

## **ABSTRACT**

This study was created to critically examine how post-assault services for victims of sexual violence work with each other. By examining services - including public health programs, the criminal justice system, rape crisis centers, and legislative organizations - not only in their own specificity but also through their interactions, this paper hypothesizes that post-assault services are fragmented through divergent goals, policies, and practices because of a lack of awareness towards intersectionality. Furthermore, the coupling of progress narratives with growing anti-institutional sentiment has stifled demands for further improvement. This project calls for increased state-driven and state-funded intervention in cases of sexual violence. Beginning with a study of sexual assault resources in Buenos Aires, Argentina, the project was expanded to Massachusetts, with a specific focus on the Western Region. This analysis takes its provocation from feminist theory, and then examines the real life application of concepts through interviews with professionals and critical policy analysis. While feminist calls to action have instigated significant and crucial progress, I argue that there remains essential work to be done to bring disparate services together and create a more comprehensive experience for all victims of sexual violence.

***Beyond the Assault: Sexual Violence, Victim Support, and the State***

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## 1. INTRODUCTION

In the last fifty years, sexual violence against women has become a heated topic for discussion. On college campuses, in the workplace, and in the military, activists have placed sexual violence within a broader framework of “rape culture” and initiated a robust public debate. On a Western Massachusetts college campus, a female student was forced to withdraw after obscene treatment by administrators (Epifano 2012). A female soldier deployed in Afghanistan was revictimized and not taken seriously when she accused her fellow soldiers of sexual assault (Vingiano 2014). A victim of abuse in Oklahoma received a jail sentence fifteen times longer than her perpetrator (UltraViolet 2014). These are only a few of the countless stories that made headlines, and we can only imagine the numbers of similar stories that never made it into the public record. By some accounts, 1 in 3 women worldwide will be sexually assaulted in her lifetime (World Health Organization 2014), and the majority of victims of sexual violence rely on public services set in place to help them deal with their situation post-assault.

This project attempts to shine a light on those services that remain so crucial for victims of sexual violence. For decades, feminists have tried to bring sexual violence out of the private sphere of silence and shame and into the public consciousness – and in many respects they have succeeded. In the last thirty years, countries all over the world, including the United States and Argentina, have seen substantial improvement and increased investment in post-assault services, from the creation of Victim/Witness Advocates, specialized nursing programs, and new best practices for law enforcement. Discourse has shifted away from victim blaming and toward a new focus on prevention and personal responsibility in stopping sexual assaults before they happen. Those discussions and actions are essential to reducing, or perhaps even eliminating, sexual violence. However, it is crucial to imagine a better future with the tools available in the

present: while it is difficult to foresee the eradication of sexual violence in this lifetime, we do have the power to change how we care for victims. We often tend to focus on the act of aggression and ignore the follow-through of care for victims. Sexual assault is not an isolated event, but rather its effects reverberate and persist. Therefore, care - including health, mental, emotional, economic, judicial, safety, etc. - needs to be continuous and comprehensive. This paper argues for increased state intervention and oversight, using the argument that the more interconnected the systems, the smoother the transition of care.

While studying abroad in Buenos Aires, Argentina during the fall of 2013, I conducted research on the state of sexual violence within the region. In many discussions with a diverse pool of Argentinean women, they spoke to the pervasiveness of violence against women in daily life. Indeed, my own experiences while abroad revealed a shocking level of street harassment, and women were constantly advised to watch out for predators. There were over 4.5 million victims of violence against women in Argentina in 2011 – roughly 20 percent of the female population (van den Boogaard 2011). However, only 10 per cent of victimized women report their cases – about 2.25 percent of the female population.<sup>1</sup> I began to wonder what structures, especially state structures, were created to support these victims. Through conversations with professionals from legal and public health fields, I critically examined aspects of victim care – including mental health, medical assistance, the criminal justice system, housing laws and *denuncias*<sup>2</sup> - and the relationship between them. Having conducted the process abroad, I then wanted to bring the study back to my home environment in Western Massachusetts.

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<sup>1</sup> It is important to note that figures around sexual violence and reporting are often inaccurate, as it is difficult to account for the wide variety of cases and those who do not report.

<sup>2</sup> Legal complaint in Argentina

To test my findings from Buenos Aires, I followed a similar methodology to that of my prior studies in Argentina, with a variety of adaptations that would allow me a clear and structured research plan. I completed the Institutional Review Board process during the summer, and I began my research immediately with the start of the new semester. I began with independent research on the laws, protocols, and policies concerning sexual violence in Western Massachusetts, especially Massachusetts General Law, Chapter 265. I not only looked at the content of the law but also critically examined the language and rhetoric used in the legal documents. The second part of my archival research consisted of examining the theory surrounding sexual violence, including feminist theory on victimization and the female body, along with theory on rape as a political issue.

After the archival research, I collected further data through interviews and case studies with health care and law professionals in Massachusetts. My findings are based on qualitative data gathered through the interview process, and it was important that I connect with a diverse pool of specialists. Additionally, rape crisis centers were examined as a unique system to help victims navigate between the health and criminal justice system in Massachusetts. During the fall of 2013, I interviewed three medical professionals in Buenos Aires, both within the city and in the greater suburbs. In Massachusetts, I spoke with two members of the Sexual Assault Nurse Examiner (SANE) program, two professionals in the Northwestern District Attorney's Office, one detective from the Amherst Police Department, two state officials in the Department of Public Health, the director of the Center for Woman and Community (Rape Crisis Center), and other advocates for a total of ten meetings. In semi-structured recorded interviews, I asked interviewees about the first-hand details of their work with victims - including their daily implementation of protocols through questioning and examination procedures - as well as their

perceptions of the public system in which they work. I specifically questioned interviewees about their interactions with either the public health or criminal justice system as I worked to place the role of the state within these services. At the end of the project, I distributed my findings to all those who assisted me.

## 2. FEMINIST THEORY AND ACTIVIST HISTORY

Definitions of sexual violence vary by discipline, locality, and use. However, for this project, the definition of sexual violence is derived from the World Health Organization (2014), which defines it as:

“any sexual act, attempt to obtain a sexual act, or other act directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.”

Additionally, according to the Massachusetts Governor’s Council to Address Sexual and Domestic Violence, sexual violence includes rape, sexual assault, and sexual harassment/exploitation.<sup>3</sup> It is important to note that sexual violence, as per the definition, does not *necessarily* include rape. While rape is often taken as the sole indicator of sexual violence, rape is not a factor in every case. However, much of the literature uses the language of rape as synonymous with the larger scope of sexual violence. For the purposes of theory, I will use rape and sexual violence interchangeably, even though there is an important distinction between the two, both theoretically and through its legal and/or health implications.<sup>4</sup> Additionally, the use of the word “victim” throughout the project is intentional. Though the term “survivor” has recently been integrated into the United States activist vocabulary, the term is rarely used in Argentina or in most policy documents (in the U.S. or abroad). For consistency, the term “victim” will refer to those directly on the receiving end of any act of sexual violence as defined by the previous

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<sup>3</sup> Rape is defined as “force or non-consensual sexual penetration of any body part by an object and/or individual. Sexual assault includes “unwanted sexual behaviors that are attempted or completed against one’s will or when one is unable to consent.” Sexual harassment/exploitation is a broad category that includes, but is not limited to, inappropriate sexual comments, stalking, and exhibitionism (Services Accessibility Working Group 2014, 2).

<sup>4</sup> I use sexual violence and rape interchangeably throughout this paper to connect the literature on the topics in a cohesive manner. However, recent activism has tried to expand the definitions of sexual violence that counter heteronormative constructions of sex, which I acknowledge and support. For more, see Chapter 5.

statement. While there are many cases of sexual violence against men and the trans\* population, women remain the primary targets of sexual violence worldwide. Therefore, for the scope of this project, the focus will be on women as victims of sexual violence.

Despite shifting discourse around sexual violence, a number of core theoretical concepts have continued to frame both feminist theory and activist practice. Two of the most prominent are theories of objectification and intersectionality. Martha Nussbaum writes that objectification has seven key features: instrumentality, denial of autonomy, inertness, fungibility, violability, ownership, and denial of subjectivity (1995, 257). In general, objectification theory in feminism refers to the treatment of women as a thing or object. The idea of property has influenced ideas about female bodies within academic and political discourses, and many investigators argue that the phrase from 17<sup>th</sup> century government of “every man has a Property in his own Person” (Locke 1823, 116) has turned into the concept of “the self as property...to be exploited” (Marcus 2002, 385) through objectification. Many feminist arguments ground themselves in theories of objectification, including Catherine MacKinnon’s famous anti-pornography case. The sexual objectification of women to men’s assumed subjecthood has framed many debates, and in cases of sexual violence, victims are often seen as sexually objectified or, even worse, sex objects.

While objectification theory has been a dominant narrative in feminist thought, there have been critical examinations of its implications. Ann Cahill explores the problems with the use of objectification within feminist theory in “Sexual Violence and Objectification” (2009). She writes that the subject-object binary is problematic and wrong in cases of sexual violence because female subjecthood is incredibly important in the perpetration of an assault. She writes that a woman’s subjectivity is sought after - if men viewed women as merely an object for sexual pleasure they would go to an innate object - Cahill suggests a blow-up doll - for sexual

gratification because it would produce the same results with far fewer possible consequences (2009, 20). Instead, she trades objectification for derivatization, which she defines as “treating a person as a derivative” (2009, 14). Rather than reduce women to things as does objectification, derivatization reduces a woman to someone else’s desires, values, etc. She writes that this term is more accurate when discussing sexual violence because it includes “the relevance of the body and the complex role of intersubjectivity with regard to sexual violence” (2009, 20), and thus makes it easier to fight both legally and interpersonally.

While derivatization creates a means to discuss the relations between people, intersectionality has become the lens to talk about the relationship people have with their own complex identities, particularly as those identities are marked in institutions and structures that deal with sexual violence. Critics of feminism have taken issue with feminist history of social activism and its focus on the white, middle-class woman.<sup>5</sup> From first-wave feminists gaining the right to vote to Betty Friedan’s *The Feminist Mystique* (1963), many groups have been left out of the conversation. Much of feminist theory and activism has assumed a middle-class, white, heterosexual woman as the “subject” of feminist work. The theory of intersectionality, which highlights the ways in which one is defined by an intersection of multiple of identities, was introduced in hopes to create a more inclusive discussion and policy prescription around sexual violence. In her landmark piece, “Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color” (1991), legal theorist Kimberlé Crenshaw focuses on the intersectionality of identities that not only make women of color more susceptible to violence but also make their treatment and post-assault care more complicated. She argues that even though sexism and racism - and classism, heterosexism, etc. - intersect in the real lives of many, they

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<sup>5</sup> Here I am referring to internal critiques within the feminist community, not critiques from anti-feminists.

often do not in theory. While some theorists, such as Judith Butler, take issue with using identity politics as an individual identifier rather than constructions that divide us, Crenshaw argues that identifying difference can “be the source of social empowerment and reconstruction” (1991, 1242), from which activists and practitioners can come together to enact change.

That organized will to create change around sexual violence formally began in the mid-20<sup>th</sup> century with iconic feminist texts, including *Against Our Will* by Susan Brownmiller. In her opening chapter, Brownmiller writes “rape has a history” (1975, 12), and likewise, so does feminist thought around the topic. Feminist theory examining sexual violence has not only influenced the broader academic discourse surrounding the topic but also it has played itself out in policy, support services for victims, and public perception. Even though rape was firmly set as a “public wrong” by the 13<sup>th</sup> century (1975, 30), sexual violence has only become a serious site of discussion and debate in the political arena within the last fifty years. Many theorists point to the late 1960s as the birth of the anti-rape movement, which focused on bringing attention to sexual violence as a social problem and countering the proliferated victim-blaming of the times (Gavey 2009, 99).

Early feminist theory during the 1970s around sexual violence focused on rape in terms of power and violence, especially that concerning the body. This line of thinking derived its roots from the idea that “all rape is an exercise in power” (Brownmiller 1975, 256). Many of these arguments were taken from a biological perspective, and often in reaction to Freud’s phallogocentric conception of sexuality. Brownmiller writes against the idea that “men have always raped women” (1975, 315), a theory brought around by the study of animals, socio-biology, and evolutionary psychology that saw rape as a by-product of evolution and meant for reproduction (Bourke 2007, 110, 113). For Brownmiller and others, the idea of bodily integrity was central

(1975, 381), and women were understood as vulnerable to oppression and violence through a mix of a “cultural sexism” that normalized the subordination of women and the history of the male-centered criminal justice system (1975, 389).

Feminist activism during this period centered on bringing sexual violence out of the private realm and into public discourse, and Brownmiller is credited with the first use of the term “date rape ” to introduce the idea that rape can happen between acquaintances and partners as well as strangers. Brownmiller wrote, “there can be no private solutions to the problem of rape” (1975, 400), and prescriptions often fall into the categories of legal and social change. Despite the difficulty in gaining national attention, feminists maintained that “the personal is political,” which in turn “required political solutions” (Bailey 2010, 1258). They envisioned a reformed criminal justice system in which victims would *choose* to participate, but that system would have to be more effective, approachable, and victim-oriented (2010, 1265). However, as previously stated, feminists during this time period focused more on activism surrounding social awareness than legal change.

Whereas Brownmiller argued that rape is an issue of power through domination and violence, Catherine MacKinnon criticized that conceptualization of rape, harassment, and pornography as violence in her piece *Sex and Violence: A Perspective* (1987). Rather, she argued that rape is inextricably linked to heterosexual sexuality. While rape has been legally structured as different from intercourse through the legal qualifications of force, they are actually deeply connected for women within the patriarchal context (MacKinnon 1989, 174). While consent, at least in the legal sense, is generally presented as women’s power of choice, according to MacKinnon, it is not. Because women do not have control over the choice of situation or context and are seen as both the “cause of man’s initiative and the denial of his satisfaction,” force is

rationalized (1989, 175). Additionally, women are socialized to please men and not say “no,” especially under the threat of violence or insecurity. Contrary to Brownmiller, who wrote that men rape women because they can, MacKinnon wrote that “men rape women because they get off on it in a way that fuses dominance with sexuality” (1987, 92). For MacKinnon, the “rape as violence and not sex” argument ignores and continues the male control over female sexuality (1989, 178).

MacKinnon, as both a legal practitioner and theorist, helped further legal reforms through feminist activism. She wrote that the fundamental legal problem for rape cases was the fact that the law perceived that “a single, objective state of affairs existed” (1989, 183), where in reality the law was biased towards a patriarchal framework of sex that disadvantaged victims of sexual violence. Just as MacKinnon argued that rape is a manifestation of power through sex, Judith Baer wrote that “law is also a social institution, manifestation of power” (1997, 161). For legal theorists such as MacKinnon, the law is male because men created it, it contains male-centric traditional thought, and it remains a male dominated field. Within the law, two main issues arose for feminist legal scholars advocating change: the role of victim testimony and the goals of the criminal justice system around sexual violence. While the feminist movement, which served as the catalyst for the creation of many of the policies in question, prioritized victim autonomy and bodily integrity, the criminal justice system focused on the societal and state impact of crime and punishment (Bailey 2010, 1257). Though many victims, especially poor women of color, do not go to the police after a sexual assault, those who do report their cases often do so to reclaim autonomy, to help themselves in the recovery process, and to assure that the aggression won’t be repeated, either towards themselves or other women. However, the judicial system does not

prioritize victim recovery or health; rather, it focuses on prosecution and punishment of the guilty (Chejter and Ruffa 2002, 28).

Feminist legal advocates in the early stages of the anti-rape movement faced a double-edged sword when bringing a sexual violence case to court. On the one hand, courts asked for evidence of the assault, which often translated to visible markers of violence, including lesions and bruises, determined through “rape kits,” medical examinations, or waivers from health care professionals, police, or social service agencies (Crenshaw 1991, 1248). Many cases of sexual assault did not have this, in part because there was no effective system set up to document and retain physical evidence. On the other hand, victim testimony was also problematic, not least because of the fact that retelling of assaults can induce trauma for the victim, often called “the second assault” (Martin and Powell 1994, 856). Testimony often relied on tropes propagated by socially-constructed rape myths, which blamed the victim for her own assault by centralizing irrelevant issues such as her sexual history, past relationships, and class and/or race politics - despite of illegality of biased questioning practices. Women’s adherence to normative femininity was legally tied up in what feminists argued were antiquated ideas of sexuality, and Crenshaw writes, “deviation from that norm tends to turn women into illegitimate rape victims, leading to rejection of their claims” (Crenshaw 1991, 1270). Because of this, MacKinnon and other activists called on state intervention to change court proceedings and legal definitions of sexual violence (and sexual harassment and pornography). Activists also called for the transformation of social attitudes, increased reporting, increased arrests and prosecution rates, reducing victim trauma in court, and increasing jail time for offenders.

Shifting forward to the 1990s, feminist theory began to view sexual violence through the lens of post-structuralist theory. For these post-structuralist thinkers, rape was not inevitability

but something taught and culturally imposed. Rather than seeing women's situation as something accepted and surpassable through law and policy, women's situation was seen as a larger, socially constructed problem. Sharon Marcus' work in *Fighting Bodies, Fighting Words* (1992) built on a theme dominant in feminist theory – that “rape is a question of language, interpretation, and subjectivity” (1992, 387). Marcus thought of rape as a language, which rejected the earlier ideas that women were inherently “rapable,” and went further to argue that “inherent violence” ideas only helped to reinscribe that language. Marcus argued that sexual violence could be imagined as a language or script that society had memorized to the point where it became the given conversation. Following this idea, Barbara Sutton argued that because women are told their words do not have value – in daily life or within the law- women have been taught to use their bodies in a way that aligns with sexist discourse, for example “choosing” to not go outside at night for fear of actively becoming a target. This fear continues today, and Sutton wrote, “much of women's bodily memory is shaped by gender arrangements that generally undermine women's positions” (2010, 150). This iteration of sexism stems from an emphasis on the feminine body as a defining factor in one's life. Theorists in the 1990s argued that while changing the legal procedures and definitions of rape was important, it put too much emphasis on men's power to rape or not to rape (Marcus 1992, 388). Additionally, it assumed rape as an inevitability and was part of the victimization of women.

As theories shifted and evolved, ideologies surrounding the prevention of sexual violence molded to the times, and activism became more militaristic and physically aggressive. Instead of focusing on the act of rape and the aftermath, feminists began to focus on its prevention and direct action. There was a call for self-defense, vigilante action, and humor (Gavey 2009, 100,102,105) to break up what Marcus called the “rape script.” By adopting an “attitude of

refusal” towards sexual violence against women, it would deny the possibility of attack (1992, 109). However, this idea could be problematic, especially within the criminal justice system, because it opened up the possibility of victim blame if she did not resist her attacker, a trope often seen today.

For early feminist theorists such as Brownmiller and MacKinnon, the state was an essential part of the solution. For Brownmiller, activism revolved around bringing the state into the bedroom to make rape a public issue. MacKinnon focused on the legal role of the state, and called for state reform and oversight in cases of sexual violence. During the 1990s, Marcus pulled away from the state, and called on prevention through individual action. For Brownmiller, MacKinnon, and Marcus, the state had a role to play in post-assault services for sexual violence, though in varying capacities.

At the same time, there has been a recent trend towards “state-cautionary” political theories, which are dubious of close relations with the state. In *States of Injury* (1995), Wendy Brown argued that many feminist political movements “problematically mirror the mechanism and configurations of power of which...they purport to oppose” (1995, 3). Her work reflects a growing trend in academia that problematizes the role of the state. These anti-institutional theorists argue that when women bring the state into activism, they re-inscribe the masculine relationships of dependency and exploitation. Brown, with other thinkers such as Judith Butler, celebrates the potential of unruliness and independence in the face of state control. Arguments like these alert us to the negative possibilities of state control, because they make us aware that the state also has the potential to harm and exploit.

Many activist calls to action mirror this growing distrust or resentment of government forces. There has been a resurgence of cultural feminism, which rejects the “male tactics” of

aggressive intervention by women from the 1980s and 1990s and patriarchal state factors from the 1970s in favor of a focus on a female counterculture (Gavey 2009, 111). Additionally, within the criminal justice system, activists have pushed back against traditional structures in favor of new methods that reduce the impact of the state. For abolitionists or anti-prison activists who see the need for a restructuring of the entire criminal justice system, the feminist focus on the state only continues to support the neoliberal system that fails to protect women (McGlynn 2011, 837). Restorative justice has also been on the forefront of discussion as an alternative to the current system. The restorative justice system could help prevent recidivism through dialogues that would break the cycle of hyper-masculinity which has often been credited with violence in general (Harris 2000, 793). However, there have also been many criticisms of restorative justice for cases of sexual violence, as it has the possibility to put victims in a vulnerable position once again.

In response to these state-cautionary theories, theorists such as Elizabeth Ben-Ishai created a middle ground between Brownmiller/MacKinnon and Brown that included the state in a more fractured form. In her book, *Fostering Autonomy* (2012), Ben-Ishai called for “coordinated fragmentation” in order to foster individual autonomy from the state so a person can make her own decisions (2012, 96). She argued that those tensions and discrepancies between arms of the state could “prove useful for feminist aims when they are exploited effectively” (2012, 101). Coordinated fragmentation allows for a fracture between care-oriented services and traditional (i.e. legal) services that would create an internal self-evaluation of programs that eventually leads to better services. Ben-Ishai lauded the work of coordinated community response programs, which helped victims navigate the often tricky and confusing criminal justice system (2012, 103). With the assistance of coordinated community response

programs, she concluded that victims could further their autonomy without relying on what she considers the problematic feminist call for a totalizing relationship with the state. State-cautionary models such as those of Brown and Ben-Ishai have influenced today's activism, which has been considered more cautionary or reformist (Heberle and Grace 2009, 9). Through increased onus on individual or volunteer action rather than state-driven policy, there has been an emphasis on collective education, demonstrations, and experience sharing (Gavey 2009, 110), including recent campaigns such as #ItsonUs or "He For She" which call for male participation in prevention.

This project takes Ben-Ishai's line of thinking one step further from coordinated fragmentation to state-supported coordinated services. What she labeled as coordinated community response programs are paralleled in Massachusetts' rape crisis centers, which also act as advocacy and support services for victims as they move between the health and criminal justice systems. However, these programs rely on volunteer advocates and as such do not always have the capacity to expand and broaden their services. Therefore, the state needs to play a fundamental part in creating and connecting post-assault services for victims that would allow for a prioritization of victims' needs *after* a sexual assault.

This project lies mostly within the second wave feminist call to action through increased and more comprehensive post-assault services. The current fragmentation between institutions - specifically those relationships between criminal justice and public health services - and a deficiency of intersectional awareness within those institutions negatively affect the victim. While the prevention and eventual eradication of sexual violence is the ultimate goal, the theories that support methods to do so, such as those of Marcus, leave out important factors that make "fighting back" or resistance difficult, dangerous, and problematic. However, it is

important to note that preventative actions work in conjunction with post-assault services, because they influence each other through policy changes and social discourses. Brownmiller writes that “the last line of defense shall always be our female bodies and female minds” (1975, 396) – and this project grounds itself on the idea that feminist coalition-building through victim care is a line of defense for further social change. By lessening the fragmentation of services and increasing identity awareness, public state systems can present sexual violence as a state priority and, when necessary, provide comprehensive and effective services for post-assault victims.

## 2. POLICY BACKGROUND

This project takes its provocation from a previous study focused on post-assault services for victims of sexual violence in Buenos Aires, Argentina. In discussions with doctors, theorists, activists, and women in greater Buenos Aires, I came to the conclusion that one of the main problems confronting the response to sexual violence in Argentina was the noted difference between the health and legal worlds. Because they had different priorities, services remained fragmented, and victims could not access the care they needed. While the laws concerning sexual violence (including its definitions and the treatment of victims) were quite progressive and comprehensive, the implementation of those laws was all but neglected. This failure was the result of many factors, including faulty communication, divergent bureaucratic funding priorities, and insufficient training for professionals. I hypothesized that the only way to break the ever-present threat of violence against women in Argentina was to minimize that disconnect between systems through a variety of actions, including but not limited to: feminist social activism, structural legal change, the creation of a more robust social consciousness around gender inequality and violence more specifically, and a redistribution of resources. Furthermore, I hypothesized that the crux of the problem was the result of minimal state oversight for the implementation of post-assault services – which prompted the question presently discussed.

By examining the current situations in both Buenos Aires and Massachusetts surrounding sexual assault, one can home in on the locus of the problem, which I argue is the separation of these services and their deficit of an intersectional perspective. For both contexts, there is a difference between the laws and their implementation. In general, Argentina has very specific laws pertaining to sexual violence. Argentina uses a civil code of law, which clearly lays out crime and punishment without the use of precedent. In Massachusetts, these laws are less clearly

defined and rely on a constantly evolving set of cases to determine outcomes, which can be positive in the sense that the regulations are malleable but negative in the sense that much is left to interpretation. On the medical front, both locations set up models for health care in variations of “sexual violence teams” to treat victims. In Buenos Aires, these teams fall short due to lack of funding and awareness, while the Massachusetts teams are thought to be some of the best in the country. While Argentina excels in legal standards and Massachusetts excels in health standards, neither fully attends to the issues of fragmentation and intersectionality, which I will address in Chapter 5. In order to understand how these services came to be this way, it is important to know the laws and region-specific practices that provide the foundation for post-assault care.

In Argentina, prosecutorial cases of sexual violence are taken from the Penal Code<sup>6</sup> and the Law for the Complete Protection of Women.<sup>78</sup> The Law of Comprehensive Protection for Women (Law 26,485) created in 2009 puts more emphasis on human rights and how violence against women is a violation of those rights. It states that violence against women can be physical, psychological, sexual, economic, patrimonial, and/or symbolic. The law also addresses the prevention of violence, both ideologically and practically.<sup>9</sup> While there is no legal definition

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<sup>6</sup> El código penal de la nación Argentina

<sup>7</sup> La ley de protección integral a las mujeres

<sup>8</sup> According to the Penal Code, an act is considered punishable sexual violence (la violencia sexual) when someone “Sexually abuses a person of either sex when that person is under thirteen years of age or when it mediates violence, threats, coercive or intimidating abuse in a relationship of dependency, authority, or power, or taking advantage of the victim whom for any cause was unable to freely consent to the action.” *Spanish original: “abusare sexualmente de persona de uno o otro sexo cuando, ‘sta fuera menor de trece años o cuando mediar violencia, amenaza, abuso coactivo o intimidatoria de una relación de dependencia, de autoridad, o de poder, o aprovechándose de que la víctima por culaquier causa no haya podido consentir libremente la acción.”*

<sup>9</sup> For example, Article 7 of Chapter III proposes “measures aimed at sensitizing society, promoting values of inequality and legitimization of violence against women” in an effort to discuss the social constructions surrounding the discourse of female bodies. Furthermore, the Act calls on the state, and more specifically the Ministry of Health, to create comprehensive and free

of sexual violence in Massachusetts, Jane Doe Inc.<sup>10</sup> defines sexual violence as something both “societal and individual.” However, in relation to the individual person, “sexual violence is a wide range of sexual acts and behaviors that are unwanted, coerced, committed without consent, or forced either by physical means or through threats” (Jane Doe Inc. 2014). In cases of rape, Massachusetts refers to Chapter 265 Section 22 of the Massachusetts General Law.<sup>11</sup>

Additionally, three court cases determined specifics about cases involving intoxication, drug use, and fraud.<sup>12</sup> Within Massachusetts law, sexual assault that does not meet the legal criteria of rape is described as “indecent assault and battery” (Massachusetts General Law, Chapter 265 Section 13H). It is important to note that the definitions of sexual violence and rape are quite similar in both Argentina and Massachusetts, and their slight differences do not affect the research of this project.

While legal qualifications ground how we define sexual violence, health care is essential to the treatment of victims for both practical and political reasons. Firstly, sexual violence that is left unattended can result in various high-risk situations for victims, including gynecological

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services for women experiencing violence, and to promote developing services in a variety of jurisdictions "to ensure model approach aimed at empowering women suffering violence to respect the social, political and cultural issues.”

<sup>10</sup> The Massachusetts Coalition Against Sexual Assault and Domestic Violence,

<sup>11</sup> “Sexual intercourse or unnatural sexual intercourse with a person, and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury and if either such sexual intercourse or unnatural sexual intercourse results in or is committed with acts resulting in serious bodily injury, or is committed by a joint enterprise” (“Massachusetts Law about Rape and Sexual Assault” 2014).

<sup>12</sup> *Commonwealth v. Blanche* (2008): in cases of intoxication, the prosecution must prove intoxication, that this intoxication rendered the complainant incapable of consent, and that the defendant was aware of the complainant’s inability to consent. *Commonwealth v. Mountry* (2012): in cases of intoxication that pass the Blanche test (above), the jury may take the defendant’s incapacity as evidence. *Suliveres v. Commonwealth* (2007): upheld the decision that “intercourse where consent is achieved by fraud does not constitute rape” (“Massachusetts Law about Rape and Sexual Assault” 2014)

disorders, reproductive risks, injury, anxiety, depression, and suicide (Guidelines for Medico-Legal Care for Victims of Sexual Violence, 2003, 12). Secondly, health care professionals play a crucial role because they are often the first point of contact (or state contact) for the victim. Comprehensive health services allow for a break in the silence around sexual violence that can help victims avoid being harmed post-assault. As such, health care is the first step into public services for many victims.

The city of Buenos Aires has created a standard protocol on medical treatment for victims of sexual violence. Although the protocol for the treatment of victims of rape is not a mandatory state law, it is very important because it provides a comprehensive analysis of how to treat victims. The protocol is structured in three parts - a theoretical and legal framework, the actions that the hospital should follow in cases of rape, and an attachment that has resources for hospitals to implement the protocol. Its overall purpose is to consider all situations that may occur after trauma and provide comprehensive care to women without blaming or revictimizing them. It is through this Protocol that specialized teams, or the *equipos de atención a víctimas de violaciones* (EAVV), were created.

With the formation of the *equipos* (teams) in the early 2000s, victims could be treated without the arduous process of conference between multiple health institutions. To deal with the problem of revictimization through the retelling of an assault, the EAVVs are composed of various medical professionals from diverse health departments. Even though each team can vary, an EAVV is supposed to have: a medic trained in rape crisis, an OB/GYN, a doctor specialized in adolescence obstetrics, an infectologist, a psychologist and a social worker (*Violaciones: Aporte Para La Intervención Del Sistema Público de Salud* 2005, 4). In the case of the Hospital Pirovano, located in central Buenos Aires, the team also includes a nurse, a pharmacist, the

hospital director, and a pediatrician (Interview, Diaz 2013). The teams are often thought of as having two levels – a basic team and an amplified team – to quickly respond to any situation without losing time coordinating between ten to fifteen people. However, lack of government funding has left only one official EAVV in Greater Buenos Aires, which comprises entirely volunteers. Due to this lack of funding and government attention, the majority of victims are treated by emergency department nurses, which can lead to discrepancies in training and care.

In Massachusetts, the Sexual Assault Nurse Examiner (SANE) program was founded in 1997 to provide “forensic medical-legal exams” for victims of sexual violence. Located in five hospitals throughout the Western region, and in twenty-seven hospitals statewide, SANEs are the only state-funded program, as they have a line item in the budget (Walz-Watson) that guarantees them oversight and consistency. However, while the SANE program is funded by the Department of Public Health, the nurse examiners are all otherwise employed, and participation in the SANE program is supplemental. Their job is not to care for the victim medically; rather, they are paged by the Emergency Department to collect the Massachusetts Sexual Assault Evidence Collection Kit, which includes forensic evidence to be sent to the state crime lab if the victim chooses to report. SANEs can also be called to testify on both the defendant’s and victim’s behalf, not to determine if an assault did or did not happen but rather to inform the jury of the examination process, which can take up to four hours and be very draining for the victim despite efforts to offer trauma informed care. After an exam, the attending SANE does not have contact with the victim.

Thus, while both Argentina and Massachusetts have public policy set in place to assist victims post-assault, they do so in varying capacities and in different levels of implementation. However, victims are still not able to fully access comprehensive care, which I argue is the result

of inadequate state funding coupled with the fragmentation of identities and institutions. While current policy has laid both a background and context for post-assault care, this project argues that without further coordination and attention towards intersectionality, individual policy or services will not fully serve victims and their needs.

#### **4. HOW DIVERGENT INSTITUTIONAL GOALS HARM VICTIMS**

After an assault, victims of sexual violence often come in contact with the public health system, the criminal justice system, or both. Each system serves its own primary function, whether that is attending to health or legal needs. However, for victims, these two institutions become very closely linked, as the crime in question does harm to both the body and the rules of society. While each institution, including the medical, public health, and prosecutorial, works within the realm of sexual violence, they all have divergent goals and priorities, which are reflected in their care and outcomes.

In general, the medical system of a state is set up to physically care for a patient. In cases of sexual violence, this system attempts to prioritize victim safety and wellbeing. When victims enter the emergency department, the most common department treating sexual violence, nurses and practitioners are not there to determine if an act of violence did or did not happen. Rather, they work to medically care for the victim based on her testimony. Moving from the medical sphere to that of public health, the Sexual Assault Nurse Examiner (SANE) program has modified goals when it comes to victim care. In fact, SANE is the first step into a more coordinated response, as they are useful in connecting victim care to the prosecutorial arena through evidence collection. Mary Walz-Watson, Western Massachusetts Regional Coordinator for SANE, said the goal of the program is to “provide compassionate quality care as a gold standard.” However, as previously mentioned, SANE is not there to treat a victim medically: that is left to the discretion of the admitting emergency department. Once again, SANEs are charged not with determining the validity of a victim’s testimony, but with believing her and collecting the appropriate evidence. Therefore, while the personal mission of SANE coordinators may be

victim centric – most likely as a result of their medical or nursing background - the program’s real priority is to collect evidence.

For those who choose to take legal action, the criminal justice system enters in as a governmental body whose job it is to prosecute and punish. While medical institutions are not set in place to necessarily determine what did or did not happen, the criminal justice system tries to do exactly that. In this system, the law determines what is or what is not sexual violence, not the victim themselves. Despite claims that the criminal justice system in the United States is one of rehabilitation, it is more often considered a punitive system. Jennifer Handel Suhl, Chief of the Domestic Violence and Adult Sexual Assault Unit in the Northwestern District Attorney’s Office, said that the goal of the District Attorney’s Office and the criminal justice system is to protect the community and hold people accountable for their criminal behavior. She argued that the prosecution of offenders was a key element in breaking the cycle of sexual violence.

Suhl said that the “client is the community,” and as such the criminal justice system prioritizes upholding the norms and regulations of society. However, Suhl noted that although this was the ultimate goal, her work as a prosecutor of the state never came at the expense of the victim. This tension was also seen in law enforcement, where professionals dealing directly with cases had to use their discretion to navigate cases. Lieutenant Ronald Young, Commanding Officer of the Detective Bureau for the Amherst Police, gave two answers in response to the question regarding the goals of the police department. While he said that his real answer was to “do the best for the person seeking help,” he noted that this was not necessarily the “right” answer, which he defined as prosecution and putting people behind bars. While both Suhl and Young recognized that difficult balance between individual convictions and job requirements, many activists criticize the centrality of biased procedure within the law. To Silvia Chejter, a

prominent feminist theorist and activist in Latin-American politics, justice is "one [system] in which power inequalities are expressed and where prevails, with submission to the Law, submission of marginalized social groups and discriminated against" (Chejter and Centro de Encuentros Cultura y Mujer 1996, 1).<sup>13</sup>

In addition to the two central systems that deal with post-assault services for victims of sexual violence - the medical and criminal justice systems - Massachusetts includes two supplemental systems that both prioritize the victim, though in different capacities. Within the Northwestern District Attorney's Office, Jackie Gaw directs Victim/Witness Services, whose advocates attempt to "prevent secondary victimization" from the system by informing the victim of her rights and allowing the victim's voice to be heard and supported. However, for many victims, a great deal of support comes from rape crisis centers, which help victims in their post-assault recovery. The Center for Women and Community, a rape crisis center in Amherst, MA, is part of Jane Doe, the statewide coalition of rape crisis centers. While these two systems are incredibly vital, they are supplementary or complementary services that do not directly determine legal case outcomes or health procedures for individuals. While they do have a hand in policy and best practice guidelines, the medical and criminal justice systems remain the two biggest players. However, these central actors prioritize victim care differently, and their procedures follow suit.

For those who work in sexual or domestic violence, including advocates in state-funded or state sponsored positions, tension exists between the goals of each system, and between the prioritization of those goals. A member of the Economic Security Task Force, a team created by

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<sup>13</sup> Original text: la justicia es "uno [un sistema] en el que se expresan las desigualdades de poder, y donde se impone, con la sumisión a la Ley, la sumisión de los grupos sociales marginados y discriminados"

the Massachusetts Rural Domestic and Sexual Violence Project, actively commented on the dismissal of activist goals, which call for increased access to trauma informed care and resources across the Commonwealth. She mentioned that while their cause is given “lip service,” policy makers often come to situations with different perspectives, and thus problems are ignored or remain unchanged, as they cannot coordinate and compromise in the best interest of the victim. As it stands now, the public health system, the criminal justice system, the activist community, and policy makers have different goals and priorities, which makes substantial change difficult, as institutions go back and forth between prioritizing health care, victims needs, and obligation to prosecution. While certain aspects do overlap for many– especially within the activist and public health communities- these priorities of victim-centric care and coordination do not permeate throughout. Additionally, without a comprehensive and widespread system to coordinate these institutions, they remain separated.

## 5. INTERSECTIONALITY AND FRAGMENTED RAPE SERVICES

Unsurprisingly, the public health and criminal justice systems have different goals, which set the tone and priorities for their work. However, this separation of goals creates a hyper-fragmentation within systems that pose problematic barriers for victims of sexual violence. For already marginalized victims, the hyper-fragmentation poses even more challenges, as access to comprehensive services becomes even more out of reach. This is especially seen within the criminal justice system, whose organization has become deeply disconnected, both internally and in its relationships with other institutions. The criminal justice system is broken, and with the influx of prisoners through mass incarceration and the prison-industrial complex becoming a thriving business in U.S. politics, it is clear that something is wrong. The combination of a lack of trust in the criminal justice system as a protecting force and the normalization of gendered violence contributes to the national statistic that less than one-third of sexual assaults are reported to law enforcement. For many, the criminal justice system is seen as a totalizing force, but in reality it is a highly complex system of parts that have become fragmented and isolating for victims. It is within those fragmented spaces that victims become lost.

While feminist and legal theorists have addressed the need for coordination between services, fragmentation cannot be fully understood without a critical understanding of intersectionality, an idea championed by theorist Kimberlé Crenshaw that refers to the coming together of different identities.<sup>14</sup> As victims move through processes influenced and framed by structural inequality, they continue to have to adapt to the context. But when the laws that inform court rooms and “best practices” dictate race, class, and gender norms that only apply to “ideal victims,” marginalized groups are at risk for further exclusion from the system. This lack of

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<sup>14</sup> See Chapter 2: Feminist Theory and Activist History

awareness of intersectionality within the criminal justice system, not to mention the divergence among other sexual assault institutions, does not allow for any sort of policy continuity that keeps the victim at the center of concern. This poses a great burden for poor women of color because their position within the system remains ambiguous and fragmented, and their access to available services is lessened when they do not fit the “ideal victim” mold. Only when intersectionality is addressed in a comprehensive way can we see better services for victims of sexual violence.

Despite their increased vulnerability for sexual assault, sexual violence against poor women of color is taken less seriously by the criminal justice system.<sup>15</sup> Not only is this a result of structural discrimination that relies on rape myths and racialized characterizations; it is also in part due to the hyper-fragmentation that is the current criminal justice system. While the role of the criminal justice system as a social policing force through mass incarceration might be considered an all-encompassing hegemonic force, its construction is not. Rather, the system is split up into various pieces that make their own rules and regulations. The police team can choose to be an open or closed gate; then a case is sent to the district attorney, where it can continue or remain unresolved. From there on, the victim essentially becomes a witness on trial, as the crime moves from an individual case to a crime against society. The negative effects of this fragmentation are only amplified by the system’s lack of awareness towards intersectionality.

In her analysis of Black women’s experiences, Patricia Hill Collins divides oppression into three categories, including the political, ideological, and economic (Collins 2000, 4–5). Within all three categories, women who don’t fit the mold of “victim” – for racial, class, or other

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<sup>15</sup> See Crenshaw, 1991.

reasons - have to constantly prove themselves to gain access to services. While political or civil rights are fairly well established through law, the issue of identity politics comes to the forefront as the formal implementation of laws is not connected to economic justice or ideological reform. This section attempts to show how the lack of an intersectional framework, both in terms of victim identity and through structural inequality, frames the hyper-fragmentation of services that affects *all* victims of sexual violence. Moving from the political to the ideological to the economic, the problematic negation of intersectionality becomes clear as victims continue to have unacceptable, varied, and selective access to post-assault services.

While the focus of this section is on poor women of color, it is important to note that this group is by no means the only marginalized community. In their recent report, the Services Accessibility Working Group<sup>16</sup> identified five underserved populations in regards to post-assault services, including the LGBT community, the immigrant community, people with disabilities, rural communities, and the elderly population (Services Accessibility Working Group 2014, 3–4). These groups, along with poor victims and victims of color, are considered underserved because they have higher rates of sexual assault, are underreported in terms of data collection, face institutional and cultural obstacles in accessing services. Their cases are considered less-severe and receive less funding, and the intersectionality of these identities increases vulnerability (Services Accessibility Working Group 2014, 2–3). It is important to note that the experience of members of one marginalized group does not necessarily translate to all underserved populations. Taking this into account, I will outline the current institutional landscape of post-assault services and demonstrate how the only way to fully understand fragmentation is to look at these institutional practices with an intersectional framework.

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<sup>16</sup> The Services Accessibility Working Group is a subcommittee of the Massachusetts Council to Address Sexual and Domestic Violence.

In the last few years, discussions of racial inequities entrenched in the criminal justice system have flourished. However, the focus has remained targeted on certain sectors of the system – mainly the unjust incarceration of young, poor, urban men of color. While this is an important issue that must be addressed, academic and theoretical discussion of women’s victimization within the criminal justice system has all but stagnated.<sup>17</sup> The pivotal exception to this rule is Kimberlé Crenshaw, who goes past looking exclusively at race to critically examine the intersection of race and gender in cases of victimization. While women in general are the primary targets of sexual violence, 22 percent of Black women in the United States have been raped during their lifetime (National Center for the Victims of Crime 2013). Crenshaw challenges the focus on white women and black men and writes that “although racism and sexism readily intersect in the lives of real people, they seldom do in feminist and antiracist practices” (1991, 1242). These theories show that, within the criminal justice system, the intersection of race and gender (and I would add class) place subjects in an especially vulnerable legal position. The experience of sexual violence is fundamentally different for poor women of color because they live at an intersection of multiple identities, and the discrimination based on those intersections make them more susceptible to violence and lack of post-assault services. However, because the systems that deal with sexual violence are fragmented, those intersecting identities are also forced to split apart, creating a very narrow and often incomplete view of the situation.

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<sup>17</sup> Crenshaw addresses this point in the following statement: “Rather than being viewed as victims of discrimination in their own right, they [Black women] become merely the means by which discrimination against Black men can be recognized. The inevitable result of this orientation is that efforts to fight discrimination tend to ignore the particularly vulnerable position of Black women, who must both confront racial bias and challenge their status as instruments, rather than beneficiaries, of the civil rights struggle” (Crenshaw 1991, 1277).

For Black women especially, the institution of slavery set many of the precedents for legal policy today, and while the laws may have changed, there are continuities and points of intersection between the past and present. Jennifer Wriggens describes how, in the Antebellum South, the rape of a white woman by a Black man was met with severe punishment. And, of course, countless Black men were falsely accused of rape. However, the rape of a Black woman by any man was legal, and in fact encouraged as a method of domination and subordination within slavery. Despite the adoption of race-neutral legal language post-Civil war, legal proceedings did not change, and violence against Black women remained invisible. Race based notions of consent, coercion, and promiscuity directed cases, and slavery-era ideology became de facto legal process. Additionally, Black women faced increased vulnerability for sexual violence because they worked outside the home, unlike white middle and upper-class women of the time. Increased vigilante justice during the mid-20<sup>th</sup> century by white supremacist groups such as the Ku Klux Klan also fostered a culture that focused on alleged rape of white women by Black men, once again making rape of Black women invisible (Wriggens 1983).

As it stands now, the criminal justice system has adopted “colorblind” policies in relation to sexual violence. While it has, for the most part, formally removed racist and classist language from its lexicon, it has become race-neutral in a way that once again makes it difficult to recognize the victimization of women of color. Not only is the language of the criminal justice confusing, for example the legal standards of rape and coercion, but also it presents sexual violence as a totalizing or singular event, despite the reality that each act of sexual violence is unique. However, oppression takes its cues from dominant ideology, and poor women of color are typically negatively stereotyped through one of three tropes in society: the Jezebel, the Matriarch, or Sojourner Truth. These labels are both based on rape myths and help perpetuate

those myths. However, they go beyond cultural classification to have tangible effects on cases of sexual violence.

The Jezebel is a characterization based on a theme of sexual promiscuity and gratification (Crenshaw 1991; Olive 2012, 3), which presents women as responsible for their own attack. The image of the Black Matriarch, which emerged from a theory that Black female-headed households emasculated poor men of color, is based on the idea of a hyper-strong, aggressive, independent, and morally perverse figure. Once again, these stereotypes have major effects on Black victims, as this classification encourages silence post-assault (Olive 2012, 3). The Sojourner Truth characterization imagines a strong Black woman who is a representative leader in the fight against racism, therefore encouraging Black women to not report their assault in order to avoid perpetuating racist ideas about “natural” Black violence (Allard 1997, 79). Just as there are racialized stereotypes, class based typifications exist within the criminal justice system, both for the aggressor through the “construction of the brutal working-class rapist” and for victims who are not in line with the imagery of white, middle-class femininity and heterosexuality that inform our discussions of sexual violence (Phipps 2009, 670). Alison Phipps writes that this deviation from accepted norms, in combination with problematic idea of acceptance based on susceptibility, results in the devaluation of working-class victims of sexual violence.

Today, the explicit legal or political barriers have faded, and all victims of sexual violence have the option to report their case. However, only 27 percent of sexual assault is reported to law enforcement (National Center for the Victims of Crime 2013). Data shows that victims are more likely to report their attack when the crime is more “serious” - which is usually measured through marks of violence, visible evidence of attack, and when the aggressor is a

stranger versus a familiar or acquaintance relation (Spohn and Tellis 2012, 172). There have been many suggested rationales for not reporting, including the fear of retaliation from the aggressor, feelings of shame and embarrassment, a belief that the rape was a minor incident and not a police matter, and a concern that police and prosecutors would question the victim's credibility (Spohn and Tellis 2012, 170). Fears of credibility, or lack thereof, play an ever greater role for victims of color, and Crenshaw writes that feminist reforms around anti-rape legislation, while beneficial, "do not challenge the background cultural narratives that undermine the credibility of Black women" (1991, 1270). Massachusetts, along with California, is considered a state that evidences strong leadership in offering post-assault services for victims of sexual violence because of its investment in public health programs and comprehensive legislation. However, throughout each step of the criminal justice system, victims confront issues through both social stigma and legal practice. For poor victims of color, these obstacles are amplified and many.

For many victims, the police are the first point of entrance into the criminal justice system. Because of this, police forces play a "gate keeping" role that allows them to determine the initial factors of the case, including if a crime has been committed, and if so, what resources will be allocated, what charges will be filed, etc. Police case screening is the gateway to further prosecution and availability of services. However, this gateway is not a completely open one; but rather, there are a series of implicit and explicit challenges or "tests" that a victim must pass to get the green light and determine "probable cause" (Massachusetts Office for Victim Assistance 2012, 23). At the police stage, reports can either continue as cases or become unfounded reports. Because the District Attorney's Office, which handles most cases of sexual violence in Massachusetts, wants to keep a high conviction rate to promote the idea of the state being tough

on crime, it does not want to risk a case rejection in court, and hence many cases never make it past this unfounded stage (Frohmann 1997, 215). The determinants of case rejections depend on two main factors: victim credibility and accumulated police “knowledge” about sexual assault.

Victim credibility is a key element in determining accessibility to services. It falsely operates under the assumption that credibility exists as something separate and objective that can be assessed in a removed, structural way (Frohmann 1997, 213). In reality, it is created using dominant “types,” as previously discussed, and through interaction – both personal interaction and interaction with the state. Prosecutors and police look for what they consider to be a “good witness,” a term that is based in racialized and classed notions of female sexuality. Victims are tested by their appearance and demeanor, and prosecutors look for a victim who is “consistent,” “sincere,” and cooperative (Frohmann 1997, 214). Authorities are looking for the ideal victim, and “victims of sexual assault who do not conform to stereotypes of real rape with genuine victims may receive either overt or subtle messages from police regarding the difficulties that will be encountered in prosecuting the case” (Spohn and Tellis 2012, 172).

Lisa Frohmann outlines two different methods for case dismissal based on victim credibility. First, police investigators can claim dismissal through discrepant accounts, in which they look for differences in the “major events” related to police and prosecutors. In a case study focusing on two communities in California, Frohmann recounts one case in which the prosecutor did not take into consideration the possibility of insufficient police reporting, and the case was thrown out (1997, 216). However, Lieutenant Young commented on the unreliability of eyewitness testimony, because stories can vary and change based on time, perspective, and a culmination of additional personal factors. Police also use their “knowledge” about reactions to crimes to determine the credibility of accounts. Using “typifications of rape-relevant behavior”

(Frohmann 1997, 217), they match up victim expectations with realities, and from that make their decisions. Gender is a major factor in this “knowledge,” as police work remains a predominantly male dominated field. In fact, despite his obvious interest, experience, and compassion for victims of sexual violence, Lieutenant Young insisted that women think differently than men. This sentiment has both positive and negative effects, as he did acknowledge that he is “never truly going to understand victimhood,” but still built his conceptions on problematic gender binaries. Nevertheless, police work still relies on typifications of knowledge that are always formed by normative ideologies of race, gender, and class. However, as previously discussed, these typifications are based on the “ideal” victim, who is often in line with white, middle class conceptions and stereotypes. The prosecution concurrently defines and maintains those victim molds, and can decide who or who does not “fit.”

The second method used to reject a case is the anxiety over possible ulterior motives. This is applied strictly to the victim, and questioners try to find a reason other than assault for the report. A determination of ulterior motives can be the result of two factors - in which no rape has actually occurred, or an organizational issue that would *present* as questionable, even if the assault actually occurred (Frohmann 1997, 223). The second determination of ulterior motives is especially problematic for poor victims of color, because it relies on personal history and community context, both of which have racial and/or class bias. For cases that involve historically discriminated against groups, such as those involved in prostitution or human trafficking, police may assume ulterior motives as these women are already presumed to be criminals and therefore cannot be understood as victims (Interview, Human Trafficking Unit). Hegemonic stereotypes of urban poverty can dictate the constructed terms of the assault, making

the case unwinnable within the narrow confines of victimhood, and Frohmann writes that there is a “difference between believing a woman was assaulted and being able to get a conviction in court” (1997, 224). Additionally, there has been evidence to show that unfounded cases will be used as “an eraser” to wipe away reports that may be too difficult to prove based on “illegitimate reasons” such as biases surrounding women of color, poor women, prostitutes, and drug users (Spohn and Tellis 2012, 173).

If victims do make it past the initial case screening, their case will be brought to the District Attorney’s Office and assigned a Victim/Witness advocate. Victims are placed in a complicated position, and once the case becomes formalized, the two main players become the state (Massachusetts) and the defendant/accused. Victims usually become the primary witness, as the case is no longer a crime against the individual but a crime against society (Massachusetts Office for Victim Assistance 2012). The role of the victim is to present her testimony, which often forces victims to confront racial, class, and gendered stereotypes. Phipps writes that cases often rely on “weighing up one person’s reputation against another” (Phipps 2009, 674), and victims are encouraged to act a certain way during their testimony. Many of these standards are based on antiquated notions of femininity, for example the Massachusetts Guide to Victim Rights and Services encourages victims to dress “neatly and conservatively” and avoid mannerisms such as laughing or nail-biting (2012, 47).

Sharon Allard takes up this issue of victim presentation through the problematic use of Battered Woman Syndrome (BWS) to analyze how a victim “should” act and react in court. She argues that BWS plays on stereotypes of a “normal” woman that excludes Black women because of the lack of individual and intersectional identity within the law (Allard 1997, 78). Focusing on cases in which victims kill their aggressors out of self-defense, Allard argues that women have to

supersede stereotypes about gender to get the sympathy of the jury, and justice for themselves (1997, 75). Low-income Black women have to confront these barriers three times with the addition of race and class.

The fight for individualization has also been a major issue for victims of color, not only to contest stereotypes but also to treat sexual violence as inherently different from other crimes within the criminal justice system. For theorists like Susan Caringella, the creation of Battered Woman and Rape Trauma Syndrome was a positive policy shift, as it has allowed for a formal understanding of the trauma associated with sexual violence (1988, 184). In her interview, Gaw agreed, and called for increased use of expert witnesses on the “biology of trauma.” However, that formal recognition only takes into account a certain type of trauma that is experienced in a certain way, for example looking upset or meek. Poor victims of color who do not fit that mold must fight for the individualization of a case in a system that attempts to totalize certain experiences.

Though corroboration laws are illegal in Massachusetts, past history of the legal invisibility of Black voices and the problematic tendencies to victim-blame mean that victims’ stories are often not taken as truth, and the criminal justice system relies on legal and extralegal “evidence” to prove a woman’s reputation – and outcome. The victim must prove that she did not consent and that force was used.<sup>18</sup> Essentially, in an inversion of U.S. legal standards, a victim of sexual violence is seen as guilty [of lying or having consensual sex] until proven innocent. For the majority of cases, case proceedings rely on a “combination of legally relevant instrumental factors and legally irrelevant victim characteristics” (Spohn and Tellis 2012, 174).

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<sup>18</sup> In accordance to Massachusetts General Law Ch. 265, § 22, a threat does not have to be explicit threat to be valid.

While theorists such as Gary LaFree (1989) concluded that the use of legal factors far outweighed extralegal ones, many argue that the ratio is actually skewed, especially for already marginalized groups. In her own case studies, Frohmann argues that, in fact, race and class play a major role in questions posed to victims, whose sexual history, drug/alcohol use, and relationship with the accused is a defining factor. When asked about evidence collection, Prosecutor Suhl mentioned that the goal of evidence is not only to corroborate someone's account, but also to prove credibility both before and after the alleged assault.

Additionally, forensic evidence as collected through the Sexual Health Nurse Examiners (SANE) has become a major factor in corroboration. Despite widespread calls of success, SANE's problematic link to police enforcement and the criminal justice policy can make the use of forensic evidence more harmful than helpful in cases of sexual violence. For victims who do not want to enter the criminal justice system, especially poor women of color who fear further victimization by the historically discriminatory system, SANE, and all the useful medical services it provides, becomes a complicated option.<sup>19</sup> For those who do report, the SANE exam has become a legal version of a polygraph of victim credibility. Though many SANEs noted that the forensic exam often does not produce any physical evidence, Suhl mentioned that simply the process of getting the kit done could be helpful. Rose Corrigan writes that police intimidation to scare victims away from the exam and the complicated processes with crime labs result in the SANE program one built on false promises (2013, 13). She concludes that sexual assault cases are matters of victim consent vs. coercion, something a rape kit cannot determine.

Economic vulnerability also plays a major role in access to both health care and legal assistance. Despite assistance from rape crisis counselors and/or victim/witness advocates,

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<sup>19</sup> In Massachusetts, victims can get a forensic kit performed at the hospital anonymously, if they wish.

racialized and classed services pose a very tangible economic barrier to services. Adjudicating sexual violence is expensive, and though rape kits and medical care is free, bringing a case to court can result in high costs, and the average rape victim incurs about \$5,100 in tangible losses (Pennsylvania Coalition Against Rape 2007, 22). However, intangible expenses make the cost of dealing with sexual violence even greater for poor women. For example, the aggressor may be the main economic support for the household, or the victim may not be able take the time or have the resources to go to court. Massachusetts does provide compensation for victims to help with expenses, but the terms are restrictive, including that the assault must be characterized as a “violent crime” and victims have to report the incident to law enforcement within five days, unless there is a “good cause for delay” (The Commonwealth of Massachusetts Executive Office of Public Safety and Security 2009, 49). Compensation can take up to 6 months to process, a length of time that may not be possible for many victims with other family and social commitments (2009, 85). Additionally, because criminal justice policy for sexual violence requires interviews, many factors restrict access for poor women of color to act on their rights, including: “barriers to work and public assistance, no time off from work, unaffordable childcare, interrupted education, shortage of affordable and safe housing and shelter, cumbersome and inaccessible public transportation system, and unaffordable healthcare” (Pennsylvania Coalition Against Rape 2007, 54). For example, if a victim reports a case late, it is immediately marked as questionable (Frohmann 1997, 219). The credibility of a victim who may not have the time, resources, or capability post-trauma to make the report and be questioned right after the moment of assault is weakened in the eyes of the law, and her access to services is lessened.

For victims living in densely populated communities, such as public housing, returning to one's home or community can pose major challenges, especially if the perpetrator or his friends and family live within the same building or even unit. In a 1992 study, 76 percent of Black victims of sexual violence attributed their rape to the "riskiness of their living situations" (West 2006, 3). Under the national Violence Against Women Act, created in 2005 and then amended in 2013, public housing authorities, landlords accepting Section 8 vouchers, and all subsidized housing managers cannot exclude tenants based on their history or experience with sexual violence and cannot evict victims solely based on their experience. Additionally, Massachusetts Law 186 states that any victim of sexual violence can break their lease, including those in public housing, after an act of sexual assault, domestic violence, rape, or stalking (Bill S.2402). While these laws allow for the possibility of moving out of a dangerous or traumatic situation, they do not allow for greater access to housing. Low-income victims may choose to remain in their current housing because moving would require a break-up of social networks and a re-entry into the public housing placement system. Additionally, the Massachusetts law requires a corroboration letter from either a professional in the criminal justice system, such as a prosecutor or police officer, or a medical professional associated with the criminal justice system. Rather than access to housing laws through a separate professional, these laws require fragmented contact with the system. For victims whose various identities have complicated relations with governmental systems, for example the prevalence of police brutality against people of color or the history of racial profiling, many are deterred from accessing those services.

Various state policies on sexual violence suffer from many gaps. Already marginalized victims confront political, ideological, and economic roadblocks to comprehensive services. Furthermore, the lack of an intersectional perspective towards these services becomes even more

problematic when a victim does not have the resources to continually adapt to the inconsistent institutional settings. While hyper-fragmentation harms all victims of sexual violence - regardless of race, class, location, or identity - the harm is compounded for those already marginalized. Let us imagine two hypothetical case studies of sexual violence in Massachusetts. On one hand, there is Lisa, a white middle-class married woman who lives in Boston. On the other hand, there is Mary, a single mother of color who lives in the rural community of Alford and earns minimum wage. Both are victims of sexual violence, and both want to get help.

Lisa is able to drive her car to one of the many Boston health facilities, where a SANE nurse treats her. When she decides that she wants to report her case, she is able to go to the downtown Boston court, either by car or by public transport. While Lisa must travel to the different locations for service, i.e. the hospital, the courthouse, the police station, etc., she is able to do so because of her resources, such as transportation and time. Because Lisa gets paid sick days at work and has a measure of economic security, she can take the day off to get the help she needs. She may even be able to find a friend or family member to stay with while she recovers and gets prepared for the trial. As a white woman with resources, Lisa is able to circumnavigate the trials of fragmentation. Moreover, because she is an “ideal” victim in terms of her race, class, and social position, Lisa rarely worries that her story will be questioned or that she will not be able to receive adequate treatment.

Mary, on the other hand, has a different experience. Mary doesn't have a car, and to get to the hospital, which is two towns over, she either has to find a car to borrow – thus sacrificing her privacy – or take multiple buses. She also has to take her child with her, as she is isolated without a network of family or friends. She decides to take the bus, and multiple hours and several dollars later, she makes it to the hospital. However, because the hospital serves so many

towns, it is overcrowded and Mary must wait. Finally, she is seen by an emergency department nurse, and not a SANE nurse because they do not have the capacity to work as far west as Mary lives. Mary then goes back on the bus with her child to Alford to file the report, and then on to the court house in a third town to begin to gather a case, each time retelling the story as the three offices, staffed by majority white men, are in different towns. Mary has lost at least a day's work, and with the cost of care, transportation, and childcare, she is economically vulnerable. In any case, she feels that there is little chance that the all white police force will take her seriously – of if they do take the case, she worries that it will just make things even worse for Black men in her community. She may be forced to return to her attacker, or she may take shelter in a motel room provided by the state for victims of sexual violence, where Mary and her child will share a bedroom without a kitchen. If she decides to continue the trial, she will have to travel multiple times to different locations that cost her valuable time and money. For Mary, the fragmentation of services poses physical, economic, and emotional limitations to her well-being. Unlike Lisa, she does not have the resources or social authority to get around the fragmentation because of her deviance from the “ideal” victim based on her identity, and her outcome is quite different.

In an alternative version of these stories, in which services are coordinated and look at cases with an understanding of intersecting identities, both Mary and Lisa would have different experiences. Mary would be able to attend a SANE hospital in her town, and not just somewhere in her county, which may allow for a greater recognition of her position within her local environment. While at the hospital, a rape crisis counselor would be able to get her story, and then deliver it to the police, who would have been in communication with each other in order to get a possible restraining order in motion. Instead of relying on the effort of the rape crisis counselor or Mary herself to jump through hoops to receive accommodation, there would be a

simple process for compensation that is cognizant of a victim's hesitancy towards official intervention. The police officer, trained to the same standards as those in Boston or Springfield or Alford, would know the SANE, the District Attorney staff, and the crisis counselor from their previous meetings and coordination sessions. Additionally, the police and the prosecution would be more engaged with the community they serve through state-funded opportunities to learn about issues of race, class, and gender. The coordination of services wouldn't just be on the highest of government planes; rather it would be consistent all the way down to the victim herself. With this coordination and intersectional information would come better care and a better experience for both Lisa and Mary because they would not have to rely on their own personal inventory, or lack thereof, to get the services they are entitled to and so desperately need.

While Massachusetts is considered to be a national leader on post-assault services for victims of sexual violence, there is still much work to be done. The criminal justice system must be reformed in a way that prioritizes a victim's well being. Victims, especially from marginalized communities, too often feel that they cannot and should not reach out to the criminal justice system after an assault. Within the United States, the legal system is derived from common law practices, in which precedent sets standards and regulations. This is a powerful tool for reforming the criminal justice system, as new cases involving "non-ideal" victims can set the tone for further change. Additionally, the recognition of race and class dynamics by precedent can allow for more continuity throughout the criminal justice process through education and collaboration. However, these experiences cannot become proxies for new stereotypes, as identities are diverse and varied. Recognition of individual cases within equitable and coordinated systems will create policy that is victim-centric in a way that forces

comprehensive follow-through. New policy surrounding criminal justice would confront these issues, including: more interdisciplinary education programs for a variety of professionals throughout the process; the implemented removal of biased questioning practices; more access to these programs through community engagement, acknowledgment of the priority of needs for different victims (i.e. housing and transportation over mental health services); and comprehensive measures of victim experience. Even after these changes, many victims will still choose to not report their case, but policy reforms would make the system a better and more feasible option for those who do. Massachusetts's government literature writes that, though difficult, victims may "feel empowered and satisfied by their participation in the criminal justice system" (Massachusetts Office for Victim Assistance 2012, 27). However, because of the lack of awareness towards intersectionality and the fragmentation of post- assault services, many women like Mary may never be able to fully participate in prosecution or receive medical assistance. Once post-assault institutions critically address this lack of identity awareness, only then can the gaps between institutions begin to close in a comprehensive way.

## 6. THE DANGER OF PROGRESS NARRATIVES

Without a critical mindfulness of intersectionality, current post-assault services force victims into an “either-or” situation that does not fully address the complexity of sexual violence. For those who do not fit the “ideal victim mold,” their post-assault care, or lack thereof, becomes a central challenge. Furthermore, the victims’ voices that slip through the cracks are often part of larger histories of discrimination and struggle. Sexual violence has been a major issue within the women’s movement, the civil rights movement, and the rural access movement – among others. Because sexual violence is part of larger social and political ideologies of sexism, misogyny, racism, etc., attention to this history can be both helpful and harmful. In one sense, activist history has allowed for a reflection on the past as a tool for the future. On the other hand, it has also – I argue unintentionally – created a form of comparative complacency. Because we can look at past movements around sexual violence and tangibly see the change – both positive and negative – we assume that that similar change will continue. So while it is clear that the post-assault system is in need of a critical reimagining and repair, the use of all-too-common progress narratives stands in the way.

Progress narratives are common tropes of American society, especially when narrating the lives of social movements. A progress narrative refers to a linear model of thinking that roots itself in an assumption of inevitable progress. However, progress narratives are problematic, both within academic theory and in activism. In fact, *post hoc* or *ergo propter hoc* arguments, which falsely assume causation on the simple passing of time, are considered to be classical philosophical fallacies (Weston 2009, 78). That is to say, just because an issue, in this case post-assault services for victims of sexual violence, has comparatively improved over the last thirty years, that does not imply that this will continue as the years progress. In writing about gay

rights, Suzanna Walters argues that these progress narratives have become the new storyline, while in reality the movement is “not in fact over, although it is changing” (2014, 73).<sup>20</sup> Additionally, the extent to which services have substantially improved is up for debate. So not only do things not inherently progress, but they can actually get worse. However, the more common social narratives are not ones of decline and regression, and instead progress narratives permeate the discussion around sexual violence, among other issues.

We have seen this in many dialogues today, from the “it gets better” campaign for gay rights to the idea that we are now in a “post-racial” society because some believe racism is over now that President Obama is in the White House. In terms of sexual violence in the United States, the majority of activist work – and consequent improvement – has occurred within the last 30 years, a very short and concentrated time frame. Because of this, and the substantive differences between the situations of the “ideal” or normative American woman in 1970 versus in 2015, the idea that things will simply progress and improve has dominated most discourse on the subject. There is less urgency and less pressure on governing forces to change the situation, which is only heightened in a stereotypically liberal state like Massachusetts. When an Amherst police officer was asked what was needed to improve the law enforcement situation around sexual violence, his response was “time.” Over and over I heard that line of thinking, a naïve belief that the treatment of victims would inevitably continue to improve over time. This narrative is wrong, and more importantly, it is incredibly dangerous. Progress narratives not only remove pressure to change, but also help to obscure current problems faced by victims of sexual violence.

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<sup>20</sup> While Walters focuses on dialogues within the gay rights movement, specifically the coming out narrative, her criticism of progress narratives can also be paralleled to the anti-sexual violence movement.

Sexual violence as a point of legal and policy discussion has only been on the state platform within the last thirty years. As previously mentioned, activists and theorists during the 1970s successfully brought sexual violence out of the realm of private and into the political arena. However, many people have declared we are now in a post-feminist society because, comparatively, women are better off than in the past and feminism has supposedly done its job. It is true that modern women in the United States as a whole have more rights and enjoy expanded – though not complete – freedoms than our grandmothers and even mothers. However, this does not negate the fact that women are far from gender equality, especially in terms of sexual violence.<sup>21</sup> Because activist history around sexual violence has been so concentrated, it gives the illusion that progress will inherently continue, with or without intervention. This mentality, coupled with growing state-cautionary and government skepticism has led to a slowing down – or even a stagnation – of policy change.

While the current progress narrative around sexual violence began during the early feminist movement, the issue is a multigenerational one. At the Economic Security Task Force meeting, there was a divide between two members, the first one who insisted that although many obstacles exist, they would continue to move forward. She called on the partnering with other organizations to collaborate in efforts to progress, specifically on housing policy for victims living in poverty. However, another long-time member rejected this sort of progress narrative and insisted that they had been trying to collaborate, and “inform and advise,” for years, but there had been no progress. This divide was a common one, and today, many young women see the process of progress from the lives of their mothers, but also see a victorious end to that progress.

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<sup>21</sup> Women are also far from gender equality concerning issues such as, but not limited to, pay inequality, professional opportunities, academia, and family dynamics.

We can see this trend through the growing Internet presence focusing on young anti-feminists who believe that feminism has done its job.<sup>22</sup> In a 2007 study, some young women even blamed feminism for the idea that women are supposed to do everything. They blame “unrealistic expectations” for women created by feminism, and believe that feminist values are no longer relevant within the progress narrative (Everingham, Stevenson, and Warner-Smith 2007, 431). Those within the movement also share similar ideas, and Monica Moran, who directs Sexual and Domestic Violence Initiatives at the Pioneer Valley Planning Commission, points to the contradictory and complicated position of young women today who are supposed to be sexually powerful but continue to be victimized. While Moran’s thoughts are situated within the current atmosphere of sexual violence, many young peoples’ ideas are often disassociated from the actual political context, and Everingham et. Al. write that “young women are coming of age today in a context where their liberation is taken for granted, yet the government inactivity needed to fully implement the equity goals of the feminist agenda is under siege- and has been for some time” (2007, 432).<sup>23</sup>

The political context of Massachusetts plays a key role within the continuation of the progress narrative. Massachusetts is considered a primarily liberal and progressive state, and is often looked to as the leader on many social issues, including gay marriage and women’s rights. However, with the recent election of Republican Charlie Baker as Governor and the rejection of many “liberal” ballot initiatives, Massachusetts is far more split than common perception. And

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<sup>22</sup> See the “Women Against Feminism” tumblr at <http://womenagainstfeminism.tumblr.com/> for an example of young women using social media to reject the need for feminism. However, these sites often prove contradictory, as many of the reasons these young women give for the disservice of feminism (example: I don’t need feminism because my husband loves me, or I don’t need feminism because I don’t need to demonize an entire gender) arguably points to why feminism remains crucial.

<sup>23</sup> Walters also writes that the contradiction between dominant narratives and reality is often seen as a “disconnect between personal life and structural and institutional life” (2014, 75).

while the Democrat-Republican split may be shifting, the idea Massachusetts as a liberal bastion persists, especially given the high concentration of colleges and universities throughout the state. However, both Republicans and Democrats have used progress narratives, and some even argue that President Obama is the master of “progress rhetoric,” including his iconic campaign slogan of “hope and change.” For anti-sexual violence advocates in Massachusetts, who as a whole tend to lean more democratic, the context of a liberal state that comparatively prioritizes sexual violence has the power to reinforce the false idea that things are good and will naturally continue to improve.

Currently, we live in a contradictory space in which we assume progress and constant improvement – at the same time that state-cautionary theories have dominated theoretical and academic thinking. So while citizens and activists alike expect forward motion and improvement around post-assault care for sexual violence, there is a declining trust in the ability of government to enact these improvements. This very clearly fits into modern neoliberal rhetoric that prioritizes the individual and cautions against big government intervention. For some young women today, that neoliberal ideology has taken hold, and they do not connect individual experience with larger issues. For example, a woman may perceive her assault or harassment as an individual issue, rather than a structural or political one (Everingham, Stevenson, and Warner-Smith 2007, 432). However, the social power of the progress narrative coupled with the growing state-skepticism has made complacency more potent, as there is no impetus for social change nor state actors to initiate that change. This is a deadly combination for social justice, as it not only feeds into false ideas of progress but also preemptively removes a major player from the discussion.

## 7. CONCLUSIONS: SOLUTIONS THROUGH STATE INTERVENTION

Fragmentation coupled with a lack of critical awareness towards intersectionality within post-assault services is truly the barrier to more comprehensive and successful care. What strategies might successfully close those gaps and improve services? The progress narrative needs to be interrupted, and proactive strategies must be addressed. Taking Ben-Ishai and Brown's provocation around state-cautionary theories into account, ensuring more comprehensive post-assault services for victims of sexual violence requires state-funded and state-driven intervention and policy. The state should play a central role in the reform and improvement of post-assault services for victims of sexual violence for four reasons: funding, continuity and oversight, priorities, and state power and validity.

Currently, many groups are involved in setting sexual violence policy in Massachusetts, including numerous community-based programs. These local programs usually serve a set geographical/socio-economic population, and provide services to victims in localized communities. As previously discussed, Ben-Ishai lauds these programs, which she refers to as coordinated community response programs. My call for state intervention does not negate the power and importance of local groups, nor does it call for the abolition of said groups in favor of institutionalized state programs. Rather, state policy would help lead and support community programs to create a continuous loop of feedback. This would improve the quality and increase the scope of care throughout the state, especially for those communities who currently cannot rely on isolated local programs.

Because sexual violence is a unique and multi-faceted type of crime, it requires large amounts of funding not only to support victims but also to support the services that inform and provide their care. As such, funding is one of the most important roles that the state should play

in sexual violence services. During the 2011 fiscal year, Massachusetts sexual and domestic violence programs received \$35,890,955 in both state and federal funding (Services Accessibility Working Group 2014, 71). For comparison, the Department of Corrections Facility Operations received over \$500 million in the same fiscal year (*Governor's Budget FY2011*, n.d.). This glaring contrast of state-fund allocation mirrors the current lack of social investment in post-assault services.

As part of the state budget, the Massachusetts SANE program is the only state-funded sexual assault nurse examiner program in the country. Registered as account number 4510-0810 in the Massachusetts State budget, SANE has a line item, which means the program is guaranteed funding. During fiscal year 2014, the adult and pediatric SANE program received around \$3.2 million worth of funding from the Department of Public Health.<sup>24</sup> Once again for comparison, the prison industries received around \$8 million in funding the same year (*Massachusetts FY 2014 Budget*, n.d.). The Massachusetts SANE model is seen as a successful example of nurse examiner programs, which can be partly attributed to the fact that they do not have to apply for funding each year through grants, and as a result nurse examiners and administrators can focus on the job at hand. However, though the SANE program benefits from guaranteed funding, the monetary amount allocated to the project remains insufficient to expand coverage to all victims.

There are various levels of state funding, and SANE is fortunate to have state-guaranteed public funding, though in inadequate amounts to comprehensively cover the need. However, many sexual assault services do not have any state funding. Moran says that while her funding

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<sup>24</sup> From fiscal year 2008 to fiscal year 2014, state funding for the combined pediatric and adult SANE program has decreased yearly, with a total decrease from \$4.3 million in 2008 to \$3.2 million in 2014 (Massachusetts Budget and Policy Center 2014).

comes through the state, it is from a community block grant. Many organizations rely on grants, which differ from budget line items because they are highly competitive and not guaranteed year to year. The consequences for not receiving funding can be severe, not only for the organizations themselves but for the victims they care for. Beth Nagy, director of the Sexual and Domestic Violence Integration Initiative who helps allocate these state funds and grants, said that there have been instances when victims are put on a waitlist to receive care, as limited and inconsistent funding does not allow for capacity building. Activist groups whose funds are limited strongly rely on volunteer workers and advocates. Moran, who also facilitates a task force focused on domestic violence, is the single paid member of the team, and the rest of the task force is comprised of volunteers. This reliance on volunteers also applies to more formalized institutions, such as local police in small towns. Because these police forces are funded through local money, and not the state, local police are often part-time workers that rely on state police in serious cases, who may or may not have experience in sexual or domestic violence. State funding would decrease reliance on volunteers and be used to promote coordination through paid-time group meetings and case-worker resources to help the individual victims.

With money comes power, and state intervention would allow for a standardization of care that is essential to comprehensive services. Standardization does not refer to strict determinants of credibility or victimhood, as previously discussed. Rather, it refers to a consistency of care throughout the state that can only be assured through state implementation and enforcement. Nagy pointed out that all funded programs are required to provide reports and data, and this data allows directors and coordinators, such as Nagy herself, to maintain continuity and oversight over programs, as well as to present data trends to the legislature. Additionally, SANE has oversight practices across the state through yearly and monthly meetings (Walz-

Watson 2014). This level of standardization is only possible with state oversight and coordination, especially in a geographically and socially diverse state such as Massachusetts.

Maintenance of oversight through state intervention becomes even more crucial in areas with marginalized communities - communities that cannot rely on their own resources to meet required standards of care. The most striking example in Massachusetts is within the rural communities in the southwestern region, known as the Southern Hill towns. Because there is little state oversight, and even less state funding, professionals in both public health and law enforcement often do not have the training to handle sexual violence cases, and therefore care often relies on their own discretion. This can be positive in the sense that they can home in on the specifics of the case; but it can also present negative implications such as case discrimination, because there is no uniform standard. Currently, there are no SANE sites in either Franklin or Berkshire counties, and victims who go to local hospitals are treated by emergency department nurses, who are often reluctant to collect rape kits because they are too time consuming. Additionally, for many small towns, small populations result in nurses who may not have conducted an exam in years (Western Region SANE 2014; Moran 2014). Within law enforcement in the Southern Hill Towns, state troopers - who mainly deal with highway patrol - lead investigations of sexual violence, supposedly with participation from local police. However, Moran said that there is no formal system or infrastructure set in place to coordinate that essential relationship between state and local police, and many pieces fall through the cracks, including restraining orders and testimony. State intervention would leave less responsibility on individuals to maintain high levels of care by creating enforceable policy consistent throughout the state.

State driven intervention surrounding sexual violence is also essential for a more widespread cultural shift. In nearly every interview, professionals from all fields - including public health, law enforcement, criminal justice, and community advocacy groups – said that there needs to be a culture that prioritizes sexual violence as a crime that will not be tolerated. Government has a major role to play in determining public priorities, and it should be the leader in a movement rather than relying on individual activists. Government priorities need to actively lead a culture shift that shows its citizens, and the rest of the nation, that sexual violence is a social and political priority.

Three interviewees voiced calls for government action around sexual violence that were inspired from past state initiatives. When a SANE nurse was asked about what she considered the role of the public health system, she said that we must treat sexual violence like pertussis. Though at first this made little sense, what she was really calling for was a public health campaign around sexual violence comparable to the one around pertussis. Pertussis, or whooping cough, killed several babies in Massachusetts in 2012 and 2013. What followed was an extensive public health campaign that called for immunization and health protection against the illness. Since the campaign, there have been no deaths from pertussis in Massachusetts (Western Region SANE 2014). Similarly, Moran called for recognition of sexual and domestic violence as a public health issue through a similar campaign – such as the anti-smoking or car seat initiatives. Clearly, Massachusetts has the capability to prioritize certain issues – with tangible results.

Government, both on the federal and state level, was set up to be the voice of the people. However, in terms of sexual violence, it needs to take one step past that to not only reflect the perceptions of the people but work in the people's best interest – including women. If the Massachusetts government prioritized sexual violence, and created a campaign around it,

incidents of sexual violence would decrease, and care would improve for those still affected. Comparatively, Massachusetts has been fairly progressive in terms of keeping sexual violence in the public agenda. However, there have been many steps backward in the long process ahead. The Governor's Council to Address Sexual and Domestic Violence was created under executive order to "bring together community-based content experts and representatives of various state agencies in a public-private forum to discuss strategies to end sexual and domestic violence" (*Review of Accomplishments* 2014). Nagy, who is the Co-Chair of the Public Health working group within the Council, said that while the Governor used the lead the group, the Lieutenant Governor took over the position under Governor Romney and currently the Secretaries Andrea Cabral and John Polanowicz now co-lead. While each chair has served their role, Nagy pointed to the "step-down" through the chain of command as representative of shifting government priorities. Strong government action around sexual violence would reverse that deprioritization for the state and help lead the desperately needed culture shift.

Nearly all advocates agree that a major culture shift is necessary for real change to occur around sexual violence. While I argue that the state should take a leading role in that shift, many argue that community based groups should be at the forefront of change. Nagy argued that while community based programs are not always recognized for their work, they are an essential part of the continuum of care for victims of sexual violence. Because they are local and community-specific, they are more in tune with victim needs and therefore can advocate with more clarity of purpose. I do not dispute this point – community advocacy groups are essential to victim services and often have the privilege of knowing victim needs on a more personal level.<sup>25</sup> However, I take

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<sup>25</sup> However, it is important to keep in mind that local groups are not always connected or in tune with their communities. For example, the majority white representation in areas in the South that serves mainly populations of color.

a pragmatic approach to victim care. The current positioning of the cultural and political system of Massachusetts means that these community-based programs are not formally recognized as policy institutions. According to Nagy, because these groups often came out of the women's movement, they are considered less valid centers of change that lean towards "fringe" feminist activists. While this view of local feminist groups is problematic and needs to be challenged, the current context of Massachusetts requires that the state must assume a lead role.

However, Brown raises an important point about women's problematic relationship with the state, and she argues that we must analyze "what kinds of domination are enacted by particular practices of freedom" (1995, 6). She worries that the "heavy price of institutionalized protection is always a measure of dependence and agreement to abide by the protector's rules" (1995, 169). This harmful dependency does have a history in women's relationship to the state, including the government's attempts to determine the regulations of reproductive choice or marriage rights. Additionally, we have seen the problematic dominance of the state through "protection" of women of color through drug testing, pregnancy regulations, and subsidized housing practices. We must take these concerns seriously, and as such, I advocate for state power that is neither totalitarian nor one that continues in its current form. Rather, state power over coordinated services must remain vigilant in its analysis of intersectionality. For example, to avoid problems of dependency, state policy would actively reflect victims' diverse needs through coordinated meetings and community outreach sessions.

Despite the increased presence of anti-government sentiment, government has both the social power and validity to implement real change. Additionally, if the state (as a powerful social institution) takes a strong stance on sexual violence, it can have reverberating effects that go beyond the issue. If state government used its power to lead a positive shift, it could help

negate widespread sentiment about lack of government effectiveness. The American public, both in Massachusetts and at a national level, feels distant or separated from governing forces because there is a lack of action directed by the state. For feminist advocates, this frustration is amplified because women are not only fighting a misogynistic culture but also a state that has consistently dragged its feet or resorted to domineering relationships when dealing with institutionalized sexism of any sort, including sexual violence.

While I argue that the state needs to play a leading role in changing both the culture and the services surrounding sexual violence, mine is not the only opinion. One of the most compelling counter-arguments concerns the deep critique of state intervention as too entrenched in racist and sexist frameworks to ever work for those very citizens. It could be argued that my argument does not take into account the problematic history of government control over women's bodies. This argument has come in large part from the movement for reproductive justice, in which activists worry that government control over women – and more specifically their bodies – diminishes autonomy and personal choice. Especially with the increasing number of policy rollbacks on women's rights, including the repeal of the Buffer Zone ruling in Massachusetts,<sup>26</sup> feminist activists have become skeptical about the government's role in protecting women. For example, if a state representative decides to negatively deal with sexual violence programs, the results for victims could be disastrous. In response to that point, there needs to be a separation between government as an institution and specific government policies or administrations. State government is neither stagnant nor all encompassing, and we cannot take the actions of past leaders as the endpoint of change. The state still holds major power to set

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<sup>26</sup> The US Supreme Court ruled buffer zones around women's clinics illegal in June 2014. As a result of this ruling, protesters in Massachusetts, along with 10 other states, can now protest anywhere outside clinics, including blocking entrances and driveways, making access to these services often dangerous and threatening for women (Schworm and Sampson 2014).

positive policies and precedents that in fact help foster post-assault resources, choice, and access. State intervention does not necessarily have to reinscribe women's lack of autonomy, but rather it can build institutions that promote democratic freedom.

Additionally, one could argue that the standardization of services throughout the state could further exclude marginalized communities. As previously discussed, poor women of color were often excluded, both legally and by de facto, in legal proceedings through narrow definitions of victimhood, trauma, and violence. If policy was mediated by the state in an effort to standardize both the public health and criminal justice systems, there might be a fear that marginalized communities would once again be ignored in favor of a specific definition of victimhood and justice that presumes an iconic white victim. Therefore, some theorists call for devolution of sexual assault services, in which responsibility is transferred to local or smaller community groups instead of the state. However, I argue that devolution has even more of a possibility to further marginalize vulnerable communities, because at the local level, the necessary resources for comprehensive care are not always available. Rather than letting communities "fend for themselves," for lack of a better term, state wide policy would create a system of active intervention and arguably help marginalized communities to an even greater extent.

Many more points of contention that need to be further explored and critically examined. First, while domestic violence has been integrated into many sexual assault initiatives, it is a fundamentally different issue from sexual violence with its own set of challenges, including extended family networks and range of abuse. Further research would specifically look at domestic violence within the context of Massachusetts to examine the differing role, if any, the state has to play. Sexual violence on college campuses is another crucial issue that was not

included in this project for a variety of reasons, mostly because many educational institutions have jurisdiction over cases of sexual violence, which puts victims and perpetrators in a completely distinctive setting. However, with the recent explosion of public debate on this topic both in Massachusetts and nationally, further research is clearly necessary. Massachusetts has an exceptionally high concentration of colleges and universities, and as such sexual assault on campus is a topic that need to be addressed.

These locations for further research only touch on the numerous possibilities. Sexual violence, and violence against women more generally, is a broad and varied topic, and there are countless avenues and issues to examine and push against. This project acknowledges that sexual violence as a theme is huge, and many activists have committed their lives and their work to the cause of ending violence. Because of that, this project does not aim to solve all problems, nor does it claim to present a revolutionary way of thinking. Rather, it attempts to provide a pragmatic approach to dealing with the tragedy that is sexual violence. While the eradication of sexual violence could be considered the eventual goal of activist work, we must also simultaneously deal with the problem at hand. Not only do women continue to be the victims of sexual violence, but the systems – or lack of systems - set in place to deal with the aftermath are seen as unapproachable, fruitless, and damaging. In many ways, this frustration is justified as we continue to live in a society that still accepts sexual violence as a norm. However, that does not imply that feminist work is fruitless, or even worse, complete. Rather, it is a call to action, for which this project hopes to be a part of – even if in the smallest way.

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### **Meetings and Conferences**

- Governor's Council to Address Sexual and Domestic Violence, Boston, MA (December 2, 2014)
- Economic Security Task Force, Northampton, MA (December 11, 2014)
- 28° Encuentro Nacional de Mujeres, San Juan, Argentina (November 23-25, 2013)