

“So many folks I encountered in prison had this shared baseline of trauma. Everybody had some form of violence and hurt and harm that happened before they got there.”<sup>1</sup>

– Rev. Sharon White-Harrigan, LMSW, Executive Director, Women’s Community Justice Association

## Survivors of intimate partner violence

70-80% of incarcerated women<sup>2</sup>



25% of women in general US population<sup>3</sup>



### A NEW YORK STUDY OF WOMEN IN PRISON FOUND

82%

experienced severe **physical violence and/or sexual abuse** as children

75%

experienced **serious physical violence** by an intimate partner

94%

experienced **sexual and/or physical violence** in their lifetime<sup>4</sup>

### A NATIONAL STUDY OF WOMEN IN JAIL FOUND THAT

60%

experienced **caregiver violence** as children

86%

experienced **sexual violence** in their lifetime

53%

have a **PTSD** diagnosis<sup>5</sup>

“I think for many survivors, including myself, it has taken a long time to even identify as a survivor. You just think this is my way of life.”

– Serena Martin, Executive Director,  
New Hour for Women & Children - Long Island



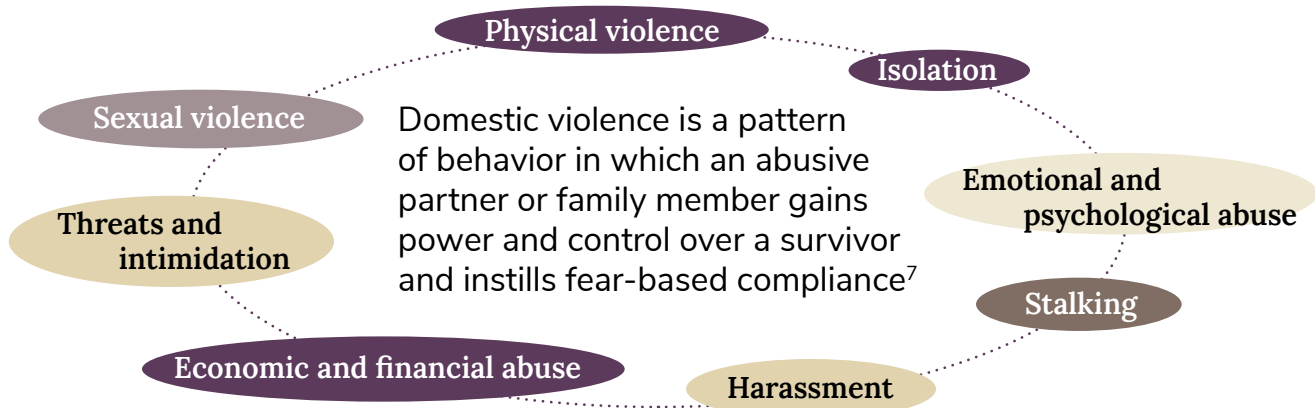
A survey of **incarcerated queer, trans, and gender non-conforming people** found

93%

experienced abuse as children

71%

experienced abuse as adults<sup>6</sup>



## Examples of Psychological Abuse & Other Types of Nonphysical Control

### Intimidation

### Threatening

### Stalking

### Harassment

### Humiliation and name-calling

### Blaming and shaming

### Minimizing the abuse

**Gaslighting**, a form of abuse that causes the survivor to doubt their memories and experiences

**Monitoring and controlling** behaviors and activities (micro-regulation)

**Isolating the survivor** and restricting social interaction and communication

**Economic abuse**, such as denying access to money, stealing money, identity theft, and hiding financial information

**Using children against the survivor**, such as threatening to harm, kidnap, or obtain custody of children, and belittling the survivor in front of children

**Using systems as tools of coercion**, such as filing false police reports and calling children's services or parole

**Prohibiting, removing, or sabotaging** contraception

**Using survivor's personal struggles** against them, such as saying no one will believe them because of substance abuse or criminal history

**Stealing personal information**, such as social security card or birth certificate

**Posting messages, photos or videos** online without consent

## Examples of Physical & Sexual Violence<sup>8</sup>

\*This abuse may or may not leave visible injuries

### Punching

### Kicking

### Slapping

**Throwing** against the wall, on the ground, down the stairs

### Pushing and shoving

### Cutting

### Scratching

### Choking and strangling

### Burning

**Injuring** with weapons

**Confining or imprisoning**, such as locking in a closet or restricting movement to a single room

### Drugging

### Unwanted touching

### Rape

### Forcing sexual acts

**Sexually violating** with objects

**Forcing/coercing** into sex work

### Breaking property

### Punching walls or objects

**Hurting or killing children and loved ones**

**Hurting or killing pets**

## **Domestic violence impacts survivors in many ways.**

How a person experiences and responds to domestic violence is impacted by the nature of the abuse, individual psychological and biological factors, social and family relationships, community context, and larger social injustices like economic inequality, racism, sexism, homophobia, and transphobia.

## Trauma responses to domestic violence often include:<sup>9</sup>

**Hyperarousal:** a physiological fight, flight, or freeze response that a survivor cannot reason themselves out of

**Overactive threat response system** where a survivor remains on high alert even when a threat is not evident in the moment

**Dissociation:** an involuntary disconnection from reality and one's memories, thoughts, and sense of self

**Intrusive thoughts,** memories, flash backs, physical sensations

**Numbing,** amnesia, emotional detachment, and using substances or alcohol to induce numbing

**Changes in cognitive function,** impaired impulse control, and difficulty regulating emotions due to the impact of traumatic brain injuries<sup>10</sup>

**Inability to integrate traumatic memories and experiences** into a coherent narrative of one's own life

**Decreased ability to evaluate the risk** of a given situation or to take risks in day-to-day life

**Lost sense of safety and trust** in the world

**Disconnection** from others and community

**Lost sense of self,** feelings of shame and doubt

**Ruptured sense of continuity** between past and present

**Weakened immune system** and susceptibility to illness

**When the criminal legal system fails to understand trauma responses**, survivors are often disbelieved and misinterpreted to be lying, malingering, and unreliable.

*“At the time, I didn’t see that the verbal abuse was abuse because I wasn’t aware of what emotional abuse was. I thought it had to be physical.”*

– Kisha McCoy, Domestic Violence Survivor & Criminal Justice Advocate

## Many factors impact if and how survivors disclose the abuse they experience

Experiencing **traumatic memory** where the physiological and psychological impacts of abuse cause memories to be:<sup>11</sup>

- Fragmented
- Decontextualized
- Nonlinear or incomplete
- Lacking in detail
- Lapsed or blanked out entirely

**Fear** of the abusive partner or family member’s response if abuse is disclosed

**Shame and stigma** associated with abuse

**Minimizing** the role of abuse

**Lacking trauma-informed, culturally competent spaces** where it feels safe to share

Being **conditioned or coerced** by the abusive partner or family member to **blame themselves** for the abuse

**Protecting** the abusive partner or family member from negative consequences

**Not labeling experiences** as “abuse” and not knowing behaviors “count” as abuse

Police and prosecutor **interrogations** that mimic the power and control dynamics of abuse and lead to inaccurate, incomplete and false confessions

**Not being asked** the right questions

**Lacking service providers** or other support persons who understand trauma and abuse

**Protecting** themselves or their abuser from criminalization or deportation, especially for survivors from communities of color and immigrant communities

Speaking only about **one type of abuse** because that type of abuse is experienced as particularly devastating

Prior **negative encounters with the police**

**A common misconception is that a survivor could have prevented the incident that led to arrest by simply leaving the abusive situation.**

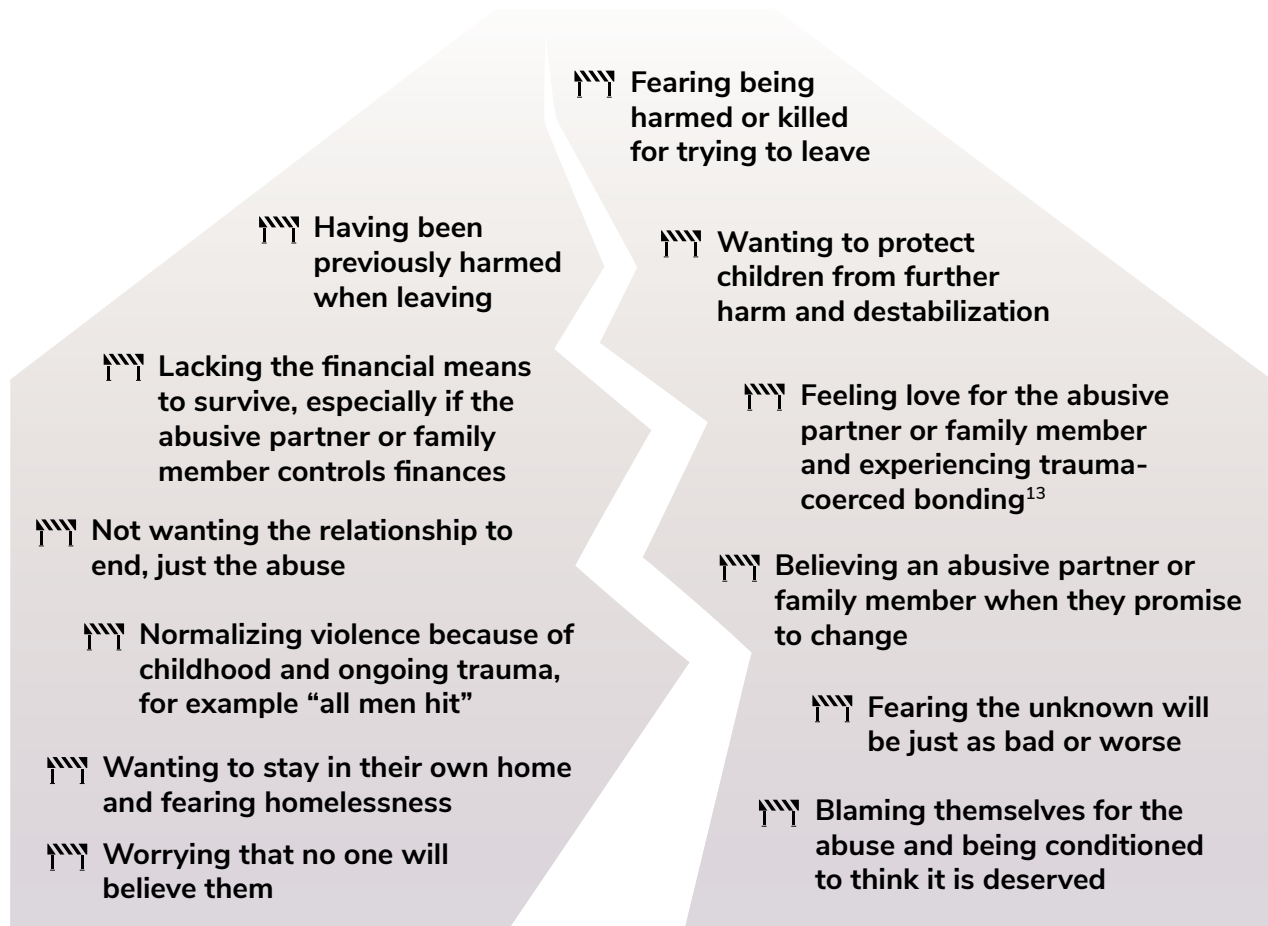
Leaving is often the most dangerous time: survivors are more likely to be killed or severely harmed after leaving or attempting to leave than at any other time.

*“Why don’t you walk away? At that point you’re so beaten down. It’s not even a choice. This is what your life is. You don’t see an option.”*

– Monica Szlekovics, Project Coordinator, Survivors Justice Project

Survivors can recognize an abuser’s demeanor or behavior as threatening even when it is not obviously threatening to an outside observer.

## Why can’t survivors “just leave?”<sup>12</sup>



The criminal legal system often relies on outdated conceptions of domestic violence, and survivors are arrested, prosecuted, and incarcerated for a wide range of situations resulting from the abuse.



## Common ways survivors enter the criminal legal system<sup>14</sup>

**Engaging in illegal acts** to protect and/or provide for themselves and their children

**Participating in a crime** because of coercion or fear of the consequences of refusing to participate

**Accepting blame or confessing to a crime** that someone else committed due to fear or coercion

**Engaging in sex work or being trafficked into commercial sex** leading to an arrest

**Using or selling illegal substances** because of coercion or to cope with abuse

**Being unable to protect children** from abuse (leading to charges such as failure to protect or child endangerment)

**Being arrested after the survivor calls the police** or an abusive partner/family member calls the police in retaliation

**Participating in fraud or theft** to survive and escape violence

**Engaging in illegal behavior because of a trauma response**, for example engaging in a fight because of a perceived threat based on past trauma

Survivors who are Black, Indigenous, and people of color, economically marginalized, immigrants, living with disabilities, and LGBTQIA+ are disproportionately mistreated, disbelieved, criminalized, and punished.

*"Listening to the women I was incarcerated with and understanding how the system fails us, all the abuse that each and every last one of us went through. So many women had just been beat down and broken."*

– Myeshia Hawkins-Taylor,  
Survivor Storyteller & Advocate

**For survivors of domestic violence, the trauma of incarceration can be particularly pronounced** because it recreates and mirrors patterns of coercive control and abuse, and can compound past traumas.

## Constant surveillance and control

- Control over physical movement and daily activities
- Control over belongings, including personal property limits and room searches during which belongings can be ransacked and removed at will
- Monitoring of conversations, mail, and phone calls

## Isolation

- Forced separation from loved ones
- Prohibition of positive physical contact, friendly affection, and consensual intimate relationships between incarcerated people
- Solitary confinement and punitive segregation

## Chaotic, dehumanizing environment

- Unsanitary, crowded living spaces
- Constant noise and disrupted sleep
- Inadequate healthcare and substandard nutrition
- Colorless, bleak, rundown spaces with no warmth
- Lack of trauma responsive programming and mental health support
- Abysmal pay for labor

## Violations of privacy and bodily autonomy

- Strip searches which involve searching a person's naked body, including a visual inspection of the vagina and anus
- Pat frisks which involve a physical pat-down of body, including breasts and between legs
- Inability to perform basic intimate tasks like changing clothes or using the bathroom without possibility of being watched
- Being shackled with handcuffs, leg and waist chains, and other instruments
- Being forced to share personal details with correction staff when seeking medical care, mental health care, and personal care items like sanitary napkins and toilet paper
- Sharing of personal information such as medical and mental health status without permission

## Verbal, physical, and sexual violence

- Verbal abuse and aggression, including name-calling, belittling, shaming, and threats
- Risk of physical abuse, including excessive use of force by correction officers
- Risk of sexual abuse, including forced sexual acts and rape

## Punishment and retribution

- Punitive, arbitrary, and arbitrarily-enforced rules
- Punishment, including solitary confinement, for even minor or manufactured infractions
- Retaliation against people who report abuse and other violations
- Threats of losing "privileges" such as visits and programming

*"Part of the deep harm that incarceration creates is that you literally think that you've been completely vanished, disappeared from the world."*

*– Serena Martin, Executive Director,  
New Hour for Women &  
Children - Long Island*

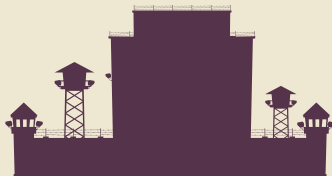
A study of **women in prison** found that in a six month period

**37%**

had experienced both **physical and sexual violence** by staff or other incarcerated people<sup>15</sup>



A survey at New York's maximum-security women's prison found



**74%**

of women had **witnessed** verbal, physical, and/or sexual abuse by staff

**53%**

**experienced** verbal, physical, and/or sexual abuse by staff<sup>16</sup>

Trans, gender non-conforming, and intersex (TGNCI) people experience disproportionate and extreme rates of sexual and other violence in prisons and jails.<sup>17</sup>

A survey of TGNCI people in NYS prisons found



**91%**

had experienced one or more forms of physical assault while incarcerated

**75%**

reported one or more instances of sexual violence by correction officers<sup>18</sup>

Women in prison often face disciplinary action even for minor rule violations including cursing, speaking loudly, or altering clothing<sup>19</sup>



**Most prisons and jails lack gender-specific, trauma-informed programming,** and programming that does exist is often substandard and inadequate.



In 2015, the primary trauma treatment program in New York prisons was **available to only 1% of women in custody.**<sup>20</sup>



## New York's DVSJA was enacted in 2019 after a 10-year Coalition for Women Prisoners campaign led by currently and formerly incarcerated women.<sup>21</sup>

The DVSJA gives judges discretion to sentence domestic violence survivors convicted of crimes related to abuse to significantly shorter prison terms or, in some cases, to community-based alternatives instead of prison.

It also allows incarcerated survivors whose offenses were committed before the law was enacted to apply to the courts for resentencing to come home earlier.<sup>22</sup>

*"It's critical for lawmakers to make these decisions with survivors in mind, and assisted by survivors, because they are the experts on their experiences and everything that they endured."*

– Patrice Smith, Anti-Human Trafficking Advocate & Salesforce Administrator

## Who is eligible for the DVSJA?

For a survivor to be sentenced under the DVSJA, a judge must find that:

1. At the time of the offense, the survivor was a victim of DV subjected to substantial physical, sexual or psychological abuse by:
  - a spouse, former spouse, or a person with whom the survivor had a child
  - an intimate partner regardless of whether the relationship is sexual or whether they live together, or if the relationship is on again/off again
  - someone related by blood (consanguinity) or marriage (affinity)
2. the abuse was a "significant contributing factor" to the crime
3. a sentence under NY's general sentencing laws would be "unduly harsh"



- The DVSJA includes almost all crimes categorized as violent, including robbery, arson, and Murder in the 2<sup>nd</sup> degree (except for subdivision 5).
- Ineligible offenses are: Aggravated Murder, Murder in the 1<sup>st</sup> degree, subdivision 5 of Murder in the 2<sup>nd</sup> degree, terrorism, and sex offenses.
- To be eligible for resentencing, a survivor must be in custody serving a sentence of 8 years or longer for an offense committed before the DVSJA resentencing provisions went into effect on Aug 12, 2019.



## What is the process for applying for relief under the DVSJA?



### Initial sentencing:

Before sentencing, survivor requests a DVSJA sentencing hearing → if approved, DVSJA sentencing hearing is held → judge issues decision about DVSJA applicability and sentences survivor



### Resentencing:

- survivor submits request to original sentencing Court for permission to apply for DVSJA resentencing and requests a lawyer (**no evidence required**)
- if approved, survivor files DVSJA application **with evidence\*** (if denied, can reapply)
- if approved, judge holds resentencing hearing
- after hearing, judge grants or denies new sentence (if denied, can appeal)

**\*This evidence must include** at least 2 documents confirming the abuse. One piece must be an “official document,” such as a sworn statement from a witness to the DV, court record, social services record, hospital record, law enforcement record, order of protection, domestic incident report, or pre-sentence report. Other evidence can include jail or prison records, therapy records, and records of connecting or trying to connect with DV services.

“There’s a dichotomy of victim and perpetrator. You’re either guilty or innocent. Our society can’t seem to hold both. And that’s what our justice system does. It doesn’t allow anyone to hold both.”

– Monica Szlekovics, Project Coordinator, Survivors Justice Project



Download Survivors Justice Project’s DVSJA Resource Guide here:

<https://www.sjpnj.org/dvsja-resource-guide>

Survivors Justice Project collected the following data on DVSJA resentencing.



Courts have granted alternative sentences under the DVSJA to some survivors at the time of sentencing. The total number, however, is unknown because no entity tracks that information.



## As of September 2024

**68**

survivors have been resentenced after filing DVISA applications

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This has saved over

**175**

years of incarceration

including

**16**

potential life sentences

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Had the survivors been originally sentenced under the DVSJA, over

**507**

years of needless prison time would have been avoided.

While this progress is hopeful, some survivors have been denied relief under DVSJA, some are excluded from DVSJA's provisions, and many have yet to apply.

### Of resentenced survivors:

- **61** are women, **7** are men
- **49** are people of color
- **38** were prosecuted in NYC, and **30** were prosecuted in other counties across NYS
- Of the **66** cases that involved a victim, **33** involved a victim who was not the person perpetrating the abuse
- Of the remaining cases **6** involved the homicide of an abusive parent

*"What draws me to being an advocate is going through the DVSJA and being denied and seeing all the women inside who went through domestic violence and the hurt and the pain that we endured."*

— Myeshia Hawkins-Taylor, Survivor, Storyteller & Advocate

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- <sup>1</sup> Federal data on the history of abuse among people in women's prisons and jails are over 20 years old. The true prevalence of incarcerated women's histories of abuse are likely much higher than these government figures indicate, based on nongovernmental studies, the experiences of service providers, and the experiences of currently and formerly incarcerated women themselves. According to government data from 1999, 57% of women in state prison, 40% of women in federal prison, and 48% of women in jail had experienced physical or sexual abuse before their incarceration and 37% of women in state prisons reported having been raped before their incarceration. See: Harlow, Caroline. "Prior Abuse Reported by Inmates and Probationers." Bureau of Justice Statistics, April 1999. <https://bjs.ojp.gov/library/publications/prior-abuse-reported-inmates-and-probationers>
- <sup>2</sup> This figure is based on data from the following sources: Browne, Angela, Brenda Miller, and Eugene Maguin. "Prevalence and Severity of Lifetime Physical and Sexual Victimization among Incarcerated Women." *International Journal of Law and Psychiatry* 22, no. 3–4 (1999): 301–22. [https://doi.org/10.1016/s0160-2527\(99\)00011-4](https://doi.org/10.1016/s0160-2527(99)00011-4) (Hereinafter: Browne, Angela, Brenda Miller, and Eugene Maguin. "Prevalence and Severity.") Dichter, Melissa. "Women's Experiences of Abuse as a Risk Factor for Incarceration: A Research Update." *National Online Resource Center on Violence Against Women*, January 1, 2015. [https://www.researchgate.net/publication/281784283\\_Women's\\_Experiences\\_of\\_Abuse\\_as\\_a\\_Risk\\_Factor\\_for\\_Incarceration\\_A\\_Research\\_Update](https://www.researchgate.net/publication/281784283_Women's_Experiences_of_Abuse_as_a_Risk_Factor_for_Incarceration_A_Research_Update) (Hereinafter: Dichter, Melissa. "Women's Experiences of Abuse.") Lynch, Shannon, Dana DeHart, Joanne Belknap, and Bonnie Green. "Women's Pathways to Jail: The Roles & Intersections of Serious Mental Illness & Trauma." Bureau of Justice Assistance, U.S. Department of Justice, September 2012. [https://www.bja.gov/publications/women\\_pathways\\_to\\_jail.pdf](https://www.bja.gov/publications/women_pathways_to_jail.pdf) (Hereinafter: Lynch, Shannon, et al. "Women's Pathways to Jail.")
- <sup>3</sup> Centers for Disease Control and Prevention. "Fast Facts: Preventing Intimate Partner Violence." Centers for Disease Control and Prevention, last modified October 11, 2022. <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html>
- <sup>4</sup> Browne, Angela, Brenda Miller, and Eugene Maguin. "Prevalence and Severity." Browne, Angela. "Summary: Physical and Sexual Assault Across the Lifespan." Harvard School of Public Health (n.d.).
- <sup>5</sup> Lynch, Shannon, et al. "Women's Pathways to Jail."
- <sup>6</sup> Said, Neda, Sade Lindsay, and Joanne Tien. "Punished by Design: The Criminalization of Trans & Queer Incarcerated Survivors." *Survived & Punished CA*, 2022. [https://survivedandpunished.org/wp-content/uploads/2022/05/PunishedByDesign\\_FINAL-1.pdf](https://survivedandpunished.org/wp-content/uploads/2022/05/PunishedByDesign_FINAL-1.pdf) (Hereinafter: Said, Neda, Sade Lindsay, and Joanne Tien. "Punished by Design.")
- <sup>7</sup> See for example: Center for Family Justice. "Identifying Abuse: Domestic Violence." Center for Family Justice, last modified 2023. <https://centerforfamilyjustice.org/signsofabuse/domestic/> (Hereinafter: Center for Family Justice. "Identifying Abuse.") Domestic Abuse Intervention Programs. "Understanding the Power and Control Wheel." *Domestic Abuse Intervention Programs*, accessed March 12, 2024. <https://www.theduluthmodel.org/wheels/understanding-power-control-wheel/> Stark, Evan. *Coercive Control: How Men Entrap Women in Personal Life*. New York: Oxford University Press, 2007. United Nations. "What Is Domestic Abuse?" United Nations, accessed March 12, 2024. <https://www.un.org/en/coronavirus/what-is-domestic-abuse> (Hereinafter: United Nations. "What Is Domestic Abuse?")
- <sup>8</sup> See for example: Center for Family Justice. "Identifying Abuse." Domestic Violence Intervention Program. "Am I Being Abused?" Domestic Violence Intervention Program, accessed March 25, 2024. <https://dvpiowa.org/resources/am-i-being-abused/> United Nations. "What Is Domestic Abuse?"
- <sup>9</sup> See for example: Herman, Judith. *Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror*. New York, NY: Basic Books, 1997. Poore, Terri, Toby Shulruff, and Kris Bein. "Holistic Healing Services for Survivors." SASP White Paper. National Sexual Assault Coalition Resource Sharing Project, November 2013. <https://resourcesharingproject.org/wp-content/uploads/2021/11/Holistic2BHealing2BSASP2BPaper2BFINAL.pdf> Van der Kolk, Bessel A. *The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma*. New York, NY, US: Viking, 2014. Wilson, Debra Rose. "Stress Management for Adult Survivors of Childhood Sexual Abuse: A Holistic Inquiry." *Western Journal of Nursing Research* 32, no. 1 (February 2010): 103–27. <https://doi.org/10.1177/0193945909343703>
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- <sup>12</sup> See for example: National Coalition Against Domestic Violence. "Why Do Victims Stay?" National Coalition Against Domestic Violence, accessed March 12, 2024. <https://ncadv.org/why-do-victims-stay> National Domestic Violence Hotline. "Why People Stay: It's not as easy as simply walking away." National Domestic Violence Hotline, accessed March 12, 2024. <https://www.thehotline.org/support-others/why-people-stay-in-an-abusive-relationship/>
- <sup>13</sup> "The theory surrounding trauma-coerced bonding posits that victims of abuse can form powerful emotional attachments to their abusers, as a result of a complex interaction of abusive control dynamics, exploitation of power imbalances, and intermittent positive and negative behavior. The attachment is marked by a shift in internal reality, whereby the victim begins to lose her sense of self, adopts the worldview of the abuser, and takes responsibility for the abuse." Raghavan, Chitra, and Kendra Doychak. "Trauma-Coerced Bonding and Victims of Sex Trafficking: Where Do We Go from Here?" *International Journal of Emergency Mental Health and Human Resilience* 17, No.2 (January 2015): 583-587. [https://www.researchgate.net/publication/280206547\\_Trauma-Coerced\\_Bonding\\_and\\_Victims\\_of\\_Sex\\_Trafficking\\_Where\\_Do\\_We\\_Go\\_from\\_Here](https://www.researchgate.net/publication/280206547_Trauma-Coerced_Bonding_and_Victims_of_Sex_Trafficking_Where_Do_We_Go_from_Here)
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<sup>18</sup> Sylvia Rivera Law Project and TakeRoot Justice. "It's Still War in Here."

<sup>19</sup> For example, "Women are more likely to be written up for a prison rule violation in the past year (58%), particularly for "minor" rule violations." Kajstura, A. & Sawyer, W. "Women's Mass Incarceration: The Whole Pie 2023." *Prison Policy Initiative*, 2023. <https://www.prisonpolicy.org/reports/pie2023women.html>

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<sup>20</sup> Women in Prison Project. "Reproductive Injustice."

<sup>21</sup> The DVSJA campaign was coordinated by the Coalition for Women Prisoners, a statewide alliance launched by the Correctional Association of New York's Women in Prison Project in 1994. After 27 years, the Coalition sunsetted in 2021.

<sup>22</sup> See N.Y. PENAL L. § 60.12 and N.Y. CRIM. PROC. L. § 440.47



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