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Working Together to Stop Domestic Violence: State-Community Partnerships and the Changing Meaning of Public and Private

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The increasing reliance in the United States on state-community partnerships to address social problems represents both new opportunities and new dangers. This article presents examples of both possibilities through a consideration of contemporary collaborations between state and nonstate actors in the development of a public response to domestic violence. This discussion provides the basis for an elaboration of a conceptual approach to public/private relationships that replaces the traditional dichotomy with a triangular relationship, of state, family and community. By improving on our ability to think through the complex relationships between these three spheres, it is argued that this model that can assist those who are committed to pursuing the positive potential of community-state partnerships while avoiding their dangers. John Braithwaite's theory of responsive regulation, and the regulatory pyramid that structures its operation, is discussed in terms of its ability to provide additional insights into the relationship between formal and informal responses to social problems.

Key words: domestic violence, community state-partnerships, responsive regulation, social problems, collaboration, battered women

Introduction

The trend in recent years, toward more frequent and varied collaborations between state and nonstate actors in the development of public responses to a range of social problems has become difficult to ignore (Minow, 2002; Cohen, 2002). The increased interest in exploring the potential of state-community partnerships correlates with the intensification of the challenges posed

by highly complex social problems that require multifaceted solutions characterized by a high degree of innovation and flexibility. When viewed from this optimistic angle, the growth of public/private collaborations represents a multitude of exciting opportunities for improving our collective capacity to meet the needs of individuals who are caught in cycles of violence, poverty, addiction, and so on. Even so, as both critics and supporters of the trend point out, it is vitally important to be aware of the many dangers inherent in even the most successful collaborations.

My goal here is to contribute to current debates about how best to avoid the potential pitfalls of state-community partnerships while maximizing the achievement of their potential benefits. My ongoing interest in this subject arises from my belief that the trend is here to stay; indeed, it has so transformed the regulatory landscape that new conceptual frameworks are needed to assist with the important task of evaluating its impact. With these things in mind, in what follows, I consider the perils and the promise of combining state and community-based responses to social problems through an examination of contemporary efforts by the battered-women's movement to address domestic violence in the United States. This discussion provides the basis for the elaboration of a conceptual framework that, I argue, can significantly enhance our ability to realize the promises of community-state partnerships while minimizing their dangers. This discussion is followed by a consideration of the ways in which John Braithwaite's theory of responsive regulation further enhances our ability to assess the implications of state-community partnerships. Although the focus is on domestic violence, I believe that the frameworks (developed by both Braithwaite and myself) and the insights that they make possible can be usefully applied in the wide variety of contexts in which state-community partnerships have become common.

A Short History of the Battered-Women's Movement

The battered-women's movement is a particularly apt exemplar of state-community partnerships because of its longstanding commitment to the simultaneous development of both a community-based and a state-sponsored response to domestic violence. During the early 1970s, movement activists began calling

attention to the prevalence of violence being perpetrated against women by men with whom they are intimate. The articulation of the problem was quickly translated into political demands that the state begin treating such violence as a serious crime rather than as a personal matter between partners. Legal reforms followed, and by the 1980s domestic violence was illegal in every state. Police departments nationwide began implementing new arrest procedures designed to ensure that violence by one adult against another, regardless of their relationship, would be treated seriously (Edwards, 1989).

At the same time that movement activists were pushing for the enactment of new legal measures, they were also working to develop a grass-roots community-based approach to providing direct services to victims of domestic violence. In 1979, the first domestic violence shelter in the United States was opened in an apartment in St. Paul, Minnesota, staffed entirely by volunteers (Schechter, 1982). Today more than 2,000 shelters and crisis centers dot the North American landscape. Some are funded through private donations and staffed by volunteers but most are sustained by a combination of public and private monies and are run by a mix of professional and nonprofessional, paid and unpaid staffs (Schneider, 2000, pp. 182–184). Thus we see that contemporary efforts to address domestic violence are characterized by a pattern of service provision and problem definition that from the outset has involved a reliance on state *and* community measures.

The dual focus on the development of both state-based and community-based responses to domestic violence has grown stronger as movement activists have become increasingly aware of the limits of legal interventions and of the need to work harder at changing cultural attitudes about the acceptability of this type of violence (Kelly, 2003). Although the criminalization of domestic violence and legislation permitting the civil issuance of orders of protection of victims have been of undeniable importance in transforming the act from a private into a public problem (at both the symbolic and material levels), it nevertheless is still the case that many victims are simply reluctant to turn to the state for help (Dutton, 1995).

There are many reasons that victims of domestic violence might not welcome the intervention of the state. For some, the

avoidance of legal action is premised on a desire to maintain the privacy of their problem. As Margaret Borkowski explains it, "Because privacy protects intimacy and because intimacy is an aspiration normally expected to be satisfied in marriage, it is understandable that women, when first experiencing marital violence and wanting to continue their relationship should turn to agencies such as doctors and marriage guidance counselors who are believed to have strict rules about confidentiality" (Borkowski, 1983, p. 112). Borkowski's (1983) observations are an important reminder that concerns about privacy are not limited to batterers seeking legal immunity.

For others, the reluctance to turn to the state is based, not on a general desire to maintain privacy but on very specific and tangible fears about the negative consequences of doing so. Many are involved in illegal activities themselves, such as drug use or prostitution, some are illegal immigrants or are engaged in the process of trying to become citizens (Wahholz & Miedema, 2000). For such women, the promise of protection and the potential of punishment cannot be easily separated when it comes to the operation of state power. For women of color, the equation is complicated even further by fears that turning to the law may expose them to further victimization, this time by police and legal personnel who harbor racist feelings toward them or their abusers. Kimberle Crenshaw has argued one of the consequences of such fears among African Americans is "a more generalized community ethic against public intervention, the product of a desire to create a private world free from the diverse assaults on the public lives of racially subordinated people. The home is not simply a man's castle in the patriarchal sense, but may also function as a safe haven from the indignities of live in a racist society" (Crenshaw, 1991, p. 1241).

Even if they have none of the above concerns, battered women must still confront the possibility that turning to the state for protection might actually result in an escalation of violence thereby putting themselves (and sometimes their family and friends) in even greater danger (Dugan, Nagin & Rosenfeld, 2003). Finally, for the many women who depend largely, or entirely, on economic support from their abuser, the imposition of criminal sanctions leading to incarceration and/or unemployment brings with it the

possibility of impoverishment and homelessness for themselves and their children.

But irrespective of the specific details behind their anxieties about state intervention, if the only available recourse is to call the police and thereby involve the state directly and possibly subjecting the partner to incarceration, many victims will choose to manage the abuse on their own. Responding to the gaps that have been created by these and other limitations associated with legal solutions, in recent years movement activists have started to place a much greater emphasis on providing victims with a network of resources not so closely tied to the coercive powers of the state.

Pursuit of this objective has entailed a range of efforts fashioned to generate the involvement of a much greater number and diversity of people from the general community in developing a public response to domestic violence. Examples include public education programs about how to avoid violence, fund-raising for the provision of resources that enable victims to survive financially and emotionally without the abuser; informal actions and media-based messages communicating the wrongness of abusive behavior; corporate contributions toward violence-prevention efforts and services; and creation of workplace policies for assisting employed victims (Kelly, 2003, pp. 102–106).

The battered-women's movement has also placed a growing emphasis on reaching out to professionals who regularly deal with the consequences of domestic violence in the course of doing their jobs: social welfare professionals, health care workers, teachers, therapists, and clergy. Support activities range from training sessions, to the provision of resource and referral materials, to the development of coalitions to facilitate mutual support and to improve service coordination (Ibid, pp. 106–109).

Community interventions: Opportunities

Trends that stress the development of state-community partnerships in the treatment and prevention of domestic violence can be understood for the most part as an adaptive response to the limitations of formal legal mechanisms for addressing the problem. But, beyond providing an alternative for those who are unable or unwilling to turn to the criminal justice system

for assistance, community-based intervention offers a number of important additional opportunities that do not exist with state-based intervention. First, because it does not involve the direct imposition of state sanctions, community-based intervention is not required to meet the same level of "probable cause" and thus can occur at a much earlier stage. Involvement by outsiders *before* domestic conflict escalates to violence can serve to support the couple's addressing the abuse pattern before it wreaks its havoc.

Even when state intervention becomes necessary, the presence of community-based sanctions and support can significantly contribute to ensuring the effectiveness of the state's measures. Domestic violence has ramifications that extend well beyond the circumstances of a particular incident. To expect that a single police intervention or even multiple interventions will eradicate an entrenched pattern of abuse is unrealistic (Sherman, 1992 p. 248), which means that there is an especially strong need for legal intervention to take place within a community-based framework. Because the perpetrator and the victim typically have a relationship of some duration, resolution of a single incident rarely ends the violence. Accordingly, an array of coordinated services and support systems is a critical component of the effort to help the couple either to part or to work at reconciling.

De-centering the state in the public response to domestic violence by stressing the community's role also has the beneficial result of deflecting what are widely regarded as unhelpful speculation and questions about what particular battered women did to contribute their victimization (Jones, 1994, p. 152). As long as public intervention is defined chiefly within a legal framework, the focus on individual behaviors remains primary. One of the outstanding characteristics of the American legal system is its individualistic basis. Although it is no longer incumbent on victims to press charges in felony cases of domestic violence, the burden to report the abuse and then to follow through with legal action is a heavy one (Mills, 1998). The great advantage of community-based approaches is that rather than being dependent on the initiative of those who are most the vulnerable and in need of help, the approaches are generated principally within the community itself. Consequently, the translation of domestic violence into an

issue meriting a public response no longer hinges so strongly on what its victims decide to do or *not* to do.

In addition to supporting our ability to relax our expectations about the “right way” to handle battering, a greater focus on activities designed to engage a wide variety of community members with the issue of domestic violence has the distinct advantage of educating people about the problem, its patterns, causes, and strategies for how and when to offer assistance. Research suggests that many people refrain from offering assistance when they encounter domestic violence not because they approve of the behavior or think it should remain private but because they do not understand what was happening and were confused about what to do. In this light, the importance of domestic-violence education for the long-term goal of transforming the violence from “their problem” into “our problem,” is obvious.

As even this truncated discussion of the battered-women’s movement makes clear, when it comes to the problem of domestic violence, the adoption of a dual approach that includes the development a formal legal response along with the provision of community-based programs has many potential advantages for the short-term goals of crisis intervention and the long-term goals of violence prevention. Still it is prudent to keep our hopeful enthusiasm in check. After all, it was less than fifty years ago that domestic violence was widely viewed as a private matter to be discussed only rarely in public let alone debated on the national political stage. Its relatively recent emergence as a serious public policy issue means that when it comes to the collective effort to meet the challenge of responding, we are still very much in what John Braithewaite (2002) calls “the research and development phase” of policy formulation. The ability to learn from our experiences (including both the mistakes and the successes) during the process of experimenting with different approaches depends to a large extent on our openness to the possibility “that both optimistic and the pessimistic propositions may capture part of the truth” (Braithewaite, 2002, p. vii).

With this in mind, in what follows I will consider two distinct sets of concerns that are routinely raised by those who are worried about the negative implications of placing too much emphasis on

community involvement in the development of a public response to domestic violence.

Community interventions: Dangers

A persistent fear associated with increasing our reliance on community-based responses to battering is that doing so may contribute to a reprivatization of domestic violence. Arguments about the potential for such a reversal can be confusing because of their reliance on differing interpretations of what treating domestic violence as a public problem entails. For those who subscribe to a liberal legalist perspective, private problems become public when laws forbidding the conduct in question are enacted and enforced. Within the battered women's movement, this view has been expressed through the energetic pursuit of legal reform designed to ensure that the state makes its disapproval of battering obvious through consistent application of laws that forbid it.

From the liberal legalist perspective, prioritizing the development of a bigger role for the community in responding to domestic violence has a number of potentially negative implications. Of particular concern is the danger that a shift in focus could result in a reversal of progress in the ongoing struggle to make development of an effective governmental response to domestic violence a political priority. Notably, the likelihood of such reversals occurring is especially high during difficult economic periods, such as the one we are in now, that are characterized by substantial budget deficits leading to what are often devastating funding cuts to a wide variety of essential government-sponsored social welfare programs. In the worst-case scenario, an emphasis on community interventions combined with massive budgetary deficits would result in a regression to an era in which the government largely relinquished its obligation to provide state protection in cases of assault within the family (Seigal, 1996). In addition to having the effect of abandoning those living within the confines of private tyrannies, such a development could negate the hard-won progress that has been made in the symbolic battle to force the government to send a consistent message that domestic violence will not be tolerated (Taub & Schneider, 1990, pp. 122–123).

Another version of a "reprivatization" concern centers on the fear that an overreliance on community-based intervention could

so operate as to all but eliminate the availability of assistance to victims who do not have access to informal systems of social support. Even where community support is readily available, research has shown that many women who are being abused are especially uncomfortable with the prospect of exposing their problem to the people with whom they associate regularly, due to shame or to fears about being judged by the people who matter most to them. In other instances, the primary worry is that the community intervention provided would be inadequate or even inappropriate. This has been of particular concern with regard to religiously based assistance; repeated reports have been made of church authorities who recommended nothing more than prayer and tolerance in even cases of extreme violence.

Although the focus of the concerns just discussed differs, they are each (in one form or another) expressions of a general anxiety about the many unknowns associated with new patterns of state-community partnerships in the development of a public response to domestic violence. The anxiety is made more acute by the boundary-blurring effect of such partnerships on the structure of societal relationships. In the redrawn landscape, settled assumptions about what falls within the purview of the state's responsibility and authority are destabilized. It follows that the meaning of designations such as *public* and *private* is altered, in many cases beyond recognition. Significantly, this anxiety is not confined to those engaged with the issue of domestic violence but extends also to a lengthy spectrum of people involved in the development of innovative approaches to the provision of education, health care, and social welfare services.

To productively address the challenges posed by these changes we need a way to think about the relationships between the state and the community that does not depend so heavily on dichotomous patterns of thinking that no longer accurately describe today's world. With this in mind, in the second half of this article I outline one alternative conceptual approach to public/private relationships that replaces the traditional dichotomy with a triangular relationship, of state, family, and community (see figure 1).¹ This is followed by a discussion of how the model can help us to systematically think through the concerns raised earlier about the potentially negative implications associated with

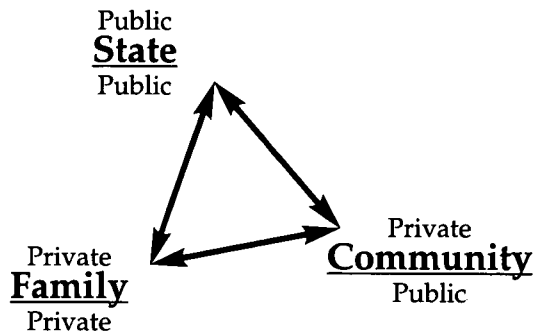


Figure 1
The Triangle of Political Space.

an increased role for the community in the treatment and prevention of domestic violence. Finally, as a means of exploring the insights generated by the model even further, I also engage John Braithwaite's (2002) recent work on responsive regulation. In particular, I discuss his regulatory pyramid model which, I argue, helps to significantly enhance our ability to explicitly engage the challenges posed by new state-community partnerships.

A New Approach to State-Community Relationships

As indicated above, my alternative approach to thinking the implications of state-community partnerships is developed around a triangular formulation, with the state, the family, and the community each occupying a corner (see figure 1). The primary contribution of this conceptual framework is that it facilitates our ability to move beyond the dualistic models that have traditionally provided the basis for conceptualizing the relationship between public and private.

The outstanding feature of my alternative model is that the three boundaries operate so as to structure the meaning of *public* and *private*. Each boundary is distinct, varying both in terms of general characteristics and the degree of flexibility that it provides. The differences derive from the fact that rather than being predetermined, the boundaries are defined by the relationship between the two corners of the triangle they bridge.

Table 1

Groups included in each category of the triangular model that replaces the public/private dichotomy

<i>State Components</i>	<i>Community Components</i>	<i>Family Components</i>
Legislative bodies	Social movement organizations	Nuclear family
Local governments	Political parties	Extended family
Judicial institutions	Special interest groups	Intimate relationships
Criminal justice agencies	Corporations/private employers	Close friendships
Police departments	Schools/Universities	
Social welfare agencies	Neighborhood associations	
	Religious organizations	
	Philanthropic organizations	
	Health care organizations	
	Media outlets	

The first element of the model depicted is the relationship between the state and the family. The *state* refers to the institutions, and the individuals that work within them, directly associated with state power and sanctions. Included within this category are legislatures, courts, law enforcement agencies, and social welfare agencies (table 1). The major function of the boundary defining the relationship between the state and the family is to protect individuals and families from unwarranted intrusions by the state. A web of institutional and cultural norms, constitutional rights, legislative mandates, administrative procedures, and institutional mechanisms constrain the degree to which government agents can become involved in the affairs of the domestic sphere and structure interventions when they do take place (table 2).

The second element of the model depicted is relationship between the family and the community. In comparison to the institutionally driven boundary between public and private, this boundary is more informal and less clearly defined. Its function

Table 2

The boundary between the state and the family

Public	Boundary Structures	Private
State	Search-and-seizure laws Due process rights Property rights Legislative mandates Administrative law Family law Police procedures Physical barriers	Family

is to distinguish what should remain completely within the discretion of individual family members from information and/or events that warrant some sort of involvement by members of the wider community. The community comprises a broad grouping of individuals and nongovernmental organizations, including neighbors, private employers, the media, churches, corporations, social activists, special interest groups, schools and universities, and health professionals (table 1). As this diverse list indicates and as it is being employed within this model, the term *community* is *not* intended to denote the presence of a set of assumptions, values, and commitments that are shared by the individuals and groups that make up this realm (MacIntyre, 1984; Taylor, 1989). In the formulation of this model, I do not assume the presence of unity within and among the communities that make up the larger community nor do I wish to argue for the desirability of such unity. In this respect the term *community* is used in its descriptive, not its normative, sense.

The boundary between the family and the community operates to preserve the status of the family as a private association by protecting the family and its members from excessive scrutiny from the community. In addition to the physical barriers that shield family life from constant monitoring, the boundary is structured and mediated by property laws, civil rights, and cultural and community norms that pertain to privacy and family life more generally (table 3).

Table 3

The boundary between the community and the family

<i>Public</i>	<i>Boundary Structures</i>	<i>Private</i>
Community	Civil rights Ethical codes Cultural norms Religious principles Family values Physical barriers Legislative mandates Property rights	Family

The third element of the model depicted is the relationship between the state and the community. The interactions between nonstate actors and individual citizens are structured by bureaucratic institutions, administrative law, legislative bodies and processes, and social movement organizations (table 4). Activities that occur within these frameworks include the provision of funding, regulation and monitoring of state-funded services, education, research, reporting, public hearings, and the development and operation of coalitions designed to facilitate more comprehensive and coordinated responses to social problems.

Table 4

The boundary between the state and the community

<i>Public</i>	<i>Boundary Structures</i>	<i>Private</i>
State	Right of Free speech Separation of church and state Civil rights Legislative mandates Property rights and contracts Tax laws and policies Budgetary decisions Economic regulation	Community

One of the most important roles that the state plays in a democratic society is to ensure that the community does not impinge on the rights of private citizens. In keeping with this role, the boundary structures that exist between the community and the family are explicitly designed to impose limits on community-based interventions in the family so that rights violations are less likely to occur.

One of the advantages of my model is that it permits an expanded understanding of public interventions. Viewing public/private boundaries as the product of a triangular relationship between the family, the community, and the state moves us away from a dualistic construction that limits the definition of a public response to formalized legal interventions backed by state power. The model designates both state interventions and community interventions as "public" when directed at the private realm of the family. Hence, in the case of domestic violence, it becomes possible to see that the development of a "public response" can, and probably should, include both a formal state response (criminal justice interventions) and less formal community-based responses (prevention and education programs, shelter and service provision, and programs designed to help abusers to deal with their behavior before there is a need for direct state intervention backed by sanctions). From this perspective, the liberal legalist's fear that an increase in community interventions will result in a decreased commitment to treating domestic violence as a serious criminal matter is revealed as premised on a false choice. The contribution of my model is that it operates to highlight that it is not necessary to choose between formalized criminal justice interventions and informal community-based responses when it comes to the effort to transform domestic violence from a private into a public problem.

Still, it is important to acknowledge that the model does not provide any guidance about when to take a criminal justice approach and when to take a less formal approach. In this regard, John Braithwaite's (2002) theory of responsive regulation provides additional insights into how such determinations might be guided: "The basic idea of responsive regulation is that governments should be responsive to the conduct of those they seek to regulate in deciding whether a more or less interventionist

response is needed. In particular, law enforcers should be responsive to how effectively citizens or corporations are regulating themselves before deciding whether to escalate intervention" (p. 29). Relative to domestic violence, responsive regulation would need to include state-monitored opportunities for self-regulation such as those provided by anger management programs or by programs that target abusive men. Victims, especially those who choose to continue to live with the abuser during the rehabilitation period, would also need to be supported.

Braithwaite's (2002) responsive regulatory approach has an explicit preference for taking the least punitive approaches whenever possible, expressed through a formulation that he terms "the regulatory pyramid." At the base of the pyramid are informal interventions that operate to change behavior through the power of persuasion. That placement reflects a presumption in favor of persuasion as the preferred mode of intervention. As the pyramid narrows, the interventions grow increasingly punitive and involve a much heavier degree of formal state involvement. The decision to move up the pyramid and toward a greater emphasis on state force is made "only reluctantly" and only "in response to a failure to elicit reform and repair" (Braithwaite, 2002, p. 30).

It is noteworthy that the preference for persuasion reflected in the regulatory pyramid is a preference that appears to be shared by many victims of domestic violence. As discussed earlier, research has demonstrated that many victims will avoid involving themselves and their abusers in the criminal justice system whenever possible. Their reasons include a desire to avoid having the publicity attendant upon a highly visible intervention; fears about their own vulnerability to state sanctions; and apprehensions about exposing themselves and/or their abusers to a criminal justice response that is perceived by many to be racist in orientation and application (Crenshaw, 1991; Coker, 2002). Even if they do not harbor such concerns, many victims still do not want the abuser arrested because punishment is not their goal. When victims of domestic violence are questioned about what they want, most say they want the abuse to stop and the abuser to be assisted in changing his behavior (Barnett & La Violette, 1993). Thus, in this respect, the regulatory pyramid's presumption in favor of

public responses that depend on persuasion rather than sanctions reflects what many women say they want as well.

It is important to recognize that a commitment to persuasion over force is not the only priority that informs the operation of the regulatory pyramid. Braithwaite (2002) makes clear that the pace of escalation from persuasion to punishment must always be case-specific. For example, if an "assault offender who during the criminal process vows to go after the victim again and kill her," that declared intention is a compelling reason to override the presumption in favor of persuasion; Braithwaite (2002) says that the offender "should be locked up" (p. 30). Thus we see that, although the pyramid is structured such that persuasion is prioritized over force, if there is evidence that someone is in danger, persuasion will always be overridden by the even more important commitment to safety.

A shared feature of my triangular model (Kelly, 2003) and Braithwaite's (2002) regulatory pyramid is that neither depends on prior agreement about when a formal state response should be employed and when an informal community-based approach should be the preferred option. Instead, both models are structured around the assumption that such decisions will (and should) be made on a per-case basis. The focus is not on the search for final answers but on the relationships, institutional structures, and ideals that form the procedural and substantive elements of the decision-making process. Thus, although neither model provides definitive answers as to the correct balance between state and community approaches, both operate to enhance the capacity of those who are concerned about particular social problems to think through the stakes and implications associated with possible combinations.

To illustrate, let us return to the concern discussed earlier, that, especially if successful, community-based domestic violence initiatives could provide lawmakers with a ready-made excuse to cut (even further) funding for public domestic violence programs. It is a concern prevalent in general debates about the promise and peril of increasing community involvement in the provision of social services. Further, it is concern that moves in both directions. Consider the assertion of advocates of privatization that, in addition to being extremely inefficient, too much government

welfare weakens the institutions of civil society. According to the logic of this argument, as people become more reliant on the state to address social problems, the likelihood that those in need will turn to community-based groups diminishes, which in turns saps the motivation for people to organize around the shared goal of offering assistance.

One of the elements that makes the increasing occurrence of state-community collaborations so unsettling is they require us to confront—and in many cases to reevaluate—the ways in which we have assigned responsibility for social problems to different spheres. Because my model enables consideration of a range of possible public responses to a particular social problem, it enhances our ability to face domestic violence and to determine, on an ongoing basis, whether the balance between state and non-state responses is productive. Further, the triangular model, by highlighting the manner in which various interventions interact, encourages us to ask questions about whether state interventions are functioning to crowd out a community response (as in the scenario just described) or whether the availability of nonstate forms of assistance is negatively impacting the government's motivation to provide public versions of the same services (Kelly, 2003, p. 161). Thinking systematically about the relationships of state- and community-based responses to social problems can also help us to focus on the positive potential of these relationships. Once again, Braithwaite's (2002) regulatory framework provides additional insights.

One of the most-cited limitations of informal interventions is that they are not backed up by the threat of state sanctions and hence are of limited value when it comes to changing behavior. Braithwaite (2002) argues otherwise: an increased reliance on interventions that do not utilize sanctions will, in the long run, enhance the ability to control negative behavior by virtue of sanctions' rarity. Braithwaite (2002) writes that a preference for nonpunitive responses positively impacts the effectiveness of state punishment. First, "by resorting to more dominating, less respectful forms of social control only when more dialogic forms have been tried first, coercive control comes to be seen as more legitimate" (Braithwaite, 2002, p. 33). This argument is built upon research demonstrating that compliance with the law

is positively correlated to a belief that the law is fair. According to this account, if people are given multiple chances to correct their behavior before they are punished they are more likely to accept that punishment as deserved when it is meted out (Braithwaite, 2002, p. 78).

Second, a greater reliance on non-punitive measures helps to improve the authority of punishment, and therefore its effectiveness as a deterrent, by enhancing the likelihood that offenders will believe that they will actually be subject to sanctions if they break the law and are convicted. One of the most negative effects of what has become a chronically over-burdened criminal justice system is the perpetration of the impression, especially among repeat offenders, "that the odds of serious punishment are low for any particular infraction." That impression operates to undermine the credibility of state threats to punish, which in turn diminishes their deterrent value. Braithwaite (2002) believes that the preference for nonpunitive measures embodied in his regulatory pyramid can help to improve the authority and power of state sanctions by alleviating the "system capacity problem," and as a consequence improve the ability of the state to follow through decisively in cases where punitive sanctions are deemed to be necessary (p. 30).

As to legal intervention in domestic violence, high numbers of repeat offenders, notoriously low rates of prosecutions and convictions, and light sentencing patterns all suggest that the legitimacy problems that Braithwaite (2002) identifies are almost certainly at work in this context. Still, whether a presumption in favor of persuasion would be helpful or harmful to the overall effort to address domestic violence is a much more complex question and beyond the scope of this article. But, I do not think that it necessary to have an opinion about the particulars of Braithwaite's (2002) claims to benefit from his analyses. The general contribution of his model is its capacity to advance our ability to recognize the ways in which completely different types of interventions, sometimes occurring in entirely different domains of society, might nevertheless function to reinforce one another positively. In the above example, Braithwaite's (2002) analyses offer a new way to think through the specific implications of what now is virtually a truism in the field of criminology: that formal

and informal forms of social control are interdependent. By improving our ability to analyze the operation of this relationship in specific policy contexts, Braithwaite's (2002) model can help us to maximize its potential.

Conclusion

My reason for considering both the opportunities and the dangers represented by state-community partnerships in the treatment and prevention of domestic violence is not to arrive at a conclusion as to the merit of the partnerships. As I stated above, I believe that the partnerships, like them or not, are here to stay. Further, as the history of the battered-women's movement illustrates, both state-based and community-based responses offer many important advantages, including empowerment of victims (by offering choices when it comes to help) and the empowerment of the community (by creating new opportunities vis-à-vis the problem of domestic violence and by providing education and support to those who want to help). At the same time, my example also demonstrates the way in which increases in the rate and degree of state-community partnerships generate new challenges around how to balance state and community responsibilities when it comes to development of a public response to a social problem.

In light of the preceding discussion, it is obvious that the time has come to move beyond debates that frame the choice as one between the state and the community when attending to social welfare needs. Doing so will enable us to apply ourselves more vigorously to the crucial task of how to approach these partnerships in a manner that will maximize their potential and minimize their dangers. As Martha Minow (2002) notes in her recent, *Partners, not Rivals: Privatization and the Public Good*, "The Stakes could not be higher. How we mix public and private, profit and nonprofit, religious and secular in providing for schooling, welfare, human services, medicine, and law will spell the future of our democracy. We could shape newly vibrant and caring communities of freedom or cauldrons for distrust and privation" (p. 5). New conceptual frameworks that enable us to see the connections and contradictions that arise from these partnerships, are means to that desirable end. My triangular model of public/

private relationships and John Braithwaite's (2002) regulatory pyramid could help to lead the way toward a future more broadly beneficial.

Note

1. A fuller account of the model can be found in my *Domestic Violence and the Politics of Privacy* (Ithaca: Cornell University Press, 2003).

References

- Barnett, O. & La Violette, A. (1993). *It Could Happen to Anyone: Why Battered Women Stay* Newbury Park: Sage.
- Borkowski, M. (1983). *Marital Violence: The Community Response*. London: Tavistock Publications.
- Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. New York: Oxford University Press.
- Brill, A. (1990). *Nobody's Business: Paradoxes of Privacy*. Reading: Wesley.
- Cohen, J. (2002). *Regulating Intimacy: A New Legal Paradigm*. Princeton: Princeton University Press.
- Coker, D. (2002). Transformative Justice: Anti-subordination Processes in Cases of Domestic Violence. In H. Strang & J. Braithwaite (Eds.), *Restorative Justice and Family Violence* (p. 133). Cambridge: Cambridge University Press.
- Crenshaw, K. (1991). Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. *Stanford Law Review* 43, 1241.
- Dutton, D. (1995). *The Domestic Assault of Women: Psychological and Criminal Justice Perspectives*. Vancouver: University of British Columbia Press.
- Dugan, L., Nagin D. & Rosenfeld R. (2003). Exposure Reduction or Retaliation? The Effects of Domestic Violence Resources on Intimate-Partner Homicide. *Law and Society Review* 37,174.
- Edwards, S. (1989) *Policing Domestic Violence: Women, the Law, and the State*. London: Sage.
- Gordon, L. (1988). *Heroes of their Own Lives: The Politics and History of Family Violence*. New York: Penguin.
- Hixson, R. (1987). *Privacy in Public Society: Human Rights in Conflict*. New York: Oxford University Press.
- Jones, A. (1994). *Next Time She'll Be Dead: Battering and How to Stop It*. Boston: Beacon Press.
- Kelly, K. (2003). *Domestic Violence and the Politics of Privacy*. Ithaca: Cornell University Press.
- MacIntyre, A. (1984). *After Virtue*. Notre Dame: University of Notre Dame Press.
- Mills, L. (1998). Mandatory Arrest and Prosecution Policies for Domestic Violence: A Critical Literature Review and the Case for More Research to Test Victim Empowerment Approaches. *Criminal Justice and Behavior* 25.

- Minow, M. (2002). *Partners, Not Rivals: Privatization and the Public Good*. Boston: Beacon Press.
- Schechter, S. (1982). *Women and Male Violence: The Visions and Struggles of the Battered Women's Movement*. Boston: South End.
- Schneider, E. (2000). *Battered Women and Feminist Lawmaking*. New Haven: Yale University Press.
- Seigal, R. (1996). The Rule of Love: Wife Beating as Prerogative and Privacy. *Yale Law Journal* 105.
- Sherman, L. (1992). *Policing Domestic Violence: Experiments and Dilemmas*. New York: Free Press.
- Taub, N. & Schneider, E. (1990). Women's Subordination and the Role of Law. In D. Kairys (Ed.), *The Politics of Law: A Progressive Critique* (pp. 122–123). New York: Pantheon.
- Taylor, C. (1989). *Sources of Self*. Cambridge: Harvard University Press.
- Wahholz, S. & Miedema, B. (2000). Risk, Fear, Harm: Immigrant Women's Perceptions of the 'Policing Solution' to Woman Abuse. *Crime, Law, and Social Change*, 34, 308.

