violence Against Women Act even included the right for women to sue men who attacked them in federal court.

Battered women's advocates and their supporters in Congress achieved these legislative successes despite repeated attempts by the Ronald Reagan and George H.W. Bush administrations to prevent battered women's advocates from obtaining funds for the shelters as part of a national-wide, systemic campaign against feminists. Battered women's advocates' alteration of their original message made violence against women socially unacceptable and made federal funding for shelters possible.

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This thesis is dedicated to my mother, who provided encouragement and necessary "brain food,"
and to my father, who spent many a night as my intellectual sounding board.

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NOMENCLATURE

ADC	Aid to Dependent Children
BIA	Bureau of Indian Affairs
CETA	Comprehensive Employment and Training Act
FVPSA	Family Violence Prevention and Services Act
IHS	Indian Health Service
HHS	Department of Health and Human Services
LEAA	Law Enforcement Assistance Administration
NOW	National Organization for Women
VAWA	Violence Against Women Act
VISTA	Volunteers In Service to America
WEEAP	Women's Education Equity Act Program

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CHAPTER I

INTRODUCTION

Historians have documented the Reagan, Bush, and Clinton administrations and the many policies and legislative acts that originated with these Presidents and their cabinets. There has been little historical review, however, of the 1984 Family Violence Prevention and Services Act (FVPSA), the Indian Child Protection and Family Violence Prevention Act of 1990, and the 1994 Violence Against Women Act (VAWA). Congress passed these acts two decades after the publication of Betty Freidan's *Feminine Mystique* helped spark the second-wave feminist movement. Therefore, it took over twenty years for the federal government to begin to listen to the concerns of feminists who fought the violence that women endured at the hands of their romantic partners. Before the passage of these acts, women received some aid through a hodgepodge assembly of federal agencies. That aid disappeared under the Reagan administration. Battered women's advocates recovered federal funding by changing their rhetorical strategies. Rather than directly denouncing the patriarchal foundations of society that permitted and accepted domestic abuse, as they did when dealing with survivors of violence against women, advocates altered their rhetoric to argue for women's equal protection under the law and for shelters as a necessary public service in their dealings with police, the courts, and Congress. By using this rhetorical tactic advocates successfully wooed Congressional Democrats and Republicans and made the passages of these acts possible.

The legislative acts passed in the 1980s and 1990s received broad bipartisan support, which indicates that lawmakers acknowledged domestic violence as an unacceptable social problem that required federal oversight and funding to organizations dedicated to resolving the issue. Congress's acceptance of domestic violence as a social problem was no small victory for

the advocates of battered women. Yet despite the monumental blow these acts dealt to patriarchal tyranny in the home there have been no books published by historians on domestic violence in the late-twentieth century. There have been many books published on the history of Second-Wave Feminist movement, but little has been published on how the federal government responded to pressure from feminists who advocated for the rights of women within marriage and the protection of women from violent partners. Domestic violence from the 1970s to the early 2000s and the response of police and federal agencies to this social problem have been addressed *ad nauseam* by social scientists; but they have failed to garner attention by historians. While historians have examined other major movements for social change in the latter half of the twentieth century, the endemic issue of domestic violence, which found recognition as a social problem due to the Second-Wave Feminist movement, has remained virtually untouched by historians.¹ Second-wave feminism changed domestic violence from a private family issue into a national social problem.² But it was the work of battered women's advocates, who, by adjusting their rhetorical strategy, were able to create a cultural compromise with the predominantly white men who ran government agencies at the local, state, and federal level to provide money, positive police attention, and aid to domestic violence victims. A historical perspective of the

¹Danielle L. McGuire, *At the Dark End of the Street: Black Women, Rape, and Resistance—a New History of the Civil Rights Movement from Rosa Parks to the Rise of Black Power* (New York: Alfred A. Knopf, 2010). Dorothy Sue Cobble, *The Other Women's Movement: Workplace Justice and Social Rights in Modern America* (Princeton: Princeton University Press, 2004). David Montejano, *Quixote's Soldiers: A Local History of the Chicano Movement, 1966-1981* (Austin: University of Texas Press, 2010). Thomas Borstelmann, *The Cold War and the Color Line: American Race Relations in the Global Arena* (Cambridge: Harvard University Press, 2001). David K. Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago: University of Chicago Press, 2004). Brian D. Behnken, *Fighting Their Own Battles: Mexican Americans, African Americans, and the Struggle for Civil Rights in Texas* (Chapel Hill: University of North Carolina Press, 2011). Jeremy Varon, *Bringing the War Home: The Weather Underground, the Red Army Faction, and Revolutionary Violence in the Sixties and Seventies* (Berkeley: University of California Press, 2004). To name a few.

² Kathleen J. Tierney, "The Battered Women Movement and the Creation of the Wife Beating Problem," *Social Problems* 29, no. 3 (1982): 210. I found it fascinating that this paper was sponsored by the National Institute for Mental Health.

messaging employed by battered women's advocates provides an ability to examine the startling continuity in how advocates changed their messaging from the 1970s to the 1990s.

This thesis begins to fill this historiographical gap by examining the rhetorical strategies that advocates for battered women employed to obtain the assistance of government actors in the United States from the 1970s to the 1990s. It explores the important role feminists played in changing police responses to domestic abuse cases and in passing state and federal legislation, especially the 1984 FVPSA, the Indian Child Protection and Family Violence Prevention Act of 1990, and the 1994 VAWA. Native American women's relationship to second-wave feminists and specifically their relationship to the fight for domestic violence legislation has also been overlooked by historians. This thesis also begins to address the complicated relationship between feminists, Native Americans, and Congress over funding programs designed to help domestic violence victims.

This thesis will not cover abused and battered children or battered men. Child abuse was and continues to be an endemic issue in the United States. Even though child abuse and domestic violence often occur in the same home, to cover both is beyond the scope of this thesis.³ Battered women are the primary focus of this paper because women continue to constitute 84 percent of spousal victims of domestic violence and 86 percent of unmarried partner victims.⁴ In contrast, battered men are victims of domestic violence only 16 percent of the time in married couples and 14 percent of the time in unmarried couples.⁵ In addition, this project will not include male batterers' views on violence because they have a tendency to

³ Murray A., Straus, Richard J. Gelles, and Suzanne K. Steinmetz, *Behind Closed Doors: Violence in the American Family* (New York: Anchor Books, 1980), 115.

⁴ U.S. Department of Justice, Bureau of Justice Statistics, *Family Violence Statistics: Including Statistics on Strangers and Acquaintances*, by Matthew R. Durose *et al.*, (June, 2005) Washington D.C., 1, accessed September 30, 2013, <http://www.bjs.gov/content/pub/pdf/fvs08.pdf>.

⁵ U.S. Department of Justice, Bureau of Justice Statistics, *Family Violence Statistics* (June 2005), 1.

“rationalize, justify, and minimize their violence against their female partners.”⁶ This paper seeks to examine the strategies employed by battered women's advocates and members of Congress to pass federal legislation designed to protect battered women despite the anti-feminist policies of Ronald Reagan and George H.W. Bush administrations.

Brief History of Domestic Violence Shelters and Their Funding

The history of the fight against domestic violence is tied to the rise of the women's movement in the 1970s as second-wave feminists empowered women to fight domestic violence on their own terms rather than wait for the federal government to respond. The first shelter for battered women was Chiswick Women's Aid founded in London, England in 1971 by Erin Pizzey.⁷ In the United States activists started with a crisis hotline in St. Paul, Minnesota in 1972 to assist battered women. The next year activists opened Rainbow House in Phoenix, Arizona, which was followed by Haven House in Pasadena, California in 1974. While there had been earlier shelters in San Francisco and Cambridge, Massachusetts, Rainbow House and Haven House were the first shelters designed specifically to aid victims of domestic violence, especially women married to violent alcoholic men.⁸

In 1971, Chiswick Women's Aid, the first women's shelter for battered women, run by feminists, received a lot of publicity.⁹ Erin Pizzey and the other founders of the Chiswick Women's Aid observed that the institutional model of government social services was too impersonal to help emotionally vulnerable survivors of domestic violence. Social service workers, they found, had little sympathy for battered women. When battered women sought aid from social services, social services put them into taxis to Chiswick Women's Aid and paid the

⁶ Kristin L. Anderson and Debra Umberson, “Gendering Violence: Masculinity and Power in Men's Accounts of Domestic Violence,” *Gender and Society* 15, no. 3 (2001): 361.

⁷ Tierney, “The Battered Women Movement,” 207. Straus, et al., *Behind Closed Doors*, 11.

⁸ Tierney, “The Battered Women Movement,” 207.

⁹ Tierney, “The Battered Women Movement,” 207.

fare. In addition, social services workers in London did not inform battered women of their rights under the law.¹⁰ Thus, in order to empower the women and give them a sense of control over their environment, Chiswick Women's Aid encouraged survivors of domestic violence, and now residents of the shelter, to run the front desk. Running the front desk helped battered women to regain a sense of command over their environment, and confidence in their own power and their self-worth.¹¹ In 1974, Pizzey wrote a book, *Scream Quietly or the Neighbors Will Hear*, and traveled throughout the United Kingdom giving book tours and raising awareness of domestic violence in Great Britain.¹² Pizzey's advocacy coincided with the National Organization for Women's (NOW) involvement in fighting domestic violence in the United States. In 1975, NOW formed a National Task Force on Battered Women/Household Violence to promote women's shelters and raise public awareness of domestic violence.¹³ Pizzey's advocacy also occurred around the same time as Canadian women's advocacy on behalf of battered women began. In 1968, in Quebec, at the first consciousness raising meetings, women began exchanging information and reading material on the women's rights movement in America.¹⁴ Not long afterwards, young radical feminist groups, as well as traditional advocates for women, such as nuns and ordinary wives and moms, founded shelters for battered women, which became part of a coalition of women's groups that advocated for battered women in Quebec.¹⁵ The fact that three movements against domestic violence in three different countries began within a relatively short time of one another demonstrates that feminists faced a problem

¹⁰ Micheline Beaudry, *Battered Women*, trans. Lorne Huston and Margaret Heap (Buffalo: Black Rose Books, 1985), 39.

¹¹ Beaudry, *Battered Women*, 55.

¹² Tierney, "The Battered Women Movement," 207.

¹³ Tierney, "The Battered Women Movement," 208.

¹⁴ Beaudry, *Battered Women*, 18.

¹⁵ Beaudry, *Battered Women*, 15, 23.

that was not limited to any one country. Instead, these movements show that advocates dealt with patriarchal systems that transcended national boundaries.

In the United States, feminist organizations were the first to recognize, support, and promote the women's shelters. The year after NOW created its National Task Force, the Ann Arbor, Michigan chapter of NOW created a manual on how to establish a shelter. In 1977, the National Women's Year Conference passed a resolution to urge government action at the local, state, and federal level to develop programs to address the needs of battered women. Local chapters of NOW soon followed the lead of the national organization and formed task forces, shelters, and crisis services of their own over the next couple of years. By 1978 the U.S. Commission on Civil Rights listed over "300 shelters, hotlines, and groups" assisting battered women and working in conjunction with "the police, the courts, housing and public assistance agencies." Over half of these shelters had been established after 1975.¹⁶

Financing for these shelters came from many sources and included both a hodgepodge of federal agencies as well as more traditional women's groups such as the YWCA and churches. Before the passage of the 1984 Family Violence Prevention and Services Act, a multitude of federal agencies and programs supported the shelters ranging from the Law Enforcement Assistance Administration (LEAA) to the Department of Labor to the 1973 Comprehensive Employment Training Act (CETA). State and city governments, private foundations, and individual and group fundraising complemented federal funding. While some shelters had paid staff, volunteers staffed many of these shelters, crisis centers, and hotlines as the use of paid staff meant that advocates had to constantly engage in fundraising. Financial support became a

¹⁶ Tierney, "The Battered Women Movement," 208.

problem for shelters as private donations and the ad hoc nature of federal funding led to a lack of consistency and reliability in funds.¹⁷

Not all federal programs donated equally to shelters. United States federal programs such as CETA, which provided money to localities to train unemployed workers in new skills and helped them reenter the workplace in the private sector, urged groups that ran shelters to apply for funding.¹⁸ In one case, a CETA official urged a feminist group that applied for funding to increase the amount requested. The group did so and received not only the new amount but even more the next year. And yet, other federal programs expressed little interest in helping to advance aid to battered women. The LEAA was one of the latter programs.¹⁹

While the Law Enforcement Assistance Administration (LEAA) reluctantly provided some funding to shelters, it actively directed domestic violence cases to local women's shelters and community groups and tried to prevent these cases from taking resources away from their own priorities.²⁰ LEAA disbursed grants to "government agencies, educational institutions, and private organizations to improve law enforcement."²¹ Sociologist Kathleen Tierney persuasively argues that LEAA did not perceive an enlarged role for the U.S. Department of Justice in domestic violence cases and engaged with advocates only to limit disruption of LEAA's goals and to influence the battered women's movement to become more aligned to LEAA's interests.²²

The administration's bureaucrats viewed the lack of public support for the domestic violence

¹⁷ Tierney, "The Battered Women Movement," 208, 214, 216.

¹⁸ Ronald Smothers, "CETA Cutbacks Leaving Thousands Unemployed; The Budget Targets Last of the eight articles on key programs the President wants to cut," *The New York Times*, April 11, 1981, accessed April 4, 2017, <http://www.nytimes.com/1981/04/11/us/ceta-cutbacks-leaving-thousands-unemployed-budget-targets-last-eight-articles.html?pagewanted=all>.

¹⁹ Tierney, "The Battered Women Movement," 214.

²⁰ Tierney, "The Battered Women Movement," 215.

²¹ National Archives, Records of the Law Enforcement Administration. Record group 423, 1965-1977. 423.1. Administrative History, accessed July 22, 2015, <http://www.archives.gov/research/guide-fed-records/groups/423.html#423.2>.

²² Tierney, "The Battered Women Movement," 215.

movement as a reason to refuse battered women the protection of the criminal justice system.²³ Denying women protection under the law also reinforced existing patriarchal structures as no structures existed to restrain men who abused their spouses. It would take a great deal of effort by advocates for battered women to bring about significant change in the way law enforcement officials treated domestic violence victims. Until then, providing women protection from violent men was a responsibility left to the staff of domestic violence shelters.

Sociology and Psychology Review

Since the 1970s and especially the early 1980s, sociologists, psychologists, psychiatrists, and feminist advocates for battered women have attempted to explain domestic abuse and to shape public opinion about and images of violence against women, often in order to procure protection, support, and sympathy for battered women. These multiple, often conflicting explanations, and the public's reaction to them, revealed biases rooted in patriarchal assumptions about women. These social scientists provided policy suggestions for how governments should handle battered women in the short term and their work is essential in helping historians examine the change and continuity in battered women's advocates' strategies when interacting with government agencies. These social scientists tried to develop strategies to help battered women and it is these strategies that formed public opinion and with which battered women's advocates had to contend in their fight to obtain government funding for domestic violence shelters. They are also critical to understanding the passage of the federal legislation examined in this thesis, as they set the rhetorical stage on which advocates, police chiefs, judges and congressmen either advocated for government involvement in ending domestic violence or against it.

²³ Tierney, "The Battered Women Movement," 215. In 1978 one official stated: "Advocates for battered women will have to understand that the criminal justice system has nothing inherent in its structure or function that would lead it to make battered women cases a priority...Advocates will have to understand the dynamics of social action and political pressure that lead the criminal justice system to allocate resources to certain areas not because such allocation is good or wise but because somehow, it becomes expeditious or necessary."

In the United States the *ad hoc* method of federal funding forced shelters to solicit private donations and sponsors, which gave sponsors the ability to influence the image and messages that shelters projected. Kathleen Tierney argued in her 1982 article that the women's movement to end violence against women and its cooperation with federal agencies and sponsors led to a rapid increase in the publicity the movement received. Unfortunately, this cooperation led to co-optation as sponsors supported shelters that ran along the "social service agencies" model more than shelters that included radical feminist ideology challenging sexist social structures. In the early 1980s activists conceded that sponsors' preferences and ideologies affected the resources available to grassroots feminist movements and how these movements functioned.²⁴

Bess Rothenburg, a sociologist, expanded Tierney's idea of co-optation to include the media. Rothenburg developed the term "cultural compromise" to describe when "parties with conflicting interests attempt to gain cultural authority over a social issue." She argues that although the women's movement had several different explanations for why women stayed with their violent abusers, psychologist Dr. Lenore Walker's "Battered Woman Syndrome" was the idea that gained cultural acceptance in the public and media. Although Walker's idea ignored the systemic inequalities that produced violence against women, Rothenburg contends that advocates used Walker's "Battered Woman Syndrome" to obtain much needed attention for domestic violence and battered women in the media. Published in 1979, *The Battered Woman*, the first of three books, was read both by advocates and the general populace alike. In it, Walker theorized that domestic violence followed three stages, which she called "Battered Woman Syndrome." The first stage involved the man expressing hostility toward, but not violence against, the woman in the relationship. In the second stage, the batterer physically assaulted the woman and in the final stage, the batterer reconciled with the woman by professing his love for her. Walker argued

²⁴ Tierney, "The Battered Women Movement," 207, 217.

that women stayed with their abusive partners because of the abuser's repeated professions of love, the woman's inability to end the relationship, and the psychological problems that women developed due to the abuse which reduced them to passive victims. Walker developed the "Battered Woman Syndrome" after a 1977 interview with a reporter who asked her about abused women and especially battered women who kill their partners. Indeed, media coverage of the court trials of battered women who killed their partners in self-defense increased the visibility of battered women in the media in the 1970s.²⁵

Other advocates, psychologists, and social scientists put forth arguments for why men abused women and why battered women stayed with their husbands. In 1964, a group of psychiatrists led by John Snell stated that although the courts perceived domestic violence to be men's fault, the fault actually laid with women; domestic violence, they argued, could be solved by treating women.²⁶ These psychiatrists explained domestic violence as a product of a passive man unsure of his masculinity and a masculine wife whose dominant and frigid attitude towards her husband provoked his violence. According to Snell et al. violent, insecure men used violence to reestablish authority over their masculine wives, thereby reestablishing socially-acceptable gender roles.²⁷ This "marital equilibrium, which had been working more or less satisfactorily," was disrupted when a couple's adolescent children intervened in the conflicts.²⁸ The article demonstrated the bias of the researchers as they attempted to justify male batterers behavior within a heteronormative and patriarchal framework. The man abused the wife because he was not masculine enough and the woman was abused because she was assertive instead of nurturing

²⁵ Bess Rothenburg, "We Don't Have Time for Social Change; Cultural Compromise and the Battered Woman Syndrome," *Gender and Society*, 17, no. 5 (2003): 771, 772, 777, 779.

²⁶ John Snell, Richard Rosenwald, and Ames Robey, "The Wifebeater's Wife: A Study of Family Interaction," *Archives of General Psychiatry* 11 (1964): 108.

²⁷ Snell, "The Wifebeater's Wife: A Study of Family Interaction," 111.

²⁸ Snell, "The Wifebeater's Wife: A Study of Family Interaction," 109.

and thus she, rather than he, needed to reform her behavior.²⁹ Needless to say, this “blame the woman” approach to explaining and providing a solution to domestic abuse did not gain much traction and Walker and other feminist social scientists feminists discredited it in the 1970s.³⁰

In 1980, a group of sociologists led by Murray Straus conducted a nation-wide study on domestic violence that rejected Walker’s strict interpretation of battered women as victims. Their study revealed that in 49 percent of reported domestic violence cases both the woman and the man engaged in violent acts. The other half of the cases were almost equally split between the man as the sole perpetrator of violence (27%) and the woman as the sole perpetrator of violence (24%). The study revealed that women used objects more than men but men more frequently used their hands. Straus and her colleagues found “that rates of husband-beating were slightly higher than those of wife-beating,” which surprised them. Suzanne Steinmetz’s 1977 study also supported this conclusion. Her study concluded that both sexes have “equal potential towards violent marital interaction, initiate similar acts of violence, and, when differences of physical strength are equalized by weapons, commit similar amounts of spousal homicide.” Despite reports like these that complicated images of women as victims, the public and political debate discussed domestic violence in terms of violent men beating “innocent” women. The public and the media seemed to be unable to accept that women too could be violent; such acceptance, Rothenberg argues, would have gone against the "cultural and historical traditions already in place."³¹

A few sociologists engaged in a more proactive method of gathering data. In 1984, a team of sociologists, led by Kathleen J. Ferraro, accompanied Phoenix, Arizona police officers

²⁹ Snell, “The Wifebeater’s Wife: A Study of Family Interaction,” 111.

³⁰ Bess Rothenburg, “The Success of the Battered Woman Syndrome: An Analysis of How Cultural Arguments Succeed,” *Sociological Forum* 17, no. 1 (2002): 84.

³¹ Rothenburg, “The Success of the Battered Woman Syndrome,” 85, 92.

on domestic violence calls in order to determine how many batterers police actually arrested and what assistance they rendered to the survivors. The sociologists found that even when local politicians passed ordinances to encourage police officers to arrest more batterers, judges and prosecutors complained to the chief of the police over the number of arrests, which led to a corresponding decrease in the number of arrests made. Officers arrested batterers in only 18 percent of the domestic violence calls to which they responded during the study. Officers routinely applied “a level of evidence high enough for felony arrests” before arresting male batterers when they had been instructed by the city to use evidence of misdemeanor levels of violence. In addition, officers believed their duty entailed stopping the violence only for the evening of the call. One woman had called the police after her husband assaulted both her and her brother in two separate locations in the same evening. The officers told her that she and her infant, whom her husband had also threatened, were fine and to call back if anything else happened. Most of the officers accompanied believed that these women wanted to be in abusive relationships. One officer admitted to threatening his own wife; he stated that a man’s home was his castle and that it was an infringement on a man’s private life if a man was arrested for damaging mutually owned property. The gatekeeping and lack of enforcement of local laws against domestic violence demonstrate the entrenched nature of patriarchal power and the resistance to changing that structure at every level of society from the police, to the prosecutors, to the judges.³²

In 1988, sociologists Edward Gondolf and Ellen Fisher rejected Walker’s theory of “learned helplessness” that trapped battered women into staying with their batterers. Gondolf and Fisher argued that domestic violence actually caused battered women to develop a range of strategies to handle the abuse that turned women “into ‘survivors’ not victims.” Gondolf and

³² Kathleen J. Ferraro, “Policing Woman Battering,” *Social Problems* 36, no. 1 (1989): 63, 64, 66, 68, 69.

Fisher further argued that battered women did try to leave but could not due to a lack of social services dedicated to helping domestic violence victims. They postulated that the learned helplessness of battered women did not perpetuate the violent relationship but rather the lack of social services for battered women did.³³

These studies and debates among social scientists sought to answer the all consuming public question of why women stayed with their abusers; the public was less interested in why men beat their wives. Rothenburg argues that out of all of these studies Walker's idea won out because the media could easily assimilate and distribute it.³⁴ Walker's third stage of "Battered Women Syndrome" described women as helpless victims who had psychological problems, which allowed the public to fixate on women and not men. Thus, a woman's choice to stay with an abusive partner became deviant behavior that only psychologists and individual therapy could address.³⁵ Solving the problem of domestic violence therefore did not call for a change to the patriarchal structure of society but rather care for individual women. Walker did blame sexism for violence against women and called it "the real underbelly of human suffering" but the media chose not to address sexism when it discussed the "Battered Women's Syndrome."³⁶ The public at large condoned violence against women so Walker's theory made it possible for the media and the public to focus on individual women rather than on the unequal power relationships. Importantly, however, Walker's "Battered Women's Syndrome," also allowed the domestic violence movement to gain a foothold in the public consciousness.³⁷ Unfortunately, while this terminology inspired public sympathy and empowered psychologists, it did not empower battered women, many of whom did not identify as victims.

³³ Rothenburg, "The Success of the Battered Woman Syndrome," 85.

³⁴ Rothenburg, "We Don't Have Time for Social Change," 777.

³⁵ Rothenburg, "We Don't Have Time for Social Change," 778.

³⁶ Rothenburg, "The Success of the Battered Woman Syndrome," 85.

³⁷ Rothenburg, "We Don't Have Time for Social Change," 775, 785.

It took over a decade and a half for advocates to problematize the idea that battered women suffered from a “syndrome.” Walker developed her "Battered Women's Syndrome" based on a study of women who killed their batterers and she wrote the book instructing psychologists on how to testify in court on behalf of battered women. Only women who conformed to the image of helpless victim could hope to be acquitted for murdering their partners and then only in some states. In 1996, Congress, as part of the 1994 Violence Against Women Act (VAWA), ordered a report on how courts used the "Battered Woman's Syndrome." The report found widespread discontent among prosecutors, defense attorneys, and judges, as the “syndrome” did not cover all cases and it “carried implications of a malady or psychological impairment and, moreover, suggested that there was a single pattern of response to battering.” This report, made possible by the 1994 VAWA, condemned the use of the syndrome in court and opened the door for exploring the flaws of pathologizing battered women.³⁸

Many domestic shelters followed the courts' example and used the "Battered Woman Syndrome" as a litmus test to determine which women received space at the shelter. Again, this meant that those who fought back were unlikely to receive aid from the shelters. In addition, if a battered partner was not a member of the middle class, or was disabled or a member of a sexual minority such as a member of the LBGTQ community, or was a man who was abused by his wife, she or he could expect little protection or aid from the courts. Concurrently, there were few protections for racial minorities such as Native American women. Thus, Walker's definition did not help many battered women when they interacted with government institutions and used shelters that employed the "Battered Woman's Syndrome" as a litmus test.³⁹

³⁸ Rothenburg, “We Don’t Have Time for Social Change,” 779, 781, 782, 783.

³⁹ Rothenburg, “We Don’t Have Time for Social Change,” 782, 783.

Nonetheless, Rothenburg makes the convincing argument that Walker's idea opened the door for the domestic violence movement and enabled that movement to change social conceptions of domestic violence from acceptance to intolerance.⁴⁰ The media picked the parts of Walker's argument that were most socially agreeable and used them to publicize and raise awareness of violence against women. The media's reporting of violence against women predated the cultural compromise reached between feminists and Congress that led to the passage of FVPSA in 1984, the Indian Child Protection and Family Violence Prevention Act in 1990 and VAWA in 1994, the central focus of this thesis. Yet the media's coverage of domestic violence demonstrated the dearth of social services which addressed the specific needs of domestic violence victims.

While Rothenburg analyzed social scientists' debates and the interaction between the media and society, she did not analyze debates over domestic violence that occurred between activists and conservatives in the Senate and House Committee hearings, debates that eventually lead to the passage of federal legislation designed to resolve domestic violence. Moreover, she did not explore how the media depicted these congressional debates. And yet, the evolution of these debates is essential to understanding how domestic violence legislation passed Congress. Interestingly, by the 1990s, even conservative politicians, reluctant to fund social service programs, acknowledged domestic violence as a social problem. In a prepared statement submitted to the Sub-Committee on Children, Family, Drugs, and Alcoholism Senator Orrin Hatch, a Republican from Utah, who cosponsored the 1984 Family Violence Prevention and Services Act stated, "As a husband, a father, and now grandfather, I am shocked and appalled at the incidents of family abuse, as we all are." While condemning domestic violence, however, Hatch did not criticize the patriarchal assumptions guiding familial and social life that explained

⁴⁰ Rothenburg, "We Don't Have Time for Social Change," 785.

domestic abuse. On the contrary, he justified his castigation of domestic abuse by pointing to the importance of the family unity. He ended his statement with the sentiment that he wanted to help “families stay together” and that it is “very apparent that the key to alleviating a number of problems is strengthening the family.”⁴¹ This thesis seeks to explore battered women's advocates' roles in helping convince even conservative Republicans like Hatch to fund domestic violence shelters.

Historiography: Patriarchy and Second Wave Feminism

Although no historian has written a book specifically about the domestic violence aspect of second wave-feminism, a number of historians have touched on topics related to patriarchy, programs for women such as the Women's Education Equity Act Program, which ensured equal education for women and girls, and second-wave feminists advocates. They have also explored how battered women's advocates used the politics of domestic space to demand equal protection under the law. Patriarchy and, especially, the European legal tradition of coverture, made women the dependents of men and thus infantilized women. As the dependents of men, women had no legal standing to challenge the males in their family if those men decided to beat them. Indeed, men had the legal right to beat their wives.⁴² Linda Kerber wrote extensively about the adverse effects of patriarchy on the rights of women in the eighteenth, nineteenth, and early-twentieth centuries.⁴³ In *Pitied But Not Entitled: Single Mothers and the History of Welfare, 1890-1935* Linda Gordon instead looked at the first-wave of feminists in the early twentieth

⁴¹ U.S. Senate Committee on Labor and Human Resources, Subcommittee on Children, Family, Drugs and Alcoholism, *Hearing on Domestic Violence: Terrorism in the Home*, 101st Cong., 2nd sess., April 19, 1990, 5, accessed April 7, 2017, <https://babel.hathitrust.org/cgi/pt?id=pst.000017419628;view=1up;seq=9>.

⁴² Sir William Blackstone, *Commentaries on the Laws of England*, vol. 1 (Philadelphia: J.B. Lippincott Company, 1893), 443, accessed April 7, 2017, http://f-oll.s3.amazonaws.com/titles/2140/Blackstone_1387-01_Bk.pdf.

⁴³ Linda K. Kerber, "The Republican Mother and the Woman Citizen: Contradictions and Choices in Revolutionary America," in *Women's America: Refocusing the Past*, 5th ed., ed. by Linda K. Kerber and Jane Sherron De Hart (New York: Oxford University Press, 2000), 115, 119, 120.

century and how these women influenced domestic social programs.⁴⁴ Sara Evans' book *Tidal Wave: How Women Changed America at Century's End* discussed second-wave feminists; Evans has also published an article on how Europeans affected Native American gender relations in the seventeenth and the eighteenth centuries.⁴⁵ In 1997, Coll-Peter Thrush and Robert H. Keller examined an early case of domestic violence and the complexities of interracial marriages between Native American women and white men in the Pacific Northwest during the nineteenth century.⁴⁶ Finally, Anne Enke published several articles in 2003 on the politics of domestic space and how advocates of battered women repossessed domestic space and made it political.⁴⁷

Patriarchy is not an abstract concept invented by feminists in the nineteenth century in order to gain the right to vote. As Linda Kerber's article on men's and women's expectations of women's role in society vividly illustrates, patriarchy, as an integral part of the law, systematically discriminated against women. Coverture predated the foundation of the United States and had its basis in English law. The laws and treatises of the early republic referred to domestic relations law as "the law of baron et feme." Translated this means "the law of the lord and the woman." The status of a woman within a marriage, whether she was the daughter of Thomas Jefferson or of a candlestick maker, was the same: she was the subject of her husband and he had the right to determine every aspect of her life. This meant that a man had to the right

⁴⁴ Linda Gordon, *Pitied But Not Entitled: Single Mothers and the History of Welfare, 1890-1935* (New York: The Free Press, 1994), 8.

⁴⁵ Sara Evans, *Tidal Wave: How Women Changed America at Century's End* (New York: The Free Press, 2003), 12, 192, 208. Sara Evans, "The First American Women," In *Women's America: Refocusing the Past*, 5th ed., ed. by Linda K. Kerber and Jane Sherron De Hart (New York: Oxford University Press, 2000), 38.

⁴⁶ Coll-Peter Thrush and Robert H. Keller, "The Life and Murder Trial of Xwelas, a S'Klallam Woman," in *Women's America: Refocusing the Past*, 5th ed., ed. by Linda Kerber and Jane Sherron De Hart (New York: Oxford University Press, 2000), 271.

⁴⁷ Anne Enke, "Smuggling Sex Through the Gates: Race, Sexuality, and the Politics of Space in Second Wave Feminism," *American Quarterly* 55, no. 4 (2003): 635. Anne Enke, "Taking Over Domestic Space; The Battered Women's Movement and Public Protest," *The World the Sixties Made: Politics and Culture in Recent America* (2003): 163.

to any wages a woman earned within the marriage as did her husband's creditors.⁴⁸ No married woman could make a contract without the approval of her husband; she could not make a will unless widowed; she could not contradict her husband's decisions regarding her offspring; she could not legally protest if her husband raped her; and she, almost always, as a widow only had the use of "one-third of their combined real estate." During the Revolutionary War, at the very beginning of the separation between English law and American law, Abigail Adams warned her leading American patriot husband of the tyranny men held over their wives and asked him to enfranchise women in the new republic.⁴⁹

After the Revolutionary War, however, coverture continued to deny women's right to a legal identity outside the confines of their husbands. Kerber argues that nineteenth-century feminists used the idea of Republican Motherhood to bridge the gap between the domestic sphere and the political sphere and to help women gain a foothold as citizens. This ideal made women the guardians of the republic because they were entrusted to raise good, stalwart, and male defenders of the new country. The Republican Motherhood model, however, tied women's identity to the state with women's position within the family, which made it possible to exclude women from civic life and forced women to continue as the dependents of men and subject to their abuse. During the early Republic, the American government made domestic homicide the only exception to the English tradition of coverture. Under English law when a woman killed her husband it was *petit treason*, or treason against one's lord, but when a man killed his wife it

⁴⁸ Kerber, "The Republican Mother and the Woman Citizen," 115. Elizabeth Cady Stanton, 1815-1902, "Address to the Legislature of New York, adopted by the State Woman's Rights Convention, held at Albany, Tuesday and Wednesday, February 14 and 15, 1854.," *Ann Lewis Women's Suffrage Collection*, accessed March 25, 2017, <https://lewissuffragecollection.omeka.net/items/show/882>. This speech was laid on the desks of members of the New York Legislature on February 20, 1854. Stanton stated "Husband is entitled to wife's credit or business talents (whenever their intermarriage may have occurred); and goods purchased by her on her own credit, with his consent, while cohabiting with him, can be seized and sold in execution against him for his own debts, and this, though she carry on business in her own name."

⁴⁹ Kerber, "The Republican Mother and the Woman Citizen," 113, 115.

was just murder. The punishment for treason was much worse than that for murder.⁵⁰ Women convicted of any form of treason were drawn and then burnt alive; whereas men convicted of *petit treason* were drawn and hanged.⁵¹ In the United States, the courts erased the difference between murder and *petit treason* and those who killed their spouses were charged with murder regardless of sex. That did not prevent individual states, however, from applying the concept of *petit treason* to slaves that killed their masters. The concept of coverture in U.S. law endured until the 20th century. Prior to 1992, coverture granted men total legal access to their wives' bodies. Not until 1992 did the Supreme Court rule that "women do not lose their constitutionally protected liberty when they marry."⁵² Coverture granted men the right to rape their wives and beat them and it was this legal legacy of systemic violence against women that battered women's advocates had to confront during the second-wave feminist movement.⁵³

Political scientist Carole Pateman argues that the first feminists fought the idea that, due to coverture, women could not enter into John Locke's social contract between citizen and state because they had a prior, higher duty to their husbands.⁵⁴ According to Tapping Reeve, the lawyer who taught American statesmen Aaron Burr and John C. Calhoun in the late eighteenth century, this duty to their husbands gained women nothing in real estate or as people.⁵⁵ Women did everything in their power to help their daughters gain the skills necessary to attain economic independence but the laws made these endeavors close to impossible. As part of that fight, feminists in the early-nineteenth century began to fight against coverture. A group of women

⁵⁰ Kerber, "The Republican Mother and the Woman Citizen," 115.

⁵¹ Sir William Blackstone, *Commentaries on the Laws of England*, vol. 1, 16th ed. (London: A. Strahan, 1825), 204, accessed on March 25, 2017, <https://archive.org/details/commentariesonl04blacgoog>.

⁵² Kerber, "The Republican Mother and the Woman Citizen," 115, 116, 120.

⁵³ Kerber, "The Republican Mother and the Woman Citizen," 116. Blackstone, *Commentaries on the Laws of England*, vol 1., 443.

⁵⁴ Linda K. Kerber, "A Constitutional Right to Be Treated Like American Ladies: Women and the Obligations of Citizenship," in *U.S. History as Women's History: New Feminist Essays*, ed. Linda Kerber (Chapel Hill: University of North Carolina Press, 1995), 20.

⁵⁵ Kerber, "A Constitutional Right to Be Treated Like American Ladies," 21.

from one of the first finishing schools for women in the United States in Litchfield, Connecticut, wrote in a “Ladies Declaration of Independence” that men “have undervalued our talents, and disparaged our attainments; they have combined with each other for the purpose of excluding us from all participation in Legislation and in the administration of Justice.”⁵⁶ Fifty years later leading women's rights advocate Elizabeth Cady Stanton made this demand of the New York Legislature: “Yes, gentlemen, in republican America, in the 19th century, we, the daughters of the revolutionary heroes of '76, demand at your hands the redress of our grievances--a revision of your state constitution--a new code of laws.”⁵⁷ Yet, even after enfranchisement in 1920, women faced the leftovers of coverture, which tainted the minds of police officers, judges, prosecutors, and legislatures. Indeed, many of these government actors believed that men still had the right to physically assault their intimate partners.

Coverture also governed women’s participation as jurists. Most states had permissive jury duty laws for women which allowed women easy dismissal from jury duty and which also prevented women’s names from even being placed on jury duty rolls. Men argued that women were simultaneously too emotional, and thus too easily swayed, and too delicate to handle any terrible crimes that might be recounted in a court room. In addition, a woman’s duty to the state must be considered secondary to her duty to her husband and children. In 1961, the lawyers of a woman convicted of murder in Florida appealed her conviction to the Supreme Court on the grounds that she was convicted by an all-male jury and thus, not a jury of her peers. The assistant attorney general of Florida argued that men needed their wives at home to cook dinner and therefore the county did not add women to the jury rolls. The Supreme Court agreed with his assessment, which demonstrates that the tradition of coverture persisted well into the

⁵⁶ Ferraro, “Policing Woman Battering,” 114.

⁵⁷ Elizabeth Cady Stanton, 1815-1902, “Address to the Legislature of New York.”

twentieth century. In fact, not until 1975 did the Supreme Court reverse itself and strike down permissive jury laws.⁵⁸ While Kerber examined the courts to study Republican Motherhood and the persistence of coverture into the twentieth century, this thesis will explore how the advocates for battered women in the late-twentieth century continued the feminist tradition of using the courts to challenge local government agencies to address domestic violence.

In *Pitied but Not Entitled*, Linda Gordon explored how government welfare programs in the twentieth century eventually became a two-tiered system. The first consisted of programs that primarily affected the middle class and the wealthy who received benefits from the government such as school grants, tax deductions on home mortgages and business expenses, and farm subsidies to name just a few. These entitlement programs faced little stigma. The second tier consisted of programs such as Aid to Families with Dependent Children, which targeted the poor. These programs came under attack in the 1980s as economic growth and wages declined and other citizens came to resent money spent on feeding other people's children. Recipients of this latter group faced increasing stigmatization by the 1980s. Advocates for these programs argued that the social contract between a government and those who worked encompassed both types of welfare. By the 1980s, however, welfare programs for the poor were drastically cut, while 80 percent of all welfare programs went to the middle class and the wealthy. While this thesis does not examine whether funding for shelters constitutes an entitlement program or a welfare program it does explore how battered women's groups convinced Congress to regard shelters as critical to ending domestic violence.⁵⁹

Sara Evans' examination of the second-wave feminist movement demonstrates how many women who participated in the movement were academics, activists, and feminists all at once.

⁵⁸ Kerber, "A Constitutional Right to Be Treated Like American Ladies," 30, 31. The woman's name was Gwendolyn Hoyt and she killed her husband with a baseball bat. *Hoyt v. Florida*, 368 U.S. 57 (1961).

⁵⁹ Gordon, *Pitied But Not Entitled*, 1, 2, 288, 295, 302.

Evans is an excellent example of just such a woman. In the late 1960s, Evans helped form "Group 22," which advocated for child daycare facilities at the University of North Carolina. Eventually, the group opened their own daycare facility for preschoolers. Group 22 also started Lollipop Power Press which published children's literature that emphasized nurturing male father figures and women who worked, studied, and were heroines. Evans credits her participation in this feminist group with inspiring her to become a historian as the questions raised in group meetings demonstrated the huge gaps in the historical literature on women in history.⁶⁰

In her book, *Tidal Wave*, Evans convincingly argues that the second-wave feminist movement developed in response to the 1960s Civil Rights movement and the New Left with its rejection of Marxist class differences rather than as a product of the activities of the National Organization for Women. In her discussion of the conservative backlash to feminism in the 1980s, Evans notes that prior to the 1980 presidential election, the Republican Party had endorsed the Equal Rights Amendment, an amendment calling for equal rights for women and first introduced to Congress in 1923. After the election of Ronald Reagan, however, the country experienced a continuous onslaught on domestic programs that funded many feminist and women's organizations. Reagan eliminated both CETA and LEAA, both of which had provided critical funds to domestic violence shelters and other grassroots organizations. Under Reagan, conservative groups targeted women's studies programs at universities and forced administrative reviews that fired some female professors because their ideas were perceived as too radical. During the 1980s, violent language, permissive prejudice and intolerance, and violent attacks increased against women and minorities. Radical conservatives violently attacked and harassed abortion clinics. Yet, despite these setbacks, Evans demonstrates that women made

⁶⁰ Evans, *Tidal Wave*, 12.

advancements in society as companies and other workplaces began providing daycare facilities and sexual harassment training in order to ward off lawsuits. In addition, the number of women in public office increased due to the involvement of feminist groups such as EMILY's list. Women of color added their voices to the feminist movement and the first ever conference of the National Black Women's Health Project had 2,000 women attendees in 1983. In response to the AIDS epidemic, stigmatized as a "homosexual disease," lesbian women united with the gay movement. While Evans did not address domestic violence shelters in depth, she does note that the National Coalition Against Domestic Violence was inadvertently instigated by federal actors. In 1978, under the Carter administration, Carol Bonasarro and her staff at the Women's Rights Project within the Civil Rights Commission called every shelter in the country and held a meeting to both consult with advocates and to bring domestic violence to the attention of the Civil Rights Commission. It was one of the first times that advocates from across the country met in one place and by the end of the meeting advocates had formed the National Coalition Against Domestic Violence, which received support from many feminist organizations, most notably the National Organization for Women (NOW).⁶¹

In addition to her work on second-wave feminism, Evans is one of the few historians to study how the arrival of Europeans affected Native American gender relations. Despite the pressure by Europeans and missionaries to adhere to European gender roles, many Native American societies continued to enforce matrilineal traditions of inheritance and control. For example, Iroquois women refused to allow their men to learn new agricultural practices from the missionaries as this impinged on Iroquois women's control over the distribution of all the community's food. Indeed, in many Native American societies women could obtain divorces

⁶¹ Evans, *Tidal Wave*, 12, 15, 130, 176, 177, 182, 183, 184, 192, 195, 198, 208. EMILY's list is an acronym for "Early Money is Like Yeast."

easily and they could nominate chiefs. By the nineteenth century, however, the impact of horses on plains life, in this case the Lakota, saw a decline in the economic and cultural powers of women as men engaged in hunting and war activities increasingly without women. Yet men and women continued to resist European gender roles as men who dressed as women were thought to possess special powers and women who had interests in traditionally male activities, such as hunting and combat, sat on warrior councils, lead war parties, and had wives. While Evan's work demonstrates Native American gender relations in the eighteenth and nineteenth centuries, she does not discuss domestic violence.⁶²

Virtually no historians have explored the history of domestic violence among Native Americans. One exception is an article by Coll-Peter Thrush and Robert H. Keller, which examined the case of Xwelas, a S'Klallm women, whose tribe came from the Olympic Peninsula in Washington state. Xwelas killed George Phillips, her immigrant Welsh husband. Phillips had beaten Xwelas throughout the year they had been married and he finally threatened to kill her on Christmas Day, 1878. Xwelas grabbed a shotgun and decided to spend the night in the woods but Phillips picked up a rifle and followed her. In response, Xwelas shot Phillips in front of her fifteen-year-old son. Thrush and Keller argued that an all-white male jury convicted her of manslaughter rather than murder due to the intermarriages of Native Americans and the local white population, the presence of Xwelas' S'Klallm relatives in the community, and Phillips' low social standing. It also helped that her neighbors' and son testified that she may have been insane at the time of the shooting, a strategy that feminist lawyers in the 1980s also used to defend female clients who killed abusive husbands. Thrush and Keller further argued that European settlers did not bring "civilization and morality to the savage frontier" but rather Europeans were

⁶² Evans, "The First American Woman" 32, 37, 38.

the ones who made the frontier savage.⁶³ By describing the efforts of Native American battered women's advocates' fight to secure funding for shelters on reservations and to maintain autonomy over those funds, this thesis makes a small contribution to the little explored topic of domestic violence on reservations in the late-twentieth century.

One of the few historians to study domestic abuse as part of the Second-Wave Feminist Movement is Anne Enke. In 2003, Anne Enke argued that the battered women's movement politicized domestic space by fighting against the notion that domestic space was private, impervious to laws that applied to wider society. Instead, advocates demanded that government agencies support domestic space. In Saint Paul, Minnesota, advocates countered homes as a private space by having everyone run the shelter and by not having any one person own it. They obtained the aid of the local police department by marching as a group on the Capitol and on the police department. While Enke examined how advocates politicized domestic space, she did not examine how advocates adjusted their rhetoric to obtain federal legislation that funded domestic violence shelters. This thesis examines these rhetorical strategies.⁶⁴

Chapter Outline

This thesis analyzes Senate and House hearings on the 1984 FVPSA, the Indian Child Protection and Family Violence Prevention Act of 1990, the 1994 VAWA, newspaper articles, and reports to Congress from various agencies during the 1980s and 1990s to examine the role played by feminist advocates for battered women in transforming law enforcement procedures and in passing federal legislation. The following chapter, "Advocates' Strategies in Confronting Police Departments," examines how advocates for battered women adjusted their rhetoric when dealing with the courts and police in order to gain the cooperation of local government actors. It

⁶³ Thrush and Keller, "The Life and Murder Trial of Xwelas, a S'Klallam Woman," 271, 272, 273, 274, 275, 276.

⁶⁴ Enke, "Taking Over Domestic Space," 164, 176.

argues that advocates used anti-patriarchal language with battered women but strategically altered their language to argue for equal protection under the law in order to force police to answer domestic violence calls.

Chapter III, "Securing Funds for Shelters During the Reagan Years," covers the anti-feminist backlash encouraged by the Reagan administration's anti-feminist policies, which defunded battered women's shelters and pushed Congress to pass the 1984 FVPSA. It examines the language that Democrats and Republicans used to address domestic violence and how advocates for battered women shrewdly adjusted their message when addressing Congress to obtain support and funding for shelters. This time advocates employed a social services message to emphasize how many lives shelters saved.

Chapter IV, "Advocates Win Reauthorization of FVPSA and Passage of the 1990 Indian Child Protection and Family Violence Prevention Act," examines the reauthorization of FVPSA and the passage of the Indian Child Protection and Family Violence Prevention Act of 1990. This chapter demonstrates how advocates continued to use the social service message but the insufficient financial support increased the sharpness of advocates' language in their dealings with Congress to obtain the reauthorization of FVPSA and the passage of the Indian Child Protection Act. It also examines the increasing frustration of Congressional Democrats with the Reagan administration and the frustration of Congressional Republicans with the Bush Administration.

Chapter V, "Passage of VAWA and *United States v. Morrison*," concludes the thesis by exploring the politics surrounding the passage of the 1994 Violence Against Women Act and the Supreme Court's decision in *United States v. Morrison* to prevent women from suing their attackers in federal court. It argues that the VAWA is the culmination of advocates' work for the

previous 20 years as members of Congress had become battered women's advocates; yet, advocates could not change the judiciary's archaic perceptions of domestic violence.

CHAPTER II

ADVOCATES' STRATEGIES IN CONFRONTING POLICE DEPARTMENTS

In the late 1970s battered women's advocates strategically altered their feminist rhetoric when dealing with police departments, which were predominantly male, to obtain assistance in combating violence against women. Historically, police intervention was counterproductive as male police officers sided with male batterers. As a result, women's advocates took more than a few police departments and city councils to court in order to overturn centuries old attitudes that had no basis in law. To obtain the court's assistance, however, women's advocates could not argue against the inherent inequalities of a sexist society but rather had to argue that women, as citizens, were entitled to equal protection under the law. By adjusting their rhetoric as a strategy to gain the cooperation of government institutions, battered women's advocates obtained positive police intervention in domestic violence cases.

In the twenty-first century the term “patriarchal,” especially in the United States and Western Europe, is more often associated with an attitude, a religion or a custom rather with the legal system. A patriarchal father is a man who is too strict or shows favoritism towards his male offspring. A patriarchal religious attitude is one such as the Christian Biblical misquote that “God hates divorce.”¹ An example of a western patriarchal custom is that, until recently, men were expected to make the marriage proposal. Since the late 1970s, Americans generally have not thought of patriarchy in the west as enshrined in law and enforced by law enforcement officers. Until the second-wave feminist movement, however, it was very much engrained in law and law enforcement practices in the United States. Women were not allowed to serve on

¹ James Alsdurf and Phyllis Alsdurf, *Battered Into Submission: The Tragedy of Wife Abuse in the Christian Home* (Downers Grove: InterVarsity Press, 1989), 118. The Bible actually reads “For I hate divorce, says the Lord, the God of Israel, and covering one’s garment with violence, says the Lord of hosts. So take heed to yourselves and do not be faithless.” Mal 2:16 NRSV. To be faithful appears to also mean to be nonviolent towards one another.

juries, were not given custody of their children in divorces, and were unable to receive medical sterilization surgery without the approval of their husbands.² These were the legal precedents battered women's advocates had to combat. The language advocates used with survivors of domestic violence enabled survivors to see the permissive and pervasive nature of violence against women, which helped survivors to stop blaming themselves for the abuse they had endured. Advocates had to alter their rhetoric, however, in order to obtain the cooperation of institutions.

Language Used with Survivors

In their language directed toward victims of domestic abuse, women's advocates pointed to the inherent inequalities governing society to explain the existence and persistence of violence against women and, specifically, domestic abuse and rape. In response to government and police intransigence, women's centers wrote "do it yourself" books for other advocates on how to build women's centers and combat myths about violence against women. In the United Kingdom Erin Pizzey, the founder of Chiswick Women's Aid, the first modern domestic violence shelter, wrote a book on how she established Chiswick Women's Aid and about her fights with the local British council to keep it running.³ Another book written and published by the London Rape Crisis Center pointed out the ridiculous widespread myth that men could not control their sexual urges.⁴ The authors of the book, *Sexual Violence: The Reality for Women*, pointed out that regardless of what a woman did, most *women* considered rape a woman's fault because she had failed to

² Linda K. Kerber, "A Constitutional Right to Be Treated Like American Ladies," 25, 31. In 1961 the Supreme Court upheld a Florida law which allowed women to be excused from jury duty more easily than men. Albert Roberts, *Springer Series on Social Work*, vol. 3, *Sheltering Battered Women: A National Study and Service Guide* (New York: Springer Publishing Company, 1981), 94.

³ Erin Pizzey, *Scream Quietly or the Neighbors Will Hear* (Short Hills: Ridley Enslow, 1977), 4.

⁴ The London Rape Crisis Centre, *Sexual Violence: The Reality for Women* (London: The Women's Press Handbook Series, 1984), 4.

observe some miniscule social dictum.⁵ The authors explained that the "existence of rape is fundamental to the power structure which exists between men and women," allowing men to shift the responsibility for rape onto women whenever they choose.⁶ In using such language, these women's rights advocates encouraged victims to recognize how they had been socialized to accept responsibility for the violent actions of men. Understanding the overall structure of society, which allowed men to foist responsibility for their actions onto their victims, made it possible for survivors to free themselves from the mistaken belief that they had brought the violence on themselves. While this is a British example of feminist discourse, it deserves special note as domestic violence shelters and rape hotlines were founded first in Great Britain and American shelters and rape centers communicated with and learned from their British counterparts.⁷

Canadian Micheline Beaudry's categories of domestic violence shelters is an example of feminist language used both with battered women and with advocates. In Canada, advocates used the shelter at Chiswick and *The Feminine Mystique* as examples of how to reject the loneliness and isolation that women suffered in their homes. Beaudry placed shelters into four categories: pure protectionist, legal protectionist, moderate liberationist, and radical liberationist. Unlike the protectionist models, which substituted traditional values for women's legal rights, the

⁵ The London Rape Crisis Centre, *Sexual Violence*, 3. These were some of the rules the advocates found that women told one another to avoid rape.

Don't go out without clothes - that encourages some men

Don't go out with clothes - any clothes encourage some men

Don't go out alone at night - that encourages men

Don't go out alone at any time- any situation encourages some men

Don't go out with a female friend- some men are encouraged by numbers

Don't go out with a male friend - some male friends are capable of rape

⁶ The London Rape Crisis Centre, *Sexual Violence: The Reality for Women*, 6.

⁷ Pizzey, *Scream Quietly or the Neighbors Will Hear*, 7. Erin Prizzey came to the United States and did a speaking tour around the country. She also had lunch with several Congressmen interested in finding ways to combat domestic violence. Prizzey, however, did criticize American advocates for battered women and their belief that a job would somehow free a battered woman from domestic violence.

liberationist models perceived traditional values as either unhelpful, moderate liberationist, or as something to be radically criticized, radical liberationist. Indeed, the protectionist models recognized the family as the foundation of society and argued that only the actions of some men threatened women. In the moderate liberationist model the power dynamics that existed between men and women were perceived as part of the ongoing struggle to challenge social inequality and socioeconomic conditions. The radical liberationist model ran on the ideology that, "The nuclear family is a bourgeois institution. Women are victims of male oppression in patriarchal society. The phenomenon of battered women is symptomatic of the condition of women as a whole."⁸ The first shelters in Canada did not open until 1975 but the cross pollination of ideologies and ideas across national boundaries supported and invigorated advocates in the three countries.⁹

An excellent example of feminist discourse directed at victims and survivors in the United States came from the Rape Crisis Center in Madison, Wisconsin. Founded in 1973 the Rape Crisis Center consisted of 20 volunteers, most of them students at the University of Wisconsin-Madison. These advocates believed in holding consciousness raising meetings in the community. After the meetings women would come up to them and recount their own experiences of rape or ask how they could help the center. In response the women of the Rape Crisis Center stated in their mission statement that "We are angry at society's unwillingness to acknowledge the violence of rape. We are angry at the unwillingness to acknowledge the frequency of rape." The women continued, "We are committed to the belief that, contrary to our socialization, we women can be assertive and self-sufficient and can handle responsibilities and

⁸ Beaudry, *Battered Women*, 31, 35, 98.

⁹ Beaudry, *Battered Women*, 21. Erin Pizzey, *Scream Quietly or the Neighbors will Hear*, 7.

risks; it is imperative that women help other women demonstrate this."¹⁰ Many advocates had to do just that when tackling police intransigence. In the process, they adjusted their rhetoric to argue that women had a right to equal protection under the law. This strategy enabled advocates to undermine the very social structures that allowed men to violently assault women. By forcing the police to arrest violent men, through the use the equal protection under the law rhetoric, advocates forced public institutions to accept the feminist view that the personal was no longer private but rather public and political.

Legal Precedence and Police Intransigence

Legal precedence helps explain police attitudes on domestic violence and, specifically, wife beating. The legal precedence for police attitudes was founded in British common law, which gave men the right to beat their wives so long as the rod used was "not thicker than his thumb," a custom that became known as the "Rule of Thumb."¹¹ Sir William Blackstone justified a man's right to beat his wife in his 1765 book *Commentaries on the Laws of England*, one of the foundational legal texts for both England and the United States. In his *Commentaries*, Blackstone stated that a husband could correct his wife's behavior, due to the fact that a man was legally responsible for his wife's actions, and thus had the right to chastise her just as he could "correct his apprentices or children."¹² By the time of Charles II, however, women had "the security of peace against their husbands" and men had the same against abusive wives.¹³ Yet Blackstone contemptuously noted that those of "the lower rank" continued to invoke "the old

¹⁰ Diane Kravetz, *Tales from the Trenches: Politics and Practice in Feminist Service Organizations* (New York: University Press of America, 2004), 30. Enke, "Taking Over Domestic Space," 171.

¹¹ United States Commission on Civil Rights, *Under the Rule of Thumb: Battered Women and the Administration of Justice*, January 1982, 2, accessed April 7, 2017, <http://www.law.umaryland.edu/marshall/usccr/documents/cr12w8410.pdf>.

¹² Blackstone, *Commentaries on the Laws of England*, vol 1., 443.

¹³ Blackstone, *Commentaries on the Laws of England*, vol 1., 444.

common law" to justify beating their wives and the courts allowed it.¹⁴ Despite his purported contempt, Blackstone justified the Rule of Thumb by arguing that such corrections, even violent ones, were "for the most part intended for her protection and benefit: so great a favourite [*sic*] is the female sex of the laws of England."¹⁵

Grounded in the Rule of Thumb legal precedent that Blackstone simultaneously expressed contempt of and support for, the Mississippi Supreme Court ruled in 1824 that a "husband be permitted to exercise the right of moderate chastisement, in cases of great emergency, . . . without being subjected to vexations prosecutions, resulting in the discredit and shame of all parties concerned."¹⁶ In other words, the court reaffirmed a man's right to beat his wife and his protection from legal reprisals. Slowly, however, states began to challenge the Rule of Thumb legal tradition. In an Alabama case during the 1870, a court overturned the Rule of Thumb, and ruled that men and women were equals in the eyes of the law.¹⁷ Women did not yet have the right to vote but were considered "citizens of Alabama, possessing equal civil and political rights and public privileges." In 1882, Maryland even made wife beating a crime punishable with up to "40 lashes or a year in jail," which, after the first man was prosecuted under the act, had such an effect that a district attorney in Baltimore remarked, "the crime ceased as if by magic." But it was a North Carolina court ruling that would govern how the law treated male batterers for the next century. In 1874, a North Carolina court ruled that a man did not have the right to beat his wife but that "[i]f no permanent injury has been inflicted, nor malice,

¹⁴ Blackstone, *Commentaries on the Laws of England*, vol 1., 444.

¹⁵ Blackstone, *Commentaries on the Laws of England*, vol. 1, 444.

¹⁶ Pauline W. Gee, "Ensuring Police Protection for Battered Women: The Scott v. Hart Suit," *Signs* 8, no. 3 (1983): 555. Straus, et al., *Behind Closed Doors*, 10. U.S. Commission on Civil Rights, *Under the Rule of Thumb*, 2.

¹⁷ Gee, "Ensuring Police Protection for Battered Women," 555. U.S. Commission on Civil Rights, *Under the Rule of Thumb*, v, 2.

cruelty nor dangerous violence shown by the husband, it is better to draw the curtain, shut out the public gaze, and leave the parties to forget and forgive."¹⁸

Incidences of domestic violence demonstrate that even after the passage of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote, women did not enjoy equal protection under the law and patriarchal attitudes persisted. In 1982, the United States Commission on Civil Rights issued a report that found that "the common law legacy of women as objects of property and as incompetents unable to conduct their own legal affairs continues to color the attitudes of police officers, prosecutors, and judges." It took until the 1980s, therefore, for Congress to officially and publicly recognize that patriarchal legal interpretations continued to guide the actions and attitudes of male police officers, lawyers, and judges toward battered women.¹⁹

By the late 1970s, domestic violence shelters were extremely aware of a disturbing trend of hostility towards battered women advocates from government institutions and approval for violence against women among a significant portion of the general population. In the United States, some Law Enforcement Assistance Administration (LEAA) officials actively directed domestic violence cases to local women's shelters and community groups but did not believe that domestic violence cases should go to court or be pursued by police. In 1978 one LEAA official stated, "Advocates for battered women will have to understand that the criminal justice system has nothing inherent in its structure or function that would lead it to make battered women cases a priority."²⁰ Providing funds to protect women from domestic violence was one thing, pursuing

¹⁸ U.S. Commission on Civil Rights, *Under the Rule of Thumb*, 2.

¹⁹ U.S. Commission on Civil Rights, *Under the Rule of Thumb*, v, 2.

²⁰ Tierney, "The Battered Women Movement," 215. He continued "Advocates will have to understand the dynamics of social action and political pressure that lead the criminal justice system to allocate resources to certain areas not because such allocation is good or wise but because somehow, it becomes expeditious or necessary." Apparently, it had not been made clear to this bureaucrat that addressing domestic violence was becoming an expeditious political matter.

these cases in court quite another, according to this LEAA official. Ironically, LEAA had the stated directive to disburse grants to "government agencies, educational institutions, and private organizations to improve law enforcement."²¹ It took a few more years before academics linked arrests to decreased incidents of domestic violence.²²

Not only was there reluctance to become engaged in fighting domestic violence at the federal level but a significant portion of the general public appeared reluctant to combat domestic violence. In fact, studies of spousal abuse indicated that a significant percentage of the public approved of spousal abuse. The Pennsylvania Coalition Against Domestic Violence submitted a fact sheet to the United States Congress in the 1983 Hearing on Domestic Violence that stated twenty percent of Americans approved of "slapping one's spouse on appropriate occasions" and "approval of this practice increase[d] with income and education."²³ Given the animosity of both federal agencies and the public towards those who sought to end domestic violence, the hostility of police officers and police departments towards battered women and battered women's advocates is unsurprising.

Police Responses to Domestic Violence Calls

In addition to legal precedent, there were several reasons behind police departments' reluctance to become involved in domestic violence calls. In the 1970s police officers were not adequately trained on how to handle these calls.²⁴ Yet domestic violence calls were a significant portion of police calls, ranging from 39 percent of aggravated assaults between family members

²¹ National Archives, Records of the Law Enforcement Administration, Record group 423, 1965-1977. 423.1. Administrative History, accessed July 22, 2015, <http://www.archives.gov/research/guide-fed-records/groups/423.html#423.2>.

²²"Arrest May be Deterrent in Domestic Violence, Study Shows," *The New York Times*, May 30 1984, accessed on September 14, 2014, <http://www.nytimes.com/1984/05/30/garden/arrest-may-be-deterrent-in-domestic-violence-study-shows.html>.

²³U.S. House Committee on Education and Labor, Subcommittee on Select Education, *Hearing on Domestic Violence*, 98th Cong., 1st sess., 1983, 46.

²⁴ U.S. Commission on Civil Rights, *Under the Rule of Thumb*, 13.

in St. Louis in 1961 to 52 percent of aggravated assaults between family members in Detroit between 1968 and 1969.²⁵ Police officers were often injured or even killed when responding to domestic calls, which included not just spousal violence but all forms of family violence. According to the FBI, between 1976-1980, “32 percent of assaults on police officers and 16 percent of all police officer deaths occurred while handling domestic violence calls.”²⁶ Without proper training officers never knew what to expect on domestic violence calls; their emotions on domestic violence calls ranged from fear to callous indifference. In 1973, a New York City policeman, after being shot in the ribs while responding to a domestic call involving a father and his sons, remarked that police “walk into somebody’s house-man. you [*sic*] don’t know what you’re in for . . . You just try to calm them down. If you don’t get another call that night, you figure you did your job.”²⁷ In 1976, a Boston police officer told a woman who had been beaten and then pushed down the stairs by her husband “Listen lady, he pays the bills, doesn’t he? What he does inside of his own house is his business.”²⁸ Officers generally did not receive training on how to deal with situations of violence within the family unit.²⁹ This left officers free to choose sides. If officers actually came to the house their responses to aggravated assault often varied wildly due to a lack of established protocol on how to address domestic violence calls.

²⁵ David J. Pittman and William Handy, “Patterns in Criminal Aggravated Assault,” *The Journal of Criminal Law, Criminology, and Police Science* 55, no. 4 (1964): 464. James Boudour, “Homicide and the Family,” *Journal of Marriage and Family* 33, no. 4, Special Double Issue: Violence and the Family and Sexism in Family studies, Part 2 (1971): 669.

²⁶ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 85. Same study cited in U.S. Commission on Civil Rights, *Under the Rule of Thumb*, 13.

²⁷ George Vecsey, “Family Quarrels’ Bedevil Police.” *The New York Times*, January 26, 1973. Accessed September 14, 2014, <http://query.nytimes.com/mem/archive-free/pdf?res=9F02E4DA1531EF34BC4E51DFB7668388669EDE>.

²⁸ *The Real Paper*, February 11, 1976 as quoted in Murray A. Straus *et al*, *Behind Closed*, 32.

²⁹ Vecsey, “Family Quarrels’ Bedevil Police.” An exception to the general ignorance of police officers occurred in the late 1960s in New York City when the 30th Precinct had a specially trained family crisis unit. There were no family homicides in the close to one thousand families visited by the unit while it was active. The unit was an experiment, however, and was disbanded after four years.

In the mid-1970s, a single woman's experience with the same police department demonstrates how police officers could actively contribute to further hurting battered women and in other cases how police officers could effectively check domestic violence. Millie lived in an apartment building and her husband beat her often over their nine-year marriage. Once, two police officers responded to a call made by the neighbors. Both of Millie's eyes were swollen, she had a bloody nose, and her husband had torn off her dress, which left her wearing only a slip. Hearing the officers Millie ran to the door. One of the officers grabbed her breast and would not release her until her husband came to the door, whereupon the officer said, "Oh, is this yours?" The officer then instructed Millie's husband to get her some clothes and take Millie to the hospital. Then they left. Not only did the officers choose to not intervene, but they also reinforced the husband's control over Millie by sexually assaulting her and then leaving her to the mercy of her husband.³⁰

On another occasion two officers, again in response to a neighbor's phone call, broke the door down because they thought someone was being killed inside due to Millie's and her children's screams. The officers immediately put Millie and her husband in two separate rooms. The officer questioning Millie realized that she could not rely on her relatives because the last time Millie sought refuge with her sister, her husband had violently assaulted her brother-in-law. With this information in mind, the officer volunteered to solve the situation for Millie. The officer sat the husband on the couch and stood over him. He made it clear that cutting Millie was attempted murder and that prison guards did not view wife killers kindly. He also made certain that a police car drove by a few times a day after he left. This police officer, a sergeant,

³⁰ Albert R. Roberts, "Police Intervention," in *Springer Series on Social Work, vol.1, Battered Women and their Families: Intervention Strategies and Treatment Programs*, ed. Albert R. Roberts (New York: Springer Publishing Company, 1984), 120, 121. The exact date of the incident was withheld by Roberts, most likely for confidentiality reasons. He simply stated that this incident occurred prior to 1978. The name of the woman was changed by Roberts in order to protect her identity.

successfully challenged the husband's control by informing him that violent assault, a crime, could cause him to spend time in prison. By stating that prison guards did not view wife killers kindly, the officer made it clear that society did not condone the husband's behavior and society would not look the other way when he abused Millie. As a result of this officer's intervention, Millie lived abuse free for a month.³¹

Millie's experience vividly echoed similar police responses reported by shelters. About half of shelters surveyed in 1978, 35 out of 79, had mixed experiences with police departments. Responses from police officers included sexist comments such as "A weekly beating keeps a girl in line" and "Women need a good whipping once in a while."³² Some officers of the court were also deaf to the needs of women. One court clerk in Massachusetts refused "to issue a complaint against an abusive husband" and informed the woman "I push my wife around sometimes too. It doesn't mean anything. It's a trivial domestic matter."³³ The next two case studies demonstrate the inconsistent and unsatisfactory responses advocates for battered women received from police departments and how advocates confronted police departments and prompted them to change their responses to domestic violence calls.³⁴

St. Paul, Scott v. Hart, and Feminist Responses

Evidence of police's refusal to deal effectively with domestic abuse cases was noticeably visible in the St. Paul Police Force in 1974. Members of Women's Advocates, a battered women's shelter in St. Paul, Minnesota, found themselves unable to rely on the police for protection from batterers as the police assumed that men had rights to their wives' bodies no matter where their wives were residing. A St. Paul police officer displayed this attitude when he

³¹ Roberts, "Police Intervention," in *Battered Women and their Families*, 121.

³² Roberts, *Springer Series on Social Work*, vol. 3, *Sheltering Battered Women*, 94.

³³ Roberts, *Sheltering Battered Women*, 97.

³⁴ Roberts, *Sheltering Battered Women*, 91.

arrived at Women's Advocates' battered women's shelter in response to an emergency call where a threatening batterer had arrived at the shelter. Instead of helping deescalate the situation the officer stated, "My job is to protect marriage." In another instance, a threatening batterer demanded to see his wife and kids, who had sought refuge at the shelter, and the officer on the scene refused to escort the man away from the shelter. Instead the officer informed the advocate on duty, "You're a woman's advocate. I'm a man's advocate." Officers would refuse to arrest a man who broke into the shelter unless that man's wife pressed charges at the time of the initial break-in. The police assumed that no one could deny a man access to "his" wife and children nor could the man be charged with trespassing. Women's Advocates, however, insisted that women had the right to live—in their homes and in the shelter—without public or private violence inflicted upon them.³⁵

The Mayor of St. Paul, representatives of the Women's Advocates, and the Chief of Police for St. Paul had a formal meeting to address police responses. In the meeting, Chief of Police R.H. Rowan stated he was "very concerned about the legal rights of men who wished access to their wives and children." A representative from the city attorney's office had to inform the police chief that a man did not have a legal "right" to access women and children. The police chief immediately became more cooperative. By the following year officer training sessions included Women's Advocates members and the police gave emergency calls from the shelter a high priority. These changes in policy did not rewrite the legal rights of men but rather included women as members of the citizenry entitled to equal protection under the law. Thus, battered women's advocates activism and altering their rhetoric from combating the inherent inequalities

³⁵ Enke, "Taking Over Domestic Space," 164, 167, 169, 177, 178. The group was founded in 1972 and operated out of members' private residences until 1974, when they bought a house to serve as a shelter. A battered woman was unlikely to press charges at the time of the initial break-in for fear her batterer would harm her as he now knew where she was hiding.

of a sexist society to the more specific and localized message of the right to equal protection under the law led to a change in police policies. Unfortunately, meetings did not always change police attitudes. In those cases, advocates used the courts to pursue justice for battered women.³⁶

In 1976 four women filed a lawsuit in federal district court, *Scott v. Hart*, against the police department in Oakland, California, for responding inadequately to domestic violence calls. The four plaintiffs, one married, one in the process of obtaining a divorce, and two living with their boyfriends, represented both married and unmarried women. The lawsuit specifically targeted members of the city council, the police chief, and high ranking police officers in supervisor positions, including captains, the supervisor of the dispatch room, and the supervisor of the assault and battery desk. Prior to the lawsuit, the Oakland Police department had a policy of arrest as a last resort in domestic violence cases; it instead directed its officers to act as mediators and counselors instead of arresting the violent offender. The plaintiffs wanted to change this last resort policy and force the police to attend new training seminars which would help them understand domestic violence not as an internal domestic dispute but rather as inappropriate perpetration of violence. The lawsuit focused on the police department because it had the ability to render assistance to battered women twenty-four hours a day.³⁷

The female lawyer who represented the battered women argued that the Oakland Police Department's policies discriminated against women's right to due process before the court, their First Amendment rights, and women's rights to equal protection under the law. The due process argument was that the arrest avoidance policy denied battered women their day in court. Without an arrest, women could not file a criminal complaint and a criminal prosecution could not take place. Therefore, the policy deprived women of their right to liberty and to security as

³⁶ Enke, "Taking Over Domestic Space," 178.

³⁷ Gee, "Ensuring Police Protection for Battered Women," 554, 556, 559.

citizens and left women vulnerable to death or to serious physical and emotional injury. The First Amendment argument continued the due process argument and stated that the arrest avoidance policy could be seen as a violation of the right to petition the government for a redress of grievances since the policy denied citizens access to the courts. The equal protection part of the argument pointed out that avoiding arrest in domestic violence cases discriminated against women on the basis of sex and the courts had already ruled in other cases that laws could not discriminate on the basis of "broad and archaic" ideas of sex roles. In this case that meant the police department could not base its policies on the gendered idea that a man's home is his castle and, by extension, that men had the right to physically assault their wives.³⁸

In defense of their arrest avoidance policy, the Oakland Police department argued that they did not wish to cause the batterer to "lose face" within the home by arresting him. In addition, they did not want to increase the risk to police officers by arresting the batterer. They also did not believe battered women would see the arrest through prosecution. Lastly, they believed that an arrest would lead to a breakup of the family, which they considered an undesirable outcome.³⁹

The lawyer for the battered women did not use the anti-patriarchal feminist discourse that advocates had used with survivors to deride the police department's defense. Such a discourse would have pointed out that police had invested in maintaining a system that made a woman's beaten body secondary to a man's ego. After all, police officers stopped riots and other forms of violent disorder but the idea of restraining one violent offender inside his home appeared too

³⁸ Gee, "Ensuring Police Protection for Battered Women," 558, 560, 561. Gee was citing *Califano v. Goldfarb*, 430 U.S. 199 (1977) wherein a widower sued the government because the Social Security Administration refused to give him his wife's social security survivor benefits. The court ruled in widower's favor as "broad and archaic" ideas of sex roles could not be used to justify denying him his wife's social security survivor benefits. *Weinburger v. Wiesenfield*, 420 U.S. 626 (1975). *Stanton v. Stanton*, 421 U.S. 7 (1975).

³⁹ Gee, "Ensuring Police Protection for Battered Women," 559.

risky for police officers. In addition, no police officer knows for certain if any specific arrest will lead to a successful prosecution, therefore, the idea that a woman would not testify was not an adequate reason for failing to make an arrest. Finally, law enforcement agents do not have a duty to maintain marriages. The lawyer for the battered women could not use these arguments in a male dominated forum such as the courtroom. Instead, she strategically adjusted her rhetorical approach. She argued that the police's defense arguments did not contain "any rational factual basis in that they are not legitimate state goals" and could not be justified under the constitution. She pointed out the lack of constitutional basis for the arguments of the police. Furthermore, she attacked systemic sexism by arguing that the arrest avoidance policy violated battered women's rights to equal protection under the law. Thus, she forced the police department to protect battered women and her argument brought women into legal discourse as full-fledged citizens who had the right to live a life free of violence. The lawyer's adjusted rhetorical approach was essential to securing the cooperation of the male dominated courts and the male dominated police department. In addition, it was the first step towards changing legal practices to reflect that a society whose citizenry consists of both men and women must reevaluate the meaning of what it is to be a citizen to include women's perspectives and life experiences.⁴⁰

As the lawyer in *Scott vs. Hart* had adjusted her argument to gain the cooperation of the male dominated courts and police department, so too did rhetoricians use conventional definitions of the term "woman" when challenging male privilege. Rhetorician K.J. Rawson noted that in challenging the traditional androcentric rhetorical canon feminist scholars created a new canon. Yet, even though the new canon challenged male privilege, it also maintained the conventional definitions of the term "woman." While challenging the old canon feminist rhetoricians had created a new canon with similar faults; the next step would be to create new

⁴⁰ Gee, "Ensuring Police Protection for Battered Women," 558, 559, 560.

works that redefined the term "woman."⁴¹ So also, in her attempt to change police policies, the feminist lawyer in *Scott v. Hart* gained the cooperation of the courts to make police officers extend to women traditional protections of citizenship, to live a life free of violence, which had previously been the sole providence of men, as the first step to challenging systemic violence against women. One example of a country which now challenges the systemic nature of violence against women is New Zealand, which has made it a social expectation that it is the responsibility of all citizens to end domestic violence.⁴²

Thus the battered women's attorney adjusted her argument in front of the predominately male legal profession and male judiciary that determined the case to gain the short-term goal of police cooperation. As explored in Chapter III, battered women's advocates would have to make a similar adjustment when they asked Congress to fund shelters only seven years later. This adjustment in discourse made by the lawyer for the four battered women in Oakland led to the outcome she and her clients and set out to accomplish.

Three years after the *Scott v. Hart* lawsuit was filed, a settlement was reached with the police department. As part of the settlement, the police department canceled the arrest avoidance policy and limited the discretion of police officers to refuse to arrest. The police agreed to treat domestic violence as a criminal behavior, to enforce restraining orders, and to inform battered women that they could perform a citizen's arrest. The police became responsible for giving

⁴¹ K.J. Rawson, "Queering Feminist Rhetorical Canonization," in *Rhetorica in Motion: Feminist Rhetorical Methods & Methodologies*, ed. Eileen E. Schell and K.J. Rawson (Pittsburgh: University of Pittsburgh Press, 2010), 45.

⁴² In 2005, New Zealand's national government created the Taskforce for Action on Violence within Families in order to combat violence in the home. The taskforce established the "It's Not Okay" media campaign, which empowered the populace to report incidences of domestic violence and increased the accuracy of media reports on domestic violence. New Zealand Ministry of Social Development, "An innovative approach to changing social attitudes around family violence in New Zealand: Key ideas, insights and lessons learnt. The Campaign for Action on Family Violence," March, 2010, prepared by Point Research Ltd. ISBN 978-0-478-32387-0 (Online). This is an example of one of their videos, accessed on February 21, 2017, <https://www.youtube.com/watch?v=poRjb4m8RXk>.

battered women a Resource Card, popular with police departments in the 1970s, which listed shelters and law offices dealing with domestic violence. Furthermore, the settlement made the city responsible for providing battered women with support services. In addition, a panel was established of two police officers, two battered women's lawyers, and a domestic violence survivor to review reports of the police department's non-compliance with the settlement. Perhaps most important of all the concessions was the fact that the police agreed to change their training to reflect the legal settlement and to include battered women's advocates in "all domestic violence training." The lawsuit not only changed the Oakland Police Department's policies but also made it possible for battered women's advocates to intervene directly in the training of officers and to change the tone of that training from a defense of patriarchal power within the home to a defense of female citizens from violence within the home.⁴³

By gaining the cooperation of the police, the courts, the mayor, and their city councils, battered women and advocates for battered women in Oakland and St. Paul forced changes in policies that allowed police discretion in response to domestic violence calls and discretion in arresting violent offenders within the home. Feminists obtained their objective by altering their rhetoric from directly confronting sexist attitudes to the more specific message of attaining equal protection under the law in an effort to gain the cooperation of government actors. The angle of attack changed but the concrete results were the same. In the process, these city governments adopted the idea that women were entitled to equal protection under the law. In addition, the ruling extended the umbrella of equal protection to include women in their homes, which was no small victory against the perceived nature of systemic violence against women.

⁴³ Gee, "Ensuring Police Protection for Battered Women: The Scott v. Hart Suit," 561, 562. House Committee on Education and Labor, *Hearing on Domestic Violence*, 143.

Changing Attitudes in State Legislatures and Police Departments

While not all police departments required litigation to change their policies, as Oakland's police department did, the threat of litigation certainly helped. Indeed, state legislatures and police departments around the country began working with battered women's advocates to develop better strategies for dealing with domestic violence. State legislatures passed legislation that required police officers to arrest violent offenders, regardless of whether the offense had taken place in a public place or in the privacy of the home.⁴⁴ Police departments collaborated with battered women's advocates on training videos and manuals on how to handle domestic violence calls. Eventually, police officers were told to not regard themselves as problem solvers but rather as law enforcement officers who had a duty to end the violence.⁴⁵ In time, due to pressure from advocates which changed local rules and state laws, police officers understood that their responsibility in domestic violence calls lay in conveying the disapproval of the community in the use of violence within the home and arresting the perpetrator if a certain level of violence had been committed. By the time a police chief from Charleston, South Carolina testified before Congress at the June 23, 1983 Hearing on Domestic Violence before the Subcommittee on Select Education, police departments across the country had begun advocating for more domestic violence shelters and had created handbooks and methods for their police officers on how to deal with domestic violence calls. Advocates' involvement with police departments across the country had caused law enforcement officials to begin confronting institutional assumptions about domestic violence.

⁴⁴ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 143. The Newark Police Department issued a lesson plan police handbook on domestic violence that pointed to the lawsuits against police departments as proof that police departments did not adequately address the problem of domestic violence. In addition, the lesson plan cites the lawsuits as the reason state legislatures passed legislation forcing police departments to arrest offenders without regard of the relationship between the offender and the victim.

⁴⁵ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 111, 143.

Many police departments actively worked with battered women's advocates to train officers in how to handle domestic violence calls. Bonnie Flynn, the director of the Women In Distress shelter in Fort Lauderdale, Florida testified to Congress in the 1983 Congressional Hearing on Domestic Violence about how police officers in 10 of the 29 municipalities of Broward County received training videos developed by the Women In Distress shelter. The videos trained the officers in the best way to handle domestic violence calls quickly and effectively. Flynn boasted that the time officers saved by using the shelters' methods made it possible for them to be available sooner to answer other calls.⁴⁶

Police departments and battered women advocates also collaborated to develop manuals on how to respond to domestic violence calls.⁴⁷ The manuals taught police officers how to approach and deal with domestic violence safely. The manuals also taught officers to direct women to local shelters and to help battered women better understand their rights.⁴⁸ In addition, training manuals demonstrated that the state governments had come to recognize that battered women were citizens whose social roles had to be understood if they were to be helped. The Newark Police Academy manual asked the question, "Why arrest when called into a family disturbance that has resulted in violence?" The manual gave two answers: 1) because arrests prevented further injury and 2) because victims often try to protect the abuser and an arrest shifts the responsibility for the abuser's behavior from the victim "to community agencies which increases the ability of the system to hold assailants responsible for their use of violence."⁴⁹ This

⁴⁶ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 52.

⁴⁷ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 142, 143, 166.

⁴⁸ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 154, 175, 161.

⁴⁹ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 158.

explanation is a far cry from the hostile attitudes and responses of police departments in the 1970s who viewed domestic violence as either non-existent or beneficial for women.⁵⁰

The legal challenges brought by battered women's advocates against police departments and cities prompted some states to respond with domestic violence legislation. For instance, the Illinois Domestic Violence Act required the police to assist the victim, arrest the abuser and report the incident, which made it more difficult for officers to refuse to make an arrest.⁵¹ The New Jersey Prevention of Domestic Violence Act, passed in 1982, required police officers to fill out a detailed domestic violence offence report and to inform survivors of the many legal remedies at their disposal including a restraining order, a court order for custody, a court order to remove the abuser from their home, and a court order directing the attacker to pay for medical, dental, and moving costs.⁵² Unfortunately, the act permitted, but did not require, New Jersey officers to arrest a person if obvious physical injury had occurred.⁵³ These acts demonstrate that battered women's advocates were gaining traction not only at the local level but also at the state level, traction they would later use to propel the federal government into action.

The coups de grace, however, came in the congressional testimony of a police chief, whose testimony demonstrated that many police departments and police officers had come to share advocates' belief that violence against women had to be stopped and patriarchal assumptions had to be challenged. Indeed, one of the greatest examples of feminist rhetoric adopted by progressive police forces came in the testimony of Charleston, South Carolina's police chief, Reuben M. Greenberg, in a congressional hearing on Domestic Violence in 1983. Greenberg testified on behalf of the Police Executive Research Forum, which consisted of 86

⁵⁰ Roberts, *Sheltering Battered Women*, 92, 94. The view of domestic violence as beneficial is evidenced by comments such as "A weekly beating keeps a girl in line" and "Women need a good whipping once in a while."

⁵¹ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 196.

⁵² *Prevention of Domestic Violence Act of 1982*, New Jersey Public Law 1981, c. 426. (July 23, 1982), 3.

⁵³ *Prevention of Domestic Violence Act of 1982*, New Jersey Public Law 1981, c. 426. (July 23, 1982), 2.

sheriffs and police chiefs. In his testimony, he gave credit to battered women's advocates for the changes that had occurred in police training programs and police procedures for domestic violence.⁵⁴ Greenberg categorized violence against women in decidedly feminist terms. Greenberg described domestic violence as "homicide, aggravated assault, assault with intent to kill, rape, battery, theft, harassment, terroristic threats, malicious mischief, and disturbing the peace." These constituted "a serious crime problem that threatens the survival of our family structure and impairs the social fabric of every community in the Nation." He also considered batterers to be "habitual, hardcore offenders who deny responsibility for their acts and blame their victims for the violence."⁵⁵ He ended his prepared statement with the clarion call "male violence against women must stop," and asked the Federal government to join the fight against domestic violence by sending "a clear and consistent message across the country that the violence will not be tolerated and that violent family members will be condemned and held accountable to change their violent behavior."⁵⁶ Even though he was the only police chief to testify, and he represented only 86 police chiefs out of thousands of police chiefs in the country, Greenberg's testimony demonstrated that the most progressive police departments in the country were in lock step with the feminist messages of the battered women's advocates by the early 1980s.

When helping battered women, advocates used feminist discourse that attacked patriarchy and the widespread prejudice that made it a woman's fault for being beaten or raped

⁵⁴ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 84, 93.

⁵⁵ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 92.

⁵⁶ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 88.

by her domestic partner. When dealing with police officers and the courts advocates strategically modified their rhetoric to gain the cooperation of the male dominated courts and local governments. Advocates argued that women, as citizens, were entitled to equal protection under the law and argued the courts could not logically refuse. The shift in rhetoric produced the desired result of extending the right to live in peace to women as evidenced by the changes in state laws and police procedures throughout the country, a significant victory as it demonstrated to state legislators and local governments that condoning violence against women was a legal liability. The subtle shift in discourse is also important to note as battered women's advocates would modify their rhetoric in similar ways in their interactions with the United States Congress.

Battered women's advocates now had to confront the federal government as the election of Ronald Reagan meant an end to the ad hoc federal funding that the shelters had previously received and a backlash against feminist rhetoric and feminists themselves. Even the Reagan Administration, however, could not summon sufficient ammunition to justify violence against women and prevent Congress from passing legislation to fund domestic violence shelters.

CHAPTER III

SECURING FUNDS FOR SHELTERS DURING THE REAGAN YEARS

The Reagan administration perceived feminists, who called for a fundamental restructuring of society to include women as first class citizens, as a threat. The backlash against feminism spearheaded by the Reagan administration cost feminists their jobs and buttressed the notion that the institutional racism, sexism, and classism, that had been a hallmark of the United States since its inception, should continue despite integration and second-wave feminists' activism. By 1984, even though the Reagan administration failed to assemble anti-feminist rhetoric that could adequately combat feminists, the administration chose to deliberately and systematically defund the government programs on which feminist organizations relied.

Just as they had with police forces, however, battered women's advocates altered their rhetoric. As the language used with survivors achieved the purpose of liberating battered women from the belief that they were responsible for the violence against them, so too did advocates realize that they would have to modify their rhetoric to a community service oriented message when addressing Congress in order to obtain financial support for the shelters. Their modified rhetoric emphasized the lifesaving social services that shelters provided, which made it difficult for Congressional Republicans to mount a successful attack on them, and made it possible to pass the 1984 Family Violence Prevention and Services Act. A congressional hearing in 1983 demonstrates that the Democrat-controlled Congress accepted advocates' argument that shelters provided a necessary community service and that battered women required community assistance to escape their abusers. Yet Republicans in Congress tried to follow the Reagan administration's lead when they declared they did not wish the federal government to fund domestic violence shelters. The change in advocates' rhetoric, Democrats' acceptance of

domestic violence as a social problem, and the inability of Republicans in Congress and in the White House to marginalize the difficulties that battered women and battered women's advocates faced, helped make the passage of the 1984 Family Violence Prevention and Services Act (FVPSA) possible.

Feminist Rhetoric in the Field

Second-wave feminism declared that "the Personal is Political." In doing so, feminists declared that family life was a source of gender inequalities and that domestic space must be politicized to change those inequalities. In 1963, Betty Friedan wrote *The Feminine Mystique* which, although perhaps not the first to sound the call for a second wave of feminism, is certainly remembered as one of the loudest calls. Friedan pointed out that the pressure to be "feminine," as defined in 1950s terms of motherhood and housewifery, had left white middle-class women feeling trapped in a society that appreciated them more for their biology than for their humanity. Friedan gave voice to women's frustration at not having a life and work independent of the family. One woman she interviewed realized at the age of thirty-six that she had to get a life for herself because she had evolved as a person, which ran contrary to the popular perception that there was no life after marriage and kids because "your husband determines and fills your life." Those women who did work usually had only part-time jobs that tided them over until they got married or temporarily saw their families through financial difficulty. Working women were not perceived, by both other women and society, as independently valuable individuals but rather as objects of pity. As a result, many middle-class white women shied away from the socially unacceptable choice of pursuing "careers." Friedan argued that women did not pursue opportunities in higher education for fear that "unfeminine" postgraduate degrees and fellowships would frighten away potential mates. These social

expectations that women should fulfill only "domestic aspects of feminine existence," which, according to Friedan, had become "a religion, a pattern by which all women must now live or deny their femininity," deeply impacted women and their ability to fulfill their dreams. By cataloging and denouncing widespread dissatisfaction among women—"the problem that had no name"—feminists like Friedan refused second-class citizenship. Instead they expressed their humanity and right to a role and identity outside the constraints of family. To Friedan this meant getting a job without facing the social stigma of "abandoning" one's responsibility as a wife and a mother.¹

The concerns raised by Friedan helped mobilize and inspire a generation of feminist advocates, including feminist advocates for battered women. These advocates took up her call to challenge the status quo by founding shelters for battered women. In the early 1970s feminists created services and shelters for rape victims and battered women to help women. When, in preparation for counseling survivors, advocates held consciousness raising meetings many of them realized that they had been raped or had experienced violent encounters bordering on rape. This realization helped advocates develop feminist rhetoric to liberate battered women and to challenge systemic violence against women.

Two case studies of feminist organizations in Wisconsin demonstrate feminist rhetoric at the grass-roots level in the early 1970s. In 1973, after a series of brutal rapes, a group of young activists formed a Rape Crisis Center in Madison, Wisconsin. The center followed the model of most rape crisis centers and provided counseling at the local YWCA through the night, starting at seven in the evening and ending at seven in the morning. They also had a crisis hotline run by

¹ Betty Friedan, *The Feminine Mystique* (New York: W.W. Norton and Company, 1997), 1, 4, 17, 36, 52, 70. Prior to Friedman, Marya Mannes wrote an article in which she explored how society's delegation of all women to motherhood had wasted the country's greatest untapped resource. Marya Mannes, "Female Intelligence: Who Wants It?" *New York Times*, January 3, 1960, accessed July 18, 2015, <http://search.proquest.com.proxy.lib.odu.edu/docview/114964158/BFDCE08D73DD41A9PQ/1?accountid=12967>.

student volunteers from the University of Madison-Wisconsin. The Center, therefore, provided support to women who believed they had been raped, since the legal definition of rape at that time was extremely narrow, and educated local police, government officials, and the community on how to approach rape victims. While their goals were decidedly community oriented, their mission statements and goals challenged the systemic nature of violence against women.²

The women began training themselves through role playing in order to understand rape victims and how best to help them; during these exercises, activists discerned that some of them had been raped or had experienced violent interactions that bordered on rape and yet had not called those experiences rape. The activists realized that violence against women was socially permissible and depressingly common. The first part of the Madison Rape Crisis Center's mission statement spoke of the rampant violence against women and the acceptance of that violence by public officials: "We are angry at the dehumanizing response rape victims get from law enforcement agencies, families, friends, juries, and the community at large. We are angry at a society that encourages and forces us to be victim-like and then castigates us for filling that role." The second part of their statement set out their broad goals for societal change and changing men's perceptions of women: "Rape is not an aberration; it is the logical violent extension of these attitudes. Without a vital change in these attitudes and expectations, rape will never be eradicated and will continue to be the most frequently occurring violent crime in the United States." By confronting the patriarchal attitudes of society, the feminists of the Rape Crisis Center challenged the unequal social and economic status of women.³

The second organization whose grassroots feminist rhetoric is examined here is a battered women's shelter. Founded in 1978, the Advocates for Battered Women in Milwaukee,

² Kravetz, *Tales from the Trenches*, 30.

³ Kravetz, *Tales from the Trenches*, 30, 31.

Wisconsin carried out many of the same programs and types of assistance that other shelters offered. The Advocates for Battered Women ran public educational programs on domestic violence, had a round-the-clock emergency number for battered women, provided shelter to battered women, conducted training programs for other agencies on domestic violence, and held "a weekly support group" for both residents of the shelter and those who lived in the community. Advocates for Battered Women linked domestic violence to the oppression of women and the group stated in their mission statement that domestic violence was used to enforce women's inferior status within society. The statement continued, "We believe that society condones this behavior by perpetuating violence through the promotion of powerlessness, particularly through the mechanisms of sexism, racism and classism." One member stated that the goal of the organization was "specifically to improve women's status vis a vis men, to rid their lives of sexist violence. I don't think you can end domestic violence without ending sexism."⁴ By linking sexism to violence against women, advocates challenged the sexist structure of society by making violence against women a social problem.

Federal Funding for Feminist Organizations: The Early Days

New organizations founded by second-wave feminists obtained public sources of federal, state, and local funding that became the cornerstones of the shelters, women's service organizations, and women's community centers, places where many women became feminists. These sources were needed to meet the daily costs of running shelters and services for women. The Rape Crises Center, the shelter run by the Battered Women's Advocates, and other organizations dedicated to ending violence against women, received federal grants that demonstrated tacit federal approval for their work and their goals. The grants paid for full time

⁴ Kravetz, *Tales from the Trenches*, 37, 38, 54.

and part time staff and indicated federal support for the idea that women's work should be paid and that feminist organizations should receive economic assistance from the government.

The aid that women's organizations received from the federal government was quite substantial. In 1974 the Rape Crisis Center in Madison, Wisconsin received funding from the Law Enforcement Assistant Administration (LEAA) for full-paid staff. The job of the staff was to help rape victims who decided to file a police report to do so, thus abiding by the LEAA mandate that funds be used to advance law enforcement. The same year a volunteer from Volunteers In Service To America (VISTA), the domestic version of the Peace Corps, conceived by President John F. Kennedy and implemented by Congress in the Economic Opportunity Act of 1964, assisted the Center in organizing their projects.⁵ The city pitched in the following year and agreed to pay for the Center's overhead.⁶

Unlike the Rape Crises Center, the Advocates for Battered Women in Milwaukee, Wisconsin first received state money from the Department of Health and Family Services in 1977. The grant paid for two part-time employees and one-full time employee. In the Fall of 1977 the Advocates won a grant from the Comprehensive Employment and Training Act (CETA), administered by the Department of Labor, after many failed attempts to gain funding from other sources.⁷ Initially, the CETA grant funded one part-time position but the next year the Advocates for Battered Women successfully persuaded CETA to provide funding for eight full-time staff as well as the part-time position. These grants made it possible for the shelters to get off the ground as volunteers could shift from fundraising to actually setting up and running

⁵ Corporation for National and Community Services, "VISTA....in Service to America," May, 2006, accessed April 2, 2017, https://www.nationalservice.gov/sites/default/files/documents/06_0523_americorps_vista_legacybook_0.pdf.

⁶ Kravetz, *Tales from the Trenches*, 31.

⁷ U.S. Department of Labor, *The Labor Department in The Carter Administration: A Summary Report - January 14, 1981*, by Ray Marshall, 1981, accessed April 2, 2017, <https://www.dol.gov/oasam/programs/history/carter-eta.htm>.

the shelters.⁸ Federal funding was not, however, a situation unique to Wisconsin shelters. The battered women's shelter in Fort Lauderdale, Florida, Women in Distress of Broward County Inc., also received federal funds under the CETA, dispersed through the local county, to the tune of \$125,000. The CETA money accounted for the salaries of half of their staff. In addition, the Women in Distress shelter received \$30,000 from LEAA, which contributed towards operating costs.⁹ In fact, by the late 1970s government agencies had made new programs or funded existing programs to a greater extent to address the issue of domestic violence. By the mid-seventies, LEAA, the same government agency that had previously stated that domestic violence cases should not be pursued within the criminal justice system, gave grants through its Victim Witness Assistance Programs, Neighborhood Justice Programs, and Special Programs to domestic violence programs. In 1979, LEAA took the step of tripling the budget for domestic violence programs to a million dollars a year. The Department of Labor joined the LEAA in funding programs for battered women by using funds provided in CETA legislation to staff the shelters. The funding for shelters meant that the federal government directly funded feminist organizations bent on challenging systemic violence against women. Battered women had brought about the involvement of the federal government through their advocacy and active engagement with government actors at the local and federal level.¹⁰

The Feminist Backlash Led by Reagan Administration

When Ronald Reagan came to power, however, government programs that gave grants to feminist organizations were systematically defunded. The 1980 platform of the Republican Party blamed feminists for the rising rate of divorce and single motherhood, for the growing

⁸ Kravetz, *Tales from the Trenches*, 36, 37.

⁹ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 36.

¹⁰ Tierney, "The Battered Women Movement," 209.

numbers of people on welfare, and for the decreasing number of industrial jobs.¹¹ Yet after the election the focus of the administration became federal agencies and their budgets. By 1982, Congress, under pressure from the Reagan administration, had completely defunded LEAA and the federal grants that formed the backbone of many feminist organizations vanished overnight.¹² Some feminist organizations like the women's shelter, Women In Distress, in Fort Lauderdale, Florida lost their funds as early as 1981.¹³ The Reagan Administration's anti-feminist policy did not start or stop with shelters but continued on to other government programs as part of a larger attack against feminist organizations.

The Reagan Administration used the conservative think tank Heritage Foundation's policy paper, *Mandate for Leadership: Policy Management in a Conservative Administration*, as a blueprint for how to roll back a plethora of government agencies, from teacher advocates within the Department of Education to the United States Postal Service.¹⁴ The 1981 paper is particularly significant because by December, 1984 the foundation estimated that, of the two thousand proposals outlined in their over one-thousand page policy paper to dismantle federal agencies and programs, 60 percent had either been started or already accomplished by the Reagan Administration.¹⁵ Reagan used the proposals to dismantle the welfare state that had existed since the presidency of Franklin. D. Roosevelt. The Heritage Foundation's paper gave the Reagan administration a coherent set of policies and ideology that armed administration

¹¹ Evans, *Tidal Wave*, 176.

¹² National Archives, Records of the Law Enforcement Administration. Record group 423, 1965-1977. 423.1. Administrative History, accessed July 23, 2015, <http://www.archives.gov/research/guide-fed-records/groups/423.html>.

¹³ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 36.

¹⁴ Charles L. Heatherly, ed., *Mandate for Leadership: Policy Management in a Conservative Administration* (Washington, D.C.: The Heritage Foundation, 1981), 180, 827.

¹⁵ Brad Knickerbocker, "Heritage Foundation's Ideas Permeate Reagan Administration," *Christian Science Monitor*, December 7, 1984, accessed July 24, 2015, <http://www.csmonitor.com/1984/1207/120768.html>.

officials for combat in their efforts to disassemble the very programs that supported community programs like the shelters. In 1984, Reagan even described the policy paper as "most useful."¹⁶

The policy paper was especially consequential for women's shelters and centers as it targeted Title IX and agencies within the government which helped advance feminist goals, such as the Women's Education Equity Act Program (WEEAP). WEEAP was a government program which awarded grants to advance the education of women and girls and financially assisted other educational agencies to "meet the requirements of Title IX of the Education Amendments of 1972."¹⁷ Title IX is still in effect today and prohibits any institution of higher learning that receives federal funds from discriminating on the basis of sex.¹⁸ *Mandate for Leadership* described Title IX as introducing to university administrators and professors "functionally irrelevant" notions such as "race and sex" when selecting employees. According to the authors, such restrictions led to a shortage of liberty and "informal solutions," although what the "informal solution" would consist of was unclear. The solution to complaints made under Title IX, as presented by the authors of the *Mandate for Leadership*, was to publish the names of Title IX complainants. This would subject the "accusers" to campus retribution, a just requirement because those who complained to the federal government "should have the courage for confrontation." The policy of withholding the names of complainants, repeatedly referred to by the Heritage Foundation's authors as "accusers," was deemed "outrageous." The policy paper singled out WEEAP as a "top priority item for the feminist network" and recommended that "its

¹⁶ Knickerbocker, "Heritage Foundation's Ideas," *The Christian Science Monitor*.

¹⁷ U.S. Department of Education website, "Programs: Women's Educational Equity," accessed April 3, 2017, <https://ed.gov/programs/equity/index.html>.

¹⁸ *Education Amendments of 1972*. Public Law No. 92-318, 92nd, 2nd sess. June 23. United States code 20 (1972), §§ 1681, accessed April 2, 2017, <https://www.dol.gov/oasam/regs/statutes/titleix.htm>. The law specifically states, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

programs require immediate scrutiny and its budget should be drastically cut." Such rhetoric can reasonably be described as hostile to the principles of feminism, justice, and equality.¹⁹

As an all out public attack on women's issues would not make it past members of Congress, the authors advocated a different approach. Since Congress supported WEEAP through special appropriations, the best way to get rid of WEEAP would be to defund the program, not abolish it. Since no government office or program can exist without federal funding, the end result would be the same.²⁰

In accordance with the aim to defund WEEAP, the Reagan and Bush administrations tried to eliminate funding for the program every year from 1982 to 1992.²¹ When initial attempts to defund WEEAP failed, due to continued Congressional support, the Reagan Administration attempted to gain control by replacing its director, Leslie Wolfe, who had refused to remove a poster of Che Guevara from her office wall. Using an article published by an anonymous source in April 1982 in the *Conservative Digest*, which claimed that Leslie Wolfe was a "radical feminist" who only gave funding to applicants that agreed with her world-view, Jean Benish, Acting Assistant Secretary of the Department of Labor, banished Wolfe to a "90 day task force on waste, fraud, and abuse."²² In response, Wolfe and her staff hid the most important of Wolfe's documents in the bottom drawers of their office and then marched over to Congress. There they successfully mobilized moderate Republican Congresswomen Margaret Heckler, a strong supporter of WEEAP, to write a letter on behalf of the "Wednesday Group" of congressmen, an evangelical Christian group of Republican Congressmen and Congresswomen that met with the

¹⁹ Heatherly, ed., *Mandate for Leadership*, 180.

²⁰ Heatherly, ed., *Mandate for Leadership*, 179.

²¹ U.S. General Accounting Office, *Women's Educational Equity Act: A Review of Program Goals and Strategies Needed*, prepared by Program Evaluation and Methodology Division, project manager Kathleen D. White. Washington, D.C. 1994, accessed on July 24, 2015, <http://www.gpo.gov/fdsys/pkg/GAOREPORTS-PEMD-95-6/pdf/GAOREPORTS-PEMD-95-6.pdf>.

²² Evans, *Tidal Wave*, 179, 180.

President on Wednesdays, that stated the Wednesday Group's support for Wolfe.²³ Yet, with Wolfe gone, Benish called in radical anti-feminists to act as field readers for grant applications. The new field readers included a woman from Oklahoma who served on the Republican National Committee, a professor from the conservative Christian Bob Jones University, and associates of Phyllis Schlafly's Eagle Forum. Phyllis Schlafley, founder of the Eagle Forum, was a conservative Republican most remembered for her opposition to the Equal Rights Amendment, abortion and communism.²⁴ Fortunately, Wolfe was reinstated as director at the end of the ninety days. The General Accounting Office deemed the new field readers totally inept and gave them the boot. The following year, however, funding cuts abolished Wolfe's job and she was fired from the Department of Education. Instead of its usual prominent position as an independent office under the Assistant Secretary for Elementary and Secondary Education, the Reagan Administration placed WEEAP under a small division that handled state and local block grants for education.²⁵ Every year, WEEAP staff faced executive attempts to defund them and effectively wipe them out of existence. And yet, due to strong Congressional support, WEEAP survived, albeit with their influence on executive policy significantly reduced.²⁶

WEEAP was not the only agency that came under anti-feminist fire during the Reagan Administration. In 1984, prior to the presidential election, Linda Chavez, Reagan's appointed Staff Director of the U.S. Commission on Civil Rights, and Ann Lewis, a member of the Democratic National Committee, both described a proposal that women should be paid the same

²³ Evans, 180, 181. Wednesday Group Meeting Minutes, President's meeting with Wednesday Group, 2 September 1976, folder: "House and Senate Wednesday Groups," box 16, Richard B. Cheney Files, Gerald R. Ford Library, accessed July 24, 2015, <http://www.fordlibrarymuseum.gov/library/document/0005/1561637.pdf>.

²⁴ Douglas Martin, "Phyllis Schlafly, 'First Lady' of a Political March to the Right, Dies at 92," *The New York Times*, September 5, 2016, accessed April 2, 2017, https://www.nytimes.com/2016/09/06/obituaries/phyllis-schlafly-conservative-leader-and-foe-of-era-dies-at-92.html?_r=0.

²⁵ Evans, *Tidal Wave*, 180, 181.

²⁶ U.S. General Accounting Office, *Women's Educational Equity Act*, project manager K. D. White.

amount as men in comparable jobs as "the civil rights issue of the 1980s."²⁷ Equal pay for comparable worth meant that librarians would be paid the same as electricians, and that of the 427 job categories listed by the United States Labor Department, the 20 jobs held predominantly by women would receive pay increases.²⁸ Yet that same year the Reagan Administration, via the United States Department of Justice, joined Washington State in its fight against a federal judicial decision that female state employees in low paying white-collar jobs should be paid the same amount as men in comparable blue-collar jobs.²⁹ Using Washington State's own evaluation methods, Jack E. Tanner, the federal judge deciding the case, demonstrated that the state government paid men 20 percent more than it paid women.³⁰ The Reagan Administration's argument against equal pay for comparable worth consisted of asserting that rather than increasing the pay of fields traditionally held by women, women in low paying jobs should obtain the skills necessary to seek high paying jobs such as laborers, engineers, chemists, or other jobs traditionally held by men.³¹ In fact, Michael J. Horowitz, from the Office of Management and Budget, went so far as to insinuate that the only way the government could afford the pay increases of white middle-class female librarians would be to deduct the money from the pay of minority blue-collar male workers.³² Thus Horowitz employed the age old tactic

²⁷ Walter Goodman, "Equal Pay for 'Comparable Worth' Growing as Job-Discrimination Issue," *The New York Times*, September 4, 1984, accessed July 26, 2015, <http://www.nytimes.com/1984/09/04/us/equal-pay-for-comparable-worth-growing-as-job-discrimination-issue.html?pagewanted=1>.

²⁸ Goodman, "Equal Pay for 'Comparable Worth,'" *The New York Times*.

²⁹ Goodman, "Equal Pay for 'Comparable Worth,'" *The New York Times*.

³⁰ Robert Pear, "Administration May Fight Rating on Equal Pay for Women's Jobs," *The New York Times*, January 22, 1984, accessed July 26, 2015, <http://search.proquest.com.proxy.lib.odu.edu/docview/122428588/fulltextPDF/2474D979000748BCPQ/15?accountid=12967>.

³¹ Associated Press, "Concept of Pay Based on Worth Is the 'Looniest,' Rights Chief Says," *The New York Times*, November 16, 1984, accessed August 4, 2015, <http://search.proquest.com.proxy.lib.odu.edu/docview/122345242/8287F05627184531PQ/20?accountid=12967>.

³² Goodman, "Equal Pay for 'Comparable Worth,'" *The New York Times*. Michael J. Horowitz, "Reagan Would be Appalled by Obama's Corp of Yes-Men Lawyers," *The National Review*, March 17, 2015, accessed January 23, 2017, <http://www.nationalreview.com/article/415444/reagan-would-be-appalled-obamas-corps-yes-men-lawyers-michael-horowitz>. Horowitz was the OMB general counsel for the Reagan Administration.

of divide and conquer by trying to set blue-collar male minority workers against white-collar female workers.

During the presidential election, the administration went on the offensive when a White House spokesman informed the press that the President thought that the idea of equal pay for comparable worth was "nebulous at best."³³ Three days after the election, Clarence M. Pendleton Jr., the Reagan appointed chairman of the United States Commission on Civil Rights, called equal pay for comparable worth "the looniest idea since Looney Tunes came on the screen" at a press conference.³⁴ Attending the same press conference, Reagan's Staff Director of the U.S. Commission on Civil Rights, Linda Chavez, the woman who had, back in September, hailed equal pay for comparable worth as the "the civil rights issue of the 1980's," abruptly reversed herself, stating that the idea was "against the grain of what the women's movement has stood for the last 20 years."³⁵ Her sudden reversal suggests that the Reagan administration had no intention of carrying through with the policy of equal pay for comparable worth. In addition, the administration's reversal demonstrated that during second-wave feminism, conservatives fought the idea of women as equals by utilizing the beginnings of postfeminist rhetoric, which is usually associated with the 1990s. Chavez's attempt to claim that equal pay for comparable worth was contrary to feminism ideals is an excellent example of what communication scholars Karrin Anderson and Kristina Sheeler so clearly articulated in their 2014 article, which stated that in postfeminism those hostile to the ideals of feminism may claim "fidelity to the feminist value of equality even as they oppose feminism's broader principles and politics."³⁶ By arguing

³³ Associated Press, "Concept of Pay Based on Worth Is the 'Looniest,'" *The New York Times*.

³⁴ Associated Press, "Concept of Pay Based on Worth Is the 'Looniest,'" *The New York Times*.

³⁵ Goodman, "Equal Pay for 'Comparable Worth,'" *The New York Times*. Associated Press, "Concept of Pay Based on Worth Is the 'Looniest,'" *The New York Times*.

³⁶Karrin Vasby Anderson and Kristina Horn Sheeler, "Text (and Tweets) from Hillary: Meta-Meming and Postfeminist Political Culture," *Presidential Studies Quarterly* 44, no. 2 (2014): 226.

that women should enter fields that had higher pay the Reagan administration appeared to support the idea that women should be able to work in any job. Their refusal to consider raising the wages of jobs traditionally held by women, however, demonstrates that they failed to challenge gendered assumptions guiding how society values work deemed "male" or "female," the feminist principle at the heart of the equal pay for comparable worth battle. Under the Reagan administration, while women could conform to the standards of men in work and education, little progress was made toward a societal restructuring that embraced women.

Against the backdrop of this feminist backlash, led by the Reagan administration and revealed in their hostility towards programs designed to promote gender equality in education and the workplace, advocates for battered women and their Congressional supporters fought to pass federal legislation to finally recognize and prevent domestic violence. While Republicans in Congress followed the Reagan administration's goal of minimizing the needs of battered women and refusing funding to domestic violence shelters, the Democrats, who controlled Congress, supported advocates for battered women and their appeal for more funding.

Congressional Hearing on Domestic Violence: Advocates, Democrats, and Republicans

In June, 1983 the House Subcommittee on Select Education of the Committee on Education and Labor held a public Hearing on Domestic Violence. At the hearing, battered women's advocates painted a deadly situation unfolding in the nations' battered women shelters. In their testimonies, feminists strategically emphasized the shelters' ability to save women's lives and provide necessary services for battered women in order to obtain Congress' much needed financial support. Advocates' arguments were two-fold. First, despite the increasing need for shelters and domestic violence programs, some shelters had been forced to close due to the loss of federal funding, which, in turn, had indirectly contributed to the deaths of some women as

they could not get away from their violent partners. Second, Reagan's insistence that local and state resources would fill the gap caused by the loss of federal funds had failed to materialize.

Advocates for battered women came to the Congressional Hearing armed with statistics and gruesome stories of survival to demonstrate the need for the shelters and the life saving community services the shelters provided. The Pennsylvania Coalition Against Domestic Violence assembled a fact sheet for the hearing. It stated that a woman was battered every eighteen seconds; every year, 20 percent of couples in the United States experienced domestic violence; half of all women would at some point be battered by their partner; in a study of six hundred couples, 36 percent of the women cited physical violence as the reason they filed for divorce; and 20 percent of Americans approved of domestic violence "on appropriate occasions." In addition to the fact sheet, the Pennsylvania Coalition also brought in survivors of domestic violence to testify. One such survivor, Gloria Whetstone testified at the hearing. She told Congress that she left her husband after she went to a friend's funeral. Her friend had also been a battered wife whose husband killed her with a machete after she threatened to leave. Her friend's children were the ones who found their mother's body. Whetstone took her kids and left her abusive husband a week later. Susan Hansen, who traveled from Fort Lauderdale, Florida with Women In Distress shelter advocates, also testified to Congress. She had been battered for eleven years. Over those years the abuse had gone from once a month to daily. She finally left when her husband threw a knife at her and it barely missed her and her seven-year-old daughter and landed in the wall by her daughter's head. She packed up her four kids, ages 2, 3, 7, and 10, and drove around the town all night with only thirty-five cents and two cans of tuna fish. The next day, thanks to a friend who told her about it, she sought refuge at the Women In Distress shelter. By the time of the hearing, she owned her own business and sat on the board of directors

for Women In Distress. At the end of her testimony, Hansen threw in an odd twist on the traditional American rags to riches nationalistic message by stating, "only in America can you go from 'battered to the board.'" Both the statistics and the testimony of survivors established that communities needed the shelters. Battered women's advocates then painted the dire results if Congress failed to act and appropriate specific funding for shelters to help keep them open and to help establish new shelters.³⁷

Indeed, the Hearing on Domestic Violence revealed the need for shelters outpaced the number of and, space available, at shelters in the early 1980s. In 1981, the Pennsylvania Coalition shelters helped 18,243 women and children. By the next year that number had increased to 26,374. Due to the loss of federal funding, however, many shelters had to turn women away. In Pittsburgh, for the year 1982, the local shelter housed 565 women but it had to turn away 585 more women trying to escape their abusive partners. In New York, 85 percent of women who sought shelter had to be turned away. Philadelphia had to turn away the most, at the rate of 100 women every week. The lack of space had drastic consequences for some women. Two women were immediately killed in their homes by their partners in Pittsburgh, Pennsylvania after they called the shelter and the shelter could not take them in due to a lack of space. The Pittsburgh shelter kept track of the women who did not make it into the shelter over a two-year period and found that 25 of them had been killed. Before their murder, two of the women had even gone to court and obtained restraining orders against their husbands. Advocates used these examples to demonstrate that the shelters provided a necessary and vital community service that saved lives. They then moved on to explain the financial straits in which shelters found themselves due to cutbacks in federal spending.³⁸

³⁷ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 35, 40, 45, 46.

³⁸ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 38, 39.

Ronald Reagan claimed that volunteers, local government, and state governments would step in to fill the gap made by cuts in federal funding, even as he urged that the lost federal funding should not be supplanted completely by local and state funding as many social programs were "wasteful or unnecessary."³⁹ Yet despite Reagan's claims, battered women advocates demonstrated that local funding had failed to materialize for shelters and that volunteers had been exhausted. For example, advocates from Virginia testified that, even though Virginia had increased marriage license fees to help pay for the domestic violence programs, many programs were forced to shut down when federal support ceased. Representative Austin Murphy, a Democrat from Pennsylvania and the chair of the subcommittee that was conducting the hearing, questioned Bonnie Flynn, the director of the Women In Distress shelter in Fort Lauderdale, Florida, about what funds her shelter had previously received from the government. Flynn testified that CETA had given their shelter \$125,000 but that funding was cut in 1980. As a result, the shelter lost half of its staff and had to rely on volunteers, who only filled part of the staffing gap. LEAA also had funded Women In Distress to the tune of \$30,000 but that money had also been cut. Local resources were unable to give enough to make up the difference and the shelter projected a \$40,000 deficit for the year 1983. Susan Kelly-Dreiss, director of the Pennsylvania Coalition Against Domestic Violence, which had 36 shelters in Pennsylvania as of 1983, testified that some shelters were operating on as little as \$17 a day. This was only a fraction of the financial assistance that the government provided to child welfare programs, which received \$100 a day, and drug and alcohol programs, which received \$75 a day. The Pennsylvania Coalition also received CETA funding and many of the shelters had up to half of their staff funded by CETA. When that money dried up, the Coalition relied on volunteers to

³⁹ "Excerpts From Address by Reagan on Role of Private Groups," *The New York Times*, January 15, 1982, accessed August 11, 2015, <http://search.proquest.com.proxy.lib.odu.edu/docview/121992295/78DB36323DBA45EBPQ/38?accountid=12967>.

keep the shelters up and running. To add insult to injury, some state governments had instituted volunteer hour work requirements in order for shelters to receive aid. For example, the Pennsylvania Department of Public Welfare required that the Pennsylvania Coalition have three hundred thousand volunteer hours before collecting aid. These advocates' testimony contradicted Reagan's claim that local governments and volunteers would provide the necessary resources to fill the gap that reduced federal funding had created in desirable social programs. Both volunteers and local money had been exhausted in a vain effort to make up the difference created by the dearth of federal funding.⁴⁰

Representative and committee Chairman Austin Murphy, from Pennsylvania, however, was not content with this information. Demonstrating feminists' influence on the hearing and some Congressmen's commitment to tackling domestic violence, he asked feminist Kelly-Dreiss, director of the Pennsylvania Coalition Against Domestic Violence, how Congressional representatives could counter Reagan's claim that local resources would cover the lack of federal funding. She drew a parallel between the aid Americans gave to those impacted by natural disasters and the need for the Federal Government to respond "to battered women who are in as much a disaster as those who are suffering from floods or storms or whatever."⁴¹ By comparing victims of natural disasters to those of domestic abuse, her response again emphasized the community service role of shelters for such victims and made it difficult for the administration and Congressional Republicans to attack the shelters. Representative Murphy seemed satisfied with her storm analogy. Yet the questions he asked a short time later demonstrated his own

⁴⁰ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 36, 37, 39, 41, 48. \$17 a day was the average total daily budgets of the shelters not the average amount they received per person that was sheltered. Also, 300,000 volunteer hours is equivalent to 150 volunteers working forty hours a week for fifty weeks.

⁴¹ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 41.

feminism as well as his dissatisfaction with the testimony of Charles E. Gentry, a man whose solutions to domestic violence were questionable at best.

Charles E. Gentry held the position of executive director of the Child and Family Services center in Knoxville, Tennessee in 1983. His testimony reflects an abuser's understanding of domestic violence. While apparently against all violence, Gentry stated that abusers "misused their power to get their wishes met." Gentry went on to state that abusers needed to learn how to use persuasion rather than violence to see that their needs were met. In encouraging abusers to use "persuasion" rather than violence, Gentry essentially condoned psychological and mental abuse. This shifted the form of abuse, but did not end it. In addition, Gentry suggested that the father be placed in a shelter rather than the mother and that the children should stay with the father in the shelter "while mother sorts out her feelings within the familiar confines of the home."⁴² This situation would place the burden of resolving the abuse on the battered rather than on the abuser and leave the children at the mercy of the abusive parent.

Representative Murphy responded to Gentry's comment about abusers being put in shelters in his reply, "You have a unique concept and certainly one that would be cost-saving, take the abuser and put him in a shelter. We used to call those jails." The room erupted in laughter. Undeterred, Gentry defended his voluntary abuser-center approach as valid. Representative Murphy's response pointed out the flaw in Gentry's logic: "Don't you have a problem, though, with the abuser center type thing. It has to be a voluntary program for the abuser....If...he opts out at the center at 11 o'clock at night, you know where he's going." It is important to note that this response came from a congressional representative and not from one of the many women's advocates who had assembled to testify. As the hearing progressed

⁴² U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 76, 77.

Democratic congressmen continued to use feminist arguments and the fact that federal funding had been used in the past to fund battered women's shelters. They did this to defend the idea that battered women's advocates deserved the federal funding they desperately needed to sustain their work to save women's lives.⁴³

An exchange between Republican Steve Bartlett of Texas and Democrat George Miller of California illustrate the Reagan administration's strategies to deny shelters funding and the way in which advocates' social service rhetoric influenced Democrats' response. Bartlett, who joined the hearing halfway through the testimony, started his questions by stating that he had worked on domestic violence in Texas prior to being elected to Congress. Bartlett had been surprised that police officers did not arrest men who battered women. He assured all assembled that police officers in Texas could now arrest a violent perpetrator and the onus lay on city councils and police departments in other areas of the country to follow suit. After battered women's advocates agreed with him that arrest was one way to deter domestic violence, Bartlett attempted to insinuate that large numbers of shelters had emerged in the last ten years, and most of these shelters had emerged in the last several years, that is, since Ronald Reagan had been elected and federal funding had been cut.⁴⁴ Prior to Representative Bartlett's arrival, Representative Murphy pointed out that the exact number of shelters in the United States remained unknown as the Office of Domestic Violence, which had gathered statistics on domestic violence and battered women and had kept track of the shelters and helped the shelters network with one another, no longer existed. The Office of Domestic Violence, formally located in the Department of Health

⁴³ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 79.

⁴⁴ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 80, 82.

and Human Services, had been one of the many social welfare programs that had gotten the axe under the Reagan Administration.⁴⁵

Representative Bartlett attempted to lead the testimony of battered women's advocates. He managed to get Crawford and Gentry to agree that quite a few shelters had been built in the last several years, although Crawford qualified her answer by pointing out that the number of shelters was still inadequate. Representative Bartlett then expressed his hope that the Federal government would not get involved simply because it wanted some of the credit for all the good work that state and local governments had accomplished. He went on to state that if the Federal government got involved, the organizations currently in place, such as the shelters, states and local governments, would simply find other projects on which to focus their time and money and leave the issue of battered women for the federal government to handle. He ended by stating that he hoped that the role of the Federal government would be to coordinate efforts at the local level from a punitive standpoint, such as coordinating enforcement of child support laws and title XX funds of the Social Security Act.⁴⁶

Representative Bartlett's argument that the federal government should not intervene because it might prevent locals from continuing to fund shelters represented the Reagan administration's desire to prevent federal legislation and funding for social programs.⁴⁷ Reagan and his administration had argued that volunteers could be substituted for social programs and, where that was not possible, excessive government programs could be, and should be, cut.⁴⁸ By asking leading questions about the number of shelters established during the Reagan presidency, Representative Bartlett insinuated that the movement to help battered women did not need

⁴⁵ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 50, 51.

⁴⁶ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 82, 83.

⁴⁷ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 82.

⁴⁸ "Excerpts From Address by Reagan on Role of Private Groups," *The New York Times*.

additional federal funds, as shelters continued to expand despite the lack of support from the government. In addition, he indirectly attacked battered women's advocates by insinuating that volunteer organizations had the problem in hand. Therefore, circumstances were not as dire as advocates claimed. Both insinuations attempted to discredit advocates' message that shelters needed federal monies to keep the lights on. In 1984 Linda Chavez, representing the Reagan administration, fought to discredit the feminist agenda in the equal pay fight by stating that equal pay was "against the grain of what the women's movement has stood for the last 20 years."⁴⁹ So too did Bartlett attempt to discredit battered women's advocates by minimizing the need for additional shelters in 1983, assuring Congress that advocates already had the problem under control. Yet the evidence presented at the hearing by battered women and battered women's advocates resoundingly rebutted this assertion as many women who could not get into shelters died.⁵⁰ Therefore, Bartlett could not give the standard Republican response for getting rid of social programs: that such programs were excessive.

Reagan had stated that some social programs would be cut due to a lack of federal funding and this was desirable as many social services were "wasteful or unnecessary programs."⁵¹ It was one thing for Republicans to make general statements about cutting "wasteful" programs. It was quite another thing, however, to state that shelters should be one of the organizations cut. Not even the Republicans in Congress dared to make that assertion, especially since the testimony at the hearing made it dramatically apparent that shelters saved women's lives.⁵²

⁴⁹ Associated Press, "Concept of Pay Based on Worth Is the 'Looniest,'" *The New York Times*.

⁵⁰ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 38.

⁵¹ "Excerpts From Address by Reagan on Role of Private Groups," *The New York Times*.

⁵² U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 38.

The last part of Representative Bartlett's statement about Title XX funding being "focused properly into this area" made little sense.⁵³ President Gerald Ford signed Title XX, one title in the Social Security Act, into law in 1974.⁵⁴ The act gave states block funding for social services to help individuals avoid dependency and to help adults and children by "preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests."⁵⁵ While on the surface it seemed that this law could be used to help domestic violence victims it was specifically written as a block grant, which meant that the states had the right to determine how to spend the funds.⁵⁶ The only thing that the federal government could do to influence Title XX funds would be to increase the amount of funding given in the grant, which Representative Bartlett did not advocate. Even with increased funding, however, battered women's advocates would still have to get the state governments to give them the funding. It was an impracticable suggestion meant to derail the battered women's advocates' request for more funding. But his suggestion demonstrated Republicans' and the Reagan administration's larger strategy. While they could not summon political rhetoric to fight feminist arguments directly, they could deny funding to social programs, a strategy designed to hamstring shelters and aid provided vulnerable women. Yet, denial of the funding would mean that women would die. Fortunately, Democratic Congressmen pointed out the inconsistency of their Republican

⁵³ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 83.

⁵⁴ National Low Income Housing Coalition, "40 Years Ago: Title XX of the Social Security Act Authorized," September 8, 2014, accessed June 14, 2016, <http://nlihc.org/article/40-years-ago-title-xx-social-security-act-authorized>.

⁵⁵ *Social Security Act of 1935*, Public Law 93-647, 74th Cong., 1st sess. (August 14, 1935) as amended by 96th Cong., 1st sess. (June 17, 1980), accessed August 19, 2016, <http://uscode.house.gov/view.xhtml?req=42+USC+1397&f=treesort&fq=true&num=45&hl=true&edition=prelim&granuleId=USC-prelim-title42-section1397>.

⁵⁶ *Social Security Act of 1935*, Public Law 93-647, 74th Cong., 1st sess. (August 14, 1935) as amended by 96th Cong., 1st sess. (June 17, 1980) National Low Income Housing Coalition, accessed June 14, 2016, <http://nlihc.org/article/40-years-ago-title-xx-social-security-act-authorized>. On the day he signed the Act President Ford released a statement which stated Title XX was a "major piece of domestic legislation and a significant step forward in Federal-State relations."

colleague's arguments, although they did not engage in a debate on the failings of Republican rhetoric.

Representative George Miller, a Democrat from California was the next Congressmen to speak. He thanked the witnesses for their testimony rather than asking any questions and then made a statement. In his statement Representative Miller directly repudiated Representative Bartlett's assertions that there should not be a federal government funding role in the fight against domestic violence, that there were enough shelters to help, and that the situation was not dire. He began by stating that "the debate over whether or not there should be a Federal role, I think, is almost moot. We had a Federal role at one time and this [Reagan's] administration divested that role." He reiterated the point made by advocates that the federal government had been playing a substantial role through the LEAA, CETA, and VISTA in funding domestic violence shelters prior to that funding being cut. In the process, Representative Miller made a jab at Representative Bartlett to drive his message home by remarking that divesting the shelters of federal funds did not make the problem of domestic violence "go away." He then directly addressed Representative Bartlett's assertion that Title XX funds would be sufficient by pointing out that the funds allocated for Title XX had not changed since 1974. In so doing Representative Miller demonstrated the spurious nature of Representative Bartlett's assertion that Title XX funds could help. The years between 1974 and 1983 were characterized by a stagnant economy and rising inflation.⁵⁷ So while the funding for Title XX had declined from \$2.8 billion in fiscal year 1977 to \$2.7 billion for the fiscal year of 1983, the real amount, when inflation is taken into

⁵⁷ U.S. House. Subcommittee on Select Education, *Hearing on Domestic Violence*, 83.

account, went from \$11.1 billion to \$6.5 billion in terms of 2016 U.S. dollars, which meant that Title XX funds had effectively dropped by 42 percent in six years.⁵⁸

Representative Miller continued in his statement that the number of women who needed help exceeded the number of shelters available, citing the specific examples of Washington, D.C., with its single shelter, and his own district where one shelter served a population of about 650,000. To Representative Miller the insufficient number of shelters demonstrated that domestic violence "is not one of the problems that waits for help. It continues, absent the presence of that help." In his conclusion, Representative Miller urged for the immediate passage of legislation to address the funding shortfalls faced by shelters and stated that "the Federal Government is now absolutely mandated by the continuation of the tragic evidence that panel after panel brings to this committee and that we read about in our hometown papers on a daily basis." By mentioning the deaths of women murdered by their partners reported in hometown newspapers Representative Miller supported the evidence that advocates for battered women had given the committee on the life and death predicament which far too many women faced.⁵⁹

Passage of 1984 Family Violence Prevention and Services Act

The 1983 Hearing on Domestic Violence, however, was not the first time that Democrats in Congress demonstrated their support for shelters. Every year from 1978 to 1984 except for in 1980, a presidential election year, Democrats introduced a bill titled Domestic Violence Prevention and Services Act. In 1978 Senator Alan Cranston for California got his bill S.2759 passed by the Senate but it never made it to the House.⁶⁰ In 1979 Representative George Miller,

⁵⁸ United States Government Publishing Office, Section 10, Title XX Social Services Block Grant Program, 714, accessed on July 5, 2016. <https://www.gpo.gov/fdsys/pkg/GPO-CPRT-105WPRT37945/pdf/GPO-CPRT-105WPRT37945-2-10.pdf>. 1977 was the first fiscal year for which I could obtain information. Inflation was calculated using the Bureau of Labor Statistics CPI Inflation calculator and rounded to the nearest hundred million.

⁵⁹ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 83, 84.

⁶⁰ *Domestic Violence Prevention and Services Act of 1978*, S 2759, 95th Cong., 2nd sess., 1978.

the man who had pointed out not helping shelters did not make the problem of domestic violence "go away," got H.R.2977 passed in both the House and the Senate but the bill died in conference.⁶¹ The same year Senator Cranston tried again but his bill died in committee.⁶² In 1981, Representatives Barbara Mikulski and Mario Biaggi introduced H.R. 1651 and H.R. 1007 respectively, both of which died in the Subcommittee on Select Education.⁶³ In 1982 Senator Edward Kennedy introduced S.2908, which died in the Senate Committee on Labor and Human Resources.⁶⁴ In 1983 Senator Kennedy introduced S.699, Representative Mikulski introduced H.R. 1397, and Representative Biaggi introduced H.R. 73, all of which never made it out of their respective committees.⁶⁵

It took until 1984 before a Republican introduced a bill on domestic violence. That year Republican Senator Ted Stevens introduced a bill that died in committee called the Family Violence Prevention and Services Act (FVPSA) on March 15, 1984.⁶⁶ The bill was eventually folded into the Child Abuse Amendments of 1984, a bill sponsored by Representative Austin Murphy, who chaired the June 23, 1983 Hearing on Domestic Violence. Ronald Reagan signed the Child Abuse Amendments Act of 1984, with FVPSA as Title III of the Act, into law on October 9, 1984.⁶⁷ It is interesting to note that the bill's passage relied on folding it into the Child Abuse Amendments Act of 1984, rather than passing as its own standalone bill. Such a

⁶¹ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 83. *Domestic Violence Prevention and Services Act of 1979*, HR 2977, 96th Cong., 1st sess., 1979.

⁶² *Domestic Violence Prevention and Services Act of 1979*, S 1843, 96th Cong., 1st sess., 1979.

⁶³ *Domestic Violence Prevention and Services Act of 1981*, HR 1651, 97th Cong., 1st sess., 1981. *Domestic Violence Prevention and Services Act of 1981*, HR 1007, 97 Cong., 1st sess., 1981.

⁶⁴ *Domestic Violence Prevention and Services Act of 1982*, S 2908, 97th Cong., 2nd sess., 1982.

⁶⁵ *Domestic Violence Prevention and Services Act of 1983*, S 699, 98th Cong., 1st sess., 1983. *Domestic Violence Prevention and Services Act of 1983*, HR 1397, 98th Cong., 1st sess., 1983. *Domestic Violence Prevention and Services Act of 1983*, HR 73, 98th Cong., 1st sess., 1983. Unfortunately I was unable to access the text of these bills to compare against the text of the Family Violence Prevention and Services Act of 1984.

⁶⁶ *Family Violence Prevention and Services Act of 1984*, S. 2430, 98th Cong., 2nd sess., 1984.

⁶⁷ *Child Abuse Amendments of 1984*, Public Law 98-457, 98th Cong., 2nd sess. (October 9, 1984), accessed August 2, 2016, <https://www.govtrack.us/congress/bills/98/hr1904/text>. Representative Murphy introduced the bill on March 3, 1983 and it was signed by Reagan on October 9, 1984.

pairing raises the question of why Congress seemed unable to pass a bill entitled "Family Violence Prevention and Services Act" unless it was hidden under another bill about Child Abuse. Historian Linda Kerber traced the beginnings of conflating women and children together in the United States to the ideal of Republican Motherhood, which shaped the discourse of women in politics until the second half of the twentieth century. Republican Motherhood reduced women's civic service to her role as a wife and mother and thus effectively eliminated the need to include women, like children, on juries or in civic life.⁶⁸ Yet, historian Nancy Cott argues that the status of men depended on being the head of a household and having dependents—both wives and children—that required him to represent them in civic life.⁶⁹ Another possible answer lies in Blackstone's *Commentaries* in which he paired women, children, and apprentices as members of the same group that the master of the house could physically assault.⁷⁰ Yet by rolling abused women and children into the same bill, Congress appeared to adhere to this historical grouping with a modern twist: if the patriarch of a family could not conduct himself according to social norms then the state would replace him as the patriarchal authority.

Historian Linda Gordon touched on this topic in her book *Pitied But Not Entitled* when she described how investigators for the Aid to Dependent Children (ADC) in the 1940s and 1950s made surprise visits to the homes of single mothers and used the sexual behavior of the mothers as a means test. If ADC agents caught a man on the premises then the woman could be disqualified from receiving funds from the ADC because the ADC assumed the man contributed financially to the household. Gordon pointed out that this means test did not apply to men in

⁶⁸ Kerber, "A Constitutional Right to Be Treated Like American Ladies," 32.

⁶⁹ Nancy F. Cott, "Giving Character to Our Whole Civil Polity: Marriage and the Public Order in the Late Nineteenth Century," in *U.S. History as Women's History: New Feminist Essays*, ed. Linda Kerber (Chapel Hill: University of North Carolina Press, 1995), 111.

⁷⁰ Blackstone, *Commentaries on the Laws of England*, (1893), 443.

welfare programs.⁷¹ Another interpretation of the ADC policy is that women who applied for benefits gave the state permission to assume the role of patriarch and, as such, the state had the right to insure that the woman remained "faithful" to the state. Although Congress infantilized women in order to pass the act, the language of the bill reflected what battered women's activists had proposed.

Before the passage of the 1984 FVPSA the Pennsylvania Coalition Against Domestic Violence had submitted a letter with specific recommendations for Federal legislation during the June 23, 1983 Hearing on Domestic Violence. In that document the Pennsylvania Coalition called for non-profit organizations, local government and state government "to provide immediate shelter and other assistance for victims and dependents of victims of domestic violence." It also requested that the Secretary of Health and Human Services "be authorized to make grants to states for the establishment, maintenance, and expansion of programs and projects to prevent incidents of domestic violence and to provide immediate shelter and other assistance for victims of domestic violence and their children."⁷² Title III of the 1988 FVPSA begins with the statement that the purpose of the act is "to provide for technical assistance and training relating to family violence programs to States, local public agencies (including law enforcement agencies), nonprofit private organizations, and other persons seeking such assistance."⁷³ The law continues copying the recommendations of the Pennsylvania Coalition almost word by word stating that the Secretary of Health and Human Services "is authorized, in accordance with the provisions of this title, to make demonstration grants to States" in order to establish "programs and projects to prevent incidents of family violence and to provide

⁷¹ Gordon, *Pitied But Not Entitled*, 298, 299.

⁷² U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 43.

⁷³ *Child Abuse Amendments of 1984*, Public Law 98-457, 98th Cong., 2nd sess. (October 9, 1984).

immediate shelter and related assistance for victims of family violence and their dependents."⁷⁴

The Democrat controlled Congress clearly took advocates' wishes to heart and the advocates' testimonies and strategies clearly succeeded.

Although written as a block grant, the FVPSA did require states to "give special emphasis to the support of community-based projects of demonstrated effectiveness" such as shelters. In addition, a caveat, written into the law, stated that organizations could apply directly to the federal government if they could prove that they had 35 percent of their funding from private sources, either in cash or in kind, the first year, 55 percent for the second year, and 65 percent in the third year. While steep requirements, these stipulations enabled those shelters that might have local support but not state support to receive funds from the federal government. The act limited funding to any single organization to \$50,000 a year and specified that no entity could receive more than \$150,000 in total over the three years for which there were to be funds: 1985, 1986, and 1987. Congress further stipulated that 60 percent of all funds of the act go to providing immediate aid. Law enforcement agencies that already had shown a willingness to address domestic violence and to prepare officers on how to deal with domestic violence calls could also apply for grants. The act authorized \$11 million for the fiscal year of 1985 and \$26 million for the following two years with the stipulation that 85 percent of the money be used for grants to shelters, through the states, and \$2 million a year be reserved for law enforcement agencies.⁷⁵ Yet, this was less than what advocates had requested. During the Hearing on Domestic Violence, the Pennsylvania Coalition Against Domestic Violence had suggested the amounts of \$50 million for 1984, \$60 million for 1985, and \$70 million for 1986.⁷⁶

⁷⁴ *Child Abuse Amendments of 1984*, Public Law 98-457, 98th Cong., 2nd sess. (October 9, 1984).

⁷⁵ *Child Abuse Amendments of 1984*, Section 303 A and B, ii; 303. f; 303. c; 303. g; 311.b.;310. a;311.b.

⁷⁶ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 43.

Some provisions of the act demonstrated how much Congress had listened to advocates. For example, the act required states to create procedures to ensure that the addresses of the shelters not be published and the information of battered women remained confidential in order to maintain the privacy and safety of individuals and the shelters. In addition, the law required states to have in place a "procedure for the eviction of the 'abusing spouse from a shared residence'" within one year of receiving funds from the federal government. This provision of the law turned on its head the idea that a man's home was his castle and gave battered women the right to consider her home a place of safety that would be devoid of violence. The act prohibited shelters and states from using income as a standard to determine who would or would not receive assistance. Thus making certain that the very poor or the rich would not be denied the help that they needed. An awareness of how domestic violence affected all women came in the provision that made the grants available to Indian tribes as well as to the territories.⁷⁷

Most interestingly, considering the shenanigans that the Reagan administration pulled in 1982 to get rid of WEEAP's director Leslie Wolfe, the law gave the Secretary for Health and Human Services ultimate control over the grants. Yet, it required that the Secretary for Health and Human Services "approve any application[s]" and not reject an application until the state or organization had been given a reasonable amount of time to correct their application. In addition, the Act required the Secretary to coordinate all programs within the Department that dealt with domestic violence and to conduct research into the causes of domestic violence and the methods by which incidents of domestic violence could be reduced. Finally, the Act instructed the Secretary of Health and Human Services to appoint an employee from within the

⁷⁷ *Child Abuse Amendments of 1984*, Section 303. E., 303. F, 393.e, 303. b.1.

department who had "expertise" with domestic violence services to administer the provisions of the act.⁷⁸

The Act addressed domestic violence and the suffering it caused by funding shelters for battered women. While the language of the Act did not directly criticize the patriarchal foundations of a society that inherently perpetuates violence against women, its passage demonstrated that domestic violence was no longer a personal, private matter but rather a public social problem. Advocates' strategy of altering their rhetoric from an anti-patriarchal message to a community service oriented message made it difficult for Republican members of Congress to oppose the bill. The switch in approach garnered shelters much needed federal moneys at a time when feminist organizations faced continuous and concerted onslaughts from the Reagan administration. The change delivered success in the form of the passage of FVPSA; the Act created the precedent that the federal government had the responsibility to aid battered women, a tremendous victory for battered women and their advocates.

The exchange during the Hearing on Domestic Violence between advocates and Congressional Democrats demonstrated the powerful influence advocates' social service rhetoric had on Congressional Democrats. Yet the Reagan administrations' systemic attacks on feminists demonstrated the lengths the administration would go to combat feminist objectives. While the misdirection tactics of Republican members of Congress did not initially appear linked to the Reagan administration, Representative Bartlett's testimony established a direct correlation between Republicans in Congress and the Reagan administration as both attempted to derail

⁷⁸ *Child Abuse Amendments of 1984*, Section 303. 3; 305. b. 11; 305. b. 2. A; 305.a.

feminist organizations by defunding them. The ultimate passage of the 1984 Family Violence Prevention and Services Act, however, did not mean that the Reagan administration conceded to feminist advocates for battered women. To the contrary, it simply meant that Reagan, and Republican presidents who came after him, conducted a passive aggressive war of attrition on feminist organizations and goals.

Even so, advocates viewed the passage of the FVPSA within the Child Abuse Amendments Act as a triumph because it represented Congress' acknowledgement of domestic violence as a social problem that the federal government had a role in preventing. No longer was the refrain "a man's home is his castle" perceived as an acceptable excuse for beating a woman. Instead, the act demonstrated the attitudes of the country were changing and those in the Capitol could feel that change. Unfortunately, the Reagan and Bush administrations did not feel the change sweeping the country and instead continued to fight the progress of battered women's advocates.

CHAPTER IV

ADVOCATES WIN REAUTHORIZATION OF FVPSA AND PASSAGE OF THE 1990
INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT

Throughout the 1980s and into the early 1990s the country's attitudes toward domestic violence changed as domestic violence became seen as a social problem rather than a domestic issue. The language used by battered women's advocates, the Reagan administration, the George H.W. Bush administration, and members of Congress also changed as the people's representatives passed legislation to address domestic violence. In 1987, during the hearing on the reauthorization of the Family Violence Prevention and Services Act, advocates tried to maintain the social service message that had helped pass the act in the first place. Yet when confronted with the gendered assumptions of members of Congress, advocates added an additional method of attack and mocked patriarchal assumptions that men did not bear the responsibility for their violent actions in some situations. The Reagan administration, bent on decreasing the size and scope of the government, continued to attempt to defund FVPSA by misleading Congress and by failing to fulfill its obligations under the act.

Native American battered women's advocates also added to their rhetoric during a 1990 congressional hearing on the Indian Child Protection and Family Violence Prevention bill pending before Congress. Advocates began their testimony with social service language and employed the additional rhetorical strategy of mocking the sexist and paternalistic language the Bush administration used to argue against passage of the act. Indeed, the Bush administration's public support of anti-abortion activists and its refusal to support the 1990 Indian Child Protection and Family Violence Prevention bill demonstrated that it continued the Reagan administration's legacy of attacking feminist organizations. Despite the executive branch's lack

of progressive movement on women's rights, Democrats and Republicans in Congress continued to be influenced by advocates' social service message. In addition, members of Congress began to hold the Reagan and Bush administration accountable for their lack of action on domestic violence. Members of Congress were also influenced by the personal experiences of their constituents, which demonstrated that current resources and laws still did not adequately address violence against women and children. Thus, Congress reauthorized FVPSA and passed the 1990 Indian Child Protection and Family Violence Prevention Act.

Gloria Steinem

While Betty Friedan's book *Feminine Mystique* gave the 1960s press the impression that feminism was a white middle-class problem of the well educated suburban house wife, Gloria Steinem's activism alongside African American women and her willingness to defend feminist rhetoric championed by lesbians provided the dawn of a modern understanding of feminism. Steinem pointed out in her 1983 book, *Outrageous Acts of Everyday Rebellions*, that women belonged to a caste that cut across class and race. As a reporter, Steinem attended a hearing on the possible loosening of New York State's anti-abortion laws; there she heard women testify about doctors raping them before performing abortions. Hearing the personal stories of women who had sought abortions, as Steinem had shortly after leaving college, radicalized her into becoming an outspoken feminist.¹

More radical than Friedan, Steinem argued that change could not be a one-way street which required women to change but not men. For example, assertiveness training taught women to be more aggressive in the way they spoke, which, Steinem pointed out, "taught women how to play the existing game, not how to change the rules." Nor did such training

¹ Gloria Steinem, *Outrageous Acts and Everyday Rebellions*, 2nd ed. (New York: Henry Holt and Company, 1995), 7, 8, 21, 22.

demand that men change the way they spoke to be more accommodating of women. Steinem pointed to research showing that women and men conformed to standard conventions of power in conversations; men tended to interrupt women in the same way that the old interrupted the young, employees spoke on topics introduced by employers, and those lower down on the corporate ladder spoke more politely than those higher up. In short, those with more social status spoke with less consideration of others than those with little social status. Women were, and are, less powerful than men, Steinem argued, and the conversational habits of men demonstrate this as men interrupt women more than visa versa, men were more likely to gossip than women, and male silence was not indicative of listening. Yet, women were rarely criticized for the way they spoke unless they challenged masculine power. Conservative women were not criticized for their virulent attacks on abortion nor were women criticized for ferociously protecting their families. But, Steinem noted, when a woman ran for public office, historically male dominated positions, her fund raising tactics were criticized and when a female professor gave a lecture, her students would criticize her lecture because she did not have the same social status that a male lecturer had. Finally, in regards to domestic abuse, sociologists, and battered women themselves believed that overly loquacious women were essentially asking for a beating by their husbands. Steinem eloquently summed up these personal experiences of women in the 1980s: "Men *would*, support us, we are told, if only we learned how to ask in the right way. It's a subtle and effective way of not only blaming the victim, but making the victim blame herself."²

On speaking tours feminists Steinem, Dorothy Pitman Hughes and Margaret Sloan encountered hostility to their speeches from diverse individuals. Steinem recounts how on her speaking tour with fellow feminist and African American Dorothy Pitman Hughes, who brought along her baby and husband, journalists often assumed that Steinem spoke for all women but

² Steinem, *Outrageous Acts and Everyday Rebellions*, 193, 194, 195, 199, 201.

Hughes spoke only for black women. At one of their stops a man felt so threatened by what he heard that he screamed at Hughes to "go home to Russia where you belong." The man mostly likely associated Hughes' speech to communist ideals of equality but his outburst prompted a burst of laughter from the audience, and Hughes, at the idea that she was from Russia. At another stop feminist speaker Margaret Sloan prevented a man upset by the feminist speakers' "blasphemous" speeches on equality from barging onto the stage. Rush Limbaugh helped spearhead the feminist backlash when he coined the term "feminazi" and defined it in 1992 as "a woman-as-feminist-to whom the most important thing in the world is that as many abortions as possible take place." Steinem countered that in all of her travels she had never encountered a "feminazi" but that she had met a female Irish taxi driver in Boston who, on hearing Steinem and Flo Kennedy discuss Kennedy's new book *Abortion Rap*, had turned around and said: "Honey, if men could get pregnant, abortion would be a sacrament."³

Battered women's advocates did not speak as bluntly as the taxi driver from Boston but as the 1980s wore on denunciations of the gendered assumptions of Congress and the Reagan and Bush administration began to creep into their social service message. Indeed, as they fought for the reauthorization of FVPSA and for funding for shelters on Native American land, battered women's advocates altered their rhetorical strategy from a strict adherence of social service messaging to include language that confronted the patriarchal language and policies of the Reagan and Bush administrations. While the Reagan administration officials continued to aggressively fight to defund feminist organizations, the Bush administration was even more vocal in its opposition to women's rights and, especially, to the rights of Native Americans.

³ Steinem, *Outrageous Acts and Everyday Rebellions*, xv, 9, 10, 11.

Congressional Responses to the Family Violence Prevention and Services Act

In the years that followed the passage of the FVPSA in 1984, Democrats in Congress became reliable defenders of shelters and the need to publically fund them with federal monies. Congressional Republicans, too, supported the FVPSA and the idea that domestic violence shelters should be publicly funded. They demonstrated their knowledge of the generational perpetuation of domestic violence and child abuse by quoting studies that abused children become delinquents and commit crimes at higher rates as adults.⁴ Obtaining Republican Congressional support for the FVPSA and other acts aimed to improve the lives and legal rights of battered women was no small victory for the feminists who advocated for battered women.

Yet, unlike many Republican Congressmen, the Reagan administration obdurately refused to adequately enact current legislation and support legislative proposals to aid domestic abuse shelters. Instead, the administration continued to aggressively combat battered women's advocates by refusing to adequately administer FVPSA. Unable to sufficiently combat the feminist argumentation in support of battered women's advocates, the Reagan administration pulled administrative obstruction maneuvers to delay the release of FVPSA funds to shelters. The Bush administration continued this tactic and added one more of its own in the early 1990s. They argued that the needs of battered women and abused children had been adequately addressed in FVPSA and that no additional legislation was needed.

Despite the landmark achievement of Congress passing the FVPSA, battered women advocates still had to stare down their old adversary the Reagan Administration to obtain funding. In 1987, the Senate Subcommittee on Children, Family, Drugs and Alcoholism, chaired by Senator Chris Dodd, a Democrat from Connecticut, held a hearing on the reauthorization of

⁴ U.S. Senate Committee on Labor and Human Resources, Subcommittee on Children, Family, Drugs and Alcoholism, *Hearing on Reauthorization of the Adoption Reform Act of 1978 and the Family Violence Prevention and Service Act of 1984*, 100th Cong., 1st sess., 1987, 5.

FVPSA. In his opening statement Senator Dodd accused the Reagan administration of not making the grants available until the middle of the fiscal year for the last two years.⁵ He asked shelter administrators how the delay in the release of funds had affected the states.⁶ Even though Congress had appropriated \$11 million for the fiscal year of 1985 and \$26 million for the following two years to fund FVPSA, the cuts in the budget, championed by the Reagan administration, had whittled funding down to just \$8.3 million for the 1985 fiscal year and \$7.5 million for the 1986 fiscal year.⁷ These funds were drastically lower than the \$60 million for 1985, and \$70 million for 1986 that battered women's advocates had asked for in the 1983 Hearing on Domestic Violence.⁸

At the beginning of the May 21, 1987 Hearing on Reauthorizing FVPSA, Senator Chris Dodd pointed out that even though the act provided funding to local shelters, the fact that 1,100 shelters in the country had to turn away half of women seeking aid because the shelters were at capacity indicated that more had to be done to help battered women. Senator Dodd reported that Connecticut, his district, had used funds obtained under FVPSA to fund eighteen shelters and to fund training initiatives and technical supportive services run by the state. In addition, FVPSA had prompted Connecticut to pass legislation by the same name that more clearly delineated the roles and responsibilities of police departments, the court system, and state social services agencies when dealing with domestic violence cases. Senator Dodd emphasized that despite the real progress FVPSA allowed, the Reagan Administration did not support the act and had not made the grants available in a timely fashion. The Reagan Administration engaged in bureaucratic maneuvers to avoid applying the law rather than fulfilling their constitutional

⁵ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 3.

⁶ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 3.

⁷ *Child Abuse Amendments of 1984*, Section 310. a, Section 311.b. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 6.

⁸ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 43.

obligations to execute it. Congressional Republicans did not join the administration in its open hostility towards FVPSA. Instead Republicans walked the very fine line of supporting FVPSA while also paying lip service to the administration's position.⁹

A sign that Republican Congressmen had shifted to the side of battered women's advocates came in the address of Senator Orrin Hatch and Senator Strom Thurmond. Senator Hatch, a Republican from Utah, used the same language that feminists employed to urge reauthorization of FVPSA by describing family violence as a "societal problem" that should not "remain a hidden family secret where women must hide in shame, nor children remain the primary target." Senator Hatch stated that FVPSA had also funded shelters in his state. He continued "the law requires that more be done for these families who are victims of abuse. They need more than temporary shelters-they need counseling so that the cycle of abuse can no longer continue." Senator Hatch continued by quoting statistics that declared as many as five million women were beaten every year in the United States. Hatch could not completely divest himself of his conservatism, however, as his concluding thought focused on the disintegration of the family unit rather than saving the individual lives of women and children: "[i]f we allow the violence to accelerate, more and more families will disintegrate. And our society's abused children are put on a treadmill toward delinquency and adult crime." As such, Senator Hatch wanted everyone to know that he supported the reauthorization of FVPSA and credited it with helping one of the services in his state reduce violence in couples by 70 percent. While he did not use feminist language, conservative Senator Strom Thurmond, a Republican from South Carolina, also expressed his support for reauthorizing FVPSA, noting that it had helped fund two shelters in Greenville, one for women and one for children and adolescent girls. Senator Hatch's

⁹ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 3. In Washington, D.C. shelters turned away six out of seven women who requested shelter.

and Senator Thurmond's support for FVPSA surprised Senator Dodd, as their support set them against the Reagan administration and right-wing attacks on battered women advocates, both of which opposed reauthorization. At the conclusion of Senators Hatch's and Senator Thurmond's statements, Senator Dodd proceeded to question administration officials. Dodd poked holes in the administration's attempts to defund FVPSA yet he did not perceive just how badly the executive branch would continue to obstruct Congress.¹⁰

The Reagan Administration Fights Reauthorization

During the reauthorization hearings, Dr. Jean Elder, the Assistant Secretary of Human Development Services from the Department of Health and Human Services (HHS), testified first on behalf of the administration. As a representative of the Reagan administration, her testimony reveals the President's attempts to kill the FVPSA. In the last fiscal year the HHS distributed grants to "55 States, Territories and Insular Areas and to 65 Indian tribes." Elder testified that the funds could be used for a variety of projects, which included State run hotlines for family violence and local elder abuse programs." She reported that the grant notices for the fiscal year of 1987 had not been made available until May 6, 1987 and would not be distributed until sometime in July 1987. Elder concluded her statement by saying that the Administration opposed reauthorization. The administration opposed reauthorization because FVPSA funds "duplicate[d] other Federal statutory authorities and funds States receive to support such services" such as the Social Services Block Grants and the Child Welfare Services program. Elder then misleadingly stated that "54 States, Territories and Insular Areas reported that they plan to use Social Services Block Grant funds" for children and 46 stated they used Social Services Block Grants for "services to adults, including abused spouses." Finally, continuing to

¹⁰ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 4, 5, 32, 148. Indeed, Senator Dodd felt that he had to attach the reauthorization of the Family Violence Prevention and Services Act to another bill in order to get it through Congress.

fund the Act would not be "optimum" as spending should be determined at the local level and not at the Federal and State levels. The latter approach would require more administrative levels that would supposedly "contribute to further fragmentation of the social services delivery system."¹¹

Senator Dodd answered Elder's testimony by politely expressing his disappointment in the administration's decision not to support the reauthorization of FVPSA and cited the wait lists at shelters as an indication of the necessity of the legislation. He acknowledged that he would understand the administration's hesitation if the states had filled the funding gap left by the Federal government but they had not. In fact, the amount of money that the Act required was so little in comparison to the overall budget that Senator Dodd mused out loud that keeping the lights running in government buildings in Washington, D.C. probably cost the same every year as funding FVPSA. He wanted to know why the administration did not support reauthorization of FVPSA, especially in the face of evidence showing how much the shelters had already accomplished. Elder replied that she wanted to emphasize that the administration did not disagree with the need for the shelters, they simply disagreed on the "strategy" to fulfill that need. According to the Reagan Administration, the preferred strategy would be to have all service programs administered as block grants and that the current block grants sufficiently met the needs of shelters. Senator Dodd said that in her earlier testimony Elder stated that Title XX-Social Services Block grants already helped "provide protective services to children in the child abuse area" and only 15 states used the funds from the Title XX to support shelters. Thus, 35 states used FVPSA to fund shelters, which meant Elder's assertion that FVPSA funds were superfluous was clearly false. In addition, providing services to children did not mean that services were provided to battered women. "So the Family Violence Act really does pick up a

¹¹ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 6, 7.

lot more than what the numbers would indicate. Any comment?" asked Senator Dodd. Caught with misrepresenting the data, Dr. Elder could only respond, "No, sir."¹²

The next part of the testimony demonstrated administration officials' extreme willingness to obfuscate the truth. Senator Dodd asked about FVPSA's requirement that two years after funds were released the Secretary of the Department of Health and Human Services would "give us [members of Congress] an evaluation of the projects that were funded" and which were the most effective.¹³ Janet Hartnett, the Director of the Division of Policy and Legislation in the Office of Policy, Planning and Legislation, fielded this question and promptly bent the truth far enough to break it. She stated, "That section of the statute is titled 'Evaluation' but it asks that the evaluation be based on the reports that come from the States."¹⁴ This is a half truth. The section of the code clearly stated that "the Secretary shall review, evaluate, and report to the appropriate Committees of Congress, as to the effectiveness of the programs administered and operated pursuant to this title, particularly in relation to repeated incidents of family violence."¹⁵ The next sentence stated, "Such report shall also include a summary of the assurances provided to the Secretary under section 303 (a)(2)(F)."¹⁶ That section stated that the States would report how they were going to provide "for the eviction of an abusing spouse from a shared residence," information which all states who received funds under the Act had to provide within one year of receiving the funds.¹⁷ The report to Congress was not contingent on the state reports, rather the state reports were simply to be included in the report to Congress. Congress required these reports in order to stay informed on whether the legislation was effective and, if not, what

¹² U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 32, 33.

¹³ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 34.

¹⁴ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 34.

¹⁵ *Child Abuse Amendments of 1984*.

¹⁶ *Child Abuse Amendments of 1984*.

¹⁷ *Child Abuse Amendments of 1984*.

changes were necessary to make it more effective. By not submitting the report the administration had failed to comply with the Act.

Not satisfied with this deception Hartnett proceeded to make another. She continued, "That is, as you point out, not really an evaluation. It is much more of a report." Therefore, the administration did not have to perform an analysis of the programs funded by FVPSA but simply informally report to Congress. Yet her statement is a direct contradiction of what she had previously stated and what the act required: an "evaluation" from the Department of Health and Human Services. Yet despite the fact that the Secretary of Health and Human Services, Otis R. Bowen, and his designees had not fulfilled their obligations under FVPSA to provide an evaluation to Congress, Hartnett assured Senator Dodd that they knew how the States spent the funds. They apparently did not feel the need, however, to comply with the Act and formally inform Congress. Most of the money, according to Hartnett, had been distributed to domestic violence shelters but some states had utilized the grant money to establish elder abuse shelters or other programs to combat elder abuse. Senator Dodd wanted to know how FVPSA could be amended now that it was up for reauthorization in order to make sure that the Department of Health and Human Services had the authorization it needed to evaluate the programs. Since FVPSA already had that language, and since Hartnett knew that as she had just cited it, Hartnett disingenuously suggested that Senator Dodd's specific questions be included in the reauthorization. Yet acts generally did not include such language. Congress trusted the Executive Branch to evaluate the effectiveness of the programs implemented under the act and to report back to Congress. By suggesting that Congress specifically include in the reauthorization bill what the administration needed to evaluate after failing to complete the evaluation the law required, the Reagan administration covered for its failure to comply with the act's provisions.

While this subterfuge appeared to sail by Senator Dodd, he did take the administration to task over block grants.¹⁸

Senator Dodd pointed out that Elder had not corrected him when he stated that only 15 states used the Social Service Block Grants to combat family violence. Hartnett helpfully answered for Elder and stated that "54 States provided protective services for children and 46 States also provided protective service for adults, and that includes services to battered spouses as well as to the elderly." Her statement, however, did not deter Senator Dodd. He wanted to know how many of those states specifically used the block grants to fund shelters, since he correctly intuited that the "services" included counseling, which did not provide battered women with the safe refuge that a shelter provided. Hartnett finally admitted that she did not know how many of those states used Title XX funds for shelters. Senator Dodd reiterated that his information showed that only 15 states used Title XX funds for shelters and requested that Hartnett check the information she had and report back to the committee.¹⁹

Senator Dodd continued to press the administration officials. He noted that Elder, in her previous testimony, had indicated that states used funds from the Child Welfare Services Act to fund domestic violence shelters, which the Act did not allow. Hartnett quickly backpedaled for Elder and stated, "When we say that the Child Welfare Services program can fund these services, we mean services, for example, to prevent child abuse." Preventing child abuse, however, is not the same as preventing spousal abuse. Hartnett proceeded to articulate the administration's reasoning for opposing FVPSA reauthorization. According to her, the administration had

¹⁸ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 34. Hartnett suggested specific questions that should be included in the bill. Questions that should have been already included in the mandated evaluation: "The same kinds of questions you were asking earlier with respect to adoption-what works? What does not work? What is the most effective in prevention recidivism? What is most effective in either helping the couple get back together or providing for the independence of the two persons?" These were questions that Senator Dodd had not asked but that Hartnett seemed to be spontaneously able to come up without having to be directed to do so by law.

¹⁹ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 35.

interpreted FVPSA to mean that Congress wanted to fund not only domestic violence shelters, but also related services and assistance. Related services and assistance could cover everything from "self-help counseling, drug abuse and alcoholism counseling," services already covered under Title XX block grants. And since abused children could be covered under the Child Welfare Services Act, there was no reason to reauthorize FVPSA. Hartnett's reasoning defied logic. Congress passed FVPSA in order to help shelters receive badly needed funding but the Reagan administration twisted the language of FVPSA and used it to fund services for abused children. The administration then claimed that since Title XX grants funded services for abused children there was no need to reauthorize FVPSA. This blatantly circular logic demonstrates the aggressive manner in which the Reagan administration fought feminist organizations.²⁰

Senator Dodd, however, perceived the lie in Hartnett's rational that FVPSA funding was redundant. Exasperated, he stated that the states needed the federal government to help collect and distribute information related to domestic violence services and that states should not have to use their funds to accomplish this feat. He reiterated his request that Hartnett investigate how many states actually used Title XX funds to fund shelters. A document the administration later provided demonstrated that only 21 states used Title XX to fund shelters for battered women. His dogged questioning on Title XX demonstrated the lie in the administration's claim that FVPSA funding was superfluous. If only 21 states used Title XX block grants to fund shelters then FVPSA monies provided essential support to shelters in 29 states. His line of questioning demonstrated that the administration's claim that FVPSA should not be reauthorized because existing legislation already provided shelters with adequate support was false.²¹

²⁰ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 35.

²¹ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 35, 36, 37.

Continuing in the same vein, Senator Dodd took the administration officials to task for the delay in making the grant applications available. He asked, "[I]s this just the bureaucratic problem? Or is it because there is the opposition to the reauthorization? What have we got here?" Again, the administration tried to obfuscate. Hartnett sidestepped the Senator's question by stating that the grant awards were distributed at the same time the previous year. She continued, "We would be glad to hear from any of the witnesses today if that is a problem because the States that we spoke with said that an annual cycle was preferable in terms of their RFP [request for proposal] cycle." By asking battered women's advocates to find fault with the preferences of the states, Hartnett attempted to pit battered women's advocates against the states. Thus, instead of the Reagan administration being held to account for releasing the funds late, the fight would be between states and battered women's advocates. Flabbergasted, Senator Dodd asked if the administration proposed to release the grant award even later next year. Hartnett replied that if the states indicated they could "cope" with two awards, one in July and one in December, then the administration would release the funds earlier. The States might not like this set up, however, because, according to her, "once States were on their funding cycle, they preferred to continue it." Adding funds to the year is not the same as interrupting the funding. Yet Hartnett's implication that states now preferred this set up deflected criticism from the administration.²²

Battered Women's Advocates Urge Reauthorization

As the administration tried to derail reauthorization of FVPSA, battered women urged Congress to move in the opposite direction. Both battered women and advocates initially began with the social services message established in 1983 and both employed the additional rhetorical strategy of denouncing the patriarchal system which excused domestic violence. Patricia Price,

²² U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 38.

who had attended Iowa Children and Family Services in Des Moines, Iowa, was now a member of Beyond Abuse, a group of formerly battered women who did outreach to explain domestic violence to the community. At the hearing Senator Tom Harkin, a Democrat from Iowa, introduced Price. In his introduction, Senator Harkin recounted his own personal journey from questioning why women did not leave their abusive partners to becoming aware of the emotional, physical, and financial complexities of domestic violence, that caused battered women to remain in abusive relationships. This was a journey that mirrored that of many other male Democratic Congressmen.²³

Price began by urging reauthorization of FVPSA using social service language. After detailing the abuse she had suffered at the hands of her husband, which included not only physical and emotional abuse, but also repeated kidnappings of both herself and her child as she tried to leave him, Price reminded the committee, "When you support domestic abuse services, you are saving the lives of women and their children." These points echoed those used by battered women's advocates in the 1983 Hearing on Domestic Violence. Under questioning by the two Senators, however, Price encouraged Senator Dodd to understand the permissive attitudes that led to systemic violence against women, which caused Senator Harkin some consternation.²⁴

In answering Senator Harkin's questions on how she heard about the shelter where she took refuge, Price explained that she had an alcoholic parent and, at an Adult Child of Alcoholics meeting, she had learned about the shelter from another attendee. She had not found the shelter on her own because the phone book listed the shelter under drug abuse and not under domestic violence. Senator Harkin stated that many women did not know about the services available to

²³ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 91, 92.

²⁴ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 38, 94.

them and, on quizzing Price about the funding the Des Moines shelter received, found that most of the funding came from local, state, and private donations. Senator Dodd then interrupted and asked if Price's former husband had been an alcoholic. Price replied that he might have been as he went to Alcoholics Anonymous meetings but he had still abused her during the year that he was sober. Senator Dodd tried to link the abuse to alcoholism but Price resisted the correlation and stated, "I do not believe that alcoholism causes abuse." When Senator Dodd replied, "No?" she challenged the patriarchal assumption that drunk men were not responsible for their violent actions by stating, "I just know in my own story that this man was sober a year and you could call it a dry drunk if you want, but I know better." Senator Harkin felt obliged to intervene at this point and tell Price that she had no "better friend" in all of Congress than Senator Dodd. At which point Senator Dodd hastily thanked her for her testimony and called the next witness.²⁵ Senators, even Democratic ones, could not yet wrap their minds around the concept that violence against women was not dependent on substance abuse. Indeed, a study published fourteen years after the hearing demonstrated that abusers used substance abuse as an excuse to commit violence.²⁶

As Price did in her testimony, the three shelter administrators who testified next opened with the social services message that had gotten FVPSA passed in the first place. Additional rhetoric attacking on the patriarchal system which excused domestic violence was added, however, as frustration over the few resources available shortened advocates' tempers. Elise Mullins Evens, President of the Board of Directors of Sistercare, Inc. represented both the Junior League of Columbia, South Carolina and Sistercare, Inc.; the latter, founded in 1980, was the

²⁵ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 105, 106.

²⁶ Antonia Abbey, Tina Zawacki, Philip O. Buck, A. Monique Clinton, Pam McAuslan, "Alcohol and Sexual Assault," *National Institute on Alcohol Abuse and Alcoholism*, 2001, accessed August 12, 2016, <http://pubs.niaaa.nih.gov/publications/arh25-1/43-51.htm>. This study showed that the desire to commit sexual assault may lead to alcohol consumption.

only shelter in the Midlands region of South Carolina. By 1986, they served nearly 4,000 women and their children and yet that same year the South Carolina Department of Social Services eliminated all funding for domestic violence programs in the State. After a successful grassroots campaign, the Junior League got funding reinstated but only at 1983 levels; at the same time the costs of the shelter had gone up by 35 percent. Cynthia Grove, a member of the Board of Directors and on the board of the Public Policy Committee of the Association of Junior Leagues, emphasized the number of shelters that the league had supported all across the country and asked that funding for the Act be increased to \$26 million per year. Anne Menard, the executive director of Connecticut's Coalition Against Domestic Violence, testified that although the Connecticut Coalition had received \$88,000 from the Federal government under FVPSA and \$100,000 from the state of Connecticut they still needed \$350,000 to avoid a deficit. Thus the 18 shelters in Connecticut helped only a third of the women who came to their doors. All three advocates urged the reauthorization of FVPSA.

In her support for reauthorization, Menard countered arguments against FVPSA made two years earlier by right-wing groups and Congressional conservatives. This part of her testimony reflected the frustration of advocates as well as their additional strategy of denouncing anti-feminism.²⁷ In July of 1985, a right-wing think tank attacked shelter advocates in a last-ditch attempt to prevent FVPSA funds from being distributed. At the time, the Attorney General's Task Force on Family Violence was poised to authorize the distribution of \$625,000 from the FVPSA to the National Coalition Against Domestic Violence, which represented 748 shelters. The Task Force, however, received a letter from Patrick McGuigan of the Free Congress Foundation that characterized the National Coalition's activities as "liberal, anti-family

²⁷ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 107, 108, 114, 115, 127.

activism." In a letter to the Justice Department, 23 congressional Republicans joined McGuigan's opposition to the National Coalition calling the coalition a "pro-lesbian, pro-abortion, anti-Reagan, radical feminist group." The fact that congressional Republicans called a feminist organization "anti-Reagan" demonstrates how engrained opposition to all things feminist had become in the Republican party due to the Reagan administration's attacks on feminist organizations. The criticism supposedly stemmed from National Coalition's shelters policy of providing refuge to lesbians in abusive relationships. The Free Congress Foundation described this welcoming policy as "promot[ing] homosexuality and therefore anti-family." Patrick Fagan, director of the Child and Family Protection Institute at the Free Congress Foundation, wanted battered women to seek aid from their church or community mental health centers as the "coalition [National Coalition Against Domestic Violence] has a very different view on marriage and sexuality than those of the traditional Judeo-Christian values. The feminist agenda puts the woman paramount in a selfish way," implying that a woman should allow herself to be beaten rather than leave the man abusing her. Even Maureen Reagan, Ronald Reagan's daughter, criticized the Free Congress by remarking, "[t]hat's the same kind of problem we've had over the years by people who refer to shelters for battered women as R&R centers for bored housewives." Nonetheless, the person in charge of releasing the funds, Assistant Attorney General Lois Haight Herrington, felt it necessary to visit Republican Congressmen and assure them the funds were not being granted to a lesbian task force.²⁸

In the 1987 hearing, in response to the Free Congress Foundation's attacks, Menard, the executive director of Connecticut's Coalition Against Domestic Violence, answered questions posed by the think-tank two years earlier. Menard confronted conservative, anti-feminist

²⁸ "Grand Delay: Group At Issue," *The New York Times*, July 17, 1985, accessed on August 15, 2016, <http://www.nytimes.com/1985/07/17/garden/grant-delay-group-at-issue.html>.

rhetoric by characterizing assertions that shelters were anti-family as "dangerous" attacks that placed the blame for domestic violence on battered women and children, and undermined legislative efforts to end domestic violence and punish abusers. Menard continued in thinly veiled terms that the blame of domestic violence "should be placed squarely on the shoulders of the batterers and on outdated public policy that continues to provide tacit approval of violence within families and its refusal to treat family violence as the serious crime it is." Senator Dodd then asked how many women went to the shelters to get a divorce and if obtaining a divorce was their intention in seeking out the shelter. Menard replied that many battered women used the shelter as a last resort and expressed the sentiment "I would love for this relationship to work, I just want him to stop beating me." Few abusers, however, wanted to attend therapy or to stop abusing their partners and, when deprived of one victim, often moved on to other women that they then battered. Menard's comment made Senator Dodd return to asking social service message questions about how the cycle of violence could be stopped. Menard and the other advocates followed Senator Dodd's lead and returned to their social service messages by answering that shelters provided programs for batterers as well as battered women but emphasized the need for more funding for all programs. During the 1983 congressional hearing that led to the passage of the FVPSA, advocates for battered women did not have to answer allegations that shelters broke up families; indeed, such allegations did not appear during that congressional hearing. Yet by 1987 they did. Such a change in congressional questioning demonstrates the continued attacks on feminist organizations and the pervasiveness of those attacks.²⁹

²⁹ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 107, 108, 144, 146, 147.

Ana Lopez-DeFede's testimony delivered the last stinging rebuke to Elder and company when she testified that children raised in violent households were not considered victims of child abuse and thus Child Welfare funds were not directed to helping these kids. She continued that state child welfare services in South Carolina did not recognize that children of battered women were also likely to be victims of child abuse, thus money for child abuse did not get directed to services that addressed family violence, such as the shelters. Lopez-DeFede's called Elder's testimony that Child Welfare Service funds could be used to fund shelters and combat domestic violence "really inappropriate." All of the advocates agreed that there was too little funding available to combat domestic violence.³⁰

Senator Dodd's plan to obtain the reauthorization of the FVPSA by attaching it to another bill in order to ensure that Reagan would sign it succeeded.³¹ The act was reauthorized under the Child Abuse Prevention, Adoption and Family Services Act of 1988, which became law the following year on April 25, 1988.³² Once again, Congress lumped together violence against women and violence against children, with violence against children taking greater importance than violence against women, even though the cause of the violence often originated from the exact same source. Yet the reauthorization of FVPSA, and Senator Dodd's ardent defense of it, indicated that Congress endorsed advocates' message that domestic violence could not be addressed without shelters. The reauthorization also demonstrated the failure of the Reagan administration's message that funding for shelters was redundant. As Reagan's time in office drew to a close, Congress' position signified the dominant understanding of domestic violence

³⁰ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 7, 147, 148.

³¹ U.S. Senate Committee on Labor and Human Resources, *Hearing on Reauthorization*, 148.

³² *Child Abuse Prevention, Adoption, and Family Services Act of 1988*, Public Law 100-294, 100th Cong., 2nd sess., April 25, United States Code 42 (1988), §5101, accessed April 11, 2017, https://www.acf.hhs.gov/sites/default/files/cb/capta_manual.pdf.

across the nation as state legislatures and governors worked in tandem to combat domestic violence.

The reauthorization of FVPSA under the Child Abuse Prevention, Adoption and Family Services Act of 1988 occurred as increasing numbers of state legislatures passed laws to help end systemic misogynistic beliefs about domestic violence and to raise awareness of resources available to women. And yet, such laws and policies did not always protect victims. In 1986, for example, Connecticut passed a law that required arrests in domestic violence cases, established Family Violence Intervention Units in each court to help victims, and to help first time offenders enroll in programs, and set up reporting requirements for police officers, the judiciary, and medical personnel.³³ Unfortunately, progress did not proceed smoothly as police officers interpreted the law to mean that both parties should be arrested and therefore threatened to arrest battered women. In the judiciary, battered women's advocates found themselves addressing judges who believed the same myths police had used ten years ago such as a "man's home is his castle" and "why doesn't the woman just leave?"³⁴ In response to the latter opinion, and the death of a woman after a judge at a district court had failed to grant her a protective order, Massachusetts mandated training sessions for all of its 150 district court judges to educate the judiciary about the dynamics of power in abusive relationships. The judges appreciated the training.³⁵

In 1987, New Jersey started an awareness campaign after a study reported that police only made reports in 14 percent of domestic violence calls, despite a 1981 law that required

³³ Charlotte Libov, "Connecticut Q&A: Anne Menard; '95 Percent of the Victims Are Women," *The New York Times*, May 15, 1988, accessed August 15, 2016, <http://www.nytimes.com/1988/05/15/nyregion/conecticut-q-a-anne-menard-95-percent-of-the-victims-are-women.html>.

³⁴ Libov, "Connecticut Q&A: Anne Menard" *The New York Times*, May 15, 1988.

³⁵ "Judges In Massachusetts Studying Spouse Abuse," *The New York Times*, May 3, 1987, accessed August 15, 2016, <http://www.nytimes.com/1987/05/03/us/judges-in-massachusetts-studying-spouse-abuse.html>.

police officers to submit a report on any call where violence was alleged to have occurred between spouses. In his state wide effort, Governor Thomas Kean coordinated with battered women's advocates so that women's organizations in each of New Jersey's 21 counties held press conferences to publicize the resources available to battered women in that county. New Jersey also funded services for battered women to the tune of \$4 million in the fiscal year 1987. However, despite these improvements, attitudes had not changed much. In New Jersey, men attending a program for batterers in Middlesex County were surprised to learn that their homes were not their castles and that if they battered their wives again they would go to jail.³⁶ Abusive husbands still kidnapped their wives and courts made battered women meet their husbands and hand over their kids for court ordered visitation.³⁷ Notwithstanding continued instances of domestic abuse, advocates for battered women had made gradual progress across the country at the state and local level, in larger part because of the reauthorization of the FVPSA under the Child Abuse Prevention, Adoption and Family Services Act of 1988. Yet at the federal level the Bush administration continued the Reagan administration's policy of attacking feminist organizations.

The Bush Administration's Anti-Feminist Attacks

The administration of George H.W. Bush continued the legacy of the Reagan administration's hostility towards feminists. While the anti-feminist attacks of the 1980s normalized attacks on feminists, the Bush administration took anti-feminism a step further by challenging the constitutional rights of women. In 1992, a presidential election year, Bush

³⁶ Jerry Cheslow, "Battered Wives: Learning to Use the Law," *The New York Times*, October 25, 1987, accessed August 15, 2016, <http://www.nytimes.com/1987/10/25/nyregion/battered-wives-learning-to-use-the-law.html>.

³⁷ U.S. Senate Committee on Education and Labor, *Hearing on Reauthorization*, 94. Douglas Martin, "About New York; 5 Beaten Women Reunite at Home Away From Hell," *The New York Times*, November 29, 1989, accessed August 15, 2016, <http://www.nytimes.com/1989/11/29/nyregion/about-new-york-5-beaten-women-reunite-at-home-away-from-hell.html>.

repeatedly stated that he "Opposed abortion in all cases except rape or incest or where the life of the mother is at stake."³⁸ On January 23, 1992, Bush made a speech reiterating his support for the anti-abortionists' campaign to overturn *Roe v. Wade* at the same time that the G.O.P named Senator Don Nickles, an ardent anti-abortionist from Oklahoma to head the party's platform committee.³⁹ The speech occurred one day after the U.S. Supreme Court decided to hear a Pennsylvania court case, in which the state of Pennsylvania attempted to limit access to abortions by imposing restrictions such as a twenty-four hour waiting period and a requirement that married women inform their husbands of their intention to have an abortion.⁴⁰ Fortunately, for the administration, the Supreme Court did not overturn *Roe v. Wade* as that would have provoked a fight between pro-abortion and anti-abortion Republicans at the Republican National Convention, but it did uphold restrictions on abortion such as requiring a teenager to obtain parental consent.⁴¹ Both the Supreme Court and the Bush administration sought to limit women's access to medical care. Yet, unlike the Reagan administration, the Bush administration decided to take their attack on women's rights one step further by publicly advocating that women's constitutional rights be limited.

The Bush administration sent Deputy Solicitor General John G. Roberts Jr. to defend Pennsylvania's restrictions on abortions in front of the U.S. Supreme Court. Roberts attacked women's constitutionally protected rights to have an abortion. In October of 1992, the Supreme

³⁸ Robin Toner, "The Supreme Court; Ruling Eases a Worry for Bush, But Just Wait, His Critics Warn," *The New York Times*, June 30, 1992, accessed August 21, 2016, <http://www.nytimes.com/1992/06/30/us/the-supreme-court-ruling-eases-a-worry-for-bush-but-just-wait-his-critics-warn.html>. Andrew Rosenthal, "The 1992 Campaign: Republicans; President and G.O.P Take Aim At Abortion on *Roe* Anniversary," *The New York Times*, January 23, 1992, accessed August 21, 2016, <http://www.nytimes.com/1992/01/23/us/1992-campaign-republicans-president-gop-take-aim-abortion-roe-anniversary.html>.

³⁹ Rosenthal, "The 1992 Campaign: Republicans," *The New York Times*, January 23, 1992.

⁴⁰ Linda Greenhouse, "High Court Takes Pennsylvania Case On Abortion Right," *The New York Times*, January 22, 1992, accessed August 21, 2016, <http://www.nytimes.com/1992/01/22/us/high-court-takes-pennsylvania-case-on-abortion-right.html?pagewanted=1>.

⁴¹ Rosenthal, "The 1992 Campaign: Republicans," *The New York Times*, January 23, 1992.

Court heard arguments and Roberts presented the administration's brief on the side of Operation Rescue, an anti-abortion terrorist group dedicated to harassing women's health centers. Roberts stated the administration's belief that Federal resources should not be deployed to defend abortion clinics from anti-abortion militants like members of Operation Rescue. At the center of the case, *Bray v. Alexandria Women's Health Clinic*, was the Ku Klux Klan Act of 1871, a law passed to protect freed slaves from white supremacist mobs. The Act, as interpreted by the courts, protected "classes" of people from discrimination. The Fourth Circuit Court of Appeals in Richmond ruled that "women seeking abortions" qualified as a class and therefore upheld the injunction against Operation Rescue for preventing women from reaching abortion clinics in Virginia. Roberts, who became the Chief Justice of the U.S. Supreme Court in 2005, argued that Operation Rescue, which consisted of both men and women, was "opposed to abortion, not to women" and were "perfectly nondiscriminating (sic) with respect to abortion," a rather convoluted notion that he then explained as follows.⁴²

Ironically, Robert's argument revolved around an analogy with Native American fishing rights. He argued that if an environmental group sought to prohibit fishing on a river where an Indian tribe had exclusive rights to fish, the environmental group was not discriminating against

⁴² Linda Greenhouse, "Abortion-Protest Case Resumes in High Court," *The New York Times*, October 7, 1992, accessed August 16, 2016, <http://www.nytimes.com/1992/10/07/us/abortion-protest-case-resumes-in-high-court.html>. Operation Rescue was a terrorist organization that harasses patients and blocks their entry to health clinics which offer abortion services. For example, on January 21, 1992, 350 members of Operation Rescue were arrested in Washington for blockading a clinic. Operation Rescue has fallen on hard times financially due to their connection to Scott P. Roeder, the man who murdered Dr. George Tiller, a doctor at a health clinic in Wichita, Kansas that performed later term abortions. Linda Greenhouse, "Court Hears Appeal of Ruling That Bars Abortion Protesters," *The New York Times*, October 17, 1991, accessed on August 16, 2016, <http://www.nytimes.com/1991/10/17/us/court-hears-appeal-of-ruling-that-bars-abortion-protesters.html>. Linda Greenhouse, "High Court Takes Pennsylvania Case On Abortion Right," *The New York Times*. Associated Press, "Kansas: Anti Abortion Struggles," *The New York Times*, September 15, 2009, accessed June 1, 2017, http://www.nytimes.com/2009/09/16/us/16brfs-ANTIABORTION_BRF.html. Monica Davey, "Closed Clinic Leaves Abortion Protesters at a Loss," *The New York Times*, June 7, 2009, accessed June 1, 2017, <http://www.nytimes.com/2009/06/08/us/08wichita.html>.

the tribe.⁴³ Deborah A. Ellis, the NOW Legal Defense and Education Fund attorney, argued that women are the only class of people that have the right to an abortion just as the tribe in Roberts' example were the only ones who had the right to fish in the hypothetical river.⁴⁴ Ellis stated, "Taking away a right that only a particular class has amounts to discrimination against that class." Yet, in January, 1993 the Supreme Court ruled in favor of Operation Rescue and blocked Federal courts from using the Ku Klux Klan Act to ensure that women could gain access to a clinic, which effectively overturned twenty Federal injunctions.⁴⁵ The decision left providers vulnerable, especially since in the preceding nine months abortion clinics had suffered 43 chemical attacks.⁴⁶ The Bush administration's decision to openly support Operation Rescue is a critical example of the general anti-feminists policies of the Bush administration, policies and stances that Native American battered women's advocates had to combat in order to obtain funding.

Native American battered women's advocates had to contend with one of the more blatant attacks against feminists perpetuated by the Bush administration. Determined to prevent Native Americans from obtaining control over local matters on reservations, the administration engaged in paternalistic and sexist attacks on Native Americans in a 1990 hearing before Congress. These attacks did not go unnoticed by Native American feminists, who quickly pointed out the inaccuracies in administration officials' testimony to Congress. In their written testimony, advocates explained to Congress the sexist and racist attitudes and policies of the Federal Government that imprisoned battered women and perpetuated violence on the reservations. Fed

⁴³ Greenhouse, "Abortion-Protest Case Resumes in High Court," *The New York Times*, October 7, 1992 .

⁴⁴ Greenhouse, "Abortion-Protest Case Resumes in High Court," *The New York Times*, October 7, 1992 .

⁴⁵ Tamar Lewin, "Abortion-Rights Groups See A Rise in Attacks on Clinics," *The New York Times*, January 14, 1993, accessed August 22, 2016, <http://www.nytimes.com/1991/10/17/us/court-hears-appeal-of-ruling-that-bars-abortion-protesters.html>.

⁴⁶ Lewin, "Abortion-Rights Groups See A Rise in Attacks," *The New York Times*, January 14, 1993.

up with the inaction of the Bush administration, Native American battered women's advocates used not only their social services strategy but also attacked the patriarchal language and practices of the administration. Again, members of Congress grilled administration officials but this time Congressional Republicans led the charge.⁴⁷

Racism Under the Guise of Paternalism: The Indian Child Protection and Family Violence Prevention Act of 1990

While it was difficult for shelters across the United States to obtain funds from the Federal Government, shelters on tribal reservations faced greater social and economic difficulties than other shelters. In the 1990 Hearing about the Indian Child Protection and Family Violence Prevention bill before the Select Committee on Indian Affairs, Senators from both parties challenged the systemic paternalist attitudes of administration officials. The hearing was mostly on child abuse cases in Indian schools located off the reservations and on child abuse cases committed by family members. The hearing also included, however, the testimony of battered women's advocates and their responses to the testimony of administration officials.

During the hearing, Senator John McCain, a Republican from Arizona, demonstrated particular concern over a case where a teacher on the Havasupai reservation sexually abused 24 kids before being arrested by the FBI. Children reported abuse on three separate occasions over a year before the Bureau of Indian Affairs (BIA) removed the teacher from his post. Rather than taking ownership of the horrendous delay between reports of abuse and the removal of the abuser, Ronal Eden, Deputy to the Assistant Secretary, Indian Affairs, Office of Tribal Services, U.S. Department of the Interior, and Dr. Craig Vanderwagen, Director of the Division of Clinical and Preventive Services at the Indian Health Service (IHS), testified that most child abuse had to

⁴⁷ U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services and Family Violence Prevention Act*, 101st Cong., 2nd sess., 1990, 2, 18, 20, 21, 22, 57, 63, 64, 170, 171, 172, accessed August 26, 2016, <https://babel.hathitrust.org/cgi/pt?id=pst.000017592192>.

do with the substance abuse of the parents and the low socioeconomic status of the families. Furthermore, both alleged that the causes and effects of child abuse still were not understood. Senator McCain, the Vice Chairman of the Select Committee, called the administration on the carpet by asking about the first report of abuse, which had been made in February 1989. Eden attempted to obfuscate: "I have heard at least three different dates. We are in the process of investigating this incident." Senator McCain did not view kindly Eden's attempt to minimize and discredit the child abuse claims. Senator McCain responded that there were three separate complaints and yet the BIA had still not removed the teacher from the classroom, which made legislation all the more necessary.⁴⁸ The administration sought to deflect criticism of its handling of the crisis and maintain its control over the reservations by casting dispersions on the complaints made by abused kids but members of Congress wanted the issue resolved. Congress did this by proposing legislation that devolved authority away from the federal government and towards the tribes.

The proposed legislation gave federal grants directly to the tribes, thus circumventing the BIA. The administration adamantly opposed this devolution of power. Eden told the committee that the administration did not support the proposed bill as it deprived the BIA of "the flexibility to continue incremental improvement." Vanderwagen added that child abuse did not have a line item in the budget but FVPSA and the Child Welfare Services portion of the Social Security Act provided adequate funding. Vanderwagen continued, in a rather egregiously paternalistic tone, by stating that another program "may provide some confusion for the tribes in terms of determining their cohesiveness and direction." Not to be outdone Hiatt chirped, "I think a lot of the children who need treatment for child abuse also have other problems." None of the officials

⁴⁸ U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 19, 20, 21, 22, 23, 28.

expressed an understanding that sexual abuse *causes* health, mental, and behavioral issues in human beings regardless of the victim's age. In response to Senator McCain's question of whether there were enough funds to address child abuse, Hiat conceded, "Probably not." Such a cavalier response infuriated Senator Kent Conrad, a Democrat from North Dakota. He pointed out that social workers for the reservations had 200 cases each. In reply to Senator Conrad's rather brusque inquiry if the panel thought one social worker could handle 200 cases, Eden said, "No." The Senators, however, were not the only ones to notice the administration's reluctance to allow tribal leaders reclaim sovereignty from the BIA. Native American battered women's advocates such as Karen Artichoker used the hearing to point out how the combined intersection of paternalism and patriarchy inhibited the work of advocates for Native American battered women.⁴⁹

At first Native American battered women's advocates employed the social service message that had been so successful with Congress in the past. Most of the testimony from advocates followed this mold, including the testimony of the only battered women's advocate to testify orally in front of Congress. Yet in response to the paternalist and sexist language of administration officials one advocate, Karen Artichoker, a member of the South Dakota Coalition Against Domestic Violence and Sexual Assault and a Lakota woman, sent two letters to the committee that directly addressed the administration's position and testimony. In her second letter, Artichoker used language that ridiculed the sexist and paternalist language of the Bush administration.

The testimony of battered women's advocates for Native women began with the social service message about the dire straits of shelters on reservations, a strategy that had been

⁴⁹ U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 2, 18, 20, 21, 22.

employed by women's advocates since the 1983 hearing in support of the original passage of the 1984 FVPSA. Violet Mitchell, the only advocate to testify orally to the committee, represented the Inter-Tribal Council of Arizona. She testified that out of eleven tribes contacted in Arizona only one had a shelter for battered women and only one tribe had a program for batterers, all of whom attended the program under a court order. Dr. Judith A. Waugh, the Director of Mental Health on the Hopi Reservation, reported that domestic violence was the second biggest problem on the reservation after substance abuse.⁵⁰

Karen Artichoker wrote two letters to the committee as she could not attend the hearing due to financial constraints. The first letter was in response to an invitation by Senator McCain's office to testify at the hearing and the letter adhered to social service messaging that demonstrated the needs of battered Native women. The South Dakota Coalition had established eight programs on reservations to combat domestic violence, five had been established in the past year with funds from the Victims of Crime Act of 1984. After a 1988 amendment to the Crime Act created the Office of Victims of Crime, that office distributed the funds for the domestic violence programs on reservations. Although every reservation in South Dakota had a domestic violence program, only one of these included a shelter. In fact, Native women and children comprised half of all residents at shelters in South Dakota, even though Native women and children consisted of only four or five percent of the population of South Dakota. Since reservations had no courts, shelters on reservation land could not claim any of the \$100,000 collected from South Dakota's marriage license fees to help fund shelters. In 1989, South Dakota allocated only \$250,000 of the one million dollars requested by the South Dakota Coalition for the state's domestic violence and sexual assault programs. The most any shelter received was

⁵⁰ U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 127, 159.

\$18,000. As for FVPSA funds, the most any program received was \$5,000 a year. To put this into perspective, a shelter staffed twenty-four hours a day required an annual budget of over \$100,000 in 1990 dollars. The meager funds provided by the federal government at most totaled \$23,000, which did not sufficiently fund shelters located off the reservation. On the reservation, shelters faced even more dire conditions as reservations lacked the support of the federal government.⁵¹

The private shelter at Pine Ridge, funded by the tribe, was a two-bedroom building that had no electricity and had been condemned by the BIA. With no safe place to go, some Native women asked to be put in jail rather than return to their abusive partners. Others hid until they could get together enough gas money to reach a shelter, all of which, except for Pine Ridge, were located off the reservation. When Artichoker rang the IHS to have them help transport women to shelters outside of the reservations, IHS informed her that the IHS was "out of the business" of transporting people but offered the services of the clinical psychologist. Artichoker informed Senator McCain that battered women who had just left their abusive spouse "need a clinical psychologist like she needs a hole in the head." Battered women needed safety, protection, food, and, most importantly, shelter.⁵²

In addition to the lack of funding and support from the IHS, and unlike reservations located off the reservation, shelters on the reservations could not use volunteers to offset the lack of funds. Battered women's advocates discovered this when they tried to house a battered woman and her children with a family on the reservation. When the advocate returned the next day the family informed her they would "'keep' the battered woman and her children but could

⁵¹ U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 127, 159, 170, 173, 177, 179, 180, 181. Office for Victims of Crime, *About OVC*, accessed August 17, 2016, <http://www.ovc.gov/about/index.html>.

⁵² U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 181.

they please get some food." It was difficult for volunteers, already struggling to sustain their own families, to give their resources and time to helping victims. Under such circumstances Artichoker rightly described volunteering as "a luxury and a privilege." She completed her letter by stating that she fully supported the proposed legislation and hoped that the grants made available would adequately fund shelters rather than just provide bread crumbs.⁵³

In Artichoker's second letter, dated July 9th, she employed another rhetorical strategy; she criticized the patriarchal and paternalistic manner in which the executive branch conducted itself in its interactions with Native Americans. But first she responded to the falsehoods that the administration officials had told. Artichoker stated that in the experience of the South Dakota Coalition advocates, the administration funneled FVPSA monies into youth programs rather than into the shelters. The IHS's belief that IHS personnel adequately helped abused children was not only insulting, but also an inaccurate depiction of reality. In fact, the IHS's Mental Health Plan received enough funds to outline the problem without actually committing resources to resolving or preventing the violence. Then Artichoker went on the offensive. She described Vanderwagen's written statements that the proposed bill "would unnecessarily complicate our efforts" and that "no additional legislative authority is needed," as well as Eden's claim that "existing authorities provide the latitude to accomplish the activities addressed in this legislation," as patronizing claims that disempowered Native Americans. In addition, the testimony of the IHS and the BIA indicated how "terrified" the agencies were of tribes obtaining funds from the government that the agencies could not control. She stated that the testimony of administration officials alarmed battered women's advocates as it showcased their ignorance of domestic violence and their priority to address abused children at the expense of helping battered

⁵³ U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 179, 184.

women. Their philosophy was deeply flawed, as many battered women had children who were also being abused. She argued that in order to combat the abuse of children, it was imperative to combat violence against women.⁵⁴

In her conclusion, Artichoker stated that the testimony of the IHS and BIA indicated that the agencies had an "us and them" attitude." The South Dakota Coalition Against Domestic Violence and Sexual Assault's original support for the legislation had been based on the assumption that the BIA and IHS would work in collaboration with tribal agencies and battered women's advocates to improve and make the most of the new funding. Although Artichoker stopped short of opposing the legislation, she made it clear that she had misgivings about the agencies' cooperation and asked the Senate to take into account the needs of Native battered women. Her testimony demonstrated that administration officials could not be trusted to handle feminist issues or even basic services. Her appeal to the Senate to intervene and provide aid did not fall on deaf ears.⁵⁵

The Passage of the Indian Child Protection and Family Violence Prevention Act of 1990

The Indian Child Protection and Family Violence Prevention Act of 1990 became law on November 28, 1990. The Senate heeded the advice of the testimony of Native leaders to limit the involvement of the BIA and the IHS. The Senate put the Secretary of Health and Human Services in charge of distributing the Child Abuse Treatment Grant Program and allocated ten million dollars every year for the next six years starting with fiscal year 1992. Furthermore, the Senate directed the Secretary of the Interior to establish two new centers, the Indian Child Resource and the Family Service Center, at every field office of the BIA. But Congress directed the Secretary of Health and Human Services to staff these centers. Both of the centers had to

⁵⁴ U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 57, 63, 64, 170, 171.

⁵⁵ U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 172.

include a person with knowledge of domestic violence and had to develop policy recommendations on family violence, which had its own listing within the Act, as well as child abuse and neglect. This set-up ensured the good behavior of BIA agents and guaranteed that the BIA could no longer run reservations as personal fiefdoms, as HHS personnel worked alongside BIA agents on the ground and could act as a check on the BIA. The act provided the centers with the substantial sum of three million dollars for each of the fiscal years 1992 through 1997.⁵⁶

As with the portion of the act that covered Native children, the part of the act that directly addressed domestic violence, the Indian Child Protection and Family Violence Prevention Program, demonstrated a distrust of the BIA and continued devolution of powers to the tribes. This portion of the Act required that the BIA have its own Indian Child Protection and Family Violence Prevention Program but, unfortunately, not that it have field offices. Furthermore, each tribe determined whether there would be a family violence prevention program on their reservation. Each tribe also would choose which agency or official would be in charge of cases of child neglect and abuse, who would be in charge of preventing family violence, and who would provide shelter for the victims of domestic violence. These requirements gave a great deal more discretion and power to the tribes and made it possible for tribes to choose agencies other than the BIA.⁵⁷

Although most of this part of the Act dealt with child abuse, demonstrating that Congress linked family violence with child abuse without necessarily recognizing that if children were abused, often women were abused too, it did provide funds to pay domestic violence staff and to

⁵⁶ *Indian Child Protection and Family Violence Prevention Act of 1990*, Public Law 101-630, 101st Cong., 2nd sess., November 28, United States Code 25 (1990), § 3201 Section 3208 (a), 3208 (e), 3209 (a), 3209 (e), 3209 (d)(4), 3209 (h), accessed August 19, 2016, <http://uscode.house.gov/view.xhtml?path=/prelim@title25/chapter34&edition=prelim>. The name of the proposed bill, Indian Child Protective Services and Family Violence Prevention Act, changed after the Senate Hearing.

⁵⁷ *Indian Child Protection and Family Violence Prevention Act of 1990*, Section 3210 (a), 3210 (b), 3210 (c).

train judges, police, doctors, lawyers, teachers, and social workers to recognize, prevent, and treat domestic violence. Most importantly, it allocated funds for the "construction or renovation of facilities for the establishment of family violence shelters." Congress continued the formula approach of approving grants, but it did require the Secretary of the Interior to include tribes in the process. Congress required that the Secretary of the Interior make sure that every tribe have at least one fully paid social worker. Senator McCain, the sponsor of the bill, foresaw the possibility of funds for the Act being reduced and so the Act states that if that occurs then what remains of the funds shall be evenly divided among all the tribes. This was a situation Artichoker had asked Congress to avoid; under this policy the tribes would receive such a small share of the funds as to render the funding virtually meaningless since each tribe would receive only a few thousand dollars rather than the tens of thousands that they needed. Far overshadowing the assistance given Native children or the funds given in the Family Violence Prevention and Services portion of the Child Abuse Amendments of 1984, Congress actually appropriated 30 million dollars for the Indian Child Protection and Family Violence Prevention Act of 1990 for each of the five authorized years.⁵⁸

Throughout the 1980s and into the early 1990s the country's attitudes toward domestic violence changed as domestic violence became a social problem rather than a domestic issue. The languages used by state legislatures, governors and members of Congress on both sides of the aisle also shifted as the people's representatives passed legislation to address domestic

⁵⁸ *Indian Child Protection and Family Violence Prevention Act of 1990*, Section 3210 (d)(5), 3210 (d)(2), 3210 (f), 3210 (f)(4), 3210 (f)(5), 3210 (i).

violence. Yet throughout the 1980s and early 1990s the Reagan administration and the Bush administration remained implacable in their disdain for battered women and their advocates. The Reagan administration opposed not only the reauthorization of FVPSA but also refused to adequately enforce the act, as Senator Dodd's questioning of Reagan administration officials revealed. The Bush administrations' defense of Operation Rescue, a terrorist organization, and their strong opposition to both devolving powers to the tribes and aiding battered women and abused children on reservations demonstrated that the anti-feminist policies of the Reagan administration had been embraced by the Bush administration. Despite the distain of the executive branch for feminists, advocates had gained broad support from members of Congress. Both Democrats such as Senator Chris Dodd and Senator Tom Harkin and even conservative Republicans like Senator Strom Thurmond, who supported the reauthorization of FVPSA, and Senator John McCain's, who advocated for the passage of the Indian Child Protection and Family Violence Prevention Act of 1990, acknowledged that shelters required federal funding and support.

Yet, due to the anti-feminist climate of the 1980s and early 1990s, battered women added another strategy to their traditional social services message: attacking the anti-feminist rhetoric and policies of the Reagan and Bush administrations. It was necessary to add this additional rhetorical strategy in order to remind Congress that violence against women was the fault of men and could not be blamed on substance abuse. Indeed, advocates felt they had to address the concerns of conservatives like the Free Congress Foundation and remind Congress that divorce among violent couples was the fault of battered women but rather the fault of the violent partner and outdated public policy that turned a blind eye to the suffering of battered women. Fortunately the anti-feminist policies of the Bush administration did not carry over into the

Clinton administration. Instead the election of Bill Clinton in 1992 led to efforts to pass the Violence Against Women Act, the passage of which was a huge victory for battered women's advocates. By the mid-1990s advocates had managed to co-opt the legislative and, with a Democrat in the Oval Office, the executive branches to their feminist message that violence against women was a major social problem.

CHAPTER V

CONCLUSION: PASSAGE OF VAWA AND UNITED STATES V. MORRISON

On September 13, 1994, President Bill Clinton signed the *Violent Crime Control and Law Enforcement Act of 1994*.¹ The day after it passed Congress, the *New York Times* proclaimed "Quiet Winners in House Fight on Crime: Women," as Title IV of the act incorporated the entire Violence Against Women Act and received \$1.6 billion of the \$30.2 billion appropriated for the whole crime bill.² The passage of the act represented the culmination of the battered women's movement's goals for the previous twenty years as it included a national hotline for survivors, funding for shelters, and funding for police departments to institute mandatory arrest policies.³ More importantly, however, the act demonstrated that advocates had succeeded in creating a cultural compromise with members of Congress that labeled domestic violence as a public social problem that required federal funding to address. Indeed, Congress went further than advocates had requested by ordering reports to investigate the depth of systemic violence against women, by providing two free HIV tests to their victims, by creating penalties for abusers, and by making it a civil right to live a life free of gender based violence.⁴ Yet the trajectory of progress is almost never a straight line, and the VAWA proved to be no exception to the rule as the act specifically allowed courts to consider the sexual histories of victims in rape trials.⁵ Unfortunately, while advocates managed to convince members of Congress to perceive rape and assault as heinous crimes perpetuated by systemic societal

¹ *Violent Crime Control and Law Enforcement Act 1994*, Public Law 103-322, 103rd Cong., 2nd sess. (September 13, 1994), accessed April 3, 2017, <https://www.govtrack.us/congress/bills/103/hr3355/text/en>.

² Catherine S. Manegold, "Quiet Winners in House Fight on Crime: Women," *New York Times*, August 25, 1994, accessed August 25, 2016, <http://www.nytimes.com/1994/08/25/us/quiet-winners-in-house-fight-on-crime-women.html>.

³ *Violent Crime Control and Law Enforcement Act 1994*, Sections 40211, 40241, 2101.

⁴ *Violent Crime Control and Law Enforcement Act 1994*, Sections 40503, 40221, Subtitle C-Civil Rights for Women.

⁵ *Violent Crime Control and Law Enforcement Act 1994*, Section 40141.

acceptance of violence against women, the Supreme Court had not reformed its understanding of the systemic nature of gender based violence. As a result, the Supreme Court struck down the VAWA provision that extended civil rights to include violence against women in its decision in *United States v. Morrison*.⁶

The VAWA finally answered battered women's advocates requests for federal funding. The crisis hotline begun by advocates in St. Paul, Minnesota in 1972 culminated in the National Domestic Violence Hotline under the VAWA and received funding to the tune of \$1 million for the fiscal year 1995 and \$400,000 for every year up to 2000.⁷ In the 1983 hearing before Congress, battered women's advocates had requested \$50 million for 1984, \$60 million for 1985, and \$70 million for 1986 to fund shelters.⁸ They did not receive that amount in 1983 but by 1993 the second reauthorization of the Family Violence Prevention and Services Act had increased funding for shelters to \$27.6 million.⁹ Yet, at a 1993 hearing before VAWA's passage, Senator Christopher Dodd, a Democrat from Connecticut, expressed the conviction that shelters needed even more funding.¹⁰ Representative Patricia Schroeder, a Democrat from Colorado, shared his concern and VAWA funded shelters, on top of what they received from FVPSA, with \$50 million for the fiscal year 1996, \$60 million for 1997, \$70 million for 1998, \$72.5 million for 1999, and \$72.5 million again in 2000.¹¹ At a hearing in 1983, Reuban Greenburg, the chief of police for Charlestown, South Carolina Police Department, had testified to Congress that arrests reduced violence in domestic couples and the 1994 VAWA provided grants to states,

⁶ *Violent Crime Control and Law Enforcement Act 1994*, Subtitle C-Civil Rights for Women.

⁷ *Violent Crime Control and Law Enforcement Act 1994*, Section 40211. Tierney, "The Battered Women Movement," 207.

⁸ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 43.

⁹ U.S. Senate Committee on Labor and Human Resources, Subcommittee on Children, Family, Drugs and Alcoholism, *Witness to Domestic Violence: Protecting Our Kids*, 103rd Cong., 1st sess., 1993, 2, accessed April 8, 2017, <https://www.loc.gov/resource/conghear01.0001120286A/?sp=10>.

¹⁰ U.S. Senate Committee on Labor and Human Resources, *Witness to Domestic Violence*, 2.

¹¹ *Violent Crime Control and Law Enforcement Act 1994*, Section 40241.

Indian tribal governments, and local governments totaling \$28 million for fiscal year 1996, \$33 million for 1997, and \$59 million for 1998, in order to encourage mandatory arrest policies.¹²

Yet Congress went even further than advocates' requests and appropriated large sums of money to help states fund education programs to undermine systemic acceptance of violence against women among young people.¹³ Congress appropriated funding for state rape prevention and education programs to the tune of \$35 million for the fiscal year 1996 and increased funding to \$45 million by the year 2000; 25 percent of those funds had to be used to educate middle school, junior high school, and high school students. These programs educated young people that violence against women was not acceptable.¹⁴ Representative John Conyers, a Democrat from Michigan, argued in June of 1994 that the VAWA would be essential in providing assistance to intervention and prevention programs in communities; indeed, the act established grants, to the tune of \$130 million for fiscal year 1996 and increasing every year to \$174 million appropriated for the fiscal year of 2000, that were given to States, Native Tribal governments and local governments, to develop programs to combat crimes against women such as stalking, sexual assault and domestic violence.¹⁵

In order to outline the full extent of prejudice against women and systemic violence against women, Congress ordered reports from numerous government agencies. For example, the VAWA required a report from the Attorney General and the Secretary of Health and Human

¹² U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 92. *Violent Crime Control and Law Enforcement Act 1994*, Section 2101.

¹³ U.S. House Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, *Domestic Violence: Not Just a Family Matter*, 103rd Cong., 2nd sess., June 30, 1994, 29. Senator Joseph Biden quoted a Rhode Island study, that was not included in the record, that found that 65 percent of 7th, 8th, and 9th grade boys and 47 percent of girls thought it was okay for a man to force a woman to have sex with him, if he had been dating her for six months.

¹⁴ *Violent Crime Control and Law Enforcement Act 1994*, Section 40151. U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 93.

¹⁵ *Violent Crime Control and Law Enforcement Act 1994*, Sections 40601. U.S. House Committee on the Judiciary, *Domestic Violence*, 32.

Services on how courts used the "Battered Women's Syndrome"; a report from the Attorney General on how abusers obtained the addresses of former spouses; and a report from the Attorney General on the difficulties of keeping records of criminal complaints in domestic violence cases. In addition, the Attorney General was ordered to commission a study from the National Academy of Sciences on how effectively to combat domestic violence and to confer with the Secretary of Education in order to conduct a baseline study of campus assault nationwide. Finally, The Secretary of Health and Human Services received \$100,000 to provide Congress with a projection on the costs of injuries caused by domestic violence. All of these commissioned reports answered battered women advocates' call to study the systemic nature of violence against women.¹⁶

Republicans in the House and Senate strongly supported another measure in VAWA: HIV testing. The act ordered a report from the United States Sentencing Commission on how to revise criminal sentencing to deal with HIV infected individuals who deliberately engaged in sexual activities in order to transmit HIV. The act also directed the Attorney General to pay for two tests to detect sexually transmitted diseases possibly contracted by victims of sexual assault.¹⁷ Republicans Senator Bob Dole of Kansas, the Senate Minority Leader, Senator Orrin Hatch of Utah, and Representative Susan Molinari of Staten Island all supported these provisions of the act.¹⁸

In the 1983 hearing, the 1987 hearing, and the 1990 hearing battered women and battered women's advocates had testified to the vicious assaults of men who attacked them and Chief Greenburg had characterized those domestic violence assaults as "homicide, aggravated

¹⁶ *Violent Crime Control and Law Enforcement Act 1994*, Sections 40507, 40508, 40509, 40291, 40506, 40293.

¹⁷ *Violent Crime Control and Law Enforcement Act 1994*, Section 40503.

¹⁸ Manegold, "Quiet Winners in House Fight on Crime: Women," *New York Times*.

assault, assault with intent to kill, rape, battery, theft, harassment, terroristic threats, malicious mischief, and disturbing the peace."¹⁹ The VAWA reflected Congress's agreement with these powerful testimonies as the act criminalized some sexual assaults and the crossing of state lines to committed gender based violence, removed sentencing that prevented batterers from receiving the same sentence as men who assaulted women on the street, required states to work together to protect victims of violence, and allowed women to sue their rapists for restitution. The act criminalized touching the genitalia of someone under 16 years of age.²⁰ The act also forbid abusers from crossing state lines or, importantly, reservations to harass or harm a partner or to kidnap her. If he did, he faced up to life imprisonment if he killed her, 20 years if he caused permanently disfigured her, and 10 years for serious bodily injury.²¹ The VAWA also required that differences in sentencing between assailants who knew the victim and assailants who did not know the victim be eliminated, which reflected the experience of members of Congress who used to be prosecutors such as Representative Lamar Schiff, a Republican from Texas, who had prosecuted cases without regard to the relationship between the accused and the victim.²² Moreover, the act required states to respect each other's protective orders, which prevented abusers from playing police agencies in different states against one another.²³ Under the "Mandatory Restitution for Sex Crimes" portion of the act women gained the right to obtain restitution from their rapists for everything from the usual expenses in court cases, such as attorney's fees, medical expenses, and lost income to the less usual such as costs for child care, and the cost of obtaining a protective order. Also under this section children obtained the right

¹⁹ U.S. House Committee on Education and Labor, *Hearing on Domestic Violence*, 92, 35, 40, 45, 46. U.S. Senate Select Committee on Indian Affairs, *Hearing on the Indian Child Protective Services*, 181.

²⁰ *Violent Crime Control and Law Enforcement Act 1994*, Section 40502.

²¹ *Violent Crime Control and Law Enforcement Act 1994*, Section 2262.

²² *Violent Crime Control and Law Enforcement Act 1994*, Section 40112.

²³ *Violent Crime Control and Law Enforcement Act 1994*, Section 2265. U.S. House Committee on the Judiciary, *Domestic Violence*, 5.

under the law to claim restitution for sexual exploitation. Overall, the act addressed many of the problems related to domestic violence that were first addressed by battered women's advocates back in the 1970s.

Finally, the coup de grace of the entire VAWA was titled "Subtitle C-Civil Rights for Women," wherein Congress made violence against women a violation of women's civil rights, for which a redress of grievances could be obtained in federal, rather than only state, court.²⁴ The main proponent of the provision, Senator Joseph Biden, a Democrat from Delaware and later the Vice President of the United States, explained its importance to his fellow legislators in language worthy of a battered women's advocate. In a 1994 hearing about the Violent Crime Control and Law Enforcement Act of 1994, Senator Joseph Biden, stated that the only way to change societal attitudes about domestic violence was to attach a punishment to the crime. Biden continued that the greatest sanction society could place upon a crime was to make it a civil rights violation.²⁵ Congress did just that by including in the VAWA "Subtitle C-Civil Rights for Women," which declared, "All persons within the United States shall have the right to be free from crimes of violence motivated by gender," and gave victims of gender based violence the ability to file in federal court for a violation of their civil rights. The act further stipulated that an accused person did not need to have a prior criminal history in order for the federal civil case to proceed.²⁶ Thus Congress attacked systemic sexism which allowed prosecutors to decide whether or not to prosecute a rape.

It is interesting to note that Senator Biden did not end his testimony with his defense of the Civil Rights portion of the VAWA. Instead, he proceeded to recruit his fellow legislators into becoming advocates themselves. He decried the question, posed by some men, why women

²⁴ *Violent Crime Control and Law Enforcement Act 1994*, Subtitle C-Civil Rights for Women.

²⁵ U.S. House Committee on the Judiciary, *Domestic Violence*, 30.

²⁶ *Violent Crime Control and Law Enforcement Act 1994*, Subtitle C-Civil Rights for Women.

stayed with the men who battered them or did not report rape. He advised the members of the subcommittee to respond to this question by referencing the movie "Deliverance," in which two hillbillies raped a man while forcing him to squeal like a pig, and asking the male questioner if he would report the rape if he had been the victim. If the questioner was honest, Senator Biden argued, he would respond that he would not report the rape for the same reason women did not report rape: victim blaming.²⁷ Senator Biden's analogy proves that some members of Congress had become ardent battered women's advocates themselves.

Yet, the trajectory of progress is usually not a straight one. The VAWA also included a provision that Senator Biden's office condemned as turning "800 years of Anglo-Saxon jurisprudence. . . on its head."²⁸ In a section titled "Sexual History In Criminal and Civil Cases," Congress specifically allowed the sexual history of victims into court proceedings by including language so broad as to make it virtually impossible for a prosecutor or plaintiff's attorney to prevent the sexual history of the victim from being used to question the validity of her accusation.²⁹ In contrast to Senator Biden, Senator Hatch, the same Senator who had supported the HIV testing for victims provision of the act, called the provision, the brainchild of the House of Representatives, a "definite improvement" to the act.³⁰

Senator Hatch and the Supreme Court shared similarly regressive views on the role of the courts in combating violence against women. In 2000, the Supreme Court struck down the Civil Rights portion of the VAWA in its *United States v. Morrison* decision. The case revolved around a college freshman, Christy Brzonkala, who was raped by Antonio Morrison and James Crawford, two members of the football team at Virginia Polytechnic Institute. When the

²⁷ U.S. House Committee on the Judiciary, *Domestic Violence*, 33.

²⁸ Manegold, "Quiet Winners in House Fight on Crime: Women," *New York Times*.

²⁹ *Violent Crime Control and Law Enforcement Act 1994*, Section 40141.

³⁰ Manegold, "Quiet Winners in House Fight on Crime: Women," *New York Times*.

university let Morrison come back to school after a one semester suspension, Brzonkala sued the university, Morrison, and Crawford in federal court on the grounds that her civil rights had been violated under the 1994 Violence Against Women Act. In a 5-4 decision, the Supreme Court ruled that she did not have the right to sue in federal court for a violation of her civil rights. Writing the opinion for the majority, Chief Justice William Rehnquist argued that there were limits to the powers granted Congress by the Commerce Clause, which stated that Congress had the right "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."³¹ The Commerce Clause had been used to justify virtually all acts of Congress since 1937, but over the years the Supreme Court had determined that Congress could regulate only three aspects of interstate commerce. First, Congress could regulate conduits of interstate commerce. Second, Congress could regulate and "protect the instrumentalities" and persons involved in interstate commerce. Finally, and most importantly for the VAWA, Congress could "regulate those activities having a substantial relation to interstate commerce." Rehnquist acknowledged that the United States government had provided the Supreme Court with numerous reports demonstrating that gender based violence affected interstate commerce but rejected the United States Government's argument "that Congress may regulate noneconomic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce." Rehnquist argued that such an expansion of the applicability of the Commerce Clause blurred the lines between what was national and what was local.³²

United States vs. Morrison was only the second case to limit the Congressional powers under the Commerce Clause since the 1937 decision *NLRB v. Jones & Laughlin Steel Corp.* had

³¹ U.S. Constitution, art. 1, sec.8, cl.3.

³² *United States v. Morrison*, 529 U.S. 598 (2000). Rehnquist was quoting the *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937) decision here.

greatly expanded the powers of Congress to regulate interstate commerce.³³ The first case, *United States v. Alfonso Lopez, Jr.* in 1995 concerned guns at schools and the Supreme Court ruled there, for the first time in 58 years, that Congress did not have the right to declare schools gun free zones.³⁴ Thus the *United States v. Morrison* decision is significant as it stated that there were now two instances where Congress could not legislate based on the Commerce Clause: a prohibition of guns in schools and gendered based violence as a violation of civil rights.

Ironically, in his *United States v. Morrison* decision Rehnquist also acknowledged, and did not challenge, the validity of reports to Congress which enumerated systemic bias against women in state courts. In Rehnquist's words "many participants in state justice systems are perpetuating an array of erroneous stereotypes and assumptions" that resulted "in insufficient investigation and prosecution of gender-motivated crime, inappropriate focus on the behavior and credibility of the victims of that crime and unacceptable lenient punishments for those who are actually convicted of gender-motivated violence." Yet in the last paragraph of his opinion, Rehnquist argued that Brzonkala should seek justice in these same state courts and denied her a right to seek redress in federal court.³⁵ This eviscerated the section Subtitle C-Civil Rights for Women of the VAWA, and made it impossible for women to sue their batterers and rapists in federal court for violating their civil rights. Battered women and rape survivors could still sue for restitution in state courts under the "Mandatory Restitution for Sex Crimes" but they could not sue in federal court for a violation of their civil rights. Thus, women could not avoid the pervasive bias of state courts against victims of gender based crime.³⁶

³³ *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937).

³⁴ *United States v. Lopez*, 514 U.S. 549 (1995).

³⁵ *United States v. Morrison*, 529 U.S. 598 (2000).

³⁶ *United States v. Morrison*, 529 U.S. 598 (2000).

The 1994 Violent Crime Control and Law Enforcement Act demonstrated that battered women's advocates had successfully co-opted members of Congress with their social service and anti-patriarchy messages. Indeed, some members of Congress had become battered women's advocates themselves. Advocates' messaging helped propel Congress into action only to have the Supreme Court impede women's ability to sue the men who attacked them. Yet the legacy of battered women's advocates remains. No longer is violence against women a private, personal matter. Advocates have made it a public matter that Congress provides funds to combat.

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