

Working from Inside and Outside Institutions: How Safety Audits Can Help Courts' Decision Making Around Domestic Violence and Child Maltreatment

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ABSTRACT

For more than three decades, women's organizations have challenged the U.S. legal and human service systems to better protect women from men who use violence, intimidation, coercion, and other forms of abuse within their intimate relationships (Schechter, 1982; Klein, Campbell, Solar, & Ghez, 1997). Initially, these challenges employed confrontational strategies, including lawsuits, aggressive protests over poorly conceived judicial actions, and the energetic pursuit of legislative changes that would mandate police, jailers, judges, prosecutors, probation officers, and others to take specific protective actions in cases of violence against women.

As systems begin to work collaboratively to address the overlap of domestic violence and child maltreatment, systems-analysis approaches are also being explored to test the effectiveness of collaborative interventions in meeting the needs of victims and their families. The institutional safety audit model is one such approach currently being explored in sites across the country. Under this model, case files of families receiving services are submitted to an analysis that compares the interventions received with the needs that were demonstrated. Though still in a formative stage, the institutional safety audit has the potential to be used by the courts as an innovative information-gathering tool on the effectiveness of court-ordered interventions. This article will provide a detailed overview of the safety audit model, describe how safety audits are currently being used in the field, and discuss how the courts can incorporate safety audit findings into decision-making around domestic violence and child maltreatment.

Walker, 1990), but also had limitations.

In more recent years, confrontational tactics have been replaced by a growing interest on the part of domestic violence advocacy programs to work with and within the legal and human service systems.¹ At the

Women's organizations used the media strategically to expose inadequate interventions that led to women being seriously injured or killed. There were campaigns to replace police chiefs, judges, prosecutors, and others who failed to use their institutional powers to protect women. Evidence suggests that these early confrontational approaches worked (Dobash & Dobash, 1992; Schechter, 1982;

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same time, resistance to change has given way to a general acceptance that the legal system needs to make changes in order to effectively intervene in these cases. Now police chiefs or prosecutors may come to their positions with pre-existing commitments to dealing with domestic violence and their own understanding of how to deal with it. Police officers, prosecutors, judges, and probation officers typically have access to well-developed policies and institutional tools with which to respond to these cases, including specialized domestic violence police, prosecution, and probation units. Many communities have been active in developing some version of a coordinated community response to domestic violence. In every state, there are task forces on domestic violence, coordinating councils, domestic violence death review boards, or other similar kinds of multi-agency bodies organized at local and sometimes at state levels, to enhance communication and intervention strategies in domestic abuse related cases. Overall, protest and confrontational challenges to state institutions and agencies have largely given way to new methods of working for social change (Gamache & Asmus, 1999).

However, the shift toward the institutionalization of anti-domestic violence struggles presented new problems around the possibility of institutional appropriation of the work of the movement (Currie, 1993; Gotell, 1998; Pence, 1996; Walker, 1990). These problems are often more subtle than the hostile resistance to change faced by the earlier community-based activists. As policymakers and allies to change in the system take on leadership roles in the reform effort, the easy distinction of positions between *them* and *us*—between those *in the system* and *us in the community*—is no longer so clear. One will find many practitioners deeply committed to working to protect women at every level within the U.S. legal and human service systems, and one will also find that the work of many community-based advocacy organizations, which were once seen as “outside” the system, has now become deeply institutionalized. Paradoxically, the emerging cooperative relationship between the catalysts for change (women’s advocates) and those policymakers who can institutionalize social change has meant that the grounding of the movement

against domestic violence has become more unstable (Gotell, 1998; Piven & Cloward, 1979).

From Confrontation to Cooperation and Why Audits Help

In the early years of the movement when women’s advocates critiqued the system from outside, positioning themselves with and for battered women was relatively easy and unambiguous. From this position, they could see how a woman experienced the legal and human service systems, and they could appreciate the concrete impact institutional action or inaction had on her life, her safety, and the well-being of her children. In the earlier days of the anti-domestic violence movement, advocates could focus on examining the effectiveness of the relevant institutions in offering women and their children protection, and not on the character of the victim.

Advocates did not wonder whether a woman was a good or bad victim, cooperative or uncooperative, before deciding to act on her behalf, as may now happen when those responsible to protect women are positioned within the legal or human service systems (McMahon & Pence, 2003). The historical shift toward working more collaboratively with these institutions drew advocates into new sets of institutional relevancies and constraints, and they became positioned differently. Such institutional relevancies now insist that, for example, to prove guilt beyond a reasonable doubt, a witness is needed and the victim’s cooperation is required, and to appropriately sentence an offender, a victim impact statement is necessary. In family court, such expectations take on an even more crucial meaning to victims. If a mother is being beaten in the presence of her children and she does not extricate herself from the violence, she is “failing” as a mother, guardian, and parent to protect her children from harm caused by watching the beating of their mother. Therefore, she needs to control her abuser’s acts of violence against her or lose her children to foster care. Gradually and subtly, institutional needs became advocates’ needs. That is, at some point many advocates began advocating the needs of the system to the battered woman (Pence, 2000).

The shifting of focus to institutional needs in the struggle to protect women from domestic violence was neither even nor uncontested. When advocates resisted

taking on the role of persuading women to cooperate with institutional processes, some reform-minded policymakers recruited advocates into their formal agencies to reduce problems of competing loyalties. Although not articulated directly, the implicit message for many advocates, now employed within criminal justice agencies, was, "You work for the department (police, prosecutors' office, or probation department). Your goals are our goals, but your job is to make the processing of our cases as helpful to victims as possible (within our agency mission)." (Gamache & Asmus, 1999).

It has been the loss of advocates' independent political grounds and the confusion of roles, not simply the cooperation between community-based and formal organizations, that has weakened the power of the advocacy movement (Currie, 1993; Gotell, 1998; McMahon & Pence, 2003; Walker, 1990). As leadership of inter-agency projects shifted from women's advocates to receptive policymakers within formal organizations, the inability of community-based groups to retain a strong independent political position in combination with other power differentials between the two resulted in institutional needs subsuming the needs of battered women (Walker, 1990). Throughout the 1990s, there was a shift of leadership in inter-agency collaborations from independent advocacy groups to leaders within the system such as judges, prosecutors, or police administrators, who chaired many of the inter-agency task forces or committees that then dotted the reform landscape. Ironically, as the advocacy agenda was taken up by the system, advocates gradually lost the ability to define the problems and the solutions. Yet, there was no going back.

As institutions began to take up the challenge of protecting victims of abuse, it would have been a strategic error to continue down a path of confrontation. The task for advocacy groups now is to continue to develop new ways of coping with the tensions and contradictions of working with the U.S. legal and human service systems to better protect women from domestic violence. In this endeavor, therefore, the continuity between the work of early and contemporary women's advocates remains strong.

In this article, we discuss the domestic abuse audit ("the audit") as an emerging method of handling the contradictions and complexities of working with formal

organizations and institutions to better protect women from domestic violence. The audit is a method used by domestic violence advocates and institutional representatives to examine an institutional practice in order to determine how and if it centralizes attention on the safety of battered women and their children.

The audit offers a collaborative method in which the impact of the power differential between community-based women's advocates and policymakers is lessened. It can put advocates and policymakers on equal footing as co-investigators of the institutional processes that have such significant consequences in the lives of women who turn to those institutions for help. The audit is an inter-agency accomplishment that makes it possible for policymakers, advocates, and other practitioners to work collaboratively to replace problematic conceptual and administrative procedures with new ones. These new procedures focus on the issues of women's safety and the accountability of both offenders and the institutions to victims of abuse in the intervention process, rather than on institutional case management needs (Sadusky, 1994).

For the past 25 years, activists have developed strategies for coordinating the work of key intervention agencies in order to reach a high level of philosophical and practical coherence in the struggle to protect women from domestic violence. These strategies shift the focus of intervention from managing the victim to monitoring and regulating the abusive actions of the perpetrator who, paradoxically, has been largely ignored by the criminal justice system (Shepard & Pence, 1999; Pope, 1999). Appreciating the significance of this shift is key to understanding the success and national leadership of communities such as Duluth, San Diego, Nashville, and Seattle.² But all of those communities are still recognizing the need to move another step forward in the reform effort.

By using the safety and accountability audit as a method of seeing how unintended and harmful case outcomes are produced in the complex maze of multi-agency interventions, advocates and reform activists have been able to deepen their focus on women's safety. The audit process described below has been developed under the auspices of Praxis International in Duluth.³ It has been used in over 20 communities as a way of advancing their multi-agency reform efforts.

In order to introduce the reader to the Praxis audit, we will provide: 1) a general description of the audit process; 2) a description of its use in addressing our problems in Duluth, showing the audit as an analytical tool, a collaboration tool, and a planning tool; and 3) conclusions about institutional interventions that can be drawn on the basis of safety audits.

A General Description of the Audit Process

The Praxis audit draws on a research method called institutional ethnography as developed in sociology by Dorothy Smith (1987, 1990, 1999). Simply put, the method looks empirically at *how things are done*, in our case at the different sites of multi-agency institutional involvement in a domestic violence case. For example, how does it come about that most arrests for violent assaults by one partner against another results in either no conviction or a conviction for disorderly conduct? Or how does it come about that a woman who has been beaten and abused for years and who eventually responds with violence against her partner's abuse is herself identified as an offender in the criminal justice system, and treated primarily as such, rather than as a victim? What are the different steps in the process that produce these outcomes? How have reform efforts originally designed to protect battered women contributed to their supposed criminality?⁴ The audit process exposes the sources of counterintuitive and contradictory outcomes in systems designed for justice and protection, but which too often fail on both counts.

The audit is set up to focus on an identified problem in case processing. An inter-agency team of practitioners and battered women's advocates is formed to collaborate in the investigation. The team does not evaluate individuals' performances, but examines how the actions of each practitioner involved in the processes to be examined are organized and coordinated as part of the institutional process. The investigation specializes in understanding how institutional ways of doing things either centralize or marginalize attention to community intervention goals such as victim safety or offender accountability.

Praxis audits are not interested in describing individual cases or the overall system. Instead, the team asks

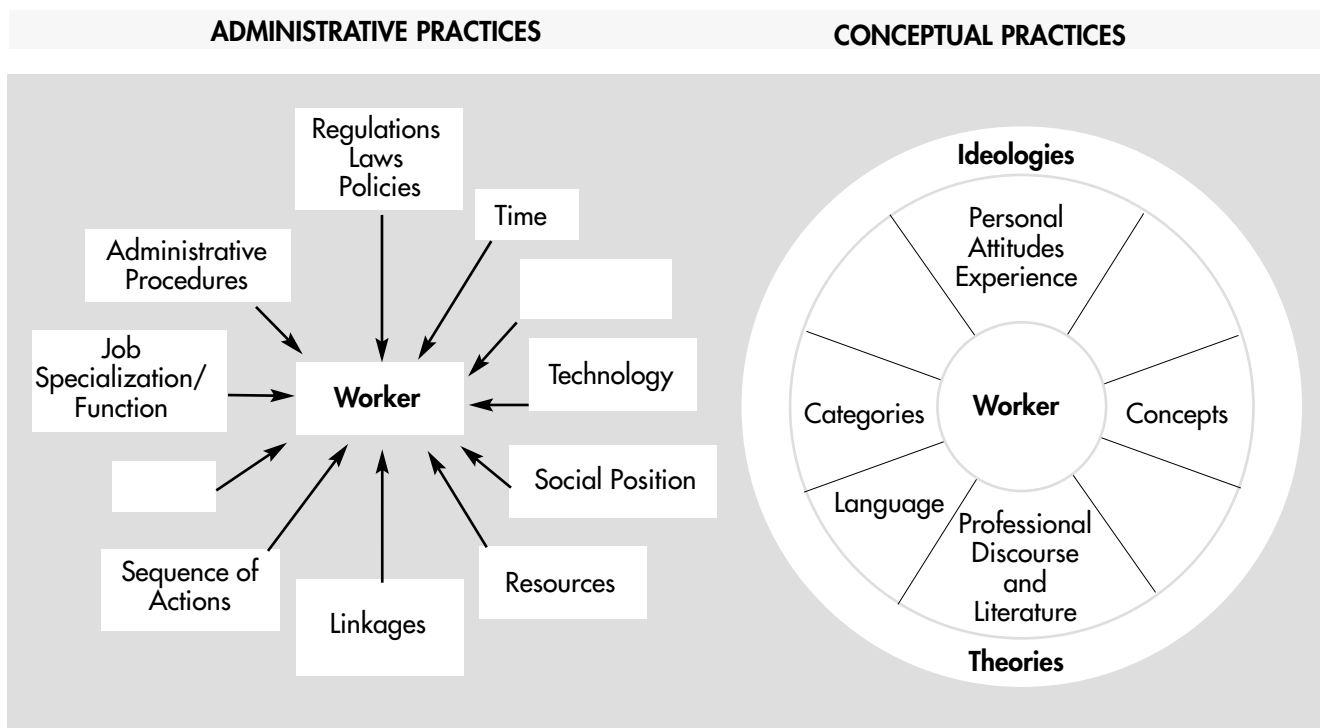
specific questions of each phase of case processing from the position of a woman who is being abused. This is its reference point. It focuses on the fit (or lack of fit) between her experience as a victim and the institutions' constructions and re-formulations of her situation as a case to be processed and resolved by those institutions. For example, an audit team may be formed, as it was in Duluth, to examine the problem of battered women being arrested, prosecuted, and convicted of assaulting their abusive partners. The Praxis audit will have a definite starting point in such an examination—the standpoint of battered women. The investigation will be closely focused and will ask, “How in the process of criminal case intervention does a battered woman who uses force against her abuser come to be treated similarly to, if not the same as, her batterer?” Of course, we understand that women sometimes assault their partners. Arrest policies should not and cannot be directed toward a specific gender. There is a valid goal in the criminal justice system to treat similarly situated cases similarly, but the deeper question is really about how dissimilar situations get treated the same.

Adopting a standpoint grounded in the experiences of the battered woman herself diverts the team from the common tendency to want to address the legal, bureaucratic, and professional structures of the organization as a whole or to critique the idiosyncratic actions of individuals in the system. Instead, the team identifies specific institutional processes. It traces institutions as sequences of organizational activity. This is the audit's innovative contribution (Campbell, 1998).

Thus, in the case of battered women being treated like batterers rather than as victims, the team begins its investigation by mapping each and every institutional interchange that occurs in processing a sample of such cases. By *interchange* we mean every action, interaction, or exchange of information that collectively make up the trajectory of a domestic violence case.

A gap between women's experienced reality of violence and institutional reality is potentially produced in each and every case management step in processing a case. The opportunity for institutions to create reality rather than to respond to the empirical social world of victims is great. The audit team watches, interviews, and consults with practitioners who know the system;

FIGURE 1. DETERMINANTS OF WORKERS' ACTIONS



observes how exchanges of information, forms, policies, records, and other institutional texts are operating at each interchange; and examines the process with a specific audit question in mind and from the standpoint of the victim of battering.

Team members also quickly recognize that they must limit the scope of the audit if they are to accomplish anything. Audit team members are encouraged to think about workers as being organized by both bureaucratic and conceptual practices. Figure 1 above illustrates the targets on which the audit teams tend to focus in their investigations of each institutional step. However, the categories in Figure 1 are not meant to limit the audit team in uncovering how a problem is produced in institutional case processing, but instead to direct the attention of the audit team to key determinants of workers' actions in any institution.

In an audit, there is no need to confront, to pit advocate against practitioner, or to judge individuals, because the audit is watching *the process*. The investigation is not of the people involved, but rather of the institutional ways of organizing and coordinating work that far too

often produces unintended outcomes and that might even violate the overall goals of the agencies or institutions themselves.

A More Detailed Description of the Audit Process

There are seven key phases to an audit. The first is to set the audit question. Over the past five years, Praxis has worked with dozens of communities to conduct an audit of some aspect of their work. Audit questions usually start with the word "How." How does a certain problem come about? How are workers organized to think about and act on a particular kind of case in ways that bring about unintended, unfair, or harmful results? How is a woman's safety accounted for in such a process? How are the relationships between children and their parents impacted by the intervention? How do battered women who are not violent to their children lose their children to foster care? How are the services of the visitation centers organized to enhance or impede post-separation parenting in domestic violence cases?

Second, an audit requires inter-agency agreements

about the collection and use of data for the audit team. The audit team will need to watch, interview, and review case files. All of the agreements for providing access to files and interchanges between practitioners and victims or offenders need to be worked out well in advance of the data gathering phase.

The third task is to organize an audit team so that its composition is adequate to its task. One individual could conduct an audit, but this would subvert the potential of the process. By having a multi-agency team conduct the audit with community-based domestic violence advocates, much of the foundational discussions and understandings for new policies and procedures and working relationships are produced in the auditing process itself. The team is trained together and helps determine the scope and schedule of the data collection phase. Members of the team must have, of course, the analytical skills and the political will to question all aspects of institutional intervention. Team members will be required to conduct a number of interviews and participate in anywhere from two to ten observations, depending on the scope of the audit. Team members will likely attend bi-monthly meetings during the course of the audit.

Fourth, the team maps the sequences of actions it intends to analyze and develops a schedule of observations, interviews, and focus groups. The team determines which texts it will initially select to review. Every interchange in the processing of a domestic violence case is mediated and shaped by institutional texts such as the laws, rules, forms, regulations, guidelines, and the categories employed to organize information. The concept of watching the role played by institutional texts is central to the methodology of institutional ethnography.

Fifth, the team collects data. Each interchange in question is observed independently on several occasions by at least two team members. Practitioners are interviewed, and all institutional texts organizing the interchange are gathered. The team will read all of the key regulatory texts: laws, policies, or directives that relate to each interchange, and the corresponding administrative texts, such as forms and matrices. These texts are seen as actors in the process that direct workers to screen, define, categorize, and prioritize cases. The team needs to make some preliminary decisions about the texts it will review. However, an audit is an ongoing process. As

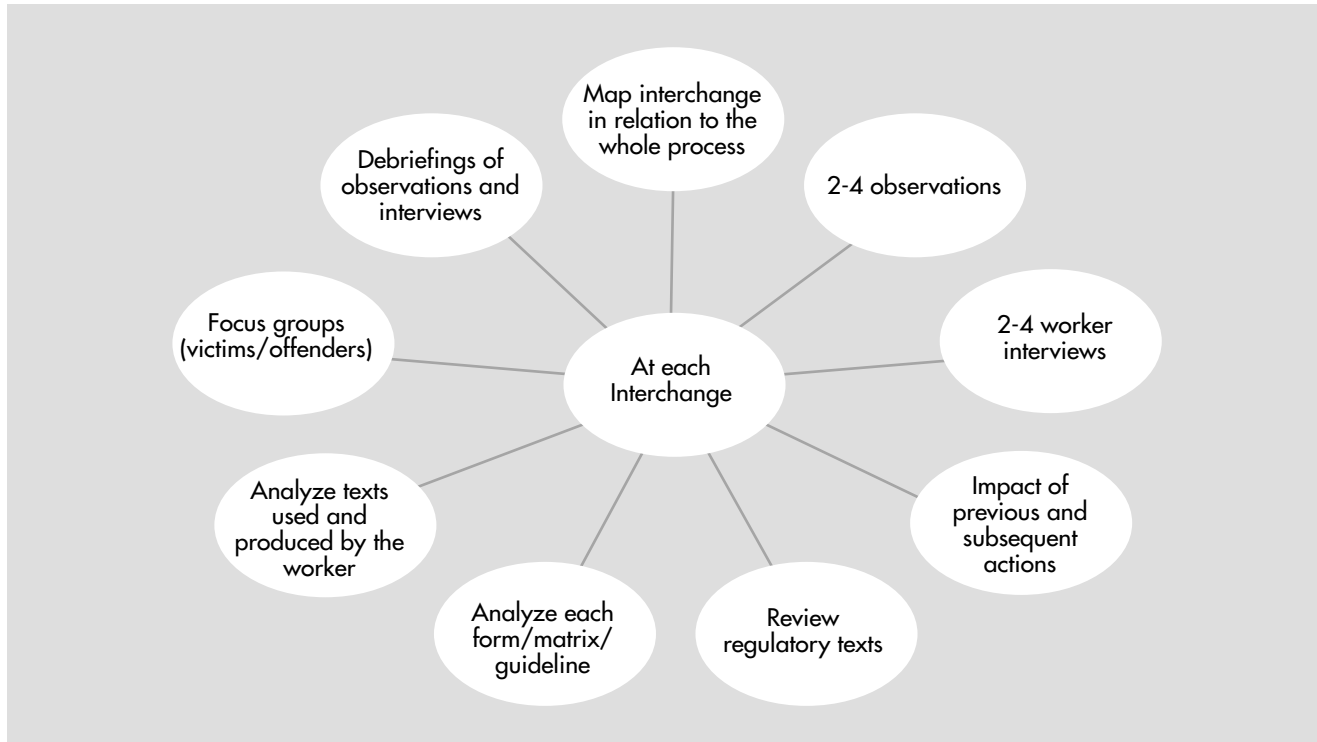
team members conduct observations they see how certain texts that are not initially seen as important to analyze are in fact important in shaping the intervention in the case, and these texts are added to the collection of texts to be examined. When appropriate, focus groups will be used rather than individual interviews in order to solicit a number of viewpoints and experiences on a particular process or interchange. In the data collection phase, the team is conscious of the fact that each interchange between an institutional worker and a person's "case" is only one part of a sequence of institutional actions. Steps before and after each interchange help to determine the worker's actions on a case and shape the reasons behind the actions taken.

Team members examine how the activities of practitioners shape individual interchanges and thus the overall outcome of a case. They are looking for anything that serves to standardize worker's actions at each of these interchanges, anything from the use of a category, to the application of a matrix or screening tool, to a law mandating certain responses. When team members read files, reports, and case notes related to cases, they are not trying to count numbers or provide a statistical analysis of how often certain activities occur. Rather, they read files to find out how institutional processes generally work. Figure 2 depicts the data process.

We describe the sixth task as the analysis phase, although every team member has been engaged in ongoing analysis throughout the audit. In this phase, the team works together to make sense of all of the data. Guided by the charts in Figure 1, the team makes visible both the conceptual and bureaucratic processes in operation in the handling of a domestic violence case. Slowly at first, and then more rapidly, the data starts to tell the story. For instance, we can uncover the story of how a sequence of steps in the legal process institutionally transforms women who are victims of domestic violence into batterers and thus predicates an unfounded sense of mutuality regarding the violence.

In the final phase of the audit, an agenda for change emerges from the process of analysis, although not always in a straightforward manner. As our example below shows, audits demonstrate that there is rarely a single reason for unintended or harmful case outcomes. As the team sees how institutional processes produce

FIGURE 2



unintended consequences, they become aware of how easy it would be to put in new procedures or promote new conceptual practices that would become sources of harmful outcomes. Fortunately, the investigation process positions the audit team to craft fresh institutional processes that have the potential to avoid creating a new set of practices with their own inherent problems (Peacock, George, Wilson, Bergstrom, & Pence, 2002; Pence & Lizdas, 2001).

An Example of the Audit Process

Duluth advocates and court practitioners used the audit process to understand how good intentions, new laws, policies, and procedures designed to protect women from violence produced the unintended outcome of an increased number of battered women being arrested and treated almost identically to batterers (Pence & Ritmeester, 1992; McMahon & Pence, 2003). In the analysis of each interchange, the audit team found that the problem began with the dispatch procedures. The team observed and interviewed dispatchers and then listened to and read 9-1-1 reports involving cases of

both arrests of women and double arrests. They found that the dispatcher translated original information such as “Someone is screaming” into “They are fighting” and translated the report “I hear a woman yelling at her husband” into a category: “Domestic... verbal only at this point... woman on man.”

Thus, the dispatcher begins a process of translation from what is actually happening to an institutional version of what is happening. In many cases, that misinformation pre-disposed officers to come into the situation with the mistaken idea of “mutuality” or “woman aggressor” in mind.

When the original operator categorizes the call as “domestic ... verbal only at this point ... woman on man,” this version of reality becomes the institutional data and thus the only reality that counts. It may not correspond to what was really happening. In other words, institutional actions do not merely record reality, they work to produce it.

By listening to a number of 9-1-1 tapes in which women were arrested, the team saw how the conversation was largely shaped by how the operator solicited

information from the caller and how easily the case started to shape up as a mutual combat at that point. A few more questions and a more precise translation could have avoided several questionable arrests.

In addition, audit members went on ride-alongs to interview officers and see the conditions under which they were investigating and documenting these cases. They found that about 20% of the arrests seemed to be clearly appropriate given the circumstances of the incident, and the team agreed that if the reports were accurate and the statements credible, the women were definitely the predominant aggressors and did pose a public safety threat. The other 80% were less clear. They found that most officers were making probable cause determinations without considering the totality of circumstances available to them.

The lack of attention to contextual circumstances held not only in the arrests of women, but seemed to be common in all domestic assault cases. Our interviews and observations led us to several conclusions about this. First, officers felt compelled to arrest if there were a claim of assault and any physical evidence. Indeed, the policy required officers to arrest when they had *probable cause* in all domestic cases in which the victim was physically injured. But officers were translating the existence of the injury to mean, "I have probable cause." "He has a bite mark, he says she did it, that's probable cause." In a number of cases, the arrested woman was not interviewed. When we checked this against the arrest of men we found a similar problem: in almost one third of the cases there was no interview with male suspects prior to arresting and mirandizing them.

We want to emphasize here that it was the probation officer, prosecutor, and patrol sergeants, not only the women's advocates on the audit team, who identified these problems as the team worked together, and this made the process of developing solutions far easier. As a result of the Duluth audit whereby all parties were interviewed and self-defense claims considered, the Sheriff's Office and the Duluth Police Department, over a one-year period: a) changed their arrest policies to one of *mandatory arrest only of the pre-dominant aggressor*; b) required that a sergeant approve all double arrests; and c) required supervisor's use of a supervisory oversight form to review all domestic arrests, of men or

women, to ensure that officers had made an appropriate self-defense investigation and had clearly articulated the basis of their probable cause, and to check that their determination was based on the totality of circumstances available to the officer at the scene (St. Louis County Sheriff's Office, 2001).

The Duluth audit team also looked at the prosecution of these cases. It was clear that problematic arrests needed to be addressed. But what about the cases where the woman was the predominant aggressor? What of cases where a woman was being battered, but this night it was she who used violence and he either used no violence or simply reacted to her violence? Should she be arrested, charged, prosecuted, and sentenced on the same basis as those who use violence to dominate and continuously instill fear in a relationship?

In fact, we found that battered women who were charged only once with assaulting their partners were more likely to be convicted for assault than men who had a long history of abusing their partners. Abusive men had a higher dismissal rate, a higher rate of not guilty judgments by juries, and a higher rate of plea-bargaining to a disorderly conduct conviction. The audit located a number of causes for these puzzling findings including a lack of resources available to battered women, poor advocacy strategies, and disconnections and inadequate communication between battered women and their defense attorneys. None of these problems were the direct result of individual practitioners' failures.

Following a series of focus groups and a review of a number of cases in which battered women were prosecuted for assaults against their abusers, a question was posed: Should the city seek convictions in cases where it is confident that a) a person used illegal force, b) a conviction is quite likely, and c) the offender is experiencing ongoing violence from the victim in this case. An ad hoc committee was formed by the city attorney's office to consider the public safety and social justice implications of a special prosecution program for such cases. The entire process and program is thoroughly described by the committee chair, chief prosecutor Mary Asmus, in *At a Crossroads: Domestic Violence Intervention in Duluth and Battered Women Who Use Violence.*⁵ Over a two-year period, the committee developed a program for men or women who are being abused by their part-

ners but who then assault their abusers. Most of them are now diverted from a prosecution to an educational and advocacy program. Participants in this program have a substantially lower re-offense rate than do “batterers,” who are court ordered to abuser programs.⁶

The final component of the audit process brought defense attorneys and advocates together to explore why so many cases in which women who had good self-defense claims were convicted for domestic assault. Using the audit as a model, they recognized the primary problem was that arrested women, unlike their male counterparts, rarely made appointments with their defense attorneys prior to pre-trial hearings. Attorneys often met their clients for a few minutes at the arraignment, handed them a card, then a week before a pre-trial hearing sent them a form letter telling the women to be at the hearing and to call for an appointment if they wanted to talk beforehand. Rarely did women make the appointment. Instead, they typically came to the pre-trial hearing, told their attorney that they wanted to “get it over with” and “Yes, I did hit him and I want to plead guilty today.”

Unlike cases involving male offenders, the public defender was rarely given an alternative story to the one in the police report. Not only did the audit team find the classic situation of the squeaky wheel gets the grease, but they found a significant problem with the extremely passive advocacy approach to cases where women use violence. It was as though the advocates saw women who strike out against their abusers as definite offenders, and determined that they did not qualify as appropriate victims for their services (McMahon & Pence, 2003).

After considering the prosecution and defense bar roles in the problem, the audit team turned to the sentencing phase of these cases. The team found that the probation department and the bench in Duluth had addressed this issue a number of years earlier and had developed a sentencing matrix for misdemeanor offenses that called for sentencing victims of battering in ways that did not make them more vulnerable to their abusers.⁷ However, they also found that the process had broken down over the years because it had not been effectively institutionalized. The breakdown was primarily linked to the loss of funds to gather comprehensive backgrounds on cases.

After the 1996 audit on sentencing, the audit team designed a new sentencing matrix for probation officers making recommendations to the court. The police, probation, and prosecutor offices had combined to raise funds for a full-time person to work on ensuring that every domestic abuse case in criminal or civil court had a complete file to give probation officers and prosecutors who were negotiating plea agreements ready access to histories of previous police calls, protection orders, records of child abuse cases, and a summary of interviews with victims. This dossier on abusers became the basis for placing someone on the sentencing matrix. By 1999, unfortunately, the money had evaporated and neither the police nor the probation department took the responsibility for the continuation of these new institutional practices. A weak advocacy approach meant that the reform efforts slipped away with no one to object.

Changing the police arrest policy and the prosecution charging practices, and enhancing the advocacy and defense services have significantly decreased the arrest and conviction of battered women using minor violence toward their abusers.

On What Was Accomplished and Words of Caution

The Duluth safety audit was in response to a complex situation that existed in Duluth. While the description herein of how the audit process changed the dynamics in Duluth is meant to highlight the use of the audit process and what it can offer a community, we have oversimplified the process. In reality, the process was fraught with tentativeness and debate and, as one member delicately understated it, “A lot of to-ing and fro-ing has been involved.” Several different efforts were going on all at once with different people taking the lead in different aspects of the work at different times.

Praxis and shelter domestic violence activists initially took the lead role when law enforcement practices were examined. When police administrators became more involved and clearly saw the problems, they themselves took on the lead to re-work the policy and organize all the required training for and oversight of the new policy. Praxis took the initiative in uncovering the problem of battered women’s convictions, but the chief prosecutor in the city attorney’s office chaired the commit-

tee that analyzed and designed the new prosecution approach. The shelter had the responsibility of developing a training and collaboration plan with the defense attorneys. Changes in the dispatch center will not be made until a more comprehensive look at dispatching is completed. The misdemeanor probation unit had long ago taken the lead in changing sentencing practices in these cases.

What has been accomplished? There is a deeper understanding of how treating all acts of violence in intimate relationships the same has led to harmful interventions. By producing the case as one of mutual violence, the courts' ability to promote public safety is undermined, as are the claims for protection of battered women who respond to their abusers with force. The unintended outcome can be state interventions that actually increase batterers' control over their victims. Today, aggressive women who assault their partners are arrested and convicted. If, however, in Duluth, a battered woman or a battered man is violent toward an abusive partner: a) a concerted effort is made to determine if the person acted in self-defense, in which case only their partner will be arrested; b) police will not make a double arrest unless both parties appear to pose a significant threat to the other; c) police officers and deputies write far more detailed reports on their probable cause determinations in all domestic violence related arrests; d) a prosecution deferral program is offered if the person's violence was reactive and minor in comparison to the violence used against him or her; e) a recommendation matrix is in place to require probation officers to differentiate among offenders who use a pattern of intimidation, coercion, and violence to control a partner, from those who use force to confront such control, from those who have assaulted a partner but engage in no ongoing pattern of abuse or threats; and f) an advocacy plan is in place that enhances the chance that victims of battering will receive an aggressive defense.

Other Benefits Audits Bring to Communities

Praxis audits made problematic institutional processes visible, but they also served a number of secondary, yet equally important, functions in court reform efforts.

A. First, they *eliminated the blame factor*. The

audit is a remarkable tool for cutting through the finger pointing and defensiveness that characterizes much of the inter-agency work in this field because the focus is on institutional processes and practices, not on individuals. Specifically, much of what an outside observer may attribute to a worker's poor attitude or lack of knowledge about battering is in fact a practice that is produced in the administrative design of the intervention and in the institutional ideological orientation.

For example, many advocates see as "victim blamers" those child protection workers who document women for neglect or failure to protect because they do not keep their children from being exposed to their abuser's violence. The practice may indeed be victim blaming, but it comes about because of a combination of bureaucratic and conceptual practices that are built into the workers' everyday work routines. If a team explores the ways in which the worker is organized to portray the woman as a neglectful parent, they will discover the source of the problem and the basis of the solution.

It begins with the common practice of opening cases in the primary parent's name, not that of the abusive party. The institutional category of "failure to protect" gives the worker the conceptual basis for looking toward the abused mother as the failing parent. As team members watch the workers use parenting assessment tools, service plan formats, referral sources that are not quite appropriate, they will see that the worker is continuously guided by statutes, policies, resource limitations, and reporting formats that are rooted in theoretical frameworks not peculiar to the worker but to the institution.

B. Second, the audit helps to make visible the various implicit theoretical perspectives operating in a situation. That is, the audit is an excellent tool for allowing inter-agency team members to see the conceptual practices operating in the system and expose the ways in which these create a disjuncture between the manner in which women experience violence and ways in which intervening agencies take up those experiences as cases to be processed. Recently, Praxis worked with two communities that wanted to see how Child Protection System (CPS) interventions, designed to protect children who witness violence against their mothers, succeeded or failed to make the mother's safety a central priority.

In the first community, the audit team began by

obtaining four complete case files involving battered women who were not themselves violent toward their children, but whose children were placed in foster care because of their continued exposure to violence against their mothers. Twenty-five advocates, CPS case workers and supervisors, children's advocates, and batterer treatment providers spent two days analyzing the four files and conducting interviews with those present who could explain how the CPS processes work.

In the second community, a CPS supervisor pulled the last three files she could recall where there was a co-occurrence, as she put it, of child abuse and domestic violence (woman abuse). Three team members read these files and discussed the cases with a larger inter-agency group as they mapped each step of the child protection process.

In both of these communities the preliminary audit team asked the question: What theories are operative here? Implicit theories were operative everywhere—theories about violence, families, mothering, parenting, safety, risk, harm, responsibility for children's safety. There were theories embedded in processes, forms, risk assessments, parenting evaluation checklists, psychological exams, laws, regulations, and case worker documentation practices. In both communities, practitioners and advocates found themselves for the first time explicating and scrutinizing implicit theoretical assumptions embedded in their work without the all too common *"I have it right and you have it wrong"* mentality. The process forced them to be more interested in asking, "How is the worker organized to think about, observe, and highlight events in this case?" Next they asked, "And with what consequence for the relationship between the mother and child and the safety of both?"

Two days of discussion and analysis followed the reading of the files. It was a beginning process with no observations or focus groups, but the text analysis alone produced crucial information about how gaps are produced between what victims of abuse experience and how institutions intervene in their lives.

In this process, a number of problems were found with certain instruments regularly used in CPS case processing, including parenting assessment evaluations, psychological testing, safety planning, service plans, and referral to mental health services. None of these case management tools and processes centralized the violence

experienced by the woman as a problem to be addressed as part of the effort to protect children. Furthermore, CPS case management and evaluation tools over-generalized and homogenized their clients, thus reducing women and children from complex, situated social beings to what could be called universal victims or universal clients. These tools did not allow the workers to account for a woman's (or child's) race, class, gender, immigration status, religion, or extended family, nor did the tools offer specifics about a woman's social position within her family and community.

Similarly, the child protection institutional tools would not allow one to construct an adequate profile of the children these interventions were created to protect. After reading an entire file, team members typically found that they could not tell specifically what any of the children involved had experienced, how they were affected, how and whether they were helped by the services into which they were directed, or how, if at all, any of the interventions affected their safety.

Further, in all four files, the men whose violence was the source of the need for protection literally went missing. None of the problems uncovered was due to an inept worker. Few of them would have been solved by giving the worker more training on domestic violence. They were the outcome of child protection processes and of the ways in which interchanges and total intervention that constitute a case are constructed, conceptualized, organized, and disconnected from other legal interventions. This entire process is documented in a Praxis report entitled *Building Safety for Battered Women and Their Children into the Child Protection System*.⁸

C. Finally, the audit provides a planning tool. We see how inter-agency teams can investigate processes to see how problems are produced in the conceptual and bureaucratic processes of case management. It follows, then, that the same process can be used while designing new programs to avoid the kinds of practices that create a disjuncture between ways in which women experience violence and institutions take up their situations as cases to be managed.

A careful consideration of the ways in which institutional workers are organized to address the complexities of battered women's situations will avoid many of the problems that have emerged from well-intended reform

efforts. Using the charts in Figure 1 and paying attention to how the inherent features of institutions can produce poor case outcomes, planners can map out procedures and design guiding principles, connections to other agencies, texts, and training programs that minimize the risk of creating processes that do more harm than good.

What Does This Mean to Judges

Judges sit at a bench. They are in many ways tied to that bench. They do not go out and investigate. They do not see victims, abusers, and children in their homes. They do not conduct assessments or make observations outside the courtroom. Their ability to act is limited. They see only what comes before them. As such, they are made effective or ineffective by the information provided, processes, procedures, and practices of others.

Despite having much formal independence, their ability to act is what might be described as "over-determined." The dispatcher, for example, has more leeway in parts of his or her job. He or she is charged with quickly gaining and distilling information from callers into a brief report to provide to responding officers. The quality of the exchange with an individual caller can shape how the dispatcher does his or her job in that case. Similarly, a responding patrol officer is in charge of the crime scene investigation. He or she gets the story, can seek out new information and explore possibilities, and takes action based on the totality of circumstances available at the time.

Unlike judges, police officers have more opportunities to gather information on the complexity and particularity of a case. They come into closer contact with the abused individual's experience, and the data available to them has been less institutionally processed. They can work more inductively, and their work is grounded far more immediately and directly in the details of what happened. They rely on the work of the dispatcher, but they have the ability to shape the nature of an investigation.

As the case moves through the system, those involved in later stages of the process have their work increasingly determined by the work done by those who came before. The prosecutor is severely constrained by an inadequate police report, and the probation officer conducting a pre-sentence investigation is limited by what police and prosecutors have done. It is paradoxical, but no practitioner's work is more constrained by the

actions of other practitioners in the criminal justice system and other agencies than the judge's. The judge who receives a parenting evaluation in a child protection case relies on the professional judgment of the evaluator. The judge who receives a pre-sentence investigation cannot consider circumstances about which he or she has not been apprised. No one can go back to the night of the violence and ask questions about what happened, how did it feel, what did it look like, who was afraid, who was there? Because judges' work is so deeply dependent on the quality of the work of all those who have been involved in the process before the case comes before them, judges' own work stands to benefit most from reforming those earlier interventions so that they better meet the goals of concern for public safety, fairness, accuracy, and relevance to the needs of victims.

In this sense, the audit has the greatest potential use for judges simply because their work is so highly institutionally over-determined in ways not always visible to them.⁹ Initially the audit process promotes a way of thinking that explicates ideological practices used in the processing of cases. The kinds of probing questions an audit produces can only enhance a judge's ability to be a fair arbitrator of the facts. Judges can, by the demands they make on others, such as CPS workers, probation officers, and custody evaluators, push for changes that will produce a more accurate or useful picture of "what is going on." A system that can produce an institutional version of a case that most closely reflects what actually happened and is happening is one that stands the best chance of fulfilling the promise of the U.S. legal system to justice, fairness, and protection.

Some Final Thoughts

Praxis is working with an increasing number of communities conducting audits of institutional responses to battered women. From these audits and from the more general experience of working from within and from without to change how institutions work, Praxis has come to recognize perennial and problematic features of how institutions work and how human experience becomes an object of institutional management. For example, in every aspect of managing cases, workers are directed to act based on the use of *categories*; i.e., to bunch situations together in ways that transform a particular set of events into a representation of that type of

event. Categories like misdemeanor, felony, recanting witness, and parenting groups are used in ways that overhomogenize experience and individuals, desensitize practitioners to context and specificities, and distort reality.

We have consistently found that lived time is supplanted by an institutional time frame that can have devastating effects in cases in which a person's willingness and tendency to use violence and intimidation are an ongoing feature of the case. We continually see how texts are used to standardize workers' actions, often precluding workers from using common sense or their best professional judgment on a case.

There is an absence of dialogue (the give and take of communication) between representatives of the institutions and the people whose lives are being managed. Information is produced and translated into exclusively institutionally recognizable and actionable frameworks, thereby masking and replacing the contextual realities of individual cases. We noted in every audit how a key tool in the institutional production of reality is the imposition of a reductive universal personhood on the people to be managed, a kind of "monocultured" individual devoid of gender, age, ethnicity, class status, sexual orientation, and embodied existence. Although these are problematic potential features of many modern institutions, audit teams need to pay particular attention to the ways in which these features inadvertently sub-

vert the goals of ensuring public safety. Each audit either adds to or refines the list of features or helps to better understand how they are operative in a problem.¹⁰ The awareness of these features should not be used to limit our inquiry or set a boundary around our investigation that will prevent us from seeing what there is to see. Like Blumer's (1969) notion of sensitizing concepts, they become like pointers to the team: "Watch out for this." "How is the use of categories operating here?" "How are people's voices, stories, and accounts being shaped and managed here?" "What about time?" "How has the institutional time frame clashed with the lived time of the people involved in the case?"

In summary, audits can make a major contribution to institutional reform by shifting the gaze from the idiosyncratic actions of individuals to institutional processes. The audit is a tool for social change in a world where, as Dorothy Smith¹¹ reminds us, the ideological and bureaucratic work of modern institutions are conducted and brought about largely through the use of texts, which tend to standardize how workers think about and act on the cases before them. The formation of an audit team allows the investigation of each interchange between the institution and the people involved. It initiates a collective process of changing practices to help close the gap between the ways in which people experience their lives and the ways in which institutions manage their situations as cases.

A U T H O R S '
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END NOTES

- 1 While mainstream advocacy programs are moving more toward working with institutions, there is a voice within the battered women's movement that questions such collaborative relationships and indeed the use of legal reform efforts at all as an effective tool to protect women from battering.
- 2 Currently, communities in Michigan are using the audit process to plan the formation of visitation centers that adequately address families in which there is a history of domestic violence. In New Zealand, an audit is being used to plan a domestic violence police unit; in St. Louis, it is being used to design a court referral program for batterers as parents.
- 3 For more information, contact ruralta@praxisinternational.org.
- 4 One of the unintended outcomes of the institutionalization of anti-domestic violence work has been the disturbing trend toward arresting victims of violence. This unintended outcome will often be used as a concrete example in this article because it was the orientating question in a recent audit.
- 5 This paper will soon be available from Praxis International at ruralta@praxisinternational.org and the Battered Women's Justice Project at crimjust@bwjp.org.
- 6 We use the term batterer to mean a person who uses a pattern of intimidation, violence, and coercion to dominate or control an intimate partner.
- 7 The sentencing matrix was developed as part of the first audit conducted in any court in the country. This is how the audit was created. A small part of that was a commitment to not treat all cases the same but base the sentencing on the danger level to the victim.
- 8 The entire report can be downloaded from our Web site, at www.praxisinternational.org.
- 9 Currently, the Battered Women's Justice Project (BWJP) and the Hennepin County bench are conducting an audit of the decisions made by judges assigned to the domestic violence court related to setting bail, conditions of release, plea negotiations, and risk assessment. The audit is looking into questions of how are judges institutionally organized to make those decisions, and how are judges organized to think about and act on cases in relationship to victim safety. For more information, contact Connie Sponsler at the Battered Women's Justice Project, 800-903-0111, www.bwjp.org.
- 10 A full list of the features can be found on our Web site, www.praxisinternational.org.
- 11 As stated previously in this article, Dorothy Smith developed a sociological research method called institutional ethnography from which the Praxis audit is drawn.

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