LITERATURE SEARCH I

Your Literature Search includes in proper citation form, a minimum of 12 sources which you intend to consult for your research paper. Each source is followed by an indented one- or two-paragraph annotation briefly summarizing the work and how it is relevant to your project in your own words. You should also rate the relevance of the source to your paper [high, medium, low]. Please note that you should not include an overall summary of the entire work.

Note: If you cite directly from the source in your annotation –which is NOT recommended-- be sure to properly acknowledge this. At least 2/3 of your sources should be non-internet publications.

The Rubric for the Literature Search should be included as the top page of this submission. PAPER CLIP rubric to literature search so that the professor can separate the rubric and use it to grade the literature search. You should consult the rubric prior to writing your literature search, in order to become familiar with criteria for grading the Literature Search. Among the essential factors that are important in the quality of your interdisciplinary literature search are:

1. citation form for references—NJ Manual on Style for PRIMARY legal sources; Chicago Slade in Slade for secondary legal sources such as law reviews and all sources in other disciplines.
2. annotations that reflected a knowledge of the work and its relevance to your topic, by rating the work and by your descriptions of the works.
3. comprehensiveness and appropriateness of the bibliography.
4. cohesiveness of Repko chart.

In so far as methodology for sources in your literature search, it is most strongly suggested that you use NOTE CARDS to organize and access the information that you find during your Literature Search. Slade describes several methods for this process. Together with the Repko data management chart, this method is invaluable in retrieving the information when you need it to write the paper.

✓ As a part of the submission of your Literature Search, you should resubmit your updated hypothesis, phrased 3 ways.
✓ You should also resubmit your disciplines and sub-disciplines.
✓ Your literature search should reflect the main disciplines considered for your paper and the case(s) that you will include for your paper. The emphasis for the first literature search is on law-related sources.
✓ References are divided into primary and secondary authority. NOTE that all references in each category of the annotated bibliography should be in alphabetical order by last name of first author or by title if there is no listed author.
✓ You should include, as one of your sources, the touchstone case(s) that you are using for your paper. You should include a case brief for the touchstone case.
Your brief should follow the form for case brief in the Fede/Langlois pamphlet for case briefs.

✓ You should also include a Repko-modeled data management chart for at least 9 of your 12 sources.

You should divide your literature search into primary and secondary sources. Primary sources are sometimes defined differently by disciplines other than law [e.g. historical documents are primary sources for history.] Citation form can mean a full grade difference on your paper. In all cases, citation must follow the Chicago Manual of Style except for PRIMARY legal sources, which follow the New Jersey Manual of Style. In using the New Jersey Manual of Style for PRIMARY legal sources, you should use italics instead of underlining, e.g., *State v. Jones*, *N.J.S.A.* 2:34-21, or 8 *C.F.R.* § 223. Use Chicago Style according to Slade for all secondary legal authority. Use the Slade “journal” references as a model for citing law reviews, for example.

**Use a + symbol if you use a source from your discipline other than law or if your source contains information in two disciplines. You should also use the + symbol for a separate paragraph summarizing the content of your source for the discipline other than law.**

The use of the sources may change when you actually write your paper, but, for purposes of the Literature Search, this would indicate your planned use of sources.

Common errors from prior literature searches follow:

**FAILURE TO USE THE RUBRIC as A CHECKLIST FOR KEY ITEMS TO BE GRADED.**

**CITATION FORM**

- Failure to use NJ Manual on Style form for PRIMARY legal sources and SLADE for secondary legal sources.
- Failure to use proper alphabetical order by last name of author (or by title if the article does not have an author) for primary sources and/or for secondary sources—see pp. 144 and 133-134 of Slade for proper format.
- Use of footnote form instead of bibliographic form [See right side of Slade sample Chicago Style pages]
- According to the NJ Manual on Style and the Bluebook, cases should be cited to the FIRST PAGE ONLY of the case, not to the entire case or to the first page followed by a comma and a pinpoint cite to an internal page of the case. This latter form is correct for footnotes but not bibliography.
- Need to find equivalent hard copy citation for source found on the internet
- Omit titles of authors, such as Ph.D., J.D., etc. in citations.
- Indent lines of the citation subsequent to the first line in literature search annotations
- Citation to JSTOR, EBSCO or another internet clearinghouse is NOT to be used.

**ANNOTATIONS**
• Too much specificity about unnecessary details of source. Limit to “but for” test for what is important.
• Use of too many sources of low relevance. Why use them if they are of low relevance?
• Use of too many short sources such as newspaper articles, statutes, etc. and counting each as a full source.
• Failure to use a symbol (+) to distinguish non-law sources at the beginning of the reference and/or failure to use a symbol (+) for the paragraph describing the second discipline within the source.
• First paragraph of annotation too short; insufficient specificity about source content (a summary of the relevant aspects of the source) and, in a separate (brief) paragraph a demonstration of the relevance/applicability of the source to your topic.
• Grammatical errors in annotations.
• Mis-labeling or mixture of primary and secondary sources
• Need to rate the relevance of your sources

DATA MANAGEMENT CHART
• Need to state name of concepts [word or phrase]
• If a source involves more than one discipline, it is necessary to separate the insights by discipline for the source to be useful from the chart
• Use direct quotes for insights in the Repko chart where possible
• Cite to specific page numbers from source in most chart references
• Items were labeled as theories when they are really simple insights
• If the name of a theory is invented by you, you need to indicate this, such as by putting the name in quotation marks.

CASE BRIEF
• Need to avoid names of parties and unnecessary details of case. Use the “but for” test to eliminate non-essential information.
• Need to reference main sources [case and or statutory] used in reasoning of majority opinion.
• See Fede/Langlois pamphlet on “How to Read and Brief a Case” for description of sections of case brief, especially the “but for” test for the facts section and the need to cite to precedent cases used by the court, as well as other authority, in the reasoning section.

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Sample Student Literature Search

Laura Marchini

Research Hypothesis: It is hypothesized that, over the past two decades, Battered Woman Syndrome has become increasingly accepted as a justification for self-defense in homicide cases.

Disciplines and Sub-Disciplines:
- Law (Domestic Violence Law and Criminal Law)
- Psychology (Behavioral Psychology)

Hypothesis as Question: Should Battered Woman Syndrome become more accepted as a justification for self-defense in homicide cases?

Annotated Bibliography

Primary Sources
Domestic Violence Offender Gun Ban. 18 U.S.C. § 922 (g) (9).

The Domestic Violence Offender Gun Ban was an amendment to the Omnibus Consolidated Appropriations Act of 1997. The Act is often referred to as "the Lautenberg Amendment" after its sponsor, New Jersey Senator Frank Lautenberg. The Act bans shipment, transport, ownership and use of guns or ammunition by individuals convicted of misdemeanor or felony domestic violence, or anyone who is subject to a restraining order for domestic abuse. The Act also makes it unlawful to knowingly sell or give firearms or ammunition to such people.

This source is useful to my topic because it is an example of federal legislation that specifically targets perpetrators of domestic abuse. Relevance: Medium-High.


This was a 1984 case that was denied certiorari by the United States Supreme Court. This was the first case involving battered woman syndrome that was ever brought to the Supreme Court. The defendant was convicted by a jury of killing her husband. The defendant claimed at trial that she had acted in self-defense, as a result of the repeated and brutal beatings she had suffered at her husband's hands. The defendant appealed to the state appellate court on the basis that the jury was instructed that defendant had the burden of proving self-defense by a preponderance of the evidence. The state appellate court held that the jury was properly instructed. Upon appeal to the U.S. Supreme Court, the defendant asserts that the Due Process Clause forbids the State to punish her for murder when the jury that convicted her may have thought that she acted in self defense. The defendant was denied certiorari. However, in a well known opinion, Justice Brennan wrote a dissent stating he would have granted cert because of the validity of the battered woman syndrome in self-defense cases.

This is relevant to my topic because this case was the first case involving battered woman syndrome to make it to the Supreme Court. The case history demonstrates how
controversial the topic of battered woman syndrome was in self-defense cases. This case provides good historical background for my topic. **Relevance: Low.**

*State v. Kelly, 97 N.J. 178 (1984).*

*State v. Kelly* is a noted New Jersey Supreme Court case dealing with the admissibility of expert witness testimony regarding battered woman syndrome. The defendant was involved in an abusive relationship with her husband. During a public dispute, he ran towards her with his arms raised. Fearing she was in imminent danger, the defendant stabbed him with a pair of scissors. At the trial, the defendant claimed self defense. The trial court prohibited use of expert witness testimony. The defendant appealed. The Supreme Court held that the existence of battered woman syndrome was relevant to the honesty and reasonableness of the woman’s claim that she was in imminent danger. The courts also held that battered woman syndrome was beyond the ken of the average juror, and the expert witness testimony was necessary in order for the jury to render a fair decision about the defendant’s perception of danger.

This case is relevant to my paper because it deals with how courts use expert testimony regarding battered woman syndrome. **Relevance: High**


The Violence Against Women Act was first passed in 1994. The 1994 Act created new penalties for gender-related violence and new grant programs encouraging states to address domestic violence and sexual assault including law enforcement and prosecution grants (STOP grants), grants to encourage arrest, rural domestic violence and child abuse enforcement grants, the National Domestic Violence Hotline, and grants to battered women's shelters. The 2005 final version of VAWA reauthorization included mainly a continuation of already existing programs with a few improvements, additions and funding increases. The Civil Legal Assistance Program creates a separate grant program for civil legal services to give women legal help with protection orders, family court matters, housing, immigration and administrative matters. The Act allows for protection orders from one state to be recognized in another state and allows Grants to Encourage Arrest to go toward providing technical assistance and computer or other equipment to law enforcement to aid in the enforcement of interstate protection orders and those between state and tribal jurisdictions. Legislation addressing the needs of battered immigrant women was by far the most significant addition to the original VAWA. This section removes the U.S. residency requirement and "extreme hardship" requirements for immigrant women to receive VAWA protections; allows battered immigrant women to obtain lawful permanent residence without leaving the country; restores access to VAWA protections for immigrants regardless of how they entered the country and creates a new type of visa for victims of serious crimes that will allow some to attain lawful permanent residence.
This Act is helpful to my topic because it is the first piece of comprehensive legislation to specifically address victims of domestic violence. **Relevance: High.**

**Secondary Sources**


This article examines evidentiary challenges to the introduction of battered woman syndrome in self defense cases. The authors then look at the resulting constitutional infringements that may arise due to certain trial courts restrictive admissibility requirements. Particular attention is given to the disparate treatment between traditional and nontraditional self-defense cases. For example, in nontraditional self defense cases where the victim was asleep or had retreated, the need for imminent self-defense is not readily apparent. The authors hold that battered woman syndrome testimony is crucial to explain why, in the woman’s mind, she reasonably feared imminent harm from the victim and that required her to act against him first.

This article is useful to my topic because it deals with the battered woman’s constitutional right to present a defense and how certain courts are infringing upon these rights. **Relevance: High**


Browne performed a study of forty-two women in an effort to identify the dynamics that lead up to the commission of homicide. Browne's study focused on the woman’s actions in the context of their position as victims. Browne found that most women killed in protection of a child, during an assaultive incident and when they believed assault was imminent. Browne then examines the woman’s immediate reaction to the homicide. Browne found that, directly after the homicide, most women hid from the body, fearing that their abuser was not dead. Browne concludes that in her study, most of the women reported remembering only the feelings of sheer terror before the homicide.

This article is useful to my topic because it illuminates what the battered woman are thinking and feeling before they kill. **Relevance: High**


This book is about assessing the validity of findings in psychological research. Validity is the extent to which research results reflect accurately the effects of the hypothesized event. The author goes over techniques in evaluating the validity of psychological research by using the validity scorecard. The validity scorecard measures external and internal validity, checking against unrepresentative samples, nonrepresentative research, effects of pretesting, and the effects of extraneous events. The book also explains the different types of research models and the goals of each.
This book is useful to my topic because it enables me to understand research methods in psychology. I can apply this knowledge to my reading of other sources so I can critically evaluate them. **Relevance: Medium-Low.**


This article argues that battered woman syndrome can undermine the valid self-defense claims of battered woman and that it is inconsistent with the basic principles of criminal law. Downs and Fisher also argue that battered woman syndrome is inconsistent in our political system, because it does not rely on equality and freedom. The authors’ begin the article by pointing out the positive effects of battered woman syndrome, dispelling common myths, but quickly moves to say the battered woman syndrome’s negative effects far outweigh its positive aspects. Downs and Fisher purport that battered woman syndrome is inflexible as a conflict, and therefore stereotypes battered women. They say that using battered woman syndrome, tends to reduce the abuse victims motivation to kill to simplistic terms. The authors attack Dr. Lenore Walker’s theory of learned helplessness, claiming that this concept strips battered women of their dignity. The article also claims that battered woman syndrome presents negative implications for equal citizenship and promotes vigilante justice.

This article is useful to my topic because it is important to know both sides of an issue. Reading this article enabled me to be more critical when I read other pieces because I am aware of the negative aspects of BWS. **Relevance: Medium-High.**


This article was written in response to Dr. Lenore Walker’s announcement that she was going to testify about battered woman syndrome on behalf of O.J. Simpson. Griffith first outlines the history of violence against women and battered woman syndrome. The author then examines the different ways the evidence has been used in criminal and civil cases including ways it has been used to hinder an abused woman's legal claims. Citing the O.J. case, Griffith warns of the dangers of improper use of the battered person syndrome to explain the actions of men who batter. Griffith asserts that the Court must reject the introduction of battered woman syndrome evidence where the “dispositive” issues at a particular trial do not relate to the battered woman's mental state on the grounds of relevancy.

This article is useful to my topic because Griffith enumerates the negative effects of expert testimony on battered woman syndrome when applied incorrectly. **Relevance: High.**


This book presents a general overview of domestic violence. The book begins with a brief overview of domestic violence and it’s the various definitions employed by people in the fields of sociology, law, psychology and biology. It also has looks at
domestic violence as a form of oppression and the institutional influences that perpetuate it. The book also looks at some of the theories that attempt to explain why some men batter. These theories include the psychopathology theory, the social learning theory, the biological theory, the family systems theory, and the feminist theory. The book then looks at the characteristics of a battered woman. The effects of domestic violence on women are examined at length, including the emergence of Stockholm syndrome in victims. Also, the effects of children who witness domestic violence are examined. The second half of the book examines the controversies and proposed solutions to domestic violence. Societal forces that can cause or contribute to domestic violence are examined as well as the contributions of drugs and alcohol. The book closes with a look at domestic violence on an international level, citing United Nations country specific data.

This book relates to my topic because it focuses more on how domestic violence affects the community as a whole. There are no specific case studies. It is a general overview that will be useful in building a foundation and developing adequacy in the various aspects of domestic violence. **Relevance: Medium**


This article talks about expert witness testimony regarding battered woman syndrome. The authors examine the view that the current use of social science testimony regarding battered woman syndrome pathologizes battered women and can deny their reason and capacity. The article begins with a historical review of expert witness testimony regarding battered woman syndrome, starting with Dr. Lenore Walker’s pioneering efforts. Expert testimony is introduced to help juries assess the reasonableness of the woman’s belief in the necessity of using deadly force to defend themselves. Critics of expert testimony believe that the syndrome label may actually encourage jurors to perceive the defendant as pathological and that this perception is contrary to the defenses argument that the woman’s actions were reasonable in light of the circumstances. Osthoff and Maguigan contend that expert witness testimony is essential to the self-defense claims of battered woman. The authors also believe that scholars who criticize Dr. Walker’s work on expert witness testimony focus only on her early works which do not account for modern day societal changes.

This article is useful to my topic because it provides a discussion on the current use of expert testimony on battered woman syndrome. The authors take opposing viewpoints and examine them for validity. **Relevance: Medium-High.**


In Dr. Lenore Walker’s groundbreaking book, the theory of battered woman syndrome is introduced for the first time. Dr. Walker introduces the myths and the realities surrounding battered women. The common characteristics of both the battered woman and the batterer are discussed. Dr. Walker supplements the theory with the Cycle of Violence and relates all of these aspects to the theory of learned helplessness.

This book relates to my topic because it is the book that laid the foundations of the theory of battered woman syndrome and is still referred to today. **Relevance: High**
Dr. Lenore Walker second book on battered woman syndrome explains how battered woman syndrome can lead to victims killing their attackers in self defense. The book touches on aspects of battered woman syndrome such as terror, which can affect the victim’s perception of danger. Dr. Walker completes a profile of battered woman who kill and well examines the roles that alcohol, drugs, rape, and incest play. The book is filled with personal accounts of women who had killed their batterers and the injustices they faced at the hands of the legal system. Dr. Walker also chronicles her experiences leading the charge for the admission of expert witness testimony in cases involving battered woman syndrome.

This book relates to my topic because it examines battered woman syndrome as it relates to the defenses of self-defense and insanity. It also examines the law and how it has evolved since the inception of battered woman syndrome. **Relevance: High**
CASE BRIEF

Case Name and Citation: State v. Kelly, 97 N.J. 178 (1984)

Procedural History:
Defendant was convicted of reckless manslaughter in the Superior Court. The Superior Court, Appellate Division affirmed. The case was then brought to the Supreme Court by certification. The Appellant asserts that the trial court erred in excluding the expert testimony. The State asserts that the expert testimony is irrelevant.

Facts:
Defendant was in an abusive relationship with her husband. Defendant killed her husband by stabbing him with a pair of scissors. Defendant claims that it was done in self-defense, and that she was a victim of battered-woman's syndrome. The trial court prohibited the hearing of expert witness testimony.

Legal Issue:
Did the trial court err in not allowing expert testimony on the effects of battered woman syndrome as it pertains to the defendant’s objective reasonableness of the imminent danger that is necessary to a claim of self-defense?

Court’s Holding:
Yes. The court holds that expert witness testimony regarding the effects of battered women’s syndrome is admissible regarding whether the defendant has a reasonable fear of danger.

Court’s Reasoning:
Battered women’s syndrome is a topic beyond the ken of the average juror. N.J.R.E 56(2) enables expert testimony on this subject because it provides that expert witness may testify if the expert has sufficient expertise on that particular subject. The Rule has three requirements for the admission of expert witness testimony: (1) the testimony regards a subject matter that is difficult for a lay person to understand; (2) the field that the expert is testifying on must be sufficiently reliable; (3) the expert witness must have sufficient expertise on the intended testimony.

Battered women’s syndrome as a subject has a sufficient scientific basis to produce uniform and reliable results as required by State v. Cavallo.

Dr. Lenore Walker, The Battered Woman (1979) proffers a great deal of expertise that is necessary on the subject of battered-women’s syndrome. The book explains the common misconceptions of the syndrome and explains the three stages of battered women’s syndrome. Dr. Walker explains how battered-women syndrome disabled the defendant to leave her husband.

The court holds that expert testimony was central to the defendants claim of self defense and that its exclusion, if otherwise admissible cannot be held to harmless error. The court reversed and remanded.

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<th>Perspective of Discipline on Problem</th>
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<td>Law</td>
<td>Violence against women is a public harm, a civil rights violation, an international human rights violation, and a form of involuntary servitude.</td>
<td>Schneider</td>
<td>Battering should be understood as both the pattern of violent acts and their political framework, the pattern of social, institutional, and interpersonal controls that usurp a women’s capacity to determine her own destiny. The law is therefore a necessary and important tool in obtaining safety and protection for battered women. (pg 22)</td>
<td>The law of self-defense is biased against women.</td>
<td>“Women’s Equal Right To Trial.” (pg. 31).</td>
<td>Concept of Dialectics (pg 35).</td>
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<td>Law</td>
<td>Domestic abuse towards women is a social problem</td>
<td>Gagne</td>
<td>The legal system has condoned male violence towards women, prevented women defendants from receiving fair trials, and has served as a tool of political oppression against women. (pg 33)</td>
<td>There is no separation between a woman’s public behaviors and private behaviors.</td>
<td>“Muted Group Theory” (pg 35). Social Movement Theory (pg 3)</td>
<td>Resource Mobilization (pg 26)</td>
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<td>Law</td>
<td>BWS is a subject that is beyond the knowledge of the average juror and necessitates expert testimony.</td>
<td>Andersen and Anderson</td>
<td>The exclusion of expert testimony on battered women syndrome implicates the Sixth Amendment. (pg 386)</td>
<td>Expert testimony on battered woman syndrome can be used to support most of the elements of a self-defense claim.</td>
<td>Balancing Approach (pg 393)</td>
<td>Favorable and Material Testimony (pg 388).</td>
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<td>Psychology</td>
<td>Battered Woman Syndrome (BWS) is a valid syndrome with internally reliable symptoms.</td>
<td>Dutton and Painter</td>
<td>Intermittency rather then the cycle of violence is the major determinate of post separation distress and battered woman syndrome. (pg 620).</td>
<td>Strong and continuing attachments between the abused and the abuser are a cornerstone in battering relationships.</td>
<td>Traumatic Bonding Theory (pg 621)</td>
<td>Intermittency of Abuse (pg 614)</td>
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<td>Psychology</td>
<td>Women afflicted with BWS have a different perception of danger.</td>
<td>Walker</td>
<td>Battered women undergo a process of victimization, leading them to acquiring a learned helplessness which leaves them prey to abuse (pg 50)</td>
<td>Women who are battered react in different ways than women who are not victims of abuse.</td>
<td>Cycle of Violence Theory (pg 55) Learned Helplessness (pg 45-46)</td>
<td>Economic Deprivation As A Form Of Psychological Abuse (pg 127)</td>
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<td>Psychology</td>
<td>Marital rape is a form of domestic violence.</td>
<td>Bergen</td>
<td>“It is necessary to recognize marital rape as a distinctive form of domestic violence because for many women who are raped and battered, the sexual violence is particularly devastating and that trauma must be addressed specifically by service providers” (page 4)</td>
<td>Rape in marriage is an abuse of power by which a husband attempts to establish dominance and control over his wife.</td>
<td>Social Coercion (pg 4) Inter-personal Coercion. (pg 4).</td>
<td>Force-Only Rape. (pg 4).</td>
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