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A New Hope: South Carolina's Struggle with Domestic Violence

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A NEW HOPE

South Carolina's Fight to Overcome Domestic Violence

Abstract

A review of South Carolina's historic struggle with domestic violence with an overview of recent legislation passed to better address the issue followed by suggestions for further improvement.

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Table of Contents

Thesis Summary 4

I. Introduction 6

II. Scholarship on Domestic Violence..... 8

A. What is Domestic Violence? 8

B. What Incites Domestic Violence?..... 9

C. Red Flags, Warning Signs and High Risk Situations 12

D. Why Do Victims Stay?..... 15

III. South Carolina History of Domestic Violence..... 21

A. The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina21

B. National Domestic Violence Statistics23

C. Till Death Do Us Part23

IV. South Carolina Legal Reform to Address Domestic Violence 26

A. 2015 Act 58 Domestic Violence Reform Act27

Definitions added to Section 16-25-10 of the 1976 Code:..... 27

Domestic Violence Degrees..... 28

B. Penalties for Felonies and Misdemeanors..... 29

 Sentence Suspension or Probationary Requirements..... 30

 Domestic Violence and Firearms and Ammunition Prohibitions and Penalties..... 31

 Bond Considerations..... 32

 Arrest Policy 32

 Department of Social Services and Victims 33

 Pretrial Intervention Program 34

Domestic Violence Advisory Committee	34
Community Domestic Violence Coordinating Councils	36
Permanent Restraining Orders.....	36
V. Domestic Violence Programs and NGOs.....	37
VI. Additional Approaches to the Problem	39
A. Mandatory Arrest.....	39
B. Domestic Violence Courts	41
VII. Conclusion	45
Works Cited.....	49
Appendix.....	52
Definitions added to Section 16-25-10 of the 1976 Code:.....	52
Domestic Violence Degrees Defined.....	53

Thesis Summary

South Carolina has come into the national spotlight over the past 10 years over its consistent issue with domestic violence. With domestic homicide rates consistently over the national average, journalists and researchers have examined everything from the causes of domestic violence, its impetus within a person and its cultural influences, to the way that law enforcement and the judicial system handle cases presented to them. South Carolina's patriarchal background and traditional perspective on gender relations certainly play a role in the high rates of domestic violence in the state, and other cultural factors that could affect the prevalence of abuse. Socio-economic status, unemployment, and a background of violence are only a few of the indicators that point towards potential violent behavior.

Up until 2015, South Carolina law was hazy on domestic violence, but in June 2015, the Domestic Violence Reform Act was signed into law, marking a milestone in progress towards dealing with domestic abuse in the state. Clearer definitions of abuse, stricter punishments and a focus on victim protection and community security were all critical to the Domestic Violence Reform Act. These particular stipulations make dealing with domestic violence cases simpler for court systems, especially those with established Criminal Domestic Violence Courts, designed to streamline the judicial process and aid in the prosecution of abusers and protection of victims.

South Carolina citizens are taking steps to address the root of the problem, with non-profit organizations that offer help to victims and survivors. These organizations have made a difference in the lives of thousands of women through counseling services, career advice, and childcare as they leave abusive situations and establish themselves independent of their abuser. Educational programs in school have begun teaching students how to recognize domestic violence as well as when and how to report it. These programs are reaching potential victims

before they are trapped in unhealthy relationships. South Carolina's struggle will continue as it addresses violence at every level but there is hope on the horizon as law makers and volunteers make the safety and security of their fellow citizens and neighbors a priority.

I. Introduction

For over fifteen years, South Carolina has ranked in the top ten states nationally for women killed by men.¹ A staggering 96 percent knew their killer and 62 percent had been an intimate partner of their killer.² While this has been a statewide concern for many decades, the release of an eight-month study of criminal domestic violence in South Carolina by the Charleston *Post and Courier* in April 2015 truly pushed it into national spotlight. *Till Death Do Us Part* was an article series delving deep into the cycle of domestic violence in South Carolina and the difficulties women face escaping from violent situations. It received national acclaim, winning a Pulitzer Prize, and focusing national attention on a broken system.³ Through interviews and statistics, it described how women who are the victims become trapped in violence cycles where their fear of the wrath of their significant other is equal to their fear of leaving and having nowhere to go. They refuse to testify at trial because they know that if they lose the repercussions could be worse than the abuse.⁴

This thesis focuses on what women who are victims of domestic violence experience, from the first warning signs of violent behavior to the resources available to survivors who choose to leave a violent situation. First, domestic violence is defined and warning signs are identified. Deterrents to leaving are examined, as well as reasons why a victim might defend her abuser. By examining legislation, criminal charges, and sentencing, South Carolina's historical

¹ Doug Pardue et. al. "Till Death Do Us Part: Part I," *The Post and Courier*, April 2015. www.postandcourier.com/tildeath/assets/d1-3.pdf

² Violence Policy Center, *When Men Murder Women: An Analysis of 2013 Homicide Data*, www.vpc.org/studies/wmmw2015.pdf

³ Andrew Knapp, "The Post and Courier Wins Pulitzer Prize for Domestic Violence Series" *The Post and Courier*, April 20, 2015 <http://www.postandcourier.com/article/20150420/PC16/150429937/the-post-and-courier-wins-pulitzer-prize-for-domestic-violence-series>

⁴ Pardue, "Till Death Do Us Part: Part II"

stance on domestic violence will become clear, and changing attitudes will show efforts have been and are being put forth to provide stronger deterrents and more effective protection for victims. While mental and verbal abuse also create unhealthy living situations, this thesis will focus on physical violence that threatens the health and safety of victims.

Domestic violence victims can be of any age or gender, but the majority of reported violence is against women, see Figure 1 Domestic Violence Victimization by Sex. In South Carolina victims of marital violence were three times more likely to be women rather than men. Also in the Palmetto state, women were four times more likely to be the victims than men if in romantic relationships (non-married couples, i.e. boyfriend, girlfriend, ex-boyfriend, ex-girlfriend).⁵ This thesis focuses largely on abuse of females who are victims of their romantic partners and seeking resources to help them leave a violent situation.

Legislation passed in 2015 has dramatically changed the way that courts define domestic violence. More detailed descriptions of the degrees of domestic abuse and a clearer definition of aggravated assault make the maximum and minimum sentences better fit the crime.⁶ Courts are focused on the safety of victims and can offer more effective protective orders. Rehabilitation efforts are also strongly encouraged, offering abusers the option of seeking counseling in order to reduce their sentence. Domestic violence courts have been instituted in a few of South Carolina's counties and have proved effective in addressing these unique cases in a more effective manner.⁷ Extensive research has been implemented to understand what domestic violence is and how it is best handled by all who become involved.

⁵ Rob McManus, "The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina." 2014, 24.

⁶ Domestic Violence Reform Act, Sc. Ann. § 1 (passed June 4, 2015).

⁷ Angela R. Gover et. al. "Lexington County Domestic Violence Court: A Partnership and Evaluation."

II. Scholarship on Domestic Violence

South Carolina has been working to better protect its citizens from the dangers of domestic abuse.⁸ An increasing number of non-profit efforts have organized a network of resources to teach youth the warning signs of domestic violence, to help victims in immediate danger, and to provide access to resources for survivors who need assistance as they move forward.⁹ Lawmakers, social workers, and volunteers are seeking to define and address the domestic violence problem in South Carolina, providing resources and hope to those who did not have them before.

A. What is Domestic Violence?

Domestic violence is defined by the National Coalition Against Domestic Violence as: “the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetuated by one intimate partner against another. Domestic situations include marital relationships, including common law spouses, family relationships, romantic relationships, and former romantic relationships. It includes physical violence, sexual violence, psychological violence and emotional abuse.”¹⁰ Non-violent abuse can include but is not limited to:

- Economic abuse (such as excessive control over finances or forced dependence)
- Coercion and threats

⁸ Domestic Violence Reform Act, Sc. Ann. § 1 (passed June 4, 2015).

⁹ “Safe Harbor,” last modified April 2016, <http://safeharborsc.org/>.

¹⁰ “National Coalition Against Domestic Violence,” visited January 8, 2016, <http://www.ncadv.org/need-help/what-is-domestic-violence>

- Intimidation
- Emotional Abuse
- Isolation
- Minimizing abusive tendencies
- Denying abuse
- Blaming the victim
- Using children as leverage
- Using male privilege

While this list comprises abusive behavior leading up to violence, most victims wait to seek assistance until the abuse becomes physical. South Carolina researchers examining domestic violence for *The Rule of Thumb* report on domestic violence estimated that only fifty percent of domestic violence incidences are reported.¹¹ The most common reported abuse is simple assault, but it is often preceded by other issues and warning signs that are associated with inciting violent tendencies.¹²

B. What Incites Domestic Violence?

Abuse is a vehicle for enforcing power and control over another.¹³ In domestic abuse situations the abuser is asserting their dominance and establishing themselves as the priority figure in the relationship or home. They use verbal and physical manipulation to coerce their

¹¹ McManus, "The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina," 3.

¹² McManus, "The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina," 8.

¹³ National Coalition Against Domestic Violence, "National Statistics"
<http://www.ncadv.org/learn/statistics>

partner into conforming to their desire.¹⁴ Anyone can become abusive, and there are a number of situational factors that can incite aggressive behavior, regardless of age, gender, race, background, etc. Violent behavior can be learned behavior from growing up in an environment where abuse is the norm and even encouraged, or it can be the result of psychological variables. The Department of Justice reports four main theories for battering in intimate partner relationships as outlined in the Center for Problem-Oriented Policing Guide for police responding to domestic violence situations:¹⁵

The psychological theory suggests that battering is the result of internal or external factors that alter psychological make up. Childhood abuse or traumatic experiences can leave a person with psychological problems such as Post Traumatic Stress Disorder, poor impulse control, and low self-esteem.¹⁶ Some personalities demonstrate a higher need for control and dominance, which manifests itself in intimidating and controlling behavior. Research also shows that impulsive or addictive tendencies can cause a higher risk for substance abuse, which has been tied frequently to abusive behavior.¹⁷ These psychological theories focus on the abuser's response to intrinsic traits.

There are two sociological theories and they vary across a variety of controls but generally attribute abusive tendencies to learned behavior. The first suggests that abusive tendencies are learned in a family environment, where the abuser saw another family member

¹⁴ National Domestic Violence Hotline, "Warning Signs and Red Flags," <http://www.thehotline.org/is-this-abuse/abuse-defined/>

¹⁵ Sampson, Rana. 2007. "Domestic Violence." Problem-Specific Guide, Office of Community Oriented Policing Services, U.S. Department of Justice, 7.

¹⁶ Sampson, "Domestic Violence" 8.

¹⁷ McManus, "The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina," 10.

using intimidation and abuse to exert dominance.¹⁸ Observing a cycle of violence and forgiveness, a child may perceive positive results from abusive behavior. While the abuse may be alarming, seeing forgiveness and reconciliation can leave an indelible impression on witnesses. Research has shown that the cycle often reoccurs in future generations, with boys becoming abusers and girls submitting to abusive behavior. While this is not always the case, abusive behavior can have effects far beyond the abuser and victim and is often a perpetuating cycle. While the abuser may not have internal factors that result in abusive tendencies, they have learned that violence is an effective control mechanism.¹⁹

A second sociological theory addresses the influence of culture beyond the family. It suggests that lower income subcultures will show higher rates of intimate abuse, as violence may be a more acceptable form of settling disputes in such subcultures.²⁰ This theory is based around the assumption that the primary motive behind abuse is the desire for control. Variants on it suggest that violence is inherent in all social systems but that people with financial, social, and hierarchical resources will use other forms of intimidation to assert their dominance, without resorting to violent behavior. Both sociological theories propound that violent behavior is more common in certain socio-economic demographics, especially when there are fewer other resources to control.²¹

Following the sociological theory, the feminist theory suggests that male abuse of females is the result of a long-standing patriarchal societal tradition. According to this theory, males use violence to control their female partners because society has perpetuated the idea of

¹⁸ Sampson, "Domestic Violence" 7.

¹⁹ Sampson, "Domestic Violence," 7.

²⁰ Sampson, "Domestic Violence," 9.

²¹ Sampson, "Domestic Violence," 8.

female submission to a male head. It concludes that this tradition of male dominance sustains a culture of inequality in relationships that results in male aggression in response to female independence.²² These internal and external factors often manifest themselves in telling warning behavior before abuser becomes life threatening.

C. Red Flags, Warning Signs and High Risk Situations

With this knowledge of background factors that incite abuse, one can assume telltale signs of a potential abuser in a relationship before or while the abuse occurs. These signals are often overlooked or passed off as protectiveness or possessiveness rooted in love but manifested in controlling and jealous behavior.²³ The National Domestic Violence Hotline²⁴ outlines warning signs including:

- Critical verbal abuse
- Exhibiting jealousy of time
- Discouraging time with friends and family
- Controlling household expenses
- Shaming and using derogatory comments to embarrass
- Controlling every decision
- Criticism of parenting
- Threatening to remove children
- Destroying property to intimidate
- Using weapons to coerce

²² Sampson, "Domestic Violence," 7.

²³ Pardue, "Till Death Do Us Part: Part III"

²⁴ National Domestic Violence Hotline, "Abuse Defined: Warning Signs and Red Flags" Last updated 2011.

- Forcing sexual behavior

The sociological theory that proposes a violence cycle suggests that victims abused in the past or witnesses to abuse in the home may be more likely to accept such abuse as normal rather than deviant behavior.²⁵ While there may be no definitive way to tell that a person is a potential abuser, there are many studies that show what qualifies as an “at risk” victim.

April Few and Karen Rosen classify risk factors that have bearing on the potential for entrapment. Their research examined individual/intrapersonal, relational, and social/situational factors and compared these factors to resiliency and protective factors to assess the level of entrapment. They found that cultural context plays a role in how the men or women define abuse. There is a correlation between relational vulnerability (one’s beliefs about self in relationship to others and what is normal within an intimate relationship) and situational vulnerability (the degree to which a woman was experiencing life-circumstance or life-stage stress when she began her relationship with her abusive boyfriend). Essentially, the victims who feel like they need protection or security are more likely to enter a relationship with someone who demonstrates abusive tendencies. Their abusers will give them a sense of security in the relationship, and cultivate a sense of dependence. Few and Rosen suggest that pinpointing areas of vulnerability and addressing them can help victim advocates prevent further abuse.²⁶

Though domestic abuse can occur in any situation, the majority of domestic violence victims fit into certain demographics.²⁷

- Between the ages of 16 and 24

²⁵ Sampson, “Domestic Violence,” 7.

²⁶ Few, April L., Rosen, Karen H., “Victims of Chronic Dating Violence: how Women's Vulnerabilities Link to Their Decisions to Stay,” *Family Relations*, 268.

²⁷ Sampson, “Domestic Violence,” 8

- Lower economic brackets
- Black or Hispanic
- Previously abused
- Divorced or separated

Domestic violence is rarely an isolated event and offenders who abuse their partners often end up being repeat abuse offenders both within the home and outside of it.²⁸ Whether or not they have committed domestic violence before, seventy percent of offenders in jail for domestic violence have prior convictions for various other crimes. According to Rana Sampson, “Being young, black, low-income, divorced or separated, a resident of rental housing, and a resident of an urban area have all been associated with higher rates of domestic violence victimization...”²⁹

Law enforcement agencies have been working to see if there are ways to predict if someone will be violent in a relationship before they are old enough to be in one. The strongest predictor for committing partner violence in childhood and adolescence is a history of aggressive delinquency before age 15. The study also found that “committing partner violence is strongly linked to cohabitation at a young age; a variety of mental illnesses; a background of family adversity; dropping out of school; juvenile aggression; conviction for other types of crime, especially violent crime; drug abuse; long-term unemployment; and parenthood at a young age.”³⁰ Awareness campaigns target students, seeking to make youth aware of what constitutes a healthy and unhealthy relationship, in order to combat the abuse cycle before it begins.³¹ An

²⁸ Gover, Angela R, Eve M Brank, and John M MacDonald. 2007. "A Special Domestic Violence Court In South Carolina." *Violence Against Women* 13 (6): 608

²⁹ National Coalition Against Domestic Violence. n.d. *What is Domestic Violence?* Accessed January 25, 2016. <http://www.ncadv.org/need-help/what-is-domestic-violence>.

³⁰ Sampson, Rana. 2007. "Domestic Violence." 10.

³¹ 2013. *Safe Harbor*. Accessed March 12, 2016. <http://safeharborsc.org/>.

increased consciousness of warning signs can improve community response and support for victims who need assistance.³² Despite efforts to raise awareness of the resources available for victims, many choose to stay of their own volition. Though help seems right within reach of so many victims, their reasons for staying are often incredibly valid.

D. Why Do Victims Stay?

A survey of victims was conducted from June of 1998 to May of 1999 through the Artemis Hotline to understand why victims of abuse were hesitant to leave their situation. This hotline is one of several resources for women who feel threatened by domestic violence and are seeking the help of victims advocates. The victims were asked twenty qualitative and quantitative questions posed by social workers seeking to understand the “pattern of abuse.” The study produced a list of common barriers to leaving an abusive situation.³³

Many victims stated that they were financially dependent on their abuser and argue that they would not have anywhere to go or take their children if they tried to leave. Others are doubtful about law enforcement and justice department support and even fear seeking medical assistance. Many victims also rescinded their accusations, stating that abusers were sorry for their actions and had promised to improve.³⁴ As of 2015, South Carolina has only 18 domestic violence shelters, limiting victim’s options if they do not have family or friends to take them in or sufficient financial resources of their own.³⁵ These shelters have limited capacity and rely on donations to provide victims and their children with necessities in their time of transition. While

³² South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 4343*.

³³ Anderson, Michael A., Paulette M. Gillig, Marilyn Sitaker, Kathy McCloskey, Kathleen Malloy, and Nancy Grigsby. 2003. "Why Doesn't She Just Leave?: A Descriptive Study of Victim Reported Impediments to Her Safety." *Journal of Family Violence* 18.

³⁴ Anderson, "Why Doesn't She Just Leave?" 19.

³⁵ Pardue, "Till Death Do Us Part." *Post and Courier*, Part II.

they work hard to raise awareness and provide resources for victims to find jobs, housing and advocates, this is still a dramatically under-addressed issue.

Situational factors frequently affect the decision to leave. Victims who do not have any personal income may fear not being able to support themselves without their partner's income. Many come from family and social backgrounds that are deeply dedicated to the nuclear family and frown on separation and divorce. In these cases, victims fear familial and social rejection for a failed relationship. Victims with children are unwilling to risk losing custody of them. Many victims see a relationship as a source of financial and social security and have to evaluate every part of their situation.³⁶ These financial, social and familial situational factors are extrinsic factors that victims have to consider, but the Department of Justice also outlines intrinsic reasons that women refuse to leave abusive situations.³⁷

The cycle of violence consists of three phases that repeat themselves to make the victim stay. First, there is a tension-building phase with minor physical and verbal abuse. This phase precedes the acute battering phase where a victim receives serious injuries and considers leaving. The final phase includes making peace. The abuser apologizes and they enter a "honeymoon phase" which lulls the victim into a sense of security or dependency that makes them stay.

Battered Woman Syndrome suggests that after experiencing the cycle of violence, a victim no longer believes that they can escape from their situation. They feel trapped and it becomes more difficult to convince them to leave even when there is an opportunity. Stockholm Syndrome is an extreme form of this where the victim is a hostage to their batterer. The victim develops a deep bond with the abuser and shows support and kindness toward them. Isolation

³⁶ Pardue, "Till Death Do Us Part." *Post and Courier*, Part II.

³⁷ Sampson, Rana. 2007. "Domestic Violence." 9.

and restriction from normal relationships can make the victim attach more to the abuser. Traumatic Bonding Theory is a result of an unhealthy or anxious attachment to abusive or neglectful parents, which is then transferred to an intimate partner and to other adult relationships. Low self-esteem causes desperation for the affection and acceptance from the people the victim has latched onto despite abuse.³⁸

Psychological Entrapment has to do with the amount of investment a victim feels like they have in the relationship. Weighing the time and energy put into the relationship, the victim feels it would be throwing away effort if she decided to leave her abusive intimate partner. Finally, the Multifactor Ecological Perspective combines most of the aforementioned theories, propounding that staying in physically abusive relationships is the result of factors including family history, personal relationships, societal norms, and social and cultural factors. This theory is the broadest and takes into account that some of the factors may weigh more heavily depending on the situation.³⁹

Another way of examining the barriers to leaving is suggested by Grigsby and Hartman's Barriers Model.⁴⁰ (See **Error! Reference source not found.**) Their concentric rings demonstrate different layers of barriers victims face and suggests the resources needed to break down the barriers. Psychological factors, environmental factors, familial status, and social role expectations can all play a part in making a victim feel trapped. Money, a supportive community, and legal support are all necessary to break down environmental barriers. A victim has to have financial support or a job, in order to secure food and shelter. If they need the assistance of law

³⁸ Sampson, Rana. 2007. "Domestic Violence." 10.

³⁹ Sampson, Rana. 2007. "Domestic Violence." 10.

⁴⁰ Grigsby, N., and B. Hartman. 1997. "The Barriers Model: An integrated strategy for intervention with battered women." *Psychotherapy* 31: 485.

enforcement, the justice system, or social services, all of those must be in place to help them to leave the situation and move on safely. Finally, if they need legal advocates to assist with child support or prosecuting criminal abusers, they must be able to retain legal counsel.⁴¹

Social barriers are the next level of impediments to victims leaving an abusive situation. Familial and social expectations in a traditionally patriarchal society places women in the role of primary caretaker in her family. South Carolina is traditional and has deeply-rooted religious beliefs that place priority on the nuclear family and marriages that are permanent.⁴² These closely held beliefs can cause added pressure for a victim to remain with an abusive partner to protect their reputation or to adhere to religious and cultural standards. Victims often take the blame for a failing relationship, absorbing the guilt and feeling the burden to find a way to repair it. Belief systems that place high value on marriage can make separation or divorce more threatening for victims that fear being ostracized by their community for choosing to leave a relationship, even an abusive one.⁴³

Psychological barriers are the final ring postulated by Grigsby and Hartman, especially the fear and lack of trust exhibited by victims, see Figure 2 Grigsby and Hartman's Barriers Model. This model breaks down tactics used to keep victims in a relationship such as intimidation, emotional abuse, economic abuse, isolation and manipulation with children.⁴⁴ They learn survival tactics that manifest themselves in other areas of their lives and can last even after they have left the relationship. They fear repercussions if they attempt to leave and have to return

⁴¹ Grigsby, N., and B. Hartman. 1997. "The Barriers Model" *Psychotherapy* 31: 496.

⁴² Pardue, "Till Death Do Us Part." *Post and Courier*, Part III.

⁴³ Coker, Ann L. 2000. "Help-Seeking For Intimate Partner Violence and Forced Sex in South Carolina." *American Journal of Preventive Medicine* 19 (4): 316-320.

⁴⁴ National Domestic Violence Hotline, "What is Abuse," <http://www.thehotline.org/is-this-abuse/abuse-defined/>

because they have nowhere to go or cannot find support or protection. They have been verbally broken down to a place of low-self esteem that makes them question their ability to survive and support themselves independently. They are intimidated by threats of retaliation from their abusers if they chose to reject the relationship.⁴⁵

Even geographical factors can be indicators of domestic violence situations.⁴⁶ A study out of Wisconsin suggests that there is a difference between rural and urban areas in the “occurrence, investigation, prosecution, and judicial decision-making” in cases of domestic violence. They found that domestic violence was three times as likely in a rural area as in an urban area and that the severity of this violence was often greater. Rural locations are more difficult for law enforcement to reach, placing victims in rural locations at a higher risk for life threatening injuries. This sense of isolation can also contribute to feelings of entrapment, especially when relationships outside the home are more difficult to maintain due to distance. In small towns, victims are less likely to report domestic violence because of the gossip that spreads quickly in small communities.⁴⁷ They fear their intimate, personal information becoming public and many believe that family issues should never cross the threshold. Tradition and patriarchy are cited as key aspects of society in small towns, placing homemaking and mothering as priorities for women and intimate violence can be seen as a personal issue to be dealt with within the family. Homemaking is a common lifestyle choice for women and these women are more likely to be financially dependent on their partner.⁴⁸ This dependence can open them to further abuse as well

⁴⁵ Few, "Victims of Chronic Dating Violence: how Women's Vulnerabilities Link to Their Decisions to Stay." *Family Relations* 54: 268.

⁴⁶ Pruitt, Lisa R. 2008. "Place Matters: Domestic Violence and Rural Differences." *Wisconsin Journal of Law* 23 (2): 347.

⁴⁷ Pruitt, "Place Matters: Domestic Violence and Rural Differences." 395.

⁴⁸ Pruitt, "Place Matters: Domestic Violence and Rural Differences." 362.

as inhibit them from leaving the situation for lack of financial assets. As mentioned previously, low socioeconomic status is a strong predictor of domestic abuse and victims in this bracket are less likely to leave abusive partners.⁴⁹

Many women who find themselves in domestic abuse situations hesitate to call for help if they have a previous criminal background. These victims fear that law enforcement would refuse to help them because of prior offenses. If they are currently involved in criminal activity, they are faced with the knowledge that protection from abuse may reveal their misdemeanors. Data referenced in the study shows that these women are also ineligible for many of the social service programs that would help them to leave their abusive situations.⁵⁰

Many victims adhere to a general perception of police responses to intimate partner violence that affects how they reach out for help and interact with authorities.⁵¹ Better understanding of this perception can help police to approach violent situations better. The findings consist of five themes:

- a. Not all women who experience intimate partner violence view themselves as victims;
- b. Women seek police assistance for different reasons;
- c. Some women are dissatisfied with police response;
- d. Women often believe they are wrongly arrested for intimate partner violence; and
- e. Women's experiences with the police affect their future likelihood of using the criminal justice system.

⁴⁹ Pruitt, "Place Matters: Domestic Violence and Rural Differences." 410.

⁵⁰ Dennis, Andrea L., and Carol E. Jordan. 2014. "Encouraging Victims: Responding To A Recent Study of Battered Women Who Commit Crimes." *Nevada Law Journal* 15 (1): 41.

⁵¹ Leisenring, Amy. 2012. "Victims' Perception of Police Response to Intimate Partner Violence." *Journal of Police Crisis Negotiations* 12 (2): 143.

The researchers found that many victims interviewed in the study only called police because they wanted the aggression to stop, not because they wanted their abuser arrested. While some women think that scaring their abuser with the threat of arrest will help them, many also believe that calling the police will only make the violence worse. Mandatory arrest policies have been instituted in some states and can be effective in some situations but they have also led to the arrest of victims in situations of self-defense. Mandatory arrest often forces law enforcement to choose a culprit when they could instead just be trained to analyze the situation more effectively. Leisenring suggests in the *Journal of Police Crisis Negotiations* that stronger involvement of non-law enforcement workers in intimate partner violence situations can improve the outcome without implementing mandatory arrest policies. Social workers or trained domestic violence responders would have the training to prepare them to evaluate a situation and recommend the best strategy for intervention.⁵² Many states have implemented mandatory arrest or pretrial detention policies, and South Carolina has examined the options to counter the violence problem, with the knowledge that change is imperative in light of domestic violence's brutal effects.

III. South Carolina History of Domestic Violence

A. The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina

As South Carolina has sought to better understand its problem with domestic violence, a study titled *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina* has been published every five years to evaluate the situation in the state and to understand if any progress has been made. While this study does provide the best survey data for the state as a whole, it admits its own limitations. As a report published based on information provided by

⁵² Leisenring. "Victims' Perception of Police Response to Intimate Partner Violence." *Journal of Police Crisis Negotiations* 12 (2): 162.

South Carolina Incident Based Reporting System, *The Rule of Thumb* is limited to crimes reported to law enforcement.⁵³ According to the U.S. Department of Justice, only 55 percent of non-violent domestic abuse incidents are reported.⁵⁴

In South Carolina, 69.5 percent of domestic violence reports are for simple assault, 176,862 incidents between 2008 and 2012, followed by aggravated assault at 15.9 percent, or 40,470 incidents. (See Figure 3 South Carolina Domestic Violence Offenses 2008-2012) Total reported domestic violence incidents added up to 254,644 over the four-year period.⁵⁵ Domestic violence victims make up 26.1 percent of all homicides, 52.7 percent of total simple assault incidents, and 42.6 percent of all violent victimization incidents.⁵⁶ The victimization rate among females was 149.9 percent greater than among males. “Although Whites accounted for 54.4 percent of domestic violence victims, the domestic violence victimization rate among the Non-White population was 74.9 percent higher than the domestic violence victimization rate among the White population.”⁵⁷ Romantic relationships represented the greatest percentage of domestic violence victimization relationships at 39 percent.⁵⁸

Women were three times more likely to be the victims of marital violence, 50,308 women to 14,685 men between 2008 and 2012, and in romantic relationships (non-married couples, i.e.

⁵³ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*. South Carolina Department of Public Safety Office of Highway Safety and Justice Program, SCDPS, iii.

⁵⁴ Truman, Jennifer and Rachel Morgan, Nonfatal Domestic Violence, 2003- 2014, (2014), Bureau of Justice Statistics. <http://www.bjs.gov/content/pub/pdf/ndv0312.pdf>.

⁵⁵ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 6.

⁵⁶ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 8.

⁵⁷ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 28.

⁵⁸ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 36.

boyfriend, girlfriend, ex-boyfriend, ex-girlfriend) women were four times more likely to be the victims than men.⁵⁹ Some analysts suggest that due to cultural perceptions of masculinity, men are less likely to report domestic violence than women and this could skew the ratio of male victims to female victims. (See Figure 3 South Carolina Domestic Violence Offenses 2008-2012) Domestic violence rates have been decreasing over the past four years, suggesting positive changes in the state, which will be examined later. (See Figure 4 Number of Domestic Violence Victims in South Carolina 2008-2009)

B. National Domestic Violence Statistics

National averages of domestic violence victims must be assessed in order to give context to the South Carolina averages. Based on Bureau of Justice Statistics data from 2006 to 2010, South Carolina has been leading the nation in domestic violence victimization rates for the past decade. (See Figure 5 Victimization Rate in South Carolina 2008-2012 and Figure 6 South Carolina Victimization Rates vs. National Averages) Though *The Rule of Thumb* produces a wealth of statistical information for the researcher, it can only conclude that domestic violence deserves much more attention at the state and local level because it represents an increasing percentage of violent crime in the state.⁶⁰ South Carolina has been following its own rates, concluding that though the averages are improving the situation remains dire.

C. Till Death Do Us Part

In April 2015 *The Post and Courier* of Charleston, South Carolina published an extended article on domestic violence survivors in South Carolina. Through interviews with victims who

⁵⁹ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 24.

⁶⁰ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 98.

endured harrowing scenarios of abuse, the journalists walk through the nightmare that each victim lived through and how they survived. The *Post and Courier* brings to light the statistics that have long haunted the state, and hypothesizes the reasons behind the cycle that does not seem to be slowing down.⁶¹ They describe the multi-faceted problems facing the state that perpetuate the issue.

“Awash in guns, saddled with ineffective laws and lacking enough shelters for the battered, South Carolina is a state where the deck is stacked against women trapped in the cycle of abuse... Couple this with deep-rooted beliefs about the sanctity of marriage and the place of women in the home, and the vows ‘till death do us part’ take on a sinister tone.”⁶²

Journalists interviewed victims, as well as members of the justice system and social workers in order to understand the problem better. It became apparent that it was a cycle passed from parents to children and that it is often considered a private problem until someone is injured beyond concealment. The desire to conceal private issues accounts for why so few domestic violence cases are reported. Deeply religious and rooted in tradition, South Carolina retains a strong sense of respect for maintaining the nuclear family.⁶³ In a state that carefully guards Second Amendment rights, lawmakers have been hesitant to pass legislation that would restrict gun ownership rights in order to protect victims from abusers. Victims who are unwilling to report abusers keep their family issues out of the court system but in doing so, keep their abusers from prosecution and potential rehabilitation.

Unfortunately, many victims who would seek help are daunted by how little assistance South Carolina provides for victims of domestic violence. The *Post and Courier* found that all

⁶¹ Pardue, "Till Death Do Us Part." *Post and Courier*, Part I.

⁶² Pardue, "Till Death Do Us Part." *Post and Courier*, Part I.

⁶³ Pardue, "Till Death Do Us Part." *Post and Courier*, Part III.

46 counties in South Carolina have at least one animal shelter, many of which take in pets from violent homes, but has only 18 domestic violence shelters. These shelters are hindered by their own capacity limits, having to turn away women due to lack of room. They reported that 380 women were turned away from shelters from July 2012 to July 2013.⁶⁴ Up until 2015, the legal penalty limits for animal abuse were greater than for domestic partner abuse—“a man can earn five years in prison for abusing his dog but a maximum of just 30 days for beating his wife or girlfriend on a first offense.”⁶⁵

The article details the number of incidents reported and the responses and follow up by police and explains the most frequent penalties for domestic abuse offenders. The article also looks into domestic violence victim advocates and what is being done in the state to combat violence as well as to aid victims. The state has a tragically small number of shelters that aid women who leave violent situations and resources are hard for them to find. The investigation found that fatalities from domestic violence were more common in counties that did not have shelters for abuse victims or resources to help them leave dangerous situations.⁶⁶

Historically, if a domestic violence situation reached the court system, it faced full dockets that moved cases through more quickly through a plea-deal system. Those accused of criminal offenses plead guilty to lesser charges in order to receive a lighter sentence and pass through the court more quickly.⁶⁷ Low bail requirements and short sentences suggested that a low priority is placed on the danger that abusers could pose for their victims or community. Some abusers were re-directed into anger-management programs that, while effective, did little

⁶⁴ Pardue, "Till Death Do Us Part." *Post and Courier*, Part I.

⁶⁵ Pardue, "Till Death Do Us Part." *Post and Courier*, Part I.

⁶⁶ Pardue, "Till Death Do Us Part." *Post and Courier*, Part IV.

⁶⁷ Pardue, "Till Death Do Us Part." *Post and Courier*, Part I.

to protect victims from the threat of recidivism.⁶⁸ Protection orders are still difficult to enforce, making victims understandably fearful.

State funding for domestic violence programs comes from the proceeds of marriage license fees, which averaged about \$800,000 between 2008 and 2013. Divided between South Carolina's domestic violence victims each year it adds up to approximately \$22 per victim. (See Figure 7 Funds for Domestic Violence Contracts) After gaining national attention, the *Post and Courier* won a Pulitzer Prize for the "Till Death Do Us Part" series, just as new domestic violence legislation was pushing through the South Carolina House of Representatives and Senate.

IV. South Carolina Legal Reform to Address Domestic Violence

South Carolina has historically held to its traditional values, avidly fighting any legislation that would encroach on the constitutional rights of its citizen or their privacy. Political activists have been pressuring law makers for decades to improve domestic violence legislation in order to better address the challenges faced by a system that is backlogged and poorly equipped to handle domestic violence cases.⁶⁹ Up until 2015, all domestic violence was covered under the 1976 Domestic Violence Code. While this code did address domestic violence as separate from assault and battery or criminal violence, it failed to outline clear penalties or degrees of the crime. The broad overarching terms made it difficult for prosecutors and defenders to find viable options for victims and offenders with a focus on rehabilitation and safety for the victim. The 2015 Domestic Violence Reform Act was drafted with the intent of revising the existing legislation

⁶⁸ Pardue, "Till Death Do Us Part." *Post and Courier*, Part VII.

⁶⁹ Pardue, "Till Death Do Us Part." *Post and Courier*, Part II.

and expanding the state's definition of domestic abuse as well as outlining minimum and maximum punishment terms that allow courts to ensure appropriate justice.⁷⁰

A. 2015 Act 58 Domestic Violence Reform Act

On June 4, 2015 Governor Nikki R. Haley signed the Domestic Violence Reform Act. Filed in the South Carolina Senate in December 2014, it was sent to the Houses of Representatives by March 2015. After amendments on both sides, the bill was ratified in the Senate with 44 ayes and 0 nays, and in the House with 81 yeas and 23 nays. It amends everything from the definitions of domestic violence for police and judicial action to the penalties for the varying degrees of domestic violence.⁷¹ Key points of this legislation are as follows:

Definitions added to Section 16-25-10 of the 1976 Code:

- Deadly Weapon
- Great Bodily Injury
- Household Member
- Moderate Bodily Injury
- Prior Conviction of Domestic Violence
- Protection Order:
- Firearm⁷²

⁷⁰ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 1.*

⁷¹ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 1.*

⁷² South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 2.*

These particular definitions clarify important aspects in determining different degrees of domestic violence as well as corresponding disciplinary action. Expanding the definitions of injuries and giving attention to prior convictions of domestic violence, the justice system is able to consider each individual case with a clear understanding of the issue and the terminology that surrounds it.

Domestic Violence Degrees

The 1976 Domestic Violence Code gave only an overarching definition of domestic abuse with added qualification for violence considered to be of a high and aggravated nature. Under the new Domestic Violence Reform Act, domestic violence is defined and also assigned degrees so that sentencing guidelines are more clearly outlined. First degree domestic violence involves physical harm or injury to a person's own household member or the threat of it. Causing a victim to fear great bodily injury or death counts as well and if an abuser violates a standing protection order, the conviction carries greater weight. Prior convictions are taken into consideration to track the rate of recidivism and to analyze the threat level to the victim and community. If children are present and observe violence, the consequences are greater, to protect minors from the cycle that often ensues when children observe the domestic violence cycle in their parents. Critically, the use of firearms in a domestic violence incident is taken very seriously, and restrictions on gun ownership after a domestic violence offense are aggressive.⁷³

The 1976 Act required that a first domestic violence offence, if not considered aggravated, receive a fine between \$1000 and \$2500 or prison time of thirty days or less. Any punishment could be suspended upon completion of a batterer treatment program. Second

⁷³ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 16-25-30.*

offenses brought a maximum fine of \$5000 or one year in prison, which could also be decreased significantly by completion of a treatment program. A third conviction carried a one-year to five-year sentence for violators. Under this code, there was little consideration of potential risk to the victims. The updated Act's clearer breakdown of the degrees of domestic violence correlate with stronger penalties for all instances of domestic violence.

B. Penalties for Felonies and Misdemeanors

Having outlined the degrees of felonies and misdemeanors that are considered domestic abuse, the Act then assigns the penalties accordingly. Prior to the Act someone convicted of domestic violence that was not of a high and aggravated nature generally could either pay a fine or serve prison time of a maximum of thirty days.⁷⁴ Knowledge of these typical penalties has been proven to make a victim hesitant to call for help, especially if they could not afford the fine and were dependent on the abuser's income. For a small income household, a fine or a month without income are incredibly detrimental.⁷⁵ Rehabilitation options through counseling was an alternative option for a reduced sentence, but participation and effectiveness vary from case to case. Lawmakers hope that new, higher penalties for domestic abuse will deter abusers and improve protection for victims:⁷⁶

- First Degree Domestic Violence
 - Committing first degree domestic violence is a felony and conviction can result in up to ten years in prison.

⁷⁴ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 16-25-65.*

⁷⁵ Tatum, Kimberly M., and Rebecca Pence. 2015. "Factors that Affect the Arrest Decision in Domestic Violence Situations." *Policing* 38 (1): 56-79

⁷⁶ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 16-25-30*

- This is updated from 16-25-30, under which the maximum penalty for the first two offenses, regardless of degree, as maximum five hundred dollars or thirty days' imprisonment.
- Second Degree Domestic Violence
 - Conviction of second degree domestic violence now results in a minimum fine of two thousand five hundred dollars (maximum five thousand dollars) or imprisonment for maximum three years, or both.
- High and Aggravated Domestic Violence
 - Maximum imprisonment of 20 years
 - Raised from 16-25-65 maximum of 10 years or maximum fine of three thousand dollars⁷⁷

Sentence Suspension or Probationary Requirements

In order to be appeal for a reduced sentence, convicted abusers can complete a batterer treatment program approved by the court. These programs require counseling and accountability so that courts can assess whether the abuser remains a threat to the victim and community or if they have demonstrated improvement. Depending on the severity of the crime, the court can decide whether batter treatment is an option for an abuser and to what extent his sentence may be reduced. This stance balances the importance of placing the victim's safety first with the focus on rehabilitation for abusers.⁷⁸

⁷⁷ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 16-25-30.*

⁷⁸ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 16-25-20.*

Domestic Violence and Firearms and Ammunition Prohibitions and Penalties

Up until this point lawmakers have been unwilling to pass domestic violence reform laws that inhibit the right of its citizens to bear arms, even those tried and convicted of violent misdemeanors and even felonies.⁷⁹ As a state that is avidly protective of gun ownership laws, restrictions on weapons that could be used as deadly force killed other domestic violence bills in committees. The new Domestic Violence Act placed limitations on gun ownership for those convicted of domestic violence but allows for freedoms to be returned dependent on the severity of the crime. Those who have been convicted of domestic violence are prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, for the following periods of time:

- Life, if they have been convicted of high and aggravated domestic violence in South Carolina or any other state;
- Ten years from the date of conviction or release from confinement for the conviction, whichever is later after being convicted of second degree domestic violence, and
- Three years from the date of conviction or the date the person is released from confinement for the conviction, whichever is later, if the person has been convicted of first degree domestic violence.

The restriction on shipping, transporting, receiving, or possessing a firearm or ammunition lasts the duration of an order of protection issued by the family court where the judge made specific findings of physical harm, bodily injury, assault, or that the person affected offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril.⁸⁰

⁷⁹ Pardue, "Till Death Do Us Part." *Post and Courier*, Part II.

⁸⁰ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 9.*

Bond Considerations

When the court is considering whether or not to release on bond someone who is charged with a violent crime, it must consider:

- If the person is subject to the terms of a valid order of protection or restraining order;
- If they have a previous conviction of violating a valid order of protection or restraining order;
- Whether the person has a history of domestic violence or a history of other violent offenses;
- The mental health of the person; and
- Whether the person poses a potential threat to another person.

These restrictions address one of the major issues discussed in the *Post and Courier* article regarding post arrest domestic violence abuse.⁸¹ “Till Death Do Us Part” noted the number of domestic violence fatalities that followed brief incarceration on domestic violence charges and then release on bond.⁸² If the criminal being considered for bond is not already subject to terms of a restraining order, a “No Contact” order is usually issued in order to protect the victim.⁸³

Arrest Policy

Under the Domestic Violence Act, the only amendments to the arrest policy are the requirements that the incident be documented by an official incident report form to be retained by the investigating agency, and that the officer may verify the existence, if necessary, of an existing order of protection. The arrest policy already in place gave law enforcement officers the

⁸¹ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 10.*

⁸² Pardue, "Till Death Do Us Part." *Post and Courier*, Part II.

⁸³ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 24.*

ability to arrest without a warrant anyone who they had probable cause to believe was committing or had freshly committed a misdemeanor or felony, even if the officer was not present. Whether or not to make an arrest was and still is left up to the discretion of the officer, and if they do not have probable cause to make an arrest, they are prohibited.⁸⁴ Many states have instituted a mandatory arrest policy, which has produced mixed results, particularly regarding reporting of incidents and appropriate justice for offenders.⁸⁵

Based on the new definition of domestic violence, a system of ticketing has been instituted, allowing officers to write up an incident and issue a citation where they do not deem arrest necessary.⁸⁶ This system allows for law enforcement discretion in approaching a situation while also creating an effective system for tracking incidents. A major issue recognized across several states has been the difficulty of tracking responses and intervention in domestic violence incidences and classifying various situations. A uniform citation system will improve statewide and interstate tracking of abusers and penalties. The more law enforcement and other entities involved in domestic violence cases can track a history of domestic violence seamlessly, the better they will be able to respond and evaluate the level of danger a batterer presents.

Department of Social Services and Victims

The South Carolina Department of Social Services is working with the South Carolina voucher program to ensure that victims have proper childcare while they are living in a shelter. This aids victims as they endeavor to escape the abusive situation and protect their children from

⁸⁴ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 16.*

⁸⁵ Wagage, Suraji R. 2014. "When the Consequences Are Life and Death: Pretrial Detention for Domestic Violence Offenders." *Drexel Law Review* 7 (1): 197.

⁸⁶ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 8.*

their abuser as well. This is a particularly useful step towards relieving victims from fears regarding their children as they move on from a violent situation. Up until this point there has been little to no provision for domestic violence survivors facing decisions about what to do to provide for children if the abuser is the primary source of income. The scarcity of shelter space and support funds for victims trying to establish themselves independently or provide for their families while their abuser is facing trial is a major obstacle for victims who would otherwise seek help and legal protection. (See Figure 7 Funds for Domestic Violence Contracts)

Pretrial Intervention Program

Successful completion of a batterer's treatment program can lead to a reduced sentence, given the court's consideration of the degree of the offense and the continued danger to the victim. Such programs must be approved by the South Carolina Attorney General and often include appropriate psychiatric or therapeutic treatment or counseling.⁸⁷

Domestic Violence Advisory Committee

Finally, a domestic violence advisory committee was formed and is required to include:

- Attorney General of the State of South Carolina,
- Director of the South Carolina Department of Social Services,
- Director of the South Carolina Department of Health and Environmental Control,
- Director of the South Carolina Criminal Justice Academy,
- Chief of the South Carolina Law Enforcement Division,
- Director of the South Carolina Department of Mental Health

County coroner,

⁸⁷ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 10-11.*

- A solicitor,
- A sheriff,
- A victim advocate,
- A physician with experience in treating victims of domestic violence,
- A police chief,
- One member of the South Carolina Senate, and
- One member of the South Carolina House of Representatives.⁸⁸

This committee's overarching commission is to prevent domestic violence with the following responsibilities. They will undertake annual statistical studies of: the incidences and causes of domestic violence in this State including an analysis of community, public and private agency involvement with the victims and their families; whether the abuser has a previous criminal record involving domestic violence or assault and battery; recidivism rates; the presence of alcohol or drug use; whether the abuser has participated in a batterer treatment program and its name; the success or failure rate of approved treatment programs; married versus unmarried rates of violence and the rate of domestic violence per county. They will consider the training and necessary future training of response teams and determine the need for changes in policy regarding domestic violence. They will be in charge of educating the public on domestic violence, its causes, incidences and steps the public can take in preventing domestic violence. They will submit to the Governor and the General Assembly an annual written report comprising their findings and recommendations.⁸⁹

⁸⁸ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 20.*

⁸⁹ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 16-25-330.*

Community Domestic Violence Coordinating Councils

A community council on domestic violence is to be formed to increase awareness, reduce incidences and improve the safety of battered individuals and their children. These community groups will be expected to promote effective strategies and facilitating cooperation between community entities to improve the local domestic violence incident rate. The institution of community councils is intended to bring a local awareness of the issue and increase local involvement in reporting domestic violence occurrences and in protecting and providing resources for victims as needed as they exit their situation.⁹⁰

Permanent Restraining Orders

The Domestic Violence Act allows for permanent restraining orders under certain conditions. A person can seek a permanent restraining order if their abuser has been convicted of the crime, or if they are the guardian of a minor is a victim. These protective orders are intended to: protect the victim or witnesses from abuse, threats, and molestation; prevent the abuser from entering or attempting to enter the victim's place of residence, employment, education, or other location; and prohibit communicating with the victim. Violation of protection orders carries a penalty of up to five years in prison. Emergency restraining orders may be filed if the court finds that the respondent was convicted of a criminal offense against either the complainant, or if the complainant was the witness in the trial. They can also issue an emergency restraining order if a previous one is expired or is set to expire, or if they feel that there is imminent danger to the victim or witness who is the complainant.

⁹⁰ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 24.*

V. Domestic Violence Programs and NGOs

Beyond the court system, new programs have been developed to aid domestic violence victims. The South Carolina Office of the Attorney General used money from the Federal Violence Against Women Act of 1994 to establish the S.T.O.P. Violence Against Women program in 1996, designed to address both the prosecution of domestic violence cases and training of law enforcement, judges, prosecutors, and victims' advocates involved in domestic violence cases. The Attorney General's website offers a list of the current domestic violence organizations by county, as well as approved batterer treatment programs.

One of the many domestic violence organizations listed is Sistercare, with locations in Fairfield, Lexington, Newberry, Kershaw, and Richland counties within South Carolina. They offer a 24 Hour Crisis/Service line for those in need of emergency assistance. Sistercare has three emergency shelters in Richland and Lexington county for women who need a place to stay with their children. Through these shelters, victims are introduced to options for counseling, court advocacy, and increasing self-sufficiency while under the security of a non-judgmental atmosphere that provides room, food, laundry, clothing, and other necessities. Advocates assist battered women through the legal process and accompany them to court as they proceed through the justice system.

Sistercare launched the HART Program in January 2016 to reach the non-medical needs of patients who present intimate partner violence injuries in hospitals. They operate in several hospitals in the Midlands including: Lexington Medical Center, Palmetto Health Baptist, Palmetto Health Richland, and Parkridge Hospital. They have a Rural Outreach Program with satellite counseling centers that offer advocacy and crisis intervention. Sistercare's transitional housing places victims and their children in emergency shelters and then helps them move into

permanent homes. Through this, they have access to counseling as well as parenting services and financial assistance as they seek employment and training and become financially independent.⁹¹

In Anderson, Greenville, Oconee, and Pickens counties, Safe Harbor offers similar emergency and transitional housing services for domestic violence survivors. Their relationship education project seeks to prevent domestic violence before it starts by educating students about dating abuse and unhealthy relationships. Their educators visit schools to teach students about the abuse cycle and the warning signs of an abusive relationship. They teach students how to help if someone they know is involved in a violent relationship, in an effort to spread awareness and empower a generation that combats domestic violence. This proactive effort combined with their services offered for survivors makes them effective in the fight against South Carolina domestic violence.⁹²

Programs similar to Sistercare and Safe Harbor operate throughout the state and Sistercare alone served almost 7,000 survivors in 2014. They counsel and direct victims to resources already in place to serve those who need both emergency and continuing assistance. If they lack sufficient space for survivors, they have developed a network of resources and other safe spaces to ensure everyone protection. Sistercare offers victims assistance from the moment they seek help. Like most of the domestic violence organizations that offer assistance for victims, Sistercare is a nonprofit organization that operates off of donations and government grants. Fifty dollars will provide a child in an emergency shelter with school supplies and one hundred dollars will help a battered woman pay a utility deposit for a safe home. Sistercare's mission is to offer

⁹¹ 2016. *Sistercare*. Accessed March 10, 2016. <http://sistercare.org/>.

⁹² 2013. *Safe Harbor*. Accessed March 12, 2016. <http://safeharborsc.org/>.

shelter and advocacy for domestic violence survivors and their children as well as to provide resources to help victims lead positive lives after they leave abusive situations.⁹³

VI. Additional Approaches to the Problem

A. Mandatory Arrest

Farrah Champagne argues in the journal *Criminal Litigation* that the most effective method of preventing repeat domestic violence is mandatory arrest and no-drop prosecution policies. She points out that women are often unaware of all that is involved in pressing legal action against abusers and eventually become uncooperative with prosecutors. She isolates the ways that abusers maintain control, through wielding power and control over the victims' life and choices until they are isolated and feel there are no options for escape. Champagne outlines the reasons many victims give for not testifying against their abusers and even testify for their abusers in some cases. The conclusion is that mandatory arrest policies require police to detain at least one of the parties at the scene of a domestic violence incident, and in doing so, give victims an opportunity to leave and find safety without opposition.⁹⁴

This approach takes the responsibility out of the hands of officers and the decision is not based purely on their discretion. It also promotes a "no-drop" prosecution policy, which would require prosecutors to follow through the prosecution of the perpetrators of domestic violence, regardless of whether the victim chooses to participate.⁹⁵ New York courts implemented new policies to respond to domestic violence in the state. Jonathan Lippman studies the changes they

⁹³ 2016. *Sistercare*. Accessed March 10, 2016. <http://sistercare.org/>.

⁹⁴ Champagne, Farrah. 2015. "Prosecuting Domestic Violence Cases." *Criminal Litigation* 16 (1): 2.

⁹⁵ Champagne, Farrah. 2015. "Prosecuting Domestic Violence Cases." *Criminal Litigation* 16 (1): 4.

made and their effect. They put new laws in place requiring police officers responding to a domestic violence call to arrest the abuser without asking the victim if they sought their arrest. A statewide computerized registry of all orders of protection made it easier to track abusive situation patterns and know when an order had been violated. The Domestic Incident Report Repository is accessible to law enforcement and other authorized users to access to a searchable database for domestic violence incidents. The Repository is also useful for prosecutors to demonstrate a pattern of behavior that can lead to conviction and stronger penalties.⁹⁶

Even with mandatory arrest, offenders are often released while their trial is pending. Some areas have instituted pretrial detention for offenders. Pretrial detention requires that the abuser be held until their disposition. The framework for statutes that mandate pretrial detention apply especially to abusers who pose a high risk and allows victims to plan a way to exit the situation.⁹⁷

The major issue with mandatory arrest is the pressure that it places on law enforcement responders to decide which party in a violent situation needs to be taken into custody. When the decision is left to police judgment, factors such as the “severity of crime, presence of children, presence of an injunction, and victim injury increased the likelihood of arrest” while other factors such as race, geographic location, substance abuse, and relationship status did not affect the likelihood of arrest.⁹⁸ As mentioned in the discussion on why victims choose to call for help,

⁹⁶ Lippman, Jonathan. 2013. "Ensuring Victim Safety and Abuser Accountability: Reforms and Revisions in New York Courts Response to Domestic Violence." *Albany Law Review* 76 (3): 1419.

⁹⁷ Wagage, Suraji R. 2014. "When the Consequences Are Life and Death: Pretrial Detention for Domestic Violence Offenders." 201.

⁹⁸ Tatum, Kimberly M., and Rebecca Pence. 2015. "Factors that Affect the Arrest Decision in Domestic Violence Situations." *Policing* 38 (1): 59.

in some situations a victim called authorities but does not want her abuser to be arrested. A mandatory arrest policy can cause victims to hesitate rather than seek protection.

“Six arguments against mandatory arrest statutes: (1) the ineffectiveness of mandatory arrest on recidivism; (2) the disempowerment of women; (3) increased arrest of women; (4) adverse effects on women with children; (5) discriminatory consequences for poor minority and immigrant women; and (6) procedural challenges posed by mandatory arrest.”⁹⁹

While mandatory arrest does seem to be an effective way of halting imminent danger against victims of domestic violence, it is not the most effective long-term solution for preventing abuse. It seems to reduce the likelihood that victims will report incidents and does not demonstrate a reduction in recidivism following arrest. When arrest is left to police discretion, a pretrial detention period does prove to be beneficial, allowing the abuser to the weight of the punishment and allowing the victim time to make plans.

B. Domestic Violence Courts

A specialized court was established in Lexington County in South Carolina to deal only with the domestic violence situations in order to improve law enforcement in the county and provide better protection for victims. The Criminal Domestic Violence Court was defined as “a specialized court that combines the efforts of law enforcement, judges, prosecutors, mental health professionals, and victim advocates, to improve the safety of domestic violence victims and hold offenders accountable.”¹⁰⁰ A report conducted by University of South Carolina

⁹⁹ Zelcer, Amy M. 2014. "Battling Domestic Violence: Replacing Mandatory Arrest Laws with a Trifecta of Preferential Arrest, Officer Education, and Batter Treatment Programs." *American Criminal Law Review* 51 (2).

¹⁰⁰ Gover, Angela R., John M. MacDonald, Geoffrey P. Alpert, and Irick A. Geary, Jr. 2004. *Lexington County Domestic Violence Court: A Partnership and Evaluation*. Research, Criminology and Criminal Justice, University of South Carolina College of Liberal Arts, National Institute of Justice, 97.

researchers, published in February 2004, was organized to “determine whether the Criminal Domestic Violence Court was successfully implemented and to assess its impact on recidivism of domestic violence in Lexington County.”

As they evaluated the process used by the specialized court system, researchers used different data references in order to obtain a comprehensive evaluation of effectiveness. 30 court sessions and interviews with court officials, victims and defendants were the basis for the evaluation. They conducted a time series intervention analysis; a spatial analysis of the geographic boundaries of domestic violence arrest; and a recidivism analysis of 189 defendants who had been arrested before the court was implemented and then another 197 defendants following the court’s implementation.¹⁰¹ Researchers found that the collaboration that was fostered through the system included judges, prosecutors, social workers, investigators and administrators. All parties to cases had a clear understanding of their rights as well as the progression of their case. Defendants were generally given the maximum sentence that their conviction could carry with the understanding that it could be reduced based on their participation in rehabilitative counseling. The focus is clearly on rehabilitation of abusers and protection of victims.¹⁰²

The most common problems faced by the court were “the difficulty in obtaining victim cooperation, having offenders acknowledge their wrongdoing, collecting adequate evidence, and finding the “truth” in cases where both victims and defendants are scared and confused...”¹⁰³

¹⁰¹ Gover, Angela R., John M. MacDonald, Geoffrey P. Alpert, and Irick A. Geary, Jr. 2004. *Lexington County Domestic Violence Court: A Partnership and Evaluation*. Research, Criminology and Criminal Justice, University of South Carolina College of Liberal Arts, National Institute of Justice, VII.

¹⁰² Gover. *Lexington County Domestic Violence Court: A Partnership and Evaluation*, 90.

¹⁰³ Gover. *Lexington County Domestic Violence Court: A Partnership and Evaluation*, 11.

Bond violation enforcement was another obstacle faced by law enforcement that saw several defendants break the no contact provision that is necessary to provide protection for victims. This threat to victims' safety often impeded continuing support and cooperation from the victim.

Prosecutors in the CDVC have found that victims are sometimes willing to testify against their abuser but tend to be unreliable on the witness stand. Financial and emotional dependence on the abuser can affect their willingness to testify for the prosecution and many are even willing to testify in defense of their abuser. Psychological and sociological barriers to reporting domestic abuse and leaving violent situation can affect whether victims choose to testify for or against their abuser. Emotional and physical trauma can render a victim unreliable as a witness and prosecutors can choose to present their evidence without the victim if they deem it unnecessary or detrimental, but must produce sufficient evidence or another reliable witness to the crime.¹⁰⁴

Victims and defendants have been largely satisfied with their experience in the Criminal Domestic Violence Court, feeling they received a fair trial. Most felt that they were treated with dignity and respect and were able to tell their perspective of the situation and were heard by the court. Researchers found that an abuser who was processed through the domestic violence court was 50 percent less likely to relapse.¹⁰⁵ The concept of "therapeutic jurisprudence" holds offenders accountable and keeps victims safe beyond the initial intervention of law enforcement.

Individual consideration for cases involving a single income household demonstrate that the court is interested in the wellbeing and rehabilitation of all involved in these cases. Judges have reduced sentences or fines for those who have dependents. Counseling requirements have

¹⁰⁴ Gover, Angela R, Eve M Brank, and John M MacDonald. 2007. "A Special Domestic Violence Court In South Carolina." *Violence Against Women* 13 (6): 610-12.

¹⁰⁵ Gover. *Lexington County Domestic Violence Court: A Partnership and Evaluation*, 84.

been altered and adjusted to accommodate work schedules so that abusers are able to reach their sentence reduction conditions without missing work.¹⁰⁶ This increased focus on the penalties that accompany domestic violence and also increased attention to adherence to “No Contact” orders or restraining orders. Court transcripts repeatedly revealed judges revisiting violations of these court orders.¹⁰⁷ Most of the explanations for defying orders were as simple as needing something from the house they had formerly shared. Others were more reflective of the difficulty of enforcing no contact orders. One male abuser said that his partner and child had nowhere else to stay so they had come back to his house and another said that they had accidentally crossed paths and he was trying to be cordial.¹⁰⁸ A few however were threatening, such as the abuser who said that he just wanted to retrieve his shotguns from his house because he was afraid of what his partner would do with them.

This report concluded that the CDVC was effective and improved the processing of domestic violence cases from a passive approach that entered the situation only while the case was being tried to an active approach where victims are given the aid that they need and offenders are treated to encourage rehabilitation. Multiple reports have been published on the successes of the court, notably a reduction of rearrests for abusers who had been processed through the specialized courts. An article in *Violence Against Women* argues that “consolidation of all domestic violence cases into one court conserves resources and theoretically enables the members of the court to better understand and address the underlying issues in domestic violence cases.”¹⁰⁹ The improved coordination between all areas of the justice and social system made it

¹⁰⁶ Gover. *Lexington County Domestic Violence Court: A Partnership and Evaluation*, 24.

¹⁰⁷ Gover. *Lexington County Domestic Violence Court: A Partnership and Evaluation*, 11.

¹⁰⁸ Gover. *Lexington County Domestic Violence Court: A Partnership and Evaluation*, 19.

¹⁰⁹ Gover. *Lexington County Domestic Violence Court: A Partnership and Evaluation*, 41.

possible for law enforcement to handle situations properly and ensure victims of better protection.

Criminal domestic violence courts have been instituted throughout the United States and have been highly effective. With a focus treatment and rehabilitation options for abusers, victims are more likely to report incidents. Federal funding was available for establishing this court and for training social workers and law enforcement officers to address domestic situations more appropriately. Due to the success of the court system in achieving its goal of synthesizing system resources to protect victims and achieve justice, in 2002, when federal funding ended for the court, South Carolina took over the cost of operation moving forward.¹¹⁰ The Attorney General's office recommends the organization of a centralized Domestic Violence Court in counties to handle mainly bench trials, guilty pleas and, under certain circumstances, jury trials.

The effectiveness of courts focused solely on the issue of domestic abuse has proven that they are a viable way to address the issue within the state of South Carolina. Bringing social services, law enforcement, the justice system, and health professionals together to streamline the cases moves them through the court system more quickly and effectively.

VII. Conclusion

After fifteen years of leading the nation in women killed by men, South Carolina continues to struggle with intimate partner violence. A staggering number of women are killed every year by their husbands, boyfriends, ex-husbands, and ex-boyfriends.¹¹¹ Coercion, threats,

¹¹⁰ Gover, Angela R, Eve M Brank, and John M MacDonald. 2007. "A Special Domestic Violence Court In South Carolina." *Violence Against Women* 13 (6): 617.

¹¹¹ Pardue, "Till Death Do Us Part." *Post and Courier*, Part I.

and emotional and economic abuse all contribute to a hostile home environment, putting victims and their loved ones at risk. Warning signs and early stages of violence are overlooked. Verbal abuse and controlling and destructive behavior are discounted as protectiveness or associated with love. A cycle of violence can leave victims feeling trapped until they are unwilling or too afraid to leave the dangerous situation. Unlike other victims of assault and battery, victims of domestic violence have been intimately involved with their abuser and have an emotional relationship, which affects the way they approach calling law enforcement and how they behave on the witness stand.

Victims are often dependent on their abuser for financial security and fear social ostracism if they choose to leave. Those in lower income brackets may have to weigh concern for their own safety against the fear that they may lose their source of income and ability to provide for their children. The threat of a large fine or a period of imprisonment can affect the victim negatively, even as it punishes an abuser.¹¹² In a state that values traditional marriage and the nuclear family, separation and divorce can draw the censure of the community. Many victims are uncomfortable with sharing intimate details outside the home.

South Carolina's victimization rates have been decreasing but are still much higher than national averages. Women are significantly more likely to be victims of domestic violence, with romantic relationships representing the highest risk relationship. Despite the presence of programs designed to aid survivors, such as Sistercare and Safe Harbor, many victims struggle with the decision to walk away from a relationship that provides a sense of security. Domestic violence cases often move slowly through court systems that struggle to coordinate the victims' advocates, defense, social services, and law enforcement groups that must participate. Laws

¹¹² ¹¹² Grigsby, N., and B. Hartman. 1997. "The Barriers Model" *Psychotherapy* 31: 496.

addressing domestic violence struggled to make it through a legislature that carefully protects the Second Amendment right to bear arms.

The year 2015 promised new hope for domestic violence in South Carolina. The Domestic Violence Reform Act, passed in June 2015, amended the 1976 Domestic Violence Code, expanding it to include clearer definitions, degrees of violence, and stronger punishments. This legislation enables court systems to administer penalties that better fit the crimes committed as well as track rehabilitation efforts. Municipal court systems that are oriented specifically for domestic violence cases are better able to address the intricacies of each case. The Domestic Violence Advisory Committee ensures the continuous monitoring of intimate partner violence rates in South Carolina, as new organizations are formed to assist survivors and rehabilitate abusers. Community councils increase local awareness and foster a community that supports and protects survivors.

Under the Domestic Violence Act, permanent restraining orders guard victims and their children from abusers who pose a continuing threat, and limits are placed on when abusers will have the right to purchase and bear arms after they are convicted. Moving forward, new legislation will improve the way that law enforcement, justice system, and social workers deal with individual cases, with centralized courts synchronizing the efforts of law enforcement, social workers, and the justice system. Beyond the court system, programs like Sistercare and Safe Harbor exist to provide safe places for women who are victims of domestic violence, on the road to independence and stability. These organizations provide basic needs for women and connect them with resources that exist, such as victims' advocates, employment training, and help with childcare.

South Carolina must continue to foster courts that deal strongly with domestic violence as well as organizations designed to ease the process of moving on from a violent situation for survivors and their children. Establishment of courts and organizations to address the issue of intimate partner violence in the state sends a message to abusers as well as victims that every person deserves to feel safe, especially in their home. While the staggering numbers still haunt the state, it is taking steps to provide the protection and advocacy that victims deserve. As South Carolina puts more resources in place for victims and seeks to protect them and reform abusers, it also promotes awareness among communities. It is fostering a culture where victims have access to resources and are not afraid to report abuse because they know they will have a network of support. South Carolina has taken a stand to protect its citizens from domestic violence, and the results of its efforts promise a better future for survivors.

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Appendix

Definitions added to Section 16-25-10 of the 1976 Code:

- **Deadly Weapon:** any pistol, dirk, slingshot, metal knuckles, razor, or other instrument which can be used to inflict deadly force.
- **Great Bodily Injury:** bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.
- **Household Member:**
 - A spouse
 - A former spouse
 - Persons who have child in common; or
 - A male or female who are cohabiting or formerly have cohabited.
- **Moderate Bodily Injury:** physical injury that involves prolonged loss of consciousness or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include one-time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care.
- **Prior Conviction of Domestic Violence:** includes conviction of any crime, in any state, containing among its elements those enumerated in, or substantially similar to those enumerated in Section 16-25-20(A) that is committed against a household member as defined within the ten years prior to the incident date of the current offense.

- **Protection Order:** “means any order of protection, restraining order condition of bond, or any other similar order issued in this State or another state or foreign jurisdiction for the purpose of protecting a household member.”
- **Firearm:** “means a pistol, revolver, rifle, shotgun, machine gun, submachine gun, or an assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive but does not include an antique firearm as defined in 18 U.S.C. 921(a)(16).”¹¹³

Domestic Violence Degrees Defined

- Cause physical harm or injury to a person’s own household member; or
- Offer or attempt to cause physical harm or injury to a person’s own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.
- Except as otherwise provided in this section, a person commits the offense of domestic violence in the first degree if the person violates the provisions of subsection (A) and:
 - Great bodily injury to the person’s own household member results or the act is accomplished by the means likely to result in great bodily injury to the person’s own household member;
- The person violates a protection order and in the process of violating the order commits domestic violence in the second degree;
 - Has two or more prior convictions of domestic violence within ten years of the current offense;
 - The person uses a firearm in any manner while violating the provisions of subsection (A); or

¹¹³ South, Carolina. Gen. Assem. House of Representatives. 2013. "Criminal Domestic Violence." *Gen. Assem., 120th sess. H. 434, Sec. 2.*

- In the process of committing domestic violence in the second degree one of the following also results:
 - The offense is committed in the presence of, or while being perceived by a minor;
 - The offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;
 - The offense is committed during the commission of a robbery, burglary, kidnapping, or theft;
 - The offense is committed by impeding the victim's breathing or air flow; or
 - The offense is committed using physical force or the threatened use of force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:
 - The report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or
 - A request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

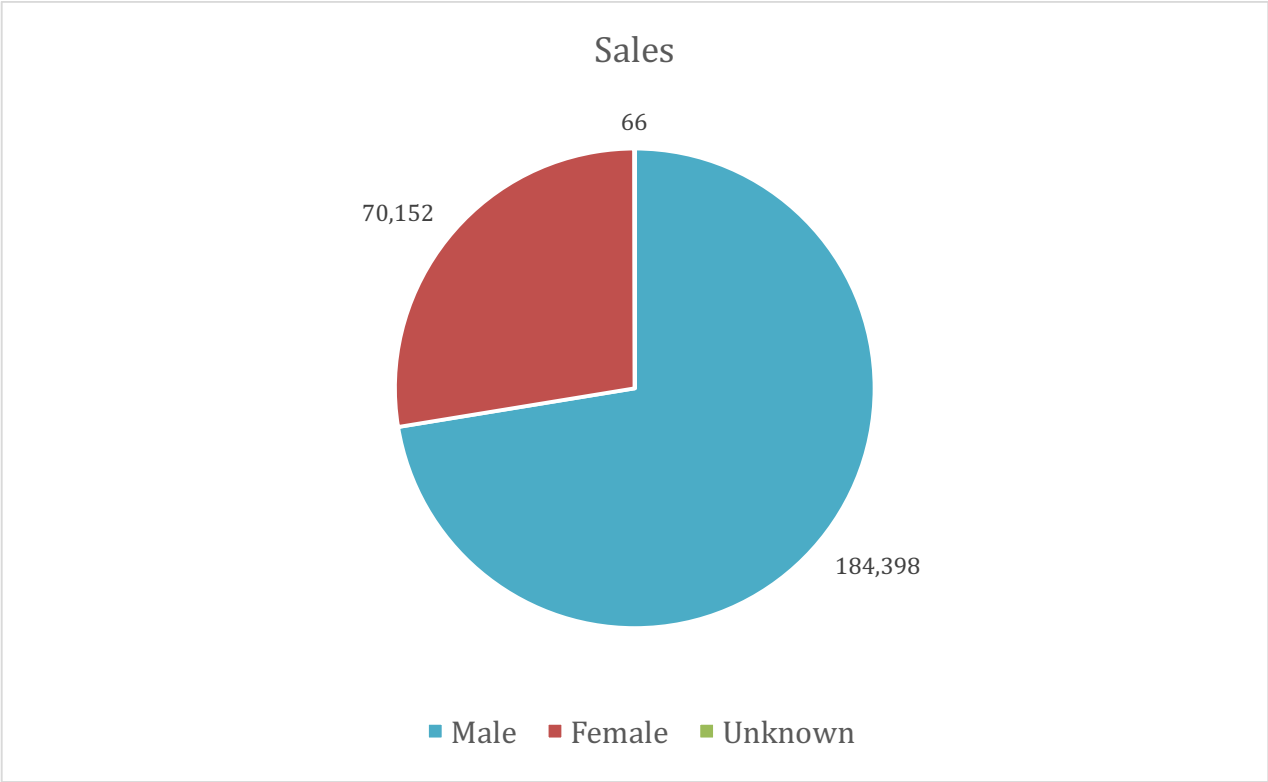


Figure 1 Domestic Violence Victimization by Sex¹¹⁴

¹¹⁴ McManus et. al. *The Rule of Thumb*, 24.

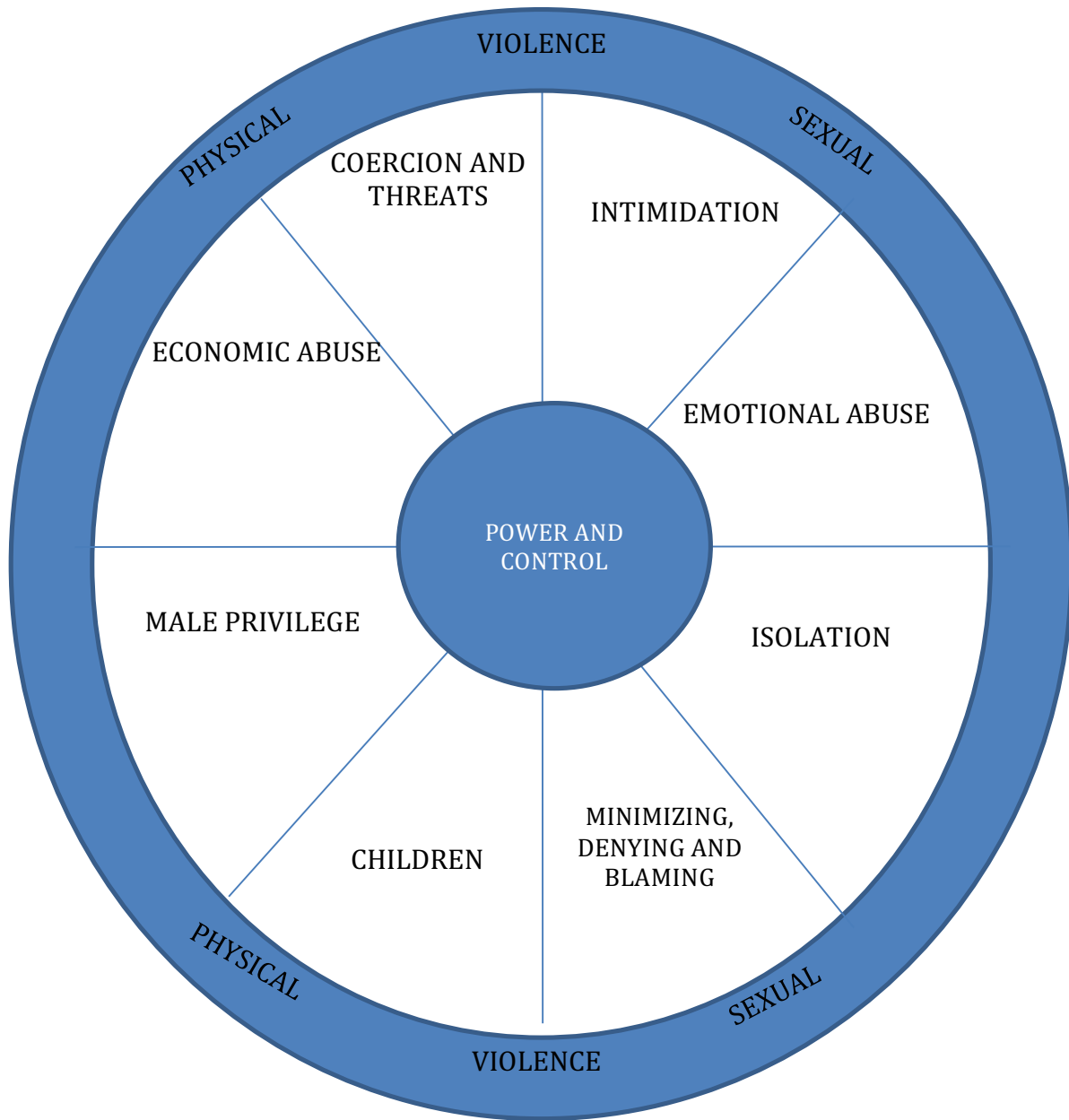


Figure 2 Grigsby and Hartman's Barriers Model¹¹⁵

¹¹⁵ Grigsby, N., and B. Hartman. 1997. "The Barriers Model" *Psychotherapy* 31: 496

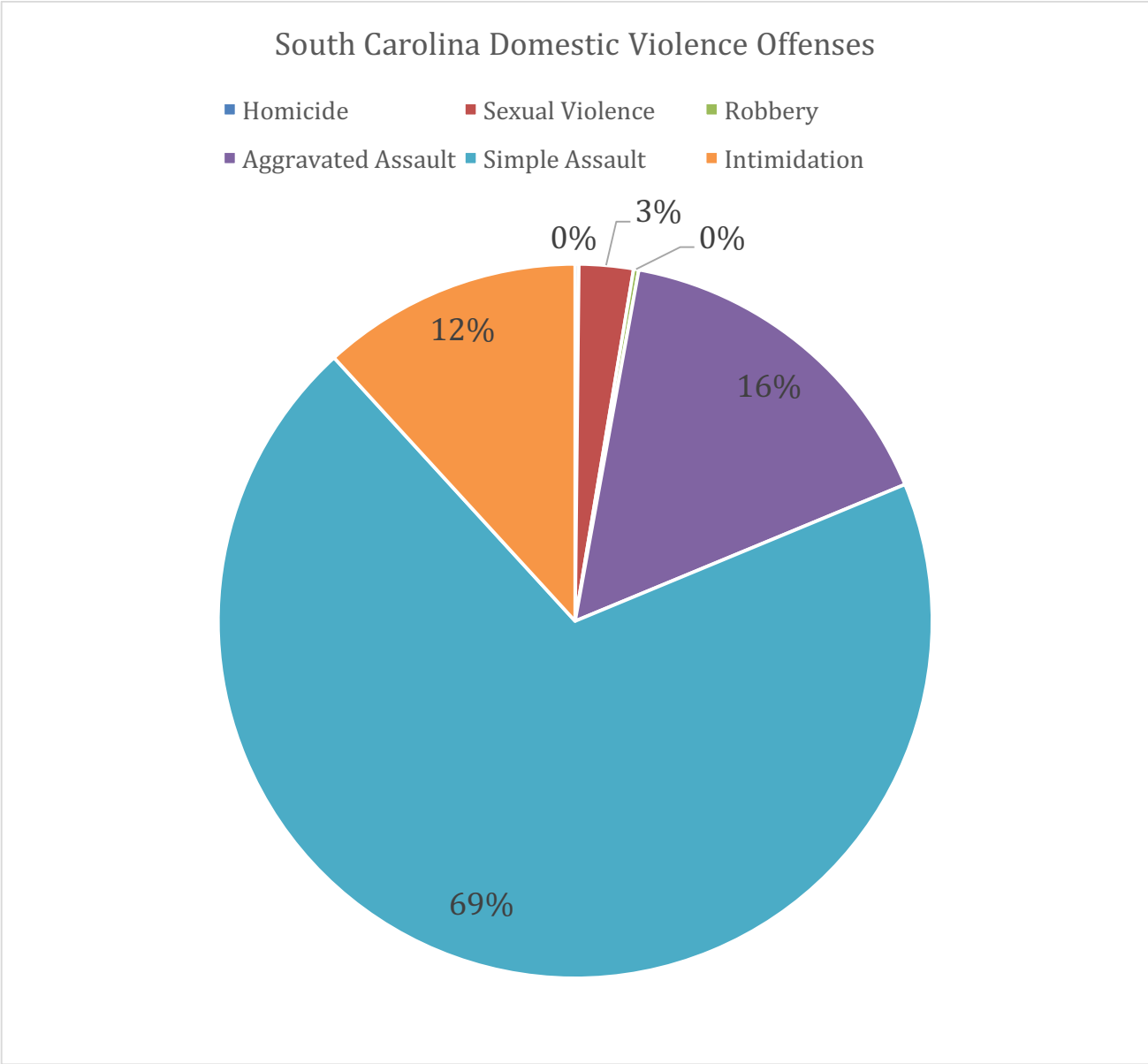


Figure 3 South Carolina Domestic Violence Offenses 2008-2012¹¹⁶

¹¹⁶ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 6.



Figure 4 Number of Domestic Violence Victims in South Carolina 2008-2009¹¹⁷

¹¹⁷ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 6.



Figure 5 Victimization Rate in South Carolina 2008-2012¹¹⁸

¹¹⁸ McManus, Rob. 2014. *The Rule of Thumb: A Five Year Overview of Domestic Violence in South Carolina*, 6.

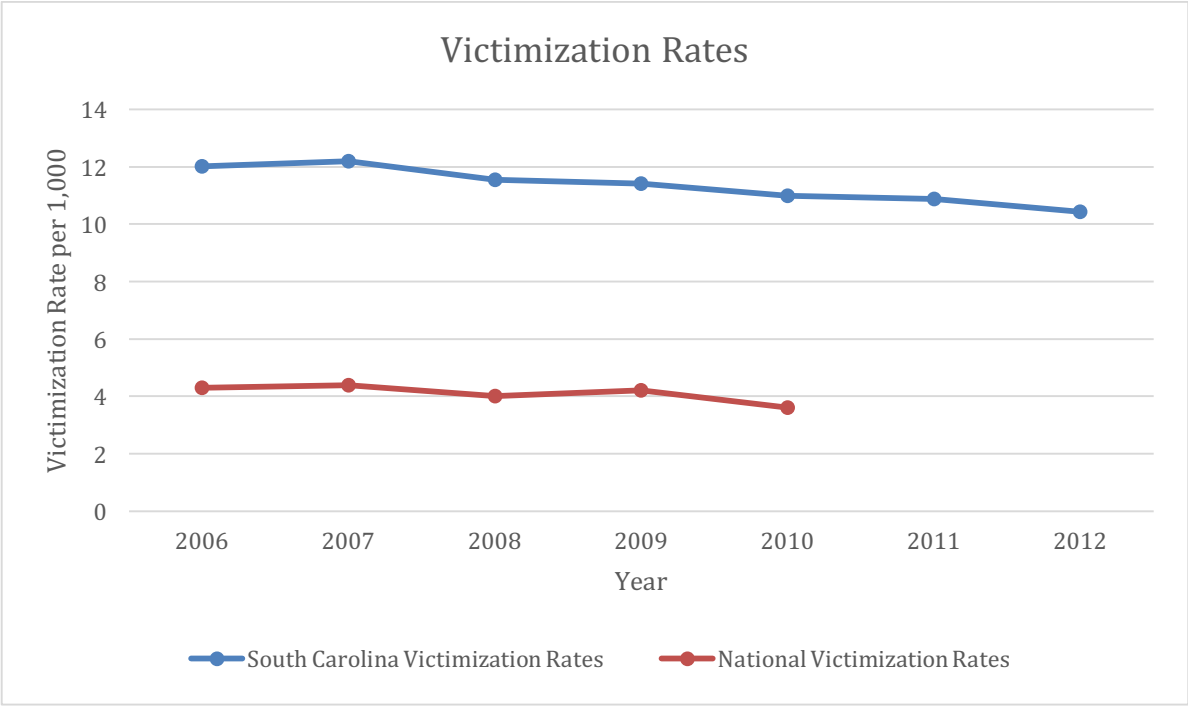


Figure 6 South Carolina Victimization Rates vs. National Averages¹¹⁹

¹¹⁹ Pardue, "Till Death Do Us Part." *Post and Courier*, Part I

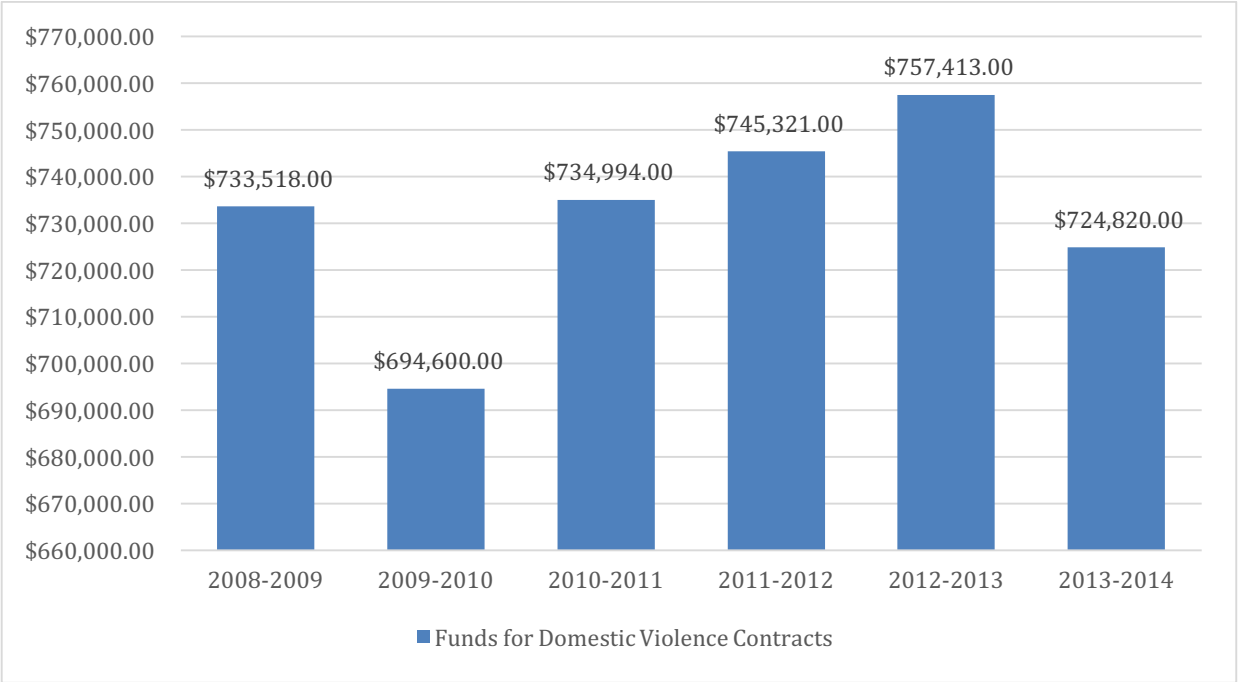


Figure 7 Funds for Domestic Violence Contracts¹²⁰

¹²⁰ Pardue, "Till Death Do Us Part." *Post and Courier*, Part III