Abstract:

The received wisdom, among feminists and others, is that historically the criminal justice system tolerated male violence toward women. Drawing on previously unexplored archival material, *Intimate Homicide: Gender and Crime Control, 1880-1920* demonstrates that this story is in need of revision. It dramatically revises feminist understanding of the legal history of public responses to intimate homicide by showing that, in both the eastern and the western United States, men accused of killing their intimates often received stern punishment, whereas women charged with similar crimes were treated with leniency. Moreover, men who killed their lovers, spouses, or other family members in the late nineteenth and early twentieth centuries were executed in far larger numbers than today.

Although no formal “battered woman’s defense” existed in the late nineteenth and early twentieth centuries, courts and juries implicitly recognized one—and even extended it to abandoned women who killed their unfaithful partners. In contrast, when men were accused of intimate murder, the provocation doctrine and other defenses were applied narrowly, and men were held to higher standards of self-control. This article thus questions the common view that a hegemonic gender ideology that accepted extreme violence towards women controlled public responses to intimate homicide. The research presented here is not simply a matter of interest to legal historians. Rather, it also requires criminal law scholars and feminists, such as the author, to re-examine the underpinnings of their theories.