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“The law doesn’t get you there”: A comparative study of legal abuse and coercive control law implementation in Arizona and Connecticut

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Master Thesis (SOLM02)
Spring 2025



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Acknowledgements

First and foremost, I would like to thank my participants, especially those with lived experience with legal abuse, for speaking to me and sharing their knowledge. I further extend this thank you to all who advocate for survivors of domestic violence, professionally or in their personal lives.

I also want to thank my support system, my friends and family in Lund and the United States, for keeping me sane and inspiring me. To my wonderful partner, thank you for providing endless support from so many miles away. Thank you to my supervisors for your guidance and encouragement as I navigated the research process.

And finally, on a personal note, I would like to thank the survivors who shared their lives with me as a Legal Advocate. Thank you for the trust and patience. It is because of this experience that I wrote this thesis.

Abstract

Legal abuse is an underrecognized form of domestic violence and coercive control in the legal system, with laws recognizing its proliferation only recently being sparsely enacted. At the same time, the conversation about coercive control as a form of domestic violence has been rising both domestically and internationally. This exploratory, qualitative study endeavors to understand if that rising conversation, and the new laws implemented as a result, could impact the decisions made by legal street-level bureaucrats (SLBs) in response to legal abuse. It further assesses how laws impact whether legal SLBs identify survivors of domestic violence as victims in these cases. In recognition of Lipsky's (2010) theory of street-level bureaucracy, this project focuses on legal SLBs as the primary enactors of laws in order to assess policy efficacy and implementation. Using Christie's (2018) theory of the ideal victim, it examines how legal SLBs decision-making reveals the construction of the survivor both institutionally and individually in relation to legal abuse. Consistent with the bottom-up approach to bureaucratic legal policy, this study shows how legal frameworks are often not enough to change the ways that legal SLBs make decisions. Instead, legal SLBs continue to rely on existing institutional, personal, and gender biases with a bias against identifying domestic violence survivors as ideal victims because the interpersonal nature of the abuse.

Keywords: coercive control, domestic violence, legal abuse, abusive litigation, street level bureaucrats, ideal victim, Arizona, Connecticut

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1. Introduction

In recent years, the international domestic violence movement has pushed for recognition of coercive control as a form of abuse. Coercive control refers to the pattern of behaviors that restrict the autonomy and freedom of the survivor and is often associated with the non-physical dynamic of abusive relationships (Stark, 2024). Outside of the United States, the push has resulted in a criminal charge for the “act” of coercive control, while, in the United States, a few states have included it in the civil code definition of domestic violence (Walklate and Fitz-Gibbon, 2019; Garrett, 2023). Meanwhile, an underrepresented tactic of coercive control is legal abuse. This refers to the use of the legal system in order to extend control over a survivor, often in a post-separation context. Although there is a common misconception that separation ends abuse, statistics show that exiting an abusive relationship is the most dangerous time for a survivor (Duggan, 2018). In the case of legal abuse, abusers file repeated, baseless motions in family court, petition for mutual restraining orders, and make false police reports in order to use the legal system to further control, isolate, and abuse their partner who may be trying to leave (Przekop, 2011; Dichter, 2013; Durfee and Goodmark, 2021). Studies have also shown that legal decision-makers, namely judges, are unwilling and unlikely to sanction, or even recognize, this use of the legal system as an act of domestic violence, instead prioritizing the right to access the courts over the safety and empowerment of the survivor (Przekop, 2011; Ward, 2015).

As a former professional working with survivors of domestic violence engaged in the legal system, I sought to understand whether changes to the legal framework, and recognition of the coercive elements of domestic violence, affect the decision-making of legal authorities when confronted with cases of legal abuse. Does a more complex legal definition of domestic violence encourage judges and police officers to recognize acts of coercive control in legal spaces? Do states with more robust protections for survivors successfully implement those policies to sanction legal abuse? And finally, how do different legal frameworks impact whether survivors are viewed as victims of abuse by the legal bureaucracy? This thesis endeavors to explore these questions and in doing so gain a greater understanding of how and why legal actors respond to legal abuse and whether legal policy changes challenge greater misconceptions about domestic violence victimhood.

Through the lens of sociology of law, which explores the gap between law and practice, I will examine the implementation of laws using the bottom-up approach of assessing bureaucrats with decision-making power in the legal system, termed “legal street-level bureaucrats” (Lipsky, 2010; *see also* A Note on Language, Theory). I will use Christie’s (2018) construction of the “ideal victim” to understand when legal street-level bureaucrats identify the survivor as a victim of legal abuse. I will examine two state contexts, one with codified coercive control policies and one without, to examine how different frameworks affect how the legal street-level bureaucrat understands domestic violence, identifies the victim, and how likely they are to sanction legal abuse. The themes that develop from this study will demonstrate how legal changes are limited in their ability to impact the existing decision-making practices of legal street-level bureaucrats and are unable to fully challenge biases about survivors of domestic violence.

1.1 Research Questions

Through a case-oriented comparison I will ask key informants from within the domestic violence field how they see legal street-level bureaucrats respond to legal abuse. I will aim to answer the following research questions:

What do the experiences of domestic violence attorneys and advocates reveal about how different legal frameworks affect legal street-level bureaucrats’ decision-making when responding to legal abuse?

How does variation in legislation, including the codification of coercive control, affect legal street-level bureaucrats’ identification of survivors of domestic violence as victims in these cases?

1.2 Limitations

As an exploratory study, this project does not endeavor to show causation or provide explanation for its findings. Arizona and Connecticut have a variety of differences in addition to their different legal frameworks, which includes demographic and political differences, which could account for the different experiences described by participants. As the study was limited in scope, it is primarily applicable as a qualitative exploration of the way that legal street-level bureaucrats react to and sanction legal abuse in each context. Participants

identified certain identities that impacted the occurrence of legal abuse, such as wealth, language, and mental health. While I have made the effort to incorporate intersectionality into my study and analysis, these themes were beyond the scope of this research paper and could be explored more in future research. Finally, the study did not speak directly with survivors impacted, thus interpreting their experiences through a secondary source. This enabled an ethical approach to the research study but does limit the findings.

1.3 A Note on Language

I will use the term “legal street-level bureaucrats” or legal SLBs to refer to civil servants with decision-making power within the legal system, primarily judges in family, criminal, and protective order courts, as well as police officers and prosecutors (*see also* Theory). Lipsky’s (2010) theory of the street-level bureaucrat refers to civil servants who implement laws and policies through government bodies. The legal SLBs examined in this project are civil servants who are endowed with the responsibility to enact legislation and carry out policy in legal spaces that regularly interact with, and make legal decisions regarding, survivors of domestic violence. Thus, the legal SLBs are differentiated from social workers and other civil servants who make policy decisions outside of legal spaces.

Additionally, I will primarily use the term “survivor” to refer to those harmed by domestic violence. This term is preferred in domestic violence advocacy spaces as it emphasizes the resilience and empowerment of persons experiencing abuse (The Second Step, n.d.; Women Against Abuse, n.d.). I will use the term to refer to someone regardless of whether they remain in the relationship or have been out of contact with the abusive person for many years as a recognition of the non-linear nature of abuse and healing. However, survivor will be used interchangeably with victim as this is used in Christie’s (2018) ideal victim theory and in legal settings. The abusive person will be identified by terms such as perpetrator, offender, and abuser as all terms are used within theory, law, and among survivors with no clear preference. I will also use the term domestic violence, though this study is regarding the experience of domestic violence within an intimate partner relationship and does not delve into the experience of wider family violence.

Finally, although there are a significant number of men and gender non-conforming individuals who experience domestic violence, this thesis will refer to the survivor using

she/her pronouns. This is both for simplicity and as a recognition that domestic violence predominantly and overwhelmingly impacts female-identifying people (Fanslow *et al.*, 2023). The same will be true of using he/him pronouns for abusers, as once again the predominant gender of the abusive person is male (Johnson, 2005).

2. Background and Literature Review

As the conversation around both coercive control and legal abuse has grown internationally, there is a wide breadth of research on these topics. I will use this literature to define legal abuse and explain how perpetrators enact control through the legal system, review what remedies are available to legal SLBs and whether they are used, and discuss how coercive control has entered the legal sphere internationally as it is codified criminally and civilly. I will then discuss what the predominant literature says and where my research will fill a gap.

In order to conduct my literature review I used Google Scholar, HEINOnline, and EBSCOHost. I used the search terms “legal abuse”, “legal systems abuse”, and “abusive litigation” to locate research about legal abuse. I also used all international terms used to refer to domestic violence, including “domestic violence”, “intimate partner violence”, “domestic abuse” and simply, “coercive control,” as terminology varies from country to country. I searched for articles regarding custody court abuse, retaliatory or mutual orders of protection, and criminalization of survivors and mandatory arrest policies to ensure I gathered research that touched on the subject of legal abuse even if it wasn’t the main topic. I further expanded my research into articles examining the legal system’s approach to domestic violence in order to better understand the conversation around legal protections and policies outside of the experience of legal abuse. There is research into legal abuse across the Western world (as it is often specifically tied to Western legal systems) with research primarily in the United States, Australia, and New Zealand. There may be more literature in the non-English speaking Western world that cannot be examined due to language. I included international studies as domestic violence is an international phenomenon and the responses from similar legal systems should be used to inform domestic approaches.

2.1 Legal Abuse

There is no consensus on the term for the use of legal systems to extend control and abuse in cases with domestic violence, though there is consensus that this occurs and is a widespread problem. Some researchers focus on the use of documents to overwhelm a survivor through excessive filings, referring to the problem as abusive litigation (Ward, 2015) or procedural stalking and paper abuse (Miller and Smolter, 2011; Durfee and Goodmark, 2021). Australian studies tend to use the term “(legal) systems abuse” to emphasize the use and manipulation of (legal) systems to exert control and threaten or harass a survivor (Douglas, 2018; Reeves, 2020; Reeves *et al.*, 2023). Other studies refrain from clearly labeling the occurrence (DeLeon-Granados *et al.*, 2006) or simply name it as “legal abuse” (Gutowski and Goodman, 2023). Ward (2015) acknowledges this lack of common term as inhibiting survivors from being able to acknowledge the experience as a part of the abuse, seek out remedies and resources, and advocate for higher level systems change.

While there is not a commonly understood definition for the problem, there is a general agreement that legal abuse is the “enactment of coercive control through legal processes” (Gutowski and Goodman, 2023, p. 528; *see also* Douglas, 2018). This can include how perpetrators manipulate legal systems to protect themselves from punishment and gain and maintain power in the intimate partner relationship (DeLeon-Granados *et al.*, 2006, p. 361). Multiple researchers directly recognize legal abuse as a form of coercive control, with specific reference to Evan Stark’s definition (Miller and Smolter, 2011; Elizabeth, 2017; Douglas, 2018). Stark’s 2007 book *Coercive Control: How Men Entrap Women in Personal Life* (recently updated in 2024), popularized the term “coercive control,” though the concept has deeper roots. Stark (2024) defines coercion as the “use of force or threats to compel or dispel a particular response” and control as “deprivation, exploitation, and command that compel obedience indirectly” (p. 283, 284). Together, this amounts to domination by perpetrators of domestic violence and entrapment for the survivors who are targeted. Stark (2024) explains that tactics of coercive control include “monopolizing vital resources, dictating preferred choices, microregulating a partner’s behavior, limiting her options, and depriving her of supports needed to exercise independent judgment” (p. 284). He explains how this amounts to a strategic pattern of behaviors meant to intimidate, isolate, humiliate, exploit and regulate the everyday life of women.

2.1.2 Tactics of Legal Abuse

Frivolous Lawsuits and Deliberate Delays

A common tactic of legal abuse is repeatedly taking the survivor to court and using continuances to keep them engaged in litigation. In doing so, abusers can exhaust a survivor's finances and force direct contact. Even when there might be a protective order in place, legal processes and court appearances offer the opportunity for an abuser to have legally permitted contact with the survivor (Miller and Smolter, 2011; Przekop, 2011; Ward, 2015; Durfee and Goodmark, 2021). Forcing contact is a way that abusers can continue to traumatize the survivor and thus prevent them from moving on; it also creates opportunities for abusers to further manipulate and intimidate the survivor.

Furthermore, consistent legal action financially burdens the survivor and thus punishes them for leaving the relationship, giving abusers continued influence in survivors' lives (Miller and Smolter, 2011; Ward, 2015). Survivors already struggle with the financial burden of leaving a relationship, but when abusers repeatedly bring them to court the financial burden increases through filing costs and possible attorney fees. This financial burden can be exacerbated by the abusive person requesting multiple continuances, using multiple courts, and reneging on previously agreed upon settlements (Przekop, 2011; Ward, 2015; Douglas, 2018; Gutowski and Goodman, 2023). By forcing the survivor to be in court repeatedly, the perpetrator may make it hard for a survivor to maintain steady work as they must take time off for each appearance. These uses of legal systems are direct examples of intimidation and control, per Stark's (2024) definition.

False Allegations and Playing the Victim

Perpetrators of abuse may make false attacks on the survivor – even claiming they are the victims of the exact abuse they perpetrate – as a way to control the narrative or intimidate the survivor. The false attacks include claiming that the survivor is an unfit or dangerous mother to child protective services and possibly using those reports as evidence in custody proceedings (Ward, 2015; Elizabeth, 2017). Both Clemente *et al.* (2019) and Gutowski and Goodman's (2023) legal abuse scale include a point about abusive persons alleging mental health problems about the survivor in order to challenge their credibility and question their fitness as a parent. This can often lead to forced mental health evaluations (Ward, 2015). It is

also common to allege substance use issues for the same reasons, thus embarrassing the survivor and possibly requiring them to engage in substance testing for court.

False attacks are often discussed in research related to the abusive use of protective orders, sometimes called retaliatory orders. These can be used in order to undermine the survivor's credibility in court and block their access to relief, like access to the shared residence or temporary custody of the children, thus extending their control over the survivor (Durfee and Goodmark, 2021). These orders are used as intimidation, with studies showing that in cases with cross petitions it is common that first filings of protective orders are dismissed at the request of the petitioner, both parties withdraw, or the survivor simply consents to the order against them (Reeves, 2020; Durfee and Goodmark, 2021). Several studies assert that abusers use these orders as evidence in family court to establish themselves as the victim, sometimes at the advice of their attorney (Douglas, 2018; Reeves, 2020). In making these false allegations, abusers frame themselves as the victim and the survivor as the perpetrator (Ward, 2015; Clemente *et al.*, 2019; Durfee and Goodmark, 2021). This is consistent with Stark's (2024) description that "many controlling partners perceive events through a veil of primary narcissism that suggests that they are the real victims, not their partners, and may persist in claiming to be battered themselves, even after being confronted with evidence of the harms they have caused" (p. 308).

Using the stereotype of the weak and innocent survivor next to the irrational and angry abuser, perpetrators of abuse are able to discredit the survivor and make her seem unreasonable and angry to their more compliant and calm demeanor (Przekop, 2011; Dichter, 2013; Ward, 2015). Reeves *et al.* (2023) argues that perpetrators of coercive control are particularly skilled in the manipulation tactics necessary to make "credible" claims of abuse as compared to survivors, whose reports may be more fraught with trauma and thus deemed less credible. De-Leon-Granados *et al.* (2006) reference research done in Tempe, Arizona where they found that police were often manipulated against the victims of domestic violence as perpetrators were able to control the narrative and shift the blame to survivors. This is backed by Dichter (2013) and Hovmand *et al.* (2009) who discuss how abusers are able to present as calm while survivors often deal with memory problems or react strongly to psychological or coercive control behaviors, thus shifting the allegation of criminal behavior to them. Stark (2024) describes this aspect of coercive control, where abusive persons know

not to behave aggressively in front of other people and rely on invisible threats that only a survivor recognizes as intimidation.

Custody Court and Parental Alienation

In literature around legal abuse, custody proceedings emerge as the most common venue for perpetrators to extend control over the survivor. In this way, it becomes a tactic of abuse. It is posited that the proliferation of legal abuse in family court is due to the never-ending nature of these cases which cannot be finalized until the child is an adult. The literature shows that abusive fathers are more than twice as likely to seek sole custody of the children as compared to non-abusive fathers, with Ward (2015) arguing that this statistic shows that abusive persons recognize that “the threat of taking custody of children away from survivors is a highly effective way to coerce and terrorize survivors in litigation” (p. 435). Miller and Smolter (2011) further demonstrate that these threats are often followed by the abusive father getting sole custody when their lawyer is able to argue that the survivor mother is an unfit parent.

One of the proven methods that abusive fathers use to gain custody is through claims that the survivor mother is alienating them from the child. Parental Alienation Syndrome (PAS) is a debunked condition whereby one parent falsely claims abuse in order to alienate the child from the other parent (Meier, 2009). Multiple studies have shown that these claims of parental alienation are successful, with one study by Meier and Dickson (2017) finding that in 72% of cases where PAS was alleged the judge removed the children from the mother in favor of the father. This percentage rose to 100% if the mother claimed that the father was sexually abusing the children. Although official recommendations to judges have advised against PAS claims, it is clear they are still an effective method of legal abuse. Multiple legal abuse studies list the claim of parental alienation by the mother as one of the main methods of legal abuse in family court (Przekop, 2011; Clemente *et al.*, 2019; Gutowski and Goodman, 2023; Quinonez and Kuennen, 2023).

2.1.3 Response by Legal SLBs

Studies further discuss how legal SLBs respond, or do not respond, to legal abuse. They assert that judges have the tools necessary to sanction and restrict perpetrators from using the court system as an extension of their coercive control (Miller and Smolter, 2011; Przekop,

2011; Ward, 2015; Douglas, 2018; Quinonez and Kuennen, 2023). The tools available include vexatious litigation policies, which limit the amount of filings a person can make, and primary aggressor laws, in which police use a broader understanding of domestic violence as a pattern to determine who to arrest. These tools will be examined more in the next section, here I will discuss the literature about how and when actors use these tools.

In relation to primary aggressor laws, several studies have indicated that police are still reluctant to make a call about who is the primary aggressor (Goodmark, 2021). This could be because police often fail to recognize the larger context of abuse when responding to intimate partner violence as they expect to find an innocent and non-violent victim and are not prepared for a more complex coercive controlling dynamic (Dichter, 2013). DeLeon-Granados *et al.* (2006) posit that if the higher arrest rates of women are due to manipulation of the system by male offenders this indicates “a criminal justice system unable, unwilling, or ill prepared [*sic*] to counter the type of exploitation batterers are able to achieve” (p.366).

In civil court, research has found that many judges rely solely on verbal admonishments and are reluctant to take actual legal action (Ward, 2015). This could be because sanctioning legal abuse through vexatious litigation laws would mean restricting the constitutional right to access courts. Thus, judges find themselves stuck between this civil right and their duty to ensure just and fair proceedings, with most judges prioritizing access to the court above all else (Przekop, 2011; Douglas, 2018). Aside from non-action from the judges, many remedies for legal abuse require the survivor to file a new case in another court, adding additional emotional and financial strain (Przekop, 2011).

Most authors link the lack of action from legal SLBs to their failure to recognize coercive control as domestic violence and thereby not view legal abuse as an extension of that violence (Miller and Smolter, 2011; Przekop, 2011; Douglas, 2018; Quinonez and Kuennen, 2023). Miller and Smolter (2011) state that “procedural stalking through a myriad of techniques is routinely overlooked in assessment of victim safety and batterer tactics” (p. 645). This is attributed by them and others to the fact that judicial officers fail to recognize intimate partner violence as a pattern of controlling behaviors rather than as a single violent incident (Douglas, 2018). Authors agree that addressing the problem would require legal SLBs to have a comprehensive view of domestic violence with a recognition that ongoing

actions by the perpetrator should be understood within the wider dynamic of coercive control (Miller and Smolter, 2011; Przekop, 2011).

Another possible reason for the lack of action by legal SLBs could be due to the misconception that separation ends the abuse, reinforced by the domestic violence legal remedies of arrest and protective orders. If judges believe that abuse ends when there is no relationship then they can be blind to legal abuse as a continuation of prior violence in the relationship (Miller and Smolter, 2011). If judges received more training or were pushed to have a comprehensive view of domestic violence, they might know that separation is actually associated with a “diversification of tactics of coercive control,” legal abuse being one of them (Elizabeth, 2017, p. 188).

Researchers also found that the proliferation of legal abuse further emphasizes the lack of communication between and within legal systems. There is a lack of consistent communication between judges across the different courts resulting in judges not considering the full case history when adjudicating cases involving domestic violence (Przekop, 2011; Douglas, 2018). In Australia, where police file protective orders and police prosecutors oversee court cases related to the orders, the prosecutors are not always aware of the history of the case and thus do not recognize mutual protective orders as possibly part of ongoing abuse (Douglas, 2018). As a result of this lack of communication, one of the suggestions for addressing legal abuse is to have a single judicial officer assigned to a case across the legal systems so that they might recognize patterns of abuse in the legal system (Ward, 2015).

2.2 Domestic Violence in the Law

Starting in the 1970s, feminists began advocating for the recognition of domestic violence as a crime, arguing against the delegation as a private matter to be dealt with within the family (Mehrotra *et al.*, 2016). Since the domestic violence movement entered the legal realm, feminist legal theorists and scholars within the domestic violence tradition have been critical of legal intervention as a solution. The most notable criticisms have been related to the criminalization of domestic violence policy, particularly as it essentializes the survivor, ignoring intersectionality and the individual desires of the survivor (Richie, 2000; Goodmark, 2009; Mehrotra *et al.*, 2016). Even when interventions center on family law or protective orders, critics have pointed out that enforcement still relies on police and the criminal justice

system (Durfee and Goodmark, 2021; Goodmark, 2023). Additionally, multiple studies have demonstrated how the legal system is retraumatizing and can lead to adverse mental health consequences, thus challenging policies and legal structures that assume the only way to empower a survivor is through legal means (Katirai, 2020; Cardenas *et al.*, 2024). These, and many other criticisms, demonstrate that the position of feminist legal theorists and other domestic violence advocates is far from singular, often questioning the efficacy of the law in addressing violence. Thus, it is necessary to understand how laws work in practice and expand knowledge to better discover how domestic violence can be addressed and how legal SLBs use the laws available to them.

2.2.1 Coercive Control Laws

Outside of the United States, the movement to recognize coercive control has largely been centered on the criminal justice system. The United Kingdom first criminalized coercive controlling behavior in England and Wales in the 2015 Serious Crimes Act (Garrett, 2023; Gruev-Vintila and Rurka, 2024). Since then, Ireland (2018), Denmark (2019), Northern Ireland (2021), the Australian provinces of New South Wales (2022) and Queensland (2024), Gibraltar (2023), and Belgium (2023) have criminalized coercive control to some extent (Gruev-Vintila and Rurka, 2024). In the United States, Hawai'i is the only state where coercive control is a petty misdemeanor, though criminalization has been proposed in New York, South Carolina, and Washington (Cross, 2022; Garrett, 2023). Instead, the United States trends toward embedding coercive control in the civil court family code definition of domestic violence. Thus, coercive control is not a crime subject to state punishment but is one of the determining factors when the courts make other decisions, primarily related to protective orders and custody (Garrett, 2023). As of now, the following states have clearly defined coercive control laws, either in the statutes for protective orders, family law, or both: Arkansas, California, Connecticut, Hawai'i, Maine, Michigan, Nevada, Oklahoma, and Washington (and Puerto Rico) (Crawford, 2024).

The research conducted about coercive control legislation has understandably been in relation to its criminalization. The criticisms of coercive control criminalization reflect previous scholarly distrust of the criminal justice system, referencing the history of mandatory arrest and no-drop prosecution policies which were historically used to target survivors, with a disproportionate impact on survivors of color (Cross, 2022; Garrett, 2023). Cross (2022)

names this concern regarding the negative impact on marginalized survivors, specifying that controlling behavior is hard to prove in court and thus opens the door for bias in judicial decision-making. In the same vein as legal abuse literature, many domestic violence advocates worry that the criminalization of coercive control will lead perpetrators to manipulate the law, leading to the prosecution of victims (Garrett, 2023). While there are possible benefits to criminalization, such as abuser accountability, the overarching theme is that the criminal justice system is inadequate to address domestic violence because it ignores the structural issues that contribute to its occurrence (Garrett, 2023).

There are also concerns and criticisms of the civil approach to coercive control accountability. A major concern, which echoes the problems of legal abuse researchers, is that judges lack the education and understanding of coercive control and will not use the legislation as intended (Tucker, 2022). In fact, early reports regarding the legislation in California show that survivors believe they are not getting protective orders on the basis of coercive control because the judges are skeptical of their testimonies of abuse (Garrett, 2023). Other concerns include the difficulty of proving coercive control because of the reliance on expert witnesses and complex legal processes – which are often unavailable to survivors – which is consistent with wider criticisms of family court (Tucker, 2022). More broadly, there is a concern about the gendered nature of the definition of coercive control and the potential erasure of male victims (Candela, 2016).

2.2.2 Primary Aggressor Laws

As discussed earlier, the early domestic violence movement emphasized the need for criminalization of domestic violence. However, following criminalization, police were not arresting perpetrators and prosecutors were not charging the offenders (Goodmark, 2021). As a result, in the 1970s, White, wealthy feminists pushed for mandatory arrest laws and no-drop prosecution policies to require the criminal justice system to act in cases of domestic violence (Goodmark, 2021). In the years following the mandatory arrest policies studies emerged showing a significant spike in the arrest of women and dual arrests (Goodmark, 2021). One explanation for this phenomenon, as proposed by researchers, is that abusive partners were able to manipulate police and legal systems to arrest the survivor (DeLeon-Granados *et al.*, 2006). The significant uptick in dual arrests led to the rise in primary aggressor laws which instruct police to determine who is the abusive person and only arrest that person, rather than

the practice of arresting both and letting the courts figure it out later (Goodmark, 2021). In this way, primary aggressor laws aimed to address this facet of legal abuse.

Few studies have examined the efficacy of these primary aggressor laws. One longitudinal study looked at the 10-year impact on the rates of dual and single arrest and found the laws often make police officers more reluctant to make arrests and that the actual reduction in dual arrests was not statistically significant (Hirschel *et al.*, 2021). They also found that the laws had disparate impacts on White and non-White couples and heterosexual versus same-sex couples (Hirschel *et al.*, 2021). Another study examined how police officers made decisions about dual arrests depending on departmental policies, finding that departments without a preference against dual arrest resulted in officers more willing to make dual arrests (Finn *et al.*, 2004). They also found that if the department had primary aggressor policies the police were more likely to arrest the husband only (Finn *et al.*, 2004). The study further found that if both parties were injured then dual arrests were likely to happen, despite police knowing that self-defense is discussed in primary aggressor policies (Finn *et al.*, 2004).

2.2.3 Abusive Litigation Sanctions

Laws that penalize paper abuse related to domestic violence are not common, with only a few states specifying these policies in their legal statutes. As of now, only Tennessee and Washington state have abusive litigant statutes that create prefilings restrictions for litigants found to be abusing the legal system in domestic violence cases (Beeman, 2021). In states where there are no specific policies related to domestic violence, Federal Rule of Civil Procedure 11(b) governs cases with “vexatious litigants.” This rule states that parties filing motions in civil court can be sanctioned if they are found to be submitted with the intent to “harass, cause unnecessary delay, or needlessly increase the cost of litigation.” Fed. R. Civ. P. 11(b). Rule 11 specifies that sanctions can be any directive from the court that is likely to “deter repetition of the conduct or comparable conduct by others similarly situated” and suggests monetary sanctions as well as the possibility of nonmonetary solutions. Fed. R. Civ. P. 11(b). In practice, each state has their own policies for what kind of sanctions are used.

As the laws in Tennessee and Washington are relatively new, 2018 and 2020 respectively, there are not many studies relating to their efficacy. Instead there are a few studies that look at vexatious litigation policies, though they focus on the civil, non-domestic violence realm.

2.3 Gaps in the Literature

As described above, there is extensive literature on the ways that legal abuse occurs and the impact it has on survivors. While the research tends to be siloed and studies often center on one or two venues of legal abuse, many of the findings can be more broadly generalized to legal systems as a whole. However, the research into the decisions made by legal SLBs in response to legal abuse are more limited with researchers tending to allude to the fact that actors have the tools available to sanction abuse though they do not use them. Research tends to talk to survivors directly and conduct more qualitative studies focused on documenting their experiences. Most of the legal abuse literature is focused on custody cases and family law, while there is some that focuses on criminal law and protective orders, though it is not often framed as legal abuse in these cases.

Coercive control policy research is often focused on the criminalization of coercive control with little discussion of the civil code codification of coercive control beyond discussing the possible impacts it might have. This could be due to the more recent nature of this practice. Additionally, coercive control research tends to focus on the acts of coercive control during a relationship but does not focus as much on post-separation coercive control, especially in the case of legal abuse. Aside from coercive control, research into other legal protections related to domestic abuse are more limited with some examination of primary aggressor laws and hardly any that examine abusive litigation laws within the context of domestic violence cases.

Thus, this study aims to fill these gaps and combine the conversations about legal abuse, coercive control legislation, and other legal protections. In this way, it will continue the scholarly practice of questioning the efficacy of legal remedies in responding to domestic violence and legal abuse. It will also examine whether legal changes have an impact on the decision-making of legal SLBs or whether legal changes need to have a wider implementation than changing the legal definition.

3. Theory

In order to answer my research questions, and address the gap in research examining legal street-level bureaucrats, I will situate and identify the legal SLB and the survivor – as understood by the legal SLB – within relevant theory. I will use the theory of the street-level

bureaucrat to identify the motivations, behaviors, and identity of judges and police officers – the legal SLBs – in how they make decisions regarding legal abuse. Data about these motivations are collected through discussions with key informants – advocates and attorneys – about their experiences in court. In order to ensure this theory addresses the gendered dynamic of domestic violence, as discussed previously, I will also explore the gendered biases of the individual legal SLB and within the overall legal institution. In combination with the influence of the street-level bureaucracy on the decisions made by legal SLBs, I will examine how those reactions reproduce or challenge the ideal victim construction of the survivor, with particular emphasis on the legal SLB as the observer. Using these theoretical approaches, I will be able to situate the findings within the larger context of socio-legal, domestic violence, and policy studies.

3.1 The Legal Street-Level Bureaucrat

I developed the term “legal street level bureaucrats” to operationalize Michael Lipsky’s (2010) theory of the street-level bureaucrat within the legal system and refer to legal actors empowered to make discretionary decisions in cases involving survivors of domestic violence. Lipsky’s (2010) theory of public administration takes a bottom-up approach to policy implementation, asserting that policy can most clearly be evaluated through citizen interactions with public service workers. He defines SLBs as “public service workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work” (Lipsky, 2010, p. 3). While this theory has been commonly applied to welfare workers and social workers, Lipsky (2010) explicitly refers to law enforcement, judges, public lawyers, and other court officers as possible SLBs (p. 3). In his book, Lipsky often discusses the police officer or the criminal court judge, but I argue, using theoretical contributions from Biland and Steinmetz (2017), that the family law judge and other legal decision-makers within the family law system can be included in this definition. Biland and Steinmetz (2017) argue that family law judges should be understood to be SLBs because they hold discretionary power and their face-to-face contact with litigants resembles the public encounters with citizens that Lipsky (2010) discusses.

Lipsky’s (2010) theory is relevant to this thesis as he defines SLBs as policy makers. He states that these actors make policy because of their “wide discretion in decisions about citizens” and that “their individual actions add up to agency behavior” (Lipsky, 2010, p. 13).

Lipsky (2010) explains that although public policy is shaped by administrators, legislators, and community norms, which determines the framework of policy choices for SLBs, it is ultimately up to those bureaucrats to decide how those frameworks are applied. This thesis will approach laws as public policy in order to examine legal SLBs as the primary enactors of those policies. Judicial legal SLBs are further empowered to impact policy through case law and legal commentary, giving them authority to determine normative interpretations of policies, unlike other SLBs. Through these discretionary decisions and legal interpretations, the actions of legal SLBs add up to general policy outcomes, which, in the case of domestic violence, are often gendered. Using Durose and Lowndes' (2024) gendered approach to street-level bureaucracy, this thesis will examine these gendered outcomes. Durose and Lowndes (2024) use insights from feminist institutionalism, which studies how institutional rules create gendered power and impact within public policy. They propose three mechanisms by which gendered institutional contexts shape the discretion of SLBs: "first, that SLBs work in gendered institutional contexts that shape their discretion; second, that SLBs are gendered actors, whose discretion is shaped by their own gendered dispositions; third, that the discretion of SLBs has gendered effects" (Durose and Lowndes, 2024, p. 1044). Using these three propositions, this thesis will not only examine the way that judges and other legal SLBs respond to and implement new laws as policies, but also how gender might play a role in that implementation.

In specific discussion of discretionary practices, Lipsky (2010) explains that even with a detailed framework of rules and procedures from administrators, bureaucrats still have to make discretionary calls on what rules to apply. SLBs are, in fact, relied upon to use their specialized expertise to make decisions with relatively little supervision or scrutiny (Lipsky, 2010). Discretion is unlikely to be eliminated from the work of SLBs because they work in situations which are too complicated to be reduced to programmatic functions, requiring response to the human dimension of life and creating legitimacy around how state intervention occurs (Lipsky, 2010, p. 15). In the legal system, judges have the authority to interpret legal statutes where necessary, extending their discretionary mandate. For these reasons, domestic violence laws are especially useful in understanding the legal system as a street-level bureaucracy because they require a high level of discretion and sensitivity from the legal SLBs navigating them. However, in using their discretion, Durose and Lowndes (2024) argue that SLBs open the door to their own gendered bias as well as the broader institutional bias of the bureaucracy.

SLBs are also implicated as policy makers due to their relative autonomy from managerial authority and their ability to use discretion to be non-compliant. Lipsky (2010) explains that when SLBs' disagree with policies, they use their discretionary power to "right" the wrongs of those policies. Non-compliance is also attributed to the large bureaucratic workloads and the coping mechanisms and routines workers develop to streamline their caseloads (Lipsky, 2010). These acts of non-compliance, Lipsky (2010) argues, add up to policy decisions and impact implementation. The legal system, especially the branches that interact directly with citizens, can be seen as a street-level bureaucracy due to its strict timelines and procedures and heavy workloads that rely on the discretionary power of the workers. Thus, legal SLBs are likely to use their own kinds of coping mechanisms to process cases and use their own values as a guide in making decisions. In this way, the decision-making approach and routine practices used by legal SLBs might reveal how they understand victimhood and domestic violence.

3.2 The Ideal Victim

I will use Nils Christie's (2018, *originally published in 1986*) ideal victim theory, accompanied by Bosma *et al.*'s (2018) incorporation of the observer, to examine when legal SLBs recognize survivors as victims, or refuse to acknowledge them as such. Christie (2018) states that the ideal victim is not necessarily the real victim but is the "person or a category of individuals who – when hit by crime – most readily are given the complete and legitimate status of being a victim" (p. 12). Christie (2018) posits five characteristics of a criminal act that produce an ideal victim: the victim is weak, they are engaging in respectable behavior, they are somewhere they cannot be blamed for being, the offender was "big and bad", and the offender had no relationship to the victim (p. 12). In this way, the ideal victim must be produced alongside the ideal offender, both reliant on each other to construct the narrative. The ideal offender is thus defined as an unknown, dangerous person who is defined by his distance to humanity (Christie, 2018, p. 19). Christie (2018) asserts that this definition means that most violent offenders are not identified by the legal system because they are often intimately known to the victim, making them not ideal. This dichotomy of victim/offender is important in assessing how legal SLBs comprehend the more complex dynamics of domestic violence.

Christie (2018) finds other elements of ideal and non-ideal victimhood in how that the victim's voice is heard. He says that to be an ideal victim, you must be powerful enough to make the case known and have your voice heard, but not so strong that you threaten other important interests (Christie, 2018). The paradox of speaking up paired with the possible punishment associated with speaking too loudly is important in assessing how survivors interact with the legal system and how legal SLBs view that interaction. In fact, Christie (2018) states that he is suspicious that domestic violence victims would ever be seen as ideal victims. He says that wives and partners are only recently approaching the status of ideal victims because women can now leave violent relationships and thus can "make the political claim of being real victims" (Christie, 2018, p. 14). However, this comes with the reality that as women gain more independence, they lose the credibility of their victimhood because they are no longer framed as weak and without the possibility of protection (Christie, 2018, p. 15). Christie succinctly states that "with equality, [females] get reduced claims to the status of being a good classical victim" (Christie, 2018, p. 21). This relates to the question of whether more laws can make an impact, or will ultimately be a detriment to the survivor's legal victimhood.

As this study examines the decision-making of the legal SLB, I will complement Christie's (2018) theory through the inclusion of Bosma *et al.*'s (2018) understanding of the observer's biases as integral to identification of the ideal victim/offender. This theoretical contribution questions whether a victim can be identified as ideal solely on the basis of their character traits and relationship to the offender. Instead, they place some emphasis on the role of the observer in determining the "legitimacy" of the victim, especially in terms of how the observer stereotypes in/out groups, identifies moralistic actions, and perceives justice in the world (Bosma *et al.*, 2018). The authors explain that the observer might not identify someone as an ideal victim on the basis of their beliefs about what a just world, and what fairness, looks like and may be influenced by who they consider to be warm and competent and within an in-group (Bosma *et al.*, 2018). These concerns reflect criticisms made by feminist scholars and domestic violence advocates regarding the lack of intersectionality and comprehensive approach to the identification of survivors in the complexity of their experience (Crenshaw, 1991; Richie, 2000). Thus, the incorporation of the observer in the identification of the ideal victim will allow me to more deeply explore the impact of legal SLBs' biases in their decision-making.

4. Methodology

Consistent with other studies on legal abuse, this study will take a qualitative approach to inquiry. As with most elements of social relationships and processes, there is no one way to understand and measure legal abuse. Attempts to make scales and measures have been made (see Douglas, 2018; Clemente *et al.*, 2019; Gutowski and Goodman, 2023), but they focus on assessing survivor's contact with legal abuse and less on legal SLBs identifying that abuse. Using a qualitative method means that this study can engage in exploratory questions of how the legal process works, and how the people who interact with that system interpret their experiences in more contextual and nuanced ways (Mason, 2002). Thus, this study is not seeking to find cause and effect of the laws and their implementation, but rather to understand if increased legal protections and coercive control laws change the approach of legal SLBs to legal abuse. Through the experiences of the practitioners interviewed, I examined what is currently happening in courtrooms in both Arizona and Connecticut to explore what this reveals about legal SLBs and their implementation of legal frameworks in each state. In this way, I employed both the data and the theory in an abductive, dialectical research strategy wherein I moved between data collection, analysis, and theory construction simultaneously in order to produce my findings (Mason, 2002).

4.1 Case-Oriented Comparison

In order to assess the difference in legal protections, I determined that a case-oriented comparative analysis (Della Porta, 2008; *see also* multi-case study in Bryman *et al.*, 2021) was the best approach. This approach understands that comparison does not have to focus on strict judgments about the similarities and differences between two contexts, but can instead focus on improving theory building and in-depth assessment of processes (Della Porta, 2008; Bryman *et al.*, 2021). Thus, this study will not simply look at the differences between Arizona and Connecticut, but will instead look internally to decision-making processes of legal SLBs to deepen the understanding of how law is implemented. The value of this case-oriented approach is that I can create a deeper dialogue between my ideas and data and allow for a nuanced analysis of a deeply complex problem (Della Porta, 2008). The results of my small case comparison will be generalizations that are limited to the cases studied but could be made more widely relevant with further research (Della Porta, 2008).

In order to determine my cases, I assessed what states had codified coercive control in their domestic violence definitions. Then, I narrowed down the cases using the “most different systems” approach, wherein the two cases selected should have the greatest level of difference in their contexts (Della Porta, 2008, p. 215). This eschews historical depth of analysis and instead checks to see if a correlation exists that would exist in any context (Della Porta, 2008). The United States has both a federal and state based legal system. This means that there are overarching rights and policies that come from federal legislation and constitutional protections but the specific implementation of certain laws and the protections the court can offer is decided by state legislators. For this reason, historical analysis may be relevant but is not as crucial to my research as I seek to understand the present-day instances of legal abuse. I selected Arizona and Connecticut because within this wider context they have significant variation in the availability of laws to sanction legal abuse, in addition to the important difference of coercive control within the legal definition of domestic violence. This will be helpful to better understand whether different legal protections, and a more dynamic approach to domestic violence, changes the decision-making of legal SLBs and their view of victimhood.

4.2 Ethical Considerations, Collaboration, and Reflexivity

My interest in this research stems from my own experience working as a Legal Advocate for survivors of domestic violence in Arizona. Due to this professional background, I have previous knowledge of legal abuse and have seen how legal SLBs react to this type of abuse firsthand. As such, I had personal biases which required active reflexivity in data gathering. This insight also influenced the way I conducted the research, primarily the importance I have placed on collaboration and with whom I have collaborated.

In deciding on participants, I determined that it would be unethical to interview survivors as this project did not require ethical review and will not be published. Interviewing survivors would thus violate Swedish Research Council (2017) recommendations to “protect those individuals taking part in the research” as there would be no ethics oversight (p.15). I also wanted to keep in mind the postcolonial and intersectional criticism of social science research as extracting information from a community without returning that information (Esposito and Evans-Winters, 2021). The imbalance of a possibly re-traumatizing extraction to the possible

low return of work remaining unpublished furthered my decision not to speak directly with survivors and shifted my research focus.

Keeping in mind the principle of communalism and the postcolonial imperative for research not to be an extraction exercise, I have engaged in extensive collaboration to develop this study. I seek to engage in what Lundberg (2021) calls “ethico-political research” and produce knowledge with marginalized communities in mind. In her book, *Epistemic Injustice: Power and the Ethics of Knowing*, Miranda Fricker (2007) asserts that knowledge is intertwined with the political and ethical as it interacts with the hierarchy of power in society. As such, I reached out to my former contacts at the Arizona Coalition to End Sexual and Domestic Violence (ACESDV) at the outset of my research to start a conversation about what research might be of use or interest to the organization’s political advocacy. My research topic developed with this conversation in mind. I have continued communication with the organization and plan to present my findings to the organization's Legal Committee Working Group and possibly to a survivor group that does action around family law and legal abuse. These same possibilities for information return have been offered to Connecticut Coalition Against Domestic Violence (CCADV) and have even been requested by some participants. In this way, I hope to engage in continuous knowledge dissemination work and challenge the structures that enable epistemic injustice.

In addition to how the research was constructed, my background has been useful in creating connections with my interview participants, allowing them to talk more freely and in depth about their experiences. In this way, my subjectivity has been “transformed from a problem to an opportunity” (Finlay, 2002, p. 531). I often found that I had my own experiences reflected back to me throughout data collection, while also finding new opinions and approaches to the dilemmas I faced in my time as a practitioner. Thus, I engaged in consistent reflection as I challenged the assumptions I had made.

4.3 Data Collection

4.3.1 Participant Sampling and Recruitment

As this research focuses on the legal SLBs and their responses to legal abuse, I decided to use key informant interviews. Key informant interviews are often used in policy evaluations and allow more in-depth knowledge with fewer participants (Akhter, 2022). They examine

community leaders or professionals who have insider access to the community to be studied (Akhter, 2022). In interviewing key informants rather than legal SLBs directly I could gain better access to the experiences and perspectives of survivors engaged in the legal system rather than relying on the self-reporting of the legal SLBs who engage with them. I determined two groups of key informants: attorneys who represent survivors and advocates who work with survivors in a legal support capacity. Attorneys have the traditional markings of a key informant due to their specialized knowledge and experience with legal structures, enabling them to give informed feedback (Akhter, 2022). However, I included advocates to address feminist criticisms of key informant research as prioritizing certain “elite” knowledge over the knowledge of “ordinary” members of the community (Lokot, 2021). Advocates do not have bar certification but have learned legal systems through their work and often have lower barriers to access for survivors. Thus, they are still valuable experts and informants in the field, though may not be considered key informants per traditional understanding (Lokot, 2021).

In determining eligibility, I required that participants have at least two years of direct experience working with survivors in order to ensure they had a more complete comprehension of domestic violence dynamics and thus were able to recognize legal abuse. Although one element of key informants is impartiality, I believe this experience does not count as a particular bias but in fact is a further element of their knowledge, credibility, and representativeness of survivors (Akhter, 2022). Considering the importance of a diverse sampling (Mason, 2002), I determined that among advocates I would include victim advocates, who work with victims of crime, and lay legal advocates, who work with all types of legal issues. I also included advocates from different agencies and different locations to ensure all populations – rural, suburban or urban – were recognized. For attorneys, I wanted to talk with family law attorneys and public defenders or protective order attorneys. I also wanted to speak with private attorneys and legal aid attorneys to ensure a socioeconomic breadth of clients.

I recruited participants in a variety of ways. Due to my connections in Arizona, I was able to get insider access to contacts and meetings. I attended a Legal Committee meeting facilitated by the Arizona Coalition to End Sexual and Domestic Violence (ACESDV) to explain the research project and ask for attorney and advocate participants. I followed up this request with a one-page description of the project sent to the legal listserv maintained by ACESDV. I

recruited most of my participants for Arizona through these communications. I also reached out directly to a legal aid organization that provides representation for survivors in custody matters and was put in contact with one of their attorneys to interview. For Connecticut, I contacted the Connecticut Coalition Against Domestic Violence (CCADV) to ask about recruiting participants as I did with ACESDV. My initial email resulted in a group of advocates for my focus group, three of whom ended up participating. Unfortunately, the organization did not maintain contact with me beyond this initial assistance, though they did forward my request for attorneys to their own listserv. Fortunately, I had a prominent coercive control expert reach out in relation to the forwarded email from CCADV and direct me to private attorneys who worked in Connecticut and had knowledge about the coercive control law. Aside from this direction, I reached out to the Connecticut Bar Association's Family Law Section, Pro Bono Committee, and Legal Aid and Public Defense Committee to ask for my request to be forwarded to their members. As most responses were from private law attorneys, I also reached out to a domestic violence organization that provides legal services and to be connected to a legal aid attorney.

As a result of this recruitment, I interviewed four domestic violence related attorneys from Arizona and three from Connecticut. Four of the attorneys practiced private family law, though some had done legal aid work in their past, while three were actively working for a legal aid or domestic violence organization to provide representation. For the Arizona focus group, I had four participants, one who was an advocate placed in a court protective order center, one who was in a supervisory lay legal role at a rural community based domestic violence organization, and two who worked with women to assist with legal issues without a domestic violence requirement, though in practice they worked with survivors. For the Connecticut focus group, I had three participants – two who served as victim advocates for criminal court and protective order cases and one who was in a supervisory position and worked with all types of cases. Across all participants, six identified that they had experienced domestic violence in their past and three of those participants specified that they were, or had been, involved in abusive legal matters.

4.3.2 Interviews and Focus Groups

This study utilized semi-structured interviews with focus groups to ensure exploration of consistent themes regarding the research questions while allowing for flexibility related to the

knowledge and ideas that emerge through conversation (Mason, 2002). With attorneys, I used interviews to allow for one-to-one interaction to delve deeper into the specific mechanisms of the court. With advocates, I conducted focus groups to mimic the collaboration that is common within non-profit organizations where advocates often work together to find solutions for their clients and get professional support. There is agreement that what distinguishes a focus group from a group interview is the ability to see interaction between participants, so I thought advocates who already have this basis of interaction would be the best to engage with this method (King *et al.*, 2019; Bryman *et al.*, 2021). As all data would be collected remotely, I limited the size of the focus group to allow for better facilitation and connection.

I held interviews and focus groups over the course of a month. Interviews were around 60 minutes and focus groups were about 120 minutes. I used a semi-structured interview guide for both methods, making slight adjustments throughout per Brinkman and Kvale's (2015) recommendation (*see* Appendix B and C). All interviews and focus groups began with a description of my research topic and a short description of my own background. By describing my own experience as a legal advocate working in the domestic violence field, I was able to build rapport and be seen as an insider to the informants (Akhter, 2022). I further reviewed the consent forms, specifically the right to withdraw at any time and the recording permission (*see* Appendix A). Finally, and most importantly, I emphasized that I understood that the topic was sensitive and that many people coming to this work have their own experience with abuse. I encouraged participants to take space where they needed and let me know if they wanted to end the interview or skip a question.

The flow of the interviews and focus groups were similar in structure. First, I asked participants about their background in the domestic violence and legal field and whether they had any formal training related to coercive control. Then I asked broader questions about the biggest challenges they saw survivors face when engaging with the legal system. This included questions about how legal SLBs understood domestic violence overall. Then, the interviews followed three themes of questions: the weaponization of the legal system; enabling or sanctioning by legal SLBs; and unintended consequences for survivors. These themes covered how legal abuse appeared in their work, how legal SLBs reacted to instances of legal abuse, and whether survivors were ever seen as perpetrators of coercive control or legal abuse. A majority of the time was spent on questions about the actions of legal SLBs,

with more particular questions relating to the possible motivations of their behaviors and their views of survivors depending on the answers given. When conducting data collection with Connecticut participants, I also asked more targeted questions related to the new coercive control law.

4.4 Method of Analysis

I transcribed the data using GoodTape automated transcription before doing a manual check for errors and anonymization. I used Braun and Clarke's (2006) five phase method of thematic analysis with the second phase, consisting of initial coding, done for each state dataset separately, producing two lists of initial codes. I then cross-referenced to find what codes were present in both sets and what were unique to each state. This was done for a more comparative approach to the data so that differences and similarities would be clear in the analysis. After the initial analysis, there were 85 codes for the Arizona dataset and 78 codes for the Connecticut dataset, with 46 overlapping. Next, I operationalized each research question to reduce the code list to those codes that were directly related to the subject of this project, narrowing the total number of codes to 99.

Following this initial round of coding and delimiting, I developed themes through Braun and Clarke's (2006) suggested phase three and four of thematic analysis. Coded data was separated into eight potential themes and then several rounds of analysis were done to hone the data further and ensure that the themes were representative of the data and internally consistent. The themes and sub-themes were further delimited to ensure that they were relevant to the research questions and theoretical framework. As a result, I developed four themes with varying numbers of sub-themes for each. All main themes were present in both datasets to some degree, though several of the sub-themes represent only one, or mostly one, state's data.

5. State Contexts

In order to assess the most different contexts (Della Porta, 2008) I assessed political and legal ideology alongside the codified laws available in each state. In this section I will cover the state legal frameworks as they relate to domestic violence and legal abuse. I will also review the legal ideology of each context using a theory by Daniel Elazar (1966) which posits three

approaches to government intervention and regulation associated with regions in the United States. Although these are typologies, and often based in dominant, or White, conceptions of politics, the reality is that the legal structures emerged from these positions and thus reflect these approaches to political and legal life. These concepts have been shown to be even more present today as the United States continues to become more polarized in political attitude (Fisher, 2016). Caughey and Warshaw (2016) show that throughout the period from 1936 to 2014 the Southern states have become more conservative in policy while the Northeast, Pacific, and Great Lakes have become the most liberal in welfare and social policies. I will use these typologies to give greater context to the political and legal attitudes within each of my cases, and thus to inform the analysis as to what institutional expectations could be experienced by legal SLBs in each state context.

5.1 Arizona

Using Elazar's (1966) typology, Arizona can be classified as a traditionalistic state, often associated with the South and Southwestern regions. Traditionalistic states are ambivalent towards the marketplace or communitarian approach, instead accepting an inevitable hierarchy within society and limiting government involvement in everyday life (Fisher, 2016). Arizona fits this typology as it has an emphasis on less government and is often associated with the Republican Party (Fisher, 2016). Over time, its policies have become more conservative, following the more general swing of other traditionalistic states (Caughey and Warshaw, 2016).

With regard to domestic violence policy, it has recently seen proposed legislation that is framed as protections for victims of domestic violence but that do not have support of domestic violence leaders. In the 2023 legislative session, there was a proposal to have a higher criminal penalty for domestic violence or assault against pregnant women (Sievers, 2023). This was vocally opposed by the Arizona Coalition to End Sexual and Domestic Violence (ACESDV), who criticized the hyper-criminalization of the bill as possibly deterring victims from seeking help and questioned whether the intended outcome of the legislation was actually to establish fetal personhood to restrict abortion rights (Rodriguez, 2023; Sievers, 2023). Additionally, in a conversation with a representative from ACESDV, I was informed that there was a proposal in the 2025 legislative session for financial remuneration to be available when Orders of Protection are successfully contested. The

representative from ACESDV explained this was a proposal framed as a benefit for survivors who might have false orders against them, but that it was developed without consultation from domestic violence advocates and that the organization had concerns about how it might be used against survivors. This information could not be confirmed externally, however. Importantly, coercive control is not codified in Arizona, though there was a proposed bill in 2012 to add it to the family code definition of domestic violence which died in committee (Grado, 2011; LegiScan, 2012).

In Arizona, Orders of Protection are regulated through the Criminal Code. This means that the definition of domestic violence that is used to determine the validity of a petition is the same as the definition used by the criminal justice system. Arizona Revised Statutes (A.R.S.) § 13-3601 establishes that the following crimes, occurring within a qualifying relationship, are domestic violence:

- a dangerous crime against a child;
- homicide;
- assault or aggravated assault;
- threatening or intimidation;
- endangerment;
- custodial interference;
- kidnapping;
- unlawful imprisonment;
- sexual assault;
- unlawful pornography;
- criminal trespass or damage;
- interfering with judicial proceedings;
- disorderly conduct;
- preventing access to phone in an emergency;
- using electronic communication to terrify, intimidate, threaten or harass;
- harassment or aggravated harassment;
- stalking, or;
- emotional abuse of a child or vulnerable adult.

In this definition, the acts that are closest to “coercive control” are threatening and intimidation, unlawful imprisonment, preventing access to a phone, using electronics to terrify, or harassment. While emotional abuse is mentioned, it is only related to the abuse of a vulnerable adult or child, with a vulnerable adult being defined as someone “who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment.” A.R.S. § 13-3623. Even so, this statute defines emotional abuse as “a pattern of

ridiculing or demeaning a vulnerable adult, making derogatory remarks to a vulnerable adult, verbally harassing a vulnerable adult or threatening to inflict physical or emotional harm on a vulnerable adult,” a definition that at least resembles the coercive control definition of a pattern of behavior.

While Arizona’s Family Code also refers to this definition of domestic violence, it specifies the three acts of domestic violence to be considered in custody decisions where there is a rebuttable presumption. These acts are:

1. “Intentionally, knowingly or recklessly causes or attempts to cause sexual assault or serious physical injury.
2. Places a person in reasonable apprehension of imminent serious physical injury to any person.
3. Engages in a pattern of behavior for which a court may issue an ex parte order to protect the other parent who is seeking child custody or to protect the child and the child's siblings.” A.R.S. § 25-403.03.

The rebuttable presumption refers to the fact that judges are not supposed to consider joint custody in cases with significant domestic violence unless the perpetrator has “rebutted” the presumption against joint custody and proven that the domestic violence should not be considered in the determination.

Within the criminal code statute on domestic violence, there is also a reference to dual arrests. The statute states that “in order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence” and that “an act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence” A.R.S. § 13-3601. This vaguely indicates that arrests of both parties are not the default outcome in cases of domestic violence but does not have any specifications of a primary aggressor. In looking at the self-defense statute, physical violence or the threat of physical violence is justified under the law as protection against unlawful physical force. A.R.S. § 13-404. While there is some indication of a policy intended to prevent the police from arresting both parties in cases of domestic violence, there is no guidance; the decision ultimately comes down to the police officer and their individual understanding of the dynamics of domestic violence.

In civil court, Arizona relies on the Fed. R. Civ. P. 11(b) for vexatious litigation claims. However, Arizona’s own statute, A.R.S. § 44-2083, on sanctions for abusive litigation

specifies that the presumed appropriate response to violations of Fed. R. Civ. P. 11(b) should be “an award to the opposing party of reasonable attorney fees and other expenses incurred in the action.” There is no mention of any other restrictions or sanctions that can be applied in these cases.

5.2 Connecticut

Per the typology of Elazar (1966), Connecticut is individualistic but has some moralistic attitudes due to its location in New England, one of the regions typically associated with that political culture (Fisher, 2016). Individualistic culture is most dominant in the mid-Atlantic, Midwest, and Mountain states and is based on a marketplace approach to politics wherein government action should be restricted to what the citizenry demands and should intervene only to encourage private initiative in the community (Fisher, 2016). Meanwhile, moralistic states believe that government and policy is a public good and must promote public welfare (Fisher, 2016). Caughey and Warsaw (2016) demonstrate that Connecticut has been getting more liberal in policy over the years, in parallel to the more conservative swing in Arizona.

This swing may explain the increased protections for survivors of domestic violence, including the recent coercive control law, commonly referred to as Jennifer’s Law. This is in reference to Jennifer Dulos, a Connecticut mother who went missing in 2019 while engaged in custody litigation with her ex-husband for two years (Backus, 2021). She had sought a restraining order against her husband in 2017 but it was denied due to lack of evidence of physical abuse (Backus, 2021). In response to this tragedy, survivors advocated for a change to how coercive control is recognized in court, showing support for Jennifer’s Law in public hearings on the bill (Backus, 2021). Connecticut’s Judicial Branch supported the bill, saying that although the judges are aware through their domestic violence training that domestic violence is more than physical harm, that they are nonetheless unable to grant protective orders on the grounds of emotional abuse alone (Albis, 2020). This support might indicate the internal institutional culture of the legal street-level bureaucracy. The bill had inconsistent support from domestic violence advocates within the movement, resulting in the Connecticut Coalition Against Domestic Violence (CCADV) collaborating with lawmakers to improve the bill that eventually passed (Connecticut House Democrats, 2021).

The bill that passed not only introduced coercive control into the definition of domestic violence used for granting protective orders and in determining custody, it also provided more protections for survivors in these court settings (Connecticut House Democrats, 2021; Kirby, 2023). The resulting Connecticut General Statutes (Conn. Gen. Stat.) § 46b-1 states that:

“‘Coercive control’ includes, but is not limited to, unreasonably engaging in any of the following:

- (A) Isolating the family or household member from friends, relatives or other sources of support;
- (B) Depriving the family or household member of basic necessities;
- (C) Controlling, regulating or monitoring the family or household member's movements, communications, daily behavior, finances, economic resources or access to services;
- (D) Compelling the family or household member by force, threat or intimidation, including, but not limited to, threats based on actual or suspected immigration status, to
 - (i) engage in conduct from which such family or household member has a right to abstain, or
 - (ii) abstain from conduct that such family or household member has a right to pursue;
- (E) Committing or threatening to commit cruelty to animals that intimidates the family or household member; or
- (F) Forced sex acts, or threats of a sexual nature, including, but not limited to, threatened acts of sexual conduct, threats based on a person's sexuality or threats to release sexual images.”

When it comes to the tools available to legal SLBs, Connecticut has a more thorough description of what can be done. Conn. Gen. Stat. § 46b-38b states that in cases where complaints of family violence are made by opposing persons, a police officer is not required to arrest both people. Instead they are to assess the complaints independently and determine the dominant aggressor. The statute clarifies that in making this determination, the officer “shall consider the need to protect victims of domestic violence, whether one person acted in defense of self or a third person, the relative degree of any injury, any threats creating fear of physical injury, and any history of family violence between such persons.” Conn. Gen. Stat. § 46b-38b. If the officer does believe both complaints are valid they will not arrest both people but will submit a report to the state’s attorney about the conduct and incident for further review and advice. Conn. Gen. Stat. § 46b-38b. This second direction is to discourage dual arrests whenever possible.

As for vexatious or abusive litigation policies, Connecticut adheres to the same Fed. R. Civ. P. 11(b) as Arizona. However, Connecticut also has legislation and legal precedent that expands on the Federal Rules. Participants in the study identified case precedent from the 2005 case *Strobel v. Strobel*, a custody case where both parties filed innumerable motions, resulting in the judge declaring all new motions required approval from the court before being entered and considered (FindLaw, 2005). This created precedent within the state for parties to file for “Strobel Orders” to request this treatment from judges. More recently, in 2022, Connecticut implemented a specific protection about abusive litigation in its family code. Conn. Gen. Stat. § 46b-1a, states that in any family relations matter:

“if the court finds that a pattern of frivolous and intentionally fabricated pleadings or motions are filed by one party, the court shall sanction such party in an appropriate manner so as to allow such matter to proceed without undue delay or obstruction by the party filing such pleadings or motions”

This recognizes a pattern of behavior and allows for more flexibility for family court judges in how they can sanction and respond to legal abuse.

6. Findings and Analysis

The themes found describe the legal reality in both state contexts. They capture what domestic violence attorneys and advocates revealed about legal SLBs’ decision-making practices and identification of survivors as victims in cases involving legal abuse, giving insight into how different legal frameworks might impact those experiences. Through the use of Lipsky’s (2010) theory of street-level bureaucracy and Christie’s (2018) theory of the ideal victim, I will demonstrate how legal SLBs are minimally impacted by legal changes and their decision-making is more greatly impacted by institutional and personal biases.

There are four main themes: 6.1 explains how “personal, professional and institutional contexts” (Durose and Lowndes, 2024) result in inconsistent decision-making by legal SLBs; 6.2 uses (gendered) institutional dispositions and non-compliance to examine how legal SLBs use discretionary power to uphold institutional bias against domestic violence; 6.3 applies the ideal victim construction, and the bias of the observer, to demonstrate that legal SLBs do not identify a victim/offender due to the interpersonal nature of domestic violence; and, 6.4 uses

the earlier themes, and participant data, to challenge the space discretionary power leaves for legal SLBs to rely on individual biases.

Below is a table categorizing each participant by state for ease of reading the analysis.

Arizona Participants	Connecticut Participants
Advocate D	Advocate A
Advocate E	Advocate B
Advocate F	Advocate C
Advocate G	Attorney B
Attorney A	Attorney D
Attorney C	Attorney G
Attorney E	
Attorney F	

6.1 Legal SLBs are inconsistent in their decision-making

This theme examines – in both Arizona and Connecticut – participants' statements which revealed that the outcomes of cases were dependent on the legal SLB assigned to the case, reflecting how individual biases and contexts influence policy implementation.

In Arizona, statements like “it’s a roll of the dice” (Advocate E), “it’s different from judge to judge” (Advocate F), and “I wish I knew how the judge would react” (Attorney C) underline how little reliability advocates in the legal system felt towards the internal consistency of judicial rulings. Attorney E stated that another attorney in her practice likes to say that “going to trial is malpractice, the rulings are so wildly different,” indicating the extent to which judicial rulings are dependent on the legal SLB and how that inconsistency could be compared to malpractice in the courts. Advocate E further stated that “every time you involve

somebody, you're taking a risk" in reference to when Court Appointed Advocates or other court affiliated persons are assigned to a case and how it is unclear whether they will adequately recognize dynamics of abuse.

These same statements were mirrored in interviews with Connecticut participants. Attorney G reflected the statement made by Attorney E when she said "one of the things about judges having so much discretion is that when you see different judges throughout a court case, you may get different orders" and thus more clearly tied the reason for the diversity of cases to discretionary power. Attorney B made an even more direct connection to the problem of case dependency as a problem of judicial knowledge, stating "who's the expert in this case? It's the judge." She explained that in a family case related to coercive control, she would be unable to bring experts to inform the judge about dynamics of coercive abuse and instead had to rely on the judge making the ultimate decision of "whether it occurred or not." Advocate C in the focus group reflected these ideas saying that "it depends on the player."

As participants discussed the inconsistency of legal SLBs, they also explained how this creates an inconsistency in court practices. Attorney E (AZ) explained that if she objects to an opposing attorney arguing that domestic violence did not occur because of a lack of physical abuse – using the basis of non-physical abuse being included in the criminal statutes – "if you have a good judge they sustain it if you don't have a good judge they don't." Thus, the rulings about what counts as domestic violence could vary from courtroom to courtroom. Attorney G stated that although Connecticut is a small state, there is no consistency in family law, stating that

even if there's two courthouses in one jurisdiction those two courthouses will still function very differently. The judges will function very differently...I think that's what makes family law a little hard is that it's hard to have consistency because there's so much discretion.

As Attorney G explicitly stated, the individual nature of law implementation can be tied to discretionary power afforded to legal SLBs. Through Durose and Lowndes' (2024) gendered approach to street-level bureaucracy, we can attribute this vast differentiation, at least partially, to the "personal, professional and institutional contexts" that each legal SLB brings with them in making their discretionary decisions (p. 1030). Using this construction as a basis of analysis, three particular contexts were identified: the knowledge and education of the actor; their personal biases; and, their involvement in the details of the case.

6.1.1 Dependent on education and knowledge of domestic violence

Participants from Arizona specified how inconsistently legal SLBs understand domestic violence, with no across the board designation of legal SLBs one way or another. Advocates during the focus group specified that they had judges who understood domestic violence, with Advocate F explaining that in her own case she had one judge who “got it” and that when her clients get assigned that judge she gets “very excited for them because I know that they’re going to be taken care of.” However, there were also examples of legal SLBs misunderstanding domestic violence, and specifically coercive control, with that misunderstanding impacting their ruling. Attorney F detailed how coercive control had been used against survivors in the past,

they'll make a finding that the person does not appear to be coercively controlled, therefore there's no domestic violence. So rather than coercive control being another way to demonstrate domestic violence it's being used as a way to demonstrate there is no domestic violence.

Clearly, coercive control is a term familiar to legal SLBs but it is used to dismiss domestic violence claims. Advocate E also stated that she did not believe that judges understood what coercive control really means. This misunderstanding is also in line with statements that Advocate F and Attorney A made regarding the lack of recognition of post-separation abuse, which is also discussed in the literature about legal abuse (Miller and Smolter, 2011).

While there were some comments from Connecticut participants about judges acting without an understanding of domestic violence, they did not provide the blatant examples that participants gave in the Arizona case. However, Attorney D did explain that in one case a judge told her client, who wanted a modification to parenting time so she could attend her child’s soccer games without the abuser present, that “if you’re so afraid of him, you don’t have to go to the games, I guess.” She specified that, in this instance, the abuser had an active protective order preventing contact. In this example, the misunderstanding of the dynamics of abuse and control is more underhanded than a dismissal of domestic violence altogether, though it still impacts decision-making.

In the case detailed by Attorney D she attributed the lack of knowledge of domestic violence to the fact that it was an “older judge who maybe didn’t have the same education and training.” This call for education and training was present in data from both states, with

participants calling for better, required training for judges who preside over domestic violence cases. Attorney C (AZ) even said “I always feel like it’s my job to educate the judge,” reflecting how much work attorneys have to put into ensuring judges understand the dynamics at play in their cases. Attorney G from Connecticut hopefully remarked that the training of police officers is “better now than it was for the older officers” but that “there’s probably a lot of work to do.” These comments about the need for education corresponds to what Lipsky (2010) problematizes about the assumption that SLBs’ attitudes are the result of prejudices from their personal experience rather than professional, and that it is thus necessary to “provide further education and training” (p. 141). Attorney B also problematized this reliance on training, saying that,

the judges are well trained and very smart and they are charged with applying this law, but applying it and understanding it are two different things. So I think that's the challenge, that they don't understand what it is. They can't get their head around what coercive control is because they've never experienced it. And so it seems kind of like some amorphous weird thing that couldn't happen.

6.1.2 Dependent on personal biases

Although Lipsky (2010) challenged the idea that all biases come from personal experience, Durose and Lowndes (2024) specify the importance of looking at all biases, from professional to personal as they impact the “gendered disposition” of the SLB (p.1030). Using the latter approach to assessing street-level bureaucrats, I found instances where participants in both Arizona and Connecticut referred to the biases they see in legal SLBs, or that they assume must exist. In Arizona, Attorney A and Attorney F explained that they enter courtrooms with the knowledge that the judge themselves might be a perpetrator of domestic violence. Participants from both states reference the idea that the personal experience and values of the judge might impact the way they view domestic violence. Attorney B from Connecticut stated that “if it’s an old school guy, he might side with the old school guy that’s on the stand.” Meanwhile, Attorney E in Arizona said there are judges on the bench who “have a very traditional view of family. And they will essentially minimize a victim’s concerns in order to achieve the result that aligns with their values.” In this way, we can use Durose and Lowndes’ (2024) theory of gendered outcomes to uncover how the gendered personal biases of the legal SLB are impacting policy implementation in each state. Through further application of the ideal victim theory, and its intersection with the observer’s

worldview, we can see that the individual moralistic values of the legal SLB impacts how they qualify the survivor within the case (Bosma et al., 2018).

Within these broader personal biases, professional experiences also impacted what participants saw as creating bias in legal SLB behavior. Advocate E from Arizona stated that she had spoken with law enforcement “who said they took it seriously when there was domestic violence, but their partners would just ridicule— they’d get back to the car, they would ridicule the woman” indicating that even if an officer entered their work without a gendered view of domestic violence, the disposition of other professionals might impact them. Advocate B in Connecticut explained that judicial background also impacted how they ruled, saying that,

We might have judges who are maybe very you know they are civil lawyers and they might think that they have to give that abuser a chance every time they come before the judges. Sometimes if you have a judge who was a prosecutor before that, or a police officer, they're going to be very assertive and very strong. Sometimes you have judges who really think they're doing a good thing by giving abusers a chance, a chance and another chance.

In this case, the decision judges make regarding sanctioning abusers for violating orders may be greatly impacted by their own institutional background and the bias that might come from that, reflecting both Lipsky’s (2010) general understanding of the institution of the street-level bureaucracy and the more individualized approaches enumerated by Durose and Lowndes (2024) and Bosma *et al.* (2018).

6.1.3 Dependent on active involvement in the case

According to Lipsky (2010), the bureaucratic ideal for “impersonal detachment in decision-making,” does not reflect the reality of the SLB as their personal interaction with clients requires them to use discretion and interpersonal contact to make decisions (p. 9). He further explains that “discretion provides opportunity to intervene on behalf of clients...yet at best bureaucracies are highly ambivalent about personalistic service delivery” (p. 23). Through the help of this understanding of bureaucratic roles, I identified instances where participants detailed the level of involvement of legal SLBs and the impact on their decision-making, demonstrating that legal SLBs have the agency to use their discretionary power but are

inconsistent in doing so. In fact, active involvement was often aligned with legal SLBs recognizing and sanctioning legal abuse, or, at the very least, identifying a victim.

When asked why she preferred one judge in her own case involving legal abuse, Advocate F (AZ) described,

she just, she listens. I mean, I've seen judges, I mean, really check out...she really like took the evidence and like pieced it apart and really got clarification, which a lot of judges do not do. And so rather than sitting there with like, I don't know the answer to this question I'm just gonna guess, she just dug in and was part of the case.

This experience of needing a judge to ask questions and engage with the evidence was emphasized throughout the interviews, with Attorney D (CT) saying that the times she saw legal abuse sanctioned were “where there were thoughtful judges who were really paying attention and calling it out.” Ward (2015) also found that “when judicial officers identified the problem-and took action-the situation would improve. The most hopeful message we received from survivors was that when judicial officers ‘get it,’ they can be effective in stopping abusive litigation” (p.457).

One strategy that helped legal SLBs to be fully active in cases and help them identify the victim/offender was collaboration with victim advocates or other victim services personnel. Advocate G detailed how a survivor was contacting police regarding violations of a protective order but was unable to get a police officer to come out and take the report until Advocate G herself called the police. After that, the police responded and the offender was charged with a misdemeanor for the violations. Similarly, Advocate B in Connecticut explained that because of her involvement with the police, the department was diligent in serving a warrant on an offender for five violations of the protective order.

In reference to the problem of lack of engagement in the cases, Attorney D also connected the lack of consistent engagement directly to the bureaucratic nature of the court system. She said she tells clients that “you are going to basically an institution that is sort of like the DMV, but expecting them to delve into...issues involving your children, money and all that stuff.” The DMV, or Department of Motor Vehicles, is an agency that issues vehicle registration and drivers licenses that is commonly associated with inefficient and impersonal bureaucratic systems in the United States. Advocate G further connected the problem of judges not being active in cases to the heavy workload associated with street-level bureaucracies,

these cases, some of these are, you know, years and years of legal stuff, how do you actually get caught up on all these cases when these judges get transferred over to okay now they're not civil, now they're divorced, now they're doing custody stuff. So it's like how much of those do they actually take time to where they're reading it and they're trying to understand what the case is about and how are they ruling? Is it just based off of their performance when they're there that day? Do they even bother to read any of them, especially when they're so like stacks and stacks of, well not stacks but digital, to read. I just don't know how much they're actually aware of how much has been filed with the court.

This also echoes literature that questioned how thoroughly judges considered full case histories in their adjudication of cases (Przekop, 2011; Douglas, 2018).

In response to this workload, it seems that legal SLBs relied on blanket approaches to cases instead of engaging fully in the details of the case. This was particularly discussed in relation to family court and custody disputes where “judges are not supposed to presume 50-50 parenting” but “in practice, they do” (Attorney C). Several participants referred to the “cookie cutter” orders and parenting plan agreements that judges and other attorneys relied on (Attorney E, Attorney G). Advocate E explained that judges default to week on, week off parenting plans even in cases where it was not the norm for the children to have this kind of parent contact prior to the divorce. Attorney G emphasized that this kind of approach,

is very hard for really anybody, but particularly survivors, because their lives are not very, no one fits in a box in general, but I feel like they want, they want everything to kind of be in the same trajectory they want everybody to kind of work—they just want everything to be very, you know, the formalities, right.

Using Lipsky’s (2010) theory of how SLBs have “attachments to modes of practice” as a way to manage their caseloads, we can see that participants are referring to a judicial routine for custody cases (p. 49). This routine approach to cases causes a lack of involvement as legal SLBs avoid engaging in the case to make informed discretionary decisions, leading to them not recognizing ongoing legal abuse.

6.2 Legal SLBs use discretionary power to uphold institutional bias against domestic violence

This theme examines how (gendered) institutional bias leads legal SLBs to use their discretionary power to minimize domestic violence and be non-compliant with the law, thus

not sanctioning legal abuse. Lipsky (2010) says that discretion is necessary in SLB positions because “their tasks call for sensitive observation and judgment” (p. 15). However, Durose and Lowndes (2024) explain that though discretion can be a useful resource in responding to complexity, “complexity in a context of resource constraint can bolster rather than disrupt established norms” and “discretion can be used to conserve entrenched institutional practices” (p. 1043). Through this multi-faceted approach to discretion in street-level bureaucracy, I identified data where participants explained the role of discretion in their cases. I found that discretion often led to suspicion of abuse claims, victim blaming, and caution to sanction or hold offenders accountable and these practices usually amounted to institutional routine. Due to the gendered nature of domestic violence, this routine becomes a gendered institutional disposition.

6.2.1 Domestic violence is minimized

In addition to victim blaming and shaming, participants from both states described how, particularly in family court, claims of abuse are treated with suspicion and hostility by legal SLBs. In Arizona, Attorney A explained that there is a “built-in skepticism of survivors within the court system” and Attorney F said that “if you're making an abuse claim, you're going to be looked upon more harshly. You're not a true victim.” In Connecticut, this suspicion was particularly connected to custody, with Attorney D stating that when survivors make an accusation of abuse the court tends to “assume that the person is making it up to gain leverage in a custody situation.” Attorney G explained that she has to keep this assumption in mind when advising clients about when to file for emergency custody as having any denials can lead the court to “think that you're somehow abusing, as the survivor you're abusing the system.” This is especially interesting as a phenomenon as this tactic of using Orders of Protection in order to get an advantage in family court is detailed as legal abuse in other studies (Douglas, 2018; Reeves, 2020).

Not only are judges suspicious of abuse, participants explained that when they did identify domestic violence, they minimized the role it played. In the case of Arizona, Attorney A said that,

I feel like 30% of the time, like a third of the time, they fail to identify any DV at all. They just don't believe that it's happened. Maybe like 50% of the time I'd say, they

say, okay, there's DV here, but it's not that bad, and they do in some way find the victim at fault.

Attorney F echoed this statement,

they have a lot of discretion, so they won't find significant domestic violence. Or they'll find domestic violence, but say they can communicate. Or, they'll find both parents acted unreasonably. And they'll make something up, or they'll point to something in the record. So they'll use the statutory factors and their discretion to just say it doesn't exist or it's not that bad.

When judges do not find domestic violence to be significant, Advocate E explained, they do not have to consider the domestic violence as a factor in determining custody.

In Connecticut, Attorney G explained similar ways that discretion was used to minimize domestic violence and thus ignore it as a factor in custody decisions. When determining custody, judges use the best interest standard, which lists factors (11 in Arizona, 17 in Connecticut) that judges should use to make their determinations. However, Attorney G explained that,

judges don't have to consider all of those factors. They get to pick and choose. So they have a lot of discretion. And there are favorite ones. And one of the ones that we see a lot in, that's cited a lot in Connecticut, is facilitating a relationship with the other party. And you can get dinged if you're not facilitating that relationship. And survivors a lot of times aren't, don't, the offenders make it hard for survivors to facilitate that relationship. Or they don't want to because they're worried about their child or their own safety.

As a result, domestic violence is not directly dismissed but becomes unimportant when compared to the priority of parental access to the child. Survivor's concerns are not only ignored, but become a threat to their case.

This discretionary practice continued when participants discussed the new coercive control law in Connecticut, which added coercive control as a factor in the best interest standard. In practice, the coercive control standard is not given weight, just as the domestic violence standard was not given weight before. Attorney B stated that judges were unlikely to consider coercive control in custody decisions because they believe that "just because he coercively controlled mom doesn't mean he coercively controlled the children." This reflects the same beliefs that judges have regarding general domestic violence and custody in Arizona.

Advocate E (AZ) said that in her experience judges are “not connecting the dots between domestic violence and child abuse and how it affects the child.” This same attitude seems to remain when it comes to custody decisions with the coercive control statute. Attorney G from Connecticut confirmed Attorney B’s statement, saying “judges that have been around for a long time, because of that discretion, they still have a lot of leeway and they may not even really consider it as a thing that they’re considering.” Attorney B also gave an example of the argument of coercive control not working for a relief from abuse application because the coercive control was done through financial means and the “court didn’t buy the fact that that was domestic abuse.” Through this we can see that even when new rules are added, the institutional culture of skepticism towards abuse claims remains. This corresponds to Durose and Lowndes’ (2024) study of police reactions to a new harassment law, where “the dominant gendered disposition within policing informed attempts to use discretion to marginalise, undermine and resist meaningful adoption of the rule change” (p. 1040).

6.2.4 Legal SLBs resistant to act on legal abuse

Participants also described how legal SLBs were resistant to step out of the institutional discretionary routines to officially hold abuse accountable, which prevented them from sanctioning legal abuse. In the case of Arizona, Attorney A said that survivors are often bounced around legal systems when looking for action on abuse because “nobody seems to want to actually take accountability within the system to...figure out what the problem is and implement some solutions.” Attorney F explained that she had to read an abuser’s texts aloud to a judge in order for him to call the communications abusive. Advocate E, meanwhile, recalled that she had seen judges say they could not put children on an Order of Protection but that “that’s not true. You can put children on it. They don’t like to put children on it.” We can see that judicial opinion about what they are capable of differs from what they are willing to do, causing a degree of non-compliance and resistance to implementing laws accurately. Through Lipsky (2010), we know that this is one vital way that bureaucrats assert their will into policy, indicating that legal SLBs do this even when it is not a matter of discretion but of the law.

In both states, this resistance extended to an unwillingness to sanction legal abuse through the appropriate channels. Attorney B in Connecticut said that although she has asked for Strobel Orders to sanction abuse on numerous occasions, no judge has ever approved them. In

Arizona, in reference to the case where she had to read texts to a judge, Attorney F said that she had to fight to get her client attorney's fees because the judge "didn't want to give any in the beginning. And he told us that before the hearing." She said the judge was only forced to give some attorney's fees, though only \$10,000 when the case cost the client \$60,000, because the opposing side had won none of their requests and thus had an unreasonable position as defined by the law. In this instance the opposing side had claimed that the survivor was mentally unfit and forced her to undergo a mental evaluation, which is a clear example of legal abuse as described in the literature (Ward, 2015; Clemente *et al.*, 2019; Gutowski and Goodman, 2023).

6.3 Legal SLBs do not identify a victim/offender because they are not ideal

This theme pulls from participant experiences of legal SLBs' decision-making to demonstrate that survivors are not identified as victims of legal abuse, and thus not protected, because they are not "ideal." When Christie (2018) developed the theory of the ideal victim he problematized the idea that victims of domestic violence would ever be seen as ideal victims. The main reason being that in the construction of the ideal victim/ideal offender the offender must be "big and bad" and, significantly, be "unknown and in no personal relationship" to the victim (Christie, 2018, p. 12). Using this understanding, I identified that the interpersonal nature of domestic violence means that legal SLBs do not identify survivors as true victims and thus they do not distinguish between victim and offender.

In both states, participants described judges blaming survivors for the choices they made in getting into the relationship with the offender. Advocate E (AZ) recalled judges saying "you picked him, so, you know, deal with it. Now he's the father" while Advocate F (AZ) recounted her own experience with a judge saying "but you were with him and you dated him and you dealt with this for a number of years and X,Y and Z so you obviously were okay with it then." Attorney D (CT) said that she mostly sees this dismissal of victimhood impacting women when they are told "she made a bad choice, you know that it was her choice" and goes on to directly connect these statements to the nature of domestic violence, saying "I think that people still see it as kind of an interpersonal issue." Attorney D also brought up concerns about the fact that this interpersonal view of domestic violence reduces its criminality in the eyes of judges. She questioned why,

if I go down the street and call a stranger a whore and punch them in the throat and spit in their face, my life's going to be different...I'm not going to get a class. But if it's somebody that I have an intimate relationship with or had all of a sudden, it's I have to be educated. I have to get therapy.

Although the reliance on the criminal justice system is heavily criticized within the domestic violence movement (Richie, 2000; Goodmark, 2009), this does bring attention to how changes to the criminal charges might impact the identification of survivors as victims by legal SLBs.

6.3.1 Legal SLB attributes blame to both parties

When legal SLBs did not distinguish between victim/offender in cases with domestic violence, participants described that they resorted to blaming both parties and assuming a mutual abuse dynamic. In Arizona, Attorney E explained that in her own case where she experienced legal abuse, the judge wrote in their order that “two educated people should be able to engage in something other than scorched earth litigation” she explained that “that's how they looked at it. We should just be able to figure it out. We both went to school.” Meanwhile, Advocate F (AZ) explained that “judges see domestic violence sometimes as kids bickering in the back seat and they're the parents that say hey get each to your own side and leave each other alone and then oh problem is solved.” Here we can see that judges misunderstanding domestic violence, and post-separation abuse in particular, impacts how judges interact with survivors. Participants also described that judges used this blame to shame parents and attribute equal blame to each party. Advocate E (AZ) stated that “I had a judge walk into the courtroom and say, oh, look at this...oh, these kids are going to hate both parents” when he encountered a large case file. Attorney D (CT) reflected this sentiment when she described how a judge admonished both parties in a case, saying “you need to love your child more than you hate each other.” It is clear that judges, instead of recognizing one party as the reason for litigation abuse, assume that both parties are equally to blame for the amount of litigation.

Attorney E explained that judges “call it conflict” and that she tells her clients that “if the court just hears noise, they become totally tone deaf” when discussing the phenomenon of dual blame. This is almost a direct repetition of what Christie (2018) says when describing why domestic violence victims do not make good victims: “When the man beat up his wife in my culture, and the police are called in, they called it, until recently, a case of ‘husbråk.’ That

means noise in the house. Noise does not create good victims. Noise is something that needs to be muffled” (p. 14). Using Christie’s (2018) construction, the dual blame identified by participants could be a result of a “cultural heritage of male dominance” where “males – understand the phenomena so extraordinarily well, and because we can get our definition of the situation to be the valid one” (p. 14). In fact, Attorney D reflected this when she said “I think people look at it and they say, well, I’ve yelled at my spouse or I’ve called them names, like, I don’t want to, I get it, right? I think it becomes kind of murky there.” Thus, the ideal victim theory helps us to see that legal SLBs blame both parties when confronted with legal abuse because they cannot distinguish who is a victim and who is an offender.

However, some participants connected the mutual attribution of blame to the desire for judges to be “fair” in their orders. Attorney F stated she believes that,

judges tend to want to take the middle road and be fair. So they want to give a little to the mom, a little to the dad. And in domestic violence cases, the victim is seen as wanting more than his or her share. More than 50%. And so they think, it kind of goes against what they feel their role is, which is equality and equalness.

In this way, we can use Bosma *et al.*’s (2018) addition of the role of the observer in identifying the ideal victim. Here, the decision-making of legal SLBs could be a result of their own view of how justice and fairness should work in their position and, as a result, the judges as the observers avoid making any identification of the survivor as the victim.

6.3.2 Legal SLBs have difficulty seeing dynamics of abuse

This sub-theme is particular to data from Arizona, indicating that the coercive control law in Connecticut may affect how legal SLBs approach domestic violence. In Arizona, participants described how legal SLBs did not see the whole picture of the dynamic between survivor and abuser, so they could not see that legal abuse was part of that dynamic. Attorney E discussed how, in cases where abuser-fathers deny all requests from the survivor-mother related to child care, “all those decisions are going to end up being made by a court and the court’s going to resent that person for filing and they won’t see the larger picture.” Attorney F summarized the approach from legal SLBs to litigation abuse as “they’re looking at it piecemeal rather than on the impact and effect it’s having.” This is consistent with literature which found that legal SLBs saw domestic violence as a single incident and not as a pattern

of coercive control, limiting the actions they took when confronted with legal abuse (Douglas, 2018). Attorney A said that,

you have to find what's going to be the link for the judge that's going to finally get them to understand how it all connects. And you just have to figure out, oh, how does the financial abuse and the draining of the bank account correspond to her needing surgery and she can't get the medical stuff that she needs for surgery. Like you have to find out where the most compelling example is going to be and just present that to the judge rather than trying to present a whole, the whole entire story and dynamic.

This indicates that it is possible to get coercive control behaviors to be seen by the judge, though not by name, but that it has to be presented as incidents rather than as a wider dynamic between the parties.

Attorney F attributed judicial resistance to making clear stances on litigation abuse to the fact that “they have a very difficult time figuring out who's really the perpetrator and who's really the victim.” When applying the ideal victim theory, we know that “offenders that merge with the victims make for bad offenders, just as victims that merge with offenders make for bad victims” (Christie, 2018, p. 18). Thus, this statement indicates that it is more than just the bigger picture of coercive control that legal SLBs cannot see, but that the interpersonal nature of domestic violence blurs the boundaries and makes the dynamic between the victim and offender hard to identify.

6.3.3 The more independent the survivor, the less they are seen as a victim

One of Christie's (2018) core arguments regarding the ideal victim is that an ideal victim is in a subordinate, weak position and that as they gain strength and equality they lose their claim to victimhood in the eyes of others. He says “the more females attain an independent status, the more useful it is for them to claim victim-status, and the more they are listened to. But at the same time: the more they gain independence, materially, the less credibility is given to any claim of victim-status” (p. 15). Bosma *et al.* (2018) furthered this view that “persons initially considered competent but not warm who are victimised...are particularly likely to find themselves shifting towards the contemptuous prejudice category, and hence to be met by contempt or disgust rather than sympathy” (p. 30). Informed by this combined approach to the idealized victim, I found that independence and assertiveness was one of the reasons survivors were not identified as victims by legal SLBs. Interestingly, this particular problem

of identification was primarily discussed by participants from Arizona, with only one relevant data point from Connecticut.

In Arizona, Attorney A explained how assertiveness, and asking for what they need, meant that victims end up on the opposing side to the judge:

a survivor will want to push back on the things that the abuser is doing. But if the court is also going to adopt the suggestions of the abuser, then all of a sudden the survivor can't push back without also looking like she's pushing back against the court and the judge.

Here the survivor is placed in a catch-22 of wanting to bring attention to legal abuse from the abuser but in doing so they can lose the sympathy of the court and be seen as opposing the authority of the judge. Attorney C said this even more clearly, “when victims fight back, the judge doesn't see them as a victim anymore...And I find judges have less, I don't know, they tend to have a harder time figuring out who the problem is.” Once again, the problem with judicial inaction can be connected to the inability of judges to differentiate between the abuser and the survivor.

Attorney E in Arizona also reflected on how a survivor cannot rise to the abuser's level of “nastiness” or they will lose their victim status,

the judge lit into her because this guy constantly violates orders, he just push push push push push and she lost it and sent him a horrible text message...And the judge was like, you two need to get your act together, this is bad for the kids, I've never seen two people who hate each other so much at the expense of the children. And she went on like a 20 minute rant, particularly directed at mom. So mom had one mistake. Dad has this many mistakes, but mom's one mistake is going to count against her more than his 20.

Here, the theme was also reflected in Connecticut, as Attorney B reflected on how victims cannot push back in the relationship itself:

her texts to him, which become evidence, and her emails to him, which are nasty, which become evidence, look like she's, it becomes the victim shaming thing, it looks like she's being unreasonable, she's not being a good co-parent, she's not being you know coming, she's not willing to compromise.

In this way, victims cannot be ideal victims when they are not “warm” or weak but are assertive or react to the abuse (Bosma *et al.*, 2018). Even one mistake can mean that the

survivor is seen in the same position as the abuser, and the abuse is simply a mutual relationship problem. As Christie (2018) says, “she (or sometimes he) must be strong enough to be listened to, or dare to talk. But she (he) must at the very same time be weak enough not to become a threat to other important interests” (p.15). This mimics findings by multiple studies that show how a survivor who is angry or viewed as behaving strongly can result in their misidentification as abusive by police or judges (Hovmand *et al.*, 2009; Przekop, 2011; Dichter, 2013; Ward, 2015).

6.4 The importance of not leaving discretionary space for legal SLBs

This theme pulls from earlier themes, and participant responses, to demonstrate that, contrary to Lipsky’s (2010) assertion, removing space for discretion helps to limit the role of bias in the decisions by legal SLBs, whether that specificity is in the law or made by the legal SLBs themselves. In investigating the reactions of legal SLBs to legal abuse, participants often reflected on the limited actions they can take based on legal statutes. It is clear from earlier themes that judges do use discretion, but that this discretion is often used to minimize and discredit the survivor, rather than to address the legal concerns they raised.

In Arizona, the limitations in the statutes were discussed in terms of the absence of statutory options. Attorney A, Attorney C, and Attorney E lamented the fact that coercive control is not in the statutes defining domestic violence. Attorney C even explained that the court of appeals made a ruling that judges could not consider coercive control in their decisions in response to attorneys arguing it in their cases. She said that as a result, “you can still get that in, but you sure can’t call it coercive control. And you don’t want to put it under the domestic violence section; you have to do it somewhere else.” As for legal abuse, Attorney C stated that she does not see it sanctioned because in the judge’s view, it’s “not outside the realm of what one could do legally.” Attorney F stated that,

litigation abuse is just now becoming known and judges refuse to recognize it. And they say that litigation abuse is not statutory...a lot of litigation abuse, such as filing motion after motion, they don’t look at that necessarily because you have the right to file motions.

She went on to say that she believed more case law about legal abuse could help but that without the statutory framework the judge does not have the ability to recognize it fully.

In Connecticut, the conversation around the coercive control statute in particular focused on the fact that the law was not specific enough for it to be fully implemented as intended.

Attorney B succinctly said “the law doesn’t get you there” and later said, regarding the law, “it does not have enough teeth in Connecticut to be able to really get the job done.”

Attorney G saw a different issue with the implementation of the law, as she argued it did not have the specific framework needed to enable legal SLBs to use it. She argued that the law needs to have more guidance in order to ensure that legal SLBs know how to use it and do not have to rely on discretion because “they may not even really consider it” without the guidance. She gave the example:

for instance we know someone's being stalked because the statute says that if there's two or more things that an offender, two or more instances that can be considered stalking, and they define what that is, then it's stalking. And that's very clear. We can...write an affidavit or testify to those two incidents and then we know it's stalking. But coercive control is still a little vague in the statute. And it doesn't really, it kind of defines what it is, but it doesn't say two or more of these, or three or more of these, and that's where that discretion part comes in.

Thus, we can see in both state contexts that legal SLBs are often reluctant to interpret laws beyond what is explicitly outlined, even when they have the mandate to do so, indicating a resistance to act on bureaucratic discretion.

This need for more specificity in law is in contrast to what Lipsky (2010) argues regarding the value discretion plays in the ability of SLBs to do their job. Lipsky (2010) says that “certain characteristics of the jobs of street-level bureaucrats make it difficult, if not impossible, to severely reduce discretion” and that when rules are added overmuch they cannot be implemented because “policemen cannot carry around instructions on how to intervene with citizens” (p. 15). However, as we have seen in earlier themes, and using Durose and Lowndes’ (2024) broader understanding of SLB biases, discretion from legal SLBs does not always mean that they will engage fully and sensitively with the client. In fact, sometimes it means that the pre-existing notions they have, or the institutional biases that exist, are given more power in a situation. As participants showed, when discretion is removed and legal SLBs are forced to, as one participant said “toe the line of the law”

(Attorney F), they recognize and sanction legal abuse. Thus, the sub-themes of sanctions occurring when legal abuse is extreme and the need for clear expectations from legal SLBs emphasize that, actually, it is when discretion is removed from a situation that legal SLBs decide to sanction abuse.

6.4.1 Sanctions occur when legal abuse is obvious and in line with legislation

When participants described the cases they saw legal abuse sanctioned by a legal SLB, they emphasized that the case was extreme and clearly in line with the law and that they had evidence to prove to the court what was occurring. This was consistent across both states, though the sanctions assessed changed depending on what was legally enabled. In Arizona, participants stated that the most common form of sanction was attorney's fees based on the payer having had an unreasonable position and disparity of funds. Meanwhile, in Connecticut, the sanction that participants referred to were Strobel Orders which require parties to get approval from the court before they can file a motion. The use of policies only when they are clear and in line is similar to what Finn *et al.* (2004) found regarding dual arrest policies wherein police officers did follow departmental policies about dual arrests but only when there was no complexity in the case.

Attorney E said that in Arizona, judges assess attorney's fees when there is,

something tangible. So where there's a big disparity in income, and it has to be a substantial disparity. Where someone really didn't comply with discovery or disclosure. Where they didn't pay like reimbursed reasonable expenses, or didn't pay child support.

Similarly, Attorney A said that she has seen judges sanction offenders in "obvious situations" where there is a "black and white easily provable fact." These sentiments were also echoed by Attorney C who said it needs to be "really inappropriate" and Advocate F who also said it has to be "blatantly obvious." Attorney C also referred to the fact that judges need to see evidence, saying "if I can prove something, like if I have text messages or if I can show behavior that's bad, even if it's not physical, then the judge, you can see the judge sort of changing their view of that person." Attorney E also said that the only time the offender gets sanctioned is when they send "nasty messages" but that it needs to be "200 pages worth before the court intervenes."

Similar sentiments about the extent to which legal abuse needs to be apparent and in line with the law were expressed in Connecticut. Attorney B said “the Strobel Orders I've seen in the past, we're talking like 250 motions, right? Not four. Even though four feels abusive to her” demonstrating how extreme legal abuse has to get in order to be sanctioned, regardless of the impact on the survivor. Attorney D also said that “I've been told that it has to be almost like a hundred baseless motions filed before they'll actually enter an order.” It's clear from these statements that while judges do occasionally sanction legal abuse, they are resistant to do so unless the abuse is obvious and can be clearly tied to the legal statutes.

6.4.2 Clear expectations and clear orders from legal SLBs minimize legal abuse

The other instances where participants saw judges sanction legal abuse was when offenders violated court orders, and thus disobeyed the judge. This went hand in hand with judges who were more active in cases (*see* 6.1.3) and thus created more specific rulings so that they could hold the abuser accountable if they did not follow them. In fact, Attorney E in Arizona said that her strategy as an attorney was to ask for very specific parenting orders to minimize the legal abuse. She said that in doing so she tries to “remove as much gray as possible” so that any violations are clear to the court and to remove the ability for the coercive controller to abuse the orders to control the survivor. The specificity of rulings came up in other participant statements as well. Attorney A (AZ) said that when judges give clear expectations to the parents it helps minimize abuse and that when a case is repeatedly in the court she has seen “judges get fed up with it, with the amount of litigation. And they just say, you know, the court will not entertain anything else from this parent unless you've completed XYZ requirements.” Attorney G in Connecticut recalled a case where an abusive party had brought a case against the survivor for a supposed problem with the custody order which had only been in place for a month. He then attempted to use the courts to gain access to the child's passport. Attorney G was happy to see the judge give specific guidelines for this access and said “I think that demonstrates that the judge is recognizing that he's kind of trying to abuse the system. He's putting in orders that make sense while protecting our client as well.”

The specificity in these orders is helpful because they give the court some standing to sanction parties when they do not follow them. Attorney A referred to the case where she saw a judge give those specific orders and when the abuser did not follow those orders, “the judge just sort of said, look, I told you what you need to do” indicating that the judge was able to

deny access to the court for the abuser. Attorney E also referred to a judge she thought was good about holding abusers accountable saying that,

she really steps in and she's like, look, I made these orders for a reason, I expect you to be accountable to these orders, and we're not having this, if we have to have this discussion again, this will be the consequence.

In Connecticut, Attorney D reflected that she had “only seen sort of consequences for when there's, you know, disrespect towards the court or, you know, contempt, not obeying court orders.” In this way, it is clear that judges cannot or will not rely on discretion to sanction legal abuse, but instead require specific reasons to do so, even if they themselves have to create those reasons.

7. Conclusion

Legal abuse is an underrecognized form of domestic violence and coercive control in the legal system, with laws recognizing its proliferation only recently being sparsely enacted. At the same time, the conversation about coercive control as a form of domestic violence has been rising both domestically and internationally. This study endeavored to understand if that rising conversation, and the new laws implemented as a result, could impact the response of legal SLBs to legal abuse. It sought to understand how changes to legal frameworks impact legal SLBs' decision-making in cases with legal abuse and what that reveals about how law affects the identification of survivors as victims of legal abuse.

With regards to my first research question, domestic violence attorneys and advocates described minimal impacts on decision-making. Instead, participants indicated that the implementation of legal abuse and coercive control laws was inconsistent and dependent on the legal SLB who was making the ruling. In the data, participants explained experiences where legal SLBs were resistant to sanction, or even recognize, instances of legal abuse, even in Connecticut where they had the tools available to do so; a finding that is consistent with the literature (Przekop, 2011; Ward, 2015; Douglas, 2018). Participants further described an ongoing institutional disposition that prevented full use of the legal frameworks, and which often amounted to gendered outcomes that did not change with the law. With regards to the rare occurrence where legal abuse is sanctioned, this study reveals that discretion must be limited by specificity and clear cases in order for legal SLBs to use the tools at their disposal.

Participants explained that the response legal SLBs had to legal abuse and coercive control were consistent with how they reacted to claims of domestic violence in general: with skepticism and victim blaming. They specified that individual and professional biases were often the reasons for the attitude displayed by legal SLBs towards survivors. In fact, legal SLBs often used their discretion to minimize the significance of domestic violence in the case, and thus were unwilling to recognize the overall dynamic of the relationship and sanction ongoing abuse in the form of litigation and false requests. In this way, the institutional practice (Lipsky, 2010) regarding survivors and abuse becomes a gendered institutional disposition (Durose and Lowndes, 2024) that disbelieves the survivor, often a woman, and does not hold the abuser, usually a man, accountable for the abuse. This reveals the need for more than just legal changes to address legal abuse as there first needs to be a change to the legal system's overall institutional bias in domestic violence cases.

When participants gave examples of when legal SLBs did sanction legal abuse, they often fell into one of two themes. First, when legal SLBs fully engaged in the cases and created specific orders and clear expectations, they were more likely to hold abusers accountable. This indicates that Lipsky's (2010) theory of discretion as a benefit, and as necessary for the sensitive work of the street-level bureaucrat, is true only when the legal SLB actively involves themselves in the case. However, as several participants recognized, the workload of the legal SLB prevents this type of active engagement in most cases. The second instance in which legal abuse is recognized is when legal SLBs are faced with extreme cases of litigation or the cases have clear alignment with the legislation. Here, it would appear that when there are cases that do not require legal SLBs to use discretion, they fully enact the laws. Although Lipsky (2010) criticizes increased regulation of SLBs through specific laws and rules, this finding may indicate that more clarification of policies can have a positive impact.

The discretionary bias found in answering the first research question helps us to answer the second research question, revealing that legal SLBs do not identify survivors as victims. Participants in both cases explained how judges and police officers had difficulty identifying the survivor as a victim because of the interpersonal dynamic of domestic violence, a finding consistent with Christie's (2018) ideal victim construction. Even with a coercive control law, Connecticut legal SLBs consistently engaged in victim blaming behaviors and did not view survivors as victims of a criminal act. Additionally, the study revealed that legal SLBs' inability to view survivors of domestic violence as victims because of their relationship to the

offender led them to attribute blame to both the victim and the offender. This too is consistent with Christie's (2018) construction as he described how the inability to differentiate between victim and offender led to a disengagement from the task. It is also consistent with Bosma *et al.*'s (2018) consideration of the observer's view of justice as judges may prioritize their view of fairness in their determinations of victim/offender. Crucially, the attribution of blame to both parties was one reason that legal abuse was not sanctioned. Thus, we can see that the ideal victim construct is continuously relevant to the attitudes legal SLBs have towards domestic violence and has very real impacts on the implementation of the law.

Interestingly, however, the identification of victimhood and domestic violence did vary slightly between Connecticut and Arizona. In Arizona, participants described how legal SLBs had difficulty seeing the dynamic of abuse, instead considering each individual motion and piece of evidence as unrelated to a larger picture of coercive control. This problem in courts has been detailed in previous studies (Miller and Smolter, 2011; Przekop, 2011; Douglas, 2018) and the suggested solution is to enact policies to encourage legal SLBs to view domestic violence through the lens of coercive control. The lack of this theme in Connecticut data may indicate that the coercive control legislation does affect how legal SLBs adjudicate complex abuse dynamics. Furthermore, Arizona participants described a trend of assertive behavior in survivors impacting whether judges saw them as victims in their cases. This was only touched upon by one participant in Connecticut, indicating that legal SLBs may engage in this behavior less often than legal SLBs in Arizona. Again, this could be attributed to the different legal framework as Connecticut has more protections allowing for a more complex victim as enumerated in the coercive control and primary aggressor laws. However, as an exploratory, qualitative study, it is not clear if this impact is directly linked to the difference in legal frameworks as the different political ideologies could also impact the attitudes legal SLBs have towards governance and protection (Fisher, 2016). Future studies could explore this finding with more depth, perhaps gathering empirical material directly from legal SLBs, to see if this difference can be more directly attributed to the expanded laws or whether there are other internal contexts that are responsible.

Overall, this study confirms that Lipsky's (2010) theory of street-level bureaucracy can be fruitfully extended to include legal decision-makers, especially judges, because it reflects the theory that policy implementation is dependent on individual actors within public administration. These findings are further consistent with the purpose of a most different

case-oriented comparative approach as they reveal that the legal system, and the legal SLBs within it, remain consistent in any context (Della Porta, 2008). They are also reflective of feminist legal theorists' and domestic violence scholars' critique of achieving equity and justice through increasing rights and legal protections for survivors as they challenge the efficacy of legal changes on the everyday decision-making of the legal SLB (Smart, 1989; Richie, 2000; Brown, 2002; Goodmark, 2009; Mehrotra *et al.*, 2016). This study shows how legal frameworks are often not enough to change the ways that legal SLBs make decisions. Instead, legal SLBs continue to rely on existing institutional, personal, and gender biases. This includes the bias against identifying domestic violence survivors as victims because the interpersonal nature of the abuse disqualifies their inclusion in the ideal victim construction. In order for policy to change the actions of the legal SLB, participants in this study indicate that laws must be specific and remove the option for the legal SLB to engage in discretion and thus rely on those biases. Otherwise, accountability for legal abuse will continue to rely on the individual actor, their active involvement in the case, and their understanding of victimhood within coercive control and domestic violence.

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Appendices

Appendix A: Consent Form

Consent to participate in a Master Thesis at the Faculty of Social Sciences

Dear participant,

My name is Sylvia Deyo and I am a Master student at the Sociology of Law Department at Lund University in Sweden. This consent form outlines the purpose of the study and provides a description of your involvement and rights as a participant if you agree to take part.

1. What is the research about?

This research examines how legal professionals—such as judges, prosecutors, lawyers, and police—respond when abusers misuse the legal system to control, threaten, or harass their current or former partners. The main goal is to understand when and how legal professionals recognize and take action against legal systems abuse. I will conduct semi-structured interviews and focus groups.

2. Do I have to participate?

It is up to you to decide whether or not to participate. You do not have to take part if you do not want to. If you do decide to take part I will ask you to sign the attached consent form which you can sign and return in advance of the meeting.

3. What will my involvement be?

Focus Groups

If you agree to participate, we will have a group discussion with myself and three advocates (including yourself) where I will ask about your professional experiences with legal abuse. I have some general questions to guide discussion but will use discretion in whether I stick to those questions based on the flow of the discussion and the relevance to my research question. The discussion will take approximately 120 minutes. You have the right to withdraw from the discussion at any time.

Interviews

If you agree to participate, we will have an interview where I will ask about your professional experiences with legal abuse. I have a general interview guide with prospective questions but will use discretion in whether I stick to those questions based on the flow of our interview and the relevance to my research question. The interview will take approximately 60 minutes. You have the right to withdraw from the interview at any time.

4. How do I withdraw from the study?

You can withdraw from the study at any point until the thesis is submitted, without having to give a reason. Withdrawing from the study will have no effect on you. If you withdraw from the study I will not retain the information you have given thus far, unless you are happy for me to do so. If you decide at some point to withdraw your consent, please contact me via email.

5. What will my information be used for?

I will use the collected information for my Master thesis and possible future research or publications.

6. Will my taking part and my data be kept confidential? Will it be anonymised?

The records from this study will be kept confidential. Only myself and my supervisor will have access to the files and any audio tapes. Please note, in the cases of focus groups, the other participants will know your email and whatever information you share in group communication.

In research output your data will be pseudonymised – your name or other details connected to your identity will not be used in any reports or publications resulting from the study, unless you wish so. All digital files, transcripts and summaries will be given codes and stored separately from any names or other direct identification of participants. Any hard copies of research information will be kept in locked files at all times.

7. What will happen to the information provided?

The data you provide will be used exclusively for the scope of this research project and future research. If you give me your permission, the interview will be audio recorded. Due to the nature of Zoom recording there will also be a video recording. For focus groups the video recording will be kept until the transcription is completed to ensure accuracy. For interviews, the video recording will be deleted immediately and only the audio will be kept. In case you allow me to audio or video record the interview, at any point of time you are fully entitled to withdraw by informing that you no longer want the interview to be taped. If you do not want the video to be kept for focus group transcription, video will be deleted immediately after the group. If you do not want the interview to be recorded, written notes will be taken during the interview, as this will help me to remember our conversation during my analysis.

8. What if I have a question or complaint?

If you have questions or concerns about this research, you can always contact me via email. If you are worried about how your data is processed and stored, or if you want to complain about your data protection, you can also contact the Data Protection Officer at Lund University (email address dataskyddsbud@lu.se, telephone +46 46 222 00 00, and postal address: Lunds Universitet, Dataskyddsbud, Box 117, SE - 221 00 Lund University, Lund, Sweden). You can make the complaint in English.

If you are happy to take part in this study, please sign the consent sheet attached/below.

Thank you very much for your participation!

Kind regards,

Sylvia Deyo, Master Student
Sociology of Law Department, Lund University

CONSENT FORM

Legal Abuse and Coercive Control Study (*Final title to be determined*)

Sylvia Deyo (Master student, Lund University)

PARTICIPATION IN THIS RESEARCH STUDY IS VOLUNTARY

I have read and understood the study information, or it has been read to me. I have been able to ask questions about the study and my questions have been answered to my satisfaction.	YES / NO
I consent voluntarily to be a participant in this study and understand that I can refuse to answer questions and that I can withdraw from the study at any time up until May 28, 2025, without having to give a reason.	YES / NO
I agree to the interview being audio recorded and, in the case of focus groups, for video to be kept until the transcription is completed to ensure accuracy.	YES / NO
I understand that the information I provide will be used for Sylvia Deyo's Master thesis and research publications and that the information will be anonymised (pseudonymised).	YES / NO
I agree that my (anonymised) information can be quoted in research outputs.	YES / NO
I understand that any personal information that can identify me – such as my name, and workplace, will be kept confidential and not shared with anyone other than the researcher/ supervisor, or other focus group participants if applicable.	YES / NO

Please retain a copy of this consent form.

Participant name:

Signature: _____ Date _____

Interviewer name: Sylvia Deyo

Signature: _____ Date _____

Appendix B: Interview Guide

Disclaimers and Introduction

- Participation is voluntary and can be withdrawn at any time.
- Recording permission.
- Recognition of possible difficulties of the subject, please feel free to take breaks if necessary.
- Overview of project. Talk about my background.
- Note on language (I will use survivor and abuser unless there are terms the interviewee prefers to use).

Background

- Could you talk a bit about your background and experience within the field?
 - How did you come to work in this area/topic, years of practice, low cost or legal aid work.
 - If not yet mentioned, ask if they had training in domestic violence. If they don't mention coercive control, then ask if and how coercive control was discussed.

General/Coercive Control

- What do you think are the biggest challenges facing survivors involved with legal systems?
- In your experience, how do legal actors —judges, police, prosecutors, and attorneys— understand domestic violence? Coercive control?

Weaponization/Manipulation of Legal Systems

- How do you describe and explain situations where abusers manipulate the legal system to or with your survivor clients?
- How do you think different survivor or abuser identities (i.e. race, gender, socio-economic status, immigration status, etc.) influence the likelihood of manipulation?
- What cases come to mind when you think about the legal system being weaponized?
- What kind of strategies do you use in these cases?

Enabling or Sanctioning by Legal Actors

- What are the typical responses from legal actors in cases involving weaponization of legal systems?
- What do you think motivates legal professionals' decisions?
- How does the identity of the survivor or abuser impact the response by the legal actors to manipulation or weaponization?

- Can you tell me about a time a legal actor acknowledged or intervened in the manipulation of the legal system?
- Can you tell me about a time a legal actor ignored or enabled the manipulation of the legal system?
- Do you or the opposing party ever request action by the judge? What actions?
- ****Connecticut**** Since coercive control was incorporated into the legal definition of domestic violence, have you noticed any changes in how legal professionals handle these cases?

Unintended Consequences for Survivors

- How often do you see legal actors misidentify a survivor as the abusive person? Can you share some examples?
- Can you tell me about any cases where you have represented a survivor who was accused of manipulating the legal system?
- What claims are made about the survivor?
- What responses or interventions do legal actors use in these cases?
- How does the identity of the survivor or abuser impact the response by the legal actors?
- ****Connecticut**** How has the change in legal definition influenced the frequency or content of these cases?

Appendix C: Focus Group Guide

Disclaimers and Introduction

- Participation is voluntary and can be withdrawn at any time.
- Recording and video permission.
- Recognition of possible difficulties of the subject, please feel free to take breaks if necessary.
- Overview of project. Talk about my background.
- Note on language (I will use survivor and abuser unless there are terms the group prefers to use).

Background

- Could you talk a bit about your background and experience within the field?
 - What kind of organization do you work for (community based, government embedded)?
 - What is your position title?
 - How long have you held this position? Did you have previous positions that are relevant to this study?
 - What kind of training have you done on domestic violence and coercive control?

General

- What do you think are the biggest challenges facing survivors involved with legal systems?
- In your experience, how do legal actors —judges, police, prosecutors, and attorneys— understand domestic violence? Coercive control?

Weaponization/Manipulation of Legal Systems

- How do you, and the survivors you work with, explain or understand situations where abusers manipulate the legal system? Are there certain terms you use to talk to survivors about this?
- What cases come to mind when you think about the legal system being weaponized?
- How do you think different survivor or abuser identities (i.e. race, gender, socio-economic status, immigration status, etc.) influence the likelihood of manipulation?

Enabling or Sanctioning by Legal Actors

- Can you tell me about a time a legal actor acknowledged or intervened in the manipulation of the legal system?

- Can you tell me about a time a legal actor ignored or enabled the manipulation of the legal system?
- How does the identity of the survivor or abuser impact the response by the legal actors to manipulation or weaponization?
- What are the typical responses from legal actors in cases involving weaponization of legal systems?
- ****Connecticut**** Since coercive control was incorporated into the legal definition of domestic violence, have you noticed any changes in how legal professionals handle these cases?

Unintended Consequences for Survivors

- How often do you see legal actors misidentify a survivor as the abusive person? Can you share some examples?
- How does the identity of the survivor or abuser impact the response by the legal actors?
- ****Connecticut**** How has the change in legal definition influenced the frequency or content of these cases?