

SPECIAL REPORT



**The Violence Against Women Act:
Pervasive and Chronic Flaws**

COALITION TO END DOMESTIC VIOLENCE

The Violence Against Women Act, first championed by then-Senator Joseph Biden, was originally enacted in 1994, and subsequently reauthorized in 2000, 2005, and 2013. VAWA primarily authorizes the award of grants to criminal justice agencies. Originally designed to address domestic violence between intimate partners, the scope of VAWA has expanded with each reauthorization.¹ In FY2017, VAWA received an appropriation of \$474 million.²

VAWA reinforced and expanded the “get tough on crime” narrative that pervaded American society during the nineties, a sentiment that gave short shrift to due process and the presumption of innocence. This narrative eventually spurred the enactment of about 1,500 domestic violence laws at the state level that revamped the legal framework for addressing intimate partner violence (IPV).³

Over the years, the Violence Against Women Act has been widely criticized. A report by the Independent Women’s Forum, for example, highlighted many of these concerns.⁴

1. Ideological foundation
2. No evidence of effectiveness
3. Perpetuates harmful stereotypes
4. Leaves many victims without access to services
5. Prone to waste, fraud, and abuse
6. Mandatory arrest provisions may place victims at greater risk
7. Failure to address substance abuse and psychological disorders

These problems with VAWA continue to the present time, and in some respects, have worsened. This Special Report reviews the following 10 problem areas:

1. Ideological basis: “Power and control”
2. Lack of a scientific foundation
3. Failure to address the underlying causes of abuse
4. Over-criminalization
5. Constitutional concerns and lack of due process
6. False allegations and immigration fraud
7. “Trauma-informed” investigations
8. Sex bias
9. Family dissolution
10. Waste, fraud and abuse of taxpayer money

¹ Garrine Laney (2010). *Violence Against Women Act: History and Federal Funding*. <https://apps.dtic.mil/sti/pdfs/ADA516483.pdf>

² Office on Violence Against Women (undated). *FY 2018 Budget Request at A Glance*. <https://www.justice.gov/jmd/page/file/968291/download>

³ Miller N (2005). *What does research and evaluation say about domestic violence laws? A compendium of justice system laws and related research assessments*. Alexandria, VA: Institute for Law and Justice Footnote 28.

⁴ Independent Women’s Forum (2013). *Policy Focus: The Violence Against Women Act*. http://c1355372.cdn.cloudfiles.rackspacecloud.com/07bad26a-d4e5-43e1-8577-16563af68649/VAWA_Policy%20Focus.pdf

1. Ideological Basis: “Power and control”

Gender ideology posits that intimate partner violence is an outgrowth of patriarchy, and that the male need for “power and control” is the root cause of partner aggression.⁵ This formulation cannot account for the well-documented fact that over half of all partner abuse is female-initiated⁶ and abuse rates in lesbian couples are higher than among those in heterosexual relationships.⁷

Nonetheless, this ideological assumption has been inordinately influential in shaping domestic violence laws, policies, and programs across the nation. The Independent Women’s Forum notes, for example, that state-level domestic violence coalitions have a history of “requiring member organizations and grant recipients to embrace the feminist understanding that violence is caused by men’s desire for power and control.”⁸ As a result:

- A national survey found that 45% of abuse shelters viewed their main role as promoting feminist political activism, while only 25% of shelters accorded priority to providing treatment and support for victims of abuse.⁹
- The National Research Council noted that domestic violence treatment programs are often “driven by ideology and stakeholder interests rather than plausible theories and scientific evidence of fact.”¹⁰

Reflecting its ideological leanings, the U.S. Department of Justice (DOJ) Office of Violence Against Women has defined domestic violence as: “a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain *power and control* over another intimate partner.” [emphasis added]¹¹ Significantly, this “power and control” concept is not found anywhere in the language of VAWA, and the problematic language was removed during the Trump Administration.

2. Lack of an Adequate Scientific Foundation

Given the ideological foundations of most domestic violence programs, it is not surprising that factual misstatements are widespread. One of the most notorious myths is

⁵ Catharine MacKinnon (1989). *Toward a Feminist Theory of the State*. Harvard University Press.

⁶ Centers for Disease Control and Prevention (2010). *National Intimate Partner and Sexual Violence Survey*. Atlanta, Georgia. Tables 4.7 and 4.8.

http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf

⁷ Centers for Disease Control (2010). *Findings on Victimization by Sexual Orientation*. Tables 6 and 7.

https://www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf

⁸ Independent Women’s Forum (2013). *Policy Focus: The Violence Against Women Act*.

http://c1355372.cdn.cloudfiles.rackspacecloud.com/07bad26a-d4e5-43e1-8577-16563af68649/VAWA_Policy%20Focus.pdf

⁹ Epstein S, Russell G, and Silvern L (1988). *Structure and ideology of shelters for battered women*. American Journal of Community Psychology, Vol. 16, Pages 345–367.

¹⁰ National Research Council (2004). *Advancing the Federal Research Agenda on Violence Against Women*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/10849>

¹¹ Office of Violence Against Women (undated). *Domestic Violence*. <https://www.justice.gov/ovw/domestic-violence>

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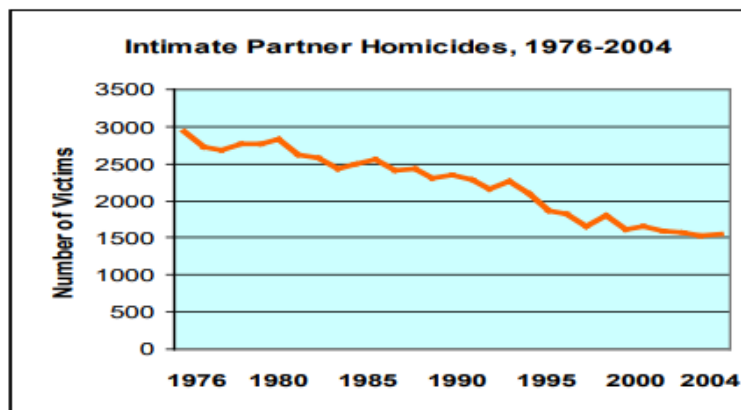
that “More women are victims of domestic violence on Super Bowl Sunday than on any other day of the year.” Christina Hoff Sommers exposed the falsity of this claim, concluding, “How a belief in that misandrist canard can make the world a better place for women is not explained.”¹²

Such misleading assumptions continue to influence domestic violence efforts to the present time. For example, Futures Without Violence presents a series of domestic violence “facts” on its website. Not a single one alludes to the existence of male victims.¹³

- On average more than three women a day are murdered by their husbands or boyfriends in the United States.
- Nearly one in four women in the United States reports experiencing violence by a current or former spouse or boyfriend at some point in her life.
- Women are much more likely than men to be victimized by a current or former intimate partner. Women are 84 percent of spouse abuse victims and 86 percent of victims of abuse at the hands of a boyfriend or girlfriend. About three-fourths of the persons who commit family violence are male.
- Women ages 20 to 24 are at the greatest risk of experiencing nonfatal intimate partner violence.

These misleading claims bring to mind the expression, “A half-truth is a whole lie.”

Given the absence of a scientific foundation, it is not surprising that evidence of VAWA’s effectiveness is scarce. FBI statistics reveal a substantial decline of intimate partner homicides beginning in the mid-1970s.¹⁴ After the enactment of VAWA in 1994, the fall in homicides continued, but at a slower rate than previously, as illustrated by this graph:



¹² Snopes Staff (2001). *Domestic Violence on Super Bowl Sunday*. Snopes. <https://www.snopes.com/crime/statistics/superbowl.asp>

¹³ Futures Without Violence (accessed December 16, 2021). *Key Statistics* <https://www.futureswithoutviolence.org/resources-events/get-the-facts/>

¹⁴ Catalano S (2006). *Intimate Partner Violence in the United States*. US Department of Justice. <http://www.ojp.usdoj.gov/bjs/intimate/ipv.htm>

The DOJ’s Angela Moore Parmley concluded that VAWA “shows no evidence to date that it has ever led to a decrease in the overall levels of violence against women.”¹⁵ The Independent Women’s Forum noted that VAWA programs “have never undergone scientifically-rigorous evaluations to ensure they are achieving their intended results.”¹⁶

For additional information, see the CEDV Special Reports, *Thirty Years of Domestic Violence Half-Truths, Falsehoods, and Lies*¹⁷ and *How Effective are Domestic Violence Programs in Stopping Partner Abuse?*¹⁸

3. Failure to Address the Underlying Causes of Abuse

The U.S. Centers for Disease Control has identified a broad range of risk factors for intimate partner violence, including:¹⁹

Individual Factors:

- Low self-esteem
- Lower socioeconomic status
- Diminished academic achievement
- Young age
- Aggressive or delinquent behavior as a youth
- Heavy alcohol and drug use
- Depression
- Anger and hostility
- Antisocial personality traits
- Borderline personality disorder
- Prior history of being physically abusive
- Having few friends and social isolation
- Unemployment
- Emotional dependence
- Belief in strict gender roles
- Desire for power and control in relationships
- Perpetrating psychological aggression
- Being a victim of physical or psychological abuse

¹⁵ Violence Against Women (2004). Vol. 10, No. 12, at. 1,424

¹⁶ Independent Women’s Forum (2013). *Policy Focus: The Violence Against Women Act*, Page 2. http://c1355372.cdn.cloudfiles.rackspacecloud.com/07bad26a-d4e5-43e1-8577-16563af68649/VAWA_Policy%20Focus.pdf

¹⁷ Coalition to End Domestic Violence (2021). *Thirty Years of Domestic Violence Half-Truths, Falsehoods, and Lies*. <http://endtodv.org/wp-content/uploads/2021/09/Thirty-Years-of-DV-Half-Truths-Falsehoods-and-Lies.pdf>

¹⁸ Coalition to End Domestic Violence (2021). *How Effective are Domestic Violence Programs in Stopping Partner Abuse?* <http://endtodv.org/wp-content/uploads/2021/04/How-Effective-are-DV-Programs.pdf>

¹⁹ Centers for Disease Control (2021). *Intimate Partner Violence: Risk and Protective Factors*. <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/riskprotectivefactors.html>

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- History of experiencing poor parenting and/or physical discipline as a child

Relationship Factors:

- Marital conflict; fights, tension and other relationship struggles
- Marital instability; divorce or separation
- Dominance and control of the relationship by one partner over the other
- Economic stress
- Unhealthy family relationships

Community Factors:

- Poverty and associated factors (e.g., overcrowding)
- Low social capital; lack of institutions, relationships, and norms that shape a community's social interactions
- Weak community sanctions against intimate partner violence (e.g., unwillingness of neighbors to intervene)

Among these factors, among the most important causes of domestic violence are substance abuse,²⁰ marital separation,²¹ and mental illness.²² Ironically, the language of the Violence Against Women Act does not mention any of these root causes.

More recently, Sen. Patrick Leahy has recommended restorative justice as a strategy to enhance the responsiveness of domestic violence programs to victims' needs and address the underlying root causes.²³

4. Over-Criminalization

The United States has the highest rate of incarcerated individuals compared to every other country, due to its over-criminalization, which refers to the making and enforcing of overly broad, often duplicative laws. In the words of the Ms. Foundation for Women: "Unfortunately, when state power has been invited into, or forced into, the lives of individuals, it often takes over."²⁴

²⁰ Matthew Durose et al (2005). *Family Violence Statistics*. Bureau of Justice Statistics, NCJ 207846. Table 2.8. <https://www.bjs.gov/content/pub/pdf/fvs.pdf>

²¹ Shannan Catalano (2012). *Intimate Partner Violence*. Bureau of Justice Statistics. Figure 6. <https://www.bjs.gov/content/pub/pdf/ipv9310.pdf>

²² Kelsey Hegarty (2011). *Domestic violence: the hidden epidemic associated with mental illness*. British Journal of Psychiatry. <http://bjp.rcpsych.org/content/198/3/169>

²³ Coalition to End Domestic Violence (2021). *CEDV Commends Sen. Patrick Leahy for Leading Drive to Include 'Restorative Justice' in VAWA Bill*. <http://endtodv.org/pr/cedv-commends-sen-patrick-leahy-for-leading-drive-to-include-restorative-justice-in-vawa-bill/>

²⁴ Ms. Foundation for Women (2003). *Safety and justice for all*. New York.

According to the Bureau of Justice Statistics, 109,300 persons, representing 15.5% of all convicted violent offenders in federal, state and local correctional facilities have committed a crime against someone in their family:²⁵

- Offense against a daughter or son: 39,500 persons
- Offense against a wife or husband: 33,100 persons
- Offense against another family member: 36,800 persons

These numbers do not include the many thousands of persons held in local jails pending bail release and a court hearing.

VAWA has contributed to over-criminalization in at least three ways:

1. Vague, Broad Definitions: According to VAWA domestic violence “includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim...”²⁶ Use of the word “includes” has caused the broadening of “domestic violence” to encompass many offenses that may not be violent in nature. In many states civil definitions of domestic violence include emotional distress, name calling,²⁷ or use of so-called “coercive control” tactics.²⁸

2. Mandatory Arrest: The original 1994 version of VAWA mandated that police make warrantless arrests of domestic violence offenders if the officer witnesses or has probable cause to believe a crime has occurred. VAWA’s 2005 reauthorization, however, changed the language from “mandatory arrest” to “pro-arrest.”²⁹ Nevertheless, mandatory arrest policies continue to be widespread across the nation.

3. No-Drop Prosecution: No-drop policies prohibit the dismissal of a case, even if the evidence is weak or the complainant does not want to cooperate.³⁰ While such policies may increase the number convictions, one study found that allowing complainants the option to drop charges resulted in lower abuser recidivism and recurring abuse.³¹

When victims call the police for assistance, experience reveals they usually do not want the offender to be incarcerated. Instead, they prefer the abuser to participate in programs that focus on alcohol treatment, partner counseling or anger management. But finding the

²⁵ Matthew R. Durose et al. (2005). *Family Violence Statistics*. Bureau of Justice Statistics, p. 60. <https://bjs.ojp.gov/content/pub/pdf/fvs.pdf>

²⁶ Section 40002 (a) (8). 1994 version. <http://legcounsel.house.gov/Comps/DOMVIOL.PDF>

²⁷ Coalition to End Domestic Violence (2021). *Expanding Definitions of Domestic Violence*. <http://endtodv.org/wp-content/uploads/2021/06/Expanding-Definitions.pdf>

²⁸ Coalition to End Domestic Violence (Accessed Jan. 8, 2022). Coercive Control: Do We Really Want to Outlaw Nagging? <https://endtodv.org/camp/coercive-control/>

²⁹ VAWA (1994). Section 102. *Grants to Encourage Arrest Policies and Enforcement of Protection Orders*. <https://www.gpo.gov/fdsys/pkg/BILLS-113s47enr/pdf/BILLS-113s47enr.pdf>

³⁰ Economic Security for Survivors Project (2012). *Arrest Policy and Survivors*. http://www.ncdsv.org/images/WOW_ArrestPolicyAndSurvivors_10-2012.pdf

³¹ O’Sullivan, C.S., Davis, R.C., Farole Jr., D. & Rempel, M. (2007). *A comparison of two prosecution policies in cases of intimate partner violence: Mandatory case filing vs. following the victim’s lead*. Grant No. 2004-WG-BX-0009. National Institute of Justice.

current system to be unresponsive to their needs, victims decline to seek out law enforcement assistance for future violent incidents.

5. Constitutional Concerns and Lack of Due Process

In the United States, the rule of law is based on fundamental principles delineated in the Constitution and its amendments. These precepts include separation of powers and citizens' right to due process. But domestic violence laws have occasioned concerns about the denial of due process.

The Fifth and Fourteenth Amendments state: No person shall be deprived of life, liberty, or property "without due process of law." Due process requires the opportunity to be heard "at a meaningful time and in a meaningful manner" before the government infringes upon one's life, liberty or property.³² But domestic violence restraining orders, which typically restrict the respondent's access to their home and other property, are often granted with little regard for due process. Elaine Epstein, former president of the Massachusetts Bar Association, admitted,

"Everyone knows that restraining orders and orders to vacate are granted to virtually all who apply... In many cases, allegations of abuse are now used for tactical advantage."³³

The Sixth Amendment's Confrontation Clause states: "In all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him." The Supreme Court has ruled inadmissible testimony by a witness who did not appear at trial, unless the witness was unavailable to testify at the trial and the defendant had a prior opportunity for cross examination.³⁴ But when the complainant refuses to testify in a domestic violence case the prosecutor may attempt to introduce prior statements by the complaining witness.

For additional information, see the CEDV Special Report, *An Assault Upon Our Civil Rights*.³⁵

6. Sex Bias

According to the National Intimate Partner and Sexual Violence Survey, 4.2 million men and 3.5 million women are victims of physical domestic violence each year.³⁶ In about

³² *Armstrong v. Manzo* (1965). 380 U.S. 545, 552, 85 S.Ct. 1187, 14 L.Ed.2d 62.

³³ Epstein E (1993). *Speaking the unspeakable*, Massachusetts Bar Association Newsletter.

³⁴ Supreme Court (2004). *Crawford v. Washington*, 541 U.S. 36.

<https://www.law.cornell.edu/supct/html/02-9410.ZS.html>

³⁵ Coalition to End Domestic Violence (2021). *An Assault Upon Our Civil Rights*. <http://endtodv.org/wp-content/uploads/2021/04/Assault-Civil-Rights.pdf>

³⁶ Centers for Disease Control and Prevention (2010). *National Intimate Partner and Sexual Violence Survey 2010 Summary Report*. Atlanta, Georgia. Tables 4.7 and 4.8.

http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf

half of cases, the aggression is mutual.³⁷ Despite these well-documented findings, men, especially African-American men, have been disproportionately affected by the civil rights infringements discussed here:³⁸

- An estimated 85% of restraining orders are issued against men.³⁹
- 81% of domestic violence arrestees are male.⁴⁰
- An estimated two-thirds of persons falsely accused of abuse are male.⁴¹
- Less than 1 percent of persons receiving abuse shelter services are male.⁴²

Several women’s groups have expressed concerns over the anti-male bias of VAWA-inspired policies and programs:

- *Beverly LaHaye Institute*: “when women can routinely claim nebulous ‘psychological harm’ and keep a man out of his home, away from his children, possibly losing his job and ruining his reputation, there is more of a war against men than against women.”⁴³
- *Concerned Women for America*: “Additionally, proponents of VAWA need to quit demonizing men as a whole. In fact, research shows that husbands — and marriage in general — offer the most protective safe haven for women and their children, compared to any other relationship.”⁴⁴
- *Independent Women’s Forum*: “A large percentage of domestic abuse victims are men and homosexuals, but VAWA allocates virtually no services for male victims.”⁴⁵

For additional information, see the CEDV Special Report, *Domestic Violence Programs Discriminate Against Male Victims*.⁴⁶

³⁷ Williams S and Frieze I (undated). *Patterns of violent relationships, psychological distress, and marital satisfaction in a national sample of men and women*. Sex Roles, Vol. 52, Nos. 11/12, Pages 771–785.

³⁸ Durose MR et al. (2005). *Family Violence Statistics*. Department of Justice. NCJ 207846, Table 5.9. <http://www.ojp.usdoj.gov/bjs/pub/pdf/fvs.pdf>

³⁹ Young C (2005). *Domestic violence: An in-depth analysis*. Independent Women’s Forum, at 25. <https://www.iwf.org/2005/09/30/domestic-violence-an-in-depth-analysis/>

⁴⁰ Durose MR et al. (2005). *Family Violence Statistics*. Department of Justice. NCJ 207846. <http://www.ojp.usdoj.gov/bjs/pub/pdf/fvs.pdf>

⁴¹ Center for Prosecutor Integrity (2020). *Survey: Over 20 Million Have Been Falsely Accused of Abuse*. Rockville, MD. <http://www.prosecutorintegrity.org/pr/survey-over-20-million-have-been-falsely-accused-of-abuse/>

⁴² Lyon E, Lane S, Menard A (2008). *Meeting Survivors Needs: A Multi-State Study of Domestic Violence Shelter Experiences*. Prepared for the National Institute of Justice. Page 94. <http://www.ncjrs.gov/pdffiles1/nij/grants/225025.pdf>

⁴³ Janice Shaw Crouse (2012). *The Violence Against Women Act Should Outrage Decent People*. <https://www.usnews.com/debate-club/should-the-violence-against-women-act-be-reauthorized/the-violence-against-women-act-should-outrage-decent-people>

⁴⁴ Penny Nance (2013). *Why Congress ought to ditch VAWA*. Washington Times. <https://www.washingtontimes.com/news/2013/feb/8/nance-why-congress-ought-ditch-avaa/>

⁴⁵ Independent Women’s Forum (March 2013). *Policy Focus: The Violence Against Women Act*. at. 2

⁴⁶ Coalition to End Domestic Violence (2022). *Domestic Violence Programs Discriminate Against Male Victims*. <http://endtodv.org/wp-content/uploads/2022/01/Discrimination-Against-Male-Victims.pdf>

7. False Allegations and Immigration Fraud

As discussed in Section 4 above, broad definitions are commonplace in state civil domestic violence laws and due process protections are frequently denied in their application. In addition, persons who make demonstrably false claims of abuse are seldom prosecuted. These factors create an environment that enables false allegations to flourish.

Analyses suggest that in 60%–80% of cases, the abuse allegation is deemed to be either unsupported or false.^{47,48} Such allegations are often incentivized by award of child custody to the accusing parent and other advantages in a divorce action. Similarly, false allegations occur often in the immigration context (see Section 7, below). As a result, a YouGov survey found 8% of American report they have been falsely accused of domestic violence, sexual assault, or child abuse.⁴⁹

In order to raise awareness about false allegations, a petition entitled “Stop False Allegations of Domestic Violence” was created to convey to Congress the impact of false allegations on the lives of the accused. “In most states, the burden of proof is thrown out and the simple word of the accuser is being taken without question, many times without the accused even being allowed to speak,” the petition states.⁵⁰

In addition, false allegations undermine the credibility of future victims and divert critical services and protections away from persons in need.

For additional information, see the CEDV Special Reports, *What is the Cost of False Allegations of Domestic Violence?*⁵¹ and *Incentives to Make False Allegations of Domestic Violence.*⁵²

Immigration Fraud

Section 805 of VAWA addresses Requirements Applicable to U Visas and Section 806 Hardship Waivers. Under this section, immigrants are allowed to petition for visas by alleging they are a victim of abuse. In FY 2018, the federal Fraud Detection and National Security Directorate received 149,300 referrals from the United States Citizenship and

⁴⁷ Johnston J et al. (2005). *Allegations and substantiations of abuse in custody-disputing families*. Family Court Review Vol. 43, No. 2.

⁴⁸ Foster BP (2008). *Analyzing the cost and effectiveness of governmental policies*. Cost Management. Vol. 22, No. 3.

⁴⁹ Center for Prosecutor Integrity (2020). Survey: Over 20 Million Have Been Falsely Accused of Abuse. <http://www.prosecutorintegrity.org/pr/survey-over-20-million-have-been-falsely-accused-of-abuse/>

⁵⁰ Petition2Congress (undated). *Stop False Allegations of Domestic Violence* <https://www.petition2congress.com/ctas/stop-false-allegations-domestic-violence>

⁵¹ Coalition to End Domestic Violence (2021). *What is the Cost of False Allegations of Domestic Violence?* <http://endtodv.org/wp-content/uploads/2021/12/False-Allegations-Cost.pdf>

⁵² Coalition to End Domestic Violence (2021). *Incentives to Make False Allegations of Domestic Violence.* <http://endtodv.org/wp-content/uploads/2021/12/False-Allegations-Incentives.pdf>

Immigration Service (CIS).⁵³ The referrals included 30,400 fraud leads and 21,400 fraud cases, including marriage fraud cases.

In cases alleging domestic violence, immigration authorities will not accept evidence that the allegation may be false, inexplicably claiming consideration of such evidence would encourage retaliatory measures by the alleged abuser.

In 2011 Julie Poner gave testimony before the Senate Judiciary Committee. She described how she became a victim of immigration fraud and asked Congress to amend VAWA to require a local USCIS agent conduct a proper and thorough investigation into these types of allegations.⁵⁴ Despite this startling testimony, the VAWA reauthorization bill that was approved in 2013 failed to address these concerns.

Reports of VAWA-related immigration fraud continue. On March 15, 2017 the U.S. Senate Judiciary Committee held a hearing on immigration-related married fraud. During that hearing, two U.S. citizens testified how they had been victims of sham marriages. Elena Lopez testified how her immigrant husband, who claimed to be an abuse victim, had attempted to strangle her and aimed a rifle at her.⁵⁵ Jamal Hussain, a physician and naturalized American citizen, also testified about his experience with marriage fraud.⁵⁶

For additional information, see the CEDV Special Report, *Domestic Violence-Related Immigration Fraud*.⁵⁷

8. “Trauma-Informed” Approaches

The 2013 VAWA reauthorization incorporated the Campus Sexual Violence Elimination Act, also known as the “SaVE Act,” at Section 304. Designed to amend portions of the Clery Act, the SaVE amendments expanded the scope of reporting, response, prevention, and education requirements for schools in sexual assault cases.⁵⁸

Under the SaVE Act, recipients of federal funding are expected to provide documentation that their training and education programs regarding sexual assault are “informed by an understanding of... trauma-specific approaches.” Such practices presume the guilt of the accused and can prevent consideration of exculpatory evidence.

⁵³ USCIS (2018). *2018 USCIS Statistical Annual Report*.

https://www.uscis.gov/sites/default/files/USCIS/statistics/2018_USCIS_Statistical_Annual_Report_Final_-_OPQ_5.28.19_EXA.pdf

⁵⁴ Senate Judiciary Committee (July 13, 2011). *Testimony of Julie Poner*.

<https://www.judiciary.senate.gov/imo/media/doc/11-07-13%20Poner%20Testimony.pdf>

⁵⁵ Senate Judiciary Committee (March 15, 2017). *Testimony of Elena Lopez*.

<https://www.judiciary.senate.gov/imo/media/doc/03-15-17%20Lopez%20Testimony.pdf>

⁵⁶ Senate Judiciary Committee (March 15, 2017). *Testimony of Jamal Hussain*.

<https://www.judiciary.senate.gov/imo/media/doc/03-15-17%20Hussain%20Testimony.pdf>

⁵⁷ Coalition to End Domestic Violence (2021). *Domestic Violence-Related Immigration Fraud* .

<http://endtodv.org/wp-content/uploads/2021/12/Immigration-Fraud.pdf>

⁵⁸ Government Printing Office (January 3, 2013). *Violence Against Women Reauthorization Act of 2013*.

<https://www.gpo.gov/fdsys/pkg/BILLS-113s47enr/pdf/BILLS-113s47enr.pdf>

In her 2017 article titled, *The Bad Science Behind Campus Response to Sexual Assault*, Emily Yoffe explained that trauma-informed investigations are not based in science, but have evolved from a “small band of self-styled experts in the neurobiology of trauma.”⁵⁹ Yoffe also discussed how the inaccurate science has been used by policy makers and victim advocates to create a flawed campus adjudication system.

The trauma informed techniques teach campus administrators, who generally have minimal experience with investigations or sexual assault cases, “virtually every action or behavior that might cast legitimate doubt on an assault should be routinely discounted – and that no matter what precedes or follows an accusation of assault, the accused is always guilty.”⁶⁰

Trauma-informed investigations stand at odds with Title IX implementing regulations requirement that investigations be “fair and impartial.”⁶¹ Congress must ensure that these practices are stopped, and federal funds used to implement fundamentally fair trainings, investigation methods and due process procedures. Sadly, “trauma-informed” programs funded by VAWA have effectively removed any presumption of innocence and ridicule the very notion of justice.⁶²

9. Family Dissolution

Families are the cornerstone of an orderly, prosperous and free society. Families provide the environment in which children are nurtured and protected.⁶³ According to Harvard Law School professor Jeannie Suk, as a result of readily available protection orders and aggressive law-enforcement measures, our nation’s domestic violence system amounts to “state-imposed de facto divorce.”⁶⁴ The government “initiates and dictates the end of the intimate relationship as a solution to DV,” Suk maintains.

Domestic violence treatment programs also discourage reconciliation. One analysis of states that have implemented offender treatment program standards found that 42% of states prohibit couples counseling.⁶⁵ A study by the National Institute for Justice observed, “Restrictions on couples therapy and individual psychotherapy for battering are a point of contention between feminist-oriented batterer intervention providers and mental health providers in many communities.”⁶⁶

⁵⁹ Emily Yoffe (2017). *The Bad Science Behind Campus Response to Sexual Assault*. The Atlantic. <https://www.theatlantic.com/education/archive/2017/09/the-bad-science-behind-campus-response-to-sexual-assault/539211/>

⁶⁰ *Id.*

⁶¹ 34 CFR 106.8.

⁶² SAVE (2016). *Victim-Centered Investigations: New Liability Risk for Colleges and Universities*. <http://www.saveservices.org/wp-content/uploads/Victim-Centered-Investigations-and-Liability-Risk.pdf>

⁶³ Lassiter A. Marriage (2005). *Independent Women’s Forum*.

⁶⁴ Suk J (2006). *Criminal law comes home*. Yale Law Journal, Vol. 116, No. 2.

⁶⁵ Maiuro R et al. (2001). *Are current state standards for domestic violence perpetrator treatment adequately informed by research?* Journal of Aggression, Maltreatment, and Trauma. Vol. 5, at. 21-44.

⁶⁶ Quoted in Healey, Smith, and O’Sullivan (1998). *Controversial approaches in batterer intervention*. In Healy KM: *Batterer Intervention*, U.S. Dept. of Justice, National Institute of Justice, at. 25. <https://www.ojp.gov/pdffiles/168638.pdf>

These policies contribute to the problem of father absence. Now, 23.6% of American children live away from their biological father, placing these children at higher risk for a broad range of social pathologies including academic difficulties, conduct issues, and involvement with the criminal justice system.⁶⁷

For additional information, see the CEDV Special Report, *How False Allegations Harm Families and Children*.⁶⁸

10. Waste, Fraud, and Abuse

Over the years, accountability measures at DOJ’s Office on Violence Against Women have come under scrutiny. As early as 2002, the Government Accountability Office (GAO) testified to Congress about OVW-administered programs. The GAO reminded the OVW that information systems are “only as good as the management that wields them.” In response, OVW officials acknowledged that “they were not satisfied with the performance measures they used to gauge their performance.”

In 2006, the Office of Management and Budget directed the DOJ’s OVW to “Develop a comprehensive evaluation plan for the Violence Against Women Programs to obtain better information on the program’s impacts.” Four years later, the OVW had not finalized such an evaluation plan.

The DOJ Office of the Inspector General conducts routine audits of OVW grantees over a three-year period.⁶⁹ A series of audits conducted over a three-year period revealed \$3.6 million in unallowable expenses and \$9.4 million in unsupported costs. Among the 40 grantees, 29 were classified as “generally non-compliant.”⁷⁰ Clearly, waste and fraud continue to be widespread among VAWA grantees.

For more information, see CEDV’s report, *Accountability and Oversight of Federally-Funded Domestic Violence Programs*.⁷¹

The cumulative effects of the 10 problem areas listed above are especially harmful for African-American communities, which for decades have been struggling to overcome the problems of discrimination, over-criminalization, family dissolution, and poverty.⁷²

⁶⁷ National Fatherhood Initiative (2015). *Father Facts* <https://www.fatherhood.org/fatherhood/7-facts-from-father-facts-7>

⁶⁸ Coalition to End Domestic Violence (2021). *How False Allegations Harm Families and Children*. <http://endtodv.org/wp-content/uploads/2021/04/False-Allegations-Harm-Families.pdf>

⁶⁹ Office of the Inspector General, Office of Violence Against Women Audits. <https://oig.justice.gov/reports/ovw-ext.htm>

⁷⁰ Coalition to End Domestic Violence (2018). *Violence Against Women Act: 7 Out of 10 Grant Recipients Flunk Audits*. <http://endtodv.org/pr/pr-violence-against-women-act-7-out-of-10-grant-recipients-flunk-audits/>

⁷¹ Coalition to End Domestic Violence (2021). *Accountability and Oversight of Federally-Funded Domestic Violence Programs*. <http://endtodv.org/wp-content/uploads/2021/08/Accountability-and-Oversight.pdf>

Policy Flaws Give Rise to Political Disputes

This Special Report documents the many policy concerns associated with the Violence Against Women Act. Not surprisingly, these and other concerns resulted in the loss of the strong bipartisan support that VAWA enjoyed during its early years. Following is a summary of the legislative debates during the two most recent reauthorization cycles.

2011-2013 Reauthorization

During the 2000 and 2005 reauthorizations, VAWA enjoyed strong bipartisan support. But during the 2011-2013 cycle this long-standing bipartisanship became frayed.

On November 30, 2011 Sen. Patrick Leahy introduced the VAWA reauthorization bill, S. 1925. The draft bill had not received from input by the Ranking Member of the Judiciary Committee, Senator Chuck Grassley. As a result, the bill became caught up in partisan controversy. Republicans eventually introduced competing versions of VAWA, S. 2338 and H.R. 4970.

In January 2013, Sen. Leahy introduced his second VAWA reauthorization bill, S. 47. This bill was identical to his previous version, with the exception of certain changes to the immigration provisions.⁷³

On February 7, 2013, Senator Grassley proposed an amendment to VAWA.⁷⁴ Among other provisions, his substitute amendment:

- Required that 10% of VAWA grantees be audited every year to ensure that taxpayer funds were not being misspent.
- Limited the amount of VAWA funds that can go to administrative fees and salaries to 7.5%.
- Required that training materials be approved by an external organization to ensure that the materials are based on science, not ideology.
- Enhanced due process rights such as elimination of the preponderance of evidence standard.
- Set aside up to \$25 million for federal prosecutors and magistrates to be placed in Indian Country.
- Implemented a number of changes to assure that U visas would have become a valued law enforcement tool and curb false allegations of abuse.

⁷² Coalition to End Domestic Violence (No date). *Eight Facts Why DV Policies are Harmful to Black Men*. <https://endtodv.org/black-men/>

⁷³ Patrick Leahy (Jan 22, 2013). *Leahy, Crapo Reintroduce Bipartisan Bill to Reauthorize the Landmark Violence Against Women Act*. <https://www.leahy.senate.gov/press/leahy-crapo-reintroduce-bipartisan-bill-to-reauthorize-the-landmark-violence-against-women-act>

⁷⁴ Chuck Grassley (Feb. 7, 2013). *Grassley Substitute Amendment to S. 47 the Violence Against Women Act*. <https://www.grassley.senate.gov/news/news-releases/grassley-substitute-amendment-s-47-violence-against-women-act>

Sen. Grassley’s proposed amendment did not receive the requisite number of votes to proceed.

On February 12, 2013 Sen. Leahy’s bill passed the Senate by a vote of 78 to 22. The 22 Republican senators voted against the bill for a number of reasons, especially in the areas of immigration, tribal jurisdiction, and state responsibility for criminal matters:

- Referring to new provisions involving immigration, same-sex partners, and Native Americans, Sen. Orrin Hatch commented, "It is inappropriate to use the Violence Against Women Act and the good will that it has attracted as cover for those new and divisive projects."⁷⁵
- Sen. John Boozman charged, "It was a "politically–motivated, constitutionally-dubious Senate version bent on dividing women into categories by race, transgender politics and sexual preference."⁷⁶
- Sen. Ted Cruz observed, "Stopping and punishing violent criminals is primarily a state responsibility, and the federal government does not need to be dictating state criminal law."⁷⁷
- Sen. Jim Risch proclaimed, “It is at the state and local level where I believe enforcement and prosecution must remain. The federal government does not need to add another layer of bureaucracy to acts of violence that are being handled at the state and local level. In addition to my 10th Amendment concerns, this legislation raises additional constitutional questions regarding double jeopardy and due process. I opposed this legislation, however well intended it was, because it is another effort of the federal government extending its reach into the affairs of state and local jurisdictions.”⁷⁸
- Other senators expressed concerns that the bill’s tribal jurisdiction provisions could be found unconstitutional by the U.S. Supreme Court.^{79,80, 81}

On February 28, the Senate-approved VAWA bill cleared the House of Representatives, with 138 Republicans voting in opposition.⁸² These representatives expressed similar

⁷⁵ Matt Canham (2012). *Hatch votes against anti-domestic abuse law he once championed.*

<http://archive.strib.com/article.php?id=53998163&itype=CMSID>

⁷⁶ John Boozman (undated). *John Boozman on Civil Rights.* On The Issues.

http://www.ontheissues.org/Domestic/John_Boozman_Civil_Rights.htm

⁷⁷ Office of Sen. Cruz (Feb 12, 2013). *Statement on Sen. Ted Cruz's Vote Regarding VAWA.*

https://www.cruz.senate.gov/?p=press_release&id=201

⁷⁸ Josh Israel (Feb. 6, 2013). *Meet The Four Republican Senators Who Think the Violence Against Women Act Is Unconstitutional.* Think Progress. <https://thinkprogress.org/meet-the-four-republican-senators-who-think-the-violence-against-women-act-is-unconstitutional-12f23bd2a0ed/>

⁷⁹ Anna Merlan, *Here's Why Neither Texas Senator Voted for the Violence Against Women Act* (Feb 13, 2013) <http://www.dallasobserver.com/news/heres-why-neither-texas-senator-voted-for-the-violence-against-women-act-7141865>

⁸⁰ Craig Gilbert (2013). *Sen. Ron Johnson calls Violence Against Women bill unconstitutional.*

<http://archive.jsonline.com/blogs/news/191035431.html>

⁸¹ Rob Capriccioso (March 14, 2013). *Congressmen Explain Their Surprising Violence Against Women Act Votes.* <https://indiancountrymedianetwork.com/news/politics/congressmen-explain-their-surprising-violence-against-women-act-votes/>

concerns as their Senate colleagues. On March 7, 2013, President Obama signed the VAWA reauthorization bill into law.

Current Reauthorization Cycle

On December 21, 2018, VAWA's authorization lapsed,⁸³ although Congressional appropriations are expected to continue. The controversies cited above only intensified during the subsequent VAWA reauthorization debate:

- On April 4, 2019, H.R. 1585 passed the House of Representatives, with most Republicans voting in opposition to the bill.⁸⁴
- Subsequently, S. 2843, which was modeled on H.R. 1585, was introduced in the Senate. The bill never received a vote.⁸⁵
- On March 17, 2021, H.R. 1620 barely passed the House of Representatives, again on a highly partisan vote.⁸⁶
- On October 5, 2021, the Senate Judiciary Committee held a hearing on the VAWA reauthorization.⁸⁷ Several senators expressed hope that a bipartisan VAWA bill would be introduced later that month.

As this Special Report went to press in January 2022, the VAWA reauthorization continued to languish in the Senate.

⁸² S. 47 (113th): Violence Against Women Reauthorization Act of 2013.

<https://www.govtrack.us/congress/votes/113-2013/h55>

⁸³ Katherine Tully-McManus (Dec. 22, 2018). *Violence Against Women Act Lapses Again*. RollCall.

<https://www.rollcall.com/2018/12/22/violence-against-women-act-lapses-again/>

⁸⁴ Congress.gov. *H.R. 1585 Violence Against Women Reauthorization Act of 2019*.

<https://www.congress.gov/bill/116th-congress/house-bill/1585/actions?q=%7B%22search%22%3A%5B%22violence+against+women+act%22%2C%22violence%22%2C%22against%22%2C%22women%22%2C%22act%22%5D%7D&r=6&s=8>

⁸⁵ Congress.gov. S. 2843 <https://www.congress.gov/bill/116th-congress/senate-bill/2843/actions?q=%7B%22search%22%3A%5B%22violence+against+women+act%22%2C%22violence%22%2C%22against%22%2C%22women%22%2C%22act%22%5D%7D&r=5&s=9>

⁸⁶ Congress.gov. *H.R. 1620 Violence Against Women Reauthorization Act of 2021*.

<https://www.congress.gov/bill/117th-congress/house-bill/1620?q=%7B%22search%22%3A%5B%22hr+1620%22%2C%22hr%22%2C%221620%22%5D%7D&s=1&r=5>

⁸⁷ Senate Judiciary Committee (October 5, 2021). *Renewing and Strengthening the Violence Against Women Act*. <https://www.judiciary.senate.gov/meetings/renewing-and-strengthening-the-violence-against-women-act>