

Battered Woman Syndrome

To the Editor:

The theme introduction on page 23 of the domestic violence awareness issue (September 2011 *Michigan Bar Journal*) includes a statement about an alleged pattern exhibited by domestic batterers. This syndrome was popularized by Lenore Walker about 30 years ago. Her claims were discredited by David L. Faigman in “The Battered Woman Syndrome and Self-Defense: A Legal and Empirical Dissent,” 72 *Virginia Law Review* 619–647 (1986). Linda Kelly wrote an interesting article on domestic violence law a few years ago. I recommend her article as an antidote to the State Bar’s domestic violence issue. Kelly’s article is called “Disabusing the Definition of Domestic Abuse: How Women Batter Men and the Role of the Feminist State,” 30 *Florida State U Law Review* 691. The truth shall make you free.

John P. Rooney
Lansing

Gender Bias in Domestic Violence Issue

To the Editor:

Your special issue on domestic violence awareness (September 2011 *Michigan Bar Journal*) was quite enlightening, and quite gender biased.

I was intrigued by the doctrinaire intensity of the various articles, starting with the theme introduction: “Some of the authors in this issue refer to the survivor as ‘she’

and the batterer as ‘he,’ reflecting the reality that most (but not all) battering is men’s coercion of women.” What a condescending and stereotypical way to start a special issue on domestic violence! Every article in this collection of essays proceeded to singularly discuss abused women as victims and ignored the prefatory comment that men are also victims of domestic violence.

In point of fact, contrary to the gender-biased commentary expressed in the special issue, it has been noted that “research that began in the 1980s has repeatedly shown that women commit or initiate domestic violence at least as often as men do.” (Nathanson and Young, *Legalizing Misandry: From Public Shame to Systemic Discrimination Against Men* (Montreal: McGill-Queen’s University Press, 2006).)

The *Psychiatric News* has reported that “[w]omen are doing virtually everything these days that men are—working as doctors, lawyers, and rocket scientists; flying helicopters in combat; riding horses in the Kentucky Derby. And physically assaulting their spouses or partners.... In fact, when it comes to nonreciprocal violence between intimate partners, women are more often the perpetrators.” (*Psychiatric News*, American Psychiatric Association, August 3, 2007.)

The result of the conventionally accepted belief that women are the principal victims of domestic violence is the disparate treatment men and women are accorded by the courts. Each one of the articles propounded a gender-biased strategy to deny a male litigant his rights, from custody awards to property dispositions.

As a long-time practicing attorney, it has been my experience that most parties in a domestic relationship do not perpetrate vio-

lence upon each other. In the few circumstances in which there have been claims of domestic violence, it has been more or less gender equal in frequency.

I suggest the *Michigan Bar Journal* provide more balance in future articles. Unfortunately, these strident essays are now part of the legal literature and will be relied on as precedent for years to come by lawyers and judges.

Dennis G. Vatsis
Detroit

Response on behalf of the SBM Standing Committee on Domestic Violence

In response to Mr. Vatsis’s concerns regarding gender bias in September’s special issue on domestic violence, please be assured that the Standing Committee on Domestic Violence takes the issue of gender bias very seriously. The committee acknowledges that domestic violence victimization can cross gender, sexual orientation, or gender identity lines; moreover, the committee believes that no single category of victim should ever be obscured.

That said, the Standing Committee on Domestic Violence specifically chose to highlight violence against women in the special issue because the great weight of social science research has demonstrated that, by a large majority, the victims of both lethal and nonlethal domestic violence are women. The committee felt that overwhelming statistical evidence supported the use of “she” for victims and “he” for perpetrators of domestic violence in some of the articles in the issue. The committee would draw readers’ attention to just a few of the statistics indicating a

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“Women are doing virtually everything these days that men are—working as doctors, lawyers, and rocket scientists.... And physically assaulting their spouses or partners....”

gendered pattern of victimization in the area of domestic violence crimes:

- (1) Michigan Incident Crime Reporting (MICR) data collected by the Department of State Police consistently indicate that for domestic violence crimes reported, 70–75 percent of perpetrators are male and the same percentage of victims are female. Statistics for 2010 appear at http://www.michigan.gov/documents/msp/2010_Annual_Domestic_Violence_358713_7.pdf (of offenders reported, 73 percent were male; of victims reported, 72 percent were female).
- (2) Estimates from the National Crime Victimization Survey (NCVS) conducted by the Bureau of Justice Statistics within the U.S. Department of Justice indicate that in 1998, roughly 1 million lethal and non-lethal violent crimes were committed against the perpetrators' current or former intimate partners. In approximately 85 percent of these crimes (876,340 of the crimes reported), the victims were women. See <http://bjs.ojp.usdoj.gov/content/pub/pdf/ipv.pdf>.
- (3) NCVS crime statistics reported for 2001 estimate that there were 691,710 non-lethal crimes committed against current or former intimate partners of perpetrators during that year. In approximately 85 percent of these crimes (588,490 of the crimes reported), the victims were women. The rate of intimate partner victimizations for females was 4.3 victimizations per 1,000 females age 12 or older. The equivalent rate of intimate partner violence against males was 0.8 victimizations per 1,000 males age 12 or older. See <http://bjs.ojp.usdoj.gov/content/pub/pdf/ipv01.pdf>.
- (4) Data from 1993–2008 compiled by the Bureau of Justice Statistics from the NCVS and the FBI's Uniform Crime Reporting Program indicated that women were killed by intimate partners during that period at a little more than twice the rate of males. The rate of intimate partner homicide for females was 1.07 per 100,000 female residents compared to 0.47 per 100,000 male residents. In 2008,

females age 12 or older comprised approximately 84.5 percent of nonfatal violent victimizations (rape/sexual assault, robbery, or aggravated or simple assault) committed by an intimate partner. See <http://bjs.ojp.usdoj.gov/content/pub/pdf/fvv.pdf>.

The higher percentage of female victims noted in the nationwide data may be explained by the fact that the MICR data includes property crimes, while the NCVS data does not.

Domestic violence is a complex and important issue in the practice of law. Focusing on this issue as it affects a large segment of the population does not detract from concern for other individuals suffering unique impacts from abuse at the hands of intimates. The committee welcomes all discussion that will raise awareness of the problem.

Sarah R. Prout
Co-Chair, Domestic Violence
Standing Committee

Reflections on *Milliken v Bradley*

To the Editor:

On this historic anniversary, we reflect on a decision that was consistent with the proposition that a remedy should not extend farther than the offense. In the instant case, the liability part of the trial was based solely on whether a violation had been committed within the boundaries of the school district of the city of Detroit. The suburban school district defendants were added after liability had been established and no violation by them alleged or established. Likewise, the “state officer defendants” were not alleged or found to have committed violations that extended beyond the boundaries of Detroit.

A much more interesting result might have occurred if the case had been filed and tried as a multidistrict case. Close inspection of the relationship between housing patterns and school district boundaries may well have led to a different result. Certain school districts adjacent to the city were, by all practical considerations, segregated by race. Those segregated districts were due to housing patterns, which themselves were the result of decades of real es-

tate steering, redlining, and outright citizen hostility. Other nearby or contiguous districts were also the result of steering minority populations into these suburban enclaves; see, for example, Inkster, Ecorse, and Royal Oak Township. State action could have taken place in the form of licensing of real estate sales personnel, failure to enforce nondiscriminatory practices, and even in the creation and maintenance of school districts themselves. For example, Dearborn Heights had five separate school districts, and the boundaries of those districts were such that virtually all African-American students ended up in one (Robichaud). This kind of boundary/attendance zone drawing smacks of deliberate effort to establish and maintain separate schools for students of color. It demonstrated that the distinction between de facto and de jure segregation was artificial.

This hypothetical case may well have shown that the distinction between de facto and de jure segregation was more myth than reality. What it might have done with regard to “white flight” would also have been an interesting study.

L. Graham Ward
Lansing

To the Editor:

I don't have much to add to the State Bar of Michigan *Milliken v Bradley* Michigan Legal Milestone except to say that my father, George L. McCargar Jr., was a staff attorney with Attorney General Kelley's office in the 1970s and spent most of his career at the AG's office litigating the Detroit school desegregation case as it made its way up and down the appellate ladder. Although the case kept him far from home over a number of years, my father's involvement was one of the big motivators for me to enter Thomas M. Cooley Law School in the fall of 1979.

This little piece of *Bradley's* legacy really doesn't stack up to its place in our legal and cultural history, but it reminds us that these cases involve real people, including kids like Ronald Bradley and the lawyers who are asked to represent the competing interests at stake in every case, no matter how momentous.

Ian D. McCargar
Fort Collins, Colorado