

UCLA

Thinking Gender Papers

Title

Carceral Care: Institutional Treatment of Injury in Relationship Violence

Permalink

<https://escholarship.org/uc/item/73x0m1x6>

Author

Moore, Shannon

Publication Date

2020-04-01

Carceral Care: Institutional Treatment of Injury in Relationship Violence

Shannon Moore;

¹Binghamton University, ²Department of Women, Gender, and Sexuality Studies

Introduction

This research focuses on what can best be described as the Medical/Legal – Personal/Private dichotomy that victims of relationship violence who sustain injury are placed in. As we look to the options which IPV victims are given, the question of if there is any route which doesn't produce new forms of trauma must be asked.

The Medical/Legal Route is constructed by the state's control of practitioners treating IPV victims. Mandatory reporting laws often place the very treatment of injury as a gateway to police intervention and ultimately incarceration and state control of the handling of the IPV.

The Personal/Private Route occurs when victims chose not to seek medical care. Besides the physical risks of not treating injury, this creates a traumatic space of care where the victim becomes responsible for caring for their own abuse, injury, and abuser.

CONTACT

Shannon Moore
Binghamton University
Email:
smoore22@Binghamton.edu
Phone: (516) 457-7190

Medical/Legal

When one sustains injury for any reason, if believed treatment is necessary it is common to seek professional care. For those who have been injured at the hands of a violent partner, treatment to the wound may be both physically and psychologically beneficial.

Unfortunately, the way that medical practitioners have been constructed as intermediaries between victims and the law complicates victim's abilities to truly receive care. Many states (see chart) have mandatory reporting laws, which require practitioners to contact law enforcement for ANY injury which is believed to have been inflicted by a violent partner. For injuries that are believed to have been inflicted by a weapon, (gun, knife, sharp object) or is a burn, nearly every state has a mandatory reporting law.³

In addition to mandatory reporting laws, many states have mandatory arrest policies. These requires officers to make arrests in cases of domestic violence. Even in states which do not have *mandatory* arrest policies, the law is written using words like "encouraged" and "preferred" to describe arrest in these cases.⁴

This becomes further complicated in respect to mandatory laws and injury when we consider "No-Drop Policies", which state that those charged with domestic violence must be prosecuted, no matter the victim's wishes.

Relationship Violence to State Violence

- When injury is used to determine violence, women who have fought back in self-defense are often arrested.⁵
- Non-Citizen women are exposed to police and deported⁵
- Victims have no control over the handling of the charges⁵
- Black men are hyper-criminalized and incarcerated under the guise of battered women not having proper judgement⁵
- Black women are arrested as "aggressors" at high rates.⁵
- Black women are more likely to have their children taken by the state.⁶

Laws by State

| State | Mandatory Reporting | Mandatory Arrest | State | Mandatory Reporting | Mandatory Arrest |
|-------|---------------------|------------------|-------|---------------------|------------------|
| AL | NO | NO | MT | NO | NO |
| AK | NO | YES | NE | YES | NO |
| AZ | YES | YES | NV | NO | YES |
| AR | NO | NO | NH | YES | NO |
| CA | YES | NO | NJ | NO | YES |
| CO | YES | YES | NM | NO | NO |
| CT | NO | NO | NY | NO | YES |
| DE | NO | NO | NC | NO | NO |
| FL | NO | NO | ND | YES | NO |
| GA | YES | NO | OH | YES | YES |
| HI | YES | NO | OK | NO | NO |
| ID | YES | NO | OR | YES | YES |
| IL | YES | NO | PA | YES | NO |
| IN | NO | NO | RI | NO | YES |
| IA | NO | YES | SC | NO | YES |
| KS | NO | YES | SD | NO | YES |
| KY | NO | NO | TN | NO | NO |
| LA | NO | YES | TX | NO | NO |
| ME | NO | YES | UT | YES | YES |
| MD | NO | NO | VT | NO | NO |
| MA | NO | NO | VA | NO | YES |
| MI | YES | NO | WA | NO | YES |
| MN | NO | NO | WV | NO | NO |
| MS | NO | YES | WI | YES | YES |
| MO | NO | NO | WY | NO | NO |

Personal/Private

One study found that 44.3% of abused participants opposed mandatory reporting, and 36.4% supported it only with patient consent. The women who opposed mandatory reporting tended to be young, non-white, and non-English speakers in the home.⁷

If IPV victim choses not to seek professional medical care, the sustained injury, and abuse, becomes something to be dealt with in private and on ones own.

Due to the close connection between the state and medical practitioners in cases of IPV, Black women are more likely not to seek treatment for their injury.⁸

Isolation is one of the most commonly referenced effects of abuse. When one handles injury in a personal/private matter, they must then care for themselves, their injury, and their abuser. This space of care thus further traumatizes the victim.

Traumatic Spaces of Care

- 80% of Women who experience IPV report PTSD or PTSD related symptoms.⁸
- IPV leads to poorer health outcomes and is associated with chronic illness.⁸
- The literal tending to of injury by the victim further makes the abuse the sole responsibility of the victim and strips them of receiving care in vulnerable moments.
- They have the psychological burden of protecting their abuser at the cost of their own needed care.
- This extends past the individual moments of self-treatment, but the community. High rates of incarceration and state intervention in cases of IPV are harmful to communities and families and prevent anti-violent, anti-carceral care.⁶

REFERENCES

1. Binghamton University, State University of New York.
2. Women, Gender, and Sexuality Studies Department. Binghamton University, State University of New York.
3. Mandatory Reporting of Non-Accidental Injuries. (2014, May). Retrieved from [https://www.victimrights.org/sites/default/files/Mandatory Reporting of Non-Accidental Injury Statutes by State.pdf](https://www.victimrights.org/sites/default/files/Mandatory%20Reporting%20of%20Non-Accidental%20Injury%20Statutes%20by%20State.pdf)
4. Domestic Violence Arrest Policies by State. (2011, June) Retrieved from [https://www.americanbar.org/content/dam/aba/images/domestic_violence/Domestic%20Violence%20Arrest%20Policies%20by%20State%202011%20\(complete\).pdf](https://www.americanbar.org/content/dam/aba/images/domestic_violence/Domestic%20Violence%20Arrest%20Policies%20by%20State%202011%20(complete).pdf)
5. Bonnet, F., & Whittaker, V. (2015). Intimate Partner Violence, Gender, and Criminalisation: An Overview of American Debates. *Revue Française De Sociologie (English Edition)*, 56(2), 264-287.
6. Donna Coker et al.,(2015) Why Opposing Hyper-Incarceration Should Be Central to the Work of the Anti-Domestic Violence Movement, 5 U. Miami Race & Soc. Just. L. Rev. 585
7. Rodríguez MA, McLoughlin E, Nah G, Campbell JC. (2001) Mandatory Reporting of Domestic Violence Injuries to the Police: What Do Emergency Department Patients Think? *JAMA*.
8. Bent-Goodley, T. (2009). A Black Experience—Based Approach to Gender-Based Violence. *Social Work*, 54(3), 262-269.
9. National Center on Domestic Violence, Trauma & Mental Health. (2014) IPV, Trauma-Related Mental Health Conditions & Chronic Illness.