

## ABSTRACT

THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION OF 2013:

A POLICY ANALYSIS

By

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The purpose of this policy analysis is to examine the Violence Against Women Act Reauthorization of 2013. This policy was created to address the social problem of domestic violence, and has expanded its target populations with this most recent Reauthorization. The analysis involves a brief overview of domestic violence in the United States, the history of the policy, the policy's objectives, implications, and the value sets of the proponents and opponents of the Reauthorization. To conduct this analysis, congressional hearings, related academic journal articles, law review articles, news media sources, and the policy itself were utilized. The policy analysis was guided by David Gil's theoretical framework as adapted by Jillian Jimenez. The findings of this analysis suggest that though the Violence Against Women Act is not without opposition, it is beneficial for domestic violence victims and was a victory for human rights advocates.



THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION OF 2013:  
A POLICY ANALYSIS

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## CHAPTER 1

### INTRODUCTION

#### Problem Statement

The Violence Against Women Act (VAWA) was passed in 1994 and was the first federal legislation created to address domestic violence and sexual assault as crimes (“Violence Against Women Act History,” 2012). Abuse between men and women in the home went from being a “private matter” to a punishable, public crime (Meyer-Emerick, 2002). VAWA was reauthorized in 2000 and 2005 without significant debate (DeForest, 2013). The reauthorization set for 2011 was not signed until 2013. The 2013 Reauthorization of the Act was the first serious challenge since passage of the original VAWA legislation in 1994 and was the subject of heightened political debate and media attention (Ortega & Busch-Armendariz, 2013).

#### Purpose Statement

The purpose of this study was to conduct a policy analysis of the Violence Against Women Reauthorization Act of 2013. The analysis explored how the policy has addressed the social problem of domestic violence, the policy’s overt and covert objectives, and the value sets of the opponents and proponents of the policy. In particular, the study addressed the context and controversies underlying the passage of the 2013 reauthorization.



## Definition of Terms

For the purpose of this policy analysis, the following terms are defined:

*Bill*—A legislative proposal or draft for enactment of a law (Cornell University Law School, n.d.).

*Congress*—Congress is part of the United States government that is made up of the Senate and House of Representatives. Only members of Congress can introduce a Bill for legislation, and have the sole power of enacting legislation (White House, 2014).

*Federal courts*—A branch of the United States government with power derived directly from the United States Constitution. Federal courts preside over cases involving federal law; for example, patents, labor law, federal taxes, and federal crimes, such as robbing a federally chartered bank. (Cornell University Law School, n.d.).

*Intimate partner violence*—Any act of physical, sexual, or psychological harm committed by the victim's current or former boyfriend, girlfriend, or spouse (Centers for Disease Control and Prevention, 2014). The Bureau of Justice differentiates their definition when reporting statistics to only include physical crimes including rape, robbery, sexual assault, and any type of assault with or without a weapon committed by the victim's current or former boyfriend, girlfriend, or spouse (Catalano, 2013). This type of violence sometimes leads to death for the victim (Catalano, 2013). This form of violence is also often referred to as *domestic violence*. These terms will be used interchangeably throughout this thesis.

*Legislation*—The process of creating, amending, and proposing of one or more law(s). The process involves hearings on the merits and flaws of the Bill, and the Bill

must pass the approval of both the Senate and the House of Representatives before going to the President for final approval and signing (The White House, 2014).

*Sovereignty*—Native American tribes are granted sovereignty, meaning that they are domestic independent communities with their own judicial power, separate from the Federal government. There is still the analogy of a ward to his guardian, with the guardian being the United States Federal government (Singh, 2014).

*Stalking*—A pattern of behavior directed at a particular person including visual or physical proximity, nonconsensual communication, verbal, written, or implied threats, or a combination thereof that causes fear in the victim on two or more occasions (Parmley, 2004). Protections for this are included in the 2013 Reauthorization of VAWA.

*Violence against women*—Includes aggressive behaviors that disproportionately affect women, including intimate partner violence, sexual assault, and stalking, and can be enacted by intimates, acquaintances, and strangers (Parmley, 2004).

*Violence Against Women Act 1994*—Also known as Public Law 103-322, was the first federal law established to protect domestic violence victims and prosecute perpetrators (Conyers, 2007).

### Relevance to Social Work

The National Association of Social Workers (NASW) provides a Code of Ethics for all social workers to adhere to, with six major principles to guide practice and advocacy (2008). The six major principles are: competency, dignity, integrity, importance of relationships, service, and social justice. Intimate partner violence and violence against women violate the core beliefs of social work practice, such as every individual's right to dignity and social justice. Familiarity with VAWA is also necessary

when looking for resources for victims and considering what resources are needed. Social workers who encounter domestic violence also have a responsibility to consider the usefulness and effects of VAWA for victims, and to determine when advocacy is needed in the face of policy makers. There is also a NASW standard for cultural competence among social workers, and the social problem of domestic violence requires a culturally competent view.

### Multicultural Relevance

Domestic violence occurs among all populations. However, cultural competence is crucial when viewing the problem, as there is not one “universal” victim, or woman (Lockhart & Mitchell, 2010). The conceptual framework of intersectionality emphasizes the many differences within a group, rather than the differentiations between groups. This concept also acknowledges the many various roles a woman may have; she is not just a woman suffering from domestic violence. There is a myriad of intersecting social identities and social problems. Culture, disability, economic status, education, gender, immigration status, language, race, religion, and sexual orientation, are all to be included in the consideration of the experiences of victims of domestic violence. Historically, there have been more problems related to domestic violence services and policies specific to certain minority groups of women, such as fear of deportation among immigrant women if they leave their abusers, and larger social problems involved, such as poverty (M. Kim, 2013; E. Lee, 2007). VAWA’s relevance to other populations, such as the LGBT communities will be examined in this analysis, as well.

## CHAPTER 2

### LITERATURE REVIEW

This literature review begins with an introduction to the social problem of domestic violence. It follows with a review of federal legislation regarding domestic violence opening with the Family Violence Prevention Services Act (FVPSA) passed in 1984 and focusing on the Violence Against Women Act (VAWA) of 1994 including policy goals and critiques. The literature review will address policy goals and changes over time with attention to VAWA 2000 and 2005 Reauthorizations. Lastly, a brief introduction to and overview of the VAWA Reauthorization Act of 2013, the subject of the policy analysis, closes the literature review.

#### Overview of the Problem: Domestic Violence

Domestic violence is a widespread social problem. One in four women are at risk of experiencing domestic violence in a lifetime (M.C. Black et al., 2011; Cronholm, Fogarty, Ambuel, & Harrison, 2011; Zosky, 2011). According to the most recent statistics from the Centers for Disease Control and Prevention, 1 in 5 women and 1 in 59 men have been raped in their lifetime (M.C. Black et al., 2011). One in 4 women and 1 in 7 men have experienced intimate partner violence; and 1 in 6 women and 1 in 19 men have been stalked in their lifetime. The survey also showed that those who reported themselves as bisexual, gay, or lesbian also experienced at least the same amount of

intimate partner violence as those who identified themselves as heterosexual. The majority of perpetrators were reported as being male (M.C. Black et al., 2011).

Since 1994, some aspects of domestic violence have decreased (Catalano, 2013). The Bureau of Justice released a report stating that from 1994 to 2011, there has been a decrease of over 60% in intimate partner violence for both men and women. However, the problem remains prevalent, and the statistics show that the number of crimes has fluctuated over the years. The report specified that “serious intimate partner violence,” including rape, sexual assault, and robbery, decreased from 1994 to 1996 (from 36% of all reported intimate violence against women to 28%). The rate then remained approximately the same until 2002. Thereafter, it fluctuated from 28% to 42%, with the last reported percentage being 36% in 2011. Physical attacks against women and threats prior to the physical attacks have decreased by 16% since 2007 and threats of harm by 30%. From 2002 to 2011, 27% of male intimate partner victimizations and 18% of female intimate partner victimizations also involved a weapon. The number of homicides committed by a known intimate of women increased from 1994, with 29.7% of all women homicides being committed by an intimate, to 39.3% in 2010 (Catalano, 2013). It is estimated that the numbers are even higher due to the relationship between the victim and offender sometimes not being known or recorded (Catalano, 2013).

### Domestic Violence and Risk Factors

Most recent scholarship recognizes that there is no “one type” of perpetrator, just as there is no one type of victim. Johnson’s prominent typological model posits four “types” of domestic violence (Kelly & Johnson, 2008). Johnson’s original and expanded framework for categorizing intimate partner violence has guided many current studies

(Addington & Perumean-Chaney, 2014; Melton & Sillito, 2012). According to this model, domestic violence can be categorized as four types: *coercive controlling violence*, *violent resistance*, *situational couple violence*, and *separation-instigated violence* (Kelly & Johnson, 2008). Johnson's research has emphasized the need to think of domestic violence as a broader concept rather than a "one-size-fits-all" perpetrator and victim (M.P. Johnson, 2008; Kelly & Johnson, 2008).

*Coercive controlling violence* is characterized by a pattern of power and control. It can also be referred to as *intimate terrorism* (M.P. Johnson, 2008). This is the type of violence most often thought of when describing domestic violence. Any and all of these tools may be used by the perpetrator in addition to or before physical violence in *coercive controlling violence*: "intimidation; emotional abuse; isolation; minimizing, denying, and blaming; use of children; asserting male privilege; economic abuse; and coercion and threats" (Kelly & Johnson, 2008). Domestic violence agencies and shelters, courts, hospitals, and law enforcement see this type of violence the most. This type of violence is most often more frequent and severe than the other types of intimate partner violence, and usually has the most impactful psychological and physical effects on the victim. Research has shown that women experiencing domestic violence who leave their partners are more at risk for homicide than for women in intact relationships (Hotton, 2001; Kelly & Johnson, 2008; Wilson & Daly, 1993). This is especially true for this type of violence (Kelly & Johnson, 2008). For heterosexual couples, men are usually the perpetrators.

*Violent resistant* forms of domestic violence can be likened to self-defense and occur when a woman uses violence to resist violence from her partner (Kelly & Johnson, 2008). Law enforcement does not usually encounter this type of violence. It is often

short-lived, and many women who engage in violent resistance realize that it is ineffective or makes the reciprocal violence worse. However, violent resistance receives media attention when women murder their abusive partners. This is not common, but women in these situations frequently have experienced routine attacks, severe injuries, sexual abuse, and death threats against themselves or others (Browne, 1987; Ferraro, 2006; Kelly & Johnson, 2008). Usually, these women feel that they cannot leave the relationship without retribution or being killed themselves. The homicides typically occur in the middle of an attack from the partner or while attempting to protect their children (Kelly & Johnson, 2008).

*Situational couple violence* occurs when the perpetrator is violent toward his or her partner, who may or may not also be violent, but the violence is not used as a means of coercion or control (Kelly & Johnson, 2008). It is the most common form of physical aggression in cohabiting and married couples, and has to do with poor anger management and/or conflict resolution skills. This type of violence can occur once within the relationship, sporadically, or regularly. It is less likely to escalate over time or continue after separation in comparison to *coercive controlling violence*. Perpetrators who engage in this type of violence often do not have the misogynistic attitudes characteristic of *coercive controlling violence*. This is the only kind of domestic violence which family sociologists and advocates for men as victims are referring to when claiming that intimate partner violence is non-gendered and women are equally perpetrators (Kelly & Johnson, 2008).

*Separation-instigated violence* happens when the violence occurs after separation and there was no prior violence in relationship (Kelly & Johnson, 2008). This form of

violence can be seen in both men and women and is unexpected. It can range from mild to severe and usually occurs once or twice during the beginning of the separation. An example would be acting out and attacking a spouse when coming upon them engaging in an extramarital affair, or destroying cherished property of a spouse after suddenly being served with divorce papers (Kelly & Johnson, 2006).

Additionally, there are associated risk factors for domestic violence. Gender is the clearest risk factor, as women are more often than men victims (Catalano, 2013; Frias & Angel, 2005; Kelly & Johnson, 2008). Alcohol and substance use increase the likelihood of perpetration and victimization (Balsam & Szymanski, 2005; Caetano, Vaeth, & Ramisetty-Mikler, 2008; Fals-Stewart, 2003; I. Johnson & Sigler, 2000; Murphy, Winters, O'Farrell, Fals-Stewart, & Murphy, 2005; Nowotny & Graves, 2013). Some statistics show that over 50% of married men entering treatment for alcoholism have engaged in partner violence (Murphy et al., 2005). Though dependence or abuse of alcohol is often cited as a high risk factor for domestic violence, it is not in of itself a predictor (Murphy et al., 2005). Researchers hypothesize that it may have to do with personality, relationship, and developmental factors combined with the effects of alcohol (affects cognitive processing and impulse control) (Fals-Stewart, 2003; Murphy et al., 2005). Studies between nonviolent alcohol-dependent men and their violent counterparts show that the violent alcohol-dependent men are more likely to have characteristics of antisocial personality disorder and have a higher level of distress in their relationships (Murphy et al., 2005; Murphy, O'Farrell, Fals-Stewart, & Feehan, 2001; Murphy & O'Farrell, 1994).



There are other risk factors, as well. Being young (the older a woman gets the less likely she is to be involved in a violent relationship), being in poverty, and experiencing higher levels of stress have commonly been cited as the most prominent risk factors (Caetano et al., 2008; Flury, Nyberg, & Riecher-Rössler, 2010; E. Lee, 2007). Couples that are cohabiting but not married are also more likely to experience domestic violence (Jasinski, 2004; Kenneyand & McLanahan, 2006). In addition, being part of a minority group and experiencing the associated particular stress (e.g., oppression) may increase the risk for intimate partner violence (Hassouneh & Glass, 2008). For example, minority stress for a gay individual could be external factors, such as discrimination and hate crimes, and internal factors, such as internalized homophobia (Balsam & Szymanski, 2005). This stress can negatively affect the relationship and intensify problems, and, thus, put the couple at more risk for intimate partner violence (Balsam & Szymanski, 2005).

### Domestic Violence in Marginalized Communities

The concept of intersectionality emerged from the awareness of differences in the experience of African American and other marginalized women with respect to exposure to domestic violence and to access to appropriate remedies (Hampton, 2008). Intersectionality is the need to examine domestic violence at the intersection of class, gender, and race oppression raised awareness of how women of color may be marginalized within all categories (Crenshaw, 1991). These multiple considerations may affect the experiences of women from marginalized racial groups and their choice of resources for domestic violence issues (Crenshaw, 1991).

### African American Communities

Studies show that African American women disproportionately experience domestic violence compared to other groups of women; along with Native American women (Bent-Goodley, Chase, Circo, & Anta Rodgers, 2010; M.C. Black et al., 2011). According to the most recent statistics from the Centers for Disease Control and Prevention, 43.7% of African American women in the United States have reported being the victim of domestic violence, rape and/or stalking (M.C. Black et al., 2011). Among men, African American men are more likely to experience domestic violence than other groups as well (M.C. Black et al, 2011).

At least three issues have been identified as cause for concern within the African American community of women experiencing domestic violence: fear of child welfare workers discovering domestic violence is occurring within the home, lack of access to domestic violence services, and a need for cultural competence in domestic violence resources (Bent-Goodely, 2004; Gillum, 2008). Lack of cultural competence can manifest in many ways, such as stereotyping African American women as “strong” and, therefore, less vulnerable to domestic violence or less in need of supportive services (Bent-Goodely, 2004; Gillum, 2008). Another example of cultural insensitivity may be police officers being less likely to arrest an offender when an African American woman is the victim (Gillum, 2008; Hampton, 2008).

### Latino Communities

Domestic violence statistics for Latina women are varied and inconclusive (Bent-Goodley et al., 2010). This is due to the large categorizing of “Hispanic” or “Latino” individuals, which encompasses many places of origin and different cultures (Frias &

Angel, 2005; Vaughn, Salas-Wright, Cooper-Sadlo, Maynard, & Larson, 2014). Additionally, different studies employ different methods (Frias & Angel, 2005). Some studies show that Latina women are more likely to suffer from domestic abuse than their White counterparts (Caetano, Field, & Ramisetty-Mikler, 2005; Vaughn et al., 2014; Frias & Angel, 2005). Some suggest that their rates are as high as African American and Native American women (Clark, Galano, Grogan-Kaylor, Montalvo-Liendo, & Graham-Bermann, 2014). The National Intimate Partner and Sexual Violence Survey (2010) stated that 37.1% of Latina women reported experiencing domestic violence, rape, or stalking (M.C. Black et al., 2011). The rate for White women was 34.5% (M.C. Black et al., 2011).

One recent study proposed that Latina women who are abused are more susceptible to consequential mental health problems than non-Latina women who are abused (Bonomi, Anderson, Cannon, Slesnick, & Rodriguez, 2009). The authors found that the Latina women in the study suffered more physical symptoms and had less overall mental health and emotional functioning. The study did not specify the race(s) of their “non-Latina” women participants. Studies have also found that Latina battered women suffer higher rates of depression than non-Latina battered women (Caetano & Cunradi, 2003; Hazen, Connelly, Soriano, & Landsverk, 2008; Rodriguez, Heilemann, Fielder, Ang, & Nevarez, 2008). Low-income and impoverished Latina women are especially at high risk for domestic violence (Frias & Angel, 2005; Ingram, 2007).

### Asian American Communities

The National Intimate Partner and Sexual Violence Survey (2010) states that about one-fifth (19.6%) of Asian women in the United States reported experiencing domestic violence, rape or stalking (M.C. Black et al., 2011). However, the actual number is expected to be higher due to Asian American women being less likely to report domestic violence compared to other groups of women (M. Kim, Masaki, & Mehrotra, 2010; E. Lee, 2007). The Asian & Pacific Islander Institute on Domestic Violence estimates that anywhere between 41 and 60% of Asian American women experience violence at some point in their lives (Yoshihama & Dabby, 2009). There are many barriers to Asian women accessing social services and refuge from domestic violence, especially those who are immigrants and especially if they do not speak English (E. Lee, 2013).

### Immigrant Communities

Some domestic violence researchers hypothesize that certain groups of immigrant women may be more at risk of experiencing domestic violence due to high stressors of immigration (E. Lee, 2007). Also, if a woman is new to the United States, her husband may be the only link to the outside world she has, and she may not know the extent of her legal rights (Crenshaw, 1991; E. Lee, 2007). Thus, she could be more vulnerable to being unable to escape an abusive relationship, especially if there is fear of deportation.

Research on domestic violence prevalence rates among immigrants, in particular, have also been subject to methodological variation resulting in inconclusive findings (Vaughn et al., 2014). Multiple studies state that immigrant men and women are less likely to engage in crime and violence overall than native-born Americans in the United

States (M.T. Lee & Martinez, 2009; MacDonald, Hipp, & Gill, 2013; MacDonald & Saunders, 2012; Vaughn et al., 2014; Zatz & Smith, 2012). One recent study with over 19,000 immigrant participants found that one culture is not more accepting of domestic violence than another (Vaughn et al., 2014). The authors also found that individuals who did report perpetrating intimate partner violence were also much more likely to meet criteria for a mental health and/or substance-use -related disorder than nonperpetrators (Vaughn et al., 2014).

### Native American Communities

According to the National Intimate Partner and Sexual Violence Survey (2010), almost half (46%) of all Native American women reported experiencing domestic violence, rape, or stalking in their lifetime (M.C. Black et al., 2011). About half (45.3%) of all Native American men in the United States reported the same. This latter finding is surprising given previous data emphasizing that women are largely victims in Native American tribes (Bubar & Thurman, 2004; Jones, 2008; Spiller, 2007).

Violence, in general, is prevalent in Native American communities, and some researchers estimate that up to one third of all Native Americans have been abused in their lifetime (Hart & Lowther, 2008; Mason, 1993). Historical reasons, such as encounters with racism, high rates of alcohol and substance use, high rates of poverty, and rural isolation factor into the high instances of violence (Jones, 2008; Mitka, 2002). One complicated aspect of violence against Native American women is that many of the perpetrators are non-Native Americans (Hart & Lowther, 2008). Statistics are difficult to gather, but an estimate is that it may be that 70-75% of perpetrators who commit acts of

violence against Native American women are non-Native Americans (Bubar & Thurman, 2004; Hart & Lowther, 2008; Jones, 2008).

### LGBT Communities

Lesbian, gay, bisexual, and transgender (LGBT) victims of domestic violence have traditionally been known as “invisible” victims because there is little data, and, prior to VAWA Reauthorization of 2013, there were few resources (Messinger, 2011). There is data suggesting that individuals who have prior experience with a same-sex relationship are more likely to suffer from domestic violence than those who have not (Messinger, 2011). Although statistics are difficult to gather, there are reports documenting the prevalence. The National Intimate Partner and Sexual Violence Survey by Sexual Orientation was published for the first time with findings from 2010 (Walters, Chen, & Breiding, 2013). They found that lesbian women and gay men reported levels of intimate partner violence and sexual violence equal to or higher than heterosexual men and women. More specifically, the lifetime prevalence of rape by any perpetrator was broken down into: 13.1% of lesbian women, 46.1% of bisexual women, and 17.4% of heterosexual women. The numbers reported for gay and bisexual men were too low to estimate, and for heterosexual men, they were 0.7%. Of notice is that most perpetrators of rape were men. The lifetime prevalence of “sexual violence other than rape (including being made to penetrate, sexual coercion, unwanted sexual contact, and non-contact unwanted sexual experiences) by any perpetrator” (Walters et al., 2013, p. 1) was higher. The breakdown was as follows: 46.4% of lesbian women, 74.9% of bisexual women, and 43.3% of heterosexual women. Of those women, 85.2% of lesbian women reported having a male perpetrator, as did 87.5% of bisexual and 94.7% of heterosexual women.

The breakdown for men was as follows: 40.2% of gay men, 47.4% of bisexual men, and 20.8% of heterosexual men. Of those men, 78.6% of gay men reported only having male perpetrators, as was the case with 65.8% of bisexual men and 28.6% of the heterosexual men. Additionally, 29.4% of lesbian women reported severe physical violence by an intimate partner, with about two-thirds of them reporting only female perpetrators, as did 16.4% of gay men with most reporting only male perpetrators.

Additionally, The National Coalition of Anti-Violence Programs (NCAVP) is a coalition that seeks to reduce violence in lesbian, gay, bisexual, transgender, queer, and HIV-affected communities (LGBTQH) in the United States (Ahmed, Jindasurat, & Wasser, 2014). They offer services across the United States and report their statistics to enhance public awareness. In 2013, NCAVP received 2,697 reports of intimate partner violence, which was a 0.67% increase from 2012. They documented 21 LGBTQ domestic violence homicides in that same year.

### Marginalized Populations and Policy Implications

The recognition of significant differences in prevalence rates, conditions underlying exposure to domestic violence and variation in community response to domestic violence policy has gained prominence in United States policymaking arenas (Bhuyan, 2005). Two population groups that have received specific attention under VAWA have included (1) immigrants, and (2) Native American populations.

#### Immigrant Population

Immigrants who are victims of domestic violence face specific challenges (Bhuyan, 2005; Crenshaw, 1991). There are certain factors associated with whether or not they will seek help. These include factors related to acculturation, cultural beliefs

about help-seeking, knowledge of their rights, language, legal immigrant status, religious beliefs, and social networks.

Immigrants are also subjected to greater threats by perpetrators of domestic violence who take advantage of their vulnerability due to language limitations, cultural differences and precarious immigration status (Crenshaw, 1991). Immigrant victims may face substantial risks if and when they do seek help such as with law enforcement choosing to let immigration laws take precedence over criminal laws such as VAWA (Arcidiacono, 2010; Sreeharsha, 2010). Undocumented immigrants seeking assistance as victims and apprehended as perpetrators of domestic violence risk consequences such as deportation (Sreeharsha, 2010).

#### Native Americans

Overall, there has been a lack of focus on targeting crimes against Native American women in the United States (Bubar & Thurman, 2004; Hart & Lowther, 2008). This population dually experiences violence as Native American individuals and as women (Hart & Lowther, 2008). The relationship between Native American tribes and federal and state government have longstanding complications. Native American tribes have sovereignty; that is, they are “domestic dependent sovereigns,” but state laws are largely inoperative in their tribes. Before 2013, tribal governments lacked the legal capacity to prosecute non-Native American perpetrators for their acts of violence against tribal women (Hart & Lowther, 2008). Victims have also reported their tribal governments being ineffective when it comes to cases of prosecuting males in their own tribes (Bubar & Thurman, 2004). Native American women have the dual fear of their own tribal government, such as fear of reprisal from male leaders in the tribal



community, and from outside agencies when trying to seek retribution from non-Native men. One overwhelming fear is having their children taken away by outside child welfare workers (Bubar & Thurman, 2004).

### Federal Domestic Violence Policy

#### Tensions between Federal and Local Legal Jurisdiction

Local and state governments are responsible for enforcing most crimes, and this includes domestic violence crimes (Hanna, 2002). Although VAWA is a federal law, how it is enforced can vary between local agencies (Hanna, 2002). An example of how crime is handled locally is the “mandatory arrest law” (Zelcer, 2014). Twenty-one states and the District of Columbia mandate that police officers arrest suspected domestic violence perpetrators when there is probable cause abuse has occurred (Zelcer, 2014). The federal laws addressing domestic violence have expanded over the years, but how they are interpreted is not always consistent (Sreeharsha, 2010).

#### Family Violence Prevention Services Act

The first time federal funds were allocated to fund programs for victims of domestic violence, such as emergency shelters, rape crisis centers, and telephone hotlines, was with the passing of the Family Violence Prevention Services Act in 1984 (FVPSA) (42 USC 10401). FVPSA was primarily legislation providing federal funding for community-based organizations already offering services and advocacy for victims of domestic violence. The Act also designated funds for training law enforcement and certain nonprofit organizations in order to detect and intervene in “family violence.”

### Violence Against Women Act (VAWA) of 1994

One decade later, VAWA was implemented as part of the Violent Crime Control and Law Enforcement Act of 1994 (Schneider, 1996). VAWA 1994 remains the most influential legislation affecting domestic violence policy. VAWA federally criminalized violence against women, allowing victims rights to compensation, protection, and/or relief in federal courts (Bonner, 2002). This was a major step for securing support for victims, as previously there was little support in courts, such as some states not viewing spousal rape as a crime (Fine, 1998). With VAWA in place, victims legally have the right to receive restitution (medical and mental health services, lost income, etc.) at the perpetrators' expense, and their protective orders honored, including if and when crossing state lines (Fine, 1998). Since its initial passing, VAWA has undergone changes, primarily through the series of reauthorizations following the original enactment in 1994.

VAWA 1994 and expanded rights for immigrant victims. When VAWA initially passed in 1994, the law was a political milestone (Bonner, 2002; Schneider, 1996). Because the reports documenting domestic violence show that women are usually the victims, the law has traditionally only offered assistance to women. Immigrant women were also targeted, as their issues were specific and they faced additional vulnerability to violence due to their immigration status (Bonner, 2002; Sreeharsha, 2010). If an abuser is a United States citizen or Lawful Permanent Resident, then residency can be used as a tool for power and control over the immigrant victim (Orloff, Isom, & Saballos, 2010). The law granted immigrants who were abused in this vulnerable situation the right to

seek immigrant status for themselves and their children independent of their abuser (Meyer-Emerick, 2002; Sreeharsha, 2010).

There were four criteria the self-petitioner had to meet. They had to prove that they were victim of battery and/or extreme cruelty (acts or threatened acts of violence), of good moral character, lived with the abuser, and that they were the child, parent, or spouse of a Lawful Resident abuser or United States Citizen abuser (Orloff et al., 2010; Sreeharsha, 2010). Under VAWA, “any credible evidence” to prove the extreme cruelty stipulation must be accepted, including self-reports (Orloff et al., 2010). This is due to the lack of access some immigrant women may have to medical care or other resources, especially with an abusive and controlling partner (Orloff et al., 2010).

VAWA and barriers for immigrant victims. Despite VAWA expanding with each reauthorization to target the needs of immigrant victims, there has been some critique regarding VAWA’s limitations (Orloff et al., 2010). For immigrant women who are married to undocumented men, the fear of deportation is twofold (Crenshaw, 1991). Over the years, some law enforcement agencies have viewed and treated undocumented immigrants as criminals, and, thus, punished those who are “caught” reporting a domestic violence situation (Arcidiacono, 2010; Sreeharsha, 2010). This is especially true for certain states, such as Arizona, whose governor is a proponent of Senate Bill 1070, also known as the “Anti-Immigration Law” (Arcidiacono, 2010). In these cases, law enforcement allows anti-immigration laws to trump the protections of VAWA (Sreeharsha, 2010). Undocumented immigrants who are also victims of domestic violence are much less likely to report the abuse or seek aid for fear of deportation in states like this (Arcidiacono, 2010). Nonetheless, in its initial four years after passing,

over 6,000 immigrant women were approved for legal residency. With continued immigration enforcement, enforcement of VAWA is crucial in protecting immigrant women from being persecuted or deported when reporting a domestic violence situation (Sreeharsha, 2010).

### VAWA and Policy Targets: Shifts Over Time

#### VAWA Reauthorization 2000

In 2000, the reauthorization again expanded VAWA's policy targets (Sreeharsha, 2010). The Victims of Trafficking and Violence Protection Act was incorporated into VAWA and was designed to protect trafficking victims, regardless of their immigration status, mitigating laws that criminalize them (Cooper, 2002). The Battered Immigrant Women Protection Act of 2000 was also included which provided "T" and "U" visas which are available for undocumented women who are victims of violent gender-based crimes (Sitowski, 2001).

The significant expansion of legal rights for immigrant victims of trafficking came in the form of two new visas (National Coalition Against Domestic Violence, 2006). "T" visas were designated for up to 5,000 victims of sex trafficking and forced labor per year. "U" visas were for victims of domestic violence or sexual assault. Even if a victim's spouse/abuser had never obtained legal status, the victim may do so herself under the "T" or "U" visa. Children of "U" visa holders could also obtain status as lawful permanent residents (National Coalition Against Domestic Violence, 2006).

The VAWA Reauthorization of 2000 also designated funding for dating violence programs, transitional housing, and protections for disabled, immigrant, and older adult victims (Sreeharsha, 2010). Grants were also designated for the first time for college

campuses (National Coalition Against Domestic Violence, 2006). This included money for on-campus security and victim services.

#### VAWA Reauthorization 2005

The VAWA Reauthorization of 2005 included in its protections children who were witness to domestic violence. This is important when considering that children are more at risk for abuse themselves when living in a household where domestic abuse occurs and can suffer emotionally simply by being a witness (Cronhold, Fogarty, Ambuel, & Harrison, 2011). In addition, more funding was given to expanding training and services to end violence against women in later life (victims age 50 and older) (42 U.S.C. 13981). Also new in 2005, was funding for the Centers for Disease Control and Prevention to conduct a study for best practices in preventing and intervening in domestic violence (42 U.S.C. 13981). “Underserved populations” were given special note, such as not denying services to anyone based on age, language barriers, race, ethnicity, or disability, but same-sex relationships were not mentioned.

#### VAWA Reauthorization 2013

The Reauthorization Act of 2013 broadened the population of victims further. One population included men and women in same-sex relationships as victims (Ortega & Busch-Armendariz, 2013). This represented the first time that male victims were specifically protected by VAWA policies. The Reauthorization Act of 2013 also expanded to include: victims of stalking (including cyberstalking), sexual assault victims living on college campuses, immigrant women, children of victims, Indian tribal members and trafficking victims (42 U.S.C. §§ 13701).

### General Critiques of VAWA

Since its implementation, VAWA has not been without controversy (Bonner, 2002). Initially, there was much debate about the constitutionality of VAWA and whether or not Congress held power to implement certain parts of the law, claims particularly advanced by political conservatives (Regan, 1999). VAWA first underwent heat for a “civil rights remedy clause” (Bonner, 2002; Regan, 1999). Under this clause, a victim of a crime specifically “motivated by gender” could sue her attacker in court for damages. This caused considerable confusion and debate. For example, some senators were quoted as saying they did not know there could be any other motive other than gender-hatred, for a crime such as rape (Bonner, 2002). Thus, all women who were sexually assaulted would ideally be eligible for restitution. However, the clause produced few court decisions (Regan, 1999). The ambiguity of this clause caused inconsistent punishments for rape cases, and in 2000, when the time came to reauthorize VAWA in 2000, this clause was not included (Russel, 2003). Ultimately, the decision was that the clause was unconstitutional and these crimes could not be made into federal issues. Some civil rights activists agreed with this, but others did not, stating that what the provision aimed to do was change the meaning and ideas about gender-motivated violence, making it a large-scale, civil rights crime, rather than a private issue (Russel, 2003).

Chronic critique and debate about VAWA also stems from asking if it truly helps the domestic violence victim and the overarching problem of domestic violence (Kim, 2013; Raeder, 2011; Regan, 1999). Most of the general critiques address VAWA’s

passage as part of a criminal bill and its prioritizing of criminal sanctions (Sack, 2009). That is, criminalizing domestic violence instead of educating and rehabilitating may not be the most effective method, especially when some victims of domestic violence do not want the perpetrators arrested (Sack, 2009).

When domestic violence first came into the public eye in the 1970s, it soon became connected to victims' rights. Some argue that VAWA has opened the door as just another way to target and persecute men of color (Crenshaw, 1991; Kim, 2013; Sack, 2009). It has shifted from a focus on women's rights to a focus on crime and alliance with law enforcement (Gruber, 2007). One example of the policy-level limitations of this approach is found in research showing that states with mandatory arrest laws have higher intimate partner homicide rates. This may be due to victims reporting less for fear of their partner being arrested, and due to perpetrators seeking revenge after being arrested (Inyegar, 2009).

Part of the issues with VAWA is that the law does not account for broader social issues, such as poverty and economic inequality (Kim, 2013; Weissman, 2013; Raeder, 2011). Intimate partner violence occurs within relationships of all socioeconomic levels, but is most likely to happen to women of low socioeconomic status (Hahn, 2014). Some would say that focusing on the aftermath and destruction of the crime, rather than on the roots of the problem, keeps the cycle going indefinitely (Johnson, 2005). In other words, the Act takes no preventive measures to stop domestic violence; rather, it aims to provide protection and restitution after the violence has already occurred. Most of all, the scholarship's critique is that seeing a social problem (domestic violence) as simply a crime is not a solution. These critics argue that other intervention approaches such as

community-based responses or rehabilitation, rather than the reliance on criminalization would have a more lasting impact on the domestic violence issue and would be more aligned with a social justice approach (Eckhardt, Murphy, & Sprunger, 2014, Kim, 2013; Raeder, 2011; Weissman, 2013).

### VAWA Reauthorization of 2013

The reauthorization of VAWA was set to expire in 2011. The Reauthorization of 2013 introduced three new provisions: (1) rights for intimate partner violence in the lesbian, gay, transgender populations, (2) sovereignty to tribal courts to prosecute non-Indian perpetrators, and (3) increased access to visas for immigrant victims (Ortega & Busch-Armediariz, 2013).

The political climate of the time which was right before presidential elections placed these issues within the context of the bigger debates between the Democratic and Republican parties (Dreveskaracht, 2012). The debate about whether or not it should be amended also fueled critiques from domestic violence advocates (Zosky, 2011). One example of this was a study that highlighted possible outcomes if funding for certain federal domestic violence programs were cut (Zosky, 2011). The study interviewed 161 domestic violence survivors and asked them what they would have done if the domestic violence program they had utilized to get out of their abuse was not around. The majority stated that they would have stayed in the relationship. Many women reported that their abuse had become normalized to them, either because of the duration of the abusive relationship or due to experiencing abuse as a child. Domestic violence programs both shed light on the severity of their situations and offer critically needed alternatives to violence (Zosky, 2011).



Because of opposition within the House, the VAWA Reauthorization was delayed until 2013. Members of the GOP party voted against passing the Reauthorization with the expanded amendments (“Indian Law,” 2014). The House rewrote the bill so that less funding would be provided and rights would not be expanded to these populations. But eventually the House and Senate passed the originally proposed and more inclusive version of the Reauthorization on February 28, 2013 (“Indian Law,” 2014; Larkin & Luppino-Esposito, 2012).

## CHAPTER 3

### METHODS

#### Research Design

The purpose of this study was to analyze the Violence Against Women Reauthorization Act of 2013 using the policy framework described below as a guide. Academic and government sources were also aids for the analysis.

#### Policy Analysis Framework

This policy analysis utilized and adapted a theoretical framework originally developed by David Gil and adapted by Jillian Jimenez (1992). This framework, taken from *Social Policy and Social Change: Toward the Creation of Social and Economic Justice* (Jimenez, Mayers-Pasztor, Chambers, & Pearlman-Fujii, 2015) was adapted for specific use of this policy analysis and is outlined in Figure 1 on Page 29.

#### Data Collection

The primary sources that guided this analysis were the text of and Congressional hearings related to the Violence Against Women Act of 1994 and the Violence Against Women Reauthorization Act of 2013. Other gathered data included related academic journal articles, law review articles, government documents and news media sources.

Sources were collected using various methods. The California State University, Long Beach library and its electronic catalog were the methods used most to locate sources. Online databases, such as EBSCO, Lexis-Nexis, and ProQuest were used to

locate academic journal articles, law review articles and news media. All sources collected contributed to a thorough analysis of the VAWA Reauthorization of 2013.

## SECTION A. THE SOCIAL PROBLEM ADDRESSED BY THE POLICY

1. What is/are the problem/s to be solved in the most fundamental terms?
2. What is the history of the problem/s in the United States?
3. What are the various theories about the causes of the problem/s?

## SECTION B: THE POLICY OBJECTIVES, VALUE PREMISES, EXPECTATIONS AND TARGET POPULATIONS

1. Policy objectives: overt and covert objectives. What are the stated objectives of the policy?
2. What are the values underlying the policy objectives? What values are revealed by the overt and covert objectives?
3. What did the policymakers expect would be the result of the policy?
4. Target segments of the population at whom policy is aimed. Who are the indirect targets of the policy?

## SECTION C: IMPLICATIONS OF THE POLICY

1. Changes in the distribution of material resources. Are there any changes to the distribution of material resources, including income and other tangible benefits, as a result of the policy for direct or indirect target groups?
2. Changes in distribution of services, rights, and statuses. Are there any changes in services, rights, or statuses as a result of the policy?

In addition, the political context of the time and the arguments of the proponents of and opposition to the Violence Against Women Reauthorization of 2013 were analyzed.

FIGURE 1. Policy analysis framework.

## CHAPTER 4

### ANALYSIS

This chapter analyzing the Violence Against Women Act (VAWA) Reauthorization of 2013 is comprised of the following three sections. Section A delineates the social problem addressed by the policy. Section B describes the policy objectives, value premises, expectations, and target populations of the policy. Section C focuses on the implications of the policy.

#### Section A: The Social Problem Addressed by the Policy

##### Domestic Violence

Social problems are socially constructed (Muehlenhard & Kimes, 1999). In other words, definitions are constructed based upon the cultural and historical influences of the time, rather than any one set universal definition. Usually, only those in power are able to dictate what constitutes a social problem, but social movements can significantly shift underlying dynamics of power (Muehlenhard & Kimes, 1999). Social problems tend to only gain enough momentum to warrant action or policy through advocacy and media attention (Jimenez et al., 2015). For domestic violence, this occurred in the 1970s with the women's movement and feminist grassroots activism (Crenshaw, 1991; Muehlenhard & Kimes, 1999). The problem only became visible when feminists organized and demanded to have a voice; other factors present during the 1970s fostered this type of political climate (Schneider, 2008).

Domestic violence is defined as the threat or action of physical, psychological, and/or emotional violence within an intimate relationship (Flury et al., 2010). Usually, these threats or actions are embedded in a relationship dynamic within which one party exercises power or control over the other. Domestic violence was and continues to be thought of as a gendered crime with men primarily as the perpetrators and women as the victims (Hassouneh & Glass, 2008; Kelly & Johnson, 2008). Advocates continued to fight so that domestic violence is no longer only known as “wife beating” or considered a private matter. However, the definition of “violence against women,” has expanded over the years (Gruber, 2007; Russel, 2003; Sack, 2004; Schneider, 1996).

“Violence against women” now includes isolated and repeated incidents of sexual assaults with one or multiple perpetrators, the acts of stalking and/or cyberstalking, and sex trafficking (Cooper, 2002). Domestic violence affects “women as a class,” rather than just being an “individual” problem (Russel, 2003).

Over time, different forms of violence against women have continued to come into public awareness. For example, sex trafficking was once predominantly known as “prostitution,” but is now recognized as a form of violence against women (Cooper, 2002). As these definitions expand, so do public perceptions, policy domains and treatment approaches (Nurius & Macy, 2008). This is also the case with dating violence and sexual assault on college campuses (Marshall, 2014). Although this type of violence has been a longstanding problem on college campuses, schools have been inconsistent in how to deal with the violence. The problem was not a focal point of any federal policy, until the VAWA Reauthorization Act of 2013, but funding was provided under the VAWA Reauthorization of 2000 for “Crimes Against Women on College Campuses.”

Additionally, there has been considerable controversy within the domestic violence field about whether or not men are significantly or equally victimized (Schmesser, 2011). Some feminist advocates argue that those supporting the position of gender-neutrality or gender-symmetry in domestic violence is just another way to continue patriarchy and the domination of women by men (Dragiewicz, 2008). Both sides of the argument offer considerable research and statistics to validate their points. In Johnson's (2008) typology of intimate partner violence, non-gender specific forms of domestic violence highlighted by family sociologists are said to describe only one type of intimate partner violence, a form that is less severe than the other types.

Less controversial recognition of male victims of intimate partner violence is supported by studies of intimate partner violence among same-sex partners, including men (Ahmed, Jindasurat, & Wasser, 2014; Baker et al., 2013; Messinger, 2011). These studies generally fall outside of the debate about whether or not women and men are equally perpetrators. As it stands, research continues to find that men are most often perpetrators of domestic violence, both against men and women (M.C. Black et al., 2011; Walters et al., 2013).

#### Domestic Violence: Theories of Causes

There are many theories about the causes of domestic violence (Balsam & Szymanski, 2005; Melton & Sillito, 2012). One well-researched theory is that of the intergenerational transmission of violence (D.S. Black, Sussman, & Unger, 2010; Kim, 2012; Markowitz, 2001). The theory was first introduced in 1963 and states that those who witness or experience family violence as children are more likely to later become perpetrators or victims themselves (Curtis, 1963). Many other researchers believe

intergenerational transmission to be a risk factor, but not a determining causation (Kim, 2012).

Some researchers have focused on individual and psychological attributes, such as perpetrators with personality disorders, most commonly antisocial or borderline (Balsam & Szymanski, 2005; Holtzworth-Munroe & Meehan, 2002; Vaughn et al., 2014). Others have focused on cultural and societal factors, such as the influence of poverty and added stress to a relationship (Balsam & Szymanski, 2005; Vaughn et al., 2014). When thinking about societal factors, there is a belief particularly among feminist scholars that intimate violence mimics the wider-scale, greater oppression of women by men (Balsam & Szymanski, 2005). According to this view, men are not innately more violent; however, men are socialized into violent roles. Finally, misinformed victim-blaming stances continue to abound, as well, such as the belief that a woman is responsible for her abuse or “not leaving” (B. Black, Weisz, & Bennett, 2010; Worden & Carlson, 2005).

#### Section B: Policy Objectives, Value Premises, Expectations, and Target Populations History of Domestic Violence Policy in the United States and VAWA 1994

Domestic violence has a longstanding history in the United States, but policies related to domestic violence are a much more contemporary phenomenon (Schneider, 2008). Family violence, including violence against wives, has traditionally been viewed as less severe than other forms of violence or dismissed as acceptable disciplinary action within the domestic sphere (Johnson & Sigler, 2000).

Although the first shelter for battered women opened in the United States in 1972 (Muehlenhard & Kimes, 1999), it was not until 1994 that the first federal policy was signed into law by President Clinton with the passage of the Violence Against Women



Act (VAWA) (Schneider, 1996). At that time, there was little research about domestic violence or clinical knowledge on what to do with victims or perpetrators. Advocates focused on opening shelters and keeping victims safe (Kelly & Johnson, 2008). Implementing policy changes became necessary as advocates continued to bring the issue to public attention (Fine, 1998; Kelly & Johnson, 2008).

VAWA 1994 was a landmark bill that changed the view of domestic violence as an individual problem to a “civil rights problem,” a pervasive, societal problem (Russel, 2003). Although criminal laws in the United States are primarily under state jurisdiction, VAWA 1994 named the act of intimate partner violence as a crime and offered resources particularly in the arena of law enforcement for battered women (Sack, 2009; Schneider, 1996). With heightened criminal legal attention to domestic violence, public perception has grown increasingly harsh and more punitive (Johnson & Sigler, 2000). Those citing the limitations of the criminalization approach argue that victims would most likely have preferred financial retribution rather than their batterers simply being incarcerated (Schneider, 2008).

Since the women’s movement raised the issue of domestic violence in the 1970s, there has also been a critique that domestic violence victims are continuously represented as one type of victim with characteristics and policies primarily appropriate for middle-class White heterosexual women (Crenshaw, 1991; Matlow & DePrince, 2012; Salter, 2014). Critics argue that there has been a lack of addressing the variations in victim experiences (Crenshaw, 1991; Matlow & DePrince, 2012; Nurius & Macy, 2008; Salter, 2014).

With VAWA 1994, special attention was given to immigrant women issues, as many immigrant women were trapped in abusive relationships due to strict citizenship laws in the United States and the fear of deportation (Ortega & Busch-Armendariz, 2013). Since the passage of VAWA in 1994, subsequent reauthorizations have expanded the legislation to address broader and more diverse populations and their specific experiences of domestic violence.

#### VAWA Reauthorization of 2013 Objectives

Since the first passage of VAWA 1994, the main objective has been to reduce domestic violence through improved law enforcement techniques, while offering services for those already battered. Additionally, certain populations have been underrepresented in terms of protections and available services, which is what the VAWA Reauthorization of 2013 was expected to remedy (Ortega & Busch-Armendariz, 2013). VAWA 1994 and each subsequent reauthorization of VAWA also focused on marginalized communities, often unrecognized within contemporary frameworks of those constituting domestic violence victims. Increasing recognition has gone towards the special needs of marginalized communities with regard to domestic violence remedies and the lack of appropriate remedies and resources (Ortega & Busch-Armendariz, 2013).

The primary objectives of the VAWA Reauthorization of 2013 focused on special categories including: (1) immigrant populations, (2) the lesbian-gay-bisexual-transgender (LGBT) community, (3) Native American tribes, and (4) women on college campuses. For the immigrant populations and women on college campuses, the aim was to expand services that were already in place, but proved to be insufficient. For the LGBT and Native American individuals, the goal was to offer equal protections that have

been severely lacking. Because the specific objectives of VAWA Reauthorization of 2013 are tied closely to these categories or “special inclusions,” the objectives are further detailed in the section on Target Populations below. See the Appendix for a summary of the specific titles under VAWA Reauthorization of 2013.

Covert objectives of policies usually become clear after the policy has already been enacted and the effects are witnessed. Because this policy only came into effect in the fiscal year of 2014, the actual intended and unintended effects of the policy are in progress (Ortega & Busch-Armendariz, 2013). In the analysis to follow, the specific policies related to these categories as well as the expected effects and arguments for and against are elaborated.

#### VAWA 2013 Values

Certain language used in policies reflects particular values of the policymakers and overall society (Jimenez et al., 2015). Competing values driving arguments both advocating for and opposed to the VAWA Reauthorization of 2013 became widely publicized and highly politicized (Busch-Armendariz, 2013). The fact that VAWA 2013 was the first Reauthorization of VAWA to fail within Congress speaks to broader values that are still present in the United States and the divisive political climate that has changed the rules of the game within the House and the Senate (DeForest, 2013; Ortega & Busch-Armendariz, 2013).

Those supporting VAWA Reauthorization of 2013 emphasize the need for federal and state policies to protect all individuals, demonstrating values opposed the discrimination and in support for equality and the greater social welfare (Jimenez et al., 2015). More specifically, these values include those of compassion, fairness, and

improving the conditions of all Americans, or those living in the United States, regardless of their citizenship (Jimenez et al., 2015).

Values held by the opposition have been particularly salient in the political debates underlying each of the “special inclusions” in the VAWA Reauthorization of 2013. Because value-laden arguments gained such public attention in the struggles to pass VAWA Reauthorization of 2013, the specific values are addressed in relationship to each “special inclusion” below.

Gender and values. The United States was built on Judeo-Christian values, and thus religion has been characterized as a large factor in Republican Party values and decisions (Jimenez et al., 2015). This is reflected in the attempt to control women’s procreation rights, such as lobbying for anti-abortion laws. Stereotypes about gender continue to be a dominant part of United States culture. These socially constructed gender norms can also be witnessed in the discussions that preceded the 2012 elections regarding what constituted rape, and rape and pregnancy. Some Republican candidates brought up such ideas as “legitimate rape” and female bodies either being able to stop a pregnancy from happening in that case, or it being “God’s will” if a pregnancy did occur (Blake, 2012; Tumulty, 2012). This heightened climate of patriarchal attitudes toward women was reflected in the level of Republican opposition to VAWA Reauthorization of 2013.

Race and values. Domestic violence has primarily been seen through the lens of gender, but not race or sexuality. Critical race theory suggests that policies that are based on racist and inequitable value systems are structural and part of the foundation of our society (Delgado & Stefancic, 2011). With regard to the VAWA Reauthorization of

2013, the policy position regarding immigrants and Native American rights reflected a high level of racial antagonism toward oppressed minorities, often couched in the language of “special rights” (Ortega & Busch-Armendariz, 2013).

The issue of Native American sovereignty in the prosecution of sexual assault committed by non-Native American men in tribal territories became a highly divisive issue in the passage of the VAWA Reauthorization of 2013 (Ortega & Busch-Armendariz, 2013). The struggle over sovereignty can be viewed from a historical view, one that dates back to the founding of the nation (Bubar & Thurman, 2004; Dreveskaracht, 2012). Some would also argue that sexual assault against Native American women by the earliest European settlers and its occupying forces is one that has been closely tied to the issue of sovereignty (Bubar & Thurman, 2004; Smith, 2012). The fact that Tribal Courts have not been able to try any non-tribal members for sexual assault, but Native-American individuals could be tried in Federal courts reflected an inequitable and racist value system and the lack of respect for legal sovereignty which has been granted to Native Americans (Ortega & Busch-Armendariz, 2013). These intertwining issues raised strident arguments focusing on concern for Native American women and the disproportionate numbers of sexual assaults, the high incidence of sexual assaults committed by non-Native American men and the limited scope of tribal sovereignty (Dreveskaracht, 2012).

Sexuality and values. Sexuality is also socially constructed, as culture deems what is acceptable, normal, and/or deviant (Katz, 1998). Heterosexuality is “a way of perceiving, categorizing, and imagining the social relations of the sexes” (Katz, 1998, p. 87). Heterosexism is rampant in the United States with women who have sex with men

being viewed as “normal,” and women who have sex with women being viewed as “abnormal,” and vice versa for men. In turn, the battered women’s movement has characterized domestic and sexual violence as a violent male perpetrator, with a passive, nonviolent female (Hassouneh & Glass, 2008).

Proponents of LGBT inclusion including male victims of same-gender domestic violence attempted to reverse discrimination against LGBT communities in previous VAWA legislation. Oppositional attempts to exclude the LGBT population from VAWA clearly reveal the values underlying the conservative opposition. This includes the belief that domestic violence is the consequence for being in an “unnatural” relationship that does not result in procreation (Ortega & Busch-Armendariz, 2013).

#### VAWA Reauthorization of 2013 Expectations

With policies directed at remedying social problems, the most pertinent question to ask is whether or not the policy advances social justice (Jimenez et al., 2015). VAWA came from a place of advocacy, and continues to have advocates fight for its reauthorizations (Marshall, 2014). VAWA was intended to decrease domestic violence, and in some aspects it has, but there continue to be segments of victims left without resources. Those populations addressed in the VAWA Reauthorization of 2013 are delineated below.

#### Target Populations

With each Reauthorization, the target populations have expanded. Every policy has indirect target populations, as well (Jimenez et al., 2015).

Immigrant population. There are specific needs of immigrant women who are domestic violence victims due to issues of language and culture, lack of access to

resources, racist and nativist attitudes and policies within United States institutions and distrust of many of these same institutions (Arcidiacono, 2010; Bhuyan, 2005; Crenshaw, 1991; Espenosa, 1999; Orloff et al., 2010). This was first noted with the original VAWA of 1994 and has since been an ongoing theme with each Reauthorization. The United States immigration system has required permanent residence and citizenship with sponsoring relatives, who are sometimes abusive spouses. “U” visas are offered to certain immigrant victims of crime, such as sexual assault, and provide a temporary legal status to stay in the United States (Gill, 2013). One requirement for eligibility for “U” visas is that the victim must give information to law enforcement about the crime so as to prosecute the perpetrator (Gill, 2013).

Those who are against providing immigrants with legal status in the United States at all have opposed the availability of special visas. Some voting members did not want to include the increased access to “U” visas for victims of domestic violence, thinking that it would be used to support future immigration reform (Ortega & Busch-Armendariz, 2013). Increased grants for “U” visas in the VAWA Reauthorization of 2013 were to increase implementation but also raise awareness about these protections for immigrant women. Men may also apply for “U” visas if they meet requirements and are victims of domestic violence or sexual assault (42 U.S.C. §§ 13701), thereby expanding VAWA protections to men. This also presented a new gender category to VAWA which was previously only targeting women victims of domestic violence and sexual assault.

With the original VAWA, the indirect affected population included the children of immigrant victims of violence. Though the victim herself could petition without an abusive relative, her children were not eligible for coverage. It was not until the VAWA

Reauthorization of 2005 that any protections and visas were offered (42 U.S.C. §§ 13981). The 2013 Reauthorization explicitly included protections for children of self-petitioners (42 U.S.C. §§ 13701).

LGBT. The LGBT community has often been overlooked when conducting studies on domestic violence rates, or taken from “convenience samples” (Hassouneh & Glass, 2008). Therefore, exact statistics for this community and, as a result, documentation of the problem of domestic violence for the LGBT population had been difficult to find (Hassouneh & Glass, 2008; Messinger, 2011). In recent years, numerous studies have identified that the problem is prevalent (Balsam & Szymanski, 2005; Hassouneh & Glass, 2008; Messinger, 2011). Lesbian, bisexual, and gay individuals experience intimate partner violence and sexual assault at least as much as heterosexual individuals (Walters et al., 2013).

Due to the overwhelming lack of services and shelters specializing in LGBT domestic violence despite more recently available research (Ahmed, Jindasurat, & Wasser, 2014; Messinger, 2011), the VAWA Reauthorization of 2013 specifically addressed the needs of the LGBT population. The Reauthorization made available equal protections to LGBT persons by including all individuals regardless of gender, gender identity, or sexual orientation, with no domestic violence programs and services being allowed to discriminate (except in cases of sex-segregated shelters and programs) (42 U.S.C. §§ 13701). This is a milestone for VAWA due to its recognition of LGBT experiences of domestic violence and because men were not previously included in protections and services.



Native American tribes. Native American tribes are significantly vulnerable to domestic violence (Dreveskaracht, 2012; National Coalition Against Domestic Violence, 2006; Ortega & Busch-Armendariz, 2013). Although Native Americans have been identified as particularly in need of services since the VAWA Reauthorization of 2000, it was not until this most recent Reauthorization that the issue of tribes being able to prosecute non-tribal members for violent crimes was raised.

The Senate introduced the VAWA Reauthorization of 2013 with new particular protections and services for Native Americans. Sovereignty or “special domestic violence criminal jurisdiction” is now guaranteed when a non-tribal member commits sexual violence or domestic violence against a tribal member on tribal land (42 U.S.C. §§ 13701). There is also an emphasis on research and analysis so as to create effective interventions and prevention programs. Although research has been conducted previously to learn more about domestic violence occurring on tribal land, the issue of cultural competence is even more acute due to the historical mistrust and fear of outsiders coming into tribes (Bubar & Thurman, 2004).

Women on college campuses. In the midst of the other controversial sections of the VAWA Reauthorization of 2013, one population did not receive as much media attention (Marshall, 2014). Sexual assault remains a prevalent problem on college campuses, but there has not been consistent treatment for perpetrators. In some cases, campuses ignore the allegations, or when a victim does move forward with the school’s disciplinary proceedings, she is questioned about her sexual history or blamed for not “getting away” from her attacker (Marshall, 2014).

In the House's rewritten bill for VAWA Reauthorization of 2013, there was no inclusion of the Campus Sexual Violence Elimination Act, also known as the SaVE Act that was eventually a key part of the bill (Marshall, 2014). The SaVE Act aims to create minimum national standards for colleges regarding dating violence, domestic violence, sexual assault, and stalking. One aspect is consistency among all schools for the handling of sexual assault allegations. For instance, schools must offer particular protections for victims, whether or not they decide to notify law enforcement. These protections include the right to change their academic situations or living arrangements and a zero tolerance policy toward dating violence, sexual assault, and stalking. It also requires schools to publicly display their particular procedures when dealing with sexual assault and to inform students of their rights in regard to sexual assault claims. Another aspect of the SaVE Act is that of education and prevention. Many rapes are not reported due to the victim not knowing whether or not it was a crime or if what happened was "serious enough." The SaVE Act requires ongoing prevention and awareness programs for both students and employees, such as explicitly defining what "consent" is, or the safest way an individual can try to intervene if witness to an attack (Marshall, 2014).

The SaVE Act was first introduced as a separate bill in November of 2010 (Marshall, 2014). It failed to pass two times on its own. Arguments against the Act included concerns that the accused perpetrator would not be granted the same rights to protections and services as the victim. Opponents further raised their belief that accused perpetrators would have to always be assumed guilty, even if there was not enough evidence to prove so. One of the main reasons certain campuses opposed the SaVE Act was due to requirements that campuses publish their rates of crimes of domestic violence,

dating violence, and stalking. This raised fears that such statistics would deter students and parents from choosing the school and also to inform the public about the reality of domestic violence and sexual assault on campuses (Marshall, 2014).

The SaVE Act also expands the definition of hate crimes to include those targeted due to national origin or gender identity (Marshall, 2014). This, again, is now required to be reported, adding to crime statistics on school campuses. This is especially relevant when the number of hate crimes has reportedly decreased in recent years. Part of the decline is due to the inaccurately narrow definition of hate crimes (Marshall, 2014).

### Section C: Implications of the Policy

The changes in distribution of resources, services, rights, and statuses were seemingly the cause of conflict and opposition with the VAWA Reauthorization of 2013. The majority Republican stance was that the Democrats were “singling out” domestic violence and giving priority to certain populations, while they were stating that “all domestic violence” victims had the same rights and protections (158 Cong. Rec. 70, 2012). In reality, the new resources and services for “specific populations” simply allows previously excluded populations the same rights as other populations of domestic violence victims.

#### Distribution of Resources

As with each Reauthorization, there were changes in distribution of resources with the onset of the VAWA Reauthorization of 2013. The Appendix details the seven Titles of the VAWA Reauthorization of 2013. There is now increased funding for population specific organizations, meaning a nonprofit, nongovernmental organization that serve specific underserved populations. These changes and expansions represent “a

closing in the gap of justice” (Singh, 2014, p. 1). As for the distribution of resources, there are many grants involved in the VAWA Reauthorization of 2013. For example, there are now grants to “help families in the Justice system.” This could mean being able to provide supervised visitation between children and a parent or parents involved in child sexual abuse, domestic violence, sexual assault, or stalking. This also includes educating court-related personnel and child welfare workers about domestic violence, such as risk factors for escalated violence and homicide, and the needs of victims and their children. This grant puts more of a focus on helping children and families, rather than solely on punishing the perpetrator.

Additionally, there are more specified grant conditions to guarantee the best possible protections and services (42 U.S.C. §§ 13701). In order to prevent legal representation by lawyers unfamiliar with the specific provisions of VAWA, only lawyers with experience and expertise working with domestic violence are able to provide legal assistance. Victim services, including legal assistance, are available to victims of human trafficking, as well. Grantees may develop “state, local, or tribal legislation” to reduce or eliminate domestic violence, sexual assault, and stalking. It also mandates audits to ensure that grants are used appropriately.

#### Distribution of Services, Rights, and Statuses

This policy greatly affects the distribution of services, rights, and statuses. With the VAWA Reauthorization of 2013, there is now funding for population specific services “that address the safety, health, economic, legal, housing, workplace, immigration, confidentiality, or other needs of victims of domestic violence, dating violence, sexual assault, or stalking” (42 U.S.C. §§ 13701). Specifically, services that

have been available before to certain populations are now available to marginalized, once “invisible” communities. This has marked a milestone for many human rights activists (Ortega & Busch- Armendariz, 2013). In addition, this solidifies the VAWA Reauthorization of 2013 as an important policy in the social work field, with the number one goal in social work being to help those in need and aid in alleviating social problems (NASW, 2008).

## CHAPTER 5

### DISCUSSION

#### Summary of Findings

The VAWA Reauthorization of 2013 is an ambitious policy in that its goals are to close service gaps and provide protections to previously-ignored, marginalized communities. This Reauthorization was significant for its passage of landmark provisions despite strident opposition. The inclusion of men experiencing same-sex domestic violence, the explicit inclusion of LGBT protections, and the expansion of tribal sovereignty to cover assaults by non-Native American perpetrators are significant moves towards the overall objectives of gender equality and the recognition of the need for special provisions for marginalized populations.

The circumstances and delay of the VAWA Reauthorization of 2013 reveal the sharply divided and contentious political context of today. Strong Republican objections to so many of the specific provisions of VAWA as detailed in the section on Target Populations above demonstrated continued discrimination against immigrants, LGBT populations, Native Americans and women, more generally.

The passage of the VAWA Reauthorization of 2013 took place immediately before elections, and some politicians opposed to VAWA began to fear that voters would not look favorably on those who voted against a Bill to stop domestic violence and sexual assault. As many Democrat politicians stated during the Congressional hearings, to vote

against the all-inclusive bill would be to go backward instead of forward in the United States (DeForest, 2013). A political climate in which the public reacted unfavorably to well-publicized anti-women comments by certain Republican politicians likely contributed to the eventual Republican shift towards passage of the Senate Bill (Ortega & Busch-Armendariz, 2013).

#### Limitations and Need for Future Research

There are limitations with this analysis. Of course, as with all policy analyses, the view of the researcher was subjective. The author used research and the policy itself to present an unbiased analysis, but the interpretation is through the researcher's viewpoint. This is also true of articles used for the analysis. However, the researcher documented both the opposition and those in favor of the VAWA 2013 Reauthorization. Additionally, due to the recent passing of the policy, research was limited, and implications of the policy are still surfacing. With its emphasis on women's rights, VAWA is an influential policy in both service provision and greater politics. With this in mind, VAWA does indicate specific funding for research, such as in Tribal communities. There is also funding for more documentation and auditing, meaning there will be more data to assess the intended and unintended consequences of VAWA. The long-term research will end up capturing these effects. Overall, this will also aid in the creation and tailoring of future policy.

#### Implications for Social Work Practice, Policy and Advocacy

The United States still has two opposing value sets in its opposing primary political parties. This has implications for social work, as marginalized populations are often left underrepresented or ignored, as would have been the case if the VAWA

Reauthorization of 2013 had not passed. For those working with victims of sexual assault and domestic violence, there is new availability for services. For the first time, services are available to male victims of same-sex domestic violence; there are expanded provisions overall for those victimized by same-sex domestic violence, immigrant victims, and Native American victims. With funding for new services, there will be an increased number of opportunities for social workers to work in these fields.

VAWA Reauthorization of 2013 also has implications for those who work on school campuses. Under VAWA, the SaVE Act has already mandated new school policies across the country (Marshall, 2014). The SaVE Act mandates new policies on all school campuses, such as consistent procedures for reports of dating violence and sexual assault.

VAWA also gives way to the continued need for social work in fields such as domestic violence, sexual assault, and human trafficking. With new grants in place, education and awareness are continuing to grow, not only with professionals such as law enforcement agencies, but with the general public, as well. Social work as a profession will benefit from these provisions and must provide ongoing education on the policy, practice and research policies of this legislation.

With regard to advocacy, this Reauthorization of VAWA has shown that when advocates come together to support a cause, their voices are stronger, and the resulting atmosphere becomes more pressured. Of significance is that multiple civil and human rights organizations, such as The National Association for the Advancement of Colored People (NAACP), the Leadership Conference on Civil and Human Rights, Human Rights Watch, and End Violence Against Women International came together to drive the 2013



Reauthorization of VAWA (Congressional Digest, 2012). While opposition remains, this combined advocacy also contributes to a climate in which the opposition fears the alienation of powerful supporters and advocates of policies that enhance equity across gender and other marginalized categories. This research shows that with public pressure, significant social and political change is possible.

## APPENDIX

## APPENDIX

### SUMMARY OF THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION OF 2013

This is a summary of the 12 Titles in the VAWA Reauthorization of 2013. Title I is “Enhancing Judicial and Law Enforcement Tools to Combat VAW,” and makes provisions for trainings (such as on “U” and “T” visa certification) to judicial and law enforcement and prevention activities. It also newly specifies funds must be used “for projects serving LGBTQ victims,” as well (42 U.S.C. §§ 13701). In addition, it requires rape exams and prosecution to be free of cost in domestic violence, sexual assault, and sex trafficking cases. Under Title I, there are grants to encourage arrest policies and enforcement of protection orders, enforcement for protection across state and Tribal lines, free and optional HIV testing to victims, rape kit backlog reduction, sex offender management, court-appointed special advocate program, outreach and services to underserved populations, and culturally specific services.

Title II is designated as “Improving Services for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking” (42 U.S.C. §§ 13701). This details: sexual assault services programs, rural domestic violence provisions, including those in tribal areas, training and services to end violence against women with disabilities and in older adulthood. These populations were given special attention to in previous Reauthorizations, as well.

Title III is called “Services, Protection, and Justice for Young Victims of Violence” (42 U.S.C. §§ 13701). This delineates funds for rape prevention, outreach and education specially designated for children and school campuses. This section also includes the SaVE Act.

Title IV is “Violence Reduction Practices” (42 U.S.C. §§ 13701). This section designates funding for the study conducted by the Centers for Disease Control and Prevention on domestic violence, and also for Saving Money and Reducing Tragedies through Prevention (SMART Prevention) aimed at children exposed to violence. The new provision of this program is to target an area toward preventing teen dating violence.

Title V is entitled “Strengthening the Healthcare System’s Response to Domestic Violence, Dating Violence, Sexual Assault, and Stalking” (42 U.S.C. §§ 13701). This section describes efforts to educate health professionals, and provide grants to research effective interventions.

Title VI is “Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking” (42 U.S.C. §§ 13701). This provides housing protections and transitional housing assistance for victims.

Title VII is “Economic Security for Victims of Violence” (42 U.S.C. §§ 13701). This section is meant to provide for the national resource center on workplace responses to sexual assault and domestic violence.

Title VIII is named “Protection of Battered Immigrants” (42 U.S.C. §§ 13701). This section newly added “stalking” to the list of crimes covered by the “U” visa. Also included are requirements for the “U” visa, protections for children of VAWA self-

petitioners, and regulation of international marriage brokers so as to prevent abuse and control of wives.

Title IX is the section: “Safety for Indian Women” (42 U.S.C. §§ 13701). This includes grants to Native American Tribal governments, which includes services for sex trafficking victims and children and non-abusing parents. There is also funding designated for Tribal coalitions to create and promote legislation and policies regarding sexual assault and domestic violence. Additionally, it mandates consultation between tribes and the Department of Interior. This section gives tribal jurisdiction over crimes of domestic violence, and designates five million dollars in grants to build this new criminal justice system, and gives it two years to be a pilot project. Grants are also provided for research of domestic violence within tribes and what is needed (42 U.S.C. §§ 13701).

Title X is “The Safer Act” (42 U.S.C. §§ 13701). This section puts an emphasis on reducing rape kit backlogs, and provides funding for auditing sexual assault evidence backlogs.

Title XI is for “Other Matters” (42 U.S.C. §§ 13701). This section incorporates direction for the Prison Rape Elimination Act, which are rules for all federal facilities, including immigration detention facilities, regarding “the detection, prevention, reduction and punishment of rape and sexual assault” (42 U.S.C. §§ 13701). It also reauthorizes a stalker database, and child abuse training programs for judicial personnel.

Finally, Title XII is the “Trafficking Victims Protection Act” which details educational and preventive measures, protections, services, and procedures regarding child and human trafficking (42 U.S.C. §§ 13701). Specifically, there is an emphasis on the government maintaining relationships with “private entities, including foundations,

universities, corporations, community-based organizations, and other nongovernmental organizations” to guarantee that no products made from the labor of victims of human trafficking are used in the United States.

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