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Summer, 1994**\*231 DOMESTIC VIOLENCE AGAINST LATINAS BY LATINO MALES: AN ANALYSIS OF RACE, NATIONAL ORIGIN, AND GENDER DIFFERENTIALS**

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After about two months he started ... hitting me again. This time I was going to do something, so I told Yolanda, my best friend. She said, and I'll never forget it, "So what, you think my boyfriend doesn't hit me? That's how men are." It was like I was wrong or weak because I wanted to do something about it. Last time he got mad he threatened me with a knife. That really scared me. [FN1][FN1]

Te voy a dar una ojera  
Y como llegaste a mi  
Aléjate, bándolera  
Si te tiro por la ventana  
Tu subes por la escalera [FN2][FN2]

## I. INTRODUCTION

In 1991, the United States Surgeon General announced that domestic violence was the single greatest cause of injury to young women. [FN3][FN3] Today, violence against women by their current or former male partners accounts for thirty percent of all homicides of women \*232 in the United States. [FN4][FN4] In fact, ten women die every day as a result of "domestic violence," [FN5][FN5] and studies indicate that fifty percent of all women in the United States will suffer some form of family violence in their lifetimes. [FN6][FN6]

Violence against women is so prevalent and widespread that in 1992 the American Medical Association (AMA) released guidelines suggesting that doctors screen women for signs of domestic violence. [FN7][FN7] The guidelines define domestic violence as a pattern of coercion that "could include repeated battering and injury, psychological abuse, sexual assault, progressive social isolation, deprivation and intimidation." [FN8][FN8] These guidelines further recognize that the violence "cuts across all racial, ethnic, religious, educational and socio-economic lines." [FN9][FN9]

Although the general issue of domestic violence has received tremendous attention, the specific issue of violence inflicted upon Latinas [FN10][FN10] by their spouses and male partners has not been comprehensively \*233 examined and discussed within the mainstream battered women's movement or in literature on domestic violence. [FN11][FN11] This specific issue deserves consideration because differences of gender, race, and national origin shape Latinas' experiences with domestic violence. [FN12][FN12]

This Article represents an effort to shed light on the violence against Latinas within the Latino community. [FN13][FN13] It examines the various factors unique to the political, social, and economic status of Latinas, and

includes a critique of the most significant [FN14][FN14] efforts currently within the legal and social service sectors to assist battered women. In addition, this Article explores the impact of culture and community, and the role of language, as these serve as points of departure for understanding the experiences of Latinas.

Part II presents statistical and demographic data on the Latino community in the United States, emphasizing relevant gender differentials. This empirical information provides the foundation for understanding the current economic, social, and political status of Latinas. Part II also includes descriptions of violence as experienced and expressed by Latinas, and explores common representations and caricatures of Latinos.

Part III sets forth the most significant legal and nonlegal strategies for responding to domestic violence. This discussion is divided into four sections: legislation, law enforcement, access to the criminal justice system, and social services. To the extent that these strategies are poorly designed and unable to address the specific needs of Latinas, their assumptions and philosophical bases are deconstructed. Part III also identifies alternative methods for appropriately considering Latinas' issues and concerns.

Part IV describes the Latino community's current response to the violence, and presents suggestions for developing a Latina antiviolence agenda, structured as a woman's community empowerment model. \*234 Part IV also challenges the individual and collective dependence on the male "Latino culture" as an exculpatory basis for intraracial violence against women. Definitions of the Latino culture, which are bounded by tacit acceptance and an active celebration of violence within the Latino community, are posited as manifestations of patriarchal structures common to the romanticized stereotype of the "macho" Latino male.

## II. BACKGROUND

### A. Latinas' Experiences and Expressions of Male Violence

Racial and cultural differences are critical considerations in analyzing and responding to the crisis of domestic violence. These differences are not merely cosmetic or superficial, nor are they simply grounds to support demands for assistance. Differences based on race and culture [FN15][FN15] are both internal [FN16][FN16] and external, [FN17][FN17] and represent primary factors affecting the experiences of violence by women of color.

Latinas are best situated to describe the nature of the violence against them by their male partners. The following excerpt, in a Latina's own words, reflects some of these feelings of anger, fear and isolation.

I have never called the police here because [he] told me that they will deport us if I do. I've thought about learning some English, but between work and the kids there is hardly any time. So I've never really asked anybody for help. Anyway sometimes he goes months without hurting me and I try to forget about it and just work.

Studies and statistics have established that Latinas are differently situated from white and black women. [FN18][FN18] Indeed, many factors converge to place boundaries on battered Latinas. They experience vulnerability and helplessness because of a dearth of bilingual and bicultural services\*235 from social service providers and shelters. [FN19][FN19] In addition, Latinas commonly found in the United States may experience cultural isolation. The impact of these differences on Latinas' lives has led one researcher to conclude that Latinas need support services-targeted to their specific needs-to a greater extent than other battered women.

[FN20] Understanding the dynamic interplay of race and ethnicity in Latinas' lives first requires an analysis that focuses on the intersection of Latina experiences and needs. [FN21][FN21]

## B. Selected Demographic and Statistical Data

Without an understanding of the economic, social, and political factors that impact Latinas' lives, an analysis of domestic violence against Latinas would be incomplete. This section includes data on the Latino community, Latino males, Latinas, and other women. The information regarding Latinas and other women provides a statistical basis for comparing Latinas' status within the Latino community with those outside. The data suggest that Latinas' comparatively poor economic and political position places them at a distinct disadvantage, thus causing Latinas to experience and respond to domestic violence differently than other women.

### \*236 1. Latino Community

During the 1980s, the Latino population increased at approximately five times the rate of the total United States population and continues to be the fastest growing ethnic group in the nation. [FN22][FN22] Twenty-nine percent of Latino families had at least five members, whereas only 13% of non-Latino families were this size. [FN23][FN23] The Latino population is younger than the non-Latino population, with a median age of 26.2 years, as compared to 33.8 years for non-Latinos. [FN24][FN24]

For the most part, however, this population increase has not resulted in commensurate gains in economic status. Indeed, Latinos continue to be one of the poorest populations in the United States. [FN25][FN25] In 1990, 25% of Latino families fell below the poverty line, as compared to 9.5% of non-Latino families. [FN26][FN26] Moreover, although they represented only 11% of the total population of children, Latino children represented 21% of the children living in poverty. [FN27][FN27] As of 1990, one in every six persons living in poverty was Latino. [FN28][FN28]

\*237 Employment statistics indicate that Latinos have the highest rates of both unemployment and labor force participation. The unemployment rate is 10%, as compared to 6.9% for the non-Latino population. [FN29][FN29] The labor force participation rate, however, is 78% for Latinos, as compared to 74% for non-Latinos. [FN30][FN30]

Educational attainment data, as an indication of employability, socioeconomic mobility, and potential for financial stability and growth, demonstrate the limitations on the economic and political growth of Latinos. In 1991, only 51% of Latinos had completed at least four years of high school, and a mere 10% had completed at least four years of college. [FN31][FN31] Even more disturbing was the national 31.3% high school dropout rate for Latinos. [FN32][FN32]

Three final factors often limit Latinos' economic and political strength. First, because a large number of Latinos are neither citizens nor legal permanent residents, their economic existence is often based on "underground" employment sources and markets. They remain unable to fully utilize critical services such as social and medical assistance programs. Second, many Latinos are not native English speakers and have limited English language comprehension. Although fluent in Spanish, their lack of English language skills places them at a competitive disadvantage in the employment market and acts as a barrier to obtaining an equal education. Third, Latino families are more likely than non-Latino families to be headed by a single woman. [FN33][FN33] Although being raised by a single mother may not impact negatively on personal development or career attainment, to the extent

that these rates correlate positively with poverty rates, they are important indicators of actual and potential socioeconomic status.

### \*238 2. Race and Gender Differentials Affecting Latinas' Status

Data specific to Latinas suggests differences based on race between Latinas and other women, as well as differences based on gender between Latinas and Latino men. The most glaring differentials are reflected in the data on labor force participation and occupation distribution.

Labor force participation rates for Latinas are less than those for non-Latinas: 51% and 57%, respectively. [FN34][FN34] Most women hold jobs in the technical, sales, and administrative support occupations, and only 16% of Latinas hold managerial and professional specialty positions, compared to 28% of non-Latinas. [FN35][FN35] Latinas' overrepresentation in the lowest paying, nonmanagerial, and nonprofessional jobs further compounds their tenuous employment status. [FN36][FN36] For example, 26% of Latinas worked in service occupations, as compared to 17% of non-Latinas; and more Latinas work as operators, fabricators, and laborers than non-Latinas. [FN37][FN37] Such jobs translate into a significant income differential based partially on race: the median annual income for Latinas was \$10,100 compared to \$12,400 for other women. [FN38][FN38]

Gender also influences these income differentials. In 1991, half of all Latinas earned less than \$10,000, [FN39][FN39] whereas only one third of all Latino men earned less than this amount. [FN40][FN40] Furthermore, whereas 23% of Latino men earned at least \$25,000 in 1991, only 12% of Latinas reported such earnings. [FN41][FN41]

Latinas' educational attainment rates mirror those of the general Latino community, but are noticeably poorer compared to other females. [FN42][FN42] Data from 1988 reveal that one third of thirteen-year-old Latinas are at least one year behind their classmates in learning, and this rate increases at the high school level. [FN43][FN43] Due to high rates of teenage \*239 pregnancy among adolescent Latinas, they are also less likely than other females to complete their high school education or to subsequently pursue completion of an education or job training program. [FN44][FN44] In addition, recent studies suggest that Latinas' experiences in school could negatively impact their educational attainment and ability to reap the benefits of a quality education. [FN45][FN45]

### 3. Summary of the Data

The data reveal that the Latino community is in a precarious economic position. Moreover, statistics specific to Latinas indicate that, as a class, they are particularly susceptible to external economic fluctuations and occupy a marginal financial existence within the market economy structure. Latinas have lower earning potential and power compared to all men, regardless of race or national origin. Latinas are in an acutely weak position, because of their low rates of educational attainment and their high rates of sole stewardship of families. Latinas are not merely unemployed and underemployed, but also unemployable at higher rates. [FN46][FN46]

Latinas' limited socioeconomic mobility can be traced both to the overall economic depression within the Latino community and to individual Latinas' scarce economic resources. Latinas are the lowest paid population, and are concentrated in jobs least likely to provide opportunities for mobility or economic improvement and stability.

This economic gap is not a unilateral problem of patriarchal market structures; Latinas also have a lower

earning status among women. Thus, the interplay and intersection of race and gender issues acts dynamically on Latinas, greatly influencing their experiences and forging their inferior economic, political, and social status.

**\*240 C. Stereotypes Based on Race and National Origin: “El Macho” and the Sexy Latina**

Historically, Latinos have been stereotyped as violent and alien. [FN47][FN47] This misrepresentation of the “Latino character” has developed during the past century, and non-Latino society today continues to express and exploit inaccurate images of Latinos and Latino family life.

Popular myth has become accepted as truth; Latino males are believed to be irrational and reactive. [FN48][FN48] The standard description of Latino males as hot-blooded, passionate, and prone to emotional outbursts is legendary. [FN49][FN49] “Macho” is the accepted-and expected-single-word description synonymous with Latino men and male culture. [FN50][FN50] Consequently, it is natural to expand and apply this construct to the entire Latino community, and thereby justify the assumptions that Latinos are violent.

The outer boundaries of stereotypes and expectations of Latinas are emphasized by juxtaposing the image of the Latina against this stereotype or “profile” of the Latino male. Latinas are presented as both innocent virgins and sexy vixens. [FN51][FN51] The Latina is regarded as **\*241** accepting of the patriarchal structure within her community. [FN52][FN52] Accustomed to a male-centered community, the Latina is constructed as docile and domestic. [FN53][FN53] In order to satisfy her hot-blooded, passionate partner, however, the Latina must also be sensual and sexually responsive. One commentator succinctly summarized these caricatures as they developed through film: “[They] established and repeated other stereotypes, including the violent-tempered but ultimately ineffective Puerto Rican man; the mental inferior; the innocent, but sensual Puerto Rican beauty; and the ‘loose’, ‘hot-blooded mama.’ ” [FN54][FN54]

These images are not relegated solely to celluloid characterizations. Portrayals of Latino males as uncontrollably destructive persist, and are promoted broadly as examples of “real” Latinos. What was at one time illusory is made to appear genuine through narrow presentations of violent, often marginal sectors of a community—for example, gang cultures.

Within the Latino community, Latinas' identities are defined on the basis of their roles as mothers and wives. By encouraging definitions of Latinas as interconnected with and dependent upon status within a family unit structure, the Latino patriarchy denies Latinas individuality on the basis of gender. For Latinas, cultural norms and myths of national origin intersect with these patriarchal notions of a woman's role and identity. The result is an internal community-defined role, modified by external male-centered paradigms.

This intersection of gender, national origin, and race denies Latinas a self-definitional, experiential-based, feminist portrait. Those within the Latino community expect Latinas to be traditional, and to exist solely within the Latino family structure. A Latina must serve as a daughter, a wife, and a parent, and must prioritize the needs of family members above her own. She is the foundation of the family unit. She is treasured as a self-sacrificing woman who will always look to the needs of others before her own. The influence of Catholicism throughout Latin America solidifies this image within the community, where Latinas are expected to follow dogma and to be religious, conservative, and traditional in their beliefs. [FN55][FN55]

The proliferation of stereotypes, which are integral to institutionalized racism, obstructs the progress and mobility of Latinas. Assumptions about Latinas' intellectual abilities and competence are formed **\*242** on the

basis of stereotypes, and justified by pointing to poor educational attainment statistics. [FN56][FN56] Unless these myths and misconceptions are revealed and dispelled, the reality of Latinas as targets of Latino violence will remain unexplored, and Latinas' critical problems will remain unsolved.

### III. STRATEGIES IN RESPONSE TO VIOLENCE AGAINST WOMEN

As American society struggles to address violence against women, feminist discourse and methodology collides with traditional patriarchal approaches to concerns termed "women's issues." Advocates who demand practical and successful programs for battered women are often presented, instead, with pilot programs and temporary services that cannot ensure a woman's safety or provide her with a permanent escape from violence.

History repeats itself, and as is true of other struggles for equality by women, many of the strategies and responses to domestic violence evidence a lack of understanding of the needs of Latinas and other women of color. [FN57][FN57] When Latinas are treated differently by law enforcement officials [FN58][FN58] or denied access to domestic violence shelters because of language and cultural differences, [FN59][FN59] or when Latinas do not even take the first step of seeking assistance because there is no place to turn, [FN60][FN60] the domestic violence movement fails.

This section explores some of the more significant responses to domestic violence and explains how these responses often fail to provide Latinas with the necessary means and services to escape domestic violence and gain control of their lives.

#### A. Legal Initiatives in Response to Violence Against Women

##### 1. Legislation

Several states have passed legislation that criminalizes spousal abuse and marital rape. [FN61][FN61] The extent of the protection afforded to women under these statutes is varied and diverse. As of 1992, provisions \*243 requiring mandatory arrest for a domestic violence incident existed in fifteen states, [FN62][FN62] and nineteen states required arrest for violation of an order of protection. [FN63][FN63]

The effectiveness of state and local legislation must be evaluated by considering the numerous obstacles that Latinas must surmount in order to exercise their rights to security and protection. First, state law enforcement officers and judicial personnel continue to reflect the Anglo male society. [FN64][FN64] Latinos and bilingual personnel are rarely found within the legal system, and women continue to represent only a small percentage of the police force. [FN65][FN65]

Second, the nature of the protection or sanctions set forth in state laws notwithstanding, domestic violence legislation remains susceptible to poor enforcement by police and judicial personnel. Indeed, one study in Milwaukee revealed that 95% of domestic violence cases were not prosecuted. [FN66][FN66] Thus, even in states with a legal basis for prosecuting batterers, it remains incumbent upon women's advocates to monitor the utilization and enforcement of these hard-won legal rights.

##### 2. Law Enforcement

Law enforcement officials' failure to respond appropriately to violence against women has received harsh

criticism as it negatively impacts on women and on efforts geared toward ending domestic violence. [FN67][FN67] Studies have documented the refusal by the police to respond\*244 to complaints of domestic violence, or to treat such complaints seriously. [FN68][FN68] The police are notorious for their casual attitude toward women who file charges of violence against their male partners. [FN69][FN69] This constitutes an institutional barrier to women seeking assistance, and is another form of “violence” against these women.

The general discourse surrounding appropriate techniques and mechanisms for ensuring women's protection have failed to address Latinas as a specific group. Instead, the debate has focused on women as a monolithic class with similar patterns of conduct and common concerns. [FN70][FN70] When women of color have been considered, they have been treated as an homogeneous group, without reference to race-specific differences and experiences. [FN71][FN71]

The treatment of women of color has focused primarily on their economic status, and has lacked a detailed analysis of the role of race-including the entrenched racism of law enforcement institutions nationally. [FN72][FN72] As a result, the different experiences and realities of \*245 women of color are not considered when designing effective guidelines on enforcement in domestic violence situations. This absence creates the risk that prophylactic and penological strategies aimed at all women will fail to adequately address the needs of Latinas.

Various reforms have been suggested and implemented to ensure that police officers adequately respond to violence against women. These reforms range from narrowly drafted legislation directed toward police officers' official duty in domestic violence situations to police sensitivity training and education about the nature of domestic violence. [FN73][FN73] Although some of these reforms have been successful, others are the subject of much criticism and debate. [FN74][FN74]

Existing efforts to reform law enforcement policies exemplify the consequences of a narrow and myopic approach to domestic violence issues. Reforms are guided by the social construct of law enforcement officials' roles as peacemakers and protectors of the common good. The idealized image of the police officer as a kind, governmental guardian, however, is not a common experience among either ethnic groups or whites in this country. [FN75][FN75] The violence perpetrated against people of color and the double standard applied in law enforcement were dramatically exemplified in the beating of Rodney King by Los Angeles police officers. [FN76][FN76] Cases involving Latino victims of police abuse include the José García case in Washington Heights and the Federico Pereira case in Queens, New York. [FN77][FN77]

Latinos in the United States have had a long, acrimonious history of interaction with local police and federal law enforcement agencies. [FN78][FN78] \*246 This history is marked by abuse and violence suffered by the Latino community at the hands of police officers who have indiscriminately used excessive physical force against Latinos. The resulting tension between the community and the police is further exacerbated by denials from law enforcement organizations and monitoring agencies that the police act abusively or beyond the scope of appropriate authority. [FN79][FN79]

The history of racism and current racial tensions affects the success of any domestic violence enforcement strategy. For example, Latinas are suspicious of police who have acted in a violent and repressive manner toward the community at large. In addition, a Latina must decide whether to invoke assistance from an outsider who may not look like her, sound like her, speak her language, or share any of her cultural values. [FN80][FN80]

This dissimilarity is critically important because it reflects the linguistic, cultural, and political barriers facing Latinas. In situations where Latinas must rely on law enforcement officials for assistance, they usually meet officers who are not bilingual and bicultural, and who are unable to communicate with people who speak little or no English. The women, therefore, are left to care for themselves-to seek translation at a time of extreme danger and urgency. A Latina in such a position cannot be expected to devise an alternative plan to compensate for the lack of appropriate personnel. This burden should be borne by the institutions and officials assigned the responsibility of protecting the rights of all members of society.

The failure of domestic violence enforcement strategies-as manifested by Latinas' suspicions, hesitance, and concern-can be addressed through comprehensive, intensive education of both enforcement personnel and the Latino community about domestic violence and arrest policies. Officials must develop such education strategies with input from community-based organizations and Latino advocates. Otherwise, education programs will reflect ingrained stereotypes and replicate the same problems that the programs are designed to address. To be successful, community education projects must be founded and located within the target communities. Advocates and members of community-based organizations should set the pace and \*247 the tone of these projects. These leaders should ensure that the projects are culturally specific and reflect the community's level of knowledge and sensitivity about domestic violence. Latina advocates must be at the forefront of these efforts to ensure that patriarchal structures are not integrated into the dialogue.

A second factor affecting current enforcement strategies is the failure of activists to consider the impact of racist attitudes on police behavior. Officers often fail to make an arrest, minimize the seriousness of the situation, or treat the woman as if she was responsible for the violence. [FN81][FN81] Battered women's activists have criticized male police officers for their sympathetic attitudes toward batterers. This criticism, however, reveals a major flaw in the approach of the activists: such an approach does not consider the race of the batterer, which is a relevant factor in the police response to a domestic violence situation. The history of aggression toward Latino males by police officers cannot be ignored, nor can the police's collegial mentality of "them against us" be denied in assessing institutional enforcement. [FN82][FN82]

There may be a sense among police officers that violent behavior is commonplace and acceptable within the Latino community, and that both men and women expect Latinos to react physically in situations of domestic conflict. There is no definitive research on the impact of these stereotypes on arrest patterns. [FN83][FN83] The perceptions of police and individual Latinos about their motivations and routine behavior, however, are important factors in patterns of arrest for domestic violence.

Arguably, a mandatory arrest policy represents one solution to this problem. Restricting a police officer's discretion by requiring an arrest in all cases where probable cause exists would minimize the disparate treatment that Latinos receive. Under such a policy, Latinas would receive fairer treatment in response to their requests for assistance. [FN84][FN84] By focusing on the ultimate arrest of the batterer, however, a mandatory arrest policy ignores the dynamics among police officials, Latinas, and batterers.

\*248 The history of police abuse toward the Latino community makes the content of the interaction a relevant issue. If a Latina or her male partner is physically or verbally abused during the arrest, or if she is not given any further information concerning her rights or available support services, a Latina gains only a temporary benefit. [FN85][FN85] Nevertheless, some activists argue that a mandatory arrest policy can empower women by providing them with some control over their situation. [FN86][FN86]



Several aspects of the Latinas' status, however, diminish the possible empowering effects of a mandatory arrest policy. First, Latinas face the precarious, often untenable situation of the "double bind"-empowerment through the disempowerment of a male member of the community. [FN87][FN87] The internal conflict and external pressure to cast police officials as outsiders, hostile to the community, frustrates the development of the Latinas' empowerment. Second, when the officer does not speak Spanish and the woman speaks little or no English, the empowerment potential again is diminished. Third, evidence suggests that police officers react to such arrest policies by arresting both the man and the woman-so called "dual arrests." [FN88][FN88] Empowerment is unlikely when women are treated as if they have acted illegally, are as culpable as their batterers, or cannot be believed. Finally, subsequent official responses, as well as resources available to the woman, determine her ability to end the violence and take control of her situation. [FN89][FN89] Latinas have neither access to, nor the benefit of, extensive resources to ensure their safety. [FN90][FN90]

**\*249** The political status of Latinos in the United States poses a more difficult issue-both practically and theoretically. The Puerto Rican experience is representative of the complex issues of ethnic group identification and cultural solidarity. Puerto Ricans, despite being United States citizens, are often treated as "foreigners." As a consequence, and in part because of the unequal treatment they receive, Puerto Ricans have a "dual" status and identity vis-à-vis their political and social position in the United States and their cultural status in Puerto Rico.

Not surprisingly, nationalistic fervor and a longing to "connect" with Puerto Rican culture shape both individual perceptions and behavioral patterns in the United States. Any conduct that can be characterized as contrary to the group's cultural or social ideology is thus eschewed as undermining efforts for equality, and is regarded as an individual attempt to assimilate or "Americanize."

Against this backdrop, the first issue regarding the impact of Latinas' political status becomes clear: if a Latina decides to go beyond the perimeters of her community and seek assistance from outsiders-persons already considered representatives of institutional oppression-the community may view her acts as a betrayal. A Latina, therefore, may tolerate abuse rather than call for outside help. This hesitance to seek assistance provides the community with an excuse for ignoring or denying violence against Latinas, as well as for trivializing and resisting Latina activists' efforts to create a community strategy to end the violence.

Second, law enforcement officials may not give adequate consideration to calls received from poor neighborhoods and neighborhoods with significant populations of people of color. Domestic violence calls from these communities may be less likely to draw attention and interest because officials consider such work either highly dangerous or unrewarding. [FN91][FN91] Although a misperception, this attitude engenders a sense within the community that seeking police assistance is futile.

### 3. The Criminal Justice System

Many of the same concerns and issues manifested in the development of policies designed to ensure proper police enforcement also exist with respect to the role of the prosecutor's office and the judiciary.\***250** Local prosecutors may charge defendants in domestic violence cases with a lesser crime, or propose and accept plea bargains involving minimal penalties. [FN92][FN92] Plea bargains, which usually provide either a token sentence or no sentence, [FN93][FN93] fail to communicate a sense that the prosecutor's office recognizes the serious nature of the charges or the severity of the batterer's conduct.

Local prosecutors and judges react differently to domestic violence cases than to other criminal cases. [FN94][FN94] They often treat these cases as inconsequential or private matters, ill suited to state intervention.

[FN95][FN95] Gender bias in the courts therefore results in the disparate treatment of domestic violence crimes compared to other crimes of violence.

The Latino community's long-standing fear that, in general, Latinos are prosecuted more frequently and more vigorously than whites, mitigates perceptions that Latinos will be treated less harshly because the crime involves domestic violence. In order for Latinas to feel that they have been treated justly-and to give them actual just treatment-reforms must address traditional institutional racist structures.

There are numerous obstacles, based on language and culture, [FN96][FN96] which must be removed in order for a Latina to use the criminal justice system effectively and ensure a criminal prosecution against her batterer. First, the shortage of bilingual and bicultural personnel-prosecutors, judges, clerks, and psychologists, all of whom are crucial and can influence the ultimate outcome of a Latina's case-creates a system unprepared for and unwilling to address claims by Latinas. [FN97][FN97] Second, Latinas have limited resources to fill the gaps in available support services to assist them. [FN98][FN98]

Third, Latinas face racial and ethnic barriers. [FN99][FN99] Neither white women victims nor white male batterers receive discriminatory treatment\*251 on account of their race. [FN100][FN100] In contrast, Latinas receive different treatment because of stereotypes and myths about Latinas and about Latinos generally. Latinas are devalued and dehumanized in this process, having no connection to those who have been assigned to prosecute and adjudicate their complaints.

Fourth, the "cultural defense" raised by men in response to prosecution for killing their wives represents another barrier to Latinas. [FN101][FN101] The defendant's theory in each of these cases is that violence against women, or the particular violent act at issue, is sanctioned by the culture and may, in fact, be a recognized cultural norm. [FN102][FN102] This defense seeks to mitigate the punishment of the defendant. [FN103][FN103]

At first, the concept of a legal system-in particular a criminal justice system-that recognizes and incorporates cultural factors into its proceedings and decisions appears attractive. Such an approach, by requiring legal institutions to consider all relevant factors and to judge the defendant from his or her actual perspective, appears inherently more fair and just. In the context of cases of violence against women, however, a "cultural defense" serves only to promote violence within the community.

The cultural defense tactic's fundamental premise-that a particular norm or set of norms is culturally inherent to an identifiable group of persons-is problematic, because defining and identifying culture, or specific aspects of culture, is difficult. Furthermore, a victim's response that the conduct is certainly not "cultural" is equally credible.

Furthermore, even if violent actions against women are inherent to a particular culture in certain situations, such conduct or norms are often based on patriarchal structures. Legitimizing violent actions as cultural norms only reinforces the patriarchy, and would only lead to further abuse of women. The actions must also be rejected because they run counter to a legal system allegedly founded on the equality of all individuals.

## B. Social Services

Any legal initiatives designed to address domestic violence must be complemented by social services and programs designed to address \*252 the economic, social, psychological, and emotional needs of women seeking

to escape or reduce the violence in their lives. These services include counseling, assistance in securing entitlements and health coverage, and temporary or permanent housing for women who leave their homes. [FN104][FN104] Because of linguistic, cultural, and institutional barriers, Latinas have limited access to such services. [FN105][FN105] These social services are especially critical for Latinas, whose access to and utilization of judicial and law enforcement remedies are also limited. [FN106][FN106]

A recent study found that Latina shelter residents were the least likely, in comparison to white and African-American shelter residents, to contact a friend, minister, or social service provider for assistance prior to entering the shelter. [FN107][FN107] The study also found that Latinas' actions comported with marital norms, which differed from those of other shelter residents. [FN108][FN108] Specifically, Latinas appear bound by a norm of "loyal motherhood." They tend to get married younger, have larger families, and stay in relationships longer. They are correspondingly poorer, have completed fewer years of formal education, and suffer more extensive periods of abuse than their non-Latino counterparts. [FN109][FN109]

In general, an insufficient number of battered women's shelters exist. For every woman who seeks shelter, five are turned away, and ninety-five percent of shelters do not accept women with children. [FN110][FN110] Moreover, when Latinas try to enter shelters, many are turned away because they speak little or no English. [FN111][FN111] Indeed, the lack of bilingual and bicultural personnel among these service providers represents a major barrier to Latinas' access to programs and shelters. [FN112][FN112]

\*253 Shelters without bilingual and bicultural personnel claim that they would do a disservice to Latinas by accepting them, because the language barrier would prevent personnel from providing Latinas with adequate services. [FN113][FN113] In a sense, Latinas are therefore denied access to shelters on the basis of national origin. Unfortunately, the shelter is often the only resource available to Latinas, thus compounding the negative impact of this exclusionary practice. [FN114][FN114]

When they are accepted into a shelter, Latinas find themselves in foreign and unfamiliar surroundings, because a shelter rarely reflects a Latina's culture and language. For purposes of safety, women are often placed in shelters outside their community, which contributes to Latinas' sense of loneliness and isolation. Without bilingual and bicultural personnel and a familiar community environment, these shelters can provide only the barest services and temporary shelter. [FN115][FN115] Insensitivity based on racism or on a lack of knowledge about or exposure to other cultures, by both shelter personnel and other residents, further isolates Latinas and escalates their sense of unwelcomeness. [FN116][FN116]

Nor do shelters facilitate the Latina's return to her own community. Because there are insufficient numbers of Spanish-speaking personnel, the Latina cannot develop the skills and strengths necessary to escape the violence permanently and establish a new, independent life. These shelters currently provide only temporary, short-term services; and Latinas cannot hope to become empowered when they are placed in such a disempowering, dependent position.

These circumstances illustrate the particularly difficult position of Latinas in battered women's shelters. Such women face obstacles associated with language differences, discrimination, limited personal income, marital norms, and limited mobility because of their larger families. [FN117][FN117] These factors have practical implications for the development\*254 of adequate strategies to respond to violence against Latinas. Experts conclude that the concerns of Latinas deserve high priority. [FN118][FN118]

The Hispanic women, in particular, need more economic and educational support to help them in

their crisis, as well as in general. They need to be given priority in terms of housing, social welfare benefits, child care, and transportation. This need is compounded by the fact that a substantial number of hispanic women in the [se] shelters are “undocumented citizens” and are not eligible for public assistance. Much of their aid therefore must come from church or private groups devoted to assisting “undocumented” worker families. [FN119][FN119]

Research supports the argument that women of color, in this case Latinas, should be placed at the center of feminist reform movements. [FN120][FN120] The current lack of services available to Latinas reflects the consequences of failing to place the unique differences of women of color in a central position in feminist discourse. [FN121][FN121]

Historically, the Latino community has not had the opportunity to participate fully and to compete for contracts with state and local governments. [FN122][FN122] As a result, few Latino community-based organizations or service providers, whether nonprofit or for-profit, are capable of successfully securing contracts with local government administrations to provide services to battered Latinas. Often, the process of securing a contract to establish a shelter or to provide bilingual counseling and advisory services to battered women is so daunting that organizations opt out of the process. With no state-funded Latino providers, contracts will go to other providers that will not service Latinas adequately.

An organization that plans to open a shelter providing bilingual services must turn instead to private sources of revenue. [FN123][FN123] As these organizations struggle to secure sufficient funding, they remain vulnerable to fluctuations in financial support from foundations and private funders, and dependent on individual and corporate benefactors' continued interest in domestic violence issues. Because of the lack of Latino government contracts, as well as the precarious nature of private\*255 funding sources, it appears unlikely that expansive and comprehensive services uniquely designed for the Latino community can be provided without resources mandated by federal and state legislation.

#### IV. RESPONSES

The Latino community has not yet begun to develop a comprehensive strategy to end violence within the community. This failure reflects more than mere oversight. Historically, activists and leaders within the community have confronted racism and national origin discrimination with clear, focused strategies. [FN124][FN124] Moreover, Latinos have vehemently opposed the characterization of those in their community as violent and uneducated. This commitment to equality and civil rights stops short, however, of addressing issues such as “women's rights” that are of specific importance to Latinas. Struggles within the Latino community to recognize the pervasiveness of domestic violence and its impact upon the lives of women and their families must continue. Unfortunately, demands for a community response to the violence have been met with claims that such issues are private matters that cause division within the community, and consequently impact negatively on the larger struggle for equality. These references to solidarity obfuscate the real issue: Latinas are physically, emotionally, and psychologically abused on a daily basis by the men who are closest to them. [FN125][FN125] These are not private matters-just as the lack of adequate health care, and the struggles for an equal education and a decent living wage do not constitute “private matters.”

Latina advocates have established programs that reflect the culture and language of Latinas. By focusing on models of empowerment and incorporating long-term goals, Latina advocates hope to establish an environment in which battered Latinas can escape the violence and restructure their lives. [FN126][FN126]

\*256 Latina advocates continue to work within the community through the existing institutions and media to educate one another on the nature of domestic violence. They also work within the battered women's movement to educate other activists on the unique needs of Latinas, and to demand that the larger movement be responsive to these needs. [FN127][FN127] Their efforts to politicize what is often considered a "private" issue will help ensure that the concerns of Latinas are factored into the equation of feminist reform of domestic violence discourse. [FN128][FN128]

## V. CONCLUSION

Consideration of and responsiveness to cultural and racial differences must be central to any strategy in the domestic violence movement. In the past, reforms have been drafted and implemented without consideration of the status of the Latino community. The historical relationship between law enforcement institutions and the Latino community has not been considered in the promotion of tactics such as mandatory arrest policies. Currently, these policies do not fully serve the needs of the Latino community, and may place Latinas in increased danger.

Extensive educational efforts therefore must be linked to mandatory arrest policies to inform the community of the policy and of the duties imposed on the police. Good faith and trust must be established by having the police work with Latino organizations and Latina advocates whose reputations and commitment to the community are well established.

Much of the movement against domestic violence has centered on the establishment and maintenance of shelters and increased social services. These are recognized as critical provisions for battered women. [FN129][FN129] Yet, Latinas have not received sufficient resources and services to address their multiple needs. Not only are resources scarce and in great demand, but the resources that are available are parcelled out in a manner that discriminates among women based on their cultural \*257 and racial characteristics. Latinas have suffered harsh consequences as a result of these practices.

Sufficient financial and technical support must be provided to community-based shelters and service providers. Programs developed in and by the community will likely be more sensitive and responsive to the cultural and racial differences that are unique to the Latina experience.

Stereotypes about Latino men and women proliferate and create obstacles to full participation and utilization of programs and enforcement mechanisms. Monolingual xenophobia denigrates those with Spanish language skills to an inferior position—one synonymous with ignorance and illiteracy. Latinas, therefore, are considered to be either uneducated or undereducated. They receive little and are believed to merit little. Efforts both within the Latino community and in the domestic violence movement must be devoted to eradicating such stereotypes.

The most significant aspect of any reform, however, is the extent to which it is based on a philosophy of empowerment and a rejection of traditional patriarchal structures. Programs or services that offer temporary relief from violence, but do not provide women with the tools or opportunity to develop the necessary skills and monetary and emotional resources to gain control of their lives permanently, are insufficient.

Activists are not constrained to choose either to incorporate with the existing anti-domestic violence movement—with all of its flaws and weaknesses—or to push forward with a separatist agenda focused solely on Latinas. Rather, the opportunity exists to learn from prior efforts and mistakes in both the civil rights and women's move-

ments. A convergence of the successes of both can provide guidance and direction.

The development of strategies to address domestic violence must be grounded in the reality and experiences of all women, recognizing that there may be tensions and conflicts associated with developing reforms. It must be accepted that Latinas face multiple barriers because of their race, national origin, and gender; that this multiple discrimination factors into how Latinas experience and respond to domestic violence; and that institutional racism and patriarchal structures are interrelated in the experience of Latinas. A reform movement that recognizes these realities and experiences will acknowledge the need to work in unison, but only from a strong base. Latino community-based organizations must be strengthened and provided with the financial and political flexibility to develop and establish domestic violence shelters and services. The Latino community must prioritize domestic violence initiatives. The lives of women and the well-being of an entire community depend on it.

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[FN1] MYRNA M. ZAMBRANO, *MEJOR SOLA QUE MAL ACOMPANADA* 140 (1985).

[FN2] HECTOR LAVOE, *Bandolera*, on *COMEDIA* (Fania Records 1976). This verse is an excerpt from a popular song by one of the best-known Latino male recording artists. The quote in the text says:

I am going to hit you

I am going to give you a black eye

And the same way you came to me

Go away, thief

If I throw you out the window

You climb up the stairs.

Id.

[FN3] N.Y. SENATE COMM. ON INVESTIGATIONS, TAXATION, AND GOV'T OPERATIONS, *DOMESTIC VIOLENCE: THE HIDDEN CRIME 1* (1992) [hereinafter *THE HIDDEN CRIME*] (citing Antonia C. Novello, Surgeon General of the United States, Address to the American Medical Association (Jan. 16, 1991)).

[FN4] Don Terry, *Killing of Woman Waiting for Justice Sounds Alert on Domestic Violence*, N.Y. TIMES, Mar. 17, 1992, at A14 (citing 1990 FBI statistics).

[FN5] *THE HIDDEN CRIME*, supra note 3, at 3 (citing Frederick M. Schiavone, M.D., reported in *VICTIMS INFORMATION BUREAU OF SUFFOLK, BATTERED WOMEN-MEDICAL STATISTICS* (May 1991)). The term "domestic violence" is a misnomer because it suggests that violence that occurs in the home or among family members belongs in a different category than other forms of violence, or is of a distinctly private nature. Historically, such beliefs have acted to insulate violence against women from state intervention and from rigorous law enforcement and judicial scrutiny. I have avoided use of this term except to the extent necessary for purposes of discussion.

[FN6] THE HIDDEN CRIME, *supra* note 3, at 1 (citing LENORE E. WALKER, THE BATTERED WOMAN (1979)).

[FN7] Doctors Are Advised to Screen Women for Abuse, N.Y. TIMES, June 17, 1992, at A26 [hereinafter Doctors Are Advised].

[FN8] *Id.* For purposes of discussion in this Article, I adopt this definition of domestic violence.

[FN9] *Id.* The American Medical Association guidelines recommend that, before screening women, doctors explain that “[b]ecause abuse and violence are so common in women’s lives, I’ve begun to ask about it routinely.” *Id.*

[FN10] “Latinas” throughout this Article refers to women of Latin American, Caribbean, and mixed ethnic origin, as well as women who consider themselves Latina, based on their country of national origin. This includes women born in Latin America or the Latin American Caribbean, as well as women born in the United States or elsewhere outside Latin America whose ancestral roots are in Latin America. For example, Puerto Rican women who migrated to this country, and their United States-born daughters, would fall within this definition of Latina.

Linguistic and cultural knowledge or familiarity are not essential for identification as Latina. It is often the social, political, and cultural reality of members of distinct ethnic groups in the United States that, generationally, they evidence a distancing from familial, ethnic, and regional origins. As a result, each generation strives to overcome ignorance and misinformation about its own language and culture. It is common for second- or third-generation United States-born Latinos not to speak fluent Spanish, or even to be aware of their cultural history and customs. This “cultural distancing,” however, does not always result in complete ignorance of language or culture, nor in a feeling of exclusion from one’s ethnic group. In fact, such distancing can be the basis for strong feelings of ethnic solidarity and pride. Cultural distancing can instill deep desires to connect with the group’s culture and to learn about one’s past heritage.

[FN11] The term “battered woman” connotes weakness and lack of control, which reinforces images of women as victims. Because such images are flawed and deny the potential in all battered women to assume control, I avoid this term to the extent possible. Because this term is commonly used in the literature on violence against women and family violence, however, for purposes of clarity I refer to the term when necessary.

[FN12] I share the sentiments of former U.S. Surgeon General Dr. Antonia Novello, a Latina, that “the time has come to take the issue of domestic violence out of the shadows and out of the closet.” Doctors Are Advised, *supra* note 7, at A26.

[FN13] This Article is limited to a discussion of Latinas and the violence inflicted on them by their male Latino partners. Violence within other communities, interracial violence against women, and violence by women against other women are beyond the scope of this Article.

[FN14] The phrase “most significant” in the text means most often used or with the greatest potential for widespread use, leading to meaningful assistance to women.

[FN15] Denial of placement in domestic violence shelters to Latinas who do not speak English is an example of differential treatment based on membership by national origin in a specific group. See *infra* notes 104-22 and accompanying text.

[FN16] Common characteristics of ethnic and racial groups-such as English as a second language-provide an example of internal differences.

[FN17] External differences are demonstrated when the treatment accorded to particular individuals or groups is based on their membership in a racial or ethnic category.

[FN18] See, e.g., *infra* notes 34-45 and accompanying text; Soraya M. Coley & Joyce O. Beckett, *Black Battered Women: Practice Issues*, J.CONTEMP.SOC. WORK, Oct. 1988, at 483, 485-89.

[FN19] *Racial Differences Among Shelter Residents*, *infra* note 90, at 49.

[FN20] See *infra* notes 90-98 and accompanying text.

[FN21] These additional excerpts reflect the range of experiences faced by Latinas.

Do you know that sometimes he doesn't even let me go to the store? When he gets paid he buys all the food for the week and he pays the bills. I don't see one cent and he says I don't need any either. But a person needs at least a little money to feel like a person. Sometimes I'll need a little something to complete the dinner and I have to ask him for permission to go to the corner where there's a little store. When I get back he tells me how long I took and if it's longer than what he expected, he accuses me of being with another man. Can you imagine? I barely have time to hurry there and back, I'm not seeing anyone, really.

....

The first time I went to the hospital [he] had broken my nose and cut my head open. He hit me on the head with a wooden clothes hanger and I got seventeen stitches over my ear. I can't hear well on that side since that happened. The other time, I was pregnant with my third boy.... [He] hit me and kicked me so that I almost miscarried in my sixth month. You know, [my son] has always been a slow learner and I think it's because of the beating before he was born.

....

One time the neighbors called the police. They heard screaming and yelling. He had been hitting me and throwing things around the house. A police officer came to the door and asked if everything was all right. You know, he stood right behind me and I had to say that everything was fine. I was afraid he'd do something if I didn't.

ZAMBRANO, *supra* note 1, at 140-44.

[FN22] NATIONAL COUNCIL OF LA RAZA, *STATE OF HISPANIC AMERICA 1991: AN OVERVIEW* 2 (1992) [hereinafter *HISPANIC AMERICA 1991*]; DENISE DE LA ROSA & CARYLE E. MAW, NATIONAL COUNCIL OF LA RAZA, *HISPANIC EDUCATION: A STATISTICAL PORTRAIT* 1990, at 2 (1990) [hereinafter *HISPANIC EDUCATION*]; Hispanic Population Surpasses 20 Million Mark; Grows By 39 Percent, *Census Bureau Reports*, U.S. DEPT OF COM. NEWS, Oct. 12, 1989, at 1. Whereas the general population increased only 9.8% over the past 10 years, the Latino population increased approximately 53%. U.S. DEPT OF COM., *ECON. AND STAT., Race and Hispanic Origin, 1990 Census Profile*, No. 2 (June 1991); *HISPANIC AMERICA 1991*, *supra* at 2.

Although census materials use the term "Hispanic" to refer to the various populations of Hispanic origin, I



refer to these populations as “Latino” within the text and footnotes, except in quotations and citations that use a different name or refer specifically to a Latino subgroup.

Mexican Americans are the largest Latino subgroup, comprising 62.6% of the total Latino population. U.S. DEPT OF COM., ECON. AND STAT. ADMIN., BUREAU OF THE CENSUS, *The Hispanic Population in the United States: March 1991, Current Population Reports Population Characteristics, Series P-20, No. 455*, at 2 [[hereinafter *The Hispanic Population*]]. Puerto Ricans are the next largest discrete subgroup at 11.1%, although Central and South Americans, when treated as a monolithic group, are the second largest numerical subcategory, at 13.8%. *Id.*

[FN23] *The Hispanic Population*, supra note 22, at 5.

[FN24] *Id.* at 3. Thirty percent of Latinos are under 15 years of age, compared to 22% of non-Latinos. *Id.* at 2. Second, the Latino family is slightly larger than the non-Latino family. *Id.* at 5. In 1991, Latino families averaged 3.8 persons and non-Latino families 3.13 persons. *Id.* Twenty-nine percent of Latino families had five or more members, whereas only 13% of non-Latino families were this size. *Id.*

[FN25] Among the Latino subgroups, socioeconomic indicia reveal that Puerto Ricans' status resembles regressive rather than progressive economic change. Puerto Rican families are the poorest subgroup within the Latino population, with a 37.5% poverty rate. *Id.* at 8.

[FN26] *Id.*

[FN27] *Id.* Over one third of Latino children were living in poverty in 1990, compared to one fifth of non-Latino children. *Id.* Puerto Rican children have the highest rate of poverty among Latino children: 56.7% live in poverty. *Id.*

[FN28] *Id.*

[FN29] *Id.* at 3.

[FN30] *Id.* The labor force participation rate for Latinas, in contrast, is lower than for non-Latinas. See infra notes 34-38 and accompanying text.

[FN31] *The Hispanic Population*, supra note 22, at 3.

[FN32] HISPANIC EDUCATION, supra note 22, at 36. Dropout rates are difficult to confirm, in part because of the lack of uniformity in methods used to determine the rate. Regardless of the dropout measure considered, however, the rate for Latinos is the highest: by 16-17 years old, 19.5% of Latinos have left school without a diploma. *Id.* The rate is 6% for blacks, and 7.1% for whites. *Id.* By 18-19 years old, 31.3% of Latinos have dropped out, as compared to 17.9% of blacks and 14.3% of whites. *Id.*

[FN33] Twenty-four percent of Latino families are headed by women, as compared to 16% of non-Latino families. THE HISPANIC POPULATION 1991, supra note 22, at 5. Forty-three percent of Puerto Rican families are headed by single women. *Id.* Families headed by single men accounted for 7% of Latino families and 4% of non-Latino families. *Id.*

[FN34] *Id.* at 3. Puerto Rican women have the lowest labor force participation rate of all Latinas, at 42%. HISPANIC EDUCATION, supra note 22, at 9.

[FN35] The Hispanic Population, *supra* note 22, at 2-3.

[FN36] *Id.* at 2.

[FN37] *Id.*

[FN38] *Id.* at 7. In 1990, the median income of Latino men was \$14,100, which is 64% of the \$22,000 earned by non-Latino men. *Id.*

[FN39] *Id.* at 8.

[FN40] *Id.* at 12.

[FN41] *Id.* at 8.

[FN42] By age 16-17, 21.4% of Latinas have left school without a diploma, whereas the rate for Latino males is 18.1%. HISPANIC EDUCATION, *supra* note 22 at 36. Substantial differences between the sexes do not exist for white or black students. *Id.* By age 18-19, the rate for Latinas increases to 27.3% and for males to 35.2%. *Id.*

[FN43] *Id.* at 18. Although the grade repetition rate for Latino boys is higher than for Latinas, 26.9% versus 18.4%, Latinas repeat two or more grades in greater numbers than Latino boys. *Id.* at 45.

[FN44] Luis Duany and Karen Pittman, Latino Youths at a Crossroads, CHILDREN'S DEFENSE FUND (1990).

[FN45] REPORT OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN EDUCATIONAL FOUNDATION, THE AAUW REPORT: HOW SCHOOLS SHORTCHANGE GIRLS 12-13 (1992). One study indicates that although self-esteem drops for all girls in high school, this negative trend is greatest among young Latinas. *Id.*

[FN46] See Denise Segura, Labor Market Stratification: The Chicana Experience, BERKELEY J. SOCIOLOGY 57 (discussion of Chicanas' economic and employment status, which applies an intersectional analysis).

[FN47] These stereotypes express ingrained beliefs that Latinos are inferior. One commentator has noted that people in the United States have always considered Puerto Ricans unprepared and undeserving of equal treatment because of their inherent inferiority to whites. See generally Richie Pérez, From Assimilation to Annihilation: Puerto Rican Images in U.S. Films, 2 CENTRO BULL. 8 (1990).

To America, however, we were and still are just another form of "nigger," a "mongrel race," inferior to whites, and thus unprepared for equal participation and undeserving of equal treatment. A 1949 study "Cultural Conflicts in the Puerto Rican Adjustment," part of a wave of American studies of the "Puerto Rican Problem," claimed that while Americans "were generally courteous to foreigners if they spoke in their native language or wore native dress," there were "general notions" in the U.S. that all Puerto Ricans were "oversexed" and indulged in "excessive promiscuity." According to the study, Americans believed "that the men carry knives and use them unrestrainedly, that all Puerto Ricans are ignorant, unintelligent and stupid because they do not speak English; that they are colossal liars, that they are very temperamental and hot-headed; that the island is infested with diseases and that Puerto Ricans are clannish."

*Id.* at 12; see also COCO FUSCO, The Latino "Boom" in American Film, 2 CENTRO BULL. 48, 50-51 (1990); Guy Garcia, Burying the Frito Bandito Once and For All, N.Y. TIMES, Jan. 30, 1994, at H32, H40.

[FN48] These caricatures are propagated in the popular culture through visual media. American popular culture contains such male Latino figures as the Mexican warrior Emiliano Zapata, the Puerto Rican knife-wielding gang members of the Sharks in *West Side Story*, and the hot-tempered Cuban bandleader in *I Love Lucy*.

[FN49] See Pérez, *supra* note 47, at 12-16; Garcia, *supra* note 47, at H32.

[FN50] *Id.*

[FN51] These images are infamous. For example, Maria in *West Side Story* can only be described as sweet, innocent, God-fearing and virginal. Anita, the gang leader's girlfriend, on the other hand, played the sexy, loud, and promiscuous Puerto Rican seamstress. *WEST SIDE STORY* (Mirisch Corp.1961).

[FN52] Yvonne Pacheco Tevis, *Feminism and the Mexican American Woman*, 28 U.C. MEXUS NEWS 1 (Summer 1991).

[FN53] *Id.*

[FN54] Pérez, *supra* note 47, at 13.

[FN55] Tevis, *supra* note 52, at 1.

[FN56] For a discussion of market theory and educational attainment, and the evaluation of Chicana employment, see generally Segura, *supra* note 46.

[FN57] See, e.g., *infra* notes 61-66, 72-74, 84-90 and accompanying text.

[FN58] See *infra* note 80 and accompanying text.

[FN59] See *infra* notes 111-15 and accompanying text.

[FN60] See, e.g., *infra* notes 98, 105-06 and accompanying text; see also Constance L. Hays, *Enduring Violence in a New Home*, N.Y. TIMES, Dec. 6, 1993, at B3.

[FN61] See Joan Zorza, *The Criminal Law of Misdemeanor Domestic Violence, 1970-1990*, in 83 J.CRIM.L. & CRIMINOLOGY 46, 50-51 (1992).

[FN62] See *id.*, at 64 n. 182 (citing ARIZ.REV.STAT.ANN. § 13-3601b (1991); CONN.GEN.STAT.ANN. § 46B-38b(a) (West 1990); D.C.CODE ANN. § 16-1031(a) (1991); HAW.REV.STAT. § 709-906(4) (1991); IOWA CODE ANN. § 236.2 (West 1989); ME.REV.STAT.ANN. tit. 19, § 770 (West 1991); MO.REV.STAT. § 455.085 (1990); NEV.REV.STAT. § 171.137 (1991); N.J.REV.STAT. § 2C:25-5a (1991); OR.REV.STAT. § 133.055 (1989); R.I.GEN.LAWS § 12-29-3(B) (1991); S.D. CODIFIED LAWS ANN. § 23A-3-21 (1991); UTAH CODE ANN. § 30-6-8(2) (1991); WASH.REV.CODE ANN. § 10.31.100(2) (West 1990); WIS.STAT.ANN. § 968.075(2) (West 1990)).

[FN63] *Id.* at 64 n. 183 (citing DEL.CODE ANN. tit. 13, § 1510 (1991); ME.REV.STAT.ANN. tit. 19, § 770 (West 1991); MASS.GEN.LAWS ANN. ch. 209A, § 6 (West 1992); MINN.STAT.ANN. § 518B.01(14) (West 1991); MO.REV.STAT. § 455.085(2) (1990); NEB.REV.STAT. § 42-928 (1990); NEV.REV.STAT. § 33.070 (1991); N.H.REV.STAT.ANN. § 173-B:8 I(a) (1990); N.J.REV.STAT. § 2C:25-15-1 (1991); N.M.STAT.ANN. § 40-13-6(c) (Michie 1991); N.C.GEN.STAT. § 50B-4 (1991); OR.REV.STAT. § 133.310 (1989);

R.I.GEN.LAWS § 12-29-3(B) (1991); S.D.CODIFIED LAWS ANN. § 23A-3-2.1 (1991); TENN.CODE ANN. § 36-3-611(a) (1991); TEX.CRIM.PROC.CODE ANN. § 14.03(b) (West 1991); UTAH CODE ANN. § 30-6-8(1) (1991); WASH.REV.CODE ANN. § 10.31.100(2)(B) (West 1990); WIS.STAT.ANN. § 813.122(10) (West 1990)).

[FN64] *Id.* at 47-50, 52-53; Carolyne R. Hathaway, Case Comment, [Gender Based Discrimination in Police Reluctance to Respond to Domestic Assault Complaints](#), 75 GEO.L.J. 667, 673-75 (1986).

[FN65] See, e.g., CIVILIAN COMPLAINTS INVESTIGATIVE BUREAU 1990 ANNUAL REPORT, Tables 20, 22, Graphs 6, 7 (indicating 12.6% of department is “Hispanic” and 13.4% is “female”).

[FN66] See Zorza, *supra* note 61, at 71.

[FN67] See generally Symposium, The Influence of Criminology on Criminal Law: Evaluating Arrest for Misdemeanor Domestic Violence, 83 J.CRIM.L. & CRIMINOLOGY 1 (1992) [hereinafter Domestic Violence Symposium]; Zorza, *supra* note 61, at 46; Lisa A. Frisch, Research that Succeeds, Policies that Fail, 83 J.CRIM.L. & CRIMINOLOGY 209, 209-16 (1992); Sara Mausolf Buel, Mandatory Arrest for Domestic Violence, 11 HARV. WOMEN'S L.J. 213 (1988); Lisa R. Beck, Note, Protecting Battered Women: A Proposal for Comprehensive Domestic Violence Legislation in New York, 15 FORDHAM URB.L.J. 999 (1987); Hathaway, *supra* note 64; Barbara K. Finesmith, Police Response to Battered Women: A Critique and Proposals for Reform, 14 SETON HALL L.REV. 74 (1983).

[FN68] Studies have demonstrated that when the decision of whether to arrest is left to police discretion, rates of arrest in domestic violence cases are very low. Buel, *supra* note 67, at 217 (citing Sherman & Berk, The Minneapolis Domestic Violence Experiment, POLICE FOUND. REP., Apr. 1984, at 2; Martin, Overview: Scope of the Problem, in BATTERED WOMEN: ISSUES OF PUBLIC POLICY, A CONSULTATION SPONSORED BY THE U.S. COMMISSION ON CIVIL RIGHTS 3, 7 (1978); Brown & McGrath, In Search of Law: A Survey, The Philadelphia Police Response to Domestic Assault, at 3 (Executive Summary of Report to the Mayor's Commission on the Status of Women, 1985); Bowker, Police Services to Battered Women: Bad or Not So Bad?, 9 CRIM.JUST. & BEHAV. 476, 485-86 (1982)).

[FN69] See *id.* at 217-18 (quoting officers' statements about the basis for arrests, which includes the reason the man hits the woman, and whether he acts violently toward the officer (citing [Blodgett, Violence in the Home](#), 73 A.B.A.J. 66, 68 (1987); Ferguson, Mandating Arrests for Domestic Violence, FBI LAW ENFORCEMENT BULL., Apr. 1987, at 6, 8)).

[FN70] See, e.g., Domestic Violence Symposium, *supra* note 67.

[FN71] *Id.*

[FN72] Cynthia Grant Bowman, The Arrest Experiments: A Feminist Critique, 83 J.CRIM.L. & CRIMINOLOGY 201, 208 (1992). Critiques and studies focusing on men of color as batterers are subject to the same criticism. Men's conduct is evaluated or presented in a vacuum, without the benefit of any sociological or historical analysis. This method of critique considers the impact of poverty, but provides only limited consideration to the manner of official responses to men of color who are batterers. These responses differ based on the variables of race and national origin. See, e.g., Lawrence R. Sherman et al., The Variable Effects of Arrest on Criminal Careers: The Milwaukee Domestic Violence Experiment, 83 J.CRIM.L. & CRIMINOLOGY 137 (1990); Richard

A. Berk et al., A Bayesian Analysis of the Colorado Springs Spouse Abuse Experiment, 83 J.CRIM.L. & CRIMINOLOGY 170 (1990).

[FN73] See generally Domestic Violence Symposium, *supra* note 67; Linda B. Lengyel, Survey of State Domestic Violence Legislation, 10 LEGAL REFERENCE SERV.Q. 59 (1990).

[FN74] See, e.g., Domestic Violence Symposium, *supra* note 67; Raymond I. Parnas, The American Bar Foundation Survey of the Administration of Criminal Justice and Past, Present, and Future Responses to Domestic Violence, 69 WASH.U.L.Q. 107 (1991); Hathaway, *supra* note 64.

[FN75] See *infra* notes 82-89 and accompanying text.

[FN76] Seth Mydans, Tape of Beating by Police Revives Charges of Racism, N.Y. TIMES, Mar. 7, 1991, at A18; Seth Mydans, In Messages, Officers Banter After Beating in Los Angeles, N.Y. TIMES, Mar. 19, 1991, at A1; Seth Mydans, Friend Relives Night of Police Beating, N.Y. TIMES, Mar. 21, 1991, at B8; Don Terry, Badge Tarnished on Los Angeles Streets, Police Say, N.Y. TIMES, Mar. 25, 1991, at A1; James C. McKinley, Jr., Debate on New York Police Board Heats Up While Complaints Fall, N.Y. TIMES, Mar. 27, 1991, at A1 [hereinafter Debate]; Craig Wolff, 3 Arrested in Beating of a Black, N.Y. TIMES, June 6, 1991, at B1.

[FN77] See James C. McKinley, Jr., Officer Cleared in Killing of Auto Thief, N.Y. TIMES, Feb. 1, 1991, at B3; Donatella Lorch, Suspect is Killed in Struggle with 5 Officers in Queens, N.Y. TIMES, Feb. 6, 1991, at B3.

[FN78] People from Latin America share a common regional heritage marked by abuse inflicted at the hands of governmental officials, the military, and local law enforcement officers. Immigrants often come to the United States to escape police and military physical abuse. Because the use of force has often been condoned by repressive governments in the immigrants' native countries, these immigrants possess negative memories and suspicions about the assistance available from law enforcement agencies.

[FN79] See Debate, *supra* note 76, at A1; Los Angeles Mayor Presents Panel to Review Police Dept., N.Y. TIMES, Apr. 2, 1991, at A14.

[FN80] See *supra* note 72.

[FN81] *Id.* at 47-50; see also Hathaway, *supra* note 64, at 673-75.

[FN82] A white police officer may not react the same toward Latino males as to white males. Latinos are often treated as "others," "foreigners," and "different," and may not be the people to whom officers readily liken themselves.

[FN83] See generally Zorza, *supra* note 61; Buel, *supra* note 67; Beck, *supra* note 67; Hathaway, *supra* note 64; Finesmith, *supra* note 67; see Frisch, *supra* note 67, at 209-16.

[FN84] One critic of opponents to mandatory arrest policies suggests that discriminatory police policies could be reversed by ordering police to arrest the middle class, employed suspect in addition to the poor or African-American suspect. In practice, this might eliminate the police bias of arresting African Americans, but not arresting whites. See Bowman, *supra* note 72, at 207.

[FN85] Mandatory arrest policies also fail to address the underutilization of police assistance resulting from Lat-

inas' fears of reprisal and deportation.

[FN86] Buel, *supra* note 67, at 223-24.

Arrest can kindle the battered woman's perception that society values her and penalizes violence against her. This perception counteracts her experience of abuse.... When a battered woman calls the police and they arrest the man who beats her, her actions, along with the officer's actions, do something to stop her beating.... Now her actions empower her. The woman may begin to believe in herself enough to endeavor to protect herself.

*Id.* (citing Pastoor, *Police Training and the Effectiveness of Minnesota "Domestic Abuse" Laws*, 2 *LAW & INEQ.J.* 557, 595 (1984)).

[FN87] See *infra* notes 90-91 and accompanying text.

[FN88] Buel, *supra* note 67, at 225-26 (citing Epstein, *The Problem of Dual Arrest in Family Violence Cases*, at 2-6 (discussion paper), reprinted in *CONNECTICUT COALITION AGAINST DOMESTIC VIOLENCE, FROM ALL SIDES: AN EXAMINATION OF CONNECTICUT'S FAMILY VIOLENCE PREVENTION AND RESPONSE ACT*, § III, 3 (1987); Crane, *Washington's Domestic Violence Prevention Act: Mandatory Arrest Two Years Later*, 8 *WOMEN'S ADVOC.* 1, 4 (1987)).

[FN89] See Merle H. Weiner, *From Dollars to Sense: A Critique of Government Funding for the Battered Women's Shelter Movement*, 9 *LAW & INEQ.J.* 185, 212-26 (1991).

[FN90] See Edward W. Gondolf et al., *Racial Differences Among Shelter Residents: A Comparison of Anglo, Black, and Hispanic Battered*, 3 *J.FAM. VIOLENCE* 39, 48-49 (1988) [hereinafter *Racial Differences Among Shelter Residents*].

[FN91] Zorza, *supra* note 61, at 46-50, 52 (arguing that there is evidence that demonstrates that responding to domestic violence calls is no more dangerous for law enforcement officials than responding to other calls).

[FN92] Sarah Eaton & Ariella Hyman, *The Domestic Violence Component of the New York Task Force Report on Women in the Courts: An Evaluation and Assessment of New York City Courts*, 19 *FORDHAM URB.L.J.* 391, 427-28 (1992) [hereinafter *New York Task Force Evaluation*].

[FN93] See Bowman, *supra* note 72, at 202-03; Hathaway, *supra* note 64, at 673-75; Zorza, *supra* note 61, at 71.

[FN94] See also Bowman, *supra* note 72, at 202-03; Zorza, *supra* note 61, at 71.

[FN95] See Bowman, *supra* note 72, at 202-03; Hathaway, *supra* note 64, at 673-75; Zorza, *supra* note 61, at 71.

[FN96] Hays, *supra* note 60, at B3.

[FN97] See, e.g., *New York Task Force Evaluation*, *supra* note 92, at 407-08, 479-81, 487-88.

[FN98] The shortage services available to women in violent situations is well documented. See *infra* notes 104-22 and accompanying text. See also *New York Task Force Evaluation*, *supra* note 92, at 485-86; see generally Weiner, *supra* note 89; *Racial Differences Among Shelter Residents*, *supra* note 90.

[FN99] See Letter from Puerto Rican Legal Defense and Education Fund to N.Y. State Department of Social

Services, May 27, 1992 (charging shelters with rejection of Latinas because they do not speak English) [hereinafter PRLDEF Letter] (copy on file with author).

[FN100] See, e.g., Bowman, *supra* note 72, at 207.

[FN101] New York Task Force Evaluation, *supra* note 92, at 487; see Pat Eng, Asians, Domestic Violence, and Criminal Justice, *ASIAN TIMES*, Sept. 1989, at 1; Note, The Cultural Defense in the Criminal Law, 99 *HARV.L.REV.* 1293 (1986) [[hereinafter The Cultural Defense].

[FN102] See Eng, *supra* note 101, at 1; The Cultural Defense, *supra* note 101, at 1295.

[FN103] For a discussion of the contours and benefits of a cultural defense in the criminal law, see The Cultural Defense, *supra* note 101, at 1293.

[FN104] For a description of services recognized by Congress, see Family Violence Prevention and Services Act, 42 U.S.C. § 10408(5) (Supp.1993).

[FN105] See *infra* notes 108-22 and accompanying text.

[FN106] See discussion *supra* parts III.A.2-3.

[FN107] Racial Differences Among Shelter Residents, *supra* note 90, at 44.

[FN108] *Id.* at 48-49.

[FN109] *Id.* at 48. The researchers studied differences among Texas shelter residents, where the Latina pool comprised Mexican-American women. Although there are differences among the various Latino subgroups, the study's importance is not diminished because it was based on the experiences of only one Latino subgroup. To the contrary, as one of the only studies specifically focusing on the experiences of Latinas (in comparison to white and black women), it is a useful point of departure for the discussion in the text. The study's findings lend credence to arguments that Latinas' experiences are not only different, but that these differences have palpable, determinative consequences in Latinas' lives. The study also recognized that Latinas' economic and political status impacted their ability and willingness to seek assistance. *Id.*

[FN110] Jane E. Brody, Personal Health, *N.Y. TIMES*, Mar. 18, 1992, at C12.

[FN111] PRLDEF Letter, *supra* note 99; see also Hays, *supra* note 60, at B3.

[FN112] PRLDEF Letter, *supra* note 99; see also Hays, *supra* note 60, at B3. Often no translators are available, or third party interpreters cannot provide appropriate translation services. PRLDEF Letter, *supra* note 99. Women may be required to use family, friends, or even their children as translators. *Id.*

[FN113] Author's discussions with shelter representatives and battered women advocates, New York, N.Y. (1990-93).

[FN114] See Racial Differences Among Shelter Residents, *supra* note 90, at 44; Coley, *supra* note 18, at 483, 485-89.

[FN115] See Hays, *supra* note 60, at B3.

[FN116] Similar accounts of the experiences of African-American shelter residents are set forth in Coley, *supra* note 18, at 486-90.

[FN117] Racial Differences Among Shelter Residents, *supra* note 90, at 48-49. Researchers have determined that differences based solely on race do not account for the differences in experiences and status among shelter residents. *Id.* Findings reveal similarities among white and black women that distinguish them from Latinas. "In sum, the anglo and black women appear to have more in common, suggesting that the significant differentiation does not necessarily fall along color lines." *Id.* at 49.

[FN118] *Id.*

[FN119] *Id.*

[FN120] *Id.* (recommending that shelters respond to the particular needs of poor women and women with little or no income)

[FN121] PRLDEF Letter, *supra* note 99; see also Hays, *supra* note 60, at B3.

[FN122] New York City Agency Contracting Practices with Puerto Rican and Latino Not-For-Profit Organizations, ASSOCIATION OF PUERTO RICAN EXECUTIVE DIRECTORS INC., Feb. 1992, at 28-34.

[FN123] *Id.*

[FN124] For example, the Latino community successfully fought for equal opportunity in education, and secured bilingual education services for Latino students with limited English proficiency. See *Aspira of New York v. Board of Educ. of City of New York*, 423 F.Supp. 647 (1976).

[FN125] See *supra* notes 3-5 and accompanying text; Hays, *supra* note 60, at B3.

[FN126] Community-based shelter and service programs, such as New York City's Violence Intervention Program and the District of Columbia's Hermanas Unidas, are examples of Latina-run services specifically designed to address Latinas' needs. They are bilingual and bicultural, and are effectively run by Latinas who are sensitive to issues unique to individual Latinas and the Latino community. The programs are conducted in tandem with other programs, but the efficacy of service provision is dependent upon the programs' responsiveness to the needs of the Latinas they serve.

[FN127] These efforts include conferences and the dissemination of public information. For example, the New York State Spanish Domestic Violence Hotline (which provides bilingual assistance and referrals for Spanish-speaking women) and Latino advocacy groups sponsored a conference on domestic violence in the Latino community in the Fall of 1993.

[FN128] See, e.g., the programs mentioned *supra* note 126. For example, New York State's Spanish Domestic Violence Hotline's board is composed of Latina activists and other leaders who have prioritized and politicized violence against women.

[FN129] These services have been encouraged and supported by the federal government in the Family Violence Prevention and Services Act, 42 U.S.C. § 10401 (*Supp.1993*), and in the proposed Violence Against Women Act of 1993. H.R.1133, 103d Cong., 1st Sess. (1993).



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