

*Lessons from the Past:
Revitalizing the Clemency Movement for Battered Women
Incarcerated for Killing Their Abuser*

Jackie Schornstein
Tulane University, New Orleans, Louisiana, USA



Abstract: Research shows that battered women who kill their abusers do so out of self-defense, but the courts and the federal justice system do not recognize these actions as such. The majority of women convicted of this crime are serving sentences of 40 years to life. Although a clemency movement was initiated in the 1990s for women incarcerated for killing their abusers, today little hope of clemency or sentence reform remains for these women. Currently, there is no movement addressing the unjust sentences granted during a time when domestic violence was defined differently by law. This case examines the judicial system’s evolving definition of domestic violence and the initiation of the clemency movement of the 1990s as well as how this movement became impactful. The case also investigates the broader issue of domestic violence and women’s imprisonment in the United States as well as the current lack of momentum toward gaining clemency for abused women’s unjust convictions.

Introduction

In 2005, 329 males and 1,181 females were murdered by their intimate partners in the United States (Stuart van Wormer 2011, 42). Before victim protection services were available—such as shelters and an effective court and legal system catering positively to victims of domestic violence—the number of homicides in which females killed their intimate partners was much higher. Now, with these services providing an alternative means of escape from a violent relationship other than homicide, there has been a striking decline in female homicides of abusive male partners (Stuart van Wormer 2011, 43). Though victim protection services did not completely solve the issue—women still kill their abusers—women who have been abused commit murders at a much lower rate as a result. But what about before shelters were available, when women had no choice but to kill their abuser in order to save themselves? What about their sentencing during a time when courts did not allow evidence of domestic abuse into trials? What has been done in the past to correct these sentences and how can activists reinvigorate the clemency movement that flourished in the 1990s to serve women today?

Barbara Davidson was the Community Educator and Trainer for the Battered Women’s Program in Baton Rouge during the clemency movement of the 1990s. She led domestic violence support groups at the Louisiana Correctional Institute for Women, the only all-female prison in Louisiana, and she had an intense passion for helping victims of domestic violence. Because of her knowledge on the issue and her relationships with the incarcerated women, the Women’s Commission Committee, an organization in Louisiana with the goal to address the

concerns of women in a public forum, saw Barbara as a prime candidate to lead the Louisiana Clemency Project. Encouraged by the Women's Commission Committee, she began working as the main project coordinator, creating the structure of the Project and recruiting advocates. With new opportunities in the wake of legislative changes in the state and the passion of the advocates for clemency, the Louisiana Clemency Project began.

Intimate Partner Violence/Domestic Violence

In the early 1990s, the Center for Disease Control and Prevention stated that domestic violence was the number one cause of injury for women in America (Lazarus and Wunderlich 1994). The definition of domestic violence is an "intentional act to cause injury in a spouse or partner or ex-spouse or ex-partner. Such violence of battering is physical aggression with a purpose to control, intimidate, and subjugate another human being" (Stuart van Wormer 2011, 230). Intimate partner violence is not only violent physical abuse, but emotional, sexual, and psychological, as well. The Office on Violence Against Women in the United States Department of Justice (2009) defines domestic violence as "physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person" (Stuart van Wormer and Bartollas 2011, 230).

Before the battered women's movement of the mid-1970s and early 1980s that emerged from the women's movement, society considered domestic violence a private matter, bringing no public attention to the issue. With domestic disputes being the most dangerous type of police encounters, law enforcement officials often avoided the situations by ignoring the calls for help, believing it was not their place to intervene in private issues between husband and wife. The women's movement of the 1960s and 1970s brought to the surface the prevalence of domestic violence and the devastating consequences. Through the women's movement, society became aware of the seriousness and widespread nature of domestic violence and victim blaming in the United States. Exposing the severity of victim blaming, or social assumptions that victims do something to deserve their abuse, was the beginning of the battered women's movement of the 1970s. This movement pushed social institutions, such as the police and the court system, to change the treatment of victims (Stuart van Wormer and Bartollas 2011, 232). Subsequently, domestic violence became a women's issue.

The Violence Against Women Act of 1994 was the culmination of the collective political action and social support energized through the battered women's movement. This piece of federal legislation provided improved prevention strategies to deal with issues of domestic violence and improved the care of victims through the legal and medical system. This law also increased the prosecution of violent crimes against women and children and provided funding for resources for domestic violence victims, such as shelters and legal advocacy (Stuart van Wormer and Bartollas 2011, 232). Additionally, the Violence Against Women Act not only protected women from their abusers, but helped reduce homicides. According to the special report *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women* by Tjaden and Thoennes (2000), between 1976 and 2000, the number of women murdered by intimates fell 22%, from 1,600 to 1,247, and the number of men murdered by intimates during that period dropped 68%, from 1,357 to 440 (Stuart van Wormer 2011, 233). Because these women could rely on other resources, the need to murder their batterer—either in self-defense or after the incident of abuse—decreased, along with the number of women murdered, as many were able to find a means of escape.

Women in Prison in America

The incarceration rate of women in America continues to grow. In 1977, the United States imprisoned 11,212 women; by 2004, the number of incarcerated women had increased by

757% to 96,125 (Greene, Pranis, and Frost 2006, 7). Between 80 and 85 percent of women imprisoned in the United States attribute their incarceration to their association with a batterer, either because they were forced to participate in the crime, or because the crime was directly related to the abuser. According to the Department of Justice, six out of ten women incarcerated in state prisons are survivors of abuse, and more than a third of these women have been abused by an intimate partner (Buel 2003, 219).

In their book *Women and the Criminal Justice System*, Katherine Stuart van Wormer and Clemens Bartollas explain that “[l]ike battering, the criminal justice system itself can be seen as an instrument of control and one that reflects women’s economic and political station in society” (Stuart van Wormer and Bartollas 2011, 191). According to a 2000 Census of State and Federal Correctional Facilities, a total of 120 privately operated facilities in the United States are authorized to house women, and thirty-seven of these facilities are female-only. (Stuart van Wormer and Bartollas 2011, 129). Kathryn Watterson, author of *Women In Prison: Inside the Concrete Womb*, spent years investigating women in prison and found that, as a male warden told her:

Being in jail is harder on a woman than a man...she comes in here and we undress her and tell her to ‘bend over, lady’ to look for contraband. We make her bathe in front of everyone. Right off that gives them mental problems that are hard to handle. The initial shock is the toughest thing. That sort of thing can break your spirit... (1996, 65).

This lack of privacy that is so traumatizing for women at first is comparable to the deep fear of the risk of sexual violence that men face when entering prison. During an interview with three inmates at the Ohio Reformatory for Women, Tiki, Mary Jo, and Betty discuss the loss of identity incarcerated women feel when entering the system: “You stop seeking things, you stop doing things for yourself, you stop looking for things. You feel nothing’s gonna be all right again” (Watterson 1996, 73).

Moreover, the standards of proper behavior prison officials set for inmates are often very detailed and dictate what a woman should be rather than what she is. This is most likely due to the challenges to gender norms that women’s crimes re-impose, as they often contradict socially constructed ideas of womanhood and femininity in American society. Each institution has standards of proper behavior according to the needs, rules, and expectations of the prison. These standards often do not take into account the different cultures or backgrounds of the women, nor the unique circumstances of their incarceration.

Additionally, the prison systems into which incarcerated women enter are designed for a male inmate population (Stuart van Wormer and Bartollas 2011, 130). Prisons began as a way to control a population of violent male predators, and did so through a military-style system of command; even today, prisons often do not change their masculinized tactics of control for female inmates—even though the population and risk factors are quite different for women and men (Stuart van Wormer 2011, 136). Kathryn Watterson found in her work investigating women in prison that 98% of women incarcerated today will eventually be released—either on parole or after serving their maximum sentence—but that the rate of recidivism is high: formerly incarcerated women have few resources and many no longer have the skills needed to live in society (1996, 204).

Women in Prison in Louisiana

The state of Louisiana has the third highest rate of female imprisonment in the United States with 103 inmates per every 100,000 female residents. Louisiana is also one of five states

in America that have female imprisonment rates of over 100 female prisoners per 100,000 residents, with the other four being Oklahoma, Mississippi, Montana, and Texas (Greene, Pranis, and Frost 2006, 71). In 1977, Louisiana incarcerated 217 female inmates, but by 2004, the number had increased to 2,386. During this time period, the female prison population in Louisiana grew by 1,000%. According to the 2000 Census of State and Federal Correctional Facilities, Louisiana has 17 correctional facilities, 14 of which house male prisoners and three of which house female prisoners. There are no facilities in Louisiana that house both male and female prisoners (Greene, Pranis, and Frost 2006, 71-72).

The Louisiana Correctional Institute for Women (LCIW), one of the three women's correctional facilities in the state, is located in St. Gabriel, Louisiana. The mission of LCIW is "to provide custody, control, care and treatment in a professional manner to adult female offenders through enforcement of the laws and management of programs designed to ensure the safety of the public, employees and inmates and reintegrate offenders into society" ("Louisiana Correctional Institute for Women").

Battered Women Who Kill

Compared to the total yearly number of battered women in the United States, the percentage who kill their abusers is very small (Goodmark 2006, 59). When battered women do kill their partner, it is out of self-defense: they encounter situations where they have to kill their abuser to survive. Furthermore, many of these women have tried to leave their abuser before. They often remain stuck in an abusive situation, finding resources such as police, courts, and shelters either unavailable or unhelpful in stopping the violence (Goodmark 2006, 14). The majority of women sentenced for the murder of an abuser have previously been failed by the justice system (Buel 2003, 244). The exposure reduction theory supports the idea of women killing for protection, claiming that the mechanisms and resources available for a woman to get away and sever ties with her abuser will spare her from ending up in a situation where she might need to kill (Stuart van Wormer 2011, 245). It can be argued that the exposure reduction theory actually protects the abusers, but the fact that the number of women who were killed by their intimate partners as a result of domestic violence has decreased gives this theory merit.

Goodmark, Osthoff, and Walker all demonstrate that battered women who kill share many characteristics in terms of past experiences and their motivations to murder their abusers. Few battered women who are incarcerated for killing their abuser used violence against abusers in the past and tend not to have criminal records. Most of the women who kill their abuser have been battered for years and finally reach a point where the beating is so bad that she believes that she would be killed if she did not kill first—either because of the intensity of the abuse because of a previous threat made by the abuser (Goodmark 2006, 14). Dr. Lenore Walker, a forensic psychologist who has dedicated her life to help the public better understand the issue of domestic violence, explains that "battered women who kill their abusers do so as a last resort." Sue Osthoff, a lawyer who has represented more than 350 women who have killed their abusers, agrees (Goodmark 2006, 14).

Typically, battered women do not plan their batterer's murder and kill them in midst being attacked, either during the warning phase, the period of time when it becomes apparent that an attack is about to happen, or during the woman's escape attempt (Goodmark 2006, 17). Commonly, battered women kill in the midst of an attack, but when they kill their abuser during a period of peace, such as when he is asleep, it is often in response to a verbal threat the batterer had issued previously (Goodmark 2006, 17).

Domestic Violence and the Law

Federal as well as state statutes cover extensive sets of criminal laws regarding domestic

violence. Barbara Davidson, having experienced the issue of domestic violence and the law firsthand through her work with victims of domestic violence at the Louisiana Correctional Institute for Women, believes that “the problem is not whether or not we have the laws, but whether or not in practice those laws are brought to bear.” In other words, there is a difference between having laws concerning domestic violence on the books and actually putting the laws to action. Many laws in the United States deal with domestic violence when it is brought to court, but whether or not the court, the lawyers, and the jury take the instance of abuse into account is the issue. As many battered women typically kill their spouse while he is asleep or with a weapon (because the spouse is often physically stronger than the victim) the jury often does not believe the exemption for self-defense should apply (Stuart van Wormer and Bartollas 2011, 245).

The goal of the women’s movement of the 1960s and 1970s was to close the gender gap in all aspects of society, including gender equality in sentencing. As a result, equitable mandatory minimum sentences for men and women came into being. Mandatory minimum sentences make a uniform sentence for crimes across the country and remove judicial discretion from sentencing, barring the judge from making a decision based on the details of a crime or the record of the defendant (Goodmark 2006, 49). Before evidence of domestic violence was allowed into the courts, judges were not able to consider the contexts in which battered women killed their abusers and were forced to apply the mandatory minimum sentence for manslaughter or murder, which is 40 years (Goodmark 2006, 49). Though it is required that Justices hear evidence about domestic violence when sentencing battered women who kill, “mandatory minimum sentences, judicial unwillingness to factor abuse into punishment, and fears of widespread retaliation against abusive partners all contribute to the failure to sentence these women in ways commensurate with their crimes” (Goodmark 2006, 61).

The change in Louisiana’s evidence code in 1990 was a watershed moment for the legal handling of domestic violence in the state. An attorney working in the law firm next door to a battered women’s shelter associated with the Battered Women’s Program in Baton Rouge was largely responsible for this change. After working with Barbara where he encountered the evidence code for the first time, this lawyer understood the obstacle the code created for victims of domestic violence. It was time to make a change. Appointed to the bar committee commissioned to rewrite the evidence code in Louisiana, he demonstrated the need to change the code and convinced the rest of the committee to support it. This change in the evidence code allowed evidence of domestic violence to enter the court, greatly altering the way that lawyers dealt with clients convicted for killing their abuser.

Before the change in evidence code in Louisiana, lawyers advised women not to testify in court because excluding evidence as to why they had committed murder would prevent them from receiving a fair trial. With the change in law, however, it was possible for women who killed their abusers to receive a fair trial by allowing them the opportunity to plead self-defense. The plea of self-defense, or using force to protect oneself, is acceptable in court, but poses a problem for women attempting to do so in Louisiana. Although “Louisiana law allows people to step in and use deadly force to defend someone else as long as the victim would have been legally justified in doing so,” the self-defense law and the definition of “justified” is so broad in the state that different courts interpret the law in different ways (“Self Defense Laws” 2008). If Louisiana were to add the provision of “duty to retreat,” which allows the defendant to justify their pleas of self-defense, it would help to clarify the broadness of the self-defense law as well as help defendants make their cases. Leaving this component out of the self-defense plea in Louisiana largely affects the sentences that battered women receive for killing their abuser because they are not allowed legal justification of self-defense; the pleas are simply made and the jury is left to connect the domestic violence to the act of killing. The court system trivializes the issue of domestic violence, making women doubt the effectiveness of the legal remedies

provided to them by the courts (Ptacek 1999).

Clemency in the Justice System

Clemency is the power of a state's governor to reduce the criminal sentence of an incarcerated person. It is a way of alleviating the harsh prison sentences of individuals whose sentence would be different if charged for the same crime today. The clemency process varies by state, but in many states the governor selects a pardon board and a parole board to investigate the petitions for clemency and hold hearings if they deem them necessary to decide whether or not an incarcerated person should be granted clemency (Goldfarb 2005, 28). Only nine states in America provide regularly available pardons to incarcerated citizens today. Of these nine states, four put the decision-making into the hands of independent boards, four require the governor and the pardon board to agree on pardon decisions, and one gives the power to a board of high officials, including the state's governor (Barkow 2009, 154).

In Louisiana, the parole board and the pardon board consist of members that the governor appoints. The pardon board has the ability to shorten the sentence of an inmate, whereas the parole board has the ability to grant parole, which is the completion of a sentence outside of the prison institution ("Louisiana Pardon and Parole Laws" 2010). The parole board hears cases in which the prisoner has served enough time to be eligible for parole, but most women incarcerated for killing their abuser have lengthy sentences making parole impossible. Their only option is to go to the Pardon board to petition for sentence reduction or clemency when they have served enough time to be eligible for a hearing.

The Clemency Movement of the 1990s

According to Phyllis Goldfarb, a professor in Criminal Law at George Washington University, "while the clemency movement ha[d] not concerned itself exclusively with battered women convicted of homicide, these [were] the cases to which the movement devoted its primary attention" (2005, 27). The difficulties that battered women who killed their abuser encountered in receiving fair hearings on self-defense claims sparked a legal reform effort in the 1990s. To address this injustice, women's groups across the United States organized clemency projects to attempt to reduce the sentences that battered women were given in unfair trials. Through these clemency projects, women incarcerated for killing their abusers were able to petition their governor for clemency (Goldfarb 2005, 27). In the early 1990s, clemency projects took place in Maryland, Ohio, Illinois, Massachusetts, Louisiana, California, Kentucky, and many other states. In each clemency project, three main strategies characterized clemency advocates' efforts: 1) bringing the issue of to the attention of the state's governor, 2) helping implement change in legislation regarding domestic violence and 3) making an effort to gain public awareness, support, and empathy for these women who, with the changing laws, did not get a fair, up-to-date trial. The two most well-known and successful clemency projects were in Ohio and Massachusetts.

The state of Ohio passed legislation authorizing expert testimony on battered women's syndrome in 1990. This change in legislation sparked the clemency movement in the state, championed primarily by Governor Richard Celeste and his then-wife, Dagmar. Richard Celeste, an advocate against domestic violence and part of the domestic violence movement, was the governor of Ohio from 1982 to 1990. He and his wife opened up their home for the first women's shelter in Ohio in 1976. When her husband became Governor, Dagmar Celeste, a Dutch Women's Studies major at Capital University in Ohio, started a support group for battered women at the women's prison in Marysville. While facilitating the support group, Mrs. Celeste realized that many of the women in prison were convicted of crimes against

batterers and understood that there was a gap regarding domestic violence in legislation. She brought this to the attention of her husband, and they began the clemency project in Ohio (Goldfarb 2005).

In 1990, the governor's staff educated themselves and the Ohio Parole Board about domestic violence, self-defense, and the trials that women convicted of violence against their batterers had received. That winter, a few weeks before he left office, Governor Celeste granted clemency to 25 women who were serving lengthy sentences for violence against their batterer. According to an article in the *New York Times*, 21 of these women were to be released in early January of 1991, and the remaining four would serve a maximum of two years in prison before their release. As a condition for their release, all of the women were required to do 200 hours of community service related to domestic violence. This was the first mass release of women inmates in the United States (Wilkerson 1990).

Similarly, in Massachusetts, there was the "Framingham Eight." The Framingham Eight was a group of eight inmates in the women's prison in Framingham, Massachusetts in the late 1980s and early 1990s that were all incarcerated for killing their batterers. After meeting in the support group for battered women in the prison and noticing similarities between their experiences, they decided to take on the title and unify as a group. To catch the media's attention, the advocates leading the support group developed a media strategy to gain public understanding of domestic violence and self-defense. By 1991, the issue of domestic violence was widely recognized in the Boston media and linked to the sentences of the women of Framingham Eight (Goldfarb 2005).

The governor of Massachusetts during this time, William Weld, had made efforts to appear "tough on crime." Yet, in 1991, the Massachusetts legislature addressed the problem of legal protection in the state for victims of domestic violence. Governor Weld amended the guidelines for clemency of sentences to include "a history of abuse [that] significantly contributed to...the offense." This was the first official action taken in America to improve battered women's access to clemency, and in response to these changes in legislation, the clemency movement in Massachusetts gained momentum (Goldfarb 2005, 38). Women's advocacy groups recruited attorneys to represent each of the Framingham Eight and in February of 1992, each inmate filed a petition to the governor for clemency. Their petitions detailed their history of abuse and argued that as the laws had changed, they had not received a fair trial. The Advisory Board of Pardons and the Parole Board held hearings for seven of the eight women and, in the end, the governor granted clemency to two of the Framingham Eight.

The Clemency Project in Louisiana¹

Like the clemency projects happening around the nation, advocates in Louisiana saw an opportunity for clemency for battered women and acted on it. In 1990, with the change in the evidence code in Louisiana allowing the use of evidence of domestic violence in trials, the Legal Issues Committee of the Advisory Board in Louisiana decided to take action. They used this evidence code change as leverage to encourage Governor Edwin Edwards to consider clemency for battered women incarcerated for killing their abuser in the Louisiana Correctional Institute for Women. The Advisory Board saw a need to investigate the possible injustices in past convictions and sentences of battered women in the state and to possibly seek "remedial action." The Board looked to the Women's Commission Committee, an organization whose goal is to address the concerns of women in a public forum, to begin this project. Rae Swent, a woman

¹ This account is from a telephone communication with Barbara Davidson, telephone interview, November 3 & 20, 2011.

judge from Alexandria, Louisiana, and a member of the Women's Commission Committee, recruited Barbara Davison to be the "point person on the ground" of the project. Together, they devised the structure of the Louisiana Clemency Project and Barbara, through the connections she made doing weekly support groups with incarcerated battered women, coordinated with the staff at LCIW to grant them permission to work with the women.

During the early 1990s, when an inmate was eligible for a hearing by the pardon board, they were not allowed to come before the board and advocate for themselves. Consequently, people like Barbara who advocated for women, had to take cases in front of the board and explain the situation so that the board could make an informed decision. The goal of the coordinators of the Louisiana Clemency Project was to convince Governor Edwards to lift the provision of time that women had to serve before being able to petition the Pardon Board for a hearing of their case. Connie Khoury, the governor's Executive Counsel, was an ally of the Project and the one to whom this request went before falling on the governor's desk. She was considered to be approachable by the coordinators of the project and potentially someone who would support their cause. With Khoury as a possible ally in the governor's office, the warden, deputy warden and staff of LCIW, as well as Barbara and the Louisiana Clemency Project Coordinators, identified all of the women at LCIW that were convicted for homicide. The Louisiana Clemency Project Coordinators consisted of legal volunteers and advocate volunteers through Barbara's work at the Battered Women's Program and Judge Swent's work with the Bar Association. Barbara recruited crisis line volunteers who were skilled in interviewing battered women, and the lawyers and other clerks joined the project through Judge Swent's appeal to the American Bar Association.

After identifying the women who may have been eligible for clemency, a survey was then sent out to each woman to gain further information. The survey asked four questions: (1) the specifics of her criminal charge, (2) how long her sentence was and how much time she had already served, (3) whether or not she believed her actions were a result, (4) and her relationship to the victim of her charge. From these surveys, the project coordinators determined that 53 incarcerated women who took the survey met the Project's criteria, which included a history of domestic violence with the deceased and a lengthy sentence for a homicide charge. From there, a team of two project coordinators who were trained and experienced domestic violence workers or legal volunteers conducted the interviews to review a woman's case and gather information. The interviews were recorded and afterwards, the coordinators would separately write up the impression they got from the interviewee and whether or not they thought the woman was eligible to be part of the Clemency Project. After Barbara created a file for each woman with the details her case, the tape and write-ups of her interview, and letters of testimony from family members, a committee made up of three defense and prosecution attorneys went through each woman's file. From this information, the committee made recommendations for inclusion of women into the clemency project based on whom they thought had the best chance of being granted clemency.

The Project's Review Committee chose 16 of the 53 women interviewed for participation in the clemency process and turned 16 petitions into the pardon board for clemency consideration. The Project Coordinators were asking the governor to instruct his pardon board to waive the waiting period so these cases could be heard as a group, petitioning for a chance to put the 16 cases before the board in the context of the change in the evidence code. When each of these 16 women originally went to trial, they were not able to bring in police reports, hospital reports, or evidence of their abuse because the victim was dead. Most of the women in the Project, as well as most women incarcerated for killing their abusers, had received lengthy

sentences as a result of a plea bargain because their lawyer had advised them against a trial. Their lawyers knew that they would not be able to bring in the evidence for defense and would then receive a sentence of second-degree murder and life in prison. The lawyers suggested that the defendant takes the plea agreement, changing the sentence from second-degree murder—a life sentence—to manslaughter, which was a sentence of 21 years.

If Governor Edwards had signed off on the project and had agreed for all 16 cases to be heard, the project coordinators would have gone before the board 16 times for 16 separate hearings to ask the board to consider sentence reductions. Unfortunately, Governor Edwards did not sign off on this project before he went out of office, taking away Barbara and the other coordinators' hopes for the success of the Louisiana Clemency Project and their one chance to help these women. The governor who took over office, Bobby Jindal, is a "law and order Republican" who made it clear in his campaign that he wanted to be tough on crime and was not going to grant clemency to anyone.

After the failure of the Louisiana Clemency Project, Barbara hoped and believed that once attorneys put the change in the evidence code to use, women who had murdered their abusers would have a chance for a strong defense and would serve shorter prison sentences. It took a while for attorneys to become aware of this evidence code change, but once they recognized the change in legislation, fewer battered women went to jail for lengthy sentences. These women now had the ability to provide evidence in court, and domestic violence workers received more calls for expert witness testimonies to educate judges and jurors about women on trial for the death of their abuser.

As recorded in 2008, state government offices do not grant clemency. In recent years, only a few state governors have exercised clemency, and most have rarely used this power, granting clemency sporadically throughout their terms (Barkow 2009, 153). According to Barbara Davidson, in order to have a clemency project, you have to have some sort of legislation to "hang it on." At this moment in time, a political climate that emphasizes a "tough on crime" attitude has stalled clemency. After the outcome of the Louisiana Clemency Project, Barbara lost hope for clemency in Louisiana, claiming "that was our moment in time and it passed." Barbara is now working as a Court and Community Liaison for the Louisiana Protective Order Registry. She believes that the time for a successful clemency movement in the United States has passed and chooses to advocate for victims of domestic violence in a different way. But is there really no hope for the battered women that are still behind bars for killing their abuser in the act of self-defense?

In 1987, Shannon Booker met José and began a nice, safe relationship. But after six months, he started abusing her. He punched her in the face, beat her with any object he could find, threw her down the stairs, and even stomped on her. She was hospitalized several times over the course of their relationship, but coming from an abusive background, she accepted it. One night, when she had finally had enough and was trying to pack her belongings and leave, José told her "bitch, before you leave I'm gonna kill you." José had told Shannon he would kill her many times before, but this time there was a different expression on his face. He went downstairs and came back up with a 357 Magnum revolver and placed it into the drawer. Shannon lay on the bed crying and helpless. When he went back downstairs, she took the gun out of the drawer and placed it under the bed, intending to keep it from him, but when he came back upstairs they started fighting. In the midst of the fight, Shannon brought the gun out from under the bed and shot him. After the shot, he threatened to kill her again, but he died soon after. After a lifetime of abuse, Shannon had gotten to the point where she couldn't take anymore. In 1993, during the height of the clemency movement, Shannon Booker was in the midst of serving an 8-15-year sentence for killing her batterer (Lazarus and Wunderlich 1994). Shannon killed to

protect herself. If she had not used the gun to kill Jose, he would have used the gun to kill her.

In order to revitalize the clemency movement in the United States, there needs to be an end to mandatory minimum sentences and a return to an individualized approach to justice that provides women with an opportunity to be tried on their individual experiences rather on a general charge of murder (Stuart van Wormer and Bartollas 2011, 399). As clemency is granted more often when states use independent pardon boards separate from the governor so change in the structure of pardon boards—placing experts who can evaluate future risks of offending on the board, but also prosecutors and representatives of victims right groups—could put the process of clemency into motion (Barkow 2009, 155). These changes may only produce modest improvements at first, but as attorneys begin to petition for clemency and states begin to grant it, more and more cases will be evaluated and clemency will become a regular practice in society today (Barkow 2009, 158). Like advocates did during the clemency movement in Ohio, advocates today must help create a climate more favorable to clemency by framing issues in terms that authorities are more likely to understand and accept. During periods of time that are not ideal to movement goals, like today, activists need to identify strategies and tactics that are more likely to result in change and the achievement and movement of goals (Gagne 1996, 90).

Barbara claims that the key to a clemency movement is finding legislation to hinge it on. Though there has been a lack of activism for clemency in the last twenty years, laws are still changing that affect the sentence of battered women incarcerated for killing their abuser. For example, as of February 2002, Article 236, Section 20 of Louisiana Criminal Law states that “a homicide is justifiable...when committed in self-defense by one who reasonably believes that [s]he is in imminent danger of losing his[or her] life or receiving great bodily harm and that the killing is necessary to save himself from that danger” (“Self Defense Laws” 2008). If activists can find changes in laws throughout the country like the change in the Louisiana self-defense law, the clemency movement can be revitalized, and women who kill their abuser like Shannon Booker will no longer be punished by the system for defending their lives. Shannon is “the victim. I’ve been victimized by José and now I’m being victimized by the system” (Lazarus and Wunderlich 1994). With the creation of a second-wave clemency movement, women no longer have to be victimized by the system. Barbara is incorrect in saying the time for clemency has passed. This is a new time and there are opportunities to make this change happen. This is not a lost cause. The time for clemency for battered women incarcerated for killing their abusers is now.

References

- Barkow, Rachel E. 2009. "The Politics of Forgiveness: Reconceptualizing Clemency." *Federal Sentencing Reporter* 21 (February): 153-159.
- Buel, Sarah M. 2003. "Effective Assistance of Counsel for Battered Women Defendants." *Harvard Women's Law Journal* 26 (January): 216-350.
- Davidson, Barbara. Personal telephone communication. 20 Nov. 2011.
- Gagne, Patricia. 1996. "Identity, Strategy, and Feminist Politics: Clemency for Battered Women Who Kill" *Social Problems* 43 (February): 77-93.
- Goodmark, Leigh. 2006. "The Punishment of Dixie Shanahan: Is There Justice for Battered Women Who Kill?" *Bepress Legal Series*, Paper 1128.
- Goldfarb, Phyllis. 2005. "Intimacy and Injury: How Law Has Changed for Battered Women." In *The Handbook of Women, Psychology, and the Law* ed. Andrea Barnes. New Jersey: Wiley.
- Greene, Judith, Kevin Pranis, and Natahsa A Frost. 2006. *HARD HIT: The Growth in the Imprisonment of Women, 1977-2004*. Northeastern University: Women's Prison Association.
- Lazarus, Margaret and Renner Wunderlich. 1994. *Defending Our Lives*. Cambridge: Cambridge Documentary Films, Inc.
- "Louisiana Correctional Institute for Women." <http://doc.louisiana.gov/view.php?cat=7&id=44#mission> (Accessed December 10, 2011).
- "Louisiana Pardon and Parole Laws", *US Legal, Inc.* 2010 <http://pardonandparole.uslegal.com/state-pardon-and-parole-laws/louisiana/>
- Ptacek, James 1999. *Battered Women in the Courtroom: The Power of Judicial Responses*. New York: The Maple Press Company.
- "Self Defense Laws." 2008. <http://legalselfdefense.blogspot.com/2008/08/louisiana.html> August 27. (Accessed December 10, 2011).
- Stuart van Wormer, Katherine and Clemens Bartollas. 2011. *Women and the Criminal Justice System*. New Jersey: Pearson Education, Inc.
- Watterson, Kathryn. 1996. *Women In Prison: Inside the Concrete Womb*. Boston: Northeastern University Press.
- Wilkerson, Isabel. 1990. "Clemency Granted to 25 Women Convicted for Assault or

Murder." *The New York Times*. December 22. <http://www.nytimes.com/1990/12/22/us/clemency-granted-to-25-women-convicted-for-assault-or-murder.html?pagewanted=all&src=pm> (Accessed December 1, 2011).