

# Vera Institute of Justice

## Criminal Justice Issues and Prisoners' Rights

**<https://www.vera.org/blog/beyond-innocence/the-unattainable-innocent-victim-standard-as-a-barrier-to-justice-for-survivors-of-domestic-violence>**

### Public Facing Advocacy Writing

In domestic violence training, we sometimes ask participants what makes a good victim. I've led this exercise dozens of times, with many different audiences from doctors to high school students. The responses are strikingly consistent. Good victims have never committed a crime; they are compliant; they are bruised and battered; they don't get angry; they don't use drugs or alcohol; they aren't mentally ill or homeless. Above all, they never, ever initiate violence. Because women are the predominant victims of domestic violence, the common image of a survivor is of someone who conforms to traditional gender norms; who isn't loud or aggressive; who always puts her children first; who wears modest clothing and doesn't sleep around.

I only wish I could say the responses have changed over the last three decades.

Yet stereotypes persist, undermining the rights and safety of domestic violence survivors everywhere. An immigrant victim of appalling abuse may be denied immigration relief for which he would otherwise qualify because of a minor theft conviction. A woman forced into prostitution by an abusive intimate partner may be arrested and charged with a crime, when what she needs and deserves is protection and healing. A survivor seeking crime victims compensation to cover medical costs may be denied because the police report didn't accurately identify the primary aggressor.

There is a painful reality that is rarely acknowledged: domestic violence survivors often become entangled in the criminal justice system as a direct result of the abuse they've suffered.

For example, the mainstream image of a victim is of someone who is helpless and cowering during an assault. But in our experience, many survivors do defend themselves and sometimes they initiate violence. While police departments have established standards for identifying the predominant aggressor, these standards are inconsistently applied. Across the country, survivors' self-protective violence is often not recognized as self-defense; the result may be that both parties are arrested and charged, or that no action is taken because both parties participated in the violence. Advocates report that this is especially common when the people involved are of the same gender, and when they are poor and black or brown.

Survivors may also become involved with the criminal justice system because of drug use. Research has established that traumatic experiences increase the risk of substance abuse. Why? Because the aftermath of trauma—agitation and reactivity, terrifying memories and nightmares, and alienation from self and community—is intolerable. Survivors may turn to drugs or alcohol as a way to cope. Over time, the substance use takes on a life of its own, and survivors may find themselves not just using, but stealing or dealing. In our experience, abusive partners are all too often facilitators of this dynamic, because addiction serves to keep victims trapped.

Finally, abusers often literally force survivors to commit criminal acts. Some of our clients report that the person who battered them also coerced them, under the threat of serious violence, to peddle drugs or commit robberies; to abandon their children or sell their bodies. The shame some survivors experience as a result of these acts becomes a potent barrier to seeking help. In her groundbreaking book, *Trauma and Recovery*, Judith Herman writes that the final step in the psychological control of the victim is not completed until she has been forced to violate her own moral principles. Psychologically, this is the most destructive of all coercive techniques, for the victim who has succumbed loathes herself.

It is so important to recognize and respond with compassion when victims commit crimes as a result of abuse. And when victims commit crimes that are unrelated to their victimization, that does not mean they cannot be victims of domestic violence who also deserve protection, compassion, and healing. Through 37 years of doing this work, we at Safe Horizon have learned that the innocent victim standard is unattainable for many survivors because we are human and our lives are complicated.

Surely that is enough reason to change the standard.

*Liz Roberts is the deputy CEO and chief program officer at Safe Horizon, a victim assistance agency that provides support, prevents violence, and promotes justice for victims of crime and abuse, their families, and communities.*

The [Beyond Innocence](#) blog series explores the limitations posed by existing frameworks and points to ways forward that better uphold the values of equity, public safety, and human dignity.

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