

# Forging Violence Against Women: Documents, Regimes of Family and Intimate-Partner Abuse

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## Abstract

This article examines how legal texts can be read to broaden our understanding of intimate-partner violence in the United States. Documents, as repositories of the way institutions remember for the public, can provide insight into how people, and in this case, female victims and state actors, define this particular type of violence against women. These documents demonstrate how kin, household and family are both involved and implicated in this highly gendered and targeted aggression. The data presented should factor into new definitions of intimate-partner abuse, because they illustrate how the surrounding network of family members, along with providing help to women that are victimized, may also be at risk of being harmed by men that batter their wives and girlfriends.

## Keywords

Family; kinship; violence against women; legal documents; protective orders; gender; intimate partner violence

You did this to basically kill me. In so many words, to take my life. But it was not. And my mother, my brother and my son, they would have wanted that. If I was not to be able to function, if I was not able to get up here, William and the devil won. They took enough from me. They will not take anything else from me. I have to go on.<sup>1</sup>

1. <http://cbs2chicago.com/local/Julia.Hudson.Darnell.2.965227.html>. Julia Hudson, sister of singer, Jennifer Hudson, on March 22, 2009, to CBS2's local Chicago reporter, Pamela Jones, responding to her decision to participate in a fashion show five months after her estranged husband, William Balfour, allegedly murdered her mother, her brother and her son. Hudson is clear about the fact that her ex-husband killed her family members in order to assault her. In other words, in her opinion, their deaths were the result of intimate-partner violence.

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## I. Introduction

In the United States, intimate-partner violence is understood as "... a consequence of a broader system of power and gender inequality that privileges masculinity at an ideological as well as a structural level, thus affording men violent access to women without serious sanctions."<sup>2</sup> The American courts under investigation here define intimate-partner violence based on the relationship between the male perpetrator and the female victim, and whether the abusive man recently threatened or enacted physical violence upon the woman with whom he has been intimately involved. Thus, the U.S. adversarial and social welfare systems formulate intimate-partner violence as a problem involving two people, the male aggressor and the female victim. But using the very documents that legal actors draft as victim-witness testimony for protective orders,<sup>3</sup> I will suggest that this definition of intimate-partner violence is too narrow to protect women and their families from male aggression. Likewise, I will argue that this conventional definition of intimate-partner violence is too confining to understand how women and their families undergo complex negotiations of safety and risk, assess a complicated array of considerations to protect themselves and others, and come up with innovative strategies in order to guard against a multitude of vulnerabilities that run through the entire extended family as a result of male-perpetrated intimate-partner violence.<sup>4</sup>

Documents, as repositories of the way institutions remember for the public, can provide insight into how people, and in this case, female victims and state actors, define one particular type of violence against women. Specifically, we will examine the ways in which the legal documents drafted for protective order applications create a record of family relationships in the context of aggression and uncertainty resulting from intimate-partner abuse. With these written records, we can explore kin relationships as points of family disintegration, disruption and risk, as well as sites of stability and assistance where the operation of traditional, albeit often extended, family values allows for women's survival. The data presented should factor into new definitions of and realizations about intimate-partner violence.<sup>5</sup>

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2. See R.E. Dobash and R.P. Dobash, "Cross-border Encounters: Challenges and Opportunities," in R.E. Dobash and R.P. Dobash (eds.), *Rethinking Violence Against Women* (Thousand Oaks, CA: Sage 1998), pp. 1–22, as referred to in Lorraine Davies, Marilyn Ford-Gilboe and Joanne Hammerton, "Gender inequality and patterns of abuse post leaving," *Journal of Family Violence*, 24 (2009), p. 30.
  3. Protective orders are court injunctions issued by judges to keep abusive intimate-partners away from complaining victims for a specified period of time.
  4. I thank Sameena Mulla and two anonymous reviewers for helping me frame the article in this way. Their insight on this note and others have greatly improved the clarity of my argument and have made the piece much stronger.
  5. Indeed, there could be important policy recommendations that might come out of this research, especially since legal actors, law enforcement and shelters have almost exclusively focused on the nuclear family when treating and dealing with intimate-partner

## II. The District Attorney's Office and Data Collection Methods

The narrative data for this study were collected in a large city in the U.S. Southwest. In my work, I refer to this city as Anytown, and the state where it is located as Anystate. Anytown has a majority Mexican-American population that makes up a long-standing, multigenerational community. It is not characterized by recent immigration from Mexico. The legal setting for the institutional narratives examined here is a district attorney's office where women, most of whom are Mexican-American,<sup>6</sup> come in search of legal help to deal with their current or former abusive partners. The district attorney's office was just one of many institutions that agreed to participate in my 13-month legal ethnography conducted on how Latina women narrate intimate-partner violence in U.S. socio-legal settings. At the district attorney's office, I first read each possible client a consent form and if she agreed, I then observed and/or tape-recorded the interview she had with a professional paralegal. Only a few of the 100 or so women I observed declined to participate. I also accompanied paralegals, their clients and the assistant district attorney in charge of the protective order docket to court each week. I then collected the written versions – drafted by paralegal-interviewers and sworn to be “true and correct” by the women's signatures – of these clients' stories of intimate-partner violence. The analysis below is based on these written documents.

While in some cities and institutions, interviewing for protective orders is done by volunteers, this district attorney's office employs paralegals, referred to as paralegal-advocates,<sup>7</sup> to interview women that complain of intimate-partner abuse. Within these

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violence. However, research on intimate-partner violence has also tended to focus on the relationship between the male aggressor and the female victim. For this reason, before policy recommendations can be made, much more basic research needs to be done. This ethnographic approach to unearthing family involvement in intimate-partner research is a starting point for more data gathering and analysis on the subject. Women should be asked, for example, specifically, what they and their families need to help them protect themselves from abusers, for starters, as this research shows that extended family (a) needs to step in to assist women in battering situations and (b) is also at risk because of their help.

6. While most of the women in this study happened to be Mexican-American, the paper is not suggesting that the types of violence uncovered are particular to Latina women generally or even Mexican-Americans more specifically. Nor am I suggesting that the help offered by families is uniquely Mexican or Mexican-American. The community where data were gathered is a long-standing multigenerational, primarily Mexican-American, community in the U.S. Southwest. Most of the women that participated in the study, ranging in age from 18–59, with the majority clustering between the 18–45 years age-range, were born in this U.S. city that I call Anytown. So while Mexican-American women and their families deserve to be added to the ethnographic record, in doing so, I resist any facile suggestion that there is anything culturally or ethnically particular about the violence they encounter or the way their families help them deal with it.
7. And in some jurisdictions in the United States, women apply directly for protective orders without the help or interference of state actors. Arguably, however, even in the absence of a

interviews, paralegals ask clients to tell them about the violence they have experienced. As the paralegals listen, they determine if clients meet Anystate's family code requirements to apply for this type of court order and whether, given the client's testimony, they can establish a case of intimate-partner abuse strong enough to convince the assistant district attorney to take the case to court for a protective order.<sup>8</sup> If women narrate recent physical violence or threats and state that they are afraid that without protection there will be more physical violence, the paralegals will help them petition the court for an order of protection. Some researchers claim that these protective order interviews and applications are the primary means that women in America have available to them to negotiate the meaning of a life free of violence with the state.<sup>9</sup> Inasmuch as this is true, these documents then provide us with current details and definitions of violence in U.S. culture. These stories, though negotiated with the state, reflect at least some concerns, details of violence and abuse suffered, and references to the challenges faced by a large number of women that are willing to disclose their violent experiences with former or current intimate partners.

During the course of their interviewing, determining, establishing, questioning, listening and redirecting clients toward what the law considers to be relevant information, paralegals also engage in document-making. From these interviews, three distinct types of documents can result: notes, affidavits and/or warning letters. As paralegals conduct interviews, they type on their computers in between questions and while women are speaking. By doing this, they begin to produce notes about what clients tell them. As stated above, there are several outcomes that can result from these notes. First, they can be converted by the paralegal into a formal affidavit, also known as the client's sworn testimony. Affidavits are written by paralegals, but signed by clients and then filed with the court, so that the case can proceed to a hearing. Second, these notes provide the content from which paralegals, in consultation with the assistant district attorney, can determine whether a formal affidavit will be drafted and/or whether the client needs to provide further evidence or information in order for the transformation from note to affidavit to take place. Whether the documented notes eventually evolve into a formal affidavit often depends on whether the client takes the paralegal's advice, say, to get more information, make a police report, provide an address for the abuser and the like. That is, a paralegal may strongly advise a client to make a police report before she will agree to file for an order. Paralegals make such requests because affidavits that include evidence of law enforcement involvement are more convincing of both the severity of violence and the

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person who represents the state, the process and the official forms that women fill out would also serve to structure and format their complaints.

8. For a detailed description of this process, see Shonna Trinch, *Latinas' Narratives of Domestic Abuse: Discrepant Versions of Violence* (Amsterdam: John Benjamins Publishing Co., 2003).
9. Andrew R. Klein, "Re-abuse in a Population of Court-restrained Male Batterers: Why Restraining Orders Don't Work," in E.S. Buzawa and C.G. Buzawa eds., *Do Arrests and Restraining Orders Work?* (Thousand Oaks, CA: Sage 1996), pp. 192–213; and James Ptacek, *Battered Women in the Courtroom: The Power of Judicial Response* (Boston, MA: Northeastern University Press 1999).

necessity of an order as well as the woman's commitment to see the legal process to its end. When clients do not heed the advice of paralegals, the notes often remain on the paralegals' computers with messages that indicate the client's failure to act in one way or another. For example, at the bottom of one note, the following was written: "Client never returned to sign the Protective Order. This is the second time in a year that she applies and does not follow through." At the end of another note, the following is written: "Rec[ommendation]: Possible protective order. Client referred to make a police report. Three weeks later, client does not return to sign affidavit – placed in pending file until client notifies."

If no affidavit emerges from the interview interaction, the paralegals' notes will remain as only notes on their computers. Yet, the notes themselves become a type of document that records some of the women's stories. Thus, even when the district attorney's office decides not to take legal action, an archive of evidence exists to show that a woman narrated some type of harassment, abuse or violence. In certain instances, even if paralegals may not be able to pursue a legal remedy on behalf of the client at the time of the interview, they can offer to send a warning letter to an alleged abuser. Warning letters are also documents, but they have no legal power. The purpose of a warning letter is to alert the abuser that the client has notified authorities of his behavior, and that if he does not cease to conduct himself in such undesirable ways, legal action by the district attorney's office may become necessary.

A total of 61 documents imprinted with abuse stories form the corpus for this study. Twenty-five of the documents consist of paralegal notes that never resulted in an affidavit. The notes are kept on file in the district attorney's database and can be accessed by paralegals at any time. These notes serve two primary functions: (1) they provide details of each paralegal's work, and (2) they act as the institution's memory and storage of the client, the man she claims to be a threat to her safety and well-being, and a description of the abuse that she alleges. The other 36 documents examined are affidavits that made their way to court and were probably read by judges.

To analyze these 61 documents, I devised a data sheet that allowed me to record systematically the family members mentioned in each document and what their relationship was to the violence and the abuse reported. For example, I recorded whether children were mentioned and if they were referred to as having witnessed violence, called the police, been the target of violence, been harmed inadvertently by the violence that was ensuing and the like. The data sheet I created also had a section for "other family" mentioned and a section where I could write the nature of how other family members were involved. Once a data sheet had been created for each document, I was able to tally both the family members referred to and the ways in which women reported that those family members were involved in the abuse perpetrated by the alleged aggressor.

### **III. Defining Family**

According to the Anystate's Family Code in order to apply for a protective order, the person victimized has to be related to the alleged abuser in specific ways. In these intimate-partner cases, a woman is eligible for a protection from abuse order if she (1) is

related to the alleged perpetrator by blood or marriage, (2) is/was/had been living with him, and/or (3) has a child with him. In other words, residence, marriage, marriage and biological connection through offspring are the objective criteria used by interviewers to determine if complaining women meet the state's eligibility requirements to apply and file for a protective order.

At a cultural level, this definition and the availability of protection from abuse orders for certain people manifest the state's recognition that once family is forged – especially intimate-partner family as it is made by marriage, the birth of children and shared residence – it can be very difficult to undo. For example, in 18 of the 24 cases in which a woman complained against a man she described as her “ex-boyfriend,” we find that the couple had children together. Hence protective orders are available for women in a dating relationship with men as long as they have children together or have lived together. This notion that a man that fathers a child is legally considered to be that child's father irrespective of whether a marriage ever existed is analogous with the notion of “the enduring biological family.” Neale suggests that the idea that the biological family should have rights, privileges, duties and obligations to one another regardless of marriage or divorce took hold in England in the last decades of the 20th Century.<sup>10</sup> Before this time, children born to unmarried women were not seen as having legitimate rights to the men that sired them. Similarly, after divorce, women were not expected to aid in maintaining their children's familial ties to their biological fathers. The idea that men no longer have children with *illegitimate claims to them* has been adopted by Anystate to suggest to men that they must provide financially for children regardless of their relationship to the child's mother. Put another way, children are supposed to have rights to the men that provided the biological material for their birth and they now have legal claims to their wealth and possessions as well. Yet, the state's recognizing and legalizing the idea of the enduring biological family – regardless of marriage, divorce, or, in the case here, abuse – has significant negative effects on battered women and these will be discussed below.

It is interesting that at the same time the law acknowledges the difficulty of undoing family, it also reinforces the notion that family should not be undone. While not all women are represented in the documents as having separated from their abusers, many of them do refer to the men they complain about as their “ex-husbands” (N = 5) or “ex-boyfriends” (N = 24). Notably, in 18 out of the 28 cases where the defendants (or the abusers) are represented as “husbands,” the women's reports also state that the couple had been separated for at least a month. We see then that in 47 of the 61 documents, the relationship is described as either having ended or as being in hiatus. The anthropological concept of liminality might explain why separation of an intimate couple poses danger to those involved, but especially to women.<sup>11</sup> Separation is a liminal state in which a

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10. Bren Neale, “Theorising family, kinship and social change,” unpublished conference paper, Care Values and Welfare Research Programme, School of Sociology and Social Policy, University of Leeds, Workshop paper 6, 2000. Prepared for Workshop Two: Statistics and Theories for Understanding Social Change.

11. See Victor Turner “‘Betwixt and between’: The liminal period in rites of passage,” *The Forest of Symbols: Aspects of Ndembu Ritual* (Ithaca, NY: Cornell University Press 1967).

formerly intimate couple is betwixt and between states of legal sexual access and legal sexual denial. The couple is no longer together intimately, but neither are they divorced.

In a parallel way, Hegel-Cantarella studies the liminal period known as betrothal in a Muslim community in Egypt.<sup>12</sup> She argues that engagement – another betwixt and between social state – presents women and their families with certain dangers. She explains that unlike in the U.S. and Europe where engagement-to-be-married occurs after months or years of knowing and dating one another, in Muslim Egypt, betrothal marks the beginning of the couple's affiliation with one another. Therefore, betrothal is supposed to be a trial period to see if the couple is compatible for marriage. In Muslim Egypt, "[e]ngagement is an approved social space for couples to get to know one another prior to marriage, yet is also a confession of desired intimacy not yet licit. Anxiety about what engagement allows and prohibits is exacerbated by the long term of many engagements. Betrothal is perilous precisely because the socio-religious expectations for the affianced are strict whereas their legal rights vis-à-vis one another are weak."<sup>13</sup>

In a similar vein in the United States, the socially sanctioned period of separation after marriage is an admission of prior intimacy and the failure of the couple to preserve and maintain the sanctity of that intimacy. In these cases, anxiety about the roles couples are supposed to play in separation and in their future inheres to the point of violence. In some instances, so perilous is the separation that the state must step in with court injunctions and documents that stipulate the couple's access to one another, and the state must also designate how the couple should conduct themselves with respect to one another both during separation and then, even in divorce.

Intimate-partner violence researchers have shown that leaving an abusive relationship is one of the more dangerous acts for women in battering relationships. While conventional wisdom suggests that leaving will end abuse, study after study indicates just the opposite: abuse towards women continues, and sometimes violence is even exacerbated, when women try to separate from their batterers.<sup>14</sup>

In the pages that follow, we will see how documentary practices implicate and involve "other" family in the violence against women context. The types of family members mentioned, the contexts in which they get represented and the reasons for their inclusion in these institutional documents will be examined.

#### IV. Documenting Family and Data Analysis Methods

Ethnographic participant observation of more than 100 protective order interviews brings to light the fact that women, in their application for court orders to protect themselves,

12. Christine Hegel-Cantarella, "Family-to-be: Betrothal, documents, and the remaking of relational obligations in Egypt" (forthcoming).

13. Op. cit., p. 6.

14. See D. Anderson and D. Saunders, "Leaving an abusive partner: An empirical review of predictors, the processes of leaving and psychological well-being," *Trauma, Violence and Abuse*, 4 (2003), pp. 163–191; R. Fleury, C. Sullivan and D. Bybee, "When ending the relationship does not end the violence by former partners," *Violence Against Women* 6(2000), pp.1363–1383.

tend to mention other family members as well. Often, women index these people by using possessive pronouns and traditional kinship terminology in noun phrases such as “my mother,” “his father,” “my kids,” “our son,” and so on. Typically in the oral rendition of their accounts, women connect these family members to the incidents of intimate-partner violence and abuse in which they find themselves. By looking at the paralegals’ notes and the affidavits they draft, the roles other family members play in sustaining or breaking patterns of abuse emerge. Also highlighted in this analysis are the risks of violence and abuse at which other family is placed because of intimate-partner aggression.

The documentary practices of the seven paralegal-advocates represented in this study indicate that those family members that are not intimate-partners are deemed to be important and relevant by both women and the state actors that are in place to help them. There are only five documents (four affidavits and one note) that contain no mention of other family members. In each of the remaining 56 documents, references to a member or members of either the abusers’ or the victims’ families can be found. In fact, in total there are 104 “other” family members written into these intimate-partner violence accounts. This number indicates that more than one type of family member appears on the majority of the documents in the data set. The chart below indicates the frequency with which different types of family are mentioned on the two sets of documents.

**Table 1.** Kinship terminology mentioned on affidavits

Family Members	Notes	Affidavits	Totals
Their children	15	37	52
Her parents	1	0	1
Her mother	10	7	17
Her father	1	0	1
Her sister	3	4	7
Her brother	0	3	3
Her grandmother	1	0	1
Her biological children	1	3	4
Her “family”	2	1	3
Her new intimate	0	1	1
Her sister-in-law	0	2	2
His parents	1	2	3
His mother	1	1	2
His father	1	0	1
His sister	0	1	1
His brother	1	2	3
His grandmother	0	0	0
His biological children	0	0	0
His “family”	1	0	1
His new intimate	1	0	1
Total:	40	64	104

## **V. Documentary warp and weft of family in violence against women narratives**

It is probably not surprising that the most frequently encoded kin are the couple's children ( $N = 52$ ). The couples' mutual children figure in women's abuse narratives in at least eight interconnected ways. First the children provide a portal through which the ex-intimate partner can gain access to a woman to continue physically, sexually, verbally, emotionally or financially abusing her. Second, children are represented as a source of discord. That is, the documents record women's reports of abusers becoming angry with them when they disagree with the decisions women, as the primary caregivers, make regarding their children. Third, children are written about as both witnesses to violence and as their mother's protectors from violence, because they sometimes intervene and/or ask their fathers to stop. Fourth, children are the inadvertent recipients of violence. The data from these documents suggest that sometimes children's location and proximity to a combative parent and his victim can, at times, put them in the line of fire. Consequently, some children occasionally receive injuries that are reported by mothers in protective order applications as bumps and bruises to children that were not intended for the children. Fifth, although in far fewer instances, in this data set, children are discussed in the documents as the primary recipients of the abusers' aggression. In other words, infrequently women state that children themselves are the main targets of abuse, and that the women themselves receive the brunt of the abusers' aggression when they attempt to intervene to save their children. Sixth, children are documented as a resource of abuse, because men use them to scare women. A common threat made by abusers is that they will take the children away so that their mothers will never see them again. Occasionally references to kidnapping, or taking children to another state or even taking children to Mexico are written into the documents. Seventh, in a separate but related way, the documents reveal how children are used as tools to humiliate women. A reading of these texts shows that women report that abusers tell their children obscene, unflattering and untruthful things about them. And, finally, the documents refer to batterer threats of filicide – or threats to kill their own children.

In addition to threats to kill their own children, there are documented threats that abusers make to kill the women's biological children. In fact, in three of the four documents where women had children who were not the biological children of the abuser, women reported that the perpetrator threatened to kill the women's children. Sometimes, abusers were actually physically violent towards these adult children as in the following excerpt from one of the paralegal's notes, "Def[endant] slammed my son's head against the wall as he intervened to protect me." In each of the four cases where the children mentioned are solely the women's, the children are adults and males. Two of these four women also reported in the interview context that they were taking legal action against the abuser as a means of protecting their children. These women said they were afraid that if something was not done to stop their batterers, their sons would avenge their mother's honor and retaliate themselves against aggressors. My field notes reveal that these two women said that they were afraid that their sons ultimately would get in trouble with the law as a result of the abuse enacted toward them. For this reason, the women said, they decided to involve law enforcement. However, in neither case does this issue

of a mother's fear for her adult male child's safety receive documentation in either the notes or the affidavits.<sup>15</sup>

The second most frequently documented reference to kin is encoded in both the notes and the affidavits as "my mother," meaning the narrator's mother. As far as family members go, the clients' mothers are documented as being somehow involved in intimate-partner violence more than any family member other than the clients' children. There are a total of 17 mentions of clients' mothers, ten appearing in the notes and seven appearing on the affidavits. The clients' mothers are referred to in varied contexts and for several reasons. First, "my mother" most often is written about in reference to location. Clients refer to their mothers' houses, presumably the place they turn to live once they leave the residence they once shared with abusers. Women report that their abusers both call and show up at their mothers' homes. As a result of being brought into the fold of intimate-partner violence, these clients' mothers are at times threatened by abusers. Additionally, as a consequence of their proximity to the violence perpetrated by men toward their daughters, these clients' mothers are referred to with respect to the actions they take to protect their daughters. The documents reveal that some of the clients' mothers call others for assistance, and they also help by calling the police directly. In one of the notes, the paralegal documented the following about a client's mother:

**Excerpt #1: Mothers as protectors of their battered daughters**

When my mother would not open the door, ((Abuser's name)) began kicking at it. He told my mother that he was going to wait for me and when he saw me he was going to kill me. My mother called my sister and the police as well. When the police arrived my mother told them what was going on and the police spoke with ((Abuser's name)). They advised him to leave. When I got home, he was still waiting for me and he told me that my mother had made a big mess by calling the police.

The above excerpt shows how family members, and especially mothers become involved in intimate-partner violence. First, because mothers tend to be high on the list of people that provide shelter to women suffering from such abuse, victims' mothers, like their own children, find themselves in the path of violence. But unlike most of the clients' children, their mothers are adults and perhaps this is why they can more readily confront abusers, seek help from others and get the police involved.<sup>16</sup>

As the above excerpt indicates, the abusers, however, can become angry with the action other adults take to protect their victims. In Excerpt #1 above, the client reports that her

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15. These examples illustrate the fact that not all women's fears or all of the threats of violence that they report get recorded in the affidavit. Inevitably, there will be omissions and the documents will not capture all of the threats to family members that women report.

16. Yet, it should be remembered that some minor children do indeed get involved in protecting their mothers, calling others for help and even calling the police to report their fathers' abusive behavior.

mother might now be in some danger after angering her ex-boyfriend by calling the police and explaining to them what's been going on. Additionally, we find clients also reporting that abusers call their mothers' place of work. One client states that the abuser called her stepmother's place of work, but that her stepmother refused to take his call. However, the clients' mothers need not provoke their daughters' abusers' ire by calling the police to be threatened by them. Another client is recorded in the affidavit as having reported that her ex-boyfriend "punctured two tires to my mother's car." In a different note, a client admits that her mother is an illegal immigrant in the United States and mentions that her abuser has threatened to have her mother deported. The documents also show that abusers use the clients' mothers as conduits to relay information, usually warnings and threats to their daughters. One client's affidavit illustrates this in the following way:

**Excerpt #2: Abuser threatens daughter through mother**

((Abuser's name)) ... kept passing by my mother's house and calling her over the phone ... I called my mother to let her know why I was late. My mother said that ((Abuser's name)) was there and had made threats to kill me. My mother was scared.

Another abuser called the client's mother to tell her that he planned to paralyze and/or stab her daughter to death. One woman's affidavit says that the abuser calls her mother and her sister and warns them that he better not see his ex-girlfriend with any other man. Furthermore, we find that mothers are written about as intervening and doing the physically hard work of pulling abusive men off of their daughters. While in most cases, women report that their mothers are helpful to and supportive of them, abuse and violence are likely to be sources of tension, stress and risk for all members of the family. So, it should be no surprise that in one of the documented notes a woman's mother has said she does not want anything to do with her daughter because she is also afraid of her daughter's abuser. This note reads:

**Excerpt #3: Abuse causes victim's mother to avoid her**

((Abuser's name)) climbed up the balcony of my mother's house because he thought I was there. He had a knife and the neighbor called the police.

It is curious that these women make many more references to their mothers than to their fathers. While one woman's document includes the term, "my father," the overwhelming majority of the texts that include parental mention encodes "mother" and does not make reference to "father." The term "father" shows up only twice in these legal texts: once to refer to a victim's father and once to refer to an abuser's father. "Fathers" and their involvement in intimate-partner violence against women are largely undocumented in these data.<sup>17</sup> A few clients do mention "parents," as do the two clients' documents excerpted below:

17. Where defendants and complainants are immigrants, it would be tempting to suggest that this remarkable lack of mention of "fathers" in these documents has something to do with trends in

**Excerpt #4: Client refers to her parents**

[He] called and threatened to kill my parents and me if I did not go back home.

**Excerpt #5: Client refers to her parents**

... Abuser showed up at my parents' home and started hitting my car with a bat. Abuser was swinging the bat around at family members and tried to hit them because they were trying to take the bat away.

Additionally, there are a couple of references to the general kin term "family." The same client represented in Excerpt #5 above was also recorded in her institutional note as having said: "((Abuser's name)) threatened to fuck me over and my family." Another note states that the abuser has threatened to make the client's "family disappear." And in the final instance of "family" mentioned, the client is recorded as having said, "He told me he would hurt my family because he knew that would hurt me the most."

The third most frequently documented family member is referred to as "sister." In seven instances, these paralegals write about clients' sisters. Sisters are described as witnesses, protectors, providers of shelter, and people that call the police. One note makes the point that the abuser threatened to kill a client's sister, and another suggests that sisters can also be a resource used by abusers to harass women. For instance, one client says her partner joked to her about having had sex with her little sister.

Three women also weave the kin reference, "my sister-in-law," into their tales of abuse. Thus, the documents reveal how victims' sisters-in-law become important actors in their experiences of abuse. One document refers to the abuser's sister, another to the client's brother's wife and the last seems to refer to the abuser's brother's wife. In each of these cases, these sisters-in-law – related to the victim through marriages, either hers or theirs – are documented as having tried to help. One of the affidavits seems to indicate that the client sought refuge where her abuser's brother and his wife lived. She refers to

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gender and transnational migration. But the women in this study, though ethnically Mexican, are American citizens and the majority was born to men and women that lived and worked in the United States. Thus, the politics and cultural realities of transnational immigrant Mexican-American families do not apply here. And as stated elsewhere, this city, after all is the site of a long-standing multi-generational Mexican-American community in the U.S. Since I do not have data to discuss whether fathers were in fact present, it seems useless to ruminate about why their daughters do not mention them. However, it could be that for many U.S. ethnic subcultures (whether Lebanese, Greek, Latino, Italian, Irish, etc.), a parent's home is often referred to by their adult children as being possessed by the matriarch, as in, "We'll be at my mother's for Christmas this year" or, "I'll drop the kids off at my mom's this afternoon before we go out." While some adults would and do refer to their parents' home as, "my parents' house," rarely does one ever hear, "My father's house" if the matriarch is alive and the mother and father live together. Though I do not have data on whether the clients' parents remained married or together, I did ask all informants to tell me what their parents did for a living and they responded as if they were still in contact with both their fathers and mothers by mentioning their professions and jobs.

this place, however, as “my sister-in-law’s house.” In the second case, the client is documented as having been with her own brother and his wife (again the place is referred to as “my sister-in-law’s”), when the abuser comes to see her. The document notes that it is her sister-in-law, in this case, who calls the police. In the last of these sister-in-law cases, the affidavit states that the couple had been married for 21 years and that the client called her abuser’s sister for help during a recent violent episode. She is referred to as “his sister” in the affidavit in the following way:

**Excerpt #6: Abuser is violent toward his own sister**

((Sister’s name)) arrived and pulled ((Abuser’s name)) away from our son. She also told him to leave. He called us all crazy. His sister pushed him away, he laughed and then all of a sudden ((abuser’s name)) hit his sister across the face and made her bleed. He then began hitting her on the head with his closed hands.

And while this client’s sister-in-law/the abuser’s sister is not the only documented member of an abuser’s family willing to help victims of intimate-partner violence, she is the only other documented member of any abuser’s family – with the exception of their own biological children – to be the recipient of an abuser’s actual physical violence. Put differently, according to these documents, abusers act in physically violent ways toward their intimate-partners, the children of their intimate partners – whether their own or not—and in this one case, an abuser is physically aggressive toward his own sister.

“Brothers” are mentioned a total of six times in these documents, and most of the references allude to the fact that brothers – both on the women’s and the men’s sides of the family – also normally try to intervene to stop aggression. One client’s affidavit reads:

**Excerpt #7: Victim’s brother intervenes to stop violence**

My brother, ((name)), then intervened and prevented def[endant] from taking me by force and harming me any further.

In another affidavit, a client had suggested that her ex-boyfriend had threatened her with a gun and later on that evening with a knife. About her ex-boyfriend’s brother, she is recorded as saying:

**Excerpt #8: Abuser’s brother intervenes to stop violence**

His brother was also there and managed to talk him out of hurting me.

There is one case where the abuser is recorded in the affidavit as coming toward the victim with a pellet gun, and it is stated that her “brother-in-law” intervenes by waving a pellet gun at the abuser in order to defend her. So, while “brothers” are mentioned three times, brothers-in-law are encoded three times as well. Five out of the six times the “brother” kin get a mention, they are encoded as having tried to thwart abusers’ aggression.

In one case, however, described further below, a woman is recorded as stating that her abuser's brothers have threatened to kill her.

For the most part, the abusers' family members appear in the documents as having tried either to stop an aggressor's violence and abuse or to assist women in getting on their feet after separation. In the excerpt below, the batterer's parents make a generous gesture to provide for their grandchildren and subsequently, their mother. Their kindness, however, also appears to compromise the safety of their ex-daughter-in-law and her children:

**Excerpt #9: Abuser's parents provide their home**

He has now locked me out of my house which is owned by his parents but they were allowing me to stay there for the children's sake.

In the following extract, the documentation for another client makes references to both her mother and her abuser's parents and the assistance that both provide to shield her from her husband's aggression.

**Excerpt #10: His parents and her mother help victim**

I then called his parents to come and they came over and talked to him and also calmed him down. ... When we returned I called my mother and told her what had happened. She called the police and a report was made.

We see how the couples' parents provide different and varied support to this victim of violence. The abuser's parents try to "calm him down" and "talk some sense into him," while the victim's mother chooses to get the police involved, because her daughter's foot has been hurt badly enough to need medical attention. In another client's affidavit, we learn that both the abuser's mother and his brother tried to protect her from their own family member's abuse. This woman claims that first the abuser's mother intervened to stop him from hurting her and that then his brother tried to keep the abuser from "going toward/after her."

Much more sparingly, abusers' family members are mentioned as actually being aggressive towards women. It cannot be stressed enough that these representations are far less common in the data than those for which family are represented as helping, but nonetheless, it is true that some of the abusers' family members are referred to as being unsupportive, threatening or even violent toward the clients. In the note excerpted below, a client is recorded as making references to her sister, her abuser's family and his brothers.

**Excerpt #11: Violence against women is a family affair**

Abuser's brothers have threatened to hurt me in the past if I called the police on abuser ... Abuser's family owns weapons ... Abuser threatened to kill my sister.

And while most family members are described as being protective of women and far fewer are described as being combative towards them, still others seem indifferent about the intimate-partner violence that they witness. Perhaps some family members are not willing to get involved in intimate-partner disputes. Nevertheless, at some level, their aloofness can be interpreted as a tacit willingness to tolerate the aggressive and abusive behavior of men towards women. For example, in one document, the client states that the abuser's father was in the car waiting for his son while he was at the client's house threatening her with a pipe. And in another document, the abuser's uncle is described as having told her that she should not have called the police on her intimate-partner. In the following affidavit, the client discusses her abuser's parents' indifference in the following way:

**Excerpt #12: Abuser's parents show indifference to violence**

He then got a lighter and started burning my hair. He also pulled chunks of hair out of my head. His parents were present but nobody stopped him.

It is not clear from the documents, however, whether these family members' unwillingness to get in the middle of intimate-partner violence is motivated by their tacit endorsement of this behavior or simply by their fear that their own well-being will be jeopardized if they intervene.

## **VI. Against Gender-related Violence: Translation, Transfiguration, Change**

In this article, I examine how these legal documents – created by battered women and legal service providers – encode family and kinship modalities in cases of intimate-partner violence. As archives of knowledge – defined by facts that women offer about their experience and facts that state actors deem as relevant for adjudication – when read for kinship these legal texts can transfigure our understanding of this particular type of violence against women. Moreover, these documents may transform the way service providers and the state can harness and even aid in preventing the violence against women that occurs in intimate-partner violence. Furthermore, the data clearly suggest that “other” family is at risk in the context of male aggression toward their female intimate-partners, a fact that should perhaps become part of not only an expert's understanding of this type of gendered violence, but that also should become part of the definition and the statistics that illuminate the social and human costs of this type of gendered violence.

While keeping women – no doubt the primary targets of intimate-partner abuse – at the center of our analysis, this examination of a particular documentary regime brings into focus the fact that intimate-partner violence against women is a family affair. And perhaps most importantly, the data suggest that family, once forged, is not easily undone – especially where children are involved, because abusive men use their children as excuses to continue abusing, subordinating and exerting power over women, even when women leave a battering relationship. As extended family members such as

mothers, sisters and brothers provide social support to women trying to leave abusers, they find themselves caught up in the danger zone of abuse. Many studies have been conducted to suggest that social support, or those resources other people make available to a person that is somehow unhealthy or in trouble, has numerous potential benefits for women suffering from intimate-partner abuse.<sup>18</sup> Also, social support, as opposed to social isolation, has been characterized as having instrumental, emotional, evaluative, and informational value for women in abusive relationships.<sup>19</sup> While emotional, evaluative and informational support are clearly valuable types of assistance for women and their children, the tangible nature of women's needs for (1) a place to live, (2) economic assistance for the expense of childcare and, ultimately, (3) protection from abusive intimate-partners make the economic dimension of social support undeniably at the top of the list. It is indisputable that without economic assistance, women cannot extricate themselves from an abusive intimate relationship. In these narrative accounts of those that have managed to leave abusive partners, women clearly delineate what they need from family and they indicate that often it is almost exclusively "family" that helps out.

The information recorded in these documents and unearthed for this study of family ties in a multigenerational Mexican-American community in a large U.S. city in the Southwest, at first glance, seems to stand in stark contrast to the findings of Agoff, Herrera and Castro.<sup>20</sup> Agoff *et al.* study poor Mexican families in rural Mexico and find that strong family ties actually perpetuate gender violence and present women in abusive situations with relational strain. In the Agoff *et al.* research, couples live with their in-laws and women find themselves unsupported by mothers-in-law who side with their sons. The women's mothers as well are discussed as not wanting to step in to a violent situation in defense of their daughters. The researchers explain, "Rigid gender stereotypes (such as submission and obedience to the partner), and the fatalistic mandate, 'it's your cross,' which are transmitted woman to woman within the family, contribute – along with the history of violence witnessed during childhood – to giving violence the appearance of something natural and to signifying it as the natural fate of many women ..."<sup>21</sup>

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18. For more information, see C. Huang and T. Gunn, "An examination of domestic violence in an African American community in North Carolina: Causes and consequences," *Journal of Black Studies*, 31 (2001), pp.790–811; M. Thompson, N. Kaslow, L Short and S. Wycoff, "The mediating roles of perceived social support and resources in self-efficacy-suicide attempts relation among African American abused women," *Journal of Consulting and Clinical Psychology*, 70 (2002), pp. 942–949; S. Cohen and L. Syme, *Social Support and Health* (New York: Academic Press, 1985); R. Fleury, C. Sullivan and D. Bybee, "When ending the relationship does not end the violence by former partners," *Violence Against Women*, 6 (2000), pp. 1363–1383.
  19. M. Barrera, "Distinctions between social support: Concepts, measures and models," *American Journal of Community Psychology*, 14 (1986), pp. 117–128.
  20. Carolina Agoff, Cristina Herrera and Roberto Castro, "The weakness of family ties and their perpetuating effects on gender violence: A qualitative study in Mexico," *Violence Against Women*, 13 (2007), pp.1206–1220.
  21. Op. cit., p. 1214.

Furthermore, contrary to my findings for Mexican-American women in the U.S. is the Agoff *et al.* finding that victims' sisters, mothers and mothers-in-law provide not only little refuge for the women in their study in Mexico, but that they also often blame women themselves for the battering they suffer. Not only do these U.S. Latina women claim that their mothers, sisters and brothers provide them with the support they need to end an abusive relationship, but also, these women rarely suggest that "family" encourages them to stay, to accept their burden, to internalize blame and/or to suffer in silence. In fact, when these women mention family, overwhelmingly, we find just the opposite, namely that their families are supportive of them leaving abusers. Yet, even in cases of separation and divorce, where women have great family support, the intimate partner relationship and its violence are not dismantled instantly. Aggressive men continue to abuse women even when some of the resources that make survival after separation possible (i.e., shelter and child care) are available to them. In my data, neither women nor their families cite rigid gender roles as reasons to stay in an abusive situation. The documents do, however, suggest that mutual children are the primary pathway through which abusive men gain access to the women who left them.

The economic reality of women with children worldwide, whether they are living in poor rural Mexico or in urban working-poor or lower-middle class communities in the United States, seems to correlate both with the enduring biological family bond and lasting abuse between intimate partners. It is worth exploring whether it is really the relative economic dependence of women and their children on batterers and their families – and not rigid gender roles of submission and obedience to a spouse – that makes it difficult for both the state and family members, in the Mexican case, to support separation. In the U.S. where resources are scarce, but perhaps not as scarce, the economic dependence of women and their children on batterers seems to lead to continued abuse after separation. This leads me to wonder if rigid gender roles of submission and obedience to a spouse are intervening, rather than causal, variables, performed as orders by family members for pragmatic economic decisions that extended family members make in order to see the entire family unit survive. In fact, Agoff *et al.* might agree that economic burdens weigh heavily on families, because they emphasize the effect of poverty on people's decisions: "Our empirical study makes it clear, however, that in conditions of structural poverty, the struggle for a share of scarce material (and also symbolic) resources means that women – given their subordinate position vis-à-vis other family members – tend to find themselves in situations of particular vulnerability."<sup>22</sup>

Arguably then, economics is a major motivating factor for very poor urban and rural Mexican families to maintain the notion of the enduring biological family – even in the presence of male violence against women. Certainly, it is largely for economic reasons that the state, in post-industrial, late capitalist societies such as 21<sup>st</sup>-century England and the United States, encourages the maintenance of the "enduring biological family" – after divorce and even when there is legal evidence of intimate-partner violence. Davies, Ford-Gilboe and Hammerton find that the abusive male's access to children – sanctioned and supported by the state – puts a woman in exactly the same positions documented in the legal texts under examination here.<sup>23</sup> They write:

22. Op. cit., p. 1208.

23. Lorraine Davies, Marilyn Ford-Gilboe and Joanne Hammerton, "Gender inequality and patterns of abuse post leaving," *Journal of Family Violence*, 24 (2009), p. 30.

Because of the accepted importance of joint parenting after divorce, and the belief that intimate partner violence has no bearing in children, the legal system has yet to recognize that children are being used by men as a means of continued partner abuse (Wuest *et al.* 2006; Hardesty and Chung 2006). A history of domestic violence is rarely identified in marriage dissolutions, even when police or court documentation exists (Kernic *et al.* 2005). Entitlement over continued relationships with children after divorce or separation, therefore, inadvertently legitimizes men's sense of continued entitlement over former partners in ways that facilitate further abuse and/or harassment (Varcoe and Irwin 2004; West *et al.* 2004, 2006).<sup>24</sup>

Neale writes about how the ideology of the enduring biological family – complete with laws to establish and uphold it – developed in England.<sup>25</sup> One of the most illuminating reasons given is “... the growing numbers of lone mothers who were dependent on state support ... Government strategy in these circumstances has been to push financial responsibilities for first families back onto biological fathers (and, more recently lone mothers themselves), who were being encouraged to extend their caring commitments to include financial provisions as well.”<sup>26</sup> My ethnography of narrating intimate-partner violence which also included a collection of interviews between divorce attorneys and their clients with protective orders in Anytown, U.S.A., corroborates Neale's observations for England:

Anystate encourages divorcing parents to enter into amicable agreements on child custody issues regardless of purported abuse. In Anytown, court officials (such as court clerks and attorneys) strongly suggest that divorcing parents attend mediation sessions where agreements to child visitation can be reached. If the children have not been abused, the divorce attorneys will recommend standard visitation for the father. Even if survivors are not in favor of an abuser's having standard visitation rights to the child, attorneys will strongly advise their clients to agree to them. Attorneys argue that the divorce will be easier to achieve, because the courts tend to frown upon a child's not having access to his/her father.<sup>27</sup>

While the documents under examination here do not speak directly to the issue of child custody, the larger ethnography clearly shows that women are encouraged by state actors to seek child support and to share custody of children with their abusers. What the documents here do illustrate is that immediately after separation, when abusive men have access to their children the pathway to continuing to abuse their mothers and their mothers' families is open and well traveled.

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24. Op. cit., p. 30.

25. Bren Neale, “Theorising family, kinship and social change,” unpublished conference paper, Care Values and Welfare Research Programme, School of Sociology and Social Policy, University of Leeds, Workshop paper 6, 2000. Prepared for Workshop Two: Statistics and Theories for Understanding Social Change.

26. Op. cit., p. 7.

27. Shonna Trinch, *Latinas' Narratives of Domestic Abuse: Discrepant Versions of Violence* (Amsterdam: John Benjamins Publishing Co., 2003), p. 76.

Whether the context is intimate-partner violence or another kinship context, there is no need to malign or romanticize “the family.” As a sociocultural institution, “family” will bring with it mechanisms that facilitate survival and mechanisms that can lead to destruction. What is absolutely clear from the way these legal texts weave “family” into the narrative of intimate-partner violence is that we will not understand violence against women, its costs to society, the ways in which we may be able to prevent it, and the possibilities for stopping it once underway, until we know intimately how “family” figures into the definition. I use these data to argue that we need to keep the focus on women as the main targets of this violence, but at the same time, we work to show more effectively how this social malady is, unfortunately, a family affair.

The documents examined here provide a systematic way of assessing information about intimate-partner violence. These legal texts enable us to map out not only the risks and dangers intimate-partner violence presents to family units, but they also bring to light the scope and depth of intimate-partner violence. They speak again and again of how intimate-partner violence against women is not a crime against individuals. Intimate-partner violence is a crime that has grave consequences for an entire family, and current definitions of this particular type of gendered violence do not go far enough in their understanding of who is included within the violence of this intimacy.