



DEFENDING OUR RIGHT TO SELF-DEFENSE TO COUNTER THE NORMALIZATION OF VIOLENCE

by Cathy Marston, PhD

I shared in the February 2010 *La Voz* that twice in 2004, the Austin police found my abusive ex-boyfriend and/or his best friend on top of me beating me, trying to hurt me. Both times, they called off my assailants to unlawfully arrest me, the victim. The Texas Council on Family Violence states that on a “domestic violence” call here in Texas, the police deliberately arrest the battered woman instead of her male batterer at least 20 percent of the time.

In the first incident, my ex had shoved my face into the sofa to smother me. I don’t know how I’m still alive, as he completely overpowered me. When I sat up after he let me up, he then wrapped his arm around my neck in a chokehold. That is when I bit him in self-defense.

If I had not bit him, I’d be dead. Yet the State characterizes that one bite as “violent” while lying that my ex’s 90-minute beating and murder attempt are his right: victim blaming by the State. I created Free Battered Texas Women to advocate for the release and exoneration of other battered women who had exercised their rights to defend themselves and their children – as well as to stop the wrongful arrest of battered women.

When I was in fourth grade, my dad signed me and my sister up for judo. “You need to learn how to defend yourself,” he said. I hated judo. I quit to play soccer instead. When I was 12, my dad signed me up for a gun-safety class offered by the National Rifle Association (NRA) at Randolph A.F.B. “You need to learn how to handle a gun,” he said.

I hated gun class, too. What I really hated were the boys harassing me with sexual comments as we waited outside the building for our instructor to show up. I won a first-place trophy. I never picked up a gun after that. Dad and I have argued about gun control for decades.

My dad recognized that I, as a female, had a right to self-defense.

Texas recognizes that right for everyone via its self-defense waiver (a.k.a. “Stand Your Ground” law) codified in the Texas Penal Code, Subchapter C, Sect. 9.31 (entitled: “Self-Defense”). A person may defend herself when she: “reasonably believes the force is immediately necessary to protect” her against “imminent harm” from someone else’s violence. Texas also codified a Defense of a Third Party Waiver, which many women in our state’s prisons utilized to protect their kids and grandkids.

Unfortunately, the justice and media systems here in Texas do not recognize these rights for WOMEN.

In her speech accepting the Presidential Medal of Freedom this year, Gloria Steinem reminds us that the “causes of violence” are here at home:

[E]VEN BY CONSERVATIVE FBI STATISTICS, IF YOU ADD UP ALL THE WOMEN IN THE U.S. WHO HAVE BEEN MURDERED BY THEIR HUSBANDS OR BOYFRIENDS SINCE 9/11 – AND THEN ADD UP ALL THE AMERICANS KILLED IN 9/11 PLUS THE WARS IN IRAQ AND AFGHANISTAN – MANY MORE WOMEN HAVE BEEN KILLED BY THEIR HUSBANDS AND BOYFRIENDS YET WE PUT MUCH MORE THOUGHT AND MONEY INTO ENDING FOREIGN TERRORISM THAN INTO ENDING DOMESTIC TERRORISM.

Clearly terrorism is something American males inflict on women. Considering the femicide statistics; and the fact that men batter a woman every 12 seconds in this country, men – by definition – are violent and harmful terrorists of women.

The TCFV (Texas Council on Family Violence), in its report entitled *Honoring Texas Victims: Family Violence Fatalities 2012* found that 74% of intimate-partner femicides took place in the home. TCFV believes, “[E]ach intimate partner homicide is **knowable, predictable, and preventable.**” Also, TCFV found that perpetrators killed, in addition to their primary target, another 15 friends and/or family members in 2012.

Historically, the justice system normalized male violence against women. Feminist, media scholar, Marian Meyers, prefers to use the term “battering” because: “terms such as ... domestic violence obscure the relationship between gender and power by failing to define the perpetrators and victims.” Feminist philosopher, Mechthild Nagel, adds to Meyers’ observations: “Labeling something as ‘domestic’ has the ring of harmlessness.”

In the anthology she co-edited with Anthony Nocella, *The End of Prisons: Reflections from the Decarceration Movement*, Nagel discusses the attribution of deviance and gender dating back to the 1804 Napoleonic Code, in terms of influences on our legal systems. The Code relegated women to the same status as “children, felons, and the insane.” Nagel then shows the similarity between Judge William Blackstone’s “Unities Doctrine” in family law – informed by the white, capitalist, Christian patriarchy — and Muslim “Shar’ia law” and veiling of women. Both involve the wife being “covered” under the husband/male and being seen as chattel and “civilly dead.”

If women are, at best, chattel, then Nagel asks: “[H]ow can somebody be castigated as violent if he couldn’t do what he pleases with his property?” She reminds us that the “rule of thumb” permitting men to beat their wives (with a stick no bigger than their thumb) was “a compromise solution of the ‘justice system’ that was clearly intent on keeping the woman in a

subjugated role.”

Thus, the operatives of the justice system have reflected that misogynist intent in police practice and jurisprudence. The magazine, *Ms.*, has repeatedly reported that male police officers are four times more likely to have active/recent charges for battering women themselves. This creates some insight into why police aren’t prioritizing and showing due diligence to male violence against women.

Furthermore, Dr. Phil McGraw (*Dr. Phil Show*) on 11/9/11 showed a video of Aransas County, TX, Judge William Adams beating his 16-year-old daughter, Hillary, with a belt as he yelled, “I’m going to beat you into submission!” Her offense? File sharing on the Internet. Hillary’s mom, Hallie, divorced Adams for battering her, also. Judge Adams response to the video: “I was just disciplining her.” Adams is a Family Law/Domestic Violence Court judge who adjudicates and sentences batterers like himself.

Of course, that’s if the batterer makes it to court. Lloyd Oliver, a candidate in the Democratic primary for Harris County District Attorney, was given a Bum Steer Award this year by *Texas Monthly* for bragging that, if elected, he would de-emphasize prosecutions involving spousal abuse, because: “Family violence is so overrated.” Prosecutors in Topeka, Kansas, claimed their budget was so tight that they could no longer prosecute misdemeanors. So, the District Attorney set free 18 male batterers, according to a 10/11/11 story on NPR’s *All Things Considered*.

Police were not interested in the drowning death of Kathleen Savio until her husband’s next (and fourth) wife disappeared. The man finally tried for Savio’s death was, of course, ex-cop Drew Peterson. Michigan police officer Clarence Ratliff shot to death his wife, Judge Carol Irons. He was sentenced to 15 years for murdering Irons; and sentenced to two life terms for shooting at the cops according to Ann Jones.

Jones bluntly remarks: “[I]n the scales of American justice, men weigh more than women. Assaulting a man is a serious crime, but assaulting a woman or even killing her – well, that’s not so bad.” She adds: “One 1991 study found that among assaultive men arrested, prosecuted, convicted, and sentenced, less than 1 percent (.9%) served any jail time.”

That begs the question, of course, of what happens, when women have to fight back to defend ourselves against these bat-

terers. Self-defense waivers have been the subject of scrutiny in the U.S. recently, following the killings of multiple, unarmed, teen-aged, African-American males by non black males.

Floridian and M.B.A.-holder Marissa Alexander, an African-American, was not allowed to use a self-defense argument when she shot into the wall to scare off her estranged husband, Rico Gray, who had already attacked her, strangled her, and threatened to kill her. The court sentenced her to 20 years for aggravated assault, when the bullet didn’t hit him and she was clearly defending herself. As supporter Sumayya Coleman observes: “If you get 20 years for defending yourself, what does that say to victims? Let them beat you, your life means nothing.” Alexander’s conviction was overturned in Sept. 2013. She is awaiting retrial, where her prosecutor has sworn to give her three, 20-year consecutive sentences if she is reconvicted.

Alexander’s husband was already a “convicted woman-beater.” Why is Florida failing to arrest and prosecute HIM? Would there be more public outrage if she was male?

Canadian feminist criminologists, Jennifer Kilty and Sylvie Frigon, studied battering survivor Karla Homolka, who pleaded guilty to aiding her batterer in his violent crimes, out of fear. Kilty and Frigon remind us that contextualizing the battered woman’s experiences helps to “generate a more holistic understanding of her case and personhood.”

Free Battered Women, based in San Francisco, CA, reports that two studies suggest that battered women who kill are either being convicted or taking a plea at a rate between 72% and 78% nationally – which is grossly above the 50% plea rate of innocents reported by *Prison Legal News* this year. They also report that women charged with homicide have the least-extensive, prior criminal-records of any people convicted of crimes. Several hundred women in California are serving time for killing their batterers. Hundreds, if not thousands more are serving time for



domestic-violence-related crimes. There are no similar statistics for Texas, despite the egregious, wrongful-arrest rate for battered women and our media’s obsession with crime coverage.

What can we do here in Texas?

Well, there’s been wrongful conviction summits in the Texas Senate and there’s been great hullabaloo in the legislature and media about cutting taxpayers’ costs and state programs. But no, none is considering freeing and exonerating battered women who clearly exercised our rights under the Texas Penal Code to **live**.

It’s past time to create (or recreate, in the case of related 1990s laws) legislation to stop the arrest of battered women; and to free and exonerate those who are already incarcerated a la California, which has a unique penal code statute allowing women to cite their status as battering survivors related to their crime in a writ of habeas corpus. California’s “Sin by Silence” bills were featured in a documentary by filmmaker Olivia Klaus; and they give survivors more time for finding representation and presenting their evidence related to their batterer in the writ and parole processes. New York State’s legislature is also considering the Domestic Violence Survivors Justice Act with similar goals: to address the number of survivors re-vic-

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This student from Grenada, spoke with a British accent and was black. I couldn't believe the change in the 7th graders' behavior when the Grenadan taught them simple scientific techniques. Where they had been tentative and trembly before, they seemed to have self-confidence and energy when they followed his demonstration. I found that he had recognized how hungry the young black students were for mentoring. He identified a large cleaning closet as his "office" and wrote notes to teachers asking that particular students be excused for conferences with him. (He saw a need and was meeting it!) I was shocked. This was not part of our science project. My focus at that time was not on how racism affected a student's ability to learn. Now, forty years later, the segregation and racism in America seem to have increased.

When I first came to San Antonio in 1976, I provided science enrichment in a Quaker school for emotionally disturbed children. One of the former teachers, Cecelia Wiley, was a beautiful Guatemalan Quaker. We became good friends and traveled to Quaker conferences in Mexico. Cecelia said that she hadn't known that she was black until she came to the US. Color had been no issue before.

Before buying a car here, I was waiting at a bus stop downtown with other people. A young black man wearing a white lab coat and his girl friend joined the group. A fair-haired boy 8 or 10 years old was trying to sell us stuff he had in his pockets: string, baseball cards, bottle caps, etc. The young black man spoke to the child, "If you were my child, you'd be home in bed." I was amazed! Such a conservative, middle class opinion from this black man! I wouldn't have heard that in New York! Later, I described what I'd witnessed to a native Texan, and she explained that there was an elite community of black people in San Antonio. Then I remembered that when I first lived in New York City in 1954, Percy Sutton was the President of Manhattan,

and that he was a handsome, urbane black man from San Antonio. The Sutton family was important here. In the 38 years I have lived here, I have watched the rapid growth of the city, where new development has disrupted or destroyed many old neighborhoods.

Over the years I have been aware of discrimination, profiling and prejudice. But, my life has been comfortable until now. The "white privilege" I have enjoyed is no longer invisible to me!

When I was a child growing up in Salt Lake City, Utah, I was an active member of the Mormon Church. Black boys and men could not hold the Priesthood. The reason was based on the Bible story (Genesis 9.18 – 10.29) that explains that because Ham saw his drunken father, Noah, naked, God cursed his descendants with black skin. A few decades ago, I learned that the President of the Church had had a revelation that black men could hold the Priesthood. What a blessing! This fundamental change in culture is a miracle!

I wish our political system weren't so dysfunctional! We need lots of miracles. When we white folks do not accept the kinship of people of color, that we are all the children of God, white flight resegregates our schools and neighborhoods and on and on. I wish that each human being could have the revelation that the President of the Mormon Church had and recognize that there is only one human family. Racism is un-American. Let's affirm our "ideals" with actions. We all need to help each other to be kind and honest with one another. That would be a start! ♦

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timized and imprisoned by the legal system that is supposed to protect us and imprison our batterers.

A committee needs to review arrests of battered women at the time of arrest; and review all the cases of battered women still in prison. The one thing we cannot do is watch another legislature go by without these changes. The Texas Legislature's misogynist priorities last session included passing "Romeo & Juliet" legislation to legalize sex between adult males and teenaged girls: heinous, normalization of male violence! Fortunately, the governor vetoed that.

Self-defense is a right. Male violence against women and girls is criminal. But it takes each of you speaking out to make the legislature see that. As feminist and anarchist Emma Goldman said, "Grieve the dead. And fight like hell for the living!" ♦

Bio: Cathy Marston, PhD, Founder & Director of Free Battered Texas Women, was on the Steering Committee for the 2014 Int'l Conference on Penal Abolition. She is also active in revitalizing the Alamo Chapter of the Citizens United to Reform Errants (C.U.R.E.). Her case is currently under appeal. Contact: cmarston.fbtw@gmail.com.

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As the P.E.A.C.E. Initiative celebrates their 25th anniversary they continue to take the lead in San Antonio in observing domestic violence awareness month. For a full calendar of October events check out www.thepeaceinitiative.net

P.E.A.C.E. Initiative is dedicated to educating the public about the extent and often deadly consequences of domestic violence and to respond effectively through community collaboration.

24 HOUR CRISIS HOTLINES:
Family Violence Prevention Services' - 210.733.8810
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