

Police Minimalism in Domestic Violence

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As primary responders to most emergencies, police dedicate much of their time to handling domestic incidents. Data suggests that calls related to such incidents form the majority of police call-outs, ranging from fifteen to potentially over fifty percent depending on the jurisdiction. And yet, police are frequently unequipped and ill-suited for this work. Police response, with its tactics of arrests and the use of force, is often questionably suited to complex social issues. In the context of domestic violence, properly responding requires expertise and training in mediation, social work, and victim assistance—qualifications that police officers typically lack.

The police's role as default first responders stems not from their suitability for managing family crises but from a lack of other viable strategies. While many jurisdictions are experimenting with novel programs that incorporate trained civilian responders to address emergencies like mental health crises and drug overdoses, such initiatives do not yet cover domestic violence incidents.

This Article advocates for jurisdictions to explore alternative responses to domestic violence. It proposes integrating civilian responders, where appropriate, either as co-responders or independent actors, depending on the specific safety risks of each case as determined by risk assessment tools. These diversified responder models acknowledge that while police involvement in domestic violence situations is sometimes inevitable and

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generally beneficial in preventing potential violence, it should be minimized whenever the costs of policing outweigh its benefits.

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INTRODUCTION

As the main responders to most emergencies, police spend a considerable amount of their time addressing domestic incidents.¹ Statistics indicate that calls involving these incidents comprise a substantial percentage of police call-outs, varying from 15% to over 50% depending on the jurisdiction.² This is attributable to at least three factors. First, domestic violence is pervasive nationwide, with over a million incidents annually reported to the police.³ Second, statutory definitions of incidents that qualify as domestic violence have expanded to include not only physical violence but also various forms of intimidation, threats, stalking, and placing persons in fear of physical harm.⁴ Third, many states have passed statutes that require or authorize warrantless arrests for misdemeanor domestic violence offenses that were not committed in the presence of police.⁵ Consequently, police respond to an array of domestic incidents, ranging from misdemeanor domestic disputes to domestic violence felonies.⁶

But police responses often are poorly suited to social, behavioral, and interpersonal emergencies.⁷ In recent years, scholars and advocates have begun to question the role of police in addressing various social and health crises, including mental health emergencies, homelessness, and substance use

1. See Barry Friedman, *Disaggregating the Policing Function*, 169 U. PA. L. REV. 925, 939, 958–59, 963 (2021). In this Article, I use the term “domestic incidents” to refer to a broad array of incidents involving heated conflicts between intimate partners or violence between family members including parents and children. In their initial classification of calls for service, police agencies normally use this term (or the synonymous term “domestic disputes”) rather than the term “domestic violence” to refer to all conflicts, violent and nonviolent, between intimate partners or family members. *See id.*

2. *Id.* at 939.

3. BRIAN A. REEVES, U.S. DEP’T OF JUST., POLICE RESPONSE TO DOMESTIC VIOLENCE, 2006–2015, at 2 (2017), <https://bjs.ojp.gov/content/pub/pdf/prdv0615.pdf> [<https://perma.cc/MV47-ETH8>].

4. See, e.g., D.C. CODE § 16-1031 (2025); N.J. STAT. ANN. § 2C:25-21 (West 2024); WASH. REV. CODE § 10.31.100 (2024).

5. See RACHEL HARMON, THE LAW OF THE POLICE 526 (2d ed. 2024).

6. See TRANSFORM911, BLUEPRINT FOR CHANGE 17 (2022) [hereinafter TRANSFORM911 BLUEPRINT], <https://www.transform911.org/blueprint> [<https://perma.cc/A2UP-NEKW>]. For a review of the research underlying the preceding source, see TRANSFORM911, TRANSFORMING 911: ASSESSING THE LANDSCAPE AND IDENTIFYING NEW AREAS OF ACTION AND INQUIRY (2022) [hereinafter TRANSFORM911 REPORT], <https://www.transform911.org/resource-hub/transforming-911-report> [<https://perma.cc/3X8Z-AZYB>].

7. See David Alan Sklansky, *Police Reform in Divided Times*, 2 AM. J.L. & EQUAL. 3, 21, 29 (2022); Christopher Slobogin, *Police as Community Caretakers: Caniglia v. Strom*, 2020–2021 CATO SUP. CT. REV. 191, 194 (2021).

issues.⁸ Alternative responders, they argue, could intervene more effectively in these situations and with potentially less harm.⁹

Yet, many domestic violence incidents are no different. This Article contends that police should not automatically be the default first responders to all domestic violence calls. Its main argument is that jurisdictions should explore integrating civilian first responders into domestic violence interventions, either in collaboration with the police, or acting independently as primary responders, depending on the level of risk to victims' and responders' physical safety. It further advocates for the adoption of diversified responders to domestic violence, arguing that many functions currently performed by the police could be more effectively managed through collaboration with other responders and community organizations. Although numerous jurisdictions have begun to implement programs that dispatch civilian responders to interact with people experiencing emergencies like severe mental crises and drug overdoses, these programs largely do not extend to domestic violence incidents.¹⁰ This Article will demonstrate that, in appropriate circumstances, civilian responders could provide emergency services and secure victims' safety more suitably and potentially without the harm and discriminatory effects that can sometimes be associated with police response.¹¹

This Article makes two contributions to the literature on police. While police scholars generally discuss various alternatives to police across a wide range of areas, they mostly do not delve into the particular concerns that can arise in some responses to domestic violence.¹² This Article is the first to specifically investigate the theoretical and practical implications of diversified responders as alternatives to policing domestic violence. This analysis challenges the false assumption that domestic violence incidents are so distinct that broader police reform lessons from other areas are wholly inapplicable.¹³ Second, this Article contributes to emerging literature that focuses on minimizing, rather than eliminating, the scope of criminal law, commonly referred to as penal minimalism, or its variations "criminal justice

8. Friedman, *supra* note 1, at 939, 965.

9. *Id.*

10. For a discussion of civilian responder programs, see TRANSFORM911 BLUEPRINT, *supra* note 6. See also *infra* Section II.B.

11. See *infra* Section II.A. Throughout this Article, I use the terms "victims" and "survivors" synonymously. The choice between these terms does not have any implications for the purposes of advancing the Article's arguments.

12. See, e.g., Friedman, *supra* note 1, at 939–42; Sklansky, *supra* note 7, at 21; HARMON, *supra* note 5, at 822.

13. See *infra* Sections II.B–C.

minimalism” or “criminal law minimalism.”¹⁴ In this Article, I use the term “police minimalism” to refer to circumstances in which police involvement could be minimized. The novelty of this argument lies in proposing that police involvement in domestic violence cases could be reduced, where possible, by limiting their role to situations where the benefits of police involvement in enhancing the physical safety of all stakeholders outweigh the potential costs of policing.¹⁵

Skeptical readers might balk at the idea of dispatching civilian responders to domestic violence calls. This Article provides a threefold response to this concern. First, as this Article will demonstrate, empirical evidence does not support the common belief that responding to domestic violence calls is uniquely dangerous compared to other types of calls, nor does it support the perception that all such calls are inherently dangerous.¹⁶ Most police

14. See generally Christopher Slobogin, *The Minimalist Alternative to Abolitionism: Focusing on the Non-Dangerous Many*, 77 VAND. L. REV. 531, 537–43, 556–59 (2024) (arguing that police involvement is sometimes inevitable due to the persistence of interpersonal harm in society and that it is unrealistic to expect a society without crime and that all jurisdictions developed law enforcement mechanisms to deal with harmful social problems). While Slobogin acknowledges that alternatives such as restorative justice and violence interrupters may reduce reliance on traditional police, he expresses skepticism about their ability to address all forms of crime—full abolitionism, in his view, could lead to negative unintended consequences. See *id.*; see also Benjamin Levin, *Criminal Law Minimalisms*, 101 WASH. U. L. REV. 1771, 1785 (2024) (“Most of the minimalist literature appears more focused on criminalization and punishment than on policing. . . . But, it is worth noting that a minimalist project also might focus on minimizing police.”); Maximo Langer, *What Is Penal Minimalism*, 101 WASH. U. L. REV. 2031, 2033, 2076 (2024) (explaining that a minimalist account of the criminal legal system espouses a penal system that has armed public law enforcement but should be used only exceptionally when there are no other means of dealing with the social harm). For additional accounts of penal minimalism, see Steven Arrigg Koh, *Criminal Law’s Hidden Consensus*, 101 WASH. U. L. REV. 1805 (2024); Daniel S. Harawa, *In the Shadows of Suffering*, 101 WASH. U. L. REV. 1847 (2024); W. Robert Thomas, *Does the State Have an Obligation Not to Enforce the Law?*, 101 WASH. U. L. REV. 1883 (2024); Christopher Slobogin & Kate Weisburd, *Illegitimate Choices: A Minimalist(?) Approach to Consent and Waiver in Criminal Cases*, 101 WASH. U. L. REV. 1913 (2024); Aliza Hochman Bloom, *Reviving Rehabilitation as a Decarceral Tool*, 101 WASH. U. L. REV. 1989 (2024); Yoav Sapir & Guy Rubinstein, *Minimalist Criminal Courts*, 101 WASH. U. L. REV. 1955 (2024); and Jeffrey Bellin, *The Volume Problem*, 65 WM. & MARY L. REV. 777, 780 (2024).

15. See *infra* Section II.C.

16. See generally U.S. DEP’T OF JUST., UNIFORM CRIME REPORT: LAW ENFORCEMENT OFFICERS KILLED AND ASSAULTED, 2019 (2020), <https://ucr.fbi.gov/leoka/2019/topic-pages/officers-assaulted.pdf> [<https://perma.cc/7KNN-SJXD>] (providing statistical data on assaults against law enforcement officers in 2019, including rates of injury, types of weapons used, and circumstances surrounding the incidents). For further discussion of the safety risks to officers when responding to domestic violence see *infra* Section II.C. The common mistaken perception that domestic violence responses are distinctly dangerous is reinforced by police agencies and is further bolstered by the media. See Emma Tucker, *Domestic Incidents Are Highly*

responses to domestic violence do not result in serious injuries to officers, as the use of firearms during these interventions is rare, with fatal interactions being even rarer.¹⁷ Second, domestic violence survivors can often secure safety without police intervention by obtaining domestic violence restraining orders that include a prohibition on gun possession.¹⁸ These orders frequently prevent future violence and represent a shift away from society's exclusive reliance on police, instead placing responsibility for domestic violence survivors' safety with civil institutions.¹⁹

Third, this Article concedes that while many domestic violence situations may not require police intervention, some do.²⁰ It does not deny that occasionally some offenders might react violently to responders' intervention, including using a firearm.²¹ Neither does it dispute that serious domestic violence felonies require immediate incapacitation, and that only the police are authorized to make arrests.²² Instead, this Article rejects a one-size-fits-all response to domestic violence. While it opposes the complete removal of police from such responses, it simultaneously disputes the idea that police should always be the primary responders. As this Article will elaborate, the decision to send police, civilians, or both as co-responders should be based on dispatchers' assessments of whether the intervention might pose any safety risks, a prediction that could be aided by algorithmic risk assessment.²³

This Article unfolds in four parts. Part I highlights the potential detrimental consequences that sometimes arise from police intervention in

Dangerous for Police Officers, Experts Say, CNN (Jan. 22, 2022), <https://www.cnn.com/2022/01/22/us/domestic-incidents-police-officers-danger/index.html> [https://perma.cc/H38G-LEJZ].

17. See *infra* Section II.C.2.

18. See Joseph Blocher & Reva B. Siegel, *When Guns Threaten the Public Sphere: A New Account of Public Safety Regulation Under Heller*, 116 NW. U. L. REV. 139, 161 (2021).

19. See *infra* Section II.C.

20. DANIEL ERNESTO ROBELO, JUST. TEAM NETWORKS, INTERRUPTING INTIMATE PARTNER VIOLENCE: A GUIDE FOR COMMUNITY RESPONSES WITHOUT POLICE 8, 42–44 (2022), https://static1.squarespace.com/static/5cf978a41393e70001434b2f/t/63688ee4f13a464e73fbbe06/1667796736528/Interrupting+IPV+%28A+PTP-JTN_FINAL-WEB%29.pdf [https://perma.cc/KU4P-EHSP].

21. Abolitionist scholars contend that most offenders are not dangerous, and armed-and-dangerous offenders are “the dangerous few.” See Thomas Ward Frampton, *The Dangerous Few: Taking Seriously Prison Abolition and Its Skeptics*, 135 HARV. L. REV. 2013, 2032 (2022). Additionally, Brandon Hasbrouck suggests that Frampton's responses to the “dangerous few” concerns in the prison abolition context are readily transferable to the context of police abolition. See Brandon Hasbrouck, *Reimagining Public Safety*, 117 NW. U. L. REV. 685, 729–30 (2022).

22. See HARMON, *supra* note 5, at 521–22.

23. For a discussion of risk assessment tools for evaluating the risks in domestic violence situations, see *infra* Section IV.B.

domestic violence, including the disproportionately negative impact on racial minorities. Part II describes first responders' roles as community caretakers, provides an overview of existing programs that offer alternatives to police in other social issues, such as mental health and drug use, and concludes by addressing possible safety concerns specific to domestic violence interventions. Part III envisions an alternative response system to domestic violence, centered on diversified responders, by identifying the core principles and considerations that should underlie the integration of civilian responders. Part IV focuses on implementing this vision by examining the practical aspects of incorporating civilian responders in domestic violence cases. This Part draws on an ongoing case study from Minneapolis, which considers diversified responses for a host of issues, including domestic violence.²⁴ Part IV concludes by addressing potential critiques, including concerns about the feasibility of the proposed reform.

I. THE PROBLEMS OF POLICE IN DOMESTIC VIOLENCE

Police responses to domestic violence have undergone significant transformation over the past forty years. Historically, police were reluctant to intervene in what were often labeled as “private domestic disputes.”²⁵ The state’s non-interventionist approach, previously justified under the family privacy rationale, has dramatically shifted due to feminist advocacy, which championed robust criminal enforcement of domestic violence offenses.²⁶ During the 1990s, criminal enforcement emerged as the predominant public reaction to this social problem.²⁷ Police agencies in many American jurisdictions adopted mandatory arrest policies, and numerous prosecutors’

24. I borrow the term “diversified response” from the Minneapolis Safe and Thriving Communities Report. See CITY OF MINNEAPOLIS, MINNEAPOLIS SAFE AND THRIVING COMMUNITIES REPORT: A VISION AND ACTION PLAN FOR THE FUTURE OF COMMUNITY SAFETY AND WELLBEING 48–49 (2023), <https://lims.minneapolismn.gov/Download/RCAV2/31955/Minneapolis-Safe-and-Thriving-Communities-Report-and-Plan.pdf> [https://perma.cc/8DAS-VTC5].

25. See Jane K. Stoeber, *Access to Safety and Justice: Service of Process in Domestic Violence Cases*, 94 WASH. L. REV. 333, 382–83 (2019) [hereinafter Stoeber, *Access to Safety and Justice*]; see also Jane K. Stoeber, *Freedom from Violence: Using the Stages of Change Model to Realize the Promise of Civil Protection Orders*, 72 OHIO ST. L.J. 303, 308 (2011) [hereinafter Stoeber, *Freedom from Violence*].

26. See JEANNIE SUK, AT HOME IN THE LAW: HOW THE DOMESTIC VIOLENCE REVOLUTION IS TRANSFORMING PRIVACY 4–8 (2009); I. Bennett Capers, *Home Is Where the Crime Is*, 109 MICH. L. REV. 979, 981–89 (2011).

27. See HARMON, *supra* note 5, at 521–22.

offices embraced “no drop prosecutions” practices.²⁸ Although some of these strategies were later deemed misguided and subsequently replaced with case-by-case determinations, the police today continue to play a central—and often exclusive—role in responding to domestic violence.²⁹

However, jurisdictions’ heavy reliance on police to respond to domestic violence comes with significant costs.³⁰ The problems surrounding the policing of domestic violence can be distilled into three primary critiques: harm, ineffectiveness, and the unfair treatment of marginalized communities.

A. Harm

Police response to domestic violence frequently causes harm to survivors, their families, abusers, and the officers involved. It often leads to more harm, including physical injuries and fatalities, than the initial threat the police were summoned to address, resulting in more overall societal detriment than advantages. Two recent cases illustrate how survivors calling the police for safety may result in more harm than benefit. On May 20, 2023, a police officer shot Aderrien Murry, an eleven-year-old Black child from Indianola, Mississippi.³¹ Aderrien called 911 when his mother sought police help after her irate ex-boyfriend unexpectedly showed up at her house in the middle of the night.³² When the police arrived, they inquired if anyone was armed and instructed everyone to exit the house with raised hands.³³ Aderrien complied, but he was shot anyway, sustaining multiple injuries.³⁴ Another distressing example involved twenty-seven-year-old Niani Finlayson, a Black woman, who was fatally shot by a Los Angeles County sheriff’s deputy.³⁵ The incident unfolded as the police were responding to her 911 call for help, reporting her estranged boyfriend’s attempt to strangle her and harm her nine-year-old

28. See LEIGH GOODMARK, *DECRIMINALIZING DOMESTIC VIOLENCE: A BALANCED POLICY APPROACH TO INTIMATE PARTNER VIOLENCE* 1–4 (2018).

29. *Id.* at 12–22.

30. See HARMON, *supra* note 5, at 525.

31. McKenna Oxenden & Jessica Jaglois, *An 11-Year-Old Boy Called 911. Police Then Shot Him.*, N.Y. TIMES (May 27, 2023), <https://www.nytimes.com/2023/05/27/us/mississippi-11-year-old-boy-police-shooting.html>.

32. *Id.*

33. *Id.*

34. *Id.*

35. Keri Blakinger, *Family Plans to Sue L.A. County for \$30 million over Deputies’ Killing of Mother in Front of Child*, L.A. TIMES (Dec. 22, 2023), <https://www.latimes.com/california/story/2023-12-22/family-of-lancaster-mother-killed-by-sheriffs-deputy-plans-to-sue-los-angeles-county>.

daughter.³⁶ The police's body camera footage shows that upon the deputies' arrival at the apartment, they observed Ms. Finlayson threatening to stab her boyfriend, which led an officer to shoot her.³⁷ Arguably, these cases are distinguishable because the Murry case involved a nonviolent domestic altercation, whereas in the Finlayson case, the victim called the police claiming serious physical violence.³⁸ Yet, both cases raise doubts about the need for the police's use of deadly force.

Admittedly, these cases represent extreme examples of police violence, and severe violence is relatively uncommon overall.³⁹ However, police sometimes use excessive violence, which disproportionately affects minority communities, especially Black Americans.⁴⁰ Although these cases are anecdotal, they underscore broader systemic problems embedded in police responses to domestic violence. The physical harm occasionally inflicted by police in these situations is not entirely surprising, given the documented instances of police violence in certain contexts.⁴¹ However, domestic violence situations are especially complex because police are not adequately trained in nuanced responses to this sensitive problem.⁴² The chaotic, volatile, and unpredictable nature of encounters between alleged abusers and police often leads to dangerous scenarios.⁴³ Officers may misinterpret actions or overreact to perceived threats, making split-second decisions that cause physical

36. *Id.*

37. *Id.*

38. Compare Oxenden & Jaglois, *supra* note 31, with Blakinger, *supra* note 35.

39. See HARMON, *supra* note 5, at 421 ("Although existing evidence suggests that police officers use force only rarely in their interactions with members of the public, we know very little about how often, how much, or what kinds of force police officers use.").

40. See DAVID A. SKLANSKY, CRIMINAL JUSTICE IN DIVIDED AMERICA: POLICE, PUNISHMENT, AND THE FUTURE OF OUR DEMOCRACY 45 (2025).

41. Elaborating on the general problems of police violence exceeds the scope of my argument here. For some literature on the topic, see generally Devon W. Carbado, *Blue-on-Black Violence: A Provision Model of Some of the Causes*, 104 GEO. L.J. 1479, 1483–84 (2016) (explaining that structural and systemic factors—not just individual racial bias—perpetuate police violence against Black communities); and Osagie K. Obasogie & Zachary Newman, *The Futile Fourth Amendment: Understanding Police Excessive Force Doctrine Through Empirical Assessment of Graham v. Connor*, 112 NW. U. L. REV. 1465, 1469–70 (2018) (contending that the Supreme Court's framing of police excessive force claims under the Fourth Amendment individualizes and depoliticizes police violence, obscuring the systemic racial subordination that disproportionately exposes communities of color to deadly force).

42. See Friedman, *supra* note 1, at 946–48, 962, 972.

43. See Tucker, *supra* note 16 (explaining that "domestic calls can escalate rapidly as [officers] approach a confrontation already in progress" and outlining factors that can heighten the dangerousness of these encounters).

injuries or death to victims of violence, their families, or alleged offenders.⁴⁴ The prevailing police attitude is that, since these calls involve violent offenses, using force to arrest offenders is inevitable to overcome confrontation and resistance.⁴⁵

Another type of harm associated with policing domestic violence is the inadvertent transformation of victims into offenders. Police, upon arrival, frequently arrest victims because they misidentify survivors as aggressors or cannot readily determine who initiated the violence.⁴⁶ In a recent book, Professor Leigh Goodmark describes various circumstances where domestic violence survivors commit violent crimes, either against their abusers or against third parties following direct instruction or coercive pressure from abusive partners.⁴⁷ Consequently, these victims become entangled in the criminal legal system as defendants, a phenomenon that Goodmark refers to as “criminalized survivors.”⁴⁸ Driven by survival, some domestic violence survivors respond with fatal violence, often resulting in murder convictions.⁴⁹ Additionally, police agencies’ implementation of mandatory arrest policies has led to the common practice of dual arrests, which has increased the arrest rates of women survivors.⁵⁰ Dual arrests occur when officers apprehend both

44. See, e.g., *Linares v. City of Southaven*, No. 19-CV-133, 2020 WL 5821963, at *1 (N.D. Miss. Sept. 30, 2020) (involving a deadly police shooting after officers went to the wrong address to apprehend a domestic assault suspect).

45. See HARMON, *supra* note 5, at 424 (noting that state laws authorize police to make arrests to protect their safety and handle confrontation).

46. See, e.g., Elizabeth L. MacDowell, *Theorizing from Particularity: Perpetrators and Intersectional Theory on Domestic Violence*, 16 J. GENDER RACE & JUST. 531, 537 (2013) (highlighting the case of an African American woman who, after repeatedly defending herself from her ex-partner’s physical abuse, was nevertheless arrested as the perpetrator).

47. LEIGH GOODMARK, *IMPERFECT VICTIMS: CRIMINALIZED SURVIVORS AND THE PROMISE OF ABOLITION FEMINISM* 1–7 (2023).

48. *Id.* at 12, 21; see, e.g., *Howell v. City of New York*, 202 N.E.3d 569 (N.Y. 2022) (involving a claim brought by domestic violence victim alleging that the city failed to provide sufficient protection under her order of protection); *Penn v. City of Montgomery*, 381 F.3d 1059 (11th Cir. 2004) (involving the arrest of a domestic violence victim after police could not identify primary aggressor in domestic dispute).

49. See Michal Buchhandler-Raphael, *Survival Homicide*, 44 CARDOZO L. REV. 1673, 1676–80 (2023) (discussing how domestic abuse survivors sometimes resort to fatal violence against their abusers yet frequently face murder convictions due to the inadequacy of self-defense and sentencing mitigation laws).

50. See HARMON, *supra* note 5, at 527–28; see also Alesha Durfee, *Situational Ambiguity and Gendered Patterns of Arrest for Intimate Partner Violence*, 18 VIOLENCE AGAINST WOMEN 64, 74–75 (2012).

parties, even when a survivor's violence is a defensive reaction to past or concurrent abuse from their partner.⁵¹

Likewise, domestic violence survivors are further harmed by police responses when they encounter skepticism from officers who doubt their accounts, perceiving them as less credible victims. Scholars have documented this phenomenon, terming it the “credibility discount” and arguing that it causes epistemic harm to victims.⁵² This troubling tendency is particularly pervasive in domestic violence cases, with survivors often reporting disbelief or victim-blaming by responding officers.⁵³ Such responses dismiss legitimate claims of victimization, and often stem from a range of biases and prejudices based on gender, race, socioeconomic status, language, nationality, immigration status, or the intersection of these identities.⁵⁴

B. Ineffectiveness

The heavy reliance on policing as the main method to respond to domestic violence is not just potentially harmful, but also frequently ineffective in ensuring the safety and well-being of survivors.⁵⁵ Fewer than 50% of domestic violence incidents are reported because many survivors avoid calling the police—even when their physical safety is at risk.⁵⁶ This reluctance stems from various factors. Many survivors refrain from involving law enforcement due to concerns about the potential risks and harms associated with police intervention, consciously opting out of calling the police.⁵⁷ For

51. AYA GRUBER, *THE FEMINIST WAR ON CRIME: THE UNEXPECTED ROLE OF WOMEN'S LIBERATION IN MASS INCARCERATION* 88 (2020).

52. See Deborah Tuerkheimer, *Incredible Women: Sexual Violence and the Credibility Discount*, 166 U. PA. L. REV. 1, 3 (2017).

53. See Deborah Epstein & Lisa A. Goodman, *Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experiences*, 167 U. PA. L. REV. 399, 425–38 (2019).

54. DEBORAH TUERKHEIMER, *CREDIBLE: WHY WE DOUBT ACCUSERS AND PROTECT ABUSERS* 2–6, 195 (2021).

55. GOODMARK, *supra* note 28, at 1–6, 53–54.

56. See RACHEL E. MORGAN & JENNIFER L. TRUMAN, U.S. DEP'T OF JUST., *CRIMINAL VICTIMIZATION*, 2019, at 8 tbl.6 (2020), <https://bjs.ojp.gov/content/pub/pdf/cv19.pdf> [<https://perma.cc/2Y68-UT2Q>].

57. See LEIGH GOODMARK, NAT'L DOMESTIC VIOLENCE HOTLINE, *LAW ENFORCEMENT EXPERIENCE REPORT* 7, 9 (2022), https://www.thehotline.org/wp-content/uploads/media/2022/09/2209-Hotline-LES_FINAL.pdf [<https://perma.cc/C5R4-9SH3>] (finding that 92% of poll participants refrained from calling the police after a domestic incident due to fear of the police's response, and out of the participants who did call the police after an incident, 75% expressed concern about how the police might react if they called again in the future).

these survivors, having less risk-prone alternatives could enhance the overall effectiveness of responders' interventions.⁵⁸ Another major reason that survivors choose not to involve law enforcement is the fear of retaliation from abusers; studies show that reporting the abuse to the police can escalate the violence.⁵⁹ Additionally, the fear of being arrested themselves can discourage survivors from seeking police help.⁶⁰ Moreover, arrests are merely a temporary solution that fails to address long-term unintended consequences. For survivors who are economically dependent on their partners, the arrest of the primary breadwinner can jeopardize the financial security of a household and raise concerns about losing child custody.⁶¹ The lack of adequate economic support makes it difficult for survivors to leave abusive relationships, often binding survivors to their abusers.⁶² Personal reasons might also discourage survivors from reporting their abuse to the police. Some perceive the abuse as a private issue and prefer not to involve authorities in their family matters.⁶³ Emotional bonds may also lead survivors to protect their intimate partners from legal consequences.⁶⁴

Survivors' reluctance to involve the police is further explained by the way officers respond to domestic incidents calls. The police themselves acknowledge inconsistencies in how they enforce domestic violence laws. The International Association of Chiefs of Police ("IACP") has recently stated that law enforcement responses to domestic violence differ significantly across jurisdictions and among officers.⁶⁵ According to the IACP's guidelines, these cases are often treated with low priority, as evidenced by failures to arrest, unnecessary dual arrests, and the improper classification and downgrading of serious assaults involving significant injury and weapons to misdemeanors.⁶⁶

58. See *id.* at 11 ("Respondents said they needed anything that would have helped get them and their children to a safe place. And they wanted that assistance to come from 'literally anyone not involved with the criminal justice system.'").

59. See GOODMARK, *supra* note 28, at 24; see also GRUBER, *supra* note 51, at 69, 87.

60. See HARMON, *supra* note 5, at 528.

61. GOODMARK, *supra* note 28, at 20, 34–41.

62. *Id.* at 32–33, 41–44, 154; see also ROBELO, *supra* note 20, at 4–9.

63. See Andrea L. Dennis & Carol E. Jordan, *Encouraging Victims: Responding to a Recent Study of Battered Women Who Commit Crimes*, 15 NEV. L.J. 1, 12 (2014).

64. ROBELO, *supra* note 20, at 4, 6–7.

65. INT'L ASS'N OF CHIEFS OF POLICE, INTIMATE PARTNER VIOLENCE RESPONSE POLICY AND TRAINING CONTENT GUIDELINES 4 (2018), <https://www.theiacp.org/sites/default/files/all/i-j/IACPIntimatePartnerViolenceResponsePolicyandTrainingGuidelines2017.pdf> [<https://perma.cc/45JZ-H5S8>].

66. *Id.*

Moreover, studies suggest that police attitudes toward domestic violence incidents are largely negative, which undermines the effectiveness of their responses.⁶⁷ Examples of ineffective responses include officers discouraging victims from reporting incidents, providing inadequate support to survivors, not responding in a timely fashion, and underestimating the severity of the situation.⁶⁸ Research suggests that police officers often dislike responding to domestic violence incidents for various reasons, including beliefs that these calls are particularly difficult and uncomfortable to handle or that victims are to blame and can be unreliable and uncooperative in the arrest and prosecution of their partners.⁶⁹ One study, based on interviews with police officers, found that officers could not definitively say whether the resolutions they provided were effective.⁷⁰ It also revealed that officers recognized that their skill sets for assisting parties involved in domestic incidents were inadequate and noted that their resolutions were only temporary or unsatisfactory.⁷¹ The study further highlighted officers' general sense of frustration in responding to domestic incidents.⁷²

Another explanation for officers' negative attitudes toward responding to domestic incidents lies with the fact that police officers are much more likely to engage in domestic violence than the general population.⁷³ Data show that anywhere between 4.8% and 40% of officers' families experience domestic violence at the hands of the officers themselves, who often use their service-issued guns and inherent authority to intimidate and threaten.⁷⁴ This high prevalence of officer-involved domestic violence might influence their perceptions about responding to such calls.

Furthermore, survivors who choose to report their victimization often find the police responses unhelpful. A 2022 survey by the National Domestic Violence Hotline sheds light on survivors' dissatisfaction with police

67. See Emily Maple & Mark Kebbell, "DV Fatigue": Work Stress and Officers' Attitudes and Performance at Domestic and Family Violence Incidents, 30 VIOLENCE AGAINST WOMEN 1984, 1985 (2024) (interpreting results from a self-report survey in Australia).

68. *Id.* at 1985.

69. See Christina DeJong et al., *Police Officer Perceptions of Intimate Partner Violence: An Analysis of Observational Data*, 23 VIOLENCE & VICTIMS 683, 684–85, 688–89 (2008).

70. Anjali Fulambarker, "Everybody Loses:" Understanding Police Roles and Perceptions of Domestic Violence Calls, 8 J. QUALITATIVE CRIM. JUST. & CRIMINOLOGY 313, 314, 316–18 (2020).

71. *Id.* at 318–19.

72. *Id.* at 320.

73. See Leigh Goodmark, *Hands Up at Home: Militarized Masculinity and Police Officers Who Commit Intimate Partner Abuse*, 2015 BYU L. REV. 1183, 1204.

74. Kimberly A. French & Keaton A. Fletcher, *Officer-Involved Domestic Violence: A Call for Action Among I-O Psychologists*, 15 INDUS. & ORG. PSYCH. 604, 604 (2023).

responses to their emergency calls.⁷⁵ A significant portion of survivors described the police's response as detrimental and unhelpful. Specifically, 39% of those who sought the police assistance felt less secure afterward, and 40% felt the intervention did not enhance their safety.⁷⁶ Approximately 71% of survivors who engaged with the police said that if given the option, they would have preferred receiving help from civilian responders, such as social workers, mediators, and community members.⁷⁷ They highlighted several crucial immediate services vital for their safety: social workers, financial aid, equitable housing access, domestic violence shelters, crisis prevention, legal services, and access to both substance abuse and mental health services.⁷⁸

Admittedly, the survey's methodology is problematic, as comparing existing police responses to theoretical alternatives that are not yet operational is flawed. Despite this limitation, the fact that about 50% of domestic violence survivors choose not to report their victimization to the police⁷⁹ suggests a deep skepticism about the effectiveness of police responses and mistrust in their ability to promote safety. This dissatisfaction with police responses is unsurprising because policing offers an offender-oriented rather than a survivor-centered intervention. When the police choose to respond to domestic violence, their focus is on making arrests.⁸⁰ Yet, prioritizing arrests fails to address survivors' needs and wishes, and thus does not assist them effectively.⁸¹

Moreover, empirical research has disproved the prior belief that mandatory arrest of abusers helps reduce recidivism.⁸² Policing domestic violence has proven ineffective because the significant increase in arrests of abusers has had only a limited deterrent effect and has not meaningfully contributed to the prevention of violence.⁸³ While police can arrest abusers, they do not employ proactive measures to mitigate future violence or ensure

75. GOODMARK, *supra* note 57, at 5, 11.

76. *Id.* at 8.

77. *Id.* at 5, 11.

78. *Id.* at 11.

79. MORGAN & TRUMAN, *supra* note 56, at 8 tbl.6 (showing that in 2019, only 52.2% of domestic violence victims reported the incident to the police).

80. See generally *Domestic Violence 101: How Should a Law Enforcement Agency Respond?*, CMTY. POLICING DISPATCH (Oct. 2020), https://cops.usdoj.gov/html/dispatch/10-2020/domestic_violence_101.html [<https://perma.cc/RM72-E673>] (discussing the IACP's model policy, which "encourages law enforcement to make an arrest" when possible and instructs officers to "[t]reat all acts of domestic violence as crimes").

81. See GOODMARK, *supra* note 57, at 12–13.

82. See Clare Huntington, *The Institutions of Family Law*, 102 B.U. L. REV. 393, 426 (2022); Margaret F. Brinig, *Empirical Work in Family Law*, 2002 U. ILL. L. REV. 1083, 1083–85, 1096.

83. See GOODMARK, *supra* note 28, at 33.

survivors' long-term safety.⁸⁴ Additionally, the lack of follow-up after the initial intervention often results in repeated calls from the same households.⁸⁵

C. Inequitable Treatment of Minority Communities

Domestic violence affects all segments of the population, cutting across race, social status, age, sexual orientation, religion, and other sociodemographic factors.⁸⁶ Although all survivors may experience the detrimental effects of policing, these outcomes are exacerbated in domestic violence interventions within minority and vulnerable communities, particularly among Black, Indigenous, and other People of Color ("BIPOC").⁸⁷ Undocumented immigrants also are disproportionately vulnerable because reporting their victimization might expose them to unique risks such as deportation.⁸⁸ Other vulnerable groups include sexual minorities, particularly same-sex couples and transgender individuals.⁸⁹

Historically, Black survivors have faced elevated levels of state violence and particularly aggressive police practices.⁹⁰ People of color continue to suffer from both police malfeasance and police nonfeasance, including inadequate protection against crime.⁹¹ A profound mistrust of law enforcement and an aversion to a legal system perceived as oppressive are particularly acute among Black survivors.⁹² They view police as racist, biased, violent, and disproportionately damaging to their communities.⁹³

84. TIMOTHY PRENZLER & LAUREN FARDELL, THE ROLE OF PRIVATE SECURITY IN SUPPORTING POLICE RESPONSES TO DOMESTIC VIOLENCE 11, 17 (2016), <https://research.usc.edu.au/esploro/outputs/report/The-Role-of-private-security-in/99449813002621> [<https://perma.cc/KH4U-3SHX>].

85. Zoom Interview with Jenny Wesberry, Dir. of Operations, DC Safe: Survivors and Advocates for Empowerment (Sept. 8, 2022) (on file with author).

86. See EVAN STARK, COERCIVE CONTROL: HOW MEN ENTRAP WOMEN IN PERSONAL LIFE, 238–41 (2009).

87. BETH E. RICHIE, ARRESTED JUSTICE: BLACK WOMEN, VIOLENCE, AND AMERICA'S PRISON NATION (2012); ROBELO, *supra* note 20, at 8.

88. ROBELO, *supra* note 20, at 8–9.

89. David Hirschel & Philip D. McCormack, *Same-Sex Couples and the Police: A 10-Year Study of Arrest and Dual Arrest Rates in Responding to Incidents of Intimate Partner Violence*, 27 VIOLENCE AGAINST WOMEN 1119, 1140–41 (2020).

90. See RICHIE, *supra* note 87, at 26, 62.

91. See Sklansky, *supra* note 7, at 4, 8–9.

92. See Monica C. Bell, *Situational Trust: How Disadvantaged Mothers Reconceive Legal Cynicism*, 50 LAW & SOC'Y REV. 314, 315–16 (2016).

93. See RICHIE, *supra* note 87, at 148–51, 163.

Given their personal and collective histories, many are hesitant to seek protection from the police, or any state agency.⁹⁴

Further, families of color are particularly at risk in the context of police response to domestic violence. These communities suffer not only from alarming rates of interpersonal violence but also from structural violence, which is inflicted by the state through the intertwined nature of criminal and civil systems, particularly in the operation of Child Protective Services (“CPS”).⁹⁵ Critical race theorist Professor Dorothy Roberts characterizes the child welfare system as a means of regulating and policing marginalized families, with social workers acting as de facto police, extensively removing Black children from their homes.⁹⁶ Likewise, Lisa Washington observes how domestic violence survivors often grapple with both criminal charges and family court proceedings, as CPS can inform law enforcement in child maltreatment cases, triggering criminal probes and separation of children from their parents.⁹⁷ CPS’s actions are sometimes based on dubious charges that conflate poverty with parental failure, labeling survivors as neglectful for exposing their children to the difficult dynamics of domestic strife.⁹⁸

* * *

In summary, police responses to domestic violence often increase harm to survivors, prove ineffective, and lead to inequities, particularly in communities of color. While police involvement can be advantageous in incidents with significant safety risks, the drawbacks suggest that in many situations, the overall costs outweigh the limited benefits of involving law enforcement.

II. THEORIZING FIRST RESPONDERS’ ROLES

The shortcomings of police responses to domestic violence underscore the pressing need to develop alternatives, both to diminish the harm and ineffectiveness associated with policing, and to better assist community

94. See Dorothy E. Roberts, *The Social and Moral Cost of Mass Incarceration in African American Communities*, 56 STAN. L. REV. 1271, 1287 (2004).

95. See Tianna N. Gibbs, *Centering Family Violence in Family Law as Racial Justice*, 30 VA. J. SOC. POL’Y & L. 43, 49–54 (2023).

96. DOROTHY ROBERTS, *TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD* 11, 25–36 (2022).

97. See Lisa S. Washington, *Survived & Coerced: Epistemic Injustice in the Family Regulation System*, 122 COLUM. L. REV. 1097, 1105–08 (2022).

98. See Marsha Garrison, *Why Terminate Parental Rights*, 35 STAN. L. REV. 423, 435 (1983).

members in need of help and safety. In the following Sections, I analyze the police's dual roles in responding to various emergencies as both crime control actors and providers of necessary services to community members, elaborate on existing programs that already offer alternative responders to police, and examine the unique safety challenges underlying domestic violence situations.

A. The Community Caretaking Function

Many 911 calls are service requests from community members seeking police assistance for a variety of social and health problems. These often pertain to situations that are either non-criminal or implicate low-level crimes.⁹⁹ Studies indicate that 23% to 39% of 911 calls are low priority or non-emergent, thus they may not require police intervention.¹⁰⁰ Such calls include responses to behavioral health crises, wellness checks, medical calls, low-acuity crime and disorder complaints, traffic and parking violations, animal-related incidents, requests for violence interrupters, property crime, situations involving unhoused individuals, and domestic disputes.¹⁰¹ For example, many domestic disputes do not involve actual physical violence, but rather heated verbal altercations, which raise concerns about potential future physical harm.¹⁰² In all these situations, police officers are expected to provide emergency services for a range of problems that fall outside their professional expertise. These often require the de-escalation and mediation skills not typically within the purview of law enforcement training.¹⁰³ In the absence of alternative responders available to address community members' safety concerns, the police are called by default to respond to a host of problems that they are not only unequipped and unsuitable to handle but also do not warrant their involvement.¹⁰⁴

99. See Cynthia Lum et al., *Can We Really Defund the Police? A Nine-Agency Study of Police Responses to Call for Service*, 25 POLICE Q. 255, 255–80 (2022). Data collected from nine big cities suggests that an average of 19% of 911 calls for service could be answered by unarmed crisis responders and no more than 7% of calls are for situations involving violent crime. See *911 Analysis*, VERA INST. OF JUST. (Apr. 2022), <https://www.vera.org/publications/911-analysis> [<https://perma.cc/T6KY-GPUM>].

100. Lum et al., *supra* note 99, at 259–80.

101. CITY OF MINNEAPOLIS, *supra* note 24, at 59.

102. For further discussion of the distinction between various types of domestic incidents, see *infra* Section III.C.

103. See Jamelia Morgan, *Disability's Fourth Amendment*, 112 COLUM. L. REV. 489, 576 (2022); Jamelia Morgan, *Policing Under Disability Law*, 73 STAN. L. REV. 1401, 1467 (2021).

104. Friedman, *supra* note 1, at 958–59, 963.

Leading policing theorist Egon Bittner has offered a compelling rationale for the police's involvement in social problems beyond their professional expertise. Bittner posited that the police exist to impose coercive force to solve emergent problems.¹⁰⁵ He argued that at the core of police work is the unique capacity to use force whenever it is deemed necessary.¹⁰⁶ Bittner suggests that any human problem involving conflict or contention, no matter how trivial or non-criminal it may seem, has the potential to escalate into a situation requiring the use of force.¹⁰⁷ The unpredictable and multifaceted nature of police work can rapidly transition from negotiations to enforcement. This risk of escalation underpins the police's vital role in society as agents capable of addressing a broad spectrum of social problems through their ability to exert force.¹⁰⁸ When faced with noncompliance that threatens their ability to solve problems, the police respond by using force to either overcome resistance or protect their own physical safety.¹⁰⁹ Bittner's theory underscores the inherent ambiguities in police functions: their primary role is to manage conflicts and solve problems, irrespective of whether these involve criminal acts.¹¹⁰ Although resolving underlying social and health issues may be beyond their professional scope, the police are nonetheless obligated to manage these conflicts.¹¹¹ Further theorizing the police's dual functions, Seth Stoughton argues that the police serve as guardians of the community, protecting civilians from unnecessary indignity and harm.¹¹²

The U.S. Supreme Court's jurisprudence acknowledges various situations in which the police perform dual functions, encompassing both arresting individuals who pose safety risks to others and delivering emergency aid and services to the community.¹¹³ The community caretaking doctrine has long been used to describe the wide range of responsibilities that police officers undertake beyond their criminal enforcement activities, including the

105. See Egon Bittner, *Florence Nightingale in Pursuit of Willie Sutton: A Theory of the Police*, in THE POTENTIAL FOR REFORM OF CRIMINAL JUSTICE 17, 18 (Herbert Jacob ed., 1974).

106. See EGON BITTNER, THE FUNCTIONS OF THE POLICE IN MODERN SOCIETY: A REVIEW OF BACKGROUND FACTORS, CURRENT PRACTICES, AND POSSIBLE ROLE MODELS 46 (1970).

107. See *id.*

108. *Id.*

109. HARMON, *supra* note 5, at 367.

110. HERMAN GOLDSTEIN, POLICING A FREE SOCIETY 21–42 (1977).

111. *Id.*

112. See Seth W. Stoughton, *Principled Policing: Warrior Cops and Guardian Officers*, 51 WAKE FOREST L. REV. 611, 667 (2016).

113. See Kit Kinports, *The Quantum of Suspicion Needed for an Exigent Circumstances Search*, 52 U. MICH. J.L. REFORM 615, 617, 635 (2019). The Court recognizes four separate doctrines underlying the police's role as service providers: community caretaking, emergency aid, exigent circumstances, and special needs. See *id.*

provision of emergency aid.¹¹⁴ Yet, in its 2021 decision in *Caniglia v. Strom*, the Court significantly narrowed the scope of this doctrine.¹¹⁵ In this case, police officers performed a welfare check on a man at his wife's request after he exhibited potentially suicidal behavior by placing a handgun on the table and suggesting she shoot him.¹¹⁶ Following the man's agreement to undergo a psychiatric evaluation at a hospital, the police entered his home without a warrant and seized his firearm.¹¹⁷ The Court declined to recognize a welfare check as falling within the community caretaking exception to the Fourth Amendment's warrant requirement.¹¹⁸

Discussing *Caniglia*'s implications, Christopher Slobogin highlights the police's primary function in responding to emergencies, including their role as community caretakers.¹¹⁹ He posits that this decision might prompt the Court to reconsider its established exceptions for police responses to individuals' special needs in other non-criminal interventions.¹²⁰ Slobogin argues that the constraints imposed by *Caniglia* on the police's caretaking exception could lend doctrinal support to the increasing calls for de-policing certain government services where the presence of armed police trained in crime control is not required.¹²¹

These insights are particularly relevant to domestic violence responses. In these cases, the police perform dual functions by simultaneously enforcing the law and providing essential emergency social services to survivors. Police responses to domestic violence consist not only of arresting batterers but also of ensuring survivors' safety.¹²² The *Caniglia* Court's narrow reading of the community caretaking doctrine arguably distinguishes between these two roles, suggesting that when providing emergency services in crisis situations, police should not simultaneously conduct law enforcement functions.¹²³ Admittedly, the *Caniglia* Court did not hold that welfare checks are never permissible without a warrant; they may be allowed under other exceptions

114. See, e.g., *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973); *City of Brigham v. Stuart*, 547 U.S. 398 (2006); see also Jamelia N. Morgan, *Psychiatric Holds and the Fourth Amendment*, 124 COLUM. L. REV. 1363, 1371–72 (2024); Michael R. Dimino, Sr., *Police Paternalism: Community Caretaking, Assistance Searches, and Fourth Amendment Reasonableness*, 66 WASH. & LEE L. REV. 1485, 1494 (2009).

115. 593 U.S. 194, 198–99 (2021).

116. *Id.* at 196–98.

117. *Id.*

118. *Id.* at 197–99.

119. See Slobogin, *supra* note 7, at 191–92.

120. *Id.* at 193–94.

121. *Id.* at 216.

122. HARMON, *supra* note 5, at 521–22; see Fulambarker, *supra* note 70, at 314, 316–18.

123. *Caniglia*, 593 U.S. at 197–99.

to the warrant requirement for homes, as suggested by some of the concurring opinions.¹²⁴ Yet, the narrow reading of the community caretaking exception potentially opens the door for a shift towards redefining the role of first responders in domestic violence, separate from traditional policing functions. Before examining alternative responders in domestic violence, the following Section outlines existing programs utilizing civilian responders for various social and health emergencies.

B. Existing Alternatives to the Police

In recent years, police use of force during social and health emergencies has led to numerous tragic incidents resulting in fatalities or serious injuries.¹²⁵ These events have raised concerns that police may not be suitable responders to such situations due to their lack of specialized training and skills necessary for interacting with persons experiencing mental health, drug use, and homelessness crises.¹²⁶ In response, many jurisdictions have begun experimenting with programs aimed at providing more effective and less harmful emergency responses.¹²⁷ These initiatives seek to minimize potential harm from police interactions with vulnerable individuals in crises.¹²⁸

Existing civilian responder programs vary widely across jurisdictions and areas, presenting challenges in categorization due to their distinct features and the range of approaches they adopt.¹²⁹ For example, these programs vary in their relationship with police agencies—namely, whether they operate independently or in collaboration with police.¹³⁰ Civilian responder programs can generally be classified into three main types: the internal model, where police agencies either train their officers in crisis intervention techniques or integrate licensed clinical social workers (“LCSWs”) directly into their

124. *E.g., id.* at 200 (Roberts, C.J., concurring) (“A warrant to enter a home is not required . . . when there is a ‘need to assist persons who are seriously injured or threatened with such injury.’” (quoting *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006))); see Slobogin, *supra* note 7, at 192–93.

125. See Jessica M. Eaglin, *To “Defund” the Police*, 73 STAN. L. REV. ONLINE 120, 122, 128 (2021).

126. See Morgan, *supra* note 114, at 1383–87.

127. See Farhang Heydari, *The Private Role in Public Safety*, 90 GEO. WASH. L. REV. 696, 711–12 (2022).

128. *Id.*

129. JESSICA SMITH ET AL., UNC SCH. OF GOV’T, THE ALTERNATIVE RESPONDER PROJECT: FINAL REPORT 1 (2023), https://cjl.sog.unc.edu/wp-content/uploads/sites/19452/2023/07/ARP-Final-Report_2023.7.31.pdf [<https://perma.cc/SE98-G6QY>].

130. See Heydari, *supra* note 127, at 709–12. For a summary of alternative response programs, see TRANSFORM911 BLUEPRINT, *supra* note 6, 40–43.

departments;¹³¹ the external model, where civilian responders operate independently of the police, rooted in community-led response initiatives;¹³² and the co-responder model, which is the most commonly implemented alternative at present and involves collaboration between police, civilian state agencies, and community-led organizations to address emergencies.¹³³

Perhaps the most well-known civilian responder program that operates autonomously from police is Crisis Assistance Helping Out on the Streets (“CAHOOTS”).¹³⁴ CAHOOTS teams primarily respond to behavioral health crises, including severe mental health emergencies and drug overdoses.¹³⁵ Although they can be dispatched either through the joint police-fire-ambulance communications center or through the city’s non-emergency number, their operations are predominantly independent.¹³⁶ Various iterations of CAHOOTS operate throughout the United States, including the Support Team Assisted Response (“STAR”) in Denver, Colorado, which emulates the CAHOOTS model but has its own distinctive features.¹³⁷

The proliferation of civilian responder programs raises questions regarding their efficacy. Ideally, police reform should rely on an evidence-

131. See, e.g., 65 ILL. COMP. STAT. 5/11-1.5 (2024).

132. ROBELO, *supra* note 20, at 36–37.

133. AMY C. WATSON ET AL., VERA INST. OF JUST., CRISIS RESPONSE SERVICES FOR PEOPLE WITH MENTAL ILLNESSES OR INTELLECTUAL AND DEVELOPMENTAL DISABILITIES 14–19 (2019), <https://www.vera.org/downloads/publications/crisis-response-services-for-people-with-mental-illnesses-or-intellectual-and-developmental-disabilities.pdf> [<https://perma.cc/XZM4-SKGJ>].

134. Rowan Moore Gerety, *An Alternative to Police that Police Can Get Behind*, ATLANTIC (Dec. 28, 2020), <https://www.theatlantic.com/politics/archive/2020/12/cahoots-program-may-reduce-likelihood-of-police-violence/617477> [<https://perma.cc/W3RP-LMY8>].

135. *Id.* CAHOOTS, an Oregon-based program, offers mobile crisis intervention round-the-clock in both Eugene and Springfield. CAHOOTS teams consist of a medic and a trained crisis worker, handling tasks from immediate stabilization to referrals and transport. See *CAHOOTS (Crisis Assistance Helping Out on the Streets)*, WHITE BIRD CLINIC, <https://whitebirdclinic.org/cahoots> [<https://perma.cc/E5GA-S29J>] (July 14, 2024).

136. For example, in 2019 only 160 out of the 24,000 calls that CAHOOTS responded to necessitated police backup. See Matt DeLaus, *Alternatives to Police as First Responders: Crisis Response Programs*, GOV’T L. CTR. (Nov. 16, 2000), <https://www.albanylaw.edu/government-law-center/alternatives-police-first-responders-crisis-response-programs> [<https://perma.cc/U8SS-8JRU>].

137. STAR is a collaboration between the Denver Police Department and the city’s Mental Health Center, where the police are removed from 911 emergency calls involving low-risk situations, such as public intoxication, welfare checks, trespassing, and public disorder. Instead, dispatchers send a mobile team comprised of a mental health specialist and a paramedic. See Esteban L. Hernandez, *Denver’s STAR Program, Sending Mental Health Pros on Certain Calls Instead of Police Officers, Is About to Get Bigger*, CARING FOR DENV. FOUND., <https://caring4denver.org/stories/news-events/denvers-star-program-sending-mental-health-pros-on-certain-calls-instead-of-police-officers-is-about-to-get-bigger> [<https://perma.cc/BVU5-SCU9>] (Jan. 17, 2025).

based approach, demonstrating that civilian alternatives are more effective than policing.¹³⁸ Several systematic reviews and meta-analyses on co-responder programs suggest that they have beneficial effects, such as reducing arrests and detention rates, although evidence is mixed on their cost-effectiveness.¹³⁹ However, there is limited credible empirical evidence concerning the effectiveness of programs consisting entirely of civilian responders.¹⁴⁰ This scarcity of data stems from the fact that jurisdictions are still experimenting with pilot programs, and comprehensive evaluations of their impact are not yet available.¹⁴¹ Preliminary data, however, is gradually surfacing, indicating that civilian responder programs can be effective and may have a significant impact on reducing low-level crime. A seminal 2022 Stanford University study examined the operation of the abovementioned STAR program.¹⁴² The study found robust evidence that the program reduced by 34% reports of targeted, less serious crimes, such as trespassing, public order, and resisting arrest, although it had no similar effect for more serious crimes.¹⁴³ It further found strong empirical evidence that dispatching mental health professionals instead of police could have significant benefits.¹⁴⁴

Admittedly, the observed reduction in crime rates may not be fully attributable to a decrease in criminal behavior, but rather may also be a result of the reduced presence of police who are authorized to make arrests. Importantly, the possibility of arrest for committing a criminal act does not necessarily mean that arrest should be the default response.¹⁴⁵ Instead, it may be more beneficial and potentially less harmful to choose not to arrest.¹⁴⁶

138. See Ngozi Okidegbe, *The Democratizing Potential of Algorithms?*, 53 CONN. L. REV. 739, 752, 780 (2022).

139. See, e.g., Stephen Puntis et al., *A Systematic Review of Co-Responder Models of Police Mental Health 'Street' Triage*, BMC PSYCHIATRY, Aug. 2018, at 1; Thomas S. Dee & James Pyne, *A Community Response Approach to Mental Health and Substance Abuse Crises Reduced Crime*, SCI. ADVANCES, No. eabm2106, at 6 (June 8, 2022), <https://www.science.org/doi/10.1126/sciadv.abm2106> [<https://perma.cc/D5RW-BPK3>]; THOMAS DEE ET AL., JOHN W. GARDNER CTR. FOR YOUTH AND THEIR CMTYS., PILOT PROGRAM: DECEMBER 2021 THROUGH JUNE 2024, at 3 (2024), [https://gardnercenter.stanford.edu/sites/default/files/media/file/CWCRT%20co-response report_2024-10-15.pdf](https://gardnercenter.stanford.edu/sites/default/files/media/file/CWCRT%20co-response%20report_2024-10-15.pdf) [<https://perma.cc/C8VM-U6M2>].

140. See Dee & Pyne, *supra* note 139, at 6 (noting the current lack of “credible, causal evidence” on the effects of response models that “delay or forego police involvement by sending a health care team as first responders”).

141. See, e.g., CITY OF MINNEAPOLIS, *supra* note 24, at 49.

142. See Dee & Pyne, *supra* note 139, at 6.

143. *Id.* at 3, 6.

144. *Id.*

145. *Id.* at 7.

146. *Id.*

Moreover, another Stanford research study, published in October 2024, evaluated a pilot program in San Mateo, California, focused on the implementation of its co-responder program for mental health emergencies.¹⁴⁷ Under the pilot program’s protocol, the police first ensure the safety of the situation, and only once they deem it safe do civilian clinicians approach the individual in mental health crisis.¹⁴⁸ Ultimately, the police and civilian responders collaborate to resolve the crisis. The study finds this co-response protocol offers an effective framework that leverages the unique strength of both the police and civilian responders during emergency first responses.¹⁴⁹

Taken together, these Stanford studies suggest important implications for expanding the roles of civilian responders into additional areas, including domestic violence. They demonstrate that dispatching diversified responders—including civilian responders with specialized expertise in addressing social and health crises—either independently or alongside the police can often resolve such emergencies more effectively.

Furthermore, the success of civilian responders in addressing social and health crises depends on whether police are appropriately utilizing these alternatives in relevant situations. For example, the tragic case of Melissa Perez highlights the need for effective collaboration and communication between police and civilian mental health responders.¹⁵⁰ In this case, officers in San Antonio, Texas, responded to Perez’s mental health crisis during which she damaged wiring at her apartment complex.¹⁵¹ The officers did not contact the mental health crisis team, and instead attempted to break into her home to arrest her, ultimately shooting her through her patio door.¹⁵² This outcome was avoidable and might have been prevented if the officers had contacted the mental health unit.

Programs like CAHOOTS and STAR primarily respond to nonviolent situations. However, there are also programs that offer alternatives to traditional policing and directly address violent crimes by adopting a problem-oriented approach to policing. David Sklansky observes that programs with strong records of success “concentrate law enforcement

147. DEE ET AL., *supra* note 139, at 1.

148. *Id.* at 2.

149. *Id.* at 3, 6–7.

150. Raja Razek, *Family of Woman Shot and Killed by San Antonio Police File Wrongful Death Lawsuit Against City, 3 Officers Charged*, CNN (July 9, 2023), <https://www.cnn.com/2023/07/09/us/melissa-perez-death-lawsuit-san-antonio/index.html> [https://perma.cc/BT2M-HLBC].

151. *Id.*

152. *Id.*

resources on specific, crime-plagued locations (hot spots) and . . . on particular groups of people responsible for a disproportionate share of a city's gun violence."¹⁵³ For example, Boston's Ceasefire initiative successfully interrupted cycles of retaliatory gun violence, ultimately reducing youth homicides in the city.¹⁵⁴ Additionally, the city of Oakland implemented a variation of the Ceasefire initiative, which not only reduced homicides and nonfatal shootings by roughly half but also minimized the role of the police and expanded the use of peer-to-peer counseling.¹⁵⁵

While programs like the Ceasefire initiative are part of law enforcement, other programs use non-police community members to address gun violence. For example, "Cure Violence," implemented in several major cities—including New York, Philadelphia, Chicago, and Baltimore—utilizes "violence interrupters."¹⁵⁶ These individuals work in high-crime neighborhoods, with the aim of identifying and defusing potentially violent situations before they escalate.¹⁵⁷ Empirical evidence regarding the efficacy of the 'Cure Violence' approach is promising. Studies have shown significant reductions in shootings and killings in the most affected communities.¹⁵⁸ For instance, one study reported a 63% decrease in shootings within New York's South Bronx district.¹⁵⁹ Another study found a 30% reduction in shootings in Philadelphia.¹⁶⁰ However, some studies present more mixed results. For instance, a study in a Baltimore neighborhood that employed 'Safe Streets' workers as violent interrupters suggested their impact was relatively

153. See SKLANSKY, *supra* note 40, at 71.

154. *Id.*

155. *Id.*

156. Jeffrey A. Butts et al., *Cure Violence: A Public Health Model to Reduce Gun Violence*, 36 ANN. REV. PUB. HEALTH 39, 41 (2015).

157. See CATERINA G. ROMAN ET AL., TEMP. UNIV., PHILADELPHIA CEASEFIRE: FINDINGS FROM THE IMPACT EVALUATION (2017), https://cvg.org/wp-content/uploads/2020/03/SummaryofPhilaCeaseFireFindingsFormatted_Jan2017.pdf [<https://perma.cc/Z8R2-K5AV>]; Lynette Hazelton, *After a Shooting, the Emotional Work Starts for the Philadelphia Anti-Drug/Anti-Violence Network*, PHILA. INQUIRER (Sept. 22, 2024), <https://www.inquirer.com/news/philadelphia/paan-ccip-gun-violence-philadelphia-20240922.html> [<https://perma.cc/ZX52-6TZN>].

158. CURE VIOLENCE GLOB., THE EVIDENCE OF EFFECTIVENESS 4 (2022), <https://cvg.org/wp-content/uploads/2022/09/Cure-Violence-Evidence-Summary.pdf> [<https://perma.cc/XDV4-U4VY>].

159. SHEYLA A. DELGADO ET AL., THE EFFECTS OF CURE VIOLENCE IN THE SOUTH BRONX AND EAST NEW YORK, BROOKLYN 1 (2017), https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1436&context=jj_pubs [<https://perma.cc/M3NQ-557W>].

160. See Butts et al., *supra* note 156.

modest.¹⁶¹ Yet, even programs that offer limited benefits could still be considered a sound policy choice, especially if they result in less harm compared to police intervention.

While existing programs use civilian responders in a broad spectrum of social crises, they predominantly address situations involving individuals facing behavioral health crises, substance use, and homelessness.¹⁶² Only a few programs provide independent first-response intervention in domestic violence cases—primarily when there is an overlap with mental health crises.¹⁶³ While community-based nonprofit organizations offer a host of social services and support for survivors of domestic violence, they are limited in scope as they primarily offer assistance over the phone, rather than responding in person to domestic violence incidents.¹⁶⁴

The growing recognition that armed police are not professionally suited to address the complex dynamics underlying domestic violence, and the myriad systemic problems that arise from police involvement suggest that civilian responders programs should also expand to cover domestic violence when appropriate.¹⁶⁵ The lack of adequate training, time, and supervision of police officers, combined with conflicts regarding what survivors genuinely want, casts doubt on the wisdom of continued reliance on police as the first response to survivors in need of safety.¹⁶⁶

Currently, civilian actors rarely take the lead in domestic violence responses, typically serving only as secondary support to complement—not replace—police involvement. In previous work, I outlined a range of potential models that could offer alternative responses to domestic violence,

161. See DANIEL D. WEBSTER ET AL., JOHNS HOPKINS CTR. FOR GUN POL’Y & RSCH., ESTIMATING THE EFFECTS OF LAW ENFORCEMENT AND PUBLIC HEALTH INTERVENTIONS INTENDED TO REDUCE GUN VIOLENCE IN BALTIMORE (2018), <https://search.israelab.org/resource/estimating-the-effects-of-law-enforcement-and-public-health-interventions-intended-to-reduce-gun-violence-in-baltimore.html> [https://perma.cc/TW2K-RYR5].

162. WATSON ET AL., *supra* note 133, at 7, 11.

163. See, e.g., *M.H. First Oakland*, ANTI POLICE-TERROR PROJECT, <https://www.antipoliceterrorproject.org/mh-first-oakland> [https://perma.cc/6WJ3-WC2K] (2023); see also *M.H. First Sacramento*, ANTI POLICE-TERROR PROJECT, <https://www.antipoliceterrorproject.org/mh-first-sac> [https://perma.cc/M5XF-8CUT] (2023).

164. See, e.g., DC SAFE: SUPPORT FOR EMPOWERMENT, <https://www.dcsafe.org> [https://perma.cc/V7UK-562J]; *NYS Domestic Violence Program Directory*, N.Y. STATE COAL. AGAINST DOMESTIC VIOLENCE, <https://www.nyscadv.org/find-help/program-directory.html> [https://perma.cc/UPX6-QVSB].

165. See Deborah M. Weissman, *Gender Violence, the Carceral State, and the Politics of Solidarity*, 55 U.C. DAVIS L. REV. 801, 804 (2021).

166. See Fulambarker, *supra* note 70, at 10.

highlighting the strengths and weaknesses of each.¹⁶⁷ However, existing programs that augment police response typically follow one of two operational models: collaboration between police and domestic violence organizations, or the integration of LCSWs into police departments. The most common alternative responder model is the Coordinated Community Response (“CCR”), which is based on collaborative partnerships between law enforcement and non-government agencies.¹⁶⁸ These agencies include local domestic violence organizations, where advocates provide multidisciplinary services essential to survivors, such as information, referrals for continued services in the community, and emotional support.¹⁶⁹ However, under CCR models, civilian actors are relegated to a secondary role, whereas police remain the primary actors leading the response. The second model, which currently operates in a few jurisdictions like New Jersey¹⁷⁰ and Illinois,¹⁷¹ incorporates social workers into police agencies. Commonly known as the “Police Social Worker” model, this approach involves police departments hiring LCSWs, who become an integral part of law enforcement.¹⁷² These social workers provide essential social services to crime victims, including domestic violence survivors.¹⁷³

167. See Michal Buchhandler-Raphael, *Mapping Alternative First Response Models to Domestic Violence*, 30 VA. J. SOC. POL’Y & L. 16, 20–26 (2023).

168. Casey Gwinn et al., *The Family Justice Center Collaborative Model*, 27 ST. LOUIS U. PUB. L. REV. 79, 80–81 (2007).

169. *Id.* These organizations are overseen by national and state coalitions against domestic violence, which are funded by the Violence Against Women Act. See, e.g., NAT’L COAL. AGAINST DOMESTIC VIOLENCE, <https://ncadv.org> [<https://perma.cc/8AE9-F659>]; *State and U.S. Territorial Coalitions*, NAT’L NETWORK TO END DOMESTIC VIOLENCE, <https://nnev.org/content/state-u-s-territory-coalitions> [<https://perma.cc/HN43-4LF8>].

170. See Laura Johnson et al., *Motivations for Police Support of Domestic Violence Response Teams Implementation with Advocates*, 27 VIOLENCE AGAINST WOMEN, 1150 (2021). In New Jersey, the collaboration between police departments and social workers is governed by state law. See N.J. STAT. ANN. § 2C:25-20 (West 2024). It provides that law enforcement agencies will establish domestic crisis teams or participate in established domestic crisis teams and will train individual officers in methods of dealing with domestic violence. *Id.* It further provides that teams may include social workers, or other persons trained in counseling, crisis intervention or in the treatment of domestic violence. *Id.*

171. In 2022, Illinois passed a state law that requires four pilot police departments to hire Licensed Clinical Social Workers to provide assistance to victims, including to domestic violence survivors. 65 ILL. COMP. STAT. ANN. 5/11-1.5-5 to -25 (2024). The program is scheduled to be repealed on January 1, 2029. *Id.* at 5/11-1.5-99.

172. George T. Patterson, *Police Social Work: A Unique Area of Practice Arising from Law Enforcement Functions*, NAT’L ASS’N SOC. WORKERS N.Y.C. CHAPTER (July 2008), <https://www.naswnyc.org/page/77/Police-Social-Work.htm> [<https://perma.cc/5YTV-KGB7>].

173. *Id.*

The primary strength of these models lies in their ability to enhance police responses by incorporating trained civilian professionals skilled in mediation, conflict resolution, crisis intervention, and trauma-informed practices—without compromising the safety of any party involved.¹⁷⁴ Police alone are often ineffective responders to domestic violence incidents due to insufficient training and a lack of specialized expertise in resolving such disputes and confrontations.¹⁷⁵ The potential benefit of a co-responder model is that it offers an opportunity for effective collaboration between responders with diverse skill sets. This partnership utilizes the unique strengths of each responder, combining law enforcement’s ability to ensure immediate safety with civilian professionals’ expertise in crisis intervention, conflict resolution, and trauma-informed care.¹⁷⁶

Yet, both CCRs and the Police Social Worker models face scrutiny from critics who argue that these approaches fail to offer genuine alternatives to police intervention and perpetuate the same issues associated with traditional police responses.¹⁷⁷ In jurisdictions with CCRs and police social workers, civilian actors are not dispatched to domestic violence incidents.¹⁷⁸ LCSWs and victim advocates provide information, such as shelter placement and referrals for further treatment, via phone, but they are not part of mobile response teams.¹⁷⁹ Critics contend that involving social workers and domestic violence advocates, who intervene only after police involvement, effectively extends the reach of law enforcement.¹⁸⁰ This dynamic, they argue, fails to transfer the responsibility for handling domestic violence crises to more appropriate agencies.¹⁸¹ As a result, police remain the primary authority, while civilian actors are assigned to an auxiliary role, rather than serving as the principal responders.¹⁸²

In response to these concerns, some reformers advocate for the adoption of an independent model that eschews not only police involvement but also the involvement of any state actors, relying instead on community-led

174. See CRISIS INTERVENTION HANDBOOK: ASSESSMENT, TREATMENT, AND RESEARCH (Kenneth R. Yeager & Albert R. Roberts eds., 4th ed. 2005).

175. See Friedman, *supra* note 1, at 959, 963–67.

176. See DEE ET AL., *supra* note 139, at 6–7.

177. PRINCIPLES OF THE L.: POLICING § 14.09 (AM. L. INST., Combined Revised Tentative Drafts, 2023).

178. *Id.*

179. See, e.g., DC SAFE, *supra* note 164.

180. See Emily Cooke, *Defund Social Workers: They’re Often Just Cops by Another Name*, NEW REPUBLIC (Sept. 23, 2022), <https://newrepublic.com/article/167627/defund-social-workers> [<https://perma.cc/7TNS-66LF>].

181. *Id.*

182. See *id.*

responders.¹⁸³ This choice is rooted in a principled objection to police and broader state involvement, which are viewed as inherently coercive and systemically racist institutions with a past and present of oppressing racial minorities.¹⁸⁴ Consequently, the community-based model asserts that only non-governmental civilians should respond to domestic violence incidents.¹⁸⁵ Currently, however, only a number of programs rely exclusively on community-based responders.¹⁸⁶ Among these few initiatives is CAT-911, a program that dispatches civilian responders to domestic violence incidents and other emergencies.¹⁸⁷ Another example is the MH First program, which operates in Sacramento and Oakland, California, and provides safety planning and assistance in situations requiring survivor extraction.¹⁸⁸ In October 2021, California adopted new legislation designed to reduce reliance on police for crisis responses in various areas, including intimate partner violence. The law established the Community Response Initiative to Strengthen Emergency Systems (“C.R.I.S.E.S.”) Act, which is a grant pilot program aimed at creating and evaluating community-based alternatives to traditional law enforcement responses in emergency situations, including domestic violence incidents.¹⁸⁹ The program provides funding to community organizations that can demonstrate effective alternatives to police, particularly in serving historically marginalized communities. However, due to the rarity of such programs and their experiential phase, there is no empirical evidence about the effectiveness of civilian responders in responding to domestic violence calls without police involvement.

Yet, the operation of community-based civilian responders without the police carries numerous implications, ranging from questions regarding the applicability of constitutional protections for those suspected of perpetrating domestic violence crimes under the Fourth and Sixth Amendments to safety

183. Professor Leigh Goodmark’s scholarship broadly advocates for decriminalizing or at least minimizing criminal responses to domestic violence and rejects the heavy reliance on the police as primary responders to this problem. *See* GOODMARK, *supra* note 28, at 19–22, 142–43. In addition, some advocacy groups also argue for alternative responders to provide necessary safety interventions that are less harmful, more effective, and equitable. These abolitionist-based approaches, however, remain a minority position, as the idea that only civilian responders would intervene in domestic violence situations has not taken hold. *See* ROBELO, *supra* note 20, at 30–31.

184. ROBELO, *supra* note 20, at 8.

185. *See* Buchhandler-Raphael, *supra* note 167, at 24.

186. *See id.*

187. Community Action Teams (CAT-911) in Los Angeles, is an organization that is based solely on community-led responses. *See generally* CMTY. ACTION TEAMS, <https://cat-911.org> [<https://perma.cc/HVT8-NTZB>].

188. *See M.H. First Oakland, supra* note 163; *M.H. First Sacramento, supra* note 163.

189. CAL. WELF. & INST. CODE §§ 18999.90–95 (West 2024).

concerns facing responders. The Fourth Amendment limits only governmental action and does not apply to private citizens.¹⁹⁰ If non-state civilian responders secure any evidence during their intervention, the suspect will not be able to suppress it, even if it was obtained in an unreasonable manner.¹⁹¹ Likewise, the Sixth Amendment Confrontation Clause does not apply to statements made by survivors against their abusers. In *Crawford v. Washington*, the U.S. Supreme Court held that any testimonial statements whose primary goal is to be admitted in criminal prosecutions are inadmissible against criminal defendants unless these defendants have a right to cross-examine the declarant.¹⁹² In *Davis v. Washington*, the Court addressed the definition of “testimonial statements” in the context of domestic violence prosecutions where victims refuse to testify in court against their abusers.¹⁹³ Taken together, these decisions prohibit the introduction of domestic violence victims’ hearsay statements to police officers, if these statements were deemed “testimonial,” while upholding the admissibility of “non-testimonial” statements made to police. Yet, if survivors make any statements to civilian responders, these out-of-court statements could later be admitted against the defendant in a criminal prosecution because their purpose was not testimonial but aimed at receiving help and securing safety.

Beyond these constitutional implications, in the absence of empirical evidence supporting the capability of civilian responders to address domestic violence safely, it is necessary to evaluate the potential risks associated with civilian response programs.

C. Safety Concerns

Jurisdictions considering the adoption of civilian responder programs for domestic violence calls can benefit from the established framework of existing programs adept at managing emergency responses to a spectrum of social and health problems, such as behavioral health crises, drug use, and homelessness. Effectively addressing all of these crises calls for a sensitive response to individuals in uniquely vulnerable positions. Like individuals

190. JOSHUA DRESSLER ET AL., 1 UNDERSTANDING CRIMINAL PROCEDURE: INVESTIGATION 54 (7th ed. 2017).

191. Elaborating on the constitutional implications of incorporating civilian responders in domestic violence incidents is beyond the scope of this Article. I leave these issues open for further exploration in future works.

192. 541 U.S. 36 (2004).

193. 547 U.S. 813 (2006).

grappling with behavioral health, substance use, and homelessness challenges, survivors of domestic violence face personal crises that require immediate, stabilizing interventions, as well as subsequent access to follow-up referrals to community social services.

However, a more nuanced comparison reveals the distinct nature of domestic violence compared to other behavioral, health, and social problems. Integrating civilian responders for domestic violence requires careful consideration of the potential safety risks involved in responding to these calls. Currently, civilian responders primarily handle non-violent situations that pose low risk to responders.¹⁹⁴

Yet, domestic violence calls sometimes present unique safety risks to two groups of stakeholders. First, domestic violence, by definition, may involve physical violence that endangers victims. In most states, calls that pose ongoing risk of physical harm to the victim require police intervention in the form of arrests.¹⁹⁵ Second, responding to domestic violence can sometimes pose safety risks to responders due to violent resistance from batterers or other individuals present at the scene.¹⁹⁶ Although insights from existing civilian responder programs are valuable, adapting them to meet the specific challenges of domestic violence and tailoring responses to safely address the complexities of these situations is crucial.

1. Gun Risks to Survivors of Domestic Violence and *United States v. Rahimi*

Gun violence constitutes a significant risk for victims of domestic violence, with a clear correlation between firearm use and fatal outcomes.¹⁹⁷

194. Studies suggest that on average, 18–34% of all calls to 911 involve life-threatening emergencies. See AMOS IRWIN & BETSY PEARL, CTR. FOR AM. PROGRESS, THE COMMUNITY RESPONDER MODEL: HOW CITIES CAN SEND THE RIGHT RESPONDER TO EVERY 911 CALL 1 (2020), <https://www.americanprogress.org/wp-content/uploads/sites/2/2020/10/Alternatives911-report.pdf> [<https://perma.cc/SZ44-VUYT>]. Additionally, only a minority of people with mental illness are dangerous to others. See Michal Buchhandler-Raphael, *Overmedicalization of Domestic Violence in the Noncarceral State*, 94 TEMP. L. REV. 589, 620 (2022).

195. See HARMON, *supra* note 5, at 522 (noting that half of states “mandate arrest, at least for some domestic violence crimes”).

196. *Hiibel v. Sixth Jud. Dist. Ct. of Nev.*, 542 U.S. 177, 186 (2004) (“Officers called to investigate domestic disputes need to know whom they are dealing with in order to assess the situation, the threat to their own safety, and possible danger to the potential victim.”).

197. See Sharon G. Smith et al., *Intimate Partner Homicide and Corollary Victims in 16 States: National Violent Death Reporting System, 2003–2009*, 104 AM. J. PUB. HEALTH 461, 465 (2014); Susan B. Sorenson & Rebecca A. Schut, *Nonfatal Gun Use in Intimate Partner Violence: A Systemic Review of the Literature*, 19 TRAUMA VIOLENCE & ABUSE 431, 432 (2018).

Research establishes that possession of a gun by a domestic abuser is associated with a five times greater likelihood of homicide of their intimate partner.¹⁹⁸ Research further indicates that firearms are implicated in approximately 70% of intimate partner homicides, with an average of seventy-six women killed each month by an intimate partner using a gun.¹⁹⁹

The United States Supreme Court has long recognized the heightened safety risks posed by armed domestic abusers. In *United States v. Hayes*, the Court stated that “[f]irearms and domestic strife are a potentially deadly combination.”²⁰⁰ Similarly, in *United States v. Castleman*, the Court further observed that “the presence of a firearm increases the likelihood that [domestic violence] will escalate to homicide.”²⁰¹

In addition to the risk of physical harm, firearms may also be used to inflict emotional harm, as domestic abusers may use guns to threaten and intimidate intimate partners. Joseph Blocher and Reva Siegel argue that emphasizing the physical harms of guns, and particularly the increased likelihood of homicide, obscures other prevalent harms that gun possession inflicts on survivors.²⁰² They argue that guns play a much larger role in maintaining relations of terror, coercion, and domination, and in inflicting life-altering emotional, dignitary, and material harms on domestic violence survivors and their families.²⁰³ The scope of this harm is widespread: in 2019, over 4.5 million survivors reported being threatened with a firearm by an intimate partner.²⁰⁴ Additionally, studies reveal that around two-thirds of women in domestic violence shelters have been threatened or harmed with a gun by their intimate partner.²⁰⁵

The possibility of expanding existing civilian responder programs to include domestic violence emergencies raises the question of how these programs would ensure the immediate physical safety of survivors if batterers are not arrested. Survivors’ safety is the primary goal underlying all responses to domestic violence. Arrests, however, are not the only measure to ensure

198. Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multistate Case Control Study*, 93 AM. J. PUB. HEALTH 1089, 1092 (2003).

199. *Guns and Violence Against Women: America’s Uniquely Lethal Intimate Partner Violence Problem*, EVERYTOWN FOR GUN SAFETY, <https://everytownresearch.org/report/guns-and-violence-against-women> [<https://perma.cc/2LTR-MT5X>] (Nov. 20, 2024).

200. 555 U.S. 415, 427 (2009).

201. 572 U.S. 157, 160 (2014).

202. See Blocher & Siegel, *supra* note 18.

203. *Id.*

204. *Domestic Violence*, GIFFORDS, <https://giffords.org/issues/domestic-violence> [<https://perma.cc/53W5-ZNLN>].

205. See Susan B. Sorenson & Douglas J. Wiebe, *Weapons in the Lives of Battered Women*, 94 AM. J. PUB. HEALTH 1412, 1414 (2004).

survivors' safety. Domestic violence restraining orders ("DVROs") provide a crucial tool for survivors that does not require direct engagement with the police.²⁰⁶ Unlike criminal orders, DVROs are civil in nature and can address threats that do not rise to the level of a crime.²⁰⁷

DVROs are the most commonly used legal remedy sought by survivors of domestic violence.²⁰⁸ Laws in all states authorize family courts to issue such orders to minimize the risk of further abuse.²⁰⁹ Although applying for a protection order is not mutually exclusive with pursuing criminal prosecution, survivors who prefer not to engage with the criminal legal system have the option to avoid involving the police.²¹⁰ DVROs include various provisions designed to ensure the safety of domestic violence survivors. They typically prohibit abusers from contacting or approaching survivors, including mandating abusers to stay away from survivors' homes, workplaces, and children's schools.²¹¹ Additionally, these provisions often include temporary custody arrangements and visitation restrictions, if necessary, to protect children's safety.²¹² DVROs are a victim-centered remedy, as they offer survivors quick, ready, and cheap access to civil courts, where courthouse-based advocates are available to assist them with the filing process.²¹³

DVROs are considered the most effective legal remedy available to address domestic violence.²¹⁴ Multiple studies have demonstrated the potential efficacy of such orders in preventing or decreasing domestic violence, with about sixty percent of individuals subjected to these orders

206. See Elizabeth L. MacDowell, *Domestic Violence and the Politics of Self-Help*, 22 WM. & MARY J. WOMEN & L. 203, 214 (2016).

207. *Id.*

208. Jane K. Stoever, *Enjoining Abuse: The Case for Indefinite Domestic Violence Protection Orders*, 67 VAND. L. REV. 1015, 1019, 1040–43 (2014) [hereinafter Stoever, *Enjoining Abuse*]; Jane K. Stoever, *Mirandizing Family Justice*, 39 HARV. J.L. & GENDER, 189, 227 (2016) [hereinafter Stoever, *Mirandizing Family Justice*].

209. See Stoever, *Enjoining Abuse*, *supra* note 208, at 1019; see also Lisa V. Martin, *Restraining Forced Marriage*, 18 NEV. L.J. 919, 940 (2018). Different states use different names to refer to these civil orders, including restraining orders and protection from abuse. See, e.g., 23 PA. CONS. STAT. § 6108 (2019); N. J. STAT. ANN. § 2C:25-29 (West 2024).

210. See Stoever, *Access to Safety and Justice*, *supra* note 25, at 346.

211. See Jeannie Suk, *Criminal Law Comes Home*, 116 YALE L.J. 2, 14 (2006).

212. See Sally F. Goldfarb, *Reconceiving Civil Protection Orders to Domestic Violence: Can Law Help End the Abuse without Ending the Relationship*, 29 CARDOZO L. REV. 1487, 1507 (2008).

213. See Stoever, *Freedom from Violence*, *supra* note 25, at 307–08; Martin, *supra* note 209, at 941.

214. Stoever, *Access to Safety and Justice*, *supra* note 25, at 351.

complying with their terms.²¹⁵ Compliance with court-issued restraining orders may stem from both internal and external motivations: while many individuals internalize the prohibition to contact their former partners and avoid violating the orders even without the threat of criminal enforcement, for others, the perception of enforcement provides external motivation to be law-abiding citizens.²¹⁶

Although DVROs are a civil remedy, all jurisdictions have adopted statutes that make the violation of these orders an offense, typically a misdemeanor, but in some states, a felony.²¹⁷ Thus, the police are the main institution in charge of enforcing DVROs.²¹⁸ Commentators have critiqued how this civil remedy has transformed into a criminal tool, noting that although DVROs were originally conceived as a civil measure to disentangle complainants from the criminal legal system, their violation returns them to the domain of criminal enforcement.²¹⁹ However, this does not have to be the case. Survivors of domestic violence as private parties have the option of filing for contempt orders in civil court if the order is violated.²²⁰ This process is currently uncommon because of the many hurdles that complainants face in filing for contempt and the complexity of bringing such motion without a lawyer.²²¹ The infrequent use of the contempt process, however, is not a substantive issue but a practical problem that could be cured if reforms were adopted to streamline the process.

Crucially, the effectiveness of DVROs depends on the inclusion of provisions that prohibit abusers from possessing firearms. Acknowledging that domestic violence is closely associated with gun violence and that batterers' possession of firearms increases safety risks to their intimate partners, federal and state legislatures have adopted laws that prohibit

215. See Stoeber, *Enjoining Abuse*, *supra* note 208, at 1021, 1067 (observing that around 40% of orders are violated); see also Emily J. Sack, *Domestic Violence Across State Lines: The Full Faith and Credit Clause, Congressional Power, and Interstate Enforcement of Protection Orders*, 98 NW. U. L. REV. 827, 837 (2004).

216. See TOM TYLER, *WHY PEOPLE OBEY THE LAW* 3–4 (2006).

217. For a state-by-state summary of the consequences of violating protection orders, see *Protection Order Violations Matrix*, NAT'L CTR. ON PROTECTION ORDERS & FULL FAITH & CREDIT (2020), <https://www.bwjp.org/assets/documents/pdfs/ncpoffc-protection-order-violations-matrix.pdf> [<https://perma.cc/3HV8-LYW6>]; see also Julie Goldscheid, *Rethinking Civil Rights and Gender Violence*, 14 GEO. J. GENDER & L. 43 (2013).

218. See Epstein & Goodman, *supra* note 53, at 403–05. Survivors of domestic violence as private parties have the option of filing for contempt order, but they rarely do so. See *Robertson v. Watson*, 560 U.S. 272 (2010); see also NANCY K.D. LEMON, *DOMESTIC VIOLENCE LAW* 323–24 (5th ed. 2018).

219. See SUK, *supra* note 26, at 14–15.

220. *Robertson v. United States*, 560 U.S. 272 (2010); LEMON, *supra* note 218, at 323–24.

221. See MacDowell, *supra* note 206, at 218–19.

individuals who are deemed to pose a significant risk to others, including those subjected to certain DVROs, from possessing firearms.²²² Extreme Risk Protection Orders (“ERPOs”), commonly known as “red flag” laws, are state laws that provide a legal measure for temporarily removing firearms from individuals deemed to pose a significant risk to themselves or others.²²³ Red flag laws can be initiated by family members or law enforcement officers and involve a court hearing where evidence of the individual’s dangerous behavior is presented.²²⁴ Adopted in twenty-one states and the District of Columbia, these laws provide a non-criminal mechanism to restrict firearm access for individuals who demonstrate dangerous behaviors, aiming to intervene before violence occurs or escalates by offering a swift response to potential threats.²²⁵

Red flag laws and DVROs intersect in their shared goal of reducing firearm violence through preventive measures.²²⁶ A majority of states have adopted laws that restrict gun possession by persons subject to DVROs.²²⁷ Some states have expanded their gun restrictions to also cover emergency orders issued ex-parte following a filing by a domestic abuse survivor, acknowledging that this period is the most dangerous time for survivors attempting to leave abusive relationships.²²⁸ Many states also require the relinquishment of firearms from persons under DVROs.²²⁹

Admittedly, DVROs are not a cure-all remedy and come with substantive and practical drawbacks.²³⁰ Not only are many abusers never subject to restraining orders, but even when such orders are issued, they are not self-enforcing and require reliable police enforcement to serve as effective

222. See Carolyn B. Ramsey, *Firearms in the Family*, 78 OHIO ST. L.J. 1257, 1278 (2017).

223. See Andrew Willinger & Shannon Frattaroli, *Extreme Risk Protection Orders in the Post-Bruen Age: Weighing Evidence, Scholarship, and Rights for a Promising Gun Violence Prevention Tool*, 51 FORDHAM URB. L.J. 157, 159 (2023).

224. *Id.*

225. *Id.*

226. See Kelly Roskam et al., *The Case for Domestic Violence Protective Order Firearm Prohibitions Under Bruen*, 51 FORDHAM URB. L.J. 221 (2023).

227. Brief for the United States at 34–35, *United States v. Rahimi*, 602 U.S. 680 (2024) (No. 22-915), 2023 WL 5322645 (observing that at least thirty-two jurisdictions disarm persons subject to orders that satisfy certain criteria and listing all states that have adopted these provisions).

228. See Roskam et al., *supra* note 226, at 225.

229. *Id.* at 226–27.

230. See Martin, *supra* note 209, at 942.

deterrents.²³¹ Moreover, restraining orders cannot stop immediate violence; they only aim to prevent future incidents.²³²

Moreover, bans on gun possession only partially address the risks that batterers pose to survivors. Firearms are not the only tools abusers use to physically harm their intimate partners. While there is a notable correlation between gun possession and intimate partner violence, some studies demonstrate that actual use of guns in intimate partner violence, as distinguished from the threatened use of guns, is generally infrequent.²³³ These studies show that common household items, like telephones, are often used as weapons against intimate partners, and that physical means such as fists and feet, along with other non-firearm weapons, are more frequently employed than guns to inflict injury.²³⁴

Despite their limitations, DVROs that include firearm restrictions have proven to be an effective strategy for preventing or decreasing intimate partner violence.²³⁵ Evidence shows that states with such restrictions have seen significant reductions in intimate partner homicides, underscoring their efficacy.²³⁶

Restrictions on gun possession among individuals deemed dangerous to their intimate partners also have been adopted at the federal level with the enactment of 18 U.S.C. § 922(g)(8), a federal statute that prohibits individuals subject to a domestic violence restraining order from possessing a firearm.²³⁷ The constitutionality of this statute was at the center of the recent United States Supreme Court decision in *United States v. Rahimi*, handed down on June 21, 2024.²³⁸ Critically, this decision carries crucial implications for my proposal to incorporate civilian responders in domestic violence calls. *Rahimi* not only has a direct positive impact on the safety of domestic violence survivors, but it also has enormous potential for reducing the heavy

231. Lisa V. Martin, *The Importance of Civil Pathways to Protection Orders*, 113 GEO. L.J. 121, 135–36, 140–42 (2024).

232. See Stoever, *Enjoining Abuse*, *supra* note 208, at 1045 (emphasizing the preventive nature of DVRO).

233. See Poco Kernsmith & Sarah W. Craun, *Predictors of Weapon Use in Domestic Violence Incidents Reported to Law Enforcement*, 23 J. FAM. VIOLENCE 589, 595 (2008).

234. See Elizabeth Richardson Vigdor & James A. Mercy, *Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?*, 30 EVALUATION REV. 313, 321 (2006).

235. See Rachel J. Wechsler, *Intimate Partner Violence: Access to Protection Beyond the Pandemic*, 65 B.C. L. REV. 2267, 2282–83, 2282 n.79 (2024); Ramsey, *supra* note 222, at 1343; Stoever, *Enjoining Abuse*, *supra* note 208, at 1021, 1064–66.

236. Willinger & Frattaroli, *supra* note 223, at 170.

237. 18 U.S.C. § 922(g)(8); *see also* Natalie Nanasi, *Reconciling Domestic Violence Protections and the Second Amendment*, 59 WAKE FOREST L. REV. 131 (2024).

238. 602 U.S. 680 (2024).

reliance on police as the single institution responsible for domestic violence victims' safety.

This issue arose from a 2019 Texas case in which Zackey Rahimi assaulted C.M., his ex-girlfriend with whom he shares a child.²³⁹ He grabbed her wrist, knocked her to the ground, dragged her back to his car, picked her up, and pushed her inside, causing her to hit her head on the dashboard.²⁴⁰ After realizing that a bystander had seen him, Rahimi then retrieved a gun and fired at the witness.²⁴¹ C.M. fled to her car, but Rahimi later called her and threatened to shoot her if she told anyone about the assault.²⁴² C.M. obtained a DVRO, which suspended Rahimi's handgun license and prohibited him from possessing a firearm.²⁴³

Not every DVRO contains a prohibition on gun possession. Instead, to trigger the federal ban, the court must issue a *qualifying* DVRO, which is an order that satisfies three conditions.²⁴⁴ First, it must give the abuser notice and an opportunity to participate in a hearing.²⁴⁵ Second, the DVRO must forbid the person "from harassing, stalking, or threatening an intimate partner," the person's child, or an intimate partner's child.²⁴⁶ Third, and most importantly, the order must contain a judicial finding that the abuser either "represents a credible threat to the physical safety" of the partner or a child, or "explicitly prohibit[] the use, attempted use, or threatened use of physical force" against the partner or child.²⁴⁷ After Rahimi flagrantly disregarded the order by threatening a different woman with a gun, he was criminally charged with assault with a deadly weapon.²⁴⁸ Additionally, in the space of two months, Rahimi opened fire in public five times.²⁴⁹ Following these incidents, a federal grand jury in Texas indicted him for violating the gun restriction law.²⁵⁰ Rahimi pleaded guilty and was sentenced to seventy-three months of imprisonment.²⁵¹

239. Brief for the United States at 3, *Rahimi*, 602 U.S. 680 (No. 22-915), 2023 WL 5322645.

240. Petition for Writ of Certiorari at 2, *Rahimi*, 602 U.S. 680 (No. 22-915), 2023 WL 2600091.

241. *Id.*

242. *Id.*

243. *Id.*

244. See 18 U.S.C. § 922(g)(8).

245. § 922(g)(8)(A).

246. § 922(g)(8)(B).

247. § 922(g)(8)(C)(i)–(ii).

248. Petition for Writ of Certiorari, *supra* note 240, at 3.

249. United States v. Rahimi, 61 F.4th 443, 448–49 (5th Cir. 2023).

250. *Id.* at 449.

251. Petition for Writ of Certiorari, *supra* note 240, at 5.

Initially, Rahimi's appeal was denied, but while his petition for rehearing en banc was pending, the U.S. Supreme Court's decision in *New York State Rifle & Pistol Ass'n v. Bruen*, handed down in June 2022, created a new constitutionally based claim for Rahimi's defense.²⁵² Prior to *Bruen*, the relevant standard for evaluating the constitutionality of a gun restriction had been the means-end test.²⁵³ Under this test, the government had to show that the gun restriction specifically addressed the compelling interest of preventing violence and did so in a manner that was neither too broad nor more restrictive than necessary.²⁵⁴ This meant the law had to be directly aimed at reducing gun violence without unnecessarily infringing on Second Amendment rights.²⁵⁵ But in *Bruen*, the Court rejected the application of the means-end test as the standard for evaluating the constitutionality of a gun restriction law under the Second Amendment.²⁵⁶ Writing for the Court, Justice Thomas crafted an originalist test, emphasizing a text, history, and tradition approach.²⁵⁷ Under the new test, the constitutionality of a gun regulation would be evaluated based on whether the regulation is consistent with the historical understanding of the Second Amendment at the time of the founding, rather than balancing interests through the means-end scrutiny framework.²⁵⁸ Relying on the newly crafted *Bruen* test, the court of appeals vacated Rahimi's conviction, holding that the gun restriction law was facially unconstitutional under the Second Amendment.²⁵⁹ The Supreme Court granted certiorari.²⁶⁰ In his arguments before the Court, Rahimi conceded that the DVRO issued against him met all three conditions.²⁶¹ But, relying on *Bruen*, he argued that the Government had not shown that § 922(g)(8) "fits within our Nation's historical tradition of firearm regulation," and thus the ban on gun possession facially violated the Second Amendment.²⁶²

In an 8–1 decision, the Court upheld the constitutionality of § 922(g)(8) against a Second Amendment facial challenge.²⁶³ Writing for the majority, Chief Justice Roberts rejected Rahimi's argument, reinforcing the long-held

252. 597 U.S. 1 (2022); see *Rahimi*, 61 F.4th at 448.

253. See Jacob D. Charles, *The Dead Hand of a Silent Past: Bruen, Gun Rights, and the Shackles of History*, 73 DUKE L.J. 67, 83 (2023).

254. See *id.*

255. See *id.*

256. See *Bruen*, 597 U.S. at 22–23.

257. *Id.*

258. See *id.*

259. *United States v. Rahimi*, 61 F.4th 443, 460–61 (5th Cir. 2023).

260. *United States v. Rahimi*, 143 S. Ct. 2688 (2023) (mem.).

261. *United States v. Rahimi*, 602 U.S. 680, 688 (2024).

262. See *id.* at 680, 693.

263. *Id.* at 693.

historical tradition under which “our Nation’s firearm laws have included provisions preventing individuals who threaten physical harm to others from misusing firearms.”²⁶⁴ The Court began by reiterating one part of the *Bruen* holding: when firearm regulation is challenged under the Second Amendment, the Government must show that the restriction “is consistent with the Nation’s historical tradition of firearm regulation.”²⁶⁵ But the Court continued on to significantly constrain—and essentially recharacterize—the *Bruen* test.²⁶⁶ It cabined the scope of the *Bruen* standard by clarifying that a court must ascertain whether the new law is “relevantly similar” to laws that the country’s tradition is understood to permit.²⁶⁷ Thus, a challenged regulation that does not precisely match its historical precursors may still be analogous enough to pass constitutional muster. The Court clarified that the court of appeals erred in requiring that the challenged gun restriction be a “historical twin” to one that existed in the founding era instead of only a “historical analogue.”²⁶⁸ Applying these principles to the gun restriction at issue, the Court stressed that while § 922(g)(8) is not identical to these founding-era regimes, it does not need to be.²⁶⁹ To demonstrate historical analogues, the Court discussed surety laws and “going armed” laws, which authorized courts to mandate that certain steps be taken to prevent future violence by persons whose possession of firearms posed risks to others.²⁷⁰ The Court further listed several factors that make surety and “going armed” laws “relevantly similar” to the prohibition under § 922(g)(8), including the fact that they are targeted at specific individuals, apply after a judicial finding of dangerousness, are limited in duration, and have similar penalties.²⁷¹

Consistent with the nation’s historically analogous regulation of firearms, the Court held that when an individual has been found by a court to pose a credible threat to the physical safety of another, that individual may be

264. *Id.* at 690.

265. *Id.* at 689 (quoting *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24 (2022)).

266. *See Bruen*, 597 U.S. at 20–31. Lawrence Solum noted that the Court “engages in a classic legal process style recharacterization—[implicitly] transforming a prior opinion’s underlying conceptual structure.” Lawrence Solum (@lsolum), X (June 25, 2024), <https://x.com/lsolum/status/1805548350814532034> [<https://perma.cc/N225-XPR7>]. He further observes that *Rahimi*’s historical analogue test, which considers the “why” and “how,” is functionally equivalent to the traditional means-end test. *Id.*

267. *Rahimi*, 602 U.S. at 698.

268. *Id.* at 701.

269. *Id.* at 682.

270. *Id.* at 695–97.

271. *Id.* at 698–99.

temporarily disarmed consistent with the Second Amendment.²⁷² It further held that § 922(g)(8) is constitutional as applied to the facts of *Rahimi*'s own case, as he had been found by a court to pose a credible threat to the physical safety of others, and the Government offers ample evidence that the Second Amendment permits such individuals to be disarmed.²⁷³

Rahimi's standard for upholding the gun restriction is narrowly circumscribed, including an individualized finding of a credible threat, a judicial determination of the presence of such threat, time-limited duration, and robust procedural protections for the individual whose Second Amendment right is being curtailed.²⁷⁴ Furthermore, the Court clarified that while § 922(g)(8) provides two independent bases for liability, its analysis starts and ends with only one of them: namely, subsection (C)(i), which bars a person from possessing a firearm if the DVRO contains a judicial finding that the person "poses a credible threat to the physical safety" of a protected person.²⁷⁵

The *Rahimi* decision is narrow in scope, leaving open the constitutionality of many other gun restrictions besides § 922(g)(8)(C)(i), and failing to provide guidelines to lower courts on how to apply the revised *Bruen* test. However, its significance in the realm of domestic violence and particularly for ensuring the physical safety of domestic violence survivors cannot be overstated. In the post-*Rahimi* era, the justification for armed police responders for various domestic violence interventions is diminished, as abusers are less likely to possess firearms. Equally important, *Rahimi*'s significance also lies in strengthening the viability of DVROs as a civil remedy prohibiting gun possession, which provides domestic violence victims with an important alternative to relying on the police for safety. Moreover, the *Rahimi* Court's analysis, which frames DVRO as a preventive measure aimed at curbing the further escalation of violence, highlights the courts' role in taking proactive steps designed to prevent harm before it

272. *Id.* at 680. "When a restraining order contains a finding that an individual poses a credible threat to the physical safety of an intimate partner, that individual may—consistent with the Second Amendment—be banned from possessing firearms while the order is in effect." *Id.* at 690.

273. *Id.* at 681.

274. *See id.* at 702.

275. *Id.* at 693; 18 U.S.C. § 922(g)(8)(C)(i). The Court did not resolve the constitutionality of § 922(g)(8)(C)(ii), which bars an individual from possessing a firearm if the DVRO "prohibits the use, attempted use, or threatened use of physical force." *Rahimi*, 602 U.S. at 693 (quoting § 922(g)(8)(C)(ii)).

occurs or to minimize the likelihood of its intensification.²⁷⁶ This position stands in sharp contrast to the police's response to domestic violence, which is entirely reactive.

Some readers may argue that my analysis overstates the significance of the *Rahimi* decision, as its holding merely allows the status quo to continue without increasing the number of restraining orders or making them more effective.²⁷⁷ However, the critical importance of maintaining the central role of DVROs as a preventive measure that enhances the safety of many domestic violence survivors cannot be understated. Despite their limitations, restraining orders that include firearm prohibitions have often proven effective in preventing and decreasing at least some incidents of intimate partner violence.²⁷⁸ Moreover, by disarming individuals subject to DVROs, these orders can reduce the severity of certain violations, making incidents less violent and thereby strengthening the case for diversified responders.

In summary, the *Rahimi* decision bolsters the opportunity to incorporate diversified responders in domestic violence situations as an alternative safety measure that does not rely exclusively on police intervention. It reinforces the idea that victims of domestic violence have a tool at their disposal that enables them to avoid engagement with the police. The process of filing and obtaining DVROs is entirely independent of police involvement, ensuring that survivors can seek protection without any interaction with law enforcement. Civilian responders could effectively connect survivors with community-based resources or provide referrals to local domestic violence organizations where they could receive assistance in filing for DVROs.²⁷⁹ Despite the inherent limitations in DVROs, their ready availability carries the potential for moving away from the police and shifting at least some of the responsibility for ensuring domestic violence victims' safety to the courts. Thus, the *Rahimi* decision supports this Article's main argument that there are feasible ways to secure domestic violence survivors' safety without involving the police.

276. See generally Jennifer C. Daskal, *Pre-Crime Restraints: The Explosion of Targeted, Noncustodial Prevention*, 99 CORNELL L. REV. 327, 328 n.4, 335 (2014) (discussing the idea of pre-crime restraint that is preventive in its purpose and effect rather than punitive in nature).

277. I thank Rachel Harmon for directing my attention to this point.

278. See Martin, *supra* note 231, at 136.

279. See MacDowell, *supra* note 206, at 220–23.

2. Safety Risks to First Responders

Ensuring safety is crucial not only for domestic violence survivors but also for first responders arriving at potentially volatile scenes. Domestic violence calls may pose risks to officers' safety due to the possibility of encountering individuals carrying firearms or other dangerous weapons like knives.²⁸⁰ Such interventions can sometimes escalate into violence, resulting in assaults on officers.²⁸¹

To be sure, the risks that police may face when encountering suspects, including armed ones, are not limited to responses to domestic violence—officers may face resistance that threatens their safety in a host of other interactions with members of the public.²⁸² Protecting officers' safety justifies authorizing the police to use reasonable force, as recognized by the U.S. Supreme Court in *Graham v. Connor*, which permits officers to use such force when a suspect poses an immediate threat to their own safety or the safety of others.²⁸³ Yet, a prevalent perception is that police face heightened risks when responding to domestic situations. These purportedly exacerbated risks arise from several factors, including the precarious nature of domestic crises, which may provoke resistance and hostility toward police; abusers' belief that state intervention is an unjustifiable intrusion into private affairs; and the perceived disadvantage officers face due to unfamiliarity with the premises and the potential for hidden firearms.²⁸⁴

Concededly, police intervention in domestic violence may sometimes pose safety risks to responders due to the unpredictability of these scenarios, as seemingly non-violent situations can rapidly become dangerous.²⁸⁵ Yet, the frequency and severity of these dangers are not only exaggerated but also unsubstantiated. Empirical evidence does not support the widespread belief that domestic violence calls are exceptionally hazardous to police officers compared to other types of calls.²⁸⁶ Much of this inaccurate perception stems from an antiquated fifty-three-year-old report by the U.S. Department of

280. See I. Bennett Capers, *Reading Michigan v. Bryant, "Reading" Justice Sotomayor*, 123 YALE L.J.F. 427, 437 (2014); see also KELLY STARR ET AL., EVERY LIFE LOST IS A CALL FOR CHANGE: FINDINGS AND RECOMMENDATIONS FROM THE WASHINGTON STATE DOMESTIC VIOLENCE FATALITY REVIEW 17–18 (2004).

281. Richard R. Johnson, *How Dangerous Are Domestic Violence Calls to Officers*, DOLAN CONSULTING GRP. (Oct. 2017), https://www.dolanconsultinggroup.com/wp-content/uploads/2017/10/RB_Domestic-Violence-Calls_Officer-Safety.pdf [<https://perma.cc/E9BE-3SD2>].

282. See HARMON, *supra* note 5, at 367.

283. 490 U.S. 386, 396 (1989).

284. See INT'L ASS'N OF CHIEFS OF POLICE, *supra* note 65, at 7, 12–13.

285. See CITY OF MINNEAPOLIS, *supra* note 24, at 58.

286. U.S. DEP'T OF JUST., *supra* note 16.

Justice, which described domestic crises as the “most dangerous calls handled by the police.”²⁸⁷ This oft-cited claim has been widely adopted and continues to play a central role in how police perceive responses to domestic incidents. Officers are trained to believe these situations are highly dangerous, leading to genuine fear and a strong aversion to responding to such calls.²⁸⁸ The dangerousness narrative is vigorously advanced by law enforcement associations and police leaders and is further fueled by media reports, which are mostly based on anecdotal incidents rather than on reliable data.²⁸⁹

In reality, there is a lack of reliable data regarding the actual rate of assaults on officers during domestic violence interventions.²⁹⁰ The only recent study available analyzes 684 cases over five years that resulted in officers’ deaths.²⁹¹ Looking at the subset of ninety-one calls for service that resulted in officers’ deaths, twenty of these cases, or about 22%, were responses to domestic disputes, and all but one involved a firearm as the lethal means.²⁹² The study concludes that domestic disputes are particularly perilous for law enforcement, leading to more officer fatalities than any other type of call, with firearms being the predominant cause of death in these incidents.²⁹³

Drawing conclusions about the overall risks posed to responders from domestic violence based solely on this single study is methodologically flawed and factually misleading. The study’s exclusive focus on fatalities obscures the reality that most domestic violence responses result in neither officers’ injuries nor fatalities.²⁹⁴ It is critical to contextualize the study’s results within the broader scope of domestic incidents to which police

287. Johnson, *supra* note 281 (quoting MORTON BARD, TRAINING POLICE AS SPECIALISTS IN FAMILY CRISIS INTERVENTION (1970)).

288. See *How Police Are Trained to Respond to Domestic Violence*, DOMESTICSHELTERS.ORG (May 4, 2016), <https://www.domesticshelters.org/articles/legal/how-police-are-trained-to-respond-to-domestic-violence> [https://perma.cc/X9YT-AZAC]; see also INT’L ASS’N OF CHIEFS OF POLICE, *supra* note 65.

289. See, e.g., Jonathan Raymond, *Three Metro Atlanta Officers Have Died Responding to Domestic Violence in the Last Month: What Makes It So Dangerous*, 11ALIVE (Dec. 3, 2021), <https://www.11alive.com/article/news/crime/domestic-violence-calls-law-enforcement-danger/85-f294b363-307f-4e26-9eef-3cbcf4232c57> [https://perma.cc/X4KB-3P4A] (highlighting that three law enforcement agents responding to domestic violence cases were killed in one month).

290. See U.S. DEP’T OF JUST., *supra* note 16 (showing that information collected by law enforcement does not separately count assaults on officers that occur specifically during domestic disturbance calls).

291. NICK BRUEL & MIKE KEITH, DEADLY CALLS AND FATAL ENCOUNTERS: ANALYSIS OF U.S. LAW ENFORCEMENT LINE OF DUTY DEATHS WHEN OFFICERS RESPONDED TO DISPATCHED CALLS FOR SERVICE AND CONDUCTED ENFORCEMENT (2010–2014) 4 (2016).

292. *Id.* at 13–15.

293. *Id.* at 15.

294. See U.S. DEP’T OF JUST., *supra* note 16.

respond. Statistics compiled from 2006 to 2015 show police annually responded to an estimated 716,000 non-fatal domestic violence calls.²⁹⁵ The twenty fatalities over the five-year period covered by the above study therefore represent a very small fraction of the total domestic incident calls that police handle nationwide.

Most importantly, the primary source of data on assaults against police officers—the FBI’s Law Enforcement Officers Killed and Assaulted (“LEOKA”) program—does not support the prevalent perception that responding to domestic incidents is especially dangerous compared to other police responses.²⁹⁶ This comprehensive database, the only official record documenting violence against police officers in the United States, gathers reports from about 9,450 law enforcement agencies.²⁹⁷ It includes both the number of officers assaulted while on duty and those who were injured or killed.²⁹⁸ However, the database does not specifically categorize incidents of officers assaulted or injured while responding to domestic violence. Instead, it classifies these incidents under a broader category titled “disturbance calls,” which encompasses various types of disturbances, including not only domestic violence but also altercations like bar fights.²⁹⁹

Despite this limitation, the LEOKA report sheds light on the frequency of violent responses that police officers face while on duty. Of the 475,848 officers employed by law enforcement agencies in 2019, 56,034 were assaulted though not necessarily injured, and 17,048 of these assaults occurred while responding to disturbance calls.³⁰⁰ Among the total number of those assaulted, 17,188 officers (or 30.7%) sustained injuries.³⁰¹ This data shows that only 3.6% of all officers employed in 2019 suffered injuries from assaults.³⁰² Considering the lack of specific data on the number of officers injured particularly while responding to domestic violence, the actual risk that officers face when responding to domestic incidents is quite low.³⁰³

Equally important, the LEOKA report indicates that firearms are used in only a small percentage of assaults on officers. More commonly, attackers employ personal weapons, such as hands, fists or feet. For instance, in 2019,

295. REEVES, *supra* note 3, at 3.

296. See U.S. DEP’T OF JUST., *supra* note 16.

297. *Id.* at 1.

298. See *id.*

299. *Id.* at 2.

300. *Id.*

301. *Id.* at 1.

302. See *id.* The data also reveals that the rate of officer assault in 2019 was 11.8 assaults per 100 sworn officers. *Id.*

303. See *id.*

79.3% of officers assaulted in the line of duty faced assailants using personal weapons, while firearms were used against only 3.8% of officers.³⁰⁴ Knives or other cutting instruments were used in 1.9% of assaults, and other dangerous weapons were involved in 15.1% of assaults on officers.³⁰⁵

The abovementioned data must be carefully understood within its context and nuances. This analysis does not aim to minimize or trivialize violence against first responders during domestic incidents. Although firearms are infrequently used in assaults on officers responding to such incidents, this does not render these assaults non-dangerous. Risk is relative, and even if a relatively small number of officers are injured during domestic calls, these injuries remain significant.

However, it is crucial to recognize that responses to domestic violence are not *uniquely* hazardous compared to other calls, nor are *all* domestic violence calls inherently dangerous—despite widespread perceptions among police officers and the public. While some domestic violence calls may involve physical risks, many do not pose serious threats, particularly those involving low-level, nonviolent domestic disputes.³⁰⁶ When dispatchers can readily assess that an incident lacks an immediate risk of violence, this assessment supports sending alternative civilian responders to those calls.³⁰⁷ Moreover, even in situations where some physical risk exists, integrating co-responders with specialized skills in de-escalation, mediation, and conflict resolution alongside the police can further minimize danger.³⁰⁸ This approach not only prioritizes safety but also ensures that interventions are tailored to the specific dynamics of each call, potentially resulting in more effective and less confrontational outcomes.

In sum, empirical evidence reveals that most police responses to domestic violence do not result in serious injuries to officers, which challenges the widespread belief that police responses to domestic violence calls are inherently dangerous. While this belief may be overstated, data also indicates that certain situations can pose safety risks to responders. Although incidents of assault and injury may be relatively infrequent, these potential risks cannot be ignored when considering whether civilian responders should be dispatched to domestic violence calls without police support.

304. *Id.* at 3.

305. *Id.*

306. For further discussion of various types of domestic incidents, see *infra* Section III.C.

307. See *infra* Section IV.B.

308. See *infra* Section IV.B.

III. KEY PRINCIPLES FOR CIVILIAN RESPONSES

Developing alternative responder programs to domestic violence requires considering the unique challenges and safety concerns associated with interventions in this domain. The following Sections outline the key considerations that ought to underlie the operation of civilian responder programs. Informed by draft proposals from the American Law Institute's *Principles of the Law: Policing*,³⁰⁹ this framework aims to guide jurisdictions in reforming police responses to domestic violence calls by adopting holistic approaches that enhance survivors' safety in ways that transcend traditional policing methods.

A. Minimizing Police: Harm-Efficient Policing

Minimizing the role of police is the first guiding principle for reducing their footprint in domestic violence first responses. As David Sklansky observes,

[T]he police will be with us in one form or another for the foreseeable future. The key questions about the police are how they will be managed, how they will be held accountable, and what tasks they will be given beyond their core responsibility of responding to situations where force may be needed.³¹⁰

Christopher Slobogin addresses the idea of reduced reliance on police through incorporating alternatives such as violence interrupters and restorative justice.³¹¹ However, he acknowledges that these alternatives have inherent limitations and that, in some circumstances, police involvement is inevitable to address complex and harmful social problems.³¹² Similarly, Maximo Langer refers to "penal minimalism," which advocates for a minimalist approach to the criminal legal system relying on armed public law enforcement only in exceptional cases when there are no other means of dealing with social problems.³¹³

Additionally, a related guiding principle for integrating civilian responders into domestic violence interventions is grounded in a two-pronged cost-benefit analysis that focuses on reducing the harms of policing while

309. See generally PRINCIPLES OF THE L.: POLICING (AM. L. INST., Combined Revised Tentative Drafts, 2023).

310. SKLANSKY, *supra* note 40, at 62.

311. See Slobogin, *supra* note 14, at 541–43, 556–59.

312. See *id.* at 542–43.

313. Langer, *supra* note 14, at 2033.

emphasizing that the benefits of substituting civilian responders for police outweigh the costs. In advocating for a reduced role for policing in addressing domestic violence, this proposed utilitarian approach draws upon Rachel Harmon's concept of harm-efficient policing.³¹⁴ Harmon describes this concept as policing that "imposes harms only when, all things considered, the benefits for law, order, fear reduction, and officer safety outweigh the costs of those harms."³¹⁵

As applied to domestic violence responses, the notions of police minimalism and harm-efficient policing suggest that police could play a less robust role in addressing this problem and police responses are warranted only if their overall benefits outweigh their overall harm. A cost-benefit analysis suggests that police should not intervene when the potential harm their response might cause exceeds the expected benefits to survivors, their communities, and first responders. Viewed through this lens, the primary task becomes finding the right balance of policing by weighing the costs and benefits of both police and alternative responses across various types of domestic violence incidents. This analysis calls for identifying circumstances that require no policing, reduced policing, or increased policing—a decision that should be made on a case-by-case basis.

Additionally, substituting civilian responders for police has other benefits. Reduction in the number of arrests carries several advantages, including a decreased likelihood of physical injuries to all parties and eliminating the possibility that victims of domestic violence who become offenders would be arrested.³¹⁶ Moreover, integrating civilian responders for domestic violence calls could yield additional benefits for survivors who refuse to turn to the police for help. Given that only about half of domestic violence survivors report their victimization to the police, the other half are left without effective means of protection.³¹⁷ Civilian responders could provide survivors with an alternative pathway to safety, thus promoting the overarching goal of protecting all groups of survivors.

Finally, dispatching civilian responders for domestic violence could also lead to a reduction in policing costs, thereby freeing up police resources to focus on investigating serious crimes. From a policy perspective, the cost-effectiveness of police responses further supports the integration of civilian responders. For example, a recent study examining a civilian responder program for mental health and drug use crises found that the direct costs of

314. See Rachel A. Harmon, *The Problem of Policing*, 110 MICH. L. REV. 761, 792 (2012).

315. *Id.*

316. See *supra* Section I.A.

317. See MORGAN & TRUMAN, *supra* note 56, at 1.

deploying police as first responders in these situations are more than four times higher than those associated with a civilian responder model.³¹⁸

B. Diversified Response

A key principle underpinning the integration of civilians into traditional police responses is a collaborative model that engages both police agencies and community-led responders. David Sklansky emphasizes that problem-oriented policing is pivotal to advancing police reform.³¹⁹ He argues that this model reorients law enforcement toward a collaborative “guardian model” that relies on consultation and cooperation with the public.³²⁰ Termed *diversified response*, the model I advance here offers a multifaceted strategy for domestic violence by combining the capabilities of both police and civilian responders.³²¹

Collaborative efforts between diverse agencies and organizations have the potential to address domestic violence more effectively than reliance on policing alone.³²² To prioritize survivors’ safety and cater to their needs and preferences, a range of institutional actors must work together to deliver responses that are customized to each instance of domestic violence.³²³ Optimal responses to family crises require the combined skills of various responders, leveraging their collective expertise for a cohesive approach.³²⁴ This model would call for the inclusion of licensed clinical social workers, community-based advocates, trained mediators, and behavioral health professionals.³²⁵ Civilian responders could help mitigate conflict and

318. Dee & Pyne, *supra* note 139, at 7.

319. See SKLANSKY, *supra* note 40, at 71 (“Community policing, done right, can make police more responsive and accountable to the public, can make people feel safer, and can help groups with conflicting goals and concerns work together on issues of public safety.”).

320. *Id.* at 52; see also Stoughton, *supra* note 112, at 667–68 (discussing the benefits of “Guardian policing”).

321. See CITY OF MINNEAPOLIS, *supra* note 24, at 48–49.

322. The idea of effective collaboration between agencies draws on the sociological theory of “boundary spanners,” referring to teams who act to facilitate communication and coordinate policies and services across different agencies which results in improving service delivery to beneficiaries and drive organizational effectiveness. See Henry J. Steadman, *Boundary Spanners: A Key Component for the Effective Interactions of the Justice and Mental Health Systems*, 16 LAW & HUM. BEHAV. 75, 77–79 (1992).

323. See Rob Cross et al., *A Bridge Too Far? How Boundary Spanning Networks Drive Organizational Change and Effectiveness*, 42 ORG. DYNAMICS 81, 88 (2013).

324. Coalitions against domestic violence are a network of organizations, consisting of collaboration between diverse group of professionals and currently operate on both the national and state level. See, e.g., NAT’L COAL. AGAINST DOMESTIC VIOLENCE, *supra* note 169.

325. See, e.g., *id.*

deescalate situations that can get out of control while still ensuring that police are present in high-risk situations.³²⁶ A diversified responder model also recognizes that civilian responders might hesitate or refuse to respond to domestic violence incidents without police support due to concerns about their own safety, which could jeopardize survivors' safety. To address this concern, civilian responders could operate alongside police when there is a risk of physical violence.

The diversified-response model rests on the idea of collaboration rather than outright replacing state institutions and traditional policing with community-based organizations. A fundamental assumption behind alternative responses to domestic violence is that the state bears the primary responsibility for ensuring the health and safety of survivors.³²⁷ Currently, states predominantly rely on police to fulfill their duty to protect citizens' safety.³²⁸ However, this obligation could also be met by civilian state agencies. The term "state police powers" should not be interpreted as referring solely to the institution of police.³²⁹ This broader interpretation encompasses the state's general duty to safeguard the welfare and health of its citizens, whether these functions are performed by police or other state agencies.³³⁰ Moreover, although state police powers cannot be entirely outsourced to private entities, such institutions can contribute to the promotion of public safety.³³¹ Commentators have deliberated on the extent

326. HARMON, *supra* note 5, at 822.

327. *See, e.g.,* Danny v. Laidlaw Transit Servs., Inc., 193 P.3d 128, 138 (Wash. 2008) ("[W]e hold that Washington state has a clear public policy of protecting domestic violence survivors and their children and holding perpetrators of domestic violence accountable."); Taylor v. City of Chicago, 243 N.E.3d 917, 940 (Ill. App. Ct. 2024) (finding that police officers owe duties to domestic violence victims to take all reasonable measures to protect them from harm).

328. States may delegate their police powers to other government entities because they are a part of the government. *See* City of Columbus v. Ours Garage & Wrecker Serv., Inc., 536 U.S. 424, 428–29 (2002) ("Ordinarily, a political subdivision may exercise whatever portion of state power the State, under its own constitution and laws, chooses to delegate to the subdivision.").

329. *See* Tracey Meares & Gwen Prowse, *Policing as Public Good: Reflecting on the Term "To Protect and Serve" as Dialogues of Abolition*, 73 FLA. L. REV. 1, 22 (2021).

330. *Id.*

331. *See, e.g.,* State *ex rel.* Normandy Fire Prot. Dist. v. Smith, 216 S.W.2d 440, 442 (Mo. 1948) (holding that a state law regulating the incorporation and financing of fire districts in communities between 400,000 and 800,000 people "does not delegate to private citizens the power to create a political subdivision"); State v. Curly-Egan, 910 A.2d 200, 201, 204–06 (Vt. 2006) (holding that "a statute empowering [the University of Vermont board of] trustees . . . to create a police force[] is a valid, constitutional delegation of police power" and does not run afoul of the state prohibition on delegating police power to a private entity, even when the board of trustees "contains public and private appointees").

and nature of private contributions to public safety.³³² For instance, Professor Seth Stoughton has elucidated the various ways in which the activities typically associated with police are conducted by both public and private entities, extending well beyond traditional police agencies.³³³ Similarly, Farhang Heydari posits that private sector involvement in public safety is not inherently detrimental and is, in fact, unavoidable.³³⁴ The domains of private and public sectors, Heydari contends, are inherently linked when it comes to providing emergency services.³³⁵

C. Comprehensive Spectrum of Domestic and Family Violence Responses

The differentiation between various types of domestic incidents is another key principle underlying civilian responder programs for domestic violence. Domestic incidents vary considerably, and not all pose a physical danger to survivors and responders. Scholars have contentiously debated the definition of domestic violence, which was traditionally limited to acts of physical violence.³³⁶ The manifestations of physical violence, however, considerably vary, ranging from relatively minor physical contact, such as pushing or grabbing, to severe acts causing serious bodily injury or death.³³⁷ Moreover, some physical violence results in injuries ranging in severity from bruises to fatalities, while others may cause pain but no visible injuries.³³⁸

In recent years, the definition of domestic violence has expanded significantly. First, it now includes not only intimate partner violence but also family violence, such as that between parents and children, a change also reflected in state statutes.³³⁹ Second, scholars are contemplating a definition of domestic violence that captures the nuances of abuse, which has evolved

332. For representative literature on private policing, see, for example, David Alan Sklansky, *Private Police and Democracy*, 43 AM. CRIM. L. REV. 89, 91, 104 (2006); Elizabeth E. Joh, *The Paradox of Private Policing*, 95 J. CRIM. L. & CRIMINOLOGY 49 (2004); and Seth W. Stoughton, *The Blurred Blue Line: Reform in an Era of Public and Private Policing*, 44 AM. J. CRIM. L. 117, 150–51 (2017).

333. See Stoughton, *supra* note 332, at 128–33.

334. See Heydari, *supra* note 127, at 760.

335. See *id.*

336. See Richard J. Gelles, *Estimating the Incidence and Prevalence of Violence Against Women: National Data Systems and Sources*, 6 VIOLENCE AGAINST WOMEN 784, 785–86 (2000).

337. See Thomas L. Hafemeister, *If All You Have Is a Hammer: Society's Ineffective Response to Intimate Partner Violence*, 60 CATH. U. L. REV. 919, 945 n.173 (2011).

338. See *id.*

339. See 15 R.I. GEN. LAWS. § 15-5-16(G)(2) (2024) (“The court shall consider as primary the safety and well-being of the child and of the parent who is the victim of domestic or family violence.”).

to include not only physical violence but also threats of future violence, intimidation, and psychological and emotional abuse.³⁴⁰ For instance, sociologist Evan Stark coined the term “coercive control” to describe nonphysical behaviors intended to maintain power and control over women, including emotional, psychological, and financial abuse.³⁴¹ Stark argues that the legal system’s focus on physical violence obscures other forms of domestic abuse.³⁴² Additionally, domestic altercations often stem from custody disputes.³⁴³ Sociologist Michael Johnson coined the term “situational couples’ violence” to describe isolated conflict-based incidents in which both partners participate and that are usually less severe and less likely to result in injury.³⁴⁴

Despite a broad perception of domestic violence as comprising a range of abusive behaviors, criminal statutes predominantly define it in terms of physical violence and threats.³⁴⁵ However, these laws broadly define “violence” to include not only violent felonies but also a variety of misdemeanor domestic violence offenses.³⁴⁶ The U.S. Supreme Court has endorsed this broad interpretation, noting that force or its threatened use does not require intent to harm.³⁴⁷ For example, if a person throws a plate in anger against the wall near where his wife is standing, it is considered using force if there was a substantial risk that a shard could injure her.³⁴⁸

Crucially, most police calls for domestic violence incidents involve misdemeanors such as simple assaults and domestic disputes.³⁴⁹ Common incidents typically involve non-life-threatening altercations,³⁵⁰ and

340. See STARK, *supra* note 86, at 10–11, 15–17.

341. *Id.* at 11–14.

342. See Evan Stark & Marianne Hester, *Coercive Control: Update and Review*, 25 VIOLENCE AGAINST WOMEN 81, 88–89 (2019).

343. See Joan S. Meier, *Dangerous Liaisons: A Domestic Violence Typology in Custody Litigation*, 70 RUTGERS U. L. REV. 115, 132–37 (2017).

344. See MICHAEL P. JOHNSON, A TYPOLOGY OF DOMESTIC VIOLENCE: INTIMATE TERRORISM, VIOLENT RESISTANCE, AND SITUATIONAL COUPLE VIOLENCE 7–12, 25, 105–08 (2008); see also Ramsey, *supra* note 222, at 1307.

345. LEIGH GOODMARK, A TROUBLED MARRIAGE: DOMESTIC VIOLENCE AND THE LEGAL SYSTEM 17–18, 40 (2012).

346. See 18 U.S.C. § 921 (defining a misdemeanor offense of domestic violence).

347. *Voisine v. United States*, 579 U.S. 686, 687 (2016).

348. See *id.*

349. JENNIFER L. TRUMAN & RACHEL E. MORGAN, U.S. DEP’T OF JUST., NONFATAL DOMESTIC VIOLENCE, 2003–2012, at 1 (2014), <https://bjs.ojp.gov/content/pub/pdf/ndv0312.pdf> [<https://perma.cc/YN3X-E3Z5>] (incorporating data based on self-reporting surveys); see also Ramsey, *supra* note 222, at 1307.

350. See Ramsey, *supra* note 222, at 1307–08 (citing TRUMAN & MORGAN, *supra* note 349, at 7, 9 tbl.7).

misconduct charges for these incidents are more frequent than all other calls except for traffic violations.³⁵¹ Data indicates that the predominant forms of abuse (84.5%) cited in protection orders applications are hitting, kicking, and pushing.³⁵² Not all domestic abusers are as dangerous as someone like Zackey Rahimi, whose multiple criminal acts epitomize physical violence and dangerousness.³⁵³ To classify all alleged domestic abusers as categorically dangerous is conceptually flawed and ignores the empirical evidence of a range of behaviors, many of which do not involve threats of death or serious injury.³⁵⁴

Current responses to domestic violence rest on the premise that a single, standardized police response is warranted for all its manifestations. This essentialist approach assumes that all domestic violence situations require police intervention. This stance is flawed because it fails to account for the broad spectrum of domestic abuse incidents.³⁵⁵ Abolitionists reject the criminal legal system's involvement in domestic violence, arguing that it perpetuates an essentialist mindset.³⁵⁶ In contrast, proponents of exclusive police response assert the necessity of police intervention in all situations due to potential escalation and danger to survivors and responders.³⁵⁷ Both positions fail to recognize the inappropriateness of a singular response for the broad spectrum of domestic incidents. By contrast, the diversified-response model proposed in this Article suggests that responses to domestic violence

351. Friedman, *supra* note 1, at 953 tbl. 2 (calculating numbers based on the frequency of the charges).

352. See Katherine A. Vittes & Susan B. Sorenson, *Are Temporary Restraining Orders More Likely to Be Issued When Applications Mention Firearms?*, 30 EVALUATION REV. 266, 273 (2006).

353. *United States v. Rahimi*, No. 21-11001, 2022 WL 2070392, at *1 (5th Cir. June 8, 2022), (describing Rahimi's "lengthy criminal history," which included pending charges for use of a firearm in instances of assault and aggravated assault against two different women). For further description of Rahimi's dangerousness and criminal history, see *supra* Section II.C.1.

354. See Ramsey, *supra* note 222, at 1305–06 (critiquing broadly restrictive gun laws that have the effect of depriving "domestic violence misdemeanants who committed relatively trivial conduct" of their access to firearms, "despite their generally law-abiding, nonaggressive lifestyles").

355. Compare *People v. Cheng*, No. A131820, 2012 WL 5448204, at *1 (Cal. Ct. App. Nov. 8, 2012) (domestic violence victim was locked in her dorm room, beat up, choked, stabbed, and kept from using her phone), with *State v. Workman*, 876 S.E.2d 151, 152 (S.C. Ct. App. 2022) (domestic violence victim was repeatedly slapped and punched, threatened, and was not allowed to eat or sleep for the next day and night), and *Elonis v. United States*, 575 U.S. 723, 728–29 (2015) (domestic violence victim felt threatened after her husband posted a script of a comedy sketch indicating it was illegal to say he wanted to kill his wife in addition to more specific statements about how his wife should be killed).

356. See, e.g., GOODMARK, *supra* note 28, at 18–22; GRUBER, *supra* note 51, at 192–97.

357. See Friedman, *supra* note 1, at 958–59.

should be tailored to distinct types of incidents. Felonious cases involving severe violence should be treated differently from misdemeanors involving nonviolent, albeit heated, domestic altercations. While police intervention may be crucial in situations requiring immediate arrest, such as those involving firearms, other domestic altercations could be more aptly addressed by civilian responders.

D. Separating Initial Response from Case Disposition

Distinguishing between the police's emergency aid function and the final disposition of the case is an essential feature of adopting civilian responders for domestic violence. To be clear, the proposal for integrating civilians into domestic violence responses focuses only on the initial response to domestic violence, rather than the subsequent management of the case (and the separate issue of whether criminal prosecution is warranted). Admittedly, primary responses and subsequent criminal prosecutions are closely linked.³⁵⁸ Yet, introducing civilian responders for immediate assistance raises separate considerations from future decisions on criminal investigation and prosecution.³⁵⁹

The previous discussion of the U.S. Supreme Court decision in *Caniglia v. Strom*, which suggested decoupling responders' community caretaking roles from law enforcement functions, supports this two-tiered treatment of domestic violence.³⁶⁰ Additionally, the operation of child protection services provides an analogous area exemplifying such distinction and demonstrating its feasibility. Caseworkers initially investigate suspicions of abuse or neglect independently, without police involvement.³⁶¹ However, if evidence of a crime emerges, this model does not preclude later criminal investigation or prosecution, as caseworkers can later report their findings to the police.³⁶²

Similarly, one of the primary functions of civilian responders in domestic violence situations is to suggest potential future strategies for handling abusive situations once the initial emergency response has concluded.

358. Some commentators equate the harms of policing with the harms of prosecution. See GOODMARK, *supra* note 28, at 142–43; I. Bennett Capers, *Against Prosecutors*, 105 CORNELL L. REV. 1561, 1590 (2020); Maybell Romero, *Prosecutors and Police: An Unholy Union*, 54 U. RICH. L. REV. 1097, 1098 (2020).

359. Cf. GOLDSTEIN, *supra* note 110, at 36–37 (describing the current considerations and stages of immediate police intervention).

360. See *supra* Section II.A.

361. For critique of the entanglements of CPS and the police, see ROBERTS, *supra* note 96, at 191–220.

362. I thank Rachel Harmon for calling my attention to this analogy.

Integrating civilian responders into domestic violence interventions allows for potential subsequent police investigations when necessary. The appropriate strategy largely depends on the specific nature of the case at hand; for example, while criminal investigation and prosecution might be appropriate for domestic violence involving severe physical violence, the criminal path may not be warranted for non-violent misdemeanors involving verbal threats.

The prospect of subsequent police investigation and prosecution is also necessary for holding abusers accountable for wrongdoing in appropriate circumstances. One difference between responding to domestic violence and other health and social crises rests with the question of abusers' accountability. Behavioral health crises, being medical conditions, typically do not warrant blaming the individual in crisis, as it would be unjust to hold someone accountable for actions they cannot control due to illness.³⁶³ Similarly, homelessness—often a circumstance beyond one's control—does not entail personal accountability issues.³⁶⁴ Likewise, scholars primarily frame drug use issues as a public health concern rather than a criminal one.³⁶⁵ In contrast, holding abusers accountable for their wrongdoing has been crucial in responses to domestic violence.³⁶⁶ As Michelle Dempsey persuasively argues, prosecuting domestic violence sends a strong societal message of condemnation, reinforcing the stance that such violence is blameworthy.³⁶⁷ Ensuring wrongdoers' accountability through criminal prosecutions remains a vital concern when considering civilian responses to domestic violence.³⁶⁸ The integration of civilian responders into domestic violence interventions does not exclude the possibility of prosecuting abusers in appropriate cases, when attributing blame is normatively justified and doing so can underscore a societal stance against domestic violence. Yet a civilian responder model adopts a survivor-centered approach to domestic

363. See E. Lea Johnston & Vincent T. Leahey, *Psychosis, Heat of Passion, and Diminished Responsibility*, 63 B.C. L. REV. 1227, 1231–34, 1255, 1268, 1276 (2022).

364. See Barry Friedman, *Are Police the Key to Public Safety?: The Case of the Unhoused*, 59 AM. CRIM. L. REV. 1597, 1637 (2022).

365. See Leo Beletsky, *America's Favorite Antidote: Drug-Induced Homicide in the Age of the Overdose Crisis*, 2019 UTAH L. REV. 833, 863.

366. See MICHELLE MADDEN DEMPSEY, *PROSECUTING DOMESTIC VIOLENCE: A PHILOSOPHICAL ANALYSIS* 91–93 (2009).

367. *Id.* at 206–08; cf. ROBELO, *supra* note 20, at 37.

368. Cf. ROBELO, *supra* note 20, at 58–66 (acknowledging that accountability is a critical element of any response, suggesting that it could be achieved through transformative justice and community-based intervention).

violence, which aims to heed survivors' personal preferences.³⁶⁹ When a criminal course of action seems warranted, civilian responders should consult with survivors on how they wish to proceed and respect their autonomous choices before turning to law enforcement.³⁷⁰

E. Tailoring Responders to Localities

Another principle that should underpin civilian responder programs is that response strategies must be customized to the specific characteristics of the communities they serve. Policing is fundamentally local, with officers typically employed by municipalities.³⁷¹ Similarly, civilian alternatives for addressing domestic violence should be tailored to each community's unique needs. A location-based approach ensures that responses align with community particularities, considering variations in geography and ideology.

Some communities may be reticent to confront domestic violence. This is often the case in insular or deeply religious groups that tend to overlook such issues.³⁷² These communities live in close-knit, self-contained environments with limited external interaction.³⁷³ They maintain a strong sense of identity, adhere to traditional family practices, and often follow strict religious teachings.³⁷⁴ For example, members of the Fundamentalist Church of Jesus Christ of Latter Day Saints, who have diverged from the mainstream Church of Jesus Christ Latter Day Saints, typically reside in rural areas.³⁷⁵ In contrast, other insular groups like ultra-Orthodox Jewish communities, are found in large cities.³⁷⁶ A common challenge in these communities is the intentional avoidance of police intervention, which leads to underreporting and concealment of domestic violence.³⁷⁷ This issue is particularly acute in rural communities where there is a reluctance to involve law enforcement,

369. See LISA A. GOODMAN & DEBORAH EPSTEIN, LISTENING TO BATTERED WOMEN: A SURVIVOR-CENTERED APPROACH TO ADVOCACY, MENTAL HEALTH, AND JUSTICE 31, 71 (2008).

370. See Meir Dan-Cohen, *Basic Values and the Victim's State of Mind*, 88 CALIF. L. REV. 759, 770 (2000) (discussing the necessity of autonomy).

371. HARMON, *supra* note 5, at 4, 9.

372. See Michal Gilad, *In God's Shadow: Unveiling the Hidden World of Victims of Domestic Violence in Observant Religious Communities*, 11 RUTGERS J.L. & PUB. POL'Y 471, 482–83 (2014).

373. *Id.* at 487.

374. *See id.*

375. See Martha Bradley, *Cultural Configurations of Mormon Fundamentalism*, 8 NOVA RELIGION 5, 15 (2004).

376. See Gilad, *supra* note 372, at 493.

377. *See id.*

resulting in under-enforcement and inadequate protection for survivors.³⁷⁸ In such settings, relying exclusively on internal community responders may not be effective, as it could suppress the voices of domestic violence survivors and fail to hold abusers accountable. External, non-localized responders may be necessary to ensure objectivity and justice.

Conversely, urban communities might benefit from community-based, local responders who can align with the community's specific needs and preferences. Domestic violence advocacy groups emphasize the value of these local responses, particularly in empowering communities of color to address domestic violence internally.³⁷⁹ Community-based responders may be especially relevant for marginalized groups including Black survivors, who have been historically harmed by the police.³⁸⁰

F. Trauma-Informed Intervention

Domestic violence survivors represent a uniquely vulnerable group due to their enduring traumatic experiences.³⁸¹ Survivors suffer crimes committed by loved ones within their own homes—supposed havens of safety.³⁸² This results in significant trauma that is exacerbated when the abuse is continuous.³⁸³ Survivors' vulnerability is often compounded by the intersectionality of several social factors such as poverty, immigration status, low social status, and diverse sexual and gender identities.³⁸⁴ Moreover, interactions between survivors and police may intensify the harm if their emotional needs are neglected.³⁸⁵ Additionally, these encounters can aggravate harm when survivors respond to their victimization by resorting to violence, which results in their arrest and perpetuates their traumas.³⁸⁶

The unique vulnerability of domestic violence survivors requires employing trauma-informed approaches in interacting with this group. In

378. *See supra* Section I.A.

379. *See, e.g.,* ROBELO, *supra* note 20, at 3.

380. *See id.* at 32, 38.

381. *See* PRINCIPLES OF THE L.: POLICING § 1.13, cmt. B, reporter's note (AM. L. INST., Combined Revised Tentative Drafts, 2023).

382. *See* Buchhandler-Raphael, *supra* note 49, at 1721.

383. *See* Loring Jones et al., *Post-Traumatic Stress Disorder (PTSD) in Victims of Domestic Violence*, 2 TRAUMA VIOLENCE & ABUSE 99, 100 (2001).

384. *See* Monica C. Bell et al., *Investing in Alternatives: Three Logics of Criminal System Replacement*, 11 U.C. IRVINE L. REV. 1291, 1314 (2021); Sunita Patel, *Embedded Healthcare Policing*, 69 UCLA L. REV. 808, 808 (2022).

385. Amy Farrell et al., *Failing Victims? Challenges of the Police Response to Human Trafficking*, 18 CRIMINOLOGY & PUB. POL'Y 649, 664 (2019).

386. GOODMARK, *supra* note 28, at 19.

recent years, there has been a growing recognition that social and legal services must be informed by an understanding of trauma.³⁸⁷ This is particularly critical when interviewing survivors of domestic violence, where trauma-informed questioning techniques are vital.³⁸⁸ Police generally lack the specialized training necessary to sensitively handle the trauma these survivors endure. Although police officers may receive some basic training in crisis intervention strategies, their core training revolves around arresting offenders rather than providing support services to victims.³⁸⁹

Integrating civilian responders into domestic violence interventions recognizes survivors' distinct vulnerability. Civilian responders, like clinical licensed social workers and domestic violence advocates, are often better suited to implement trauma-informed approaches necessary for interacting with traumatized victims in a sensitive manner.³⁹⁰ These responders' professional background and specialized training in crisis intervention equip them with the necessary tools to ensure that survivors receive a fair and compassionate treatment during domestic violence interventions.³⁹¹

IV. IMPLEMENTATION

Having identified the theoretical principles essential for re-imagining first responses to domestic violence, the following Sections detail the implementation of this alternative vision. The discussion begins by outlining the main attributes and roles of civilian responders and concludes by addressing criticism and concerns regarding their adoption.

A recent case study demonstrates that some jurisdictions have already begun considering the integration of civilian actors into their responses to domestic incidents. In July 2023, Minneapolis launched an initiative aimed at reducing police involvement and enhancing the role of civilian responders

387. See Sarah Katz & Deeya Halder, *The Pedagogy of Trauma-Informed Lawyering*, 22 CLINICAL L. REV. 359 (2016) (discussing the importance and relevance of trauma-informed practice by legal practitioners).

388. Incorporating trauma-informed practices is also critical for responses to survivors of other gender-based crimes like sexual assault. See Cynthia V. Ward, *Trauma and Memory in the Prosecution of Sexual Assault*, 45 LAW & PSYCH. REV. 87, 94–95 (2021).

389. See Brandon Garrett & Seth Stoughton, *A Tactical Fourth Amendment*, 103 VA. L. REV. 211, 249–52, 267–68 (2017).

390. See CAROLE WARSHAW ET AL., NAT'L CTR. ON DOMESTIC VIOLENCE, TRAUMA, & MENTAL HEALTH, A SYSTEMIC REVIEW OF TRAUMA-FOCUSED INTERVENTIONS FOR DOMESTIC VIOLENCE SURVIVORS (2013), https://ncdvtmh.org/wp-content/uploads/2022/10/NCDV_TMH_EBPLitReview2013.pdf [<https://perma.cc/RK8R-WNDU>] (reviewing the effectiveness of trauma-focused mental health treatments and modalities for survivors of domestic violence).

391. See Friedman, *supra* note 1, at 966.

across various areas, including domestic violence.³⁹² This comprehensive plan, referred to as “The Minneapolis Plan,” champions a more holistic concept of safety that extends beyond traditional policing and provides a blueprint for implementing diverse responses tailored to different incidents.³⁹³

The Minneapolis Plan advocates for the creation of a reimagined response services ecosystem, drawing on the concept of diversified responses that include both independent civilian responders and multidisciplinary co-responders.³⁹⁴ The Minneapolis Plan identifies twelve areas where emergency incidents may require either civilian or co-response teams. These encompass behavioral health crises, wellness checks, medical calls, low-acuity crime and disorder complaints, traffic incidents, parking issues, property crimes, situations involving individuals experiencing homelessness, sexual assault cases, animal incidents, requests for violence interrupters, and notably, domestic violence.³⁹⁵ In nonemergency situations or those involving low-level crimes, the response would consist solely of civilian teams.³⁹⁶ However, in scenarios where police presence is essential for safety, the teams would be composed of both police officers and civilians as co-responders.³⁹⁷

Jurisdictions looking to transform their first responder programs can take inspiration from the diversified-responses approach detailed in the Minneapolis Plan. Using this plan as a case study, I outline three key strategies that emphasize practical measures for dispatching civilian responders to domestic violence emergencies. These strategies include establishing a specialized phone number, creating a unified dispatch system, and training civilian responders to effectively handle such situations.

A. A Specialized Phone Number

Responses to all types of emergencies have traditionally been exclusively linked to the police through the 911 phone number.³⁹⁸ Calling 911 is currently the primary—and often the sole—option available 24/7 for those fearing for

392. CITY OF MINNEAPOLIS, *supra* note 24, at 57–59.

393. *Id.* at 20. The Minneapolis Plan draws from the Transform911 project, which developed a “first responder ecosystem” that includes civilian responders. *Id.* at 18; see TRANSFORM911 REPORT, *supra* note 6, at 18.

394. See CITY OF MINNEAPOLIS, *supra* note 24, at 19, 49, 51–52.

395. *Id.* at 59.

396. *Id.* at 61–62.

397. *Id.* at 48, 57–58.

398. *Id.* at 70.

their safety due to domestic violence.³⁹⁹ Emergency Communications Centers (“ECCs”), commonly referred to as 911 call centers, handle all 911 calls.⁴⁰⁰ When someone dials 911, the call is routed to an ECC, where trained call-takers gather vital information from callers about the nature of the emergency, and dispatchers determine which type of responders to send.⁴⁰¹ Dispatchers typically have three main options: dispatching firefighters, emergency medical services, or police.⁴⁰² While an increasing number of jurisdictions have begun to explore a fourth option, involving responders such as mental health specialists, these civilian teams are rarely dispatched to respond to domestic violence calls.⁴⁰³

Yet, exclusive reliance on 911 call centers often results in missed opportunities for connecting individuals with services that are better suited to their needs and preferences than traditional policing.⁴⁰⁴ As previously mentioned, many domestic violence survivors are reluctant to involve the police, even when their physical safety is endangered, and would rather receive assistance from civilian responders.⁴⁰⁵ In response to this concern, numerous jurisdictions have created specialized domestic violence hotlines as alternatives to calling 911.⁴⁰⁶ These hotlines are operated across the country by nonprofit local organizations and are staffed by domestic violence advocates trained in providing emergency aid to survivors experiencing a crisis.⁴⁰⁷ Yet, domestic violence hotlines face significant practical limitations; they are often underfunded and understaffed, making them less accessible, especially outside of regular office hours.⁴⁰⁸ Additionally, police and specialized civilian responses are currently deeply intertwined; calls to a domestic violence or social service hotlines are sometimes rerouted to

399. See TRANSFORM911 REPORT, *supra* note 6, at 17.

400. See *id.* at 18.

401. *Id.* at 71 fig. 4.

402. See *id.* at 22.

403. See *id.* at 44–45.

404. See CITY OF MINNEAPOLIS, *supra* note 24, at 70.

405. GOODMARK, *supra* note 57, at 11; see also *supra* Section I.B.

406. See *Resources by City*, DON’T CALL THE POLICE <https://dontcallthepolice.com> [<https://perma.cc/DRV5-NJQT>] (providing non-police resources by jurisdiction).

407. See, e.g., *id.* One example of organizations providing emergency assistance to domestic violence survivors is the Center for Community Solutions-Project Safehouse 24-hour toll free County-wide crisis line for crisis intervention and information referrals related to domestic violence, sexual assault, and stalking in San Diego. See *San Diego, CA*, DON’T CALL THE POLICE, <https://dontcallthepolice.com/san-diego> [<https://perma.cc/VV3K-YBXD>].

408. NAT’L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org> [<https://perma.cc/579V-WHUQ>].

police.⁴⁰⁹ A heavy reliance on the 911 system persists, even in jurisdictions that incorporate civilian responders, as responders receive all emergency information through police radios.⁴¹⁰ Furthermore, domestic violence hotlines primarily offer only phone assistance, providing callers with information on safety planning and local services available in the community.⁴¹¹ However, local nonprofit organizations lack the necessary infrastructure, personnel, and resources to dispatch mobile teams that would address domestic violence incidents in-person.⁴¹²

To improve their responses to domestic violence, jurisdictions should establish a specialized three-digit number that survivors can dial 24/7 as an alternative to contacting 911. This number must be toll-free, well-funded, easily accessible, and capable of handling high call volumes.⁴¹³ The primary goal of this alternative is to separate domestic violence emergency services from police involvement. A unique three-digit number, distinct from 911, will ensure that all community members can access necessary services without police engagement.⁴¹⁴ The practicality of setting up such a number is supported by analogous examples already operating in many jurisdictions. For instance, 311 is used for municipal non-emergency issues such as animal control, building violations, environmental concerns, and street maintenance;⁴¹⁵ 211 offers information about health and human services including food, shelter, and clothing centers;⁴¹⁶ and 988 serves as a dedicated line for suicide prevention and mental health emergencies.⁴¹⁷

409. See, e.g., *Torcivia v. Suffolk Cnty.*, 17 F.4th 342, 349 (2d Cir. 2021) (a 17-year-old girl called the Social Service Hotline after midnight reporting a domestic dispute with her intoxicated father, but the call was re-routed to the police).

410. See, e.g., Jackson Beck et al., *Case Study: CRU and Familiar Faces*, BEHAV. HEALTH CRISIS ALTS. (Nov. 2020), <https://www.vera.org/behavioral-health-crisis-alternatives/cru-and-familiar-faces> [<https://perma.cc/GD3S-V8JB>] (noting that in Olympia, Washington, teams from the Crisis Response Unit rely on police radios to identify and respond to 911 calls that are more appropriate for behavioral health intervention).

411. See, e.g., *Our Programs*, DC SAFE, <https://www.dcsafe.org/direct-services> [<https://perma.cc/WM6A-WPAY>].

412. See, e.g., *id.*; Haajrah Gilani & Rosie Leonard, *Domestic Violence Service Providers Struggle While Reaching Capacity*, TEMPLE NEWS, <https://longform.temple-news.com/domestic-violence-service-providers-struggle-while-reaching-capacity> [<https://perma.cc/J7NH-T9YU>].

413. TRANSFORM911 BLUEPRINT, *supra* note 6, at 56.

414. CITY OF MINNEAPOLIS, *supra* note 24, at 71.

415. TRANSFORM911 BLUEPRINT, *supra* note 6, at 57, 80.

416. *Dial 211 for Essential Community Services*, FED. COMM'NS COMM'N (Apr. 18, 2024), <https://www.fcc.gov/consumers/guides/dial-211-essential-community-services> [<https://perma.cc/EH8M-RD8X>].

417. TRANSFORM911 BLUEPRINT, *supra* note 6, at 54.

Admittedly, adding another specialized number to 911 may be expensive, and having multiple numbers might risk reducing the effectiveness of each one by making them harder to remember. Yet, despite these shortcomings, such a number is important because many domestic violence survivors avoid calling 911 and thus risk their own safety.⁴¹⁸ By providing an alternative line, survivors gain a viable option for seeking help without directly involving law enforcement.

B. Integrated Dispatch Systems

Reforming responses to domestic violence involves redefining the roles of existing ECC. Establishing a specialized three-digit number for domestic violence does not require the creation of a separate ECC, which would be costly, redundant, and unfeasible. Instead, to enhance cost-efficiency, a single dispatch center could manage emergency calls from multiple sources, including both the specialized domestic violence number and traditional 911. Although all calls would be routed to a shared dispatch center, calls from the specialized domestic violence number would be flagged from the outset to ensure they are handled differently, signaling callers' preference for dispatching civilian responders. Dispatchers would assess each call to decide whether to send diversified responders consisting of both police and civilians or just civilian teams. This integrated dispatch system would better match services to people's needs.⁴¹⁹ This strategy is also practical, as shown by current practices where police are not automatically sent to every emergency—often, only emergency medical services or firefighters are dispatched.⁴²⁰

Dispatching civilian responders to domestic violence calls requires a transformation of ECCs, including the revision of their protocols to guide dispatchers in identifying situations that do not require police intervention. Under the integrated dispatch system, ECC staff will be responsible for call-taking, gathering information, and determining the appropriate type of responder for specific domestic violence incidents based on their nature. To effectively implement this model, it is crucial that the dispatch centers are

418. See GOODMARK, *supra* note 57, at 11.

419. See CITY OF MINNEAPOLIS, *supra* note 24, at 70.

420. See, e.g., CAL. GOVERNOR'S OFF. OF EMERGENCY SERVS., *System Descriptions*, in 911 OPERATIONS MANUAL ch. 2, at 3 (2022), <https://www.caloes.ca.gov/wp-content/uploads/PSC/Documents/Chapter-II-System-Description.pdf> [<https://perma.cc/26N3-B7V8>].

well-staffed and resourced and that dispatchers receive specialized training, including in crisis intervention.⁴²¹

Under this integrated dispatch system, dispatchers would play a crucial role. Their primary responsibility would be to determine the most appropriate type of responder for each specific domestic violence incident. They would ascertain which situations can be handled solely by civilian responders and which require sending diversified responders—specifically, co-responder teams where police and civilian responders collaborate.⁴²² Dispatching only civilian responders would be appropriate when the intervention can safely protect both survivors and responders.⁴²³ Police intervention might be necessary, particularly in situations where domestic violence overlaps with gun violence.⁴²⁴

Dispatchers should base their determination of the appropriate response on data-driven methods, utilizing Risk Assessment Instruments (“RAIs”) to evaluate potential threats in each case. RAIs are questionnaires administered to victims that consist of multiple items designed to identify risk factors strongly associated with violence, such as the offender’s criminal history.⁴²⁵ While RAIs are widely used in various areas of the criminal legal system, specific versions have been developed for domestic violence to predict survivors’ risk of future violence.⁴²⁶ These instruments typically rely on algorithms that have been shown to improve the accuracy of predicting future violence.⁴²⁷ Algorithmic risk assessment could enable dispatchers to anticipate the likelihood of violent reactions to interventions and assign the

421. ECCs are currently under-staffed and under-trained. PEW CHARITABLE TRS., NEW RESEARCH SUGGESTS 911 CALL CENTERS LACK RESOURCES TO HANDLE BEHAVIORAL HEALTH CRISES 2–3 (2021), https://www.pewtrusts.org/-/media/assets/2021/10/mjh911callcenter_final.pdf [<https://perma.cc/F7MS-V3E6>].

422. CITY OF MINNEAPOLIS, *supra* note 24, at 70–71.

422. *Id.* at 71.

423. See S. REBECCA NEUSTETER ET AL., THE 911 CALL PROCESSING SYSTEM: A REVIEW OF THE LITERATURE AS IT RELATES TO POLICING 19 (2019), <https://vera-institute.files.svdcdn.com/production/downloads/publications/911-call-processing-system-review-of-policing-literature.pdf> [<https://perma.cc/6QF4-JWAQ>]; see also CITY OF MINNEAPOLIS, *supra* note 24, at 73 (introducing the tiered or criteria-based dispatching as a method that instructs dispatchers in deciding between four modes of response).

424. See Ramsey, *supra* note 222, at 1278.

425. See generally Alex Chohlas-Wood, *Understanding Risk Assessment Instruments in Criminal Justice*, BROOKINGS (June 19, 2020), <https://www.brookings.edu/articles/understanding-risk-assessment-instruments-in-criminal-justice> [<https://perma.cc/8B8F-RWWL>].

426. See Jeffrey Grogger et al., *Comparing Conventional and Machine-Learning Approaches to Risk-Assessment in Domestic Violence*, 18 J. EMPIRICAL LEGAL STUD. 90, 91 (2021).

427. See Richard A. Berk et al., *Forecasting Domestic Violence: A Machine Learning Approach to Help Inform Arraigning Decisions*, 13 J. EMPIRICAL LEGAL STUD. 94, 96–97 (2016).

appropriate responders accordingly. Effective call sorting requires that dispatchers collect comprehensive information from callers and other known sources.⁴²⁸ This information aids in assessing risks to both survivors and responders and should include details about the alleged abuser and their past reactions, past interventions (effective and ineffective), and potential triggers.⁴²⁹ Additionally, knowledge of the incident location is crucial to identify potential risks, allowing dispatchers to cross-reference this information with historical location data.⁴³⁰

In some cases, dispatchers' risk assessments are straightforward. For example, if a caller reports that their intimate partner is threatening them with a firearm, the necessity of sending co-responders is clear. Furthermore, if there is a reason to believe that an individual poses a threat due to firearm possession and a potentially violent response to responders' arrival is possible, police presence is essential to ensure the safety of all involved. Law enforcement officers are the only responders authorized to use deadly force.⁴³¹ In such circumstances, civilian responders can collaborate with the police to provide a multidisciplinary response that ensures safety.⁴³²

Although dispatchers should generally try, as much as possible, to respect callers' preferences to avoid police involvement, ensuring the safety of survivors and responders should not be compromised. In high-risk situations, civilian responders should be accompanied by police, even if callers have indicated a preference for non-police responders. Conversely, if there is no indication that the alleged abuser possesses firearms or poses a physical threat, civilian responders alone may provide the necessary emergency services, making police involvement unnecessary.⁴³³

However, assessing the level of risk based on initial call classification often involves uncertainty. Calls can be ambiguous, and information regarding potential risks might be incomplete. Few ECCs "require dispatchers to check on gun licenses provided to members of the

428. CITY OF MINNEAPOLIS, *supra* note 24, at 74–75.

429. *Id.* at 75.

430. *Id.*

431. See Paul J. Larkin, Jr., *Essay: A New Law Enforcement Agenda for a New Attorney General*, 17 GEO. J.L. & PUB. POL'Y 231, 239 (2019).

432. CITY OF MINNEAPOLIS, *supra* note 24, at 62; see also ROBELO, *supra* note 20, at 42–45.

433. See Christie Thompson, *Sending Unarmed Responders Instead of Police: What We've Learned*, MARSHALL PROJECT (July 25, 2024), <https://www.themarshallproject.org/2024/07/25/police-mental-health-alternative-911> [https://perma.cc/645D-ZW5T].

household.”⁴³⁴ Furthermore, calls may evolve in ways that differ significantly from initial assessments; what starts as a nonviolent situation may escalate into violence.⁴³⁵

Dispatchers must exercise considerable discretion in selecting the appropriate type of responders for specific domestic violence calls, making rapid risk assessments to evaluate potential threats. Without direct information about threats to survivors or responders, these quick judgments may be inaccurate, prompting dispatchers to err on the side of caution by preferring co-responder teams.⁴³⁶ Another key decision that dispatchers would have to make is determining who should lead the response when safety risks are ambiguous. If civilian responders enter first, they might encounter heightened risks. If information suggests an abuser may harm survivors or responders, it is prudent for police to lead, perform safety checks, and secure firearms before civilian responders proceed. A police-led response, however, could perpetuate the status quo, with police continuing as the primary responders. To address this, jurisdictions could adopt policies to ensure civilians play a significant role in interventions. For instance, policies could direct co-responder teams to allow police to assume a supporting role once they determine that there is no immediate danger, letting civilian responders take the lead.⁴³⁷ These policies could also limit police roles to ensuring safety and restrict arrests during the initial response, thereby minimizing police dominance at the scene and highlighting the importance of civilian-led interventions. Consequently, a joint response by police and civilians is likely to be more beneficial and less harmful than a police-only response.

C. Responders' Functions and Training

To develop effective diversified responder programs for domestic violence, jurisdictions must clearly define the roles of civilian responders and ensure they receive specialized training. The responders' duties begin with an initial screening process, which involves a preliminary assessment of the situation and leads to recommendations for potential future interventions. During emergent domestic violence incidents, first responders can provide

434. See MEG TOWNSEND ET AL., U.S. DEP'T OF JUST., NJC DOC. NO. 215915, LAW ENFORCEMENT RESPONSE TO EMERGENCY DOMESTIC VIOLENCE CALLS FOR SERVICE 29–30 (Feb. 1, 2005), <https://www.ojp.gov/pdffiles1/nij/grants/215915.pdf> [<https://perma.cc/38GC-KHNN>].

435. See NEUSTETER ET AL., *supra* note 423, at 19.

436. CITY OF MINNEAPOLIS, *supra* note 24, at 58.

437. See *id.* at 73.

only immediate first aid to address survivors' safety needs, similarly to an emergency room's triage process.⁴³⁸ Just as emergency room doctors stabilize patients and outline long-term treatment plans, civilian responders would stabilize domestic violence emergencies by referring survivors to shelters for immediate safety or local domestic violence organizations for long-term safety planning. However, domestic violence is not merely an "incident;" it is an ongoing pattern of abusive behavior.⁴³⁹ First responders alone cannot meet the long-term needs of survivors, which require sustained support and resources beyond the initial response. To this end, civilian responders would connect survivors with community-based social services, including safety advocates and free legal services to help navigate court proceedings.⁴⁴⁰

Another critical role of civilian responders would be to administer risk assessment questionnaires that evaluate survivors' risk of being re-assaulted and determine the most appropriate follow-up intervention.⁴⁴¹ Recall that dispatchers have already performed an initial risk assessment to decide whether to send co-responders or only civilian teams to domestic violence scenes.⁴⁴² Their assessments focus primarily on potential threats to responders.⁴⁴³ Upon arrival, responders conduct a second risk assessment, concentrating on future risks to survivors and their families.⁴⁴⁴

Dispatching unarmed civilians requires comprehensive training. As previously mentioned, FBI data indicate that abusers rarely assault responders with firearms, and most assaults involve bodily force.⁴⁴⁵ With proper training, civilian responders can address domestic violence incidents safely, provided there is no indication that abusers possess firearms. Teams should include responders who are sufficiently trained in self-defense and non-lethal tactics—such as pepper spray (mace), batons, or stun guns.⁴⁴⁶ They

438. See Friedman, *supra* note 1, at 991–92.

439. See Deborah Tuerkheimer, *Recognizing and Remediating the Harm of Battering: A Call to Criminalize Domestic Violence*, 94 J. CRIM. L. & CRIMINOLOGY 959, 959–62 (2004).

440. See Stoever, *Mirandizing Family Justice*, *supra* note 208, at 212.

441. See Sarah L. Desmarais & Samantha A. Zottola, *Violence Risk Assessment: Current Status and Contemporary Issues*, 103 MARQ. L. REV. 793, 794–99 (2020).

442. See *supra* Section IV.B.

443. See *supra* Section IV.B.

444. Some local domestic violence organizations already administer risk assessment instruments to domestic violence survivors. See, e.g., DC SAFE, *supra* note 411. Civilian responders can effectively administer these questionnaires, which do not require police expertise. See *supra* Section IV.B.

445. See *supra* Section II.C.2.

446. See ROBELO, *supra* note 20, at 44.

should also be trained in de-escalation and mediation techniques.⁴⁴⁷ There is little evidence-based data about the effectiveness of de-escalation techniques in reducing use of force incidents.⁴⁴⁸ While empirical evidence on the effectiveness of de-escalation is mixed, more recent studies suggest that properly trained police officers using de-escalation techniques significantly reduced the number of cases where the officers had to use force, thus decreasing injuries among civilians and law enforcement.⁴⁴⁹

* * *

In conclusion, the diversified co-responder model addresses potential safety risks in domestic violence scenarios through a collaborative approach. In some situations, police would cooperate with civilian responders to ensure safety, while in others, civilian responders would manage domestic violence emergencies independently, thereby minimizing police involvement. The proposal acknowledges that co-responder models are costly and require substantial resources for implementation.⁴⁵⁰ However, despite these challenges, adopting co-responder models is ultimately justified because the anticipated benefits—including potentially improved outcomes for all parties involved—outweigh the associated costs and logistical hurdles.⁴⁵¹

D. Critiques and Responses

The proposal to incorporate civilians as first responders in domestic violence situations ventures into uncharted territory and is poised to encounter staunch critique. Critics are expected to voice both substantive and practical objections, particularly emphasizing the fiscal and political challenges of implementation. Pushback against the proposal is anticipated from two contrasting perspectives, largely reflecting divergent political

447. See Cynthia Lee, *Reforming the Law on Police Use of Deadly Force: De-escalation, Preseizure Conduct, and Imperfect Self-Defense*, 2018 U. ILL. L. REV. 629, 669 (explaining de-escalation measures for police officers and the benefits of having regulations that instruct officers to engage in these measures).

448. See Robin S. Engel et al., *Does De-escalation Training Work? A Systematic Review and Call for Evidence in Police Use-of-Force Reform*, 19 CRIMINOLOGY & PUB. POL'Y 721, 721 (2020).

449. Robin S. Engel et al., *Assessing the Impact of De-escalation Training on Police Behavior: Reducing Police Use of Force in the Louisville, KY Metro Police Department*, 21 CRIMINOLOGY & PUB. POL'Y 199, 201 (2022) (finding that for the Louisville Kentucky Metro Police Department de-escalation training reduced use-of-force incidents by 28% and citizen injuries by 26% and that officer injuries were reduced by 36%).

450. See CITY OF MINNEAPOLIS, *supra* note 24, at 12, 78, 109.

451. For further discussion of these concerns, see *infra* Section IV.D.

ideologies. On one end of the spectrum, some will argue that police must remain the primary responders in domestic violence cases due to safety concerns for survivors and responders.⁴⁵² They will argue that civilian responders might hesitate to intervene, especially in inner-city neighborhoods with a high prevalence of gun use, thus leaving survivors unprotected. In this view, civilians should play only a supportive role and never be dispatched independently without police backup.⁴⁵³

On the opposite end of the spectrum, some critics will challenge the underlying assumption of diversified responses, specifically the model of police and civilian co-responders collaborating in domestic violence. Abolitionists oppose any state intervention, arguing that it is always harmful, especially in Black communities that have historically faced oppressive and discriminatory police practices.⁴⁵⁴ They contend that intervention in domestic violence should largely be based on community-based responders not affiliated with any state agency.⁴⁵⁵ Additionally, abolitionists might argue that co-responder models may result in race-based enforcement disparities, as dispatchers are more likely to send police to communities of color, citing safety concerns.

While both types of criticism warrant consideration, the diversified-response model I advocate addresses these concerns. In response to the first line of critique, safety concerns remain paramount under the model, which concedes that police presence may sometimes be inevitable; thus, in high-risk interventions, sending civilians alone would be unwarranted.⁴⁵⁶ The model recognizes that responders might encounter dangerous offenders, some of whom might be armed. However, the common belief about the “dangerousness” of domestic abusers is often exaggerated due to broad interpretations of the concepts of danger and violence.⁴⁵⁷ “Dangerousness” is

452. See CITY OF MINNEAPOLIS, *supra* note 24, at 58.

453. Jurisdictions could integrate social workers into police agencies and bolster collaboration between police departments and domestic violence organizations. For example, Illinois state law was recently amended to incorporate social workers and behavioral health specialists in police agencies. See 65 ILL. COMP. STAT. ANN. 5/11-1.5-5 to -25 (2024).

454. See Emily M. Poor, *Disentangling the Civil-Carceral State: An Abolitionist Framework for the Non-Criminal Response to Intimate Partner Violence*, 47 N.Y.U. REV. L. & SOC. CHANGE 273, 310 (2023); see also ROBELO, *supra* note 20, at 37.

455. See Poor, *supra* note 454, at 310.

456. See *supra* Section III.B.

457. See Melissa Hamilton, *Identifying the Dangerous Few* 18 (Feb. 6, 2023) (unpublished manuscript) (on file with the author); Lyndon Harris & Sebastian Walker, *Difficulties with Dangerousness: The Timing of the Assessment of Risk—Part 1*, 9 CRIM. L. REV. 695, 697 (2018). See generally DAVID A. SKLANSKY, A PATTERN OF VIOLENCE: HOW THE LAW CLASSIFIES CRIMES

an ambiguous term, making it challenging to consistently identify high-risk offenders.⁴⁵⁸ Factors used to gauge abusers' danger levels, such as the type of harm and risk posed, often rely on subjective evaluations rather than empirical evidence.⁴⁵⁹

Addressing the second criticism, the premise underlying the diversified responder model is that abolishing or defunding the police in general, and in the context of domestic violence in particular, is not only politically unfeasible but also conceptually flawed and practically unworkable.⁴⁶⁰ Conceptually, the idea of police abolition lacks clarity regarding the nature of alternative institutions that would replace the police.⁴⁶¹ Abolitionists emphasize the need for community-based interventions in responding to domestic violence but fail to acknowledge that communities are not monolithic and have conflicting interests.⁴⁶² Practically, police abolition underestimates the safety risks that can accompany responses in this area.⁴⁶³ It downplays the fact that some domestic abusers pose danger to both survivors and responders and must be arrested, making the police's involvement inevitable.⁴⁶⁴ Furthermore, non-interventionist policies that were prevalent until the 1980s offer a cautionary tale regarding the idea of eliminating all state intervention. Historically, states largely regarded domestic violence as a private matter rather than a public concern, a stance that left communities to internally handle domestic violence.⁴⁶⁵ Such a hands-off approach has proven detrimental to survivors, prompting states to adopt legal reforms aimed at promoting survivors' safety.⁴⁶⁶ Reintroducing this misconceived method threatens to resurrect the damages of past non-intervention.

AND WHAT IT MEANS FOR JUSTICE 9 (2021) (observing that laws adopt an overly characterological view of violence that focuses on who the person is rather than the situation they find themselves in).

458. Christopher Slobogin, *Preventative Justice: How Algorithms, Parole Boards, and Limiting Retributivism Could End Mass Incarceration*, 56 WAKE FOREST L. REV. 97, 106 (2021).

459. See Avlana K. Eisenberg, *Policing the Danger Narrative*, 113 J. CRIM. L. & CRIMINOLOGY 473, 474, 513 (2023).

460. Cf. Sklansky, *supra* note 7, at 21; SKLANSKY, *supra* note 40, at 58, 61–62.

461. SKLANSKY, *supra* note 40, at 61–62.

462. *Id.* at 62.

463. See *supra* Section II.C.

464. See *supra* Part II.

465. See Reva B. Seigel, "The Rule of Love": Wife Beating as Prerogative and Privacy, 105 YALE L.J. 2117, 2120 (1996); Patricia L. Bryan, *Stories in Fiction and in Fact: Susan Glaspell's a Jury of Her Peers and the 1901 Murder Trial of Margaret Hossack*, 49 STAN. L. REV. 1293, 1303 (1997).

466. See Cheryl Hanna, *No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions*, 109 HARV. L. REV. 1849, 1857–60 (1996).

In line with reformist stances, I advocate for significant changes in responses to domestic violence, suggesting a reduction in police involvement where possible, and an increase in civilian responder roles in situations where police intervention is not required for safety reasons. While current police responses to domestic violence have significant shortcomings, it does not necessarily follow that states should cease all interventions. Addressing domestic violence, as a societal and public health issue, should primarily be the state's responsibility, in line with its role of ensuring the health, safety, and welfare of its residents.⁴⁶⁷ Moreover, the harm and ineffectiveness of police responses are not intrinsic to any state response, but rather attributed to flawed practices.

Admittedly, the concern regarding the continued central role of police in domestic violence responses in communities of color is an important unintended consequence warranting careful consideration. It is vital that decisions to dispatch police remain racially neutral. These decisions should be based solely on concrete information regarding the likely presence of firearms at the incident location, rather than on the abuser's personal attributes. States must rectify their misconceived practices by reimagining their response strategies in a way that champions social justice goals. Rather than depending entirely on police, states should aim to reduce the exclusive reliance on police and adopt supportive policies designed specifically to meet survivors' needs.⁴⁶⁸

Moving on to practical objections, other types of concerns likely to be raised include the feasibility of the diversified responder model and the political likelihood that jurisdictions will adopt it. To begin with, the proposed model will likely face substantial challenges due to fiscal feasibility concerns. Implementing the model entails a significant investment of resources, as the costs of creating new infrastructures are considerable.⁴⁶⁹ These fiscal concerns cannot be trivialized because reforming responses to domestic violence carries significant implications for local jurisdictions' budgets. Jurisdictions are unlikely to adopt a proposal that cannot be implemented in practice due to budgetary constraints even if it is warranted from a policy perspective.

Without minimizing these fiscal concerns, the reform I advance here is a plausible goal that may be gradually achieved. Granted, an extensive overhaul of responses to domestic violence cannot be accomplished overnight. Instead, it is a part of a long-term plan that requires phased

467. See Buchhandler-Raphael, *supra* note 49, at 1729–31.

468. See Weissman, *supra* note 165, at 857–58, 863–64.

469. CITY OF MINNEAPOLIS, *supra* note 24, at 109.

implementation.⁴⁷⁰ Jurisdictions considering adopting the model should create task forces that leverage available funds and maximize collaboration across different agencies.⁴⁷¹ Efforts should focus on weaving together funds from various sources, including Federal, State, County, and the private sector.⁴⁷² Additionally, jurisdictions may attempt to leverage philanthropy by vigorously pursuing fundraising opportunities. This may be accomplished by tethering the necessity of police reform to advancing social justice goals, particularly those aimed at offering more equitable responses to disadvantaged communities. An emerging theme in corporate law scholarship is the rise of the Environmental, Social, and Governance (“ESG”) movement.⁴⁷³ Commentators theorize ESG as a product of social demand—especially among millennials—for advancing socially responsible corporate behaviors.⁴⁷⁴ This creates incentives for corporations to promote ESG goals and may open the door to enlisting corporations in financially supporting police reform as a social justice endeavor.

In addition to fiscal feasibility concerns, implementing civilian responder programs also raises questions about their efficacy and practicality. Admittedly, empirical evidence has not yet fully confirmed whether civilian responders can address domestic violence effectively and safely without police involvement. The dearth of empirical evidence, however, is largely because programs dispatching civilian responders to domestic violence calls have not been widely implemented yet. The only way to gauge their effectiveness is to experiment through gradually implementing such programs, drawing on insights from jurisdictions that have begun such experimentation in analogous social and health crises, such as mental health emergencies, and on the emerging data regarding their efficacy.⁴⁷⁵

Furthermore, the model I advocate is not merely theoretical; it is grounded in detailed recommendations for transformative reform in the city’s responses to social problems, as outlined in the Minneapolis Plan.⁴⁷⁶ This report emphasizes that a comprehensive reform should unfold gradually, through a multi-stage, incremental approach.⁴⁷⁷ Introducing civilian responders, either

470. *Id.*

471. *Id.*

472. *Id.*

473. See, e.g., David H. Webber et al., *Shareholder Value(s): Index Fund ESG Activism and the New Millennial Corporate Governance*, 93 S. CAL. L. REV. 1243 (2020).

474. Michal Barzuza et al., *The Millennial Corporation: Strong Stakeholders, Weak Managers*, 28 STAN. J.L. BUS. & FIN. 255, 255 (2023).

475. See Dee & Pyne, *supra* note 139, at 1.

476. See CITY OF MINNEAPOLIS, *supra* note 24, at 27–31.

477. *Id.* at 26.

alongside or instead of traditional police in domestic violence cases, presents implementation challenges that require robust planning. This involves building extensive infrastructure and committing substantial resources and training.⁴⁷⁸ A single step cannot achieve such a profound transformation. Instead, it requires the creation of multi-phased action plans that address both short-term and long-term objectives. Successful incremental change begins with pilot programs in select jurisdictions. By evaluating empirical evidence regarding their outcomes and challenges, these plans can be refined and expanded to more jurisdictions.⁴⁷⁹

Furthermore, the Minneapolis Plan gleans insights from the previous Minneapolis Domestic Violence Experiment, which played a foundational role in the adoption of nationwide pro-arrest policies in the early 1980s.⁴⁸⁰ As highlighted earlier, such mandatory arrest practices have proven to be deeply misguided.⁴⁸¹ This former experience offers a cautionary tale about the risks of veering too far in one direction without carefully weighing its unintended consequences. Similarly, under the diversified responder model, instead of entirely excluding police from responses to domestic violence, they should retain a role, albeit significantly reduced, in societal responses to the problem.

Finally, another critique focuses on the political feasibility of the diversified responder model. Jurisdictions might be reluctant to adopt civilian responders in domestic violence calls given the current political climate, which is largely skeptical—or outright hostile—to the idea of reducing police involvement in community safety efforts. This resistance stems from the public’s perception that diminishing police roles in favor of civilian responders contributes to the rise in violent crime, thereby undermining public safety.⁴⁸² Following the public outrage in the wake of George Floyd’s murder and other high-profile instances of police violence, many local jurisdictions attempted to enact extensive police reforms.⁴⁸³ However, bills suggesting the transfer of some police functions to civilian agencies have faced strong resistance and political backlash, not only from perceived safety

478. *Id.* at 24–25.

479. *Id.* at 18–19.

480. *See* GRUBER, *supra* note 51, at 81–85.

481. *See supra* Sections I.A–B.

482. *See* Jarrett Stepman, *FBI Statistics Show a 30% Increase in Murder in 2020. More Evidence That Defunding Police Wasn’t a Good Idea*, HERITAGE FOUND. (Sept. 30, 2021), <https://www.heritage.org/crime-and-justice/commentary/fbi-statistics-show-30-increase-murder-2020-more-evidence-defunding> [<https://perma.cc/RU2F-Z95X>] (“While there certainly could be a variety of factors involved in the murder surge, it’s hard not to see both the efforts to defund the police and—perhaps more importantly—the ‘Minneapolis Effect,’ as driving factors.”).

483. *See id.*; Rick Su et al., *Defunding Police Agencies*, 71 EMORY L.J. 1197, 1207–08 (2022).

concerns but also from fears that such changes would result in reduced resources for the police.⁴⁸⁴ In response to some local jurisdictions' efforts to pass these bills, several state legislatures have introduced "anti-defunding" bills, which seek to preempt reforms adopted by local governments.⁴⁸⁵

While political feasibility is a valid concern, it should not deter reformers from advocating for alternatives to police in domestic violence cases. This impediment might be temporary, as communities' views about the role of police and the appropriate response to social issues continually evolve. Today, a large portion of the American public supports efforts to reform policing.⁴⁸⁶ Across racial and political divides, Americans share the view that many tasks currently handled by the police could be more effectively managed by other agencies or community organizations, either independently or in collaboration with the police.⁴⁸⁷ History indicates that major societal shifts often demand persistent efforts, even in the face of opposition and backlash.⁴⁸⁸ Furthermore, adopting alternatives to policing is primarily a local endeavor.⁴⁸⁹ Some jurisdictions might be more receptive than others to experimenting with innovative programs. Communities particularly affected by police violence and aggressive practices might be more inclined to accept civilian responders.⁴⁹⁰ These municipalities are likely more responsive to political pressures from their constituents, pushing for more equitable solutions to societal challenges.

Moreover, modest proposals, such as the diversified responder model, tend to be more sustainable over time. In 2021, a public safety ballot initiative in Minneapolis—seeking to replace the existing police department with a new public safety department featuring civilian responders—was rejected by voters.⁴⁹¹ However, by 2023, Minneapolis had started to consider implementing significant police reforms, including the integration of civilian

484. J. David Goodman, 'We Are Feeling Overpoliced': State Troopers Joint Patrols in Austin, N.Y. TIMES (Aug. 5, 2023), <https://www.nytimes.com/2023/08/05/us/austin-police-texas-state-troopers.html>.

485. See Rick Su et al., *Preemption of Police Reform: A Roadblock to Racial Justice*, 94 TEMP. L. REV. 663, 664, 668 (2022).

486. SKLANSKY, *supra* note 40, at 65.

487. *Id.*

488. See, e.g., Reva B. Siegel, *Community in Conflict: Same-Sex Marriage and Backlash*, 64 UCLA L. REV. 1728, 1731 (2017) (discussing the legalization of same-sex marriage in the face of widespread backlash).

489. See *supra* Section II.B.

490. See, e.g., CITY OF MINNEAPOLIS, *supra* note 24.

491. Mitch Smith & Tim Arango, 'We Need Policemen': Even in Liberal Cities, Voters Reject Scaled-Back Policing, N.Y. TIMES (Nov. 8, 2021), <https://www.nytimes.com/2021/11/03/us/police-reform-minneapolis-election.html>.

responders in domestic violence cases.⁴⁹² This evolution from a radical to a more balanced reform strategy underscores the current political feasibility of pragmatic and incremental changes. Therefore, jurisdictions should continue to pursue gradual but meaningful reforms that encourage collaboration between police and civilian responders and reduce dependence on policing as the sole response mechanism.

V. CONCLUSION

Critically evaluating the role of police in domestic violence coincides with a broader societal discourse on police functions. Recent events have sharpened societal controversies over the justification and necessity of police responses in addressing social, health, and political issues. The time is ripe to rethink the need for police involvement in domestic violence response.

This Article has invited readers to critically evaluate the need for police responses to domestic violence. It has demonstrated that the police are not optimally suited to effectively respond to domestic violence emergencies because they lack the relevant skillset needed to provide survivors with the necessary assistance to ensure their safety. In contrast, civilian responders trained in de-escalating conflicts, social work, mediation, and negotiation possess these skills. Therefore, this Article has proposed that jurisdictions consider integrating civilian responders for domestic violence, either operating alongside or independently of police. The overarching goal of incorporating diversified responders with multidisciplinary skills and training is to reduce, rather than eliminate altogether, the role of police.

This Article has urged policymakers to revisit the intuitive assumption that police intervention is necessary in all domestic violence incidents due to the purported inherent danger involved. The instinctive belief that police are essential in these situations is largely false and primarily promoted by “tough on crime” politicians and supported by police unions keen on maintaining robustly funded police departments. As this Article has demonstrated, this narrative is not substantiated by empirical evidence. It has illustrated that police presence in every domestic violence incident is not always required. Data shows that domestic violence responses rarely endanger responding officers and injury rates are very low. Therefore, routinely dispatching police

492. See Kyle Edwards, *Minneapolis Seeks Contract with NYU to Implement Harvard Safety Report Recommendations*, KARE11 (Nov. 13, 2023), <https://www.kare11.com/article/news/local/breaking-the-news/minneapolis-seeks-contract-with-nyu-to-implement-harvard-safety-report-recommendations/89-88c3ef42-55ab-4176-8eee-515bb2097a12> [https://perma.cc/S3JS-3AVN]; see also CITY OF MINNEAPOLIS, *supra* note 24, at 57.

for all domestic violence calls is unjustified. An evidence-based response would tailor interventions to each incident's specific risks, sometimes sending civilian-only responders, and other times, a mix of civilians and police. Overall, increasing the role of civilian responders holds the promise for a safer, more effective, and equitable alternative to traditional policing.

This proposal is not merely a theoretical academic exercise, as programs involving civilian responders, particularly for mental health emergencies, are already underway. Skeptics may view these reforms as financially and politically unfeasible. Despite these potential hurdles, this Article has demonstrated that the proposed reform is viable if planned with sufficient time, detail, and resources, such as outlined in the Minneapolis Plan.⁴⁹³ Moreover, this Article has planted the seeds for linking police reform with social justice objectives. As calls for corporate social responsibility grow louder, there are new opportunities to engage businesses in these endeavors. Responses to domestic violence could be viewed as an investment in a more equitable society.

Furthermore, for those readers who remain unpersuaded that civilian responders could effectively address domestic violence, this Article has also offered potential insights for improving existing police responses. Jurisdictions that reject diversified responder models could adopt more modest reforms that focus on properly training police officers—for example, instructing them in crisis intervention strategies and trauma-informed approaches—so that they might better attend to survivors' safety needs and preferences.

Finally, while this Article has primarily advocated for civilian responders, this shift in responsive approaches is merely a necessary, yet insufficient, component among broader societal strategies for addressing domestic violence. A holistic strategy includes preventive and restorative measures that offer long-term solutions beyond initial emergency responses. Addressing the underlying root causes of domestic violence, including alcohol abuse and broader social, health, and economic conditions, is essential for effectively addressing the persistent problem of domestic violence.

493. CITY OF MINNEAPOLIS, *supra* note 24, at 14–15.