SUMMARY REPORT[1]

Domestic Abuse Involving Indigenous Women:

A Community-Based Analysis of U.S. Legal Interventions

[1] This is a summary of the final report to the National Institute of Justice on Community-Based Analysis of the U.S. Legal System's Interventions in Domestic Abuse Cases Involving Indigenous[1] Women. We refer to the full report as the Mother Report. It discusses in detail the research data of each of the sections referred to in this summary report. Missing entirely from this summary report but contained in the Mother Report are articles that provide an historical context for this study: (a) an article on Indian Tribes and the Safety of Native Women by Jacque Agtuca; (b) an article by Lila George on Harmony, Colonization and Violence against Indian Women; (c) a section on Pre-sentence Investigation Analysis; (d) a discussion on sentencing practices and a summary of six case outcomes.

SUMMARY OF THE FINAL REPORT TO

THE NATIONAL INSTITUTE OF JUSTICE

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[2] See Contents of Mother Report as attachment A to this summary

PREFACE

In 2000 the National Institute of Justice funded Mending the Sacred Hoop[3] to conduct a study that would analyze how the U.S. legal system processes domestic assault and protection order cases in order to explore which of its aspects tribal Nations should use for the implementation of a response to Indigenous women who are abused by their partners?

Native American women in the U.S. are the highest risk group to experience physical or sexual violence (USDOJ, 2000). When Indigenous[4] women turn to the U.S. legal system for protection, however, many find that it does not adequately protect their own personal safety and other self-identified needs. When the legal system processes cases involving Indigenous victims of domestic violence, it fragments and de-contextualizes the experiences of the women. More often than not, its bureaucracy appears to operate without honoring women's roles as mothers, grandmothers and partners in families and communities.

Mending the Sacred Hoop organized a group of four Indigenous researchers from the University of Minnesota, three Elders, thirteen community members who have used and/or worked in local community human service agencies, and a small number of national consulting experts to examine how and to what extent U.S. legal interventions in domestic abuse serve to protect Indigenous battered women and their children. It is our hope that our study will help

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[3] Mending the Sacred Hoop (MSH), comprised of the Indigenous staff at Minnesota Program Development, Inc. (MPDI) originally envisioned this project. MPDI, which operates a number of Indigenous and non-Indigenous programs designed to reduce violence against women, is committed to the concept of parallel development. Following this concept, Indigenous staff and board members design MPDI's programming for Indigenous women, and non-Indigenous staff and board members design programming for non-Indigenous women.

[4] We have chosen to use the term Indigenous rather than Native American or American Indian in order to emphasize the relationship of a problematic to the colonial experience of the people indigenous to what is now the United States.

those tribal leaders in over 500 sovereign Nations to put into place intervention processes that will ensure the safety and integrity of Indigenous women.

The police and court jurisdictions of the study area are located in a Public Law 280 state close to a large reservation. Each jurisdiction has a relatively large Indigenous population. The selected agencies in this region are known for their progressive intervention approaches to domestic violence.

We scrutinized these institutional practices and processes for their impact on the Indigenous women they serve. Recognizing that the U.S. legal system is likely to influence the approach of Indigenous justice systems,[5] we knew that our findings could be of importance both to Indigenous women and to tribal leaders who are attempting to structure Indigenous judicial systems.[6]

[5] Currently, most tribal court systems are not funded sufficiently to fulfill the responsibilities with which they are charged. Additionally, since the U.S. federal government does not recognize the full sovereignty of Indigenous people, tribal courts do not have jurisdictional authority to intervene in serious assault cases, a condition which severely limits their response to domestic violence involving Indigenous women.

[6] We also will make our findings available to those in the U.S. legal system who are currently engaged in an effort to reform what has historically proven to be an ineffective response to the needs of battered women.

INTRODUCTION

As a significant number of tribal Nations seek to establish law enforcement and court systems, and as other Nations re-think existing legal structures, the problem of responding to violence against Indigenous women is moving from a marginal issue to a central concern of Nations. The organizing work of women from dozens of Nations during the 1980s and 1990s has pushed tribal leaders to acknowledge that sovereign women strengthen sovereign Nations. However, the question remains, should we look to the U.S. legal system as a guide in developing a response to violence against Indigenous women? Our efforts to address this question are perhaps incomplete and limited due to the large scope of our investigation. We believe, however, that we have developed an investigation process that can be used in other communities to build upon and eventually produce a comprehensive understanding of the directions tribal Nations should take in responding to domestic violence and its devastating impact on our people.

Within a month following our first research core group meeting, we recruited a community team to participate in the research. Staff from MSH and MPDI had already committed themselves to be involved. The research team also identified strong players in local organizations that serve Indigenous women in general and that specifically serve abused Indigenous women. We targeted agencies such as a resource center for Indigenous people, a shelter for Indigenous and a shelter for non-Indigenous women and their children, a shelter for Indigenous people who are homeless, a transitional housing program for women, a half-way house for Indigenous women in recovery from alcohol abuse, and a detoxification center. The research team targeted front-line workers as research participants rather than the administrative staff of these agencies so that we would be able to learn from their extensive personal experience with Indigenous women and their dealings with the U.S. legal system.

METHODOLOGY

Institutional Ethnography

Following the principles of institutional ethnography, we focused our data collection on institutional activities that we found to be key determining factors in how and why individual practitioners act on domestic abuse cases. We narrowed the scope of our investigation of these processes by asking only six questions of each process we examined (Pence, 1996).

1. How do rules, regulations, laws, ordinances and policies become operational in each bureaucratic interchange?

2. How do administrative processes (the routing of information, the use certain kinds of forms, documentation and communication practices) influence the practitioner to act (or not) on a case at a given point? In other words: What are the documentary routines that organize institutional practices? What texts are used for routing information at each institutional interchange? What forms do practitioners produce and use? How do documents link practitioners to each other? How do texts act in the administration of a case? Do they screen, categorize, prioritize? Do they derive from a theory or concept to be applied to the case?

3. How do the trainings and skills of practitioners; theories, concepts and categories they learned to apply, influence how they act on a case and coordinate with others?

4. How do practitioners view their particular decision-making power that allows them to determine their course of action? What are the limitations? What do practitioners regard as their specific task in case processing? To what extent do practitioners take action outside of those defined specific tasks?

5. How do resources, technology and work conditions affect decisions about, and eventually the outcome of, a case? “Resources” could include a women’s shelter, detox center or

mental health facility. Resources also could include the time a practitioner has available to work on a case. Technology includes telephone, computer, a/v systems as well as other office equipment. Technology, for example, also includes the ability to write by hand, to dictate or put a report on a computer system.

6. What role, if any, does the social position of the victim or offender play in the way in which he or she is processed as a party in the case? Does it matter whether someone is Indigenous or non-Indigenous, poor or wealthy, homeless or housed, a mother, a grandmother, a tribal member, English speaking or not?

Five Principles of Indigenous Methodology

Indigenous people who conduct research often rely on Western knowledge systems and research methods rather than on Indigenous knowledge systems, values and beliefs. That researchers are Indigenous does not necessarily guarantee their research comes from an Indigenous perspective or that their research practices and processes have emerged from Indigenous ways of knowing (Wilson, 2001). The notion of research itself belongs in discourses that have arisen in Eurocentric political and cultural regimes that take for granted the historical subjugation of Indigenous peoples worldwide. Indigenous research methods must be consistent with the goals, objectives, audience, values and belief systems of Indigenous knowledge systems. With this research project, we attempt to arrive at an innovative solution by first combining institutional ethnography, an emerging sociological method of inquiry, with Indigenous ways of knowing, and second, by ensuring that Indigenous ways of knowing guide the project in all of its phases.

1. As researchers we are the interpreters–not the originators or owners–of certain types of knowledge. Indigenous ways of knowing are communal, grounded in values that honor spiritual connectedness, relational accountability and holism.

2. In our work, we must recognize the spiritual links between people and the power of those connections. We offered tobacco to police chiefs, court administrators, sheriffs and others when we approached them for help in conducting our study. We valued and discussed our dreams after riding with the police, observing court hearings, and reading countless court files. We used talking circles as a format for our focus groups.

3. In their interpretation of knowledge, researchers must be respectful and supportive of the relationships that have been established while doing research. They must be aware and accountable for how the research process might have an impact on the relationships of those whose lives we are examining. The notion of relational accountability helped us understand the experiences of Indigenous women with police intervention, the judicial process, as well as their response of their respective communities.

4. The notion of reciprocity suggests that the individuals and communities who are the subjects, foremost the battered women, of this research should be its primary beneficiaries.

5. Holism recognizes that a person and social processes are more than the sum of many parts. It reminds us that in the research process we must consider the spiritual, physical, cognitive and emotional aspects of all the people that participate in the research (including the researchers). A holistic view does not allow us to pull experiences out of their original setting and view them as single aspects for examination.

In sum, according to these Indigenous research principles, neither the experiences of Indigenous women with abuse nor the legal interventions in the abuse can be separated from values, concerns and experiences of the Indigenous community at large.

The Research Process

We began to meet with community members who had indicated an interest in working on the project. We held two long sessions in which we provided information and training on the institutional ethnography as a research method. Thirteen women and men attended the sessions, including abused women who had experience with the legal process, community Elders, as well as Indigenous practitioners associated with local organizations. Twelve of the community members were Indigenous.

In the first session, those who had had experiences with the legal processing of domestic abuse described their experiences. Others contributed stories about the impact abuse has on women's lives and on the lives of their abusers. They described how the Indigenous community views abuse and legal interventions. There was a noticeable lack of "we" and "they" in these discussions as most of the members had been abused as children or adults or had close relatives who have been abused.

In the second session, we mapped the institutional parameters of domestic abuse related case processing in both the civil and criminal court systems. We developed a preliminary understanding of what it is like for Indigenous women to have to deal with the court system. We taped the meetings and took notes. The research team took the standpoint of Indigenous women, particularly those who have been abused. Our focus was not on individual practitioners, but on the institutional forms of coordination that produces outcomes that no specific practitioner necessarily intends but collectively helps to produce. We drew on the work of Dorothy Smith

(1987) in institutional ethnography because it focuses on institutional forms of power and their impact on everyday life. At the beginning of the study, the core research team met with Dr. Smith in a weekend workshop. On the first day, we discussed the scope of the research project; on the second, Dr. Smith introduced institutional ethnography as a method of inquiry.

Five research tasks emerged:

1. Define the problematic we were analyzing.
2. Map out steps of the criminal and civil processing of a domestic abuse related case.
3. Collect data through interviews, observations, the use of focus groups, review of texts, preparation of site descriptions, conducting debriefings of observations and interviews, documenting ongoing research meetings and finally by recording the personal experiences of community members and researchers while conducting this study.
4. Analyze all of that data discovering how the sum total of the processes and practices do or do not take up the safety needs of Indigenous women.
5. Produce a set of findings that will benefit tribal Nations responding to domestic abuse.

Defining Problematic Features

The term “problematic” refers here to the concerns and conflicts that emerge from the experiences of individuals who stand in a specific relationship to a bureaucratic process. The problematic locates an area out of which questions and issues arise (Smith, 1987). To identify the problematic in an institutional ethnography, a researcher must learn from those whose standpoint provides the starting-place for the research. In some cases, research may start with preliminary fieldwork (interviews, focus groups or observations) to get “the story” from those who are living it. In this case, the research agenda was developed in part through the participation of Indigenous

women as researchers, through consultation with Indigenous women who have experienced domestic abuse, and through meetings with other women and men from the local Indigenous community.

The problematic is generally located at the disjuncture between everyday life and the institutional order, between the stories people tell from their point of view and the formalized institutional renderings of those stories. Using the notion of relational accountability we tried to understand the experiences of Indigenous women with police intervention, the judicial process as well as the response of their respective community. The goal of our investigation was to gain an understanding of how bureaucratic processes re-shape lived experiences. That is why the determination of the problematic provides the direction of the research. It begins with the stories Indigenous women tell. They describe a piece of the puzzle that we attempt to solve.

Data Collection: Eleven Steps

1. We mapped each sequential action in the processing of criminal and civil court domestic abuse cases to understand how they interact with other institutional interventions in the lives of battered women. For example, in some cases that we came across, women were caught up in criminal cases as a witness against their abuser, civil protection order cases, child protection cases, divorce cases, eviction cases, all of which again related back to violent partners. Thus it is rare that women are involved in only one institutional action, yet all of these cases were processed uncoordinated and independently from each other. In many cases, causing interventions to conflict with each other, as well as with the families.

2. In the processing of domestic abuse cases, we gathered all formal rules (e.g. laws, policies, agency procedures) for each bureaucratic interchange, for example 911, police investigation, police report writing, orders for protection, booking and charging, and

arraignment. This led to a reference book for each step of these two legal processes that we made available to the core research team and all the community participants.

3. We divided our research and community team into two subgroups, one looked at misdemeanor criminal assault cases and the other at protection order cases. Each group learned the case processing steps and guiding rules in their part of the U.S. legal system.

4. We scheduled numerous observations and conducted interviews of practitioners for each step of the process.

5. We held focus groups of battered women, advocates and practitioners and transcribed the discussions.

6. We collected copies of files and court records for each step of the process. We selected cases involving Indigenous women when race or ethnicity was identifiable.

7. We met two to four times a month to: (a) review texts from each bureaucratic step, (b) debrief observations with team members, (c) debrief and discuss interviews with practitioners, and (d) discuss transcripts from focus groups.

8. We coded all the data into categories that emerged from our discussions on what bureaucratic processes cause problems for Indigenous women seeking safety.[7] For example, impact of alcohol use on intervention, role of children, what women asked for, etc.

9. We consulted with experts in person, through video conferencing, and phone conversations, and at a number of conferences in Indigenous communities.

10. Each member of the research team read all of the data.

11. We held a retreat to analyze our data and to determine the findings, to organize and assign individual written reports on our findings.

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[7] See Mother Report for a listing of all of the codes that we used in analyzing our data.

DATA ANALYSIS

Uncovering Problematic Features of the U.S. Legal System

Throughout our 18 months of observing, interviewing, reading case files, making sense of bureaucratic case management procedures and forms, analyzing directives and laws, and talking with groups of Indigenous women and professionals in the criminal justice system, we constantly found ourselves talking about a "they" who always eluded us in the local setting of our study. For example, we would say, "they designed this process to…" or, "they don't allow women to…." We had expected to find "them," the ones who hold the power, at the top. Perhaps we expected them to be the judges or the state supreme court or the state legislature. However, in the end, we found the power we sought was not located in a position that one or more people held but in the processes and structures of the legal system. We continuously had to force ourselves to avoid discussions about the individual behaviors of practitioners or of their attitudes or comments, and ask ourselves what institutional processes or ways of doing things informed the worker to act on cases in particular ways. Eventually, certain features of the system, rather than of the players in the system, became visible to us. We thought it was important to escape the notion that what goes wrong in the system is caused by people's individual biases. Instead, we focused on how the institution itself carries with it an ideological practice that dictates a way of thinking about and handling of these cases.

We found that the processes and practices of the U.S. legal system ignore the familial and social cohesion that is a vital part of Indigenous cultures. For Indigenous people, women, children and men are not subjects separate from their relatives, clan and tribe. They cannot be plucked out of their relations and treated as separate entities. We are tied to our ancestors, our

future generations and our clans, in ways that are ignored in every aspect of the U.S. legal system.

There is no requirement that any one practitioner comprehensively understands what is going on in a "case" from beginning to end. In fact, workers are discouraged from being caught up in the stories, pain and fears of battered women. They are institutionally and professionally directed to focus on the efficiency of their particular act of intervention.

We found ample evidence that the system replicates many of the characteristics of a battered woman's relationship with her abuser: a) it threatens her with harm if she doesn't cooperate, b) it threatens her with the removal of her children if she doesn't do something, c) it tells her when and how she can speak, d) it labels her as sick or uncooperative.

The system detaches lived experiences (i.e., getting hit, being followed and harassed, hitting someone) from their context and recaptures them in terms of concepts (i.e., crime, assault, offender, etc.). Eventually we could see how this distorted the lived experience of women with each step of the legal way. For example, when a woman who is abused for many years, often in brutal ways, kicks her abuser after an attack, and is charged with a crime of domestic assault, she becomes the same as the abuser in the eyes of this legal system. Women who are the targets of men's threats to kill or maim them are expected to be witnesses. In this way, the system requires women who are beaten by their male partners to participate actively in a hostile action against him, despite the increased risk this will mean for her but with little acknowledgement of that danger. The court system tends to treat cases with the same set of options–regardless of whether the woman is attempting to remain in an intimate relationship with her abuser, or to remain in some kind of balanced relationship so they can parent their children together, or whether she has completely terminated that relationship.

The system organizes workers to prioritize actions that maintain the function of the institution over those effective in preventing crime and providing public safety. Many of the system's interventions are entrenched in values, customs, beliefs and philosophical premises that are antithetical to Indigenous values and beliefs.

In the following pages we discuss the power the system wields over people's lives – the power to define, to select, to categorize, to enunciate – that is used with limited consideration of those whose welfare it claims to support. We begin by looking at the how the U.S. legal system isolates an incident from people's lives, defines it, and divides its response to that incident into a series of precise and distinct steps; each of which has its own specialists, and none of whom has an overview of the whole case. To the extent that they became visible to us, the problematic features of the U.S. legal structure can be found in other institutions that manage social relationships as well, such as the welfare and education systems. Here certain conceptual and administrative practices continuously lead to a disjuncture between the lived experiences of women and the institutional handling of those experiences. We decided to focus our analysis on seven problematic features:[8]

1. Specialization of the Workforce
2. Institutional Use of Categories
3. Institutional versus Lived Time
4. Texts
5. The Institutional Inability to Take Up Women's Stories
6. Sidetracking Violence
7. Institutional Inability to Protect Indigenous Mother-Child Relationships

[8] The mother report shows the many ways that these features occurred in all phases of case processing.

Specialization of the Workforce

The U.S. legal system, like other institutions, has a specialized work force and a case processing design that break a single intervention into a series of tasks performed by dozens of workers who are specialized in their training and their roles. Specialization creates a differentiation of knowledge and power. Practitioners working in one processing interchange will not have access to the information handled in others. Specialization, we found, gets in the way of the safety and protection needs of Indigenous women. For example:

- Dispatchers did not know the basics about the rules of evidence to understand how transcripts or the actual tapes of their calls are admitted in a trial or how prosecutors use them as evidence. A number of dispatchers are therefore not cognizant of how to solicit the information in a way that could be pertinent in the trial process.
- Law enforcement officers did not always know the content of the court orders that women were requesting to be enforced.
- Law enforcement officers did not know if suspects with whom they were dealing were on probation nor about their history with violence, be it related to one or more women. Instead, officers were provided with institutionalized forms of database knowledge that provides computerized listings of any current warrants out for the person or past convictions and arrests. This rather sketchy view of the suspect is focused on the relationship between the state and the offender rather than on the victim (whose protection should be the intention behind the intervention).
- Practitioners tended to work within the boundaries of their task, often oblivious to how their limited action has an impact on the ability of others to act on the case.

- Law enforcement officers were inattentive to the significant difference between the proof needed to make an arrest based on probable cause and the proof needed to get a conviction based on the beyond a reasonable doubt standard of proof. Officers tended to investigate only to the point of obtaining probable cause, which is what they needed to take action.
- Victim or family members of the victim were often at court hearings, but frequently the court personnel did not know about or acknowledge their presence.
- Jailers were expected to make reasonable efforts to contact victims before releasing a suspect but they had only 20-30 minutes between being notification of release of a suspect and the actual release time. Judges were unaware that victims were rarely being contacted because of this time crunch.
- Even though the probation contract says that the offender must obey all court orders, probation officers cannot monitor compliance of their clients with, for example, protection orders, child support orders and such, because they rarely know when they have been issued. Even when they do, few probation officers know the scope of relief ordered by the court, even when orders were issued in a courtroom just a few hundred feet from the probation office.
- Agreements were made in some cases involving the placement of children without the court being clear on which family the victims or the offenders had agreed to take the children.
- In one arraignment case we observed, the abused woman did not appear. The court was going to release the defendant on his own recognizance until a person not connected to the legal system stood up and informed the court that the woman was in the hospital

unconscious from the assault. The police report only indicated they had transported her to the hospital.

- The transfer of information from one practitioner to the next is often stripped of detail and therefore does not convey what kind of urgency is called for in the response.

The kind of work that can be done at each processing interchange is significantly shaped by the resources available to the practitioner and the way his or her work setting is designed. Specialization discourages practitioners from acting on cases outside of a narrow institutional definition of what makes the situation actionable for the practitioner. So a deputy serving a protection order may hear threats or sense danger but in the end he acts as "a mailman" and takes no follow-up action once he's delivered his papers. Specialization thus creates all kinds of roadblocks for even a common sense approach, let alone a holistic approach. Even though at each processing interchange, practitioners were able to use their discretion to prioritize a case if it was extremely dangerous; in general, the information transmitted between each processing interchange was restricted to the formalized and standardized forms of the bureaucratic texts and forms. Information emerging at one site would not be passed on to others unless it was specifically required by the categories and relevancies of legal procedure. Many very dangerous situations were processed as simply routine because the practitioner operated on such a myopic picture of what was actually going on.

Institutional Use of Categories

The work of institutional practitioners is regulated through devices such as rules, regulations, guidelines, officially authorized definitions, matrices, forms, protocols, and directives that are standardized across particular jurisdictions and work settings. These devices ensure that workers operating in different locations, agencies and time frames are coordinated in

their actions. All institutions use such devices to organize how their practitioners perceive, discuss, and handle institutional business. The intake forms and processes for an emergency room, a welfare department, a detoxification center, a civil protection order center, are similar in some very general ways, yet differentiated by the functions and tasks of each of these institutions. Institutions pull highly individualized situations or events into manageable categories. The categories operate in a highly selective fashion on what is actually happening or has actually happened. At the intersection of an institution and people's everyday lives, the information selected is what can be categorized as instances or expressions of a given rule or procedure. Hence, the institutional order puts together realities in a very different fashion from the way in which they are lived. No one calls 911 to report, "I'm the victim of a misdemeanor violation of a protection order." Neither category nor the action that follows may make sense in terms of how people are living. Practitioners working at the front-line have to figure out how to make a fit between institutional categories and actualities.

In our investigation, we identified a number of ways in which institutional formulations and categories were either unsuccessful in achieving the protection of women who were abused or resulted in situations in which it was the abused rather than the abuser who was punished. We decided to explore these institutional formulations and their effects more closely. During our study, we noted that at each point of intervention (i.e. police investigation, prosecution, and sentencing), although practitioners may proceed entirely properly within institutional rules or guidelines, the categories used to define the relevance to the institutional mandate may obstruct rather than promote the protection of victims of ongoing abuse.

The mother report provides a number of detailed examples of how the use of categories presents problems for women's safety. Below is one such example.

In many cases the practitioners may have options when it comes to the application of institutional categories to what s/he finds at the scene. During one of our observational ride-alongs, a police officer responded to a call reported as a man's suicide attempt. The dispatcher reported that the caller said that her husband was very unstable and threatening suicide. She was very upset. When they arrived on the scene, she said, "I know it's only a matter of time that it is me, or the kids, or both, are gone. He needs help and he won't get help" (Reported in Research Team Meeting, December 2000). He had just pushed their son off the porch, but said, "I didn't know I pushed him that hard. I thought I tapped him" (Ibid.). His wife reported that he did push his son hard. She was pleading with the officer not to bring him back that night.

The responding officer had a number of options here. He could have focused on the problem of protecting the wife and children; he could have focused on the man's mental state. He chose, however, to focus exclusively on his suicide attempt. The observer commented:

> The biggest deal is that the guy I was riding with didn't want to waste half the night bringing him to the hospital. 'Hell, if I want to go to CITY and sit at the hospital and have him admitted, that is half my damn night.' This was a Friday night and it was this big deal. (Ibid.)

They went to an emergency room where the doctor looked to the officer for guidance: "Is she going to be in harm or danger if I were to release him?" The police officer reassured him that the man would be fine. The doctor talked, as one professional to another, without accounting for the possibility that it might be in the officer's own interest, rather than the woman's, to reassure him. The observer continued:

> We brought him back home and it was horrible to drop him off there with five kids. The woman was very afraid…She was begging him, 'Don't bring him back! He is going to hurt somebody and he needs help.' She was begging him to please get him help. She was almost…physically attached to that officer's leg and saying, 'Please don't…' (Ibid.)

The research group member commented:

> She is the one that lives with him and knows him and knows when he is likely to go off. What she has to say is totally gone. They should have taken her to the hospital and had someone sit with her and ask her what was going on. (Ibid.)

A number of institutional categories were available to the officer in this case: domestic assault, child endangerment or abuse, suicide attempt. The category he selects guides him and the case in three very different directions. The officer chooses to treat the case as a suicide attempt, which potentially makes him face the time-consuming chore of taking the man to a hospital that would be able to admit him for psychiatric observation. Having selected the category "suicide," his course of action, when written up in his report, would raise no questions with his supervisor about liability should the man later take his life. However, doing so means that the issue of the possible danger to which the women and children were exposed would not appear. He would not be accountable for aspects of the case that fell outside the chosen categorization. In the end, the lengthy hospitalization procedures are avoided when the doctor determined the man not to be an imminent suicide risk.

Institutional Versus Lived Time

The dynamic of relationships between victim and batterer does not conform to the temporal order of the institutional process; it is in lived time. "Institutional time" is the time taken by institutional sequences of action such as the processing of a case. Institutions manage everyday-world occurrences in a time zone decidedly different from everyday lived time. As our research team observed the institutional responses to, and the processing of, domestic violence cases, we became aware of how "institutional time" is imposed upon, and overlays, lived time.

A story.

Near midnight, Jan, her partner Chet, and their two children return from a weeklong trip to Chet's reservation. Even though the trip went well, a lot of tension built up on the last day. Chet became angry at little things as they drove the two hundred miles home. The last forty-five

minutes of the trip, neither one of them talked except when Jan tried to keep the kids quiet in the back seat. When they got home, Chet dropped off Jan and the kids, emptied the contents of the car onto the driveway, and left with no explanation of where he was going. When he returned three hours later, and she asked him whom he had gone to see so late at night, he started yelling at her to leave him alone. Jan became afraid. She wanted to call the police, but what would she say? After he calmed down, she threw on some jeans and a sweatshirt, put on a pot of coffee, and lit a cigarette. “Is there someone else? I want to know.” It was barely out of her mouth when he grabbed her. He grabbed her around the neck and squeezed hard. She could neither get out any sound nor get the leverage she needed to hit him or push him away. She pulled his hair, but let go to try to pry his hands loose. She felt warm urine running down her legs. She could hear him yelling and saw his lips moving, but she could not understand the words. She thought about her two children—she did not want them to see her dead. Then he let go. She fell to the floor and heard herself sucking in air. On her hands and knees, Jan thought that she probably looked bizarre. She felt like she had somehow become an animal, maybe a dog. There was a knock at the door—it was the police. Her son had called when Chet had started yelling, only twelve minutes ago.

The case was now twelve minutes old, but her understanding that it would come to this had been days in the making. The police were there for twenty-five minutes. They arrested Chet, took Jan to the emergency room, and her sister came and got the kids. Jan was released from the hospital three hours later, Chet got out of jail three days later, child protection opened an investigation four days later, and a pre-trial hearing occurred within the month. Seven months after he choked her, she was subpoenaed to testify at Chet’s trial and the prosecutor’s office

called to see if they were still living together. The trial was set for September 12, exactly nine months and 3 days after the attack. The day of the trial Chet pled to a misdemeanor assault.

Jan's story is told from the viewpoint of her experience. Domestic violence erupts in the lived world of the everyday. It arises in relationships that are ongoing and part of a lived reality—Jan, Chet, and their children are driving home when Chet starts getting upset; when Chet gets home Jan gets up and makes coffee; Jan's sister takes care of her kids when Jan is in the hospital. Such are the everyday settings of violence. Jan's story does not tell us much about her life after the police have intervened and the institutional process has set in, but there were still her household and children to look after and Chet was still someone to fear.

The institutional process is not responsive to the lived realities of the everyday experience of fear and insecurity. We know that a "domestic dispute" can escalate into serious and life-threatening violence, as it did in Jan's experience, sometimes ending in death. Previous chapters have shown how the institutional categories and reporting practices that are integral to case-management lift situations out of an individual's everyday setting, and enter them into institutional processes temporally controlled, organized and coordinated by a variety of practitioners.

Our scrutiny of more than a hundred criminal cases led us to conclude that the only occasions on which institutional and lived time coincide is in the first hours following an assault. In that time, dispatchers and, for the most part, the responding officers seem responsive to the lived time of the victims and offenders involved. However, after the initial 911 call and police response to the emergency the case proceeds through a maze of administrative steps, completely unresponsive to what might be happening in the victim's life. When practitioners talk about a case, it is almost exclusively about the administrative process; what is happening between actual

people like Chet and Jan has no relevance outside that. In the mother report, we trace the intersections of lived and institutional time as they bear on the effectiveness of institutional procedures to protect women from domestic abuse. Here we provide some examples.

The dispatch phase of the response.

The institutional process starts with the 911-dispatch center and the response of the police to the "domestic" call. Institutional procedures and practicalities govern how the crisis of violence is responded to. If the dispatcher determines that only "verbal abuse" has occurred, the call is given a lower priority than a "physical domestic" or a "domestic with weapons." This prioritization of danger is based on the perceived threat of injury to the victim as estimated by the operator during the call, and dictates the responding officers' level of urgency. Dispatchers rely heavily on such simplifications as "verbal" and "physical," or "weapon present" and "no weapon present" to code what the caller is telling or trying to tell them. Inevitably, such codes leave out a lot. In particular, they attend to concrete features of the situation as the caller describes it, but not to the level of apprehension the caller communicates or tries to communicate. Fear is lived, arises in lived time, and is oriented to what is happening and is about to happen. Such procedures for coding what callers have to say into information for the police may thus omit information crucial to determining the rapidity of the police response. In lived time, domestic violence can escalate in dangerousness extremely quickly. A call coded as "verbal domestic," and consequently given low priority, may quickly become more hazardous. One 911 dispatcher, from Communications Center B, described the prioritization as DV1, meaning no immediate danger. Domestic Violence 1 (DV1) is assigned to "just verbal abuse," and DV2 is assigned to calls described as "physical" and "physical with weapons" (Personal communication, October 2000). A situation that is experienced by a caller as very dangerous

may be ranked as low priority and deferred while police respond to others ranked with higher priorities.

In getting the work of the dispatch center done, practitioners implementing the often overworked and stretched-thin system used "time" to screen out cases. Presumably, they hope that, given time, tensions will diminish between the feuding parties and the situation will resolve itself. In some cases we observed, dispatchers or officers deliberately waited to see if a situation would "go away." A member of our research team, after observing a 911-dispatch center, noted that dispatchers would hold back from notifying a patrol officer:

> For example, if it wasn't something…that fell into one of their emergency categories, [the dispatcher] could hold it before sending it to an officer. One time in particular, a gentleman called and, about an hour later, he phoned back again and said, 'Oh, don't send the squads. We don't need them here.' Dispatcher 1 made a comment to Dispatcher 2, who was working radios. She said, 'Oh good, I held that long enough.'… If it's people who call more frequently, people that they are used to getting calls from. . .they were more apt to do that [hold the call] in that situation. 'Hold on, because they may be calling back to say they don't need a squad' or whatever the case may be. (Community J, Debriefing of sit-along, October 2000)

Such practices as these are informal allocations of the responding officers' time. The dispatcher is in a sense managing the time of officers on the street by determining which of the calls need immediate attention. At times they take for granted that the violence women endure in their homes is a normal feature of married life and that, in some cases, if left to themselves, those involved will settle things between themselves without police intervention.

> As one deputy said, 'You go out on these calls a lot. Sometimes when the call comes over the radio, it's like, ''Well, here we go again.'' Instead of pumping up and red-lighting it to the call, an opposite reaction happens. You just say, ''Hell, they aren't going anywhere, so no big rush.' (Ride-along discussion with deputy, September 2000)

While on duty, the responding officers have to decide how to allocate their working hours to various tasks, including the 911 calls from the dispatch center. The priorities the dispatcher allocates to calls guide them in deciding in what order and which tasks will be done. One of the ride-along observers noted that a young woman who had just been assaulted and had called for

help was kept waiting because the squad "stopped at the station on the way to the 'rez' to take care of some other business before we went out there" (Reported in community debriefing meeting, September 2000). However, calls that are not coded as high priority may quickly escalate to serious violence. The procedures do not enable the dispatchers to discriminate between those that may escalate to serious violence and those that, in any particular instance, do not. The routine practices of the caller-dispatcher-responding officer sequence are not responsive to the lived time of the escalation of a dispute to serious violence. This escalation can be seen very clearly in Jan's story cited above. Chet is angry in the car on the way home; on the family's arrival at home, he throws everything out of the car on to the driveway and leaves; he returns in three hours; Jan asks who he's been with; he yells at her; she is afraid and wants to call the police but doesn't know what to say—up until now it's "just a verbal"; Chet calms down; she dresses, makes coffee and asks if there's someone else; he beats her. If Jan had called at an earlier point, the call priority would not be high on the list of tasks for the responding officers, and yet in just a matter of minutes, her life is in danger.

The tendency of responding officers to postpone responses to "domestics" seems to be rooted in the normalization of marital conflict and violence towards women. An observer on a ride-along recorded this comment from an officer:

> He said that really no very…what did he call it…no dramatic domestic really happens in the City. That, mostly…he says both parties have been drinking usually and…he looks at me kind of conspiratorially, and he says, 'You know what happens when people start drinking. You know, first thing to go is their judgment and, you know, I get calls like, 'Well, the cat peed on the carpet and he said he was going to kick the cat.' And he kind of talked about it as being a useless pursuit. (Observation, Community E Ride-along, July 2000)

The police phase of the response.

One obstacle inhibiting a timely response to an Indigenous woman's call for assistance is a lack of law enforcement resources. "Domestics" are considered potentially very dangerous

situations for responding officers. When a squad car is dispatched to a “domestic” call, police officers typically have to wait for a backup car before they can respond. In most rural areas, deputies do have to respond to calls without backup. The county in which we conducted our research is a large one and, therefore, one in which it takes a significant amount of time for two squad cars to assemble. The state is a Public Law 280 state, meaning there is no tribal police force.

In the state where the research was conducted, domestic violence is unique among misdemeanor crimes, in that the suspect may be arrested without a warrant if the arrest is made within twelve hours of the assault. This twelve-hour limit ostensibly prevents frivolous, or retributive, charges being brought against citizens, and presumes that after that period of time, the assault victim can file charges herself. However, not all domestic assaults carry the same level of ongoing danger. This time limit, as others we encountered, creates an artificial parameter within which a situation is considered enough of an emergency to warrant taking the suspect into custody. Defining “emergency” by an arbitrary amount of time that has elapsed since the assault is itself a dangerous practice. Although the law is designed to safeguard against the capricious use of warrant-less arrests in domestic abuse cases, its implementation, as in the case described below, may do nothing to diminish the risk to the victim.

Heather Scandin sustained visible injuries as a result of the suspect (Adam Smith) punching her in the face repeatedly. Responding officers asked Heather the Dangerous Suspect Assessment questions. The following is based on her recorded responses:

> Smith owns a .12-gauge shotgun, which he keeps at his mother’s house at 67 Prince St. Scandin believes Smith would use a weapon against her or someone else. Scandin said the violence between her and Smith is getting worse. Scandin said Smith has threatened to kill her. Scandin believes Smith could seriously injure her or kill her. Scandin said Smith is obsessed with her. Scandin said there are no children present in their residence. Scandin said she has not had an OFP (order for protection). (Community E, Police report 8)

The suspect was gone on arrival. Responding officers attempted to locate him at the time of the incident, but to no avail. Nearly twelve hours after the original incident of violence against Scandin, the responding officer noted in his report:

> On 09/16/99, at approximately 0900 hours, I received information that Smith was at 326 Greenbury Ave. 132 and I went to that location to look for Smith. I knocked on the front door and it was answered by a female. I asked if Smith was there and she said he was and she then let me into the apartment. I was able to identify a male verbally as Adam Smith. I asked Smith about what had happened between him and Scandin the previous day. Smith said Scandin had been smoking crack and was acting 'crazy.' Smith said Scandin began swinging her arms at him and chasing after him. Smith said he held his arm out to try to keep Scandin away from him and he is not sure if she ran into his hand or not. Smith said he does not know why Scandin had been bleeding. I then issued Smith a citation for Fifth-Degree Domestic Assault. (Ibid.)

Giving a man who is reportedly obsessed and threatening to kill his partner a ticket (citation) did nothing, of course, to protect her. That he could not, at this point, be taken into custody without a warrant meant that Heather was still exposed to the same danger or conceivably even more danger because he has just received a summons to appear in court to be arraigned on an assault charge. Here the officer is constrained in acting in the interest of the woman's safety by a law that specifies how long an officer has a right to arrest without a warrant on a domestic violence suspect. The time is set extra-locally by legislators hundreds of miles away in a law to be applied to all misdemeanor domestics regardless of the particulars of the case.

The adjudication of cases.

As a case winds its way through the legal system, it becomes increasingly unresponsive to, and indeed unaware of, the actual situation of victims. It is not uncommon for the risk to victims to increase with each intervention by the legal system in their lives. Case-processing schedules revolve around court calendars, attorney schedules, and the availability of judges rather than around questions of a victim's safety or needs. The legal system is committed, in

principle, to a party's right to a fair and impartial hearing at all points of case deliberation, yet it is so overloaded, again a resource problem, that there exists a constant pressure to settle cases without such a hearing. In the state where the study was conducted, the average number of criminal cases filed each year per judge in the system is 7,854.[9] In such an overburdened system, practitioners and citizens alike are pressured to settle almost everything. The fewer trials, the fewer contested hearings, and the fewer lengthy arguments, the less the backlog of cases will be.

Orders for protection.

There is pressure on parties to stipulate to a protection order: in effect, the parties say, "Ok, we agree not to have a hearing and allow the court to issue an order. However, the respondent is admitting no wrongdoing. He will only agree to certain relief, such as a stay-away order and a restraining order, but not to an order to receive counseling or to give her possession of the family car, etc." As a result, the woman surrenders some of the relief possible with a full hearing in order to guarantee the restraining order, gain temporary custody of the children, and avoid the stress of a hearing. The court absolves itself of the duty to issue orders that it deems are in the interest of safety, and the respondent leaves with the minimum intervention. We watched many women bargain away some of their initial requests to get the order, and to negotiate what seemed to be needed help from the court so that the order could be quickly granted, thereby avoiding a long hearing to find wrongdoing (abusive behavior). One advocate noted that,

> The women walk into the courtroom absolutely terrified. When the judge and his lawyer start saying to her, 'Are you willing to stipulate to an order?' she has no idea what that means. Her advocate can explain it but, in the end, the woman is given the message: 'Just do it! Do it and we can all avoid a big old confrontation.' And that's what she wants at all costs. (Reported in a community team meeting, November 2000)

[9] Program Evaluation Report: District Courts from Office of the State Legislative Auditor (2001).

In our study of orders for protection that were granted for Indigenous women, nine of sixteen orders had a finding of abuse. In a review separate from this study, of sixty-one orders granted involving both Indigenous and non-Indigenous petitioners, only thirty-one had a finding of abuse. In just over forty percent of cases parties agreed to forgo their right to a full hearing. Like many bureaucracies, the U.S. legal system is a self-maintaining social system.

We reviewed forty-two petitions filled out by Indigenous women. Seventeen of these petitioners failed to appear at the hearing, and they were all subsequently dismissed.[10] We observed two consecutive Protection Order hearings in which:

> [The respondents'] attorneys failed to appear; the judge granted continuance in both. In the next hearing, the petitioner herself failed to appear and the judge dismissed the case because of her absence. Although the reported violence in this particular petition was extreme, none of the practitioners present in the courtroom inquired into the reasons behind her non-appearance. (Community H, Civil Court Observation, July 2000)

The court treats differently instances when the victim did not appear or the suspect did not appear. The respondent's rights are to be protected when civil actions are taken against him. The victim, however, is viewed as the initiator of actions in a protection order case, and consequently the State will not pursue her case independently. In fact, the U.S. civil legal system is structured so that in citizen-initiated court processes, even ones involving extreme danger to the petitioner, it is impossible for the system to act on a case if the citizen is unable to pursue a request for help. Many of the cases we observed simply faded away. A woman's safety and the welfare of the children living in these situations are critically compromised in this arrangement.

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[10] While the petitioner's temporary order was extended, she was nonetheless left without any of the relief she requested, except the no-harassment order and a requirement to reappear in court. In all of the civil court cases we observed, the court allowed respondents a maximum of two continuances. In criminal court, however, we observed a number of cases in which five or six hearings had been rescheduled (continued) for various reasons, including a non-appearance by the offender.

Processing criminal cases.

We found a number of disturbing trends when we started simply counting the days between institutional interchanges on the cases. In our review of eighteen criminal case files, we found that the average length of time between the arrest and its disposition was ninety-five days, with twelve of eighteen cases exceeding thirty days for resolution. One prosecutor we spoke with described the kind of crowded court schedules that lead to stretching the institutional time of case processing:

> It's a waiting game. I'm trying to avoid producing a victim because usually I don't have one. Sometimes if a case drags on a defendant will say, let's just plead and sometimes dragging it out is in his favor. If I have a good enough case to win at a trial I probably won't have to go to trial because nobody has the time to spend three days in a courtroom over a misdemeanor assault, not even the defendant. (Interagency Meeting with prosecutor, September 2000)

The impact of deferment that institutional time imposes on people is not lost on defense attorneys. One of the significant strategies defense attorneys use is to keep requesting continuances in court. A recognized feature of domestic violence cases is that they will "disappear" if one can draw them out. The tactic rests on the fragility of victims and their consequent reluctance to sustain a confrontation with the abuser over an extended period. Delaying institutional action on domestic assault cases does nothing for victim safety.

Obviously, if there was only one case to handle the whole process could occur in a three or four day period. However, the court system handles thousands of cases a year even in relatively small communities. The U.S. legal system is set up to "bunch" together different points of institutional actions. "Bunches" of cases involving one specific institutional response such as arraignments, bail hearings, pre-trials, etc. are heard on the same day. For example, in one courthouse we observed, arraignments are all scheduled each morning, pre-trials are on Tuesdays, protection order court is held on Thursdays, trials are scheduled for certain weeks of

the month. Dozens of cases are “bunched” so that a large number of each are acted upon at the same time. It is an assembly-line approach where all sense of holism is exchanged for expediency. In one morning, we observed one judge hear over one hundred pre-trial cases. Two-thirds were resolved in dismissal or plea-bargaining to a lesser offense or lighter sentence for the offender. One-third of the cases were pushed forward and scheduled for a trial, but most of those were resolved by a dismissal or plea agreement the day of the scheduled trial. Practitioners become involved in processing a large number of single actions and lose all perspective on any case distinctiveness. The focus of the action is on quick efficiency and concerns such as victim safety must be adjusted to the process rather than vice versa. An individual practitioner would be hard-pressed to stop the process to seek out missing information or request additional work that would enhance victim safety. Often, defense attorneys met their clients for the first time only a few minutes before the arraignment hearing and some met them on the day of the pre-trial. Many attorneys were reading the police report on their feet and asking the clients only a few cursory questions, and a prosecutor reviews 50 to 100 cases two days before pre-trials. Obviously, such bunched execution of actions did not allow prosecutors to develop a holistic understanding of a situation and as a result, women’s safety was routinely marginalized.

As we discovered, bunching cases to expedite them through the system does not come without consequences. Prolonged delays due to bunching in case processing methods are common to large and complicated institutions, with serious consequences for women who are victims of ongoing abuse. In our review of eighteen full case files from police intervention through disposition, we were alarmed to find out that ten were pleaded down to lesser charges. Seven of the ten were negotiated down to the charge of “disorderly conduct” [Community E, Case Follow-up (CF) 3, CF4, CF5, CF10, CF13, CF14, CF17]. Yet the violence in these cases

was quite serious and the injuries sustained by the victims extensive. Bunching forced cases to be dealt with in the hallways and taken care of as quickly as possible, which makes for an efficient process for the institution, but flawed outcomes for the victims.

Bunching also means that cases are treated in rapid-fire fashion. In the pre-trial hearings that we observed, most cases were disposed of in a matter of three to five minutes. More hotly contested situations would take an extra ten minutes at the most. Generally, if a defense attorney wanted to challenge the prosecutor's claim of evidence against the suspect, a later date was set for a new probable cause hearing. The push was on moving cases along without holding up the flow of the assembly line. There was pressure on everyone not to crowd up an already overloaded court calendar. One observer talked about the pre-trial process:

> There were over a hundred cases, a dozen defense attorneys and one prosecutor with a mound of case files. Four hours later, they had held a hearing on every case with no breaks. I think there were seven domestic cases in that pile. I don't know, I was taking notes but I couldn't exactly tell it all went so fast. There was no way that the defense attorneys or the prosecutor knew much about those cases. (Reported in a community team meeting, January 2001)

One prosecutor commented, "We call it cattle day. You just keep herding them into the courtroom all day long and at the end of the day, the blood is on the floor. You just hope most of it isn't yours" (Interagency Meeting, March 2001).

The process had a market-place feel to it. The treatment of cases was highly standardized, inevitably precluding sensitivity to the magnitude of danger to individual women. Domestic violence cases that involved serious threats to kill, ongoing intimidation and abuse, as well as brutal beatings were treated as part of the lot with few effective distinctions based on the gravity of the situation.

The pressure on the court calendar was reflected in the practice of plea-bargaining, which was so automatic that even strong cases with good evidence were routinely bargained down. The

practice of plea negotiations works in a similar way to negotiating details of an Order for Protection, except women have no observable role in the negotiations. The premise behind plea negotiations is that prosecutors base their decisions regarding the charge and the offer to the defense on the strength of the evidence before them. In other words, if they have a strong case, they offer very little in the plea negotiation bargaining because they feel confident that they can get a guilty verdict without the defendant pleading guilty. Prosecutors know that the defense attorney understands this as well and will likely recommend to their client that they plead guilty. On the other hand, if their evidence is weak, they will not want the case to go to trial when a guilty verdict is unlikely. Again, both lawyers are aware of this, and so the prosecutor will offer incentives for the defendant to plead guilty, including lowering the charge from assault to disorderly conduct, lowering the charge from a felony to a misdemeanor, making a recommendation of no executed jail time and, in some cases, even a recommendation of no rehabilitation.

As the process continues the case gets further and further away from the crises and pain and fear of the night the incident occurred. Since it is the incident that is being considered now and its meaning has faded, these resolutions seem sufficient for a punch, kick, or threat that happened months ago.

Texts

The U.S. legal system, like most institutions of social control, uses bureaucratic forms of management to accomplish its complex work. Texts (or documents) are foundational to bureaucracy (Weber, 1968). In all of our observations, interviews, and court-record reviews, we sought to explicate the role that texts played in defining the ways that practitioners thought about and acted on cases. To better understand how the legal system intervenes in the lives of

Indigenous women who are abused, we paid attention to how the case file, or documentary practice, organizes the relationship between the state (or its representative worker) and the woman. A case record or file is a key organizational element in taking action—it is the institution's representation of the "incident" (here, the incident is an assault on a woman) that precipitated the opening of the case—so it necessarily reflects the concerns of the institution. Case files rarely contain verbatim transcripts of conversations. Instead, they contain documents that are organized to record what "of institutional significance" occurred at each stage of case processing.

Institutional practitioners are trained to read and write in institutionally-recognizable ways. The reader is linked to the writer of a document—not only through the text, but also through the legal discourse that organizes their profession. All professionals are trained to translate what they see and hear from the everyday world into pre-arranged terms and concepts specific to their field. As practitioners document what they observe in a case through administrative forms, computer screens, narrative reports and case notes, the reality of the woman who has been abused is transformed into an institutional representation of a domestic abuse case. Institutional texts act as filters, they select what is institutionally relevant and obscure what is not.

Texts organize the sequencing of practitioners' work: for example, a computer screen prompts dispatchers to consider certain information when coding a call. The code they use informs officers how quickly they should respond. In addition, a report filed by an officer on the "arrest in custody" form is typed immediately by the police records bureau and routed to arraignment court the next working day. Texts create links between practitioners who work in different agencies and perform different tasks. For example, police reports from domestic calls in

which children are involved are automatically routed to the child protection agency. Texts filter cases, allowing practitioners to exclude those that don't fit. For example, petitions for protection orders are structured to allow the court clerk to determine if a case fits the criteria of a "domestic." If it doesn't it is not forwarded to the judge. Practitioners produce texts that document their compliance with state law, regulations, and policies, and address liability issues. For example, almost every arrest report we read contained the phrase, "I placed the suspect in handcuffs which were double gapped and locked," or, "I read him the Miranda warning."

Standardized texts define for practitioners which details are institutionally relevant and, therefore, those that will be gathered and recorded. Using forms like the parent/child interaction checklist or report-writing formats, like the one used by police when documenting domestic assault calls, the institution instructs practitioners about what information is appropriately gathered, and in what order. Texts require that practitioners categorize a case in order to move it down a specific course of action. For example, misdemeanor- and felony-level cases call for different levels of investigation, use different amounts of the court's resources, and result in a different sequence of hearings before the court. Texts highlight what is important about a case by requiring certain pieces of information and omitting others (or relegating other types of information to an optional narrative section). For example, in the case of traffic accidents, police officers use a form with a check box to document visibility due to weather at the scene. They do not, however, require the documentation of an assault victim's visible injuries through a format such as a body chart.

We attempted to understand exactly what role texts play at each case-processing stage. It became clear that at each stage of intervention, the documentation reflects only what is

institutionally relevant. This has consequences for the goals of protecting and respecting women in our communities.

Case files are the institutional presence of abuser and victim. They are the textual reality that coordinates the work of the institutional practitioners involved in the processing of a case. Though they organize practitioners' involvement in very specific ways, the way in which data is gathered for those files is not examined nor considered to be problematic. People who observe and interpret the actions of the people involved—the man who beat his wife and the woman who was beaten—make entries in terms of the appropriate legal category in their institutional capacity.

The dispatch operator's response to a 911 call is the first in a series of prescribed criminal assault case actions that coordinate the practitioners who subsequently help to process a woman's experience of being beaten. The dispatcher who receives the call does not use her own discretion in this highly specialized system. Instead, she is guided by a series of computer screens that script, or mediate, the discussion: first, between the caller and the 911-intake worker, and then, between the dispatcher and the police officer that responds to the call (Smith & Whalen, 1994). These screens constitute the second text for the police and court system that will manage the domestic assault case. As D.E. Smith notes (1990b), they are not "without impetus or power."

The reality of what is happening to the woman who is being abused disappears in the processing of the case. Its focus is on the prosecution or possible prosecution of the suspect. During the course of the case's processing no continuity of knowledge about the victim or her experience of violence is provided in the system of texts. No one is assigned to work with the case from beginning to end. If information is not recorded at the first stage of intervention, there

may be no point of entry for it at a later stage. Subsequent reports become narrowed in scope as intervention efforts further define and sort the case. If information does not fall into institutionally prescribed categories of documentation, it just does not appear in the file and does not get considered.

In the mother report we analyzed three forms that exemplify how the reliance on standardized or formalized text prevents the State from fully understanding the situation of the woman being abused often bringing about misguided legal interventions. Those forms include the form filled out by a woman to withdraw a petition to the court for a protection order, a parenting assessment form used by social services in a domestic abuse related child protection case and a police report of the response to a 911 call. In our analysis we showed how the use of these texts serve the institutional needs for case processing but simultaneously places an ideological framework around the events that continuously compromise the ability of the process to protect and respect women. In the following section, we will look at some of these texts and their inability to take up the fullest context possible of a women's lived experience.

Institutional Inability to Take Up Women's Stories

As Indigenous people, we are storytellers. When we tell stories, what kind of stories we tell on certain occasions, who tells stories, and how they are told are all part of our traditions and cultural ways of doing things. In this section, we examine the extent to which the institutional processing of domestic abuse cases under U.S. law is open to hearing women's stories. We started our inquiry on this topic by asking when and how a woman is allowed to talk to the people acting on her case. How is her knowledge of the situation incorporated into the state's determinations of public safety, truth and justice (all stated goals of the U.S. legal system)? What restrains women from speaking in this process?

In the end, we found that virtually no part of the process allows a woman to tell her story as she has experienced it. Every interchange had its constraining features. The use of institutional texts, language, relevancies, processes and ideological frameworks was so encompassing that they virtually erased women's lived experiences from the final story that formed the basis of the state's actions.[11] We watched and listened to what institutional practitioners were doing and saying with the intent of finding out how their documentary practices were coordinated. We wanted to see what kind of account of women's experience the legal process produced, and to see how it drew a woman into the production of her account.

As we reviewed our conversations and interviews, three pattern that shape the talk between practitioner and battered Indigenous women came into focus. The first is a phenomenon we called communication without dialogue. Institutions provide formulaic procedures that operate in many settings to restrict how practitioners relate to those involved in their cases. We found only a very few instances in which a practitioner and an Indigenous woman engaged in a truly respectful, open, and free discussion about what was happening to her and what she needed in order to be safe. The second was the use of administrative forms and procedures that prevented the full account of women's experiences from coming forward. The third was the intimidation of women in court processes by the abuser or by intervening practitioners. These are not a comprehensive account of how women's voices are constrained in these institutional processes, but they exemplify our observation that women's stories are written *out* of case files, not *into* them.

[11] Had we asked the same question of the men whose stories were processed differently we still would have found a significant disconnect between what most men would have to say about their daily experiences, their relationship with their partners, and their use of violence.

Communication without dialogue.

U.S. legal institutions process cases. Cases do not exist in the lived actuality of the night on which a man smashes his fist into a woman's face; cases exist in case files. Case files create a shared document based reality for many practitioners involved in the resolution of the case. We asked: How did the institution tell practitioners what to and what not to document? In addition, how did these instructions shape case outcomes? Generally, institutional practitioners used case files as a resource without considering that the process used to document cases might be problematic. Dozens of individuals who occupy specific institutional positions make entries into a single case file. When police, probation officers or prosecutors incorporate their observations into official reports, they do so in terms of the legal process for which the report was designed. A police officer records evidence of a crime, the probation officer produces suggestions for sentencing, and the rehabilitation worker attempts to determine whether the offender is amenable to change. Administrative forms, ideological practices, and institutional policies defining relevant information, guide the report's author through literally dozens of choices. These guiding forces are invisible to the casual observer and make it appear as if practitioners are making individual choices based on the specifics of a case.

In our review of records, and in our interviews and observations, we started from the premise that legal practitioners do not independently decide what to look for or record, or even how to interpret what others have documented. Rather, they work within legal and administrative instructions on every aspect of case documentation. Explicit directions are provided through frameworks such as guidelines, laws, codes, policies, job functions, court calendar priorities and legal levels of proof. Tacit conventions had been established through practitioners' experiences,

by their learning the "routine" practices of their jobs, and through informal traditions passed on from other practitioners.

We were interested in how the accounts and experiences of women were expressed and documented. We found few official directions on how to document what women have to say about their experience, but tacit instructions buried in the intended use of the document. For example, directives to police officers about obtaining a woman's account of an assault were buried in instructions on how to document a self-defense claim or make a probable cause determination. In these institutional directives, victims of a crime are never treated as participants in decisions about how to intervene, except within rather narrow frames such as providing testimony or victim impact statements. Even in civil court, where the woman is an official party to the case, her story is shaped by legal rules on petitioning the court and what may be said in the courtroom.

There was no better place to observe the process of institutional culling of relevant information than at the dispatch center. Dispatchers are trained to elicit specific information, paring down a scattered and emotional conversation to two or three sentences and then communicating that to the next intervening agent. All of their conversations are captured on tape. By listening to tapes and reading transcripts, we could examine the first conversation that transpires between a woman calling for help and the community she reaches to for protection. We noticed how quickly the dispatcher takes control of a conversation with a woman and to find out what is institutionally relevant. For a woman being abused, her call to 911 is often times her first opportunity to articulate the help she needs. This, however, was also the point at which institutional procedures took over. The questions that the dispatcher asks are designed to fit what

the caller has to say into institutional relevancies. The story the caller is trying to tell is muffled; aspects of key importance to the caller may be marginalized or even disappear.

In our initial meetings as a community team, we used the 911 transcript below to explore how to analyze these tapes:

> Caller: My husband is Gene La Prairie. Can you get a squad out here to pick him up.
>
> 911: What has he done, Ma'am?
>
> Caller: He's hitting and punching and just scaring everybody.
>
> [The dispatcher gathered information on address, identification, his whereabouts.]
>
> Caller: I think he's finally gone off his rocker. He's not even drunk and he's saying all sorts of wild things.
>
> *911: Like, what is he saying?*
>
> Caller: How he's going to hunt down my brother and my two uncles and how everybody that's ever helped me is going to wish they had just let me rot.
>
> *911: Where are these people now?*
>
> Caller: They're back in Bear Creek [150 miles from woman's location] but he can find them. He's nuts right now. (Community H, 911 Transcript)

The dispatcher does not record the information about the threats to her relatives or pass it on to the responding officers.

To the woman, the threat against her relatives is clearly serious: her husband is threatening to hunt down her brother and uncles. To the dispatcher, that information is not institutionally relevant; it introduces potential problems that are 150 miles away, outside the jurisdiction of the responding officers, and not immediate. The threat against her family members gets only a vague reference in the police report and is not taken up in any way the next morning when Gene is arraigned and released with no bail and ordered to have no contact with the victim (Community H, 911 Transcript).

Since the reference to the threat against her family members is noted in the police report, it could become relevant to the prosecutor at a later stage. Months later, if she should refuse to testify, the prosecutor could put her on the stand as a *hostile witness* and play the tape of her telling the dispatcher about the threats to her family in order to establish her fear of giving testimony, or to explain why she might now be recanting her version of events that night. This use of the information is not, however, about protecting her family and friends. No practitioner attempts to contact her brother and uncles to discuss their safety needs. His conditions of release do not include orders to have no contact with his wife's relatives. The threat that is central to her experience of the violence, and a significant form of coercion by her husband, is only peripherally important to the prosecution process.

Our data contains a number of dispatch tapes that provide similar examples. In the call below, we see there are two conversations. One led by the 911 operator in which he elicits the information needed to prioritize the call, locate the caller and determine the danger to responding police. The woman on the other hand has something to say – "I'm not going to wait until it gets physical…it's his way of saying that he didn't touch me…he told me he's never going to forgive me for this." None of this information finds fertile ground for conversation. She is a data point and even after the squad was dispatched and the institutional business taken care of, there was no return to what was on the woman's mind.

911: Has he been drinking at all?

CALLER: No, he doesn't drink.

911: Okay. Okay. Did he have any weapons or anything with him?

CALLER: No.

911: Okay.

CALLER: Well, this started again as an argument and…and I know where it's gonna go when it gets that way, and I'm not gonna wait until it becomes physical.

911: Um..hm

CALLER: And he wouldn't leave. I asked him to please, to get out of here.

911: Okay. So it was a verbal argument until he gave you a push?

CALLER: Yes.

911: Okay.

CALLER: Well, more of a shoulder block, I guess, as he was walking by me.

911: Oh, okay…

CALLER: It's his way of saying that he didn't touch me.

911: Hum…is there anybody else in the house or?

CALLER: No, just the two of us.

911: Okay...

CALLER: He told me now he's never gonna forgive me for this.

911: Where is he now in the house? (Community H, 911 Transcript 3)

We saw countless examples of women telling practitioners that their abusers were threatening to kill them, to maim them, to take their children and the practitioners following prescribed text moved on to the next bit of information without so much as a raised eyebrow to the comment shown below.

CALLER: Um…my husband is throwing gas my house and threatening to burn it down

911: Your husband is throwing gas on the house?

CALLER: Yes

911: And what is your name? (Community H, 911 Transcript 13)

The conversation never returns to the original statement and the gas comment is not recorded or dispatched to the responding officer but a notation that he threatened to burn the house is.

In our observations of the dispatch center, and later the patrol response to calls, we uncovered our first evidence of a system that seems unable to engage in dialogue with those who seek its protection. These types of exchanges struck a fundamental chord of dissonance in us, yet they were routine in the handling of cases to the practitioners that we observed and interviewed.

As cases moved on in the system, communication between the woman and the representative of the "state"—the practitioner—became more and more structured by institutional tasks and procedures. Women appearing at arraignment court were asked, "Do you or do you not want a no-contact order in the months preceding the resolution of the case?" This question is the only one asked at this point. According to the chief prosecutor of Community E, only a small percentage of women are consulted before the prosecutor makes a plea agreement, even though that consultation is required by law (Interview Prosecutor, November 2000). In eighteen pre-sentence investigations examined, only two women responded to a form letter from probation inviting them to participate in a pre-sentence investigation process. The process had very little room for a full discussion of her needs. Women were given a menu of options: Do you want a no contact order as part of his sentence? Do you want him to go to a community counseling program selected by the court as part of his sentence? Do you want him to be ordered to pay for damages that he caused? On those rare occasions when we observed (or read transcripts of) women speaking in court at a sentencing hearing, they had virtually no opportunity to speak *with* the judge only to make a statement.

Forms without stories.

Procedures for gathering information in a form or formal report were integral to the institutional process, and organized as sequences of institutional action such as the 911-dispatch computer screen, the police investigative or arrest report form, the police probable cause

declaration submitted to the jailer, the booking form, the probation officer's pre-trial release interview form, the jail release of a violent suspect notification form. These forms provided the informational basis for the institutional process.

We analyzed three of these forms and their respective processes by which they are completed in order to understand how these institutional tools eventually produce an eventual account of the case:

1. Local police agencies prepare an investigation report form by which patrol officers write a report of their initial response to a criminal complaint.

2. State judicial bodies have created a form by which local court jurisdictions process petitions for civil protection orders.

3. County and state probation agencies have prepared a protocol for probation officers to use when preparing and presenting a pre-sentence investigation that advises the court on sentencing domestic abuse offenders.

In the previous section, we showed how conversations between practitioners and women whose cases they were processing occurred without dialog. In the mother report we extend that notion, but focus our analysis on how the use of administrative forms and their accompanying processes for proper use constrains what can be said and recorded, and eventually, what can be taken up by the system. The following is one example taken from that analysis.

Police report formats: What do women have to say?

The investigation report form differed among the four departments we studied. All four departments—E, H, I, and J—used the top fill-in-the-blank half of their forms for names, dates, times, location, charges, disposition code, and so forth. The bottom half, and any attached sheets, were designated for officers' narratives. While Community E's police report narratives were the

most comprehensive of all the communities we observed, they rarely took written statements or obtained taped statements from victims. Department H occasionally took written statements; their policy left this to the discretion of the officer. Department I rarely took written statements from victims and their narratives were extremely sparse. Finally, Department J required officers to routinely obtain taped statements from victims in addition to summarizing a victim's account of events. These summaries were often quite detailed. In Department E, an extensive checklist required officers to record seventeen categories of information. Officers addressed all of the categories in about half of the reports we examined. Even those reports that were not completely filled out contained more extensive information than almost all of the reports from the other agencies.

In the three other agencies, certain officers stood out in their report writing: one for his hostility toward women and men involved in these cases, and his racist references, and the others for their relatively extensive and thorough documentation of detail on their cases. Department H instituted a new report-writing format for domestic calls toward the end of our study. This new format was based on Department E's but included a number of improvements.[12]

We extracted any mention of what women wanted from all of the police reports. We found, surprisingly, that even though two departments had recently redesigned their formats with extensive input from victim advocacy groups, they still had not incorporated guidelines to ask women what they wanted to happen. One advocate we interviewed explained:

> There are a few dilemmas here. If we tell police to ask women what they want they'll interpret that to mean; *does she want him arrested and does she want to have him prosecuted?* We'll be taking a step back to the days when police would come in and say do you want him arrested? Of course the women would most often say no and the police

[12] We were able to observe training and monitoring of the new policy to see how a department shifts its documentation of certain kinds of cases. At the time of this writing, new reports from that department were far more detailed than those that we had gathered for our study.

> would advise and leave. So all the pro-arrest policies have been written to say 'it's the state's decision, don't put the onus on her to arrest.
>
> So now many more people are being arrested for domestic assault, but this idea of not putting the onus on her about the decision to arrest has changed to; *don't let her control the case in any way because he controls her and she doesn't know what is best for her*. It's always so black and white in this system. Before [referring to prior to a pro-arrest and prosecution policy] women could control the decision not to arrest and not to prosecute but, they couldn't make those same things happen. Now arrest and prosecution happen far more often but, women can't seem to make them not happen. And in the end, when police say, 'What do you want?' that is what they are asking. '…Do you want him prosecuted?' (Reported by Advocate, Community Team Meeting, February 2000).

Still, in 71% of reports we reviewed, officers built into their narrative some mention of the women articulating which course of action she wanted. Most frequently, women said: (a) they wanted to press charges; (b) they did not want to press charges; (c) they wanted him to leave the home; (d) they wanted an advocate; (e) they wanted to talk to him before he was transported to police headquarters. We saw no indication that her expressed desires were relevant to a criminal case, and only rarely did her desires appear to influence what actions the officer took.

We coded each report and identified anything that was said about items that struck us as interesting. For example, we pulled out any mention of alcohol; children; history of abuse or violence; tribal connection or affiliation; reason either party used violence; violence, threats, or acts of intimidation. The cumulative remarks around each of those topics informed our discussions about how the documentation of such information affects the case or the possibility of enhancing Indigenous women's safety. For our purposes here, we will focus our discussion on everything that was said about the history of abuse or violence the victim had experienced or the suspect had used.

We found a significant difference in how the departments recorded this information. Not surprisingly, how the information is presented strongly influences what a reader is able to understand about the case.

Department E directs officers to conduct a Dangerous Suspect/Risk Assessment evaluation. This evaluation includes several questions for the victim about the extent and type of violence in the relationship. The officers are to record any information the victim offers about this series of risk factors:

1. The suspect owns or has access to guns.
2. The suspect is likely to use a weapon against a family member or others.
3. The violence is getting more severe or more frequent. How?
4. The suspect has threatened to commit suicide or to kill victim or others. Who?
5. The victim *believes* suspect may seriously injure her/him.
6. The suspect seems obsessed with or is stalking victim.
7. Children are in the home or involved.
8. There has been a recent separation, protection order issued or divorce (in past 6 months).
9. The suspect appears to be reacting to the OFP or divorce in a dangerous way.

Officers from Department E asked and recorded victims' responses to the above questions in only twelve of fifty-two cases, or 23% of the time. When these officers did use the Dangerous Suspect Assessment, the majority of them recorded a relatively detailed response from the victim, while a few provided only minimal information. Typical examples of the responses are:

Relatively Detailed Response:

> I asked MYHRE the questions on the Dangerous Suspect Assessment form. MYHRE provided the following responses:
>
> 1. NEER does not own or have any access to guns. NEER does have a lot of knives.
>
> 2. MYHRE believes NEER is likely to use a weapon against her, a family member, or others. MYHRE particularly thinks NEER would use a weapon against her. MYHRE said NEER is quite a 'puss' with others. MYHRE said she has never seen NEER get in a fight with anyone else except her.

> 3. MYHRE said the violence is getting more severe and more frequent with NEER. MYHRE said NEER beat her up twice within three weeks of being out of jail on May 16, 1999. Each time has been like tonight; NEER has hit MYHRE in the face and gotten upset any time MYHRE has mentioned the police.
>
> 4. MYHRE said NEER has threatened to commit suicide. MYHRE said NEER has threatened to kill her. MYHRE said NEER threatens to kill her almost every day.
>
> 5. MYHRE believes NEER could seriously injure or kill her.
>
> 6. MYHRE believes NEER is obsessed with her.
>
> 7. MYHRE has one son - CHAD MYHRE, DOB 10/04/88. MYHRE was staying with his father tonight and did not witness the violence. CHAD MYHRE has been in the apartment when NEER has argued with and threatened MYHRE.
>
> 8. There has not been any recent separation, OFP, or divorce in the past six months. (Community E, Police Report 5)

Even when officers did ask about the history of abuse, they adhered closely to the prescribed questions and rarely fleshed out the woman's story. When the above officer records that she believes he "could seriously injure or kill her," one might think that a few follow-up questions would be in order. However, fully understanding the victim's perspective about the degree of danger she faces is outside the task assigned to the officer, who is principally investigating this incident for possible prosecution. When she tells the officer that she believes he is "obsessed with her," we wanted to know what that meant to her, especially in relationship to her safety, but no such narrative is solicited, or at least recorded.

Minimal response**:**

> SCHULZ does not own guns or has access to them. SCHULZ is likely to use a weapon against her. The violence is getting more severe. SCHULZ is not suicidal and has not threatened to kill HERMANS. HERMANS believes SCHULZ could seriously injure or kill her. SCHULZ is not obsessed with HERMANS and does not stalk her. There has not been a recent separation order or divorce. (Community E, Police Report 57)

Here, the woman indicates that she believes Schulz could kill her and is likely to use a weapon against her, but the officer does not elicit more information. This low level of inquiry about a victim's perception of an offenders' dangerousness is consistent across all of the reports

we read. It was one of the most striking examples of how the task of processing a case becomes the primary goal of the system, rather than taking up the safety needs of a community member.

Department H does not prescribe questions for its officers, but some officers nonetheless elicited detailed information:

> I asked CHERYL what had happened and she said that her boyfriend and father of two children, who was identified as LARRY DANIEL CARLSON, DOB 09/18/75, had beat her up. In talking to CHERYL, she stated that this had happened before and that LARRY said it wouldn't happen again. In the past, CHERYL did not want charges filed...Today she said she'd had enough and wanted him arrested...It should also be noted that CHERYL's and LARRY's two children were present when this occurred. At one point during the assault, one of the children said to their dad, 'Don't fight mommy, fight me,' and then threw beer cans at him. (Community H, Police Report 11)

The officer framed the history of her abuse in the context of her likelihood to testify or cooperate with a prosecution, and within the context of the impact of the abuse on the child.

Department H recently adopted a new report-writing format that requires officers to ask victims risk questions. The new training manual says, "Now we are asking the victim for her/his opinion about the level of fear, level of risk, and pattern of abuse. We have settled on three questions to ask in the emotional moments following a specific incident that might help shed light on a whole history of violence."[13] The three open-ended questions, designed to assess the risk and danger experienced by the victim, are as follows:

1. Do you think s/he will seriously injure or kill you or your children? What makes you think so? What makes you think not?
2. How frequently and seriously does s/he intimidate, threaten, or assault you?
3. Describe the most frightening event, or the worst incident of violence involving him/her.

---

[13] Department H. (2001). *Domestic Violence Handbook and Training Guide for Patrol Deputies.*

The excerpt from the report below shows how this type of questioning sheds light on the woman's experience of violence. The victim in this case, Carol Karr, was attempting to move her belongings out of the residence she shared with David Hill, the suspect. As Karr was preparing to leave the residence, Hill pushed her into a doorway in the home, causing the door to break loose and injuring her back. Karr then ran to the neighbor's to call the police. David Hill was gone when the police arrived. The responding officers assessed his dangerousness by integrating the questions above into their interview with the victim.

> CAROL stated that they haven't had many fights as of late, but she has had severe fights in the past. She stated that about a year ago she had a really bad one where police did not get involved; however, it was very physical. She stated that after that, she had black and blue marks and a very sore and swollen neck. CAROL stated that she was scared that that could happen again tonight. That's why she ran out to the neighbor's and called police. CAROL stated that she had considered earlier this afternoon calling WOMEN'S ADVOCACY PROGRAM, but didn't. CAROL stated that she did fear for her safety and felt that DAVE was very capable of doing severe bodily harm to her and that was the primary reason for her leaving. She stated that unless DAVE was in police custody, she would continue being scared of him.
>
> CAROL KARR stated that the kids have not been hurt on any of these fights. DAVE appears to be capable of becoming very physically violent with her. She stated that up until this heating incident (the heat had gone out), they had been getting along fairly well. Things seemed to be better after the terrible incident of one year prior. But things have been building up to this fight tonight. When CAROL was asked questions about past incidents, she always referred back to the incident of approximately one year ago. (Department H post-study police report #1)

In the second example from this jurisdiction, the responding officer uses a more direct line of questioning to assess the suspect's dangerousness:

> I asked her the three risk questions. 1) Did she think AARON would seriously injure or kill her or her children. She said that she did not think so because he is only violent when he has been drinking. The second question I asked was how frequently and seriously does he intimidate, threaten or assault her. Her reply was only when he has been drinking alcohol. I next asked her to describe the most frightening event or worst incident of violence involving MR. COLE. Immediately after I asked this question, she appeared to break down crying. She began to shake. She wept for a few minutes and was then able to answer the question. She advised me that approximately five to ten years ago, she was assaulted by MR. COLE while at his house. The extent of this assault was that while there, he had aimed a rifle at her and fired it approximately twelve inches over her head. She also told me there was a hole in the wall in one of the bedrooms of his house from the bullet.

> As I was leaving, I asked if there was anything else she wanted to add or if anything else had happened while the assault was occurring that she had not told me. She then told me that after he punched her, he said to her either, 'I'll kill you,' or 'I'm going to kill you,' which frightened her. (Department H post-study police report #2)

Our findings uncovered a disturbing trend in Department I. Responding officers recorded information about the potential dangerousness of the suspect in only six of the thirty-two cases we examined. At best, officers included only vague references to weapons or threats made by the suspect to kill the victim were included. Of the six cases that did include these references, *none* contained any follow-up questions to clarify the history of violence, or level of danger or risk experienced by the victim. In the examples below, the victim reports serious levels of violence and/or threats of violence. Nevertheless, responding officers neglected to follow up with questions that would shed light on the degree of danger or threat.

> While she was there, PAULSON choked Comp. [complainant] and pushed her to the ground causing red marks on Comp's neck. Comp. feels that PAULSON is a very dangerous person and feels something must be done. (Community I, Police report 85)

> Complainant informed officers that REPENSKY had returned home intoxicated and went into a rampage. During this rampage he threatened to kill her and if someone comes into the apartment he would stab them in the face. (Community I, Police report 88)

Department J collected risk or dangerousness information in ten of the twelve cases we reviewed, often via taped interviews with the victim. However, even within the context of these taped interviews, rarely did Department J's officers pursue lines of questioning that would further clarify or exemplify the level of danger or risk experienced by the victim. For example:

OFFICER: Are you afraid of him?

VICTIM: Yes.

OFFICER: Okay, have you had Orders for Protection against him?

VICTIM: Yes.

OFFICER: And those have expired?

VICTIM: Yes.

OFFICER: How many times has this happened before?

VICTIM: Eight, it's happened eight, just since I've been back with him, and this year.

OFFICER: Okay, how long have you been married?

VICTIM: Nineteen years.

OFFICER: Okay, and you've been separated for?

VICTIM: Almost a year.

OFFICER: You're in the process of divorce, or you --?

VICTIM: I'm going to, yes.

OFFICER: Okay, where does he live at? (Community J, Police report 184)

Certainly, the information provided by the above interview sheds some light on the potential risk factors in this case, although it only hints at the level of the victim's fear. As shown earlier, the officer's questions fail to establish how dangerous the suspect might be. In the legal system, placing a person in fear of imminent harm, or creating a pattern of threats to make a person think they are likely to be seriously injured, constitutes a crime—such as assault, harassment, or terrorist threats. Yet, we found no cases in which an officer documented any of these potential charges by pursuing in detail the pattern of abuse over an extended period. No matter how a woman answered the risk questions, the officers never seem deterred from limiting their investigation to the single event before them.

All of these rather hastily gathered and scantily documented accounts of danger seem to be sufficient information for the legal system's intervention in these cases. Documentation of these risk factors now occurs due to advocates' efforts to include the history of domestic violence in all police reports. Practitioners we interviewed gave no indication that these accounts were insufficient for the purposes of setting bail or conditions of release, determining plea

agreements, determining a sentence and probation conditions, or assessing the need for incarceration. To us, this stood out as peculiar in an institution that was purportedly designed to ensure public safety.

In the overall processing of criminal and civil domestic assault related cases, the police's initial investigation report is considered to carry the most valid information to practitioners who subsequently act on a case. This report controls the information that is disseminated within the system. However, police reports document real-life occurrences very selectively, constructing an institutional reality that frames the work of other institutional practitioners. The police reports in all four departments shared several features. First, the fill-in-the-blank section of the reports covered all the data needed for administrative purposes, including all the information needed to complete the *uniform crime report* used statewide and nationally to collect crime statistics. Second, the narratives documented the officers' actions and the basis for those actions—usually by means of a short description of the situation; parties present; whether there was a claim of an offense; occasional summaries of everyone's statements; a conclusion about whether there was probable cause to arrest; and a description of the officers' actions that included arresting, cuffing, mirandizing, mediating, warning, and transporting. Third, the reports usually briefly documented actions related to the victim such as, "I advised her to contact the battered women's group to see about getting a protection order" or "I gave her the victim information card."

On numerous occasions in both criminal and civil court, we observed these police reports being introduced into a hearing or case deliberation as an objective, factual account of what was going on. Poorly written reports, or sparsely documented accounts of events, were not discussed at any hearing that we attended. Historically, attempts to enhance the police report's usefulness in protecting women have been made by advocates and a handful of their allies in the court

system. While some practitioners expressed discontentment with how these documents were prepared, we are not aware of any mechanism within the legal system to make improvements or to insist that they more fully document women's experience.

This discussion has focused only on one part of the report: the documentation of the history of violence by the abuser. Our intent here is to illustrate how the form itself frames how information is solicited and what information is documented and how the legal system's dependence on texts to stand in for people's lives creates a reality removed from the actual experiences of people in need of community or state protection.

Women's stories in civil versus criminal court.

The civil court forms for eliciting women's account of events and their desires for state intervention are markedly different from those used in the criminal court process. In civil court, the woman initiates the action and, in her own words, tells the court why she needs protection. In the area we studied, the process for petitioning the court for protection from an abuser varies slightly from courthouse to courthouse. However, we found that the state law and the forms created by a State Supreme Court appointed committee largely standardized the process. The protection order form requires an affidavit that describes in detail the acts of domestic abuse committed by the respondent. Petitioners must answer specific questions for each act of domestic abuse that she includes in her affidavit: What happened? Who did what? When did it happen? Where did it happen? The instructions for filling out the affidavit request that the petitioner: "Be very specific in giving details. The approximate dates when the incidents happened MUST be given. Describe the most recent acts of abuse first."[14]

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[14] MISSING FOOTNOTE HERE

Our team prepared a summary that extracted descriptions of violence from affidavits, police reports, focus groups—from all of our data—to illustrate how much violence actually occurs in women's lives. After studying the chart, it became apparent to the team that women's affidavits explaining why they needed protection from the court read very differently from police officer's reports in which they summarize a victim's account of events.

We found that the intervention, the practitioner, and the form all influenced the degree to which women's accounts were re-shaped for institutional purposes. Advocates help petitioners fill out forms. Advocates are not allowed to write out petitioner's narratives. Several local attorneys have complained to the court that advocates go too far in helping victims with these orders and cross the legal line of practicing law without a license. Non-lawyers are not allowed to represent or advise people on legal matters. Advocacy groups must then organize their work with women around the concept of education, support, and information-giving. Still there is an enormous difference between a uniformed police officer's taking an account of an assault, in the home of an Indigenous woman, in response to a recent assault (within minutes or hours) and an advocate meeting with a woman in a courthouse or an advocacy office days after the assault. Similarly, a probation officer who mails a woman a form and calls her months after an assault to complete a pre-sentence investigation report gets a very different kind of account than does an advocate working with a woman who wants to file for a protection order. Below are five excerpts from the chart that compare affidavits to police reports (not a case-by-case comparison; each documentation represents a different victim).

Protection order accounts of violence

> He started to come up the stairs yelling at me saying, 'You're a stupid bitch. You can't tell me what (IA) kids.' He was telling them 'Look what your mom is doing. She is trying to hurt us. She won't let me see you.' The kids were screaming and crying. The whole time he was saying things like—you can't stop me from seeing my kids so you better not try. Don't f--- with me. Sign the kids over to me. I'm going to get them anyway. I'll do

what I want with my kids…he became very angry and told me if I didn't stop bringing the baby to my mom's There would be 'serious repercussion on your life' He has repeated this numerous times…he has told me to never let my guard down because once I did he would be waiting for me. I am very afraid of Resp. He has told me many times he'll kill me, he is known to carry a handgun. He has been arrested for possession of a handgun and a gun with an altered serial number. I believe he will do anything to see the kids…I am very afraid he will do something to me so he can get custody. He has pushed and shoved me many times. He gets in my face and screams at me. He has spit in my face 3 – 4 times. (Community H, Order for Protection 9)

Friday morning at about 4 AM he kicked down my door—he was very intoxicated so I got dressed and was going to go to the neighbor's house to call the cops. He said, go ahead, I'll let you get to the end of the driveway then I'll come and gut you like a deer then he showed me this army type knife he had in his sweater pocket already open (the blade). I had missed numerous days of work because of bruises and injuries inflicted by Resp. I was on medical leave twice from my work--once for knee surgery and once for when he busted a chair over my head. He is constantly threatening me and harassing me—I fear one day he may become so intoxicated he will follow through on one of his threats…I have sought medical help for a large cut on top of my head requiring 8 staples and 4 stitches…he has threatened to kill me, because he said he could plead temporary insanity and he could get away with it—he threw me down when I was trying to kick him and his psycho girlfriend out of my yard. (Community H, Order for Protection 10)

I was connected with 911 when Resp. ripped the cord out of the phone...he left saying he's going to kill my boyfriend (I don't have one). He's going to slash my tires. It's just going to get worse for me. On the freeway, he drove up real fast on my bumper, sped around me and then would slow way down again. Resp. has a long history of criminal behavior. In the past, he has assaulted me and made numerous verbal assaults & threats against me. I am terrified of this guy. He is extremely obsessive and does not know when to stop. He has a long history of committing acts of domestic violence. He is mentally unstable. I am afraid for me and my daughter. (Community H, Order for Protection 14)

Resp has been with me since 1995, living with me. He was arrested back in 1997 for 5th degree assault and was put in jail. He has a violent temper & could harm me that's why I get afraid of him when I find out he's out drinking. Every time I get off work at the CASINO I worry about if he's gonna be at the apt. drunk…He was fired from his job because of drinking. He has hit & pull my hair out before…In the past he has given me blackened eyes, and bruises on my hands where I was blocking him from hitting me. I tried to make it to the phone & call for help and he pushed me on the bed. (Community H, Order for Protection 21)

He is getting out of prison and he will come looking for me he told me he would kill me and family. He has always been violent and I believe he will look for me. In the past he has threatened my family…he charged me with a knife, threatened to kill me...He said he will hurt my family--father, sons, daughters, grandchildren. He bit me on the right side of my face before he went to jail. He chased me with a knife. (Community H, Order for Protection 5)

Police report accounts of violence

WARPULA started calling her names and came out in the hallway with a container of what she called ‘fish water’ and started dumping it over her. She stated he also dumped some cans of beer over her head while they were in the hallway in front of Apartment #B. She stated she struggled to get past him to get outside. WARPULA hit her on the foot with a board he had picked up from the hallway. She stated he immediately then struck her in the right hand with this board while she was bending down to pick up the radiator and then struck her in the back of the head with the board. She said WARPULA made some comment to her to the effect of, ‘Fucking bitch, now you've done it.’ SEMORE stated when she got to the bottom of the stairs, she heard WARPULA say something to the effect of, ‘I hope you freeze, you fucking bitch.’ (Community E, Police report 12)

After a short time of yelling and screaming, he started kicking the front door and ultimately gained access into the living room area of the house. She estimates that the violence in their relationship is getting more severe and HOLT has threatened to kill her on several occasions, including that night. He grabbed her by the hair and threw her to the floor and would not let her up. She said he began hitting her and kicking her several times in the head and shoulders area. (Community E, Police report 27)

According to BOBBINS, MCBRIDE then began hitting her on her legs while she was sitting on the bed. She said he hit her 6-8 times in her upper left thigh. According to BOBBINS, MCBRIDE said if she stood up, he would hit her. (Community E, Police report 39)

DUANE began to strike LLOYD HAMMOND. STACY said DUANE punched HAMMOND in the face and during this time, STACY was trapped by the table on her chair in the living room. She said she eventually got up and went into the living room area, at which time DUANE pushed her and knocked her to the floor. When STACY was asked to go over this again, the only part she changed was that DUANE actually pushed her to the ground before he began punching LLOYD and still during the time he was punching LLOYD, she was trapped by the table. JAMIE then said she went and dumped out the drink he had in the 7-Up bottle. DUANE came and grabbed the bottle back and threw the bottle at her, striking her on the left side of the head, near the eye. This officer could see some small swelling near and above the left eye (Community E, Police report 45).

MARY told me STEPHEN ‘got up in her face’ and pushed her. MARY JENSON told me that she then asked STEPHEN to leave because she ‘wasn't going to take it anymore.’ MARY said STEPHEN then grabbed MARY’S glasses, which were lying on the table and crushed them and threw them on the floor...MARY said STEPHEN grabbed her by the shoulders and pushed her up against the back of the couch…MARY said he still had her by the shoulders and would not let her go. MARY said he then threw her to the floor and got on top of her. MARY said STEPHEN then punched her on or about the head with a closed fist, about six or seven times. MARY said she then got free from STEPHEN by pushing him off of her. MARY said when she did this, STEPHEN fell on the floor and he kicked her in the face, near her right cheek. MARY told me the right side of her cheek felt like it was swelling up. MARY then said STEPHEN left the apartment. MARY said shortly after STEPHEN left, he came back up the stairs and tried to get in the apartment with his key. MARY said she held the door locked while he was trying to get in and he left once he knew the police were coming. MARY said while STEPHEN was trying to get into the apartment, he told her, ‘You fucking bitch, I'm going to kill you.’ MARY said STEPHEN then left the apartment complex. (Community E, Police report 52).

State law does not require that a person be in fear of their abuser to obtain a protection order, it only requires that the person demonstrate that abuse has occurred. However, women often describe their level of fear in protection order affidavits. She, as the petitioner, tends to include examples of the abuse that placed her in fear, and uses these instances to articulate her reason for seeking protection from the state. By contrast, the focus of the police is on a specific event. They describe specific injuries, the number of blows—a description that is intended for the prosecutor when filing criminal charges. The petitioner often brings up the impact that the violence has on her children, or the way that the offender uses children to control her. Police reports, on the other hand, usually mention children if they were present and witnessed the events. Rarely do these reports describe the impact on the children, or their current welfare.

The criminal police report is used in the criminal prosecution of a case, while the civil protection order is used to petition the court for protection from abuse. These two different descriptions of very similar behaviors are partly indicative of the purpose for which they are being prepared. We noticed that the way in which protection order affidavits are written affords a reader with a better understanding of the interventions that might protect both women and children from future harm.

The ability of a woman to relate her story verbally to the court was also significantly different in criminal court compared to civil protection order court. The rules of evidence, role of attorneys, and focus on a single incident in a criminal court are all discussed in the mother report as limiting factors in the ability of a woman to relate her experiences. In protection order court, a relaxed structure allows the court to ask the petitioner to explain in her words why she needs protection, and what it is she needs. When that process was not thwarted by the court's effort to

encourage an agreement without a hearing, the court did by and large hear at least some version of what the woman considered to be "what was going on."

Silencing through intimidation

Both the criminal and civil process allowed women's stories to be stifled by the use of intimidation and coercion by the practitioners and/or by the process of the system itself. Eighteen of 42 petitioners who were Indigenous women did not attend the first protection order hearing and the order was dismissed. The system has no structured way to contact the victim to determine why she did not attend the hearing. Petitioners' affidavits documented violence that ranged in severity from mild (pushing and shoving) to severe (strangulation, shooting weapons, threatening to mail and/or kill). When petitioners did not appear at a court hearing, the petitions were dismissed regardless of the severity of the violence. The process reached its conclusion; the file was simply closed and the case dismissed with no further examination of the safety issues that exist for this woman. However, missing from the conclusion was a community's sane and thoughtful response to a person who states that she is experiencing severe violence. Again, legal processes subsumed a victim's personal situation, assuming it to be normal that a person who files a petition such as the one below would not appear for a hearing two weeks later.

> On 5-9-99 police was called to my home because Respondent wouldn't leave my resident. Respondent backhand me in my mouth. The police came remove him but let him walk. Respondent hid between two cars until the police left. Respondent tried to break my door down. I ran out the front. Respondent came running at me with a knife saying he was going to kill me. Respondent was dragging me around by my hair trying to make me go in house. (Community H, Order for Protection 16)

Perhaps the most disturbing practices we observed and uncovered in our examination of women's ability to tell their stories was the use of intimidation by practitioners and, occasionally, by abusers. While we observed a number of overt and covert methods of intimidation, we also discovered a number of recent efforts to reduce the use of those methods. Women, advocates,

and some practitioners use the term “re-victimization” of women to describe the practices discussed in this section.

In the mother report we document six practices that we considered threatening or coercive, (a) the threat of arrest or charges against women who refuse to cooperate with practitioners; (b) the threat of removal of children; (c) the use of force or overt hostility by practitioners against a victim or her family members; (d) turning of a call for help into an unrelated enforcement opportunity for police; (e) the failure of practitioners to curb abusers’ intimidation; and (f) the impact of the adversarial structure of the system on the ability of women to provide a full account.

Below are excerpts from the mother report on five of these practices.

Example A: Threat of arrest or charges.

On a police ride-along the observer noted:

> The domestic involved a sister and a brother. She was pregnant, and he hit her in the face. She changed her story and said that it could have been anyone. The Sergeant was there. He looked at her and said, ‘You're lying. You called 911 for a reason, what was it?’ She just wanted her brother out of the house. The cop got right in the victim’s face and told her she was lying. She did not want to give a statement. The Sergeant told her she was going to give a statement. She said that she did not want to go into the house. He said that you don't want to go into the house, because you are dealing drugs there. It was intense. He made her get into the car and make a statement…The whole call probably lasted an hour. The cop does not know why people stay in these situations. The cops were mad at her. She kept changing her story. The victim was afraid, she was crying…They [responding officers] told the sister they were going to press charges against her for falsifying a police report. (Community I, Debriefing of ride-along 3, October 2000)

Example B: Threat to remove children.

Indigenous women were sometimes subdued into compliance with the threat of having their children removed. As one research team member stated, “Another clear theme I heard was that they [women] were arrested—or if they weren’t arrested, they were threatened with arrest—and they were threatened with the loss of their children. And so there seems to be a lot of threats

at that moment of crisis; it seems to be a common part of their story" (Community Team Meeting, October, 2000). Researchers further observed:

> There is something about threatening about the kids, 'I will just call social services and let them get your kids.' It is a common thing that officers say to women. It is a constant threat of the system in various ways. It also seems to me that they [practitioners] abuse their knowledge. They know these women do not know what social services can and cannot do. They use it to scare them. (Research Team Meeting, December 2000)

This statement is further exemplified by one woman's account:

> I got married when I was 19. We got in a fight. He beat me up, bloodied my lip and ripped my shirt, you know, fucked me up and all this. To protect myself, I bit him. And then I called the cops and he turned around and called the cops on me. When the cops got there, I told them, hey I'm the one all beat up here and bloody and all this, fat lip. He said, well she bit me, she bit me. I said, well how else was I supposed to do that, he's holding my head back? And my son was down the road at the babysitter. I said, I'm the one that called you. He said, sit down in the backseat of the car and we'll take your statement, we're not going to take you anywhere. I sat down in the back seat of the car. He said why don't you put your legs in? I did, and I was half drunk and he slammed the door. He didn't bother filling out a police report or nothing. Then they brought us downtown. That's the only time I ever. They let me out four hours later, but he had stayed in there and got charged. What really pissed me off is when he tricked me and got my feet in the car, and slammed the door and wouldn't let me say any more. They said you can make one phone call to your son, the babysitter for my son, or we're gonna throw him in the crisis shelter. I'm glad it was only four hours, but...
>
> RESEARCHER: You said you called your babysitter, did they offer that only after you said something about the child, or did they ask about the child?
>
> No, no, they didn't. They didn't even know I had him until I said you've got to let me out of here, my baby is down the street. They said you can call, otherwise, we're taking him, he's going to a shelter too. (Focus Group 1, October 2000)

It was outside of the scope of this investigation to discuss how routinely officers made threats, but women in focus groups seemed to think that it was a frequent tactic used to gain their compliance.

In the jurisdiction we studied, with an Indigenous population of 4%, the majority of children in foster care are children of Indigenous women. As we discuss at length in the mother report, the widespread removal of Indigenous children from their families in the boarding school era, and subsequently by child protection agencies, has made the threat of removal a powerful

instrument of institutional control over Indigenous women. The threat of losing the children—made either implicitly or explicitly—appears to factor prominently in women's decisions about how to use the system.

Example C: The use of force or hostility by intervening practitioners.

In a small community connected by its sense of relations to each other, one that holds a collective history of military, government and institutional use of violence, a police attack on one member of the community has far-reaching effects. During our study, a police officer assaulted an Indigenous woman. Almost every woman in our focus groups knew about the incident and talked about it as if it were a common occurrence. The action of one police officer, left unchallenged by his supervisors, intimidated the entire community. The women indicated that they were now even more hesitant to call the police, at least in part due to their anticipation of this kind of violent backlash from law enforcement.

The woman who was assaulted tells her story below:

> I was at my house, and me and my boyfriend started drinking, with a couple friends. Me and my boyfriend got in a fight, we were fighting out in the driveway, down the road, and my mom noticed and she called the cops once and they came, told us we had to get back in the yard and then warned us. And she called again, they came and warned us again, if we have to come back again, you're both going to jail.
>
> *Facilitator: Now, when you say they warned you, they say get back on your own property and fight, or what did they do? (laughter)*
>
> They tried to tell him that he had to go home and I had to go inside, but
>
> *Facilitator: So they did that separation business again, and then left.*
>
> Then we went back outside, started drinking again, then my mom called the cops, he ran off in the woods, the cops chased him for awhile, couldn't catch him, so I jumped in my car and I drove down to see where he was.
>
> *Facilitator: You knew where he was?*
>
> I didn't know, but he was on a trail out in the woods. Then I parked the car at that trail and I went up the trail and the cop pulled up next to us and came walking down the trail and tried to arrest me, ask my name, and I didn't want to talk to him...

Facilitator: The cop tried to arrest you?

Yeah. And then he said, 'Whose car is that?' and I said, 'Mine'. He's like, well, if you don't tell me what you're doing here, you're gonna get in for a DWI. So, I just kept walking, and he said, 'Well you're under arrest.' He slammed me on the ground and we wrestled for a while, then he got the cuffs on me, and he started dragging me out of the woods. He was reading my rights to me and telling me all the charges I was getting charged with, and he tried to get me in the back of the squad car and my mom and her sister are standing outside the car, and he told my mom that if she could get me in the squad car that she could take my car home. So she got me in the squad car and he was telling me what I was being charged with, we start pulling out in that squad, and my mom was going to bring the car home, and she seen someone drive by, and she said, 'Can you follow that squad as far as you can,' to make sure they make it? So we got down to the end of the road and from my language, being intoxicated, he pulled over on the side of the road, and said, 'I've had it now,' and he jumped out and he tried to mace me once, and that didn't work, so he slammed me in the backseat, and that didn't work, and he pulled out and he was going to go a little bit further and he stopped right down the road again and he got out and he suckered me in the face, split my lip wide open. Then I laid in the back of the seat, and I tried to kick him like that, and then he had me by my hair, and he was holding me out the window, trying to make me spit all that blood out. By then there's two people outside, and he looked and he noticed her and then when he was holding my head out the window like that, I bit him in his wrist, and then he jumped back in the squad after he had seen that there was people watching, and he floored it all the way to the jail, and they put me in a holding tank for two and a half days and none of the people around in the jailer, or nothing, asked me what was wrong or nothing, it was the second day I was there, they booked me and that jailer asked me what happened to me, if was from my boyfriend or what, and I said no. I told her some of the story like that, and she said, well this cop's pressing charges and everything. I've been going through court for the last, let's say, two months now, for this back and forth to court.

Facilitator: For fighting back the cop.

Um, hmm.

Facilitator: So, when you got to the jail and they booked you, and you obviously had been hit in the mouth, or whatever, did they offer you medical treatment?

They didn't have no idea what was wrong with me. The cop put it in his statement that my boyfriend beat me up.

Facilitator: So you got put in jail, and two days later, they ask you what happened to you?

Well, they didn't really ask me, I was on the phone with my free, whatever, phone call you get, and I told my mom that, what the cop did to me and that jailer was like, 'No way, really?' (Focus Group 1, October 2000)

There is no indication that the jailer reported the alleged misconduct to her supervisors or that anyone conducted an investigation of her claims of being assaulted.

The use of physical abuse by police or any practitioner seemed to us to be very rare, although other forms of intimidation by practitioners were not. The report below was the most blatant example of a police report that showed overt hostility toward Indigenous women. The officer appeared to be more than willing to act in an intimidating way. The report is clearly one individual's act of bias and unprofessional work ethics. More problematic, however, is the lack of accountability in the legal system to draw attention to this officer's rather blatant disregard for the public he is charged to serve. It was signed by a supervisor indicating that it was an institutionally adequate report.

> Complaints of a domestic at address1 between CARL NESJE and the same woman as icr#123. We went there and found a houseful of drunken idiots. The only sober ones were the two women moving belongings out of the house. While that was going on there was a sideline dispute over the car she was using. No physical violence had transpired and things were moving along until NESJE threw a temper tantrum over a cat. The woman even conceded the cat to him but before she could leave a loud-mouthed harridan claiming to be NESJE's mother pulled in the yard and began screaming at everyone there. She even used the old white man prejudiced bit on 610 until he told her to be quiet. She still almost got herself a free ride to jail. Neither side admitted to calling us and we felt this was a ploy on the part of the virago to get the car from NESJE's girlfriend and make her leave on foot. (Community I, Police Report 41)

We had to look up the words harridan and virago to fully capture this officer's message. A harridan is an old horse, gaunt woman. A virago is a loud overbearing woman. Understandably, women become less inclined to utilize services that claim to "protect and serve" them.

Example D: Turning a call for help into an unrelated enforcement opportunity.

Women were also arrested for minor infractions while the police responded to a "domestic call." For instance, observers related the following case:

> The call was sent out as a domestic between a young couple, but it was changed to an arrest of an older woman (she was in her 20's) for serving alcohol to minors. So she was arrested, brought to jail, and her four year old son, crying, 'When am I going to get my mommy back?' He actually had just gotten back with her from foster care, and so he was taken to Bethany Crisis Shelter, the minors were taken to Detox, though they weren't

> legally drunk, young girls. The girls' ages ranging from 10-15 years. (Community Team Meeting, July 2000)

In this case, the "domestic between a young couple" was never investigated nor addressed by responding officers. In our discussions with advocates from other states we learned that it was a common practice on "dry reservations" to arrest for drinking women calling for help, or to arrest an undocumented worker calling for help for protection from an abuser.

As we raised this issue on our ride-alongs, one deputy on a review panel for his department's arrest policy began to examine the impact of such arrests. He found a number of cases in which battered women were arrested for outstanding warrants on minor offenses. He proposed new language to this department's policy that was eventually adopted. The new policy now reads, "When responding to a domestic assault, a deputy should avoid arresting the assault victim on an outstanding misdemeanor warrant. Deputies can arrange a court date with the victim and advise the warrant office accordingly as soon as possible."[15]

Example E: Failure to curb abusers' use of intimidation.

Most practitioners we talked to were aware of how abusers intimidate victims, yet we still saw countless examples of the abuser being able to use the system to intimidate their partners or to intimidate her during an institutional intervention. Observers noted examples like this at almost every debriefing session:

> That is what I was appalled at. One of the first things I noticed in criminal court is these men have no shame. They stroll around with headsets. Here she's sitting here meek as a mouse by herself kind of huddling over. He comes strolling in with headphones on and there is no shame to it. He should be crawling up there with his tail between his legs. He comes walking in like he's you know. She has no direction. She is lucky she's even there. There is this aura of arrogance that is sickening (Researcher Team Meeting, December 2000).

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[15] Department H. (2001). *Domestic Violence Handbook and Training Guide for Patrol Deputies*

This community observer is reacting to the lack of any kind of a separate waiting room for victims or any kind of an information service for citizens who come into the courtroom and have to find their way around a fairly intimidating building with courtrooms and offices that are unfamiliar to them, and whose purposes are unfamiliar to them.

Two community observers returned from protection order court amazed at the ability of an offender to read a statement to the woman that was obviously intended to control her:

> Right in the hearing he asked the judge if he could read her a letter. The judge said ok? Now how could that be? He's been told he can't have any contact with her then in a hearing to clarify the order he actually violates the order with the judge's permission. It was this total guilt letter and it went on and on and she was just getting more and more upset (Researcher Team Meeting, December, 2000).

The following is from the transcript of the hearing that the observer is describing:

> MR. MEREDITH: Okay. And now this is to you, DANIELLE, okay?
>
> MS. HALL: Uh-huh.
>
> THE COURT: Sir, you have to be very careful about what you say.
>
> MR. MEREDITH: Yeah. Oh, I'm not --
>
> THE COURT: 'Cause it --
>
> MR. MEREDITH: No, no, no, this is all sweet and from my heart.
>
> THE COURT: MR. MEREDITH, there's nothing wrong with dealing with the issues that are before the Court within the courtroom, but if there is anything else, it could be considered a violation of the Order For Protection and you'd have another charge against you and we don't want that.
>
> MR. MEREDITH: I wrote this up real nice so I know how to word things correctly. I'm an intelligent person, even though I do a lot of stupid things. I make bad choices.
>
> THE COURT: All right. Here's what I'm going to suggest, without it being considered a violation, if you wish to provide a copy of that to the advocate and then the advocate can make a decision on whether it should be provided or not, all right.
>
> MR. MEREDITH: I'd rather just speak it. That's --
>
> THE COURT: How --
>
> MR. MEREDITH: It comes from my heart.

> THE COURT: All right. Go ahead, MR. MEREDITH.
>
> MR. MEREDITH: DANIELLE, I'd just like to say I'm sorry for the way things worked out but I'm sure you can see what two very sick individuals can do to each other no matter how strong a love may be. I've decided to go try to get psychiatric help, maybe treatment and deal with these issues that I've carried around for so long that I keep getting in these sick relationships and I suggest you do the same. It seems pretty apparent to me we're very good at hurting people and ourselves. We do not -- do not get me wrong, I love you very, very much. The time we had was the most special time in my life. I'll always be there for you if you need someone to talk to. Don't forget we were the best of friends before we had this relationship. So if you ever some day we can talk or work these problems out, you can just call my mom and find out where I was at, you know, because you are my cosmic groove and you know that in your heart. And -- and for right now I just can't handle the pain any more of this -- at this point in time and I –I'm just saying good-bye, Sweet DANIELLE. I'll love you forever. Your best friend MICHAEL MEREDITH. You see, this is really hard for me. DANIELLE, remember the magic will always be there whether it shines or not. You have always lived in my heart, baby doll, peace and heaven to you. May you find someone to love you like I did without the pain, but I doubt you will until you get some help for yourselves. Please be good to yourself, baby. You deserve it. Letting go of you is going to be the hardest I've ever had to do. That's all I got to say. (Community H, OFP Hearing 1)

Probation officers, therapists and police officers are all trained not to interview offenders and victims together because of the intimidation factor yet no one, not the judge, the supervisor, the prosecutor, or an advocate present in the courtroom, raised the question about intimidation when this probation officer offered the following comments to the court. Mr. Belknap was being sentenced for an assault against his partner Amanda. The probation officer summarized his history of violence:

> I'll kind of run through the - his history, just to update the Court in case you don't have all of this. In 1984, defendant was charged and convicted of theft. In 1985, another theft. An assault and a violation of probation during 1985. In 1988, a contempt and a DWI. In 1989, a theft, a gross misdemeanor theft, a violation, a DWI and an escape from CORRECTIONS FACILITY. In 1992, a DWI, driving after revocation. In 1993 and 1994, there were two third degree burglaries and one -- it looks like a felony theft. In 1996, that was the last felony charge for which he was violated in 1998. And that was a felony terroristic threats and there was also another order for protection violation, I believe, at that point. In 1998, again, that was the last violation. Aggravated DWI, March of this year, he was charged with and is currently on probation for that. (Community H, Sentencing hearing B)

According to the probation guidelines on sentencing in misdemeanor domestic assault cases, the probation officer should have recommended a jail sentence, but does not.

> Probation Officer: Your Honor, as I looked through his record and his history and his history with our department on paper, I wasn't very hopeful about the situation. And, to be honest, I had no intentions of even considering him for probation. I talked to Mr. DAVIS (probation officer) who had done the last violation on Mr. BELKNAP in 1998. And Mr. DAVIS's opinion, as well, was he's not amenable to probation. And, then, Mr. BELKNAP and AMANDA came in to talk to me and I've had a little bit of change of heart about the situation…He's had some opportunities for some programs and things, but it sounds like he's feeling like he needs some therapy and AMANDA seems to agree. In terms of his drinking, they have made an agreement he won't drink. And I feel that if he does drink, he will put AMANDA at risk. And I think she understands that as well. And I don't see her being the kind of person who would just let that slide if anything should happen again. She's told him I will call the police and you will go to jail. And it's simply the way that it is. She seems to feel very confident about being, you know, being able to deal with this situation. Defendant seems very willing to do therapy. He also seems very willing to do chemical dependency -- a chemical dependency evaluation and whatever he needs to do to follow through with that. (Community H, Sentencing hearing B)

While one may conclude that this probation officer is simply ignorant of the dynamics of domestic violence, the more crucial question is how a report to the court becomes legitimate. Why was the probation officer not stopped as soon as she reported to the court that she interviewed the couple together? Why was she not questioned about her assumption that because Amanda is a strong woman, Mr. Davis—who has a fifteen-year history of abusing women—will suddenly stop his use of violence?

Conclusion

These are some of the ways the institutional process we observed prohibit women who are victims of domestic abuse from fully speaking. This prevents the judicial process from taking into account their experience of violence and hence responding appropriately to their needs. These effects are intensified by the nature of truth telling in an adversarial legal system such as the U.S. system. The nature of the adversarial process leads to cover-ups, lies, misrepresentations, obfuscation, and distortions of events. Parties seeking redress do not necessarily tell the truth to practitioners, even to their own lawyers. It is certainly not always in their interests to do so. Dispatchers, police officers, and judges must assume that both offenders

and victims may lie to them and that they give only their own version of an event. We found obvious instances where male offenders and female victims manipulated the "truth," presumably in an effort to control the outcome of the case. Women who are victims of abuse cannot risk telling their story since it may well be used against them, particularly if they have resisted violence physically. Their stories, treated selectively within the institutional process, may well become a basis on which their custody of their children can be questioned.

Our inquiry helped us to see how Indigenous battered women's experiences are stripped of their context when the legal system develops its institutional account of events that considers each incident to be a discrete act. Similar de-contextualization occurs when the civil system negotiates arrangements without hearings or considerations for how, when, and with what impact violence is used against Indigenous women. The disconnection from our collective history and background became clear to us when we perceived institutional actions through the eyes of Indigenous community members. Often, community observers and the women who experience institutional actions viewed the processes that were taken for granted by practitioners as "odd."

> Everybody knows this guy beats on women so when the police officer started to question her about her drinking, then asking her why she wouldn't let him have the car, then asking if she assaulted him I could see her just shut down. She just went quiet. Why couldn't he sit next to her and say something comforting and tell her we know how dangerous he can be, we know what you're going through and we want to help. But no somehow that would bias things and instead he [the officer] ended up walking away and saying 'most of them are like this they just won't talk.' (Community Team Meeting, August 2000)

Indigenous women cannot trust the judicial process to hear their stories and respond to their needs. When the police respond to a "domestic" call and question the victim in a fashion that suggests that she is at fault, she intuits her story will not be listened to and those who question her are not truly concerned with realities of her experience. This is so even though we found many of the officers we rode with be very concerned.

At first we wondered about the humanity and ethics of the people responding to these cases, but we gradually shifted our thinking, recognizing that the individual practitioners were not as problematic as the routine institutional processes for dealing with this social phenomenon. Often, what seemed like a callous response from a dispatcher or jailer was due to institutional frameworks that transformed actual events into institutionally-actionable items. Criminal codes, Supreme Court rulings on probable cause and self-defense, legislative definitions of assault, and liability considerations have defined the parameters of data selected by practitioners as they process cases.

The process begins with dispatch and police responding to a domestic violence call. Practitioners are organized to recognize only those aspects of the situation that fit the requirements of criminal codes and court rulings and department policy. Consequently, only the features that would lead to successful prosecution are retained, and the more complex aspects of the situation are effectively erased or, at best, minimally documented. Eventually, such massaging of information for institutional purposes obliterates the complex history and contours of actual events. Separating institutional accounts from the everyday world facilitates the processing of a case, but it distorts real events and thus thwarts the abilities of intervening practitioners to provide sustainable, comprehensive protection to victims.

We recognized that the organizing principle that directs practitioners' behaviors emerged not from everyday conversations. It was embedded in the institutional discourse itself. This framework organized how practitioners viewed an incident of domestic violence, constructed the story of an incident of domestic violence and identified someone as victim or offender, cooperative or hostile, helpful or problematic. Most of the frameworks operating in the system emerged out of discourses that have clear rules regarding relevancy and appropriateness. None of

them correspond to Indigenous values of holism, respect, balance or connectedness. The institutional story was thus created out of excerpts of the real event that would make the framework visible to the already initiated reader. In this process of selecting pieces of the event that would best fit the framework, Indigenous women's stories were plucked from their nests of local setting and placed in the discourse of the ruling institutions.

Sidetracking the Violence

Negotiation as a sidetracking practice.

The legal system would quickly halt if every defendant pursued his/her legal right to trial. In fact, very few do so. Instead, cases are settled in a system where the attorneys on both sides (prosecutors and defense attorneys) have worked together for years, while defendants, victims and witnesses associated with the case are in and out. The latter are not around long enough to learn the language, to understand the rules, and to figure out the way it all works. The long-term relationships and familiarity with the language and process exist for those who work in the hallways, offices and courtrooms of the county court house everyday. Some of them own hunting shacks together, some are friends, some are long time opponents and some have been lovers or married or still are.

Defendants and victims come and go. Most citizens learn about the law from television. The process of "disposing" cases before a trial can shake one's trust in the legal system to the core. Hallways become trading posts. Defendants trade their right to a trial, their right to force the state to prove beyond a reasonable doubt that they committed a crime. The chief bargaining chip for the defense is the extreme reluctance of the woman who was assaulted to testify against the offender at the trial. Therefore, the state trades away, in many instances, her right to safety by

failing to secure a conviction that carries any consequence for the defendant. It is, in the end, a very cynical system.

This trading and bargaining become so routine that even when it is not necessary it occurs. We found that even when there were independent witnesses to the assaults, cases were pled down almost as a matter of routine. In over a third of the cases that were pled down, there were witnesses to the assault and the police had collected evidence, documented injuries, etc. Charges against offenders were dropped even though there was no indication that the state proved a crime did not occur.

Generally, what we found was that the state, represented by the prosecutor, could negotiate for a promised leniency: no jail time; limited rehabilitation; no assault conviction; no removal of their weapons; no fine, no record indicating any involvement in domestic abuse –all this in return for some admission of guilt to something, in most cases something like a disorderly conduct charge or a criminal damage to property charge. In this process, the woman and her experience completely disappear, as do all records of it. So, too, does any kind of authentic attempt by the community to hold an offender accountable for his/her unacceptable behavior or crime. A prosecutor we interviewed about this phenomenon explained:

> There is a presumption in the system that whoever is going to come into court has the independence to talk about whatever happened to them. Nothing about the legal system is constructed to have the truth about battered women…if she is cooperative; I assume she is telling the truth. If she is uncooperative, I am assuming that she is not going to get up and tell the truth at that point. For any witness a police officer can testify and the defense attorney is going to try to make the police officer look like they are exaggerating or lying. Again, this falls on battered women, because someone else does not witness the majority of these cases. (Interview Prosecutor, November 2000)

While it seemed obvious that a victim's reluctance to participate in a prosecution was a major factor in the strategy to plead cases out at pre-trial, the decision to plea bargain was not necessarily based on the merits of a particular case. It appeared that routines became

expectations and part of unwritten inter-agency agreements. A report to the chief judge by the local advocacy group states:

> We currently negotiate pleas agreeing to no jail time whatsoever, even for second offenses, instead of simply revoking probation, giving a partial jail sentence, and continuing probation. Some cases involving serious repeat offenders are pled to disorderly conduct. Judges accept these plea agreements, advocates do not resist them, victims accept them, probation officers sometimes object but are usually resigned to them, and defense attorneys have come to expect them. (Report to X Bench on the Status of the Civil and Criminal Processing of Domestic Violence Cases, February 2001)

Such practices erase the stories of horrific abuse experienced by victims, simply because they are not permitted to play a role in the legal decision making process. But equally important they subvert significant opportunities to help abusive men recognize and change their destructive behavior. The goal of restoring a sense of harmony to the community is thwarted.

The presence of alcohol as a side-tracker.

In situations where the victim and the abuser have been drinking, the case gets even more complicated. We notice this problem beginning with the 911 call and continuing with the police investigation of the case. For us as researchers and the community team, the high rates of alcoholism in Indigenous communities, not only in North America but also across the globe, is directly seen as a destructive result of forced colonization. It seemed the abuse of alcohol made the woman more vulnerable to violence and therefore required extra procedures and precautions, not fewer, in responding to the case.

We found that throughout the processing of a case, from the responding police officers to the jury, references to alcohol consumption caused the violence to be sidetracked. Alcohol use by the victim was regarded as contributing to the abuse, while alcohol use by the batterer became a mitigating factor. More importantly, abuse is not perceived as “real” domestic violence when alcohol is involved, regardless of which partner is intoxicated.

Going through the motions of protection.

In the mother report we describe the contradictions between the rules and laws intended to protect women and the ways in which these rules and laws are applied in the institutional process. We found legislation to protect women but in the local setting of its application practitioners who met the legal mandate of performing certain tasks did so in ways that both thwarted the legislative intent and ignored the danger of the violence to women. We found that jailers who are required to make reasonable efforts to notify victims when an offender is released, would make three calls within 15 minutes to a victim. The jailers did not do this due to a lack of concern, but because there was no system built into the case processing procedures to apply the law. Judges would set bail at arraignment and jailers were ordered to release the defendants. There was no opportunity for a reasonable effort to be made.

While state law requires prosecutors to contact victims regarding decisions to dismiss or reduce charges of offenders, in practice, this rarely occurs. A lack of resources to locate victims, and the process of plea negotiations as well as the reluctance of women to participate actively in prosecution, explain why this requirement for notification is frequently not met.

To offer battered women a non-adversarial process of securing state protection from abusers, victim-advocacy groups designed a law that allows victims to file for orders of protection from the court. The law includes provisions of relief that should permit the victim to live independently from the abuser. Most state provisions are broad, allowing Courts to order any relief that is deemed necessary to protect the victim from the possibility of future abuse. Possibilities include arrangements for the temporary division of property, child support payments, use of automobiles, exclusive occupancy of the residence by the victim, setting visitation schedules, and ordering the abusive party into counseling.

During our study, however, we discovered practices that were disturbing in their failure to consider the extent of the violence and coercion abusers were using. We repeatedly observed cases where judges refused to rule on granting a relief that would prove to be essential for victims' bids to live independently of their abusers. For example, judges would often not order temporary support, visitation conditions or division of the property. In one case, the judge responded to a victim's inquiry about her request for temporary child support with the peremptory statement, "I'm not going to deal with that here." By delineating the parameters of the ruling as exclusion and restraining orders only, the judge not only abandons the victim in her attempt to negotiate child support, visitation, and the use of automobiles with her abuser, but also requires the abuser to violate the protection order by letting him take part in the negotiations. It is a strong example of how the system operates to separate out the complex nature of a woman's life. It fails to see and act holistically recognizing that her economic situation is tied to the violence and why for some women it is near impossible to live independently of their abusers. Moreover, statistics show repeatedly that to leave could in fact be a life-threatening act. Most women who are killed or hospitalized by their abusers are in the process of leaving them (USDOJ, 1998).

In our consultation with national advisors, we found that this practice by judges is common. As one expert put it, "judges don't want protection order cases to become property cases. They see it as a very temporary step and all of these other issues should be taken up in a divorce court." The responsibility of the abuser is not just to be non-violent but also to assist in providing for the economic needs of the family. Frequently, the economic and the physical safety issues of a family are divided. We found both in protection order court and in the criminal court, the practitioners routinely did not want to deal with the messiness of people's lives and

discussions about anything other than the overt safety of the parties involved. In case after case, the court failed to attend to the problem that the safety of women is intimately bound to their economic and familial social relationships.

In the forty-two Orders for Protection (OFPs) we reviewed, it appeared that no women had attorneys, and only three men were represented. Nine petitioners had advocates with them, six of them did not; in the remaining twenty-seven cases the presence or absence of an advocate was not mentioned in the case file. As Indigenous women and men represented themselves, they were exposed without challenge to treatment from the bench that subverted the legislative intent of the law. Furthermore, very few victims have the financial or emotional resources to obtain an attorney let alone appeal a decision made by the judge.

The introduction of attorneys to the case does not guarantee a better outcome. Attorneys in this system are trained to vigorously defend the interest of their client: no consequences, no money to pay, no time in jail, no requirement to go to any rehabilitation program. Presumably, a competitive relationship between two attorneys will produce some public safety, justice and fairness, but we found this to be false.

In the Mother Report, we show a chart that tracks the relief requested by petitioners and the relief granted for the forty-two Orders for Protection filed by Indigenous women. Of these, only fifteen women received their OFPs. Nineteen of the cases were dismissed, despite the evidence of severe brutality and violence. However, as discussed earlier, because the petitioning women did not appear at the hearing many of these cases were dismissed without any inquiry into the reason for their absence at the full hearing. The violence had become invisible, buried under heaps of bureaucratic red tape and cumbersome court routines (Community H, Orders for Protection 19, 22, 24).

In the most common layperson's terms, we saw that women were coming to an official representative of the community, saying that they had been beaten, raped, choked, threatened, that the children were being threatened, wrote all of this down in a story to the court, and then were unable to come to court to speak this in front of the person who was threatening, choking, kicking, raping her. The result of her request for help became a dismissal, and a closing of the case, without any apparent intention to find a solution that would help protect this woman and her family, including the batterer.

The everyday bargaining process in the courtroom can have deadly results. Yet, upon close observation of the system, it is easy to understand how routine practices can lead to fatal decisions—the ones that appear alarming to people unused to the system—seem normal. In fact, these decisions are made dozens of times a week, hundreds of times a year. Cases are bunched together for expediency, supervised release is ordered to prevent jails from filling up with poor defendants who cannot afford bail or good attorneys, details of the violence are rarely mentioned because they are not yet established as facts, overloaded workers with highly specialized jobs perform routine tasks and pass cases along. No one sees the homicide coming. When someone is killed and the flag of inquiry is temporarily raised, people ask, "How could we have picked this one from all the others?" In hindsight, it seems as if anyone could have seen the murder coming. Nevertheless, in reality, bureaucratic processes make such foresight impossible.

As community members who live, work with and know many of the abusers in these cases, we looked for indications that the institution charged with upholding community standards of behavior would actively intervene. Indigenous abusers who themselves have been the objects of violence, brutally turned on the mothers of their children, their partners, the women of our community. We looked for a system that would act compassionately, yet stop them. What we

found instead was a legalistic routine that left the human qualities of Indigenous women's and men's lives out of the process, and ignored children almost entirely. We did not find this to be the work of thoughtless or uncaring people, but a process that is inherently flawed, and produces neither protection nor the seeds of change for Indigenous communities.

Institutional Inability to Protect Indigenous Mother-Child Relationships

Mothers provide cultures with their most valuable resource: their children. Understanding the interdependence and connectedness at the heart of an indigenous worldview is essential to appreciating the Indigenous mother-child relationship. This study was interested in the civil and criminal justice response to abused mothers. We wanted to know how the safety of mothers and children is protected by the legal system. According to the indigenous worldview it would be inconceivable to take care of the children's needs without attending to those of the mother; their needs are strongly interwoven.

To explore how the legal system responds to abused indigenous mothers we examined the data for any reference to children or mothers. The visibility or invisibility of children in relationship to their abused mothers was explored in each legal progression in the four jurisdictions. Two of the communities required that the police reports mentioning children are automatically copied to social services. Also, State Statute §626.556, for the state in which we conducted this study, requires that information be forwarded to child protection services to assess if a petitioner for protection order suggests that child abuse took place. Social service child protection records are confidential and we were not able to obtain access to any social service information based on police reports or OFPs for Indigenous women (we did have access to some child protection files for non-Indigenous women).

It appears that children escape the attention of the criminal court system entirely, yet the criminal system could play a critical role in the lives and well being of the children whose mothers have been abused. One rationale for the invisibility of children and the marginalization of their mothers in the criminal court system is that judicial concern for them is addressed by a different court process—the civil court system.

Of the forty-two civil protection order petitions that we reviewed, we found eight cases where the civil court was asked to mandate child support from the father. For six of the eight cases the request was denied. Two cases were referred to social services. Assuming that requests for child support are not frivolous, this leaves the abused mother who is in a vulnerable position, forced to negotiate between taking care of her children's needs and a relationship that is abusive to both (mother and children).

Civil court hearings on OFPs allow a judge the opportunity to mandate education classes, alcohol and chemical dependency evaluations and parenting groups for fathers. Court mandates to include these family support services provide for a better chance to move the entire family toward ending the abuse. Twenty-seven of the forty-two OFPs that we reviewed indicated that the woman/petitioner wanted the abuser/respondent to attend education classes on family violence and education groups for batterers. Judges hearing these requests mandated these classes in only three of the petitions. Similarly, twenty-four of forty-two petitioners requested that an alcohol and chemical dependency evaluation be done on the respondent. Three were granted. A multitude of reasons may explain the actions of the court in these forty-two cases maybe not all are failures of the court. Yet abused women are asking for family preservation services. The greatest strengths of the OFP might well be a symbolic one. Our society gets to

believe that abused mothers and their children have a means of gaining protection by being granted an OFP.

One of the grand tour questions of this study was to work toward understanding how the civil and criminal court systems promote the Indigenous mother-child relationship in families where the mothers are abused. This interest is based on the Indigenous worldview where it is inconceivable to deal with the child's needs without attending to those of the mother because their respective needs are strongly interwoven. We have concluded this review of the criminal and civil court system's response to battered Indigenous women by finding that no phase or step in the legal system directly promotes to their children a strengthening of their relationship. When significant protections are instituted, it is the exception rather than the norm. The highly bureaucratic and fractured nature of response to domestic abuse prevents a response that is sensitive or culturally appropriate to the mother child relationship. This, more than any characteristics of Indigenous families where abuse occurs, needs to be recognized to promote a legal system of integrity, a system that is more than symbolic to Indigenous people.

FINDINGS

Indigenous Values and the Law

After spending a full year explicating the problematic features of the U.S. legal system and pouring over our data, as described in the section on Methodology, we kept returning to four values that seemed absent in this system. We conclude that a system must *honor all our relationships,* be *holistic* and *respect women* in order to have *integrity* for Indigenous people and communities.

Honoring Relationships

> My family gathers sweetgrass today. We travel to the site where we have always picked. A truck and other conveniences make the trip and preparations much easier now than it was for my father as a child, or for his parents before him, but this short trip, taken over and over again by my family and ancestors, and the ceremony within which we gather the sweetgrass, seem otherwise unchanged. We know all the eagle nests along the way, notice each new patch of wildflowers, observe the water level of a handful of rivers and creeks, and see that young partridges have already gathered along the road to pick at the glacial gravels.
>
> When we arrive at the spot, we know how to scuttle through the muskeg ditch along a path so that none of us will slip and disappear into the muddy quicksand of the bog. My mom and I gather our first twelve green strands of the grass, braid it, and hand it to my dad. My dad offers some tobacco and recites a Cree prayer, then hangs the braid gently on a tree. This I will do someday, as will my nieces and nephews after me.
>
> We each find a spot in the grass and start picking. Each individual piece is pulled gently from the earth and cleaned off until twelve strands can be tied together with one more piece. This time we tie the strands together with red yarn. These braids will be for my giveaway.
>
> Sitting on the ground, I smell the sweetness of the grass and watch as the slender blades brush, bend, and twist together in the slightest breeze. Bear musk hangs over the heavy scent of the earth. Little bugs march around and over my body as though I am no more and no less than the landscape they are traversing. For that brief time, we all exist in perfect harmony.
>
> We place the sweetgrass strands on a sheet and soon have gathered enough. We lovingly wrap up the large bundle and start the journey home. We will lay the strands out to dry at home and braid them a few days from now. I will take care of the braids until it is time to give them to friends and other family members.

In Cree and Ojibwe communities, sweetgrass is a sacred plant and medicine that connects us physically, spiritually, emotionally and cognitively to our present, past and future. When our ancestors died, they returned to the earth to become part of the soil in which sweetgrass grows. Our ancestors are substantiated in each blade of sweetgrass. When we light and burn a braid in ceremony, our relations are released to us. We are connected, protected, calmed and reflective.

In sweetgrass ceremonies, we and all living creatures are drawn more closely together, both within the limited physicality of here and now and across the limitless extent of time. This sense of place simultaneously empowers and humbles us. Our ceremonies honor relationship and remind us that we not only are connected but also are accountable to each other. In burning sweetgrass, we invite our ancestors to be our witnesses.

The centrality of connection and the correlative of accountability are fundamental ethics of indigenous cultures. We learn that all that we do is done for, to, and with others, including our family and community. Our connectedness and the accountability that goes with it are not just a set of behaviors—they constitute who we are. When we gather sweetgrass, we draw on the knowledge our ancestors accumulated, follow the paths they cleared for us, share the gifts they reserved for us, then watch over and prepare the next generation to continue this task. Each of us brings our share to the group. Braided together, the single strands of sweetgrass become a powerful whole, an expression and substantiation of our relationships

These traditional values, however, are difficult to preserve in the legal response to violence against Indigenous women. Throughout these legal processes, assaults against women are treated as the actions of individual offenders against individual victims, or of single offenders against the state. Offenders and, in many cases, their victims are separated from their families and communities and isolated in treatment centers and prisons. From the initial contact of a 911

call through the resolution of cases in civil and criminal courts, many of the legal system's practices value opposition and isolation; and seek justice in ways that undermine relationships, sever connections and abandon accountability between people.

Relationship, 911 and the dispatch process.

Contact between an Indigenous woman who is being abused and the U.S. legal system normally begins when someone calls 911 and reports the abuse to a 911 dispatcher. Based on solicited and unsolicited information provided by the reporting person, the dispatcher typically sends an officer or squad car to investigate. A categorical classification of the incident (for instance, as domestic, disturbance, OFP violation, assault or person with a weapon), a short narrative describing the incident in progress and a priority code reflecting the dispatcher's assessment of the incident's urgency (1 being most urgent and 4 being least urgent) are displayed on a computer monitor in the squad car. The police officers' responses to each incident are directed by this information.

The dispatcher has a tremendous responsibility, which must be completed in no more than a few minutes. She must quickly gather the information she needs from the reporting person, classify and assess the urgency of the incident, determine who should intervene, assign the intervention and communicate just enough information to ensure that the intervention is appropriate. The dispatchers attend only to the safety needs of the people involved in the incident. As one dispatcher stated, "We would all be basket cases if we dealt with everything that comes through" (Community H, Debriefing of sit-along, October 2000). To complete the complex and highly specialized task they have been assigned, dispatchers rely, in part, on standard procedures and protocols that limit their interactions with 911 callers. When asked

about this process, one dispatcher admitted that her responsibilities, in effect, preclude her from offering much more than a scripted response to the person at the other end of the 911 call:

> I am always asking questions like have you been assaulted, have you been hitting each other and is there weapons in the house and how many people are in the house. That kind of thing because I am thinking the squads are going to want to know if they have a house full of people or just a couple of people or if someone has a weapon and they are threatening it…you just said if you have just been assaulted you feel like you are being interrogated. It would be nice to be more compassionate. I don't know how to ask the questions that we kind of need to know…in a better way. (Reported by a Dispatcher, Focus Group 8, March 2001)

The dispatcher above expressed some regret at her inability to connect emotionally with the caller—an inability that may result in the institutional intimidation of a reporting person—but does not know any other way to perform her job. In this process, everyone is allowed only one relational context. The roles and behaviors of the dispatcher, the police officers or other first response personnel and the people directly involved in the incident are defined by their relationship to the incident. The roles available to the people involved directly in domestic abuse are limited; they may be the reporting person, an alleged victim, an alleged abuser or another witness. As one advocate pointed out, some abusers may exploit the suggestions of guilt and innocence that are attached to these limited roles: "Males are trying to be one step ahead. They're saying you're not going to call 911—I'm going to call 911. They're trying to make her look like the offender" (Community Team Meeting, December 2000).

In this stripped down relational context, it is crucial that the dispatcher make decisions based on the best available information. This, presumably, is the intent of the script described above by the dispatcher. In the data gathered here, two researchers who sat in on dispatch work reported that, although the dispatchers whom they observed had a similar script from which they are supposed to work when domestic abuse is reported, neither researcher saw a dispatcher use it. Getting the context wrong has real dangers. One researcher rode along with a police officer who

was in the middle of a traffic stop when he was dispatched by 911 to an incident, reported as a man "intoxicated walking down an alley with a dog without a leash." The officer, who treated the incident as a low priority and finished the traffic stop before going to investigate the 911 call, arrived at the scene to discover that the involved person was in fact fighting with his wife and that the officer and observer were walking into a domestic dispute.

Dispatchers draw on the relationships and body of knowledge they have accumulated about the communities in which they are working. Describing dispatchers in a small county that includes a town and a reservation, an observer from the research group commented that, "They generally know who's who when they're calling. Of course they have people who are repeaters" (Community H, Debriefing of sit-along, October 2000). One dispatcher told how, from her experiences at work, she had pieced together some families across generations; in illustration, she offered the name of a family on the reservation who are always in trouble. The dispatchers who serve a large community, the observers noted, do not recognize many of the people who call; however, they do recognize addresses. Regardless of who lives there, these familiar addresses, to some extent, inform their interpretation of the 911 incident.

Observers described several instances in which the relationships and body of knowledge dispatchers have accumulated about the community came into play. In one observation, the dispatcher received a 911 call from a young man who had run away and was possibly in possession of a weapon. The dispatcher recognized that the man was part of a family whose members are frequently involved in 911 cases. The dispatcher's previous experiences with the family appeared to contribute to her decision not to dispatch any first responders to the 911 location. Instead, officers were directed to watch for the young man. As an observer remarked, "When people called the 911 folks, [the dispatchers] knew the families and stuff. Some people

called maybe ten, twelve, fifteen times a night. I could see how if you get those calls every night or on weekends that you would not take it seriously" (Research Team Meeting, December 2000). Although the observer offered these remarks with some sympathy for the dispatchers, she added that failing to take these callers seriously is disrespectful. This attitude may also endanger the callers.

The relationships with and body of knowledge dispatchers have accumulated about battered Indigenous women become part of the conceptual ground from which they make their intervention choices. When asked if differences in Indigenous culture made 911 services respond differently to domestic calls involving Indigenous people, one dispatcher first stated that they respond just like any other call. She then admitted that she did not really know how to answer the question, because she had noticed that in domestic calls, American Indians more often than not are all drinking. Immediately after this statement (which reveals that in her conceptual ground, Indigenous people involved in domestic calls are assumed to be drinking), she added that almost all their domestics include drinking (which reveals that in her conceptual ground, she either understands that the association should in fact be between all people involved in domestic calls and drinking, or that, more generally, she recognizes that she should not have publicly singled out Indigenous people in association with drinking). In another instance, a dispatcher's comments suggest that her relationships with and bodies of knowledge she has accumulated about battered Indigenous women have reduced her expectations of outcomes for these women. An observer described an exchange with this dispatcher:

> She [the dispatcher] said, 'Here's one thing I can tell you…for sure. The Native American cases, a lot of them that we get calls on, don't even go to OFP. They don't even go that far for Orders for Protection…we get a copy of every Order for Protection that has gone through the court we get a copy of. They're right in that drawer and you can read them. In comparison to the amount of calls we get for domestics they don't turn into OFPs…they rarely follow through with [it].' Then, even if they do, she noticed that

> Orders for Protection, if they do go that far, they almost, a lot of the time, don't show up for court. (Community H, Debriefing of sit-along, October 2000)

The conceptual ground from which this dispatcher makes her intervention decisions now includes an assumption that, whatever choice she may make, Indigenous women who are abused are unlikely to pursue and/or obtain Orders for Protection. The dispatcher clearly feels that the women fail to follow through because they do not use the institution properly. In her conceptual ground, the problem lies with the women, not the system, an understanding that suggests that the dispatcher's relationship with the institutional system is more substantial than her relationship with the women. These comments by dispatchers reveal that, whatever standard procedures, protocols and scripts dispatchers may use, their own ideological practices, drawn from the relationships they have established with members of the communities they are serving, are also engaged during the performance of their duties.

The meaning and experience of relationships in the dispatch process are dramatically different from the traditional meaning and experience of relationships in most Indigenous communities. The relational contexts of Indigenous women who are abused begin to unravel as soon as their 911 call is answered. Regardless of who the involved parties are or what their relationship to each other may be, in this process, everyone's identity and relationships are reconstructed based on their role in the reported incident. The highly specialized and demanding nature of the dispatcher's job shapes and constrains the kinds of relationships that she may develop with Indigenous women who are abused. These aspects of her job also ensure that her relationship with the institutional system is more substantial than the relationships she may develop with Indigenous women who are abused. The dispatcher's job requires that she quickly establish a relationship with 911 callers, but, in these relationships, she is accountable only for the physical safety of the involved people. Her duties and responsibilities do not give her time or

space in which to engage with the spiritual, emotional, or cognitive needs of Indigenous women who may call her. Her relationship and accountability to these women ends when the 911 call does, and her responsibility for the involved parties is transferred to the police officer who is dispatched to the scene. Although the dispatcher's relationships and accountability to the women have ended, her experience of these emotionally and spiritually stripped relationships becomes part of her conceptual ground, guiding her future interactions with Indigenous women who have been abused—as well as the interactions of the police officers she has dispatched.

Relationship in the police response.

Police officers have assumed a responsibility to protect and serve the public. For officers involved in domestic abuse cases, this responsibility takes a number of forms. An immediate goal of their interventions is to stop any violence that is underway. To prevent the occurrence of further violence and to serve a more abstract need for justice, officers seek the arrest and conviction of people who have committed domestic abuse.

Aspects of the relationships between officers and people involved in domestic abuse incidents are recorded in the reports generated by the incidents. As with the dispatch process, the relational contexts of people involved in a police investigation of a domestic abuse incident are stripped out, and then reconfigured based on their roles in the incidents. The domestic abuse incident first reconstructs the relationships between the involved persons on the basis of their guilt (suspect, arrestee), innocence (victim, witness or other) and, in some cases, responsibility (parent), attaching these identifying labels to each involved person at the beginning of the reports.

The relationships between the officers and the involved persons are developed further in the narrative sections of the reports, where officers detail their investigations, establish the

grounds for any arrests and record evidence. In these sections, the relational context shifts from the domestic abuse incident itself (during which the primary responsibility of the officer was the physical safety of the involved persons) to the arrest and conviction of the abuser (an institutional process for which the officer must also take responsibility). Descriptive language attached to the involved persons in the narrative sections reveals that relationships are reconstructed based on the new tasks at hand; that is, they now are based on the involved persons' willingness and ability to assist the officers as they investigate and/or build a case.[16] The extent to which the involved persons are reliable (noted as sober, apparently sober, intoxicated or drunk) and cooperative (noted to have agreed, admitted, abruptly refused or replied, "I do not know," or to have been belligerent or unclear) is carefully documented.

As the officers' responsibility shifts from intervention to investigation, their primary relational concern shifts from the women who are being abused to the institutions they are serving. Women who, at the beginning of the report, had been identified as the victims of domestic abuse may now be reconstructed as *uncooperative* victims. As recorded in one report, these women may even "face charges for withholding information from the police department" (Community E, Police report 10). In these transformations of abused women from victims to criminals, police officers shift from their initial accountability for the women's physical safety to, apparently, no particular responsibility for any aspect of the women's well-being and an overwhelming accountability to the institutional task at hand. If an abused woman proves herself an unreliable or uncooperative witness and cannot assist the officer with the investigation, the officer's relationship with the woman ends. Even if the woman can assist the officer, the nature of their relationship changes as the officer's responsibilities change. In one police report, the

[16]Descriptive language is not attached to the officers, who are identified only as "I," "me," or Officer X.

narrative describes a woman who is “obviously injured,” with an “obviously bloody mouth” (Community H, Police report 2). The officer records that he took a photo of the woman’s injuries for evidence, but nowhere in the report is there any indication that the woman was given medical or first aid attention, or even an opportunity to clean up. The initial relationship between the officer and the woman and his responsibility to preserve her safety have been displaced by his relationship to an institutional process and his responsibility to preserve evidence (a record of the woman’s injuries) in the case being built against the offender.

The constrained and shape-shifting relationships between persons involved in domestic abuse incidents and the officers investigating these incidents were also illustrated in observations gathered during ride-alongs and interviews with police officers. Like the dispatchers, the officers draw on the relationships and body of knowledge they have accumulated about the communities in which they are working. The familiar names and addresses of “repeaters” condition, to some extent, the officers’ responses. As one observer remarked, “They get called back again to the same residence, so he feels like there’s a kind of a gap in the system. They keep getting called out and nothing happens” (Community E, Ride-along 2, July 2000). While this observer’s remarks suggest that responsibility for nothing happening lies with the system, an officer’s remarks bluntly assign responsibility to and problematize the woman who is being abused: “There are times when we go to the same house four or more times a night. We have told her each time about how to file an OFP and get an advocate. I know I’ll be there next week. It does go through my mind that there is no point” (Interview with Police Officer, September 2000). In one jurisdiction, in response to 911 calls from some women who are recognizable because they have been involved in a number of domestic abuse incidents, officers decided not to visit the locations immediately and instead phoned the women as much as an hour after the 911 call was

received, to see if they were still needed. These are instances in which the officers' relationships with "repeaters" have led them to step (in some cases, dangerously) outside of standard procedures.

In many instances, officers who have been called to assist women who are being abused arrive at the scene to discover a disjuncture between what the women want and what their job requires them to do. Ordinarily, officers are dispatched to domestic abuse incidents because people have asked for help. When a victim asks for help, his/her primary need is to be protected physically, a need that intervening officers are able to attend to within their defined job responsibilities. However, as one officer pointed out, in most cases, women who are being abused do not actually make the 911 calls, which leaves the possibility that some abused women do not want help in the first place. Additionally, the victim's immediate needs often include a need to protect the safety of the partner who has abused her and a need to honor all aspects of her relationship with him. In many instances, when officers intervene in domestic abuse cases involving Indigenous women, they realize soon after their arrival that, while the woman wants the violence to end, she does not want the abuser to be arrested or convicted. Many officers attribute victims' reluctance or inability to assist them with the arrest and conviction of their abusers to something problematic in or about the victims. One officer explained that, "We find that Indigenous women don't want to talk to us. She is really passive about the whole thing. It might be a cultural thing. They're not an aggressive population" (Research Team Debriefing of observations, September 2000). One officer attributed the reluctance of many abused women to assist with arrest and conviction to their financial and emotional dependency on the men who have abused them.

Other officers recognized that women's reluctance or inability to assist them might stem from systematic problems, many of which are located in institutional practices. In many instances, an abused woman may fear retaliation; several officers indicated that, when they arrive on the scene, they feel like their presence enrages the involved parties, escalates violence that is underway, or provokes future violence. Other officers recognize that the choices women make reflect their personal experiences with and relationships to the U.S. legal system's response to domestic abuse:

> Sometimes you roll up on people who have been the victim of domestic violence repeatedly in their lifetime, and they've been through the system already and they are already frustrated with it and they've lost faith in that. An Order for Protection isn't going to do them any good. As much as you try to explain that it's a beneficial thing for them to do they look you in the eye and say they don't work anyway. So, you run into frustrations there. If you've done this job long enough you can't always say, 'Yes, they do.' Because, you realized sometimes that they're not as effective as . . . you don't want to make false promises to people. (Community E, Ride-along 7, October 2000)

This officer recognizes, as do many others, that their relationships with women who have been abused are constrained by the specialized responsibilities their job entails:

> You try to do everything within the letter of the law that you are supposed to do. Sometimes you become almost personally involved, because something or more than one thing really affects you in somebody's life story. You want to try to jump in there and help, you want to go above and beyond [but] you cannot do more than the law allows you to do. (Ibid.)

In spite of this officer's tremendous empathy for some of the abused women he has worked with, he recognizes that in his job, his relationship with the institution must take precedence over his relationship with the victim in a domestic abuse case he is investigating.

As revealed in the police reports and reiterated by these observations, regardless of the officers' empathy or insight, abused women's reluctance or inability to help intervening officers do their job changes—and typically hastens the end of—their relationship with them. Observers witnessed and heard of instances where, in response to abused women's failure to become "something they can take and win a case with" (Reported in Research Team Meeting, December

2000), officers criminalized, problematized and/or attempted to intimidate (rather than protect) the victims. As with the dispatchers, several officers problematized Indigenous women who are the victims of domestic abuse by associating them with alcoholism; one officer actually distinguished *real* domestic abuse from domestic abuse involving parties who have been drinking. Officers frequently use institutional intimidation in attempts to gain the compliance of problematic abuse victims. Observers heard of or saw officers tell abused women that they were lying, order them to give a statement, accuse them of dealing drugs, force them into squad cars, threaten to call social services, threaten to have their children taken from them and threaten to take the women to jail. In these reconfigured relationships, officers' frustrated responsibility for the arrest and conviction of domestic abusers not only transforms abused women from victims to offenders; it also sometimes transforms officers from women's protectors to their abusers.

Our observations indicate that officers must struggle to balance accountability in their relationships with abused women with accountability in their relationship with the institutions they serve. For some officers, their sense of responsibility and relationship to an abused woman ends as soon as it becomes clear that they will not be able to charge, arrest and convict the woman's abuser. At the scene of one incident of abuse involving an Indigenous woman, the officer told the observer that it was a "waste of time" to be there, then left the scene, leaving behind a form for the woman to fill out. When a call came over the radio describing the car of the woman's suspected abuser, the officer said he was not going to bother. For this officer, his relationship with the abused woman had been only incidental and did not extend beyond (or even through) the discharge of his duties. Fortunately, this officer's dismissive attitude was extremely unusual. The comments and actions of several other officers reveal that their understanding of their responsibility for women who are being abused extends beyond the responsibilities entailed

by their job. These officers clearly want to be able to provide more than the temporary stop to violence that occurs in domestic violation interventions. One officer felt he had let down an Indigenous woman who had been the victim in an incident of abuse he had investigated. At the scene of the incident, the officer had tried to persuade the woman, whose face bore her abuser's shoe print, to press charges. Although the woman eventually did decide to press charges, she communicated this to the officer after the 12-hour limit within which charges must be pressed. The officer then had to tell the woman that he could do nothing for her unless it happened again. In this instance, the disjuncture between the institutional time governing the officer's behavior and the real time of the woman's experience gutted the relationship that they had worked to develop and jeopardized the woman's safety.

Officers' relationships with the institutions they are serving make them accountable for their own safety and the safety of their fellow officers. One researcher observed that, in the institutional culture of the police, the relationship between officers "comes above and beyond everything else. The protection of that relationship goes beyond anything they are doing to protect the civilians" (Ibid.). Officers are protecting each other, in part, from the danger of "uncooperative victims." As an officer warned one observer, "You really have to watch your back for the victim, to physically attack us when we're there" (Community E, Ride-along 7, October 2000). Many procedures followed during interventions in domestic abuse incidents are there "to make sure nothing [goes] wrong" (Community H, Debriefing of civil court observation, September 2000). For example, at least two officers respond to each incident of domestic abuse; project observers saw as many as five officers at a single incident. Since most officers have their own police cars, the scenes of domestic abuse incidents are often "swarmed" by cars, an effect that one officer suggested is an attempt to persuade the public that even more officers than cars

are present. Whether or not this practice protects the safety of officers, it also overwhelms and intimidates many Indigenous women.

As with the dispatch process, the meaning and experience of the relationships between Indigenous women who are abused and police officers that intervene in their abuse are dramatically different from the traditional meaning and experience of relationship in most Indigenous communities. The relationships between the women, the officers, other involved parties and the institutions the officers serve shift throughout the intervention. When the officers arrive at the scene of a domestic abuse incident, their relationships with the women who are being abused are structured by the officers' immediate responsibility to protect the women's physical safety. Once the immediate safety of the women is secure, the officers' focus shifts to building a case against the offender. The responsibilities vested in the officers in their relationship to the institutions they serve, which include both the newly activated responsibility to arrest and convict the offender and an ongoing responsibility to preserve their own safety and the safety of their fellow officers, frequently transform and displace their relationships with and accountability to the women. This occurs because the officers' relationships to the institutions they serve are profoundly different in nature from their relationships to Indigenous women who are abused. Like the dispatchers, the officers' duties and responsibilities prevent them from engaging with the spiritual, emotional or cognitive needs of the women, and their relationships with the women cannot extend beyond an institutionally defined present. In their relationship with the institution, however, the officers are protected, guided and empowered and, unlike their relationships with the women, police officers' relationships with each other require absolute accountability and responsibility. While the officers' relationships and accountability to the women end when their investigations do, their records of these relationships, in the form of

police reports, become part of the conceptual ground that guides and directs the advocates, lawyers and judges who move the women's cases through the legal system.

Relationship in Civil Court Processes

Indigenous women who have been abused may seek Orders for Protection (OFPs) in the civil court system. When an OFP is granted against a woman's abusive partner, the order restricts or forbids him contact with the woman; if the subject of an OFP violates the terms of the order, he may be arrested and charged with a criminal act. A woman initiates an OFP by filing a petition with a courthouse clerk, who then forwards the woman's petition to a judge for signature, a process typically completed within three business days. Once the judge signs the petition, the clerk contacts the woman and schedules a court hearing, which the woman, as OFP petitioner, is expected to attend. At the hearing, a judge grants or dismisses the OFP. OFPs may be granted ex-parte, that is, at hearings attended by only one party, a property that makes them especially useful in domestic abuse cases, where women frequently are in immediate physical danger from their abusive partners. Once an OFP is granted, it may also be the subject of other civil court hearings. A hearing may be held to modify terms of the OFP or women may ask that ex-parte orders be extended or renewed. A contempt hearing may be held if a respondent to an OFP fails to follow conditions of the OFP and an order to show cause hearing may be held, in which the respondent is given the opportunity to show why they should not be found in contempt of the court's order.

The procedures sketched above suggest some of the key differences between the civil court and criminal court systems. Unlike criminal proceedings, which are initiated by police officers who gather evidence and lay charges against an individual, an OFP results from a civil procedure. It can be initiated only by the person who is seeking its protection, for example, an

Indigenous woman who is being abused. Women seeking OFPs often do so with the assistance of an advocate, available to them through a variety of organizations that provide support to women who have been abused. The advocates may advise the women, assist them with paper work, accompany them to court, or just listen. Civil court proceedings are theoretically less adversarial than criminal court proceedings, and judges do not require that a woman who petitions for an OFP prove beyond a reasonable doubt that the order is justified. In OFP hearings, a judge reviews the petition and may ask the woman, the respondent or their attorneys for more information about the context of the woman's petition before making a decision based on the petitioner's apparent need for protection. The hearings are designed to issue relief and to protect women, and OFPs are granted to the vast majority of women who petition for them and attend their hearings. Given this encouraging success rate, why then (as was repeatedly stated by dispatchers, police officers and other service providers) do so few Indigenous women who have been abused actually secure OFPs?

While judges in OFP hearings have assumed the responsibility to provide relief and protection to women who are being abused, their primary relationships in the courtroom are with the institutions of the civil court. Physical features and protocols of the courtroom – such as the judge's robe and gavel, the seating arrangement, or the requirement that the judge be addressed as 'Your Honor'—are clearly there to assert and preserve the pre-eminence of the judge's authority. Observers found aspects of the courtroom and the proceedings harsh, severe, intimidating, and even dangerous. An advocate pointed out that women who petition at the civil court find it "very traumatic at first. It gets better, but first it's very hard" (Focus Group 4, January 2001). Unsurprisingly, then, the women in court appeared "isolated," "uncomfortable," "stressed" and "sad" to the observers, who also remarked upon the camaraderie between judges

and attorneys. As one observer noted, “the only people who are comfortable in the courtroom were the institutional people, the lawyers and the probation officers, and the judge and the clerk” (Reported in Research Team Meeting, December 2000).

The primacy of judges’ relationships to the institutions of the court over their accountability to the women who are petitioning the court is reiterated in procedures and laws that guide civil court cases. For example, OFP hearings are scheduled to accommodate the calendars of the court and available judges; they are not scheduled around the calendars of the women who are seeking the orders. If a petitioner fails to appear at her hearing, the OFP typically is dismissed. This occurs apparently without regard to the level of violence against which a woman is seeking protection. On the other hand, the judge’s fundamental responsibility to uphold the legal tenet that a defendant has the right to protect himself when actions are taken against him means that, in the case of OFPs, if a respondent fails to appear at a hearing, judges often grant continuances. These practices clearly make the safety of women who are seeking the protection of the court secondary to the preservation of legal institutions.

When the civil court system takes up an Indigenous woman’s case, the authority of women’s own knowledge and lived experience is frequently displaced by legal discourses and discourses based on the knowledge and understandings that practitioners bring to the courtroom about battering, battered women and Indigenous lifestyles. Most practitioners assume that an OFP is the first step toward taking control for a woman who is being abused. It is true that an OFP can increase the margin of safety of a woman who is being abused. As one prosecutor neatly stated, “She doesn’t have to wait to get beat up to call the police” (Interview Prosecutor, November 2000). At the same time, she reminded us, seeking an OFP “puts a lot of women in greater danger. It escalates the risk to her” (Ibid.). A judge added these thoughts:

> When they come to court, that is what they are thinking about. The advocacy is very good and very informed or educated and [good attorneys] are frequently involved and everyone kind of knows what is available, but underlying all that and what we don't recognize is that it's a very small community. And what is going through their head is if I do this then what is going to happen when I leave the courtroom. The order isn't worth the paper it is printed on. It doesn't mean anything. (Reported by Judge, Focus Group 5, February 2001)

The fact that the civil court processes that grant OFPs may work well does not mean that OFPs work well for Indigenous women. A concern, obviously, is for the women's safety. The judge's comments also reflect his understanding that the ideological practices that mediate the legal system's understanding and interpretation of Indigenous women's experiences frequently conflict with Indigenous ways of thinking and values, particularly with reference to relationships. To some extent, these conflicts involve practical considerations that can be resolved once people are aware of them:

> We don't focus on the right issues in the sense of we don't talk about if we are doing an Order for Protection, it never popped into my mind to talk about how are traditional community feasts or powwows or celebrations going to be handled…can they both go? Is it appropriate that they both go? (Reported by an Attorney, Focus Group 5, February 2001)

Other conflicts are far more profound:

> I have experienced in my job a disconnect between what the dominant culture…expects as a good result in a case, and what the Native culture—or Native clients—see as a good result in the case…several times I had Native women clients sort of tell me that all the stuff that I am doing, all the machination of the system, is largely irrelevant because it doesn't address the need for healing, the mending the hoop, resolving the conflict, it just settles on, you know, you go to jail, you do this or that. So when I advise clients—well, we can go and get an Order for Protection…a lot of times they roll their eyes at me because my language and my solutions don't really mesh with how they want to resolve this situation…it is kind of irrelevant. (Ibid.)

As this attorney and the clients she is describing here understand, there are clear conflicts between the basic principles of honoring relationship and relational accountability in Indigenous cultures and the institutional values expressed in OFPs and other legal processes. These legal processes constrain conflict, rather than resolve it. In sharp contrast to this, Indigenous women

we spoke with are seeking ways to salvage, strengthen and preserve their relationships with family and community.

The role of advocates in the civil court processes suggests that, to some extent, the legal system understands the importance of relationship. The primary responsibility of an advocate to an Indigenous woman who has been abused is to have a relationship with her. One advocate offered this job description: "Your main job is…not to be doing something…It is to be with the person" (Reported by an Advocate, Focus Group 5, February 2001). The best advocates, practitioners told us, are people who will meet a woman where she is, listen to her story, stick beside her, befriend her, and be willing to commit to working with her. The commitment can be considerable. Advocates may help women fill out OFP paperwork, help them understand the choices and resources available to them, do legal background work, attend hearings that they can't make it to themselves, or offer refuge.

One prosecutor talked about advocacy ten years ago, before grassroots efforts became institutionalized, "The advocates were just incredible. They were almost making pests of themselves. I wish we had that now. They would just call up and say, 'Here's this woman. I'm going to be with her in court.' There's none of that now" (Interview Prosecutor, November 2000). But supporting a woman requires knowing what she wants and needs. One advocate described frustration once at her own inability to figure out what a woman she was working with wanted. Finally, she admitted, she had to come out and say, "You are just going to have to tell me what it is and…how I can give it, tell me how to get it back and I will do my best to try and do that. Like, you tell me and I will do it" (Reported by an Advocate, Focus Group 4, January 2001). This advocate accepted that her primary responsibility in her relationship with this woman

was first, to understand the needs the woman had identified for herself and then, to support and assist the woman as she pursued them.

Implicit in the relational contract between Indigenous women who are seeking protection from the courts and the advocates who assist them is that Indigenous women's knowledge and understanding of their own lived experience should remain authoritative. However, advocates, like other practitioners, have their own knowledge and understandings about battering, battered women, and Indigenous lifestyles that form the conceptual ground from which they enter into relationships with the women. Their relationships are also complicated by an understandable impulse to protect the women for whom they are advocating. In Focus Group 4 (January 2001), an advocate described a case in which she attempted to initiate a relationship with a Indigenous woman who had filed an OFP petition. A hearing had been scheduled, but before the advocate could contact the woman, the woman filled out a dismissal form. The advocate appeared at the hearing but the woman did not, and the judge, concerned about the woman's safety, released her phone number and 35¢ to the advocate, directing her to call the woman. Because the advocate could not get in touch with the woman, the judge continued the case and asked the advocate to maintain efforts to contact the woman. In this situation, the judge and the advocate were both clearly concerned for the woman's well-being and went out of their way (and outside of court traditions) to monitor it. However, it is quite possible that they also disregarded the woman's wish (expressed by the dismissal she had filed) to drop the petition. As one observer noted, the advocate—and the judge—were in a difficult situation because "if you're really this woman's advocate and she says, 'make this case go away,' that's what you should be advocating for her" (Reported in Research Team Meeting, December 2000). In situations such as these, the observer

remarked, advocates appeared to be "screening everything the woman says with the assumption that she's not speaking the truth because, really, she's being manipulated" (Ibid.).

Tension between an advocate's accountability to the woman she is serving and her own conceptual ground may make it difficult for the advocate to maintain or even establish a substantial relationship with the woman. One member of the research team observed a woman in the hallway of the courthouse, who was waiting for her OFP hearing, "sitting alone by herself and her husband was pacing back and forth in front of her, while waiting for his attorney to show up. The advocates [were] sitting over on the other side" (Community H, Debriefing of civil court observation, September 2000). The woman's advocate, it seemed, had a more substantial and committed relationship with the other advocates than she did with her client. Increasingly, advocacy has become "part of the system," and for some, advocacy has become "a 9-5 job rather than a passion…like a service-oriented organization" (Interview Prosecutor, November 2000). In some instances, the problems are clearly systemic. As the Community Team discussed, in Community E, even though advocates "get all the police reports and all that information, they work for agencies that have rules against contacting the woman to simply ask her, 'What do you need?' She is given a referral card by the police and that presumably gives her the choice to call the advocacy program." This restriction prevented a number of Indigenous advocates from approaching Indigenous women who they know are in need; they can only work with women who come to them.

The need for Indigenous advocates to work with Indigenous women who have been abused is real. Many Indigenous women who have been abused find it hard to develop a relationship with an advocate who is not Indigenous. One Indigenous woman described her response to the (non-Indigenous) advocates who had been offered to her:

> I'm looking at her thinking, 'I don't want to talk to this woman.' I don't know her…She doesn't know me. She doesn't know my culture. She doesn't know anything about my background, my relatives. It's real hard for me and I usually turn away and say no, I don't want to talk to this person right now. (Focus Group 1, October 2000)

Non-Indigenous advocates, trying to work around similar relational impasses, often look to Indigenous advocates for assistance: "We feel very limited and [another worker] has more experience along those lines because she is an Indigenous woman herself and can relate to her." As one practitioner who supervises advocates readily admitted:

> What I do because it works is to get advocates from the Native community to work with the Native community. I wish it didn't matter, but it does, and if I get somebody who is enrolled to advocate…they are accepted instantly in a way that if you are not enrolled, it takes longer. And with people in crisis, you need to connect right away. (Focus Group 5, February 2001)

These sentiments were echoed by another practitioner, who stated that, "the enrolled advocate can usually make a connection…I use their expertise. I am never going to know as much as they do." Women on the reservation, an Indigenous advocate reported, "could tell us anything and we weren't taking their kids away…we were just there to listen…you know, you might have to plant seeds 15 times before they take root." Seeds cannot root, of course, unless they are given the time and opportunity to do so. As one Indigenous woman responded when asked what she would change if she could redo the system:

> If they had one woman advocate that's from just in this area…say, 'Hey [you], knock it off!' I think I would listen, I think I would respond, or anyone would respond like that…Afterwards, after the situation has calmed down, have the same advocate go out and maybe say, hey this is what's going on, you know, I know your kids, your kids know my kids…and we don't want to see our kids do this to each other when they get older. Going through the same stuff that we're going through right now…because it's already starting with teenagers—domestic abuse is already starting young, right? (Focus Group 1, October 2000)

What this woman described is a relationship with an advocate in which they are both committed and accountable, to each other, to their families and to their communities, now and in the future.

Domestic Abuse and Relationships in the Indigenous Community

In the data gathered here, Indigenous women who have been the victims of abuse, their family and community members, and the police officers, service providers, and practitioners who have sought to assist them, describe aspects of the struggle between traditional values and practices that honor relationship in Indigenous communities, and the values and practices of the judicial system. Values and practices of the judicial system both disrupt and are disturbed by the relationships between Indigenous women, their family and community members, service providers, and practitioners.

A number of service providers and practitioners pointed out that each intervention they make or support they provide to an Indigenous woman who has been abused is also enacted upon the woman's community:

> It is a very, very tight community and I think there is a hierarchy situation going on out there where this woman is relation to this one and I can't do this because this one is going to get mad because I do it. And paybacks are going to be personal and within the community. I don't know they worry so much about what kind of punishment or what goes on in the criminal justice system, they worry more about their own internal punishment or their own internal paybacks. And it's very scary for battered women to come out and say, 'Yes, my Native American husband is battering me,' because the paybacks on the reservation can be absolutely hell. It is very scary for them. (Reported by Advocate, Focus Group 5, February 2001)

Service providers and practitioners often must confront the fact that their attempts to protect these women also threaten their place in their community. One worker related the story of a woman for whom, "this process, coming before a judge and airing these issues in public didn't jive with their spirituality. And they didn't want to do the things they could do and were entitled to under the law because it violated the system of, their spiritual system . . . it was just wrong to do the things that it took to do an affidavit about the negative things about the other parent" (Reported by Child Advocate, Focus Group 5, February 2001). This worker, along with many other service providers, seemed frustrated by the limited extent of their ability to provide

protection. As one worker stated, “And what is going through their head is if I do this then what is going to happen when I leave the courtroom. The order isn’t worth the paper it is printed on. It doesn’t mean a thing” (Reported by Judge, Focus Group 5, February 2001).

The challenges of negotiating relationships between Indigenous women who have been abused and family and community members were faced by both Indigenous and non-Indigenous service providers and practitioners. The practices of Indigenous service providers (particularly those who serve in their home communities) may be even more tightly prescribed than those of non-Indigenous service providers: “If you are part of the [Indigenous] community, there are old family ties—loyalties—that make it difficult sometimes to advocate for the child. And if you are from another band or tribe, those old patterns don’t exist” (Reported by Child Advocate, Focus Group 5, February 2001). Some of the service providers and practitioners suggested that, to protect their relationships with community members, women avoid seeking help from the practitioners in their own communities:

> … I am required to let them know that there are services available to them on the reservation and they decline those because they feel that they can’t go in and be open without everybody in the community knowing about it. … I do let the victims know that there are resources available to them on the reservation and if they choose not to use those resources, I am not going to force them. (Reported by Court Practitioner, Focus Group 5, February 2001)

> … we get some people that come in and even though they work with the same confidentiality clauses and all that stuff and there are professionals out there, just the stigma of walking over to the mental health clinic or those kind of things. They don’t want anybody to know their kids have those kinds of issues and so they choose to come to us for services… there are some that would prefer to get services off the reservation. (Reported by Child Advocate, Focus Group 5, February 2001)

As these comments indicate, practitioners understand that, in some sense, the services they offer threaten the relationships between the women they are assisting and the families and communities to which they belong. In some cases, practitioners recognize, this threat outweighs other important safety needs. Practitioners also understand, however, that the relationships

between the women, their families and communities are the primary source of support for the women. Many practitioners are frustrated by their inability to make the most of these support networks:

> When a woman comes to me and she happens to be an American Indian, I think at that crucial crisis time she couldn't care less. She wants to get something done, she is in crisis and she wants that OFP filed or she needs to file that criminal complaint. I think thereafter, we should be much more sensitive into encouraging her to dip into the support groups on the reservation and there again there is a confidentiality problem. (Reported by Child Advocate, Focus Group 5, February 2001)

> We don't recognize extended family placements as early in the process as we should. It feels especially out of place to have the kids that are not with a parent in a shelter or in a foster home rather than with an extended family member. (Reported by Judge, Focus Group 5, February 2001)

The failure of the legal system to use family and community support systems may stem from practitioners' lack of faith in the family or community or it may stem from a simple and profound inability to see how to work with family and community:

> I think that one of the big shortcomings of our system is that we don't recognize that each family is unique… We tend to judge their solutions as not fitting into our model and that is a universal criticism that I have of our system, … We try to buttonhole them into a generic position and then we try to offer a generic solution … (Reported by Court Practitioner, Focus Group 5, February 2001)

Practitioners are obviously frustrated at their inability to provide services in a way that protects and supports the women at the same time as it honors their relationships with family and community.

The reality described by Indigenous women who have been abused includes many instances where they clearly feel that the process of intervention has undermined their relationships with family and community. A few women angrily described instances in which they felt practitioners had encouraged their children to treat them with disrespect:

> This man is coming in here to help us, no he didn't, he just make it worse. He had my daughter turned against me, that she was in the right. When she was underage and talking to me as though I'm someone's old dirty dishes. (Focus Group 1, October 2000)

> We have our own way of disciplining our kids. And they come along, and they are undermining everything we taught them. Yeah, it's ok for you to talk like that to your mother. (Ibid.)

Some women clearly felt that, through their interactions with service providers, they appeared to their children as incapable of protecting or parenting them effectively:

> It's more of the sexual assault thing with my daughter. I get the feeling that they were treating me like I am the one that, because I didn't know what was going on and I didn't protect my daughter and it's my fault. (Focus Group 8, March 2001)

> And it was just me and my little girl standing there watching all this…and I was treated like I was a bad parent immediately and even told that maybe they should take her away from me because I am unable. (Focus group 8, March 2001)

Many of the women in the focus groups related experiences in which they felt that practitioners' intervention in domestic abuse cases had put their children at risk. Women noted that intervening practitioners sometimes failed to inquire if they had children ["they never even asked me if I had kids—I had about 10," "My kids were there and they didn't ask anything about them" (Focus Group 1, October 2000)], a grave (and, we suspect, rare) omission when, as in the case of one focus group participant, both responsible parents are taken to jail.

It is clear, however, that, from the perspective of many Indigenous women who have been abused, the greatest threat to their family in the process of intervention in domestic abuse is the possibility that their children will be taken. Repeatedly, in interviews and focus groups, women described this moment:

> They had a child together and the baby was sleeping and she had bronchitis and she wasn't feeling very well…and the cops came in and they forced her to take a breathalyzer and I said, 'she hasn't really been drinking.' …and they said, 'well, we are going to have to take the baby because she is drunk.' (Focus Group 7, February 2001)

> They said, 'you can make one phone call to your son—the babysitter for my son—or we're gonna throw him in the crisis shelter.' (Focus Group 1, October 2000)

> The police told me, 'If we ever come back to your house again, we are taking both of you to jail and you won't ever see your kids again.' (Focus Group 6, February 2001)

The women's sense of injustice at the loss of their children and at the practitioners' power to take their children is clear. An additional important subtext in these comments, however, is the suggestion that practitioners' motives should not be trusted or respected. These women, who have experienced loss of custody of their children and loss of their own roles as mothers, do not believe that the involved practitioners acted to protect their interests, or those of their children, family or community.

Fear of losing their children has forced some Indigenous women who were abused to make difficult choices between their own safety, protecting their children and preserving their family relationships:

> My daughter's father keeps trying to take me to court for custody… So okay, he beat me, he almost killed her when I was pregnant with her you know but he still has these rights. … if you don't do this visitation stuff, they are taking you to jail. I said, 'Well fine, take me to jail because I am not going to put my daughter in that position.' (Focus Group 6, February 2001)

> You get scared to fight back because if you leave any marks on him...where are my kids going to go if I go to jail? (Ibid.)

These stories confirm the concern stated earlier by practitioners that women (and children) stay in unsafe situations rather than seek interventions in which the women may lose custody of their children.

The distrust of service providers and practitioners that emerged in many Indigenous women's descriptions of the apprehension of their children is only one aspect of a widely shared conviction that service providers and practitioners are not allies of battered Indigenous women. Only one Indigenous woman described her involvement with service providers positively. Describing her experiences following an episode of violent abuse, she said:

> My family wasn't there for me, there was a lot of confusion…And that is when I really needed the women's shelter and the Indian program … (Ibid.)

Given that service providers and practitioners were the only support network within this woman's reach, we have to ask ourselves if this is the context in which these networks are most likely to succeed—that is, when there are no other relationships that need to be honored or accommodated.

Repeatedly, Indigenous women who were abused revealed a disturbing lack of faith in their relationships with service providers. Asked if advocacy services were helpful, many women's replies were even more negative than a simple "No" would have been:

> When you talk about Indian child welfare, they don't help you. (Focus Group 8, March 2001)
>
> They're more destructive. (Focus Group 2, November 2000)
>
> I think they're more against us women. (Ibid.)

One woman stated that, "The only time I've ever seen the ones from the reservation was when I was in jail. They came and made dream-catchers with us" (Ibid.). Most of the other women's descriptions of service providers suggest that they, too, do not know them well. In the women's stories, they had been underserved, abandoned, even betrayed by practitioners:

> I've raised my granddaughter since she was a baby. The reason I don't have her is because I have to have a grandparent foster care license and I haven't gone through the clinic or anything…In the first place one of the social workers went over there and lied.…she wanted to make everything look good on paper.… She'd rather see these kids taken. (Focus Group 2, November 2000)
>
> I had bruises all over my arms, my lip was busted open but right away it was it's your house, it's in your name and you have control over who and what comes in. (Focus Group 8, March 2001)

These women do not feel protected, cared for, or valued by their workers. In large part, this feeling is a result of the processes through which service providers and practitioners manage the crises in which they encounter the women. Women often feel that their cases have been resolved unjustly, that their abusive partners have been supported by the system and that they and their children have been left with even fewer resources.

> They put the blame with the man but they do it back on me. And they said, 'You did this and you did that,' and I was like, 'NO!' I got four kids and my 12-year old was hysterical. And still to this day, she does get scared of people, cops and social workers. (Focus Group 8, March 2001)

> They were very angry at their father because we were the ones that had to leave…why did we have to leave the house and he gets to live there and we have to stay some place else? (Focus Group 6, February 2001)

These interactions, the women suggest, are instances in which responsibility for the outcome of abuse has been shifted from the abusers to the victims. Service providers and practitioners frequently encounter and are frustrated by a systematic, process-driven failure to protect or extend women's and children's safety and comfort, often to the advantage of the men who have abused them. Service providers see the limitations of their own dependency on legal processes:

> What is the message when you have a family where some of the children are enrolled and some of them aren't? And there is plenty to intervene on behalf of the non-enrolled children, but not…what is the message to the children? That these lives are less valuable? (Reported by Child Advocate, Focus Group 6, February 2001)

> There are a number of times that the batterer will call 911 and say he's the victim. The police will go and there will be a small scratch or red mark on the batterer and they think he's the victim. Within the last 2 years, I have had 4 pregnant women, full-term, go to jail because the batterer said 'I'm the victim'. (Reported by Advocate, Focus Group 3, November 2000)

> I'm running into women that are trying to defend themselves and the guy will have a welt, and she's not welcome into the program because you can't have a batterer in the program. He gets the kids, she doesn't have any services, she loses everything. (Ibid.)

> I am thinking about a woman who I was working with and who really wanted to keep her family together. Wanted to work through their problems and there was no support, there was no support to try to keep the family together. And of course, I think every one of us as advocates in a system of seeing where a Native woman is not given the help that she needs if she is drinking. She is brought to detox or nothing happens because a quote in one 911 report said that no one was credible…I didn't feel she was heard at all about how she wanted to keep her family together. (Focus Group 4, January 2001)

Both the service providers and the women whom they are working to protect could see that pre-established protocol, criteria, and limits of legal jurisdiction guide the interaction between the service providers and the women, to an extent that is frequently destructive. In a

system that manages the experiences of women in crisis through interpretations of property rights, breathalyzer tests, 911 protocols, foster-care licensing, legal aid criteria, sentencing worksheets, and ex parte orders, women routinely feel that they have been reduced to the object – rather than a shaper – of these processes. In the preceding descriptions of their interactions with service providers and practitioners, the women depict practitioners who, rather than responding to the full complexity of the women's relationships and lived experience, seem to be working their way through a preprogrammed checklist of conditional statements: "Hmm, let's see, if you drink, you are not ready to be helped," "If your batterer says he is a victim or looks like a victim, we will treat him as a victim," "If an abuser is a biological parent, they are entitled to access to their children," "If a caregiver is not a biological parent, they need a license to parent," "If you are not in fear of your life, we cannot help you," "If it happens in your house, it's your fault."

The legal system's reliance on protocol and criteria has left many of the women feeling angry and defeated:

> Bring them down to eye level so that you're not sitting there looking at them like they're on a pedestal and they have control over your life and you have to do this and that before you get your kids back. And if you fail at one of them then oh well, you don't get your kids back. (Focus Group 8, March 2001)

> You feel like you are in a circus, you have to jump through their hoops and bend over backwards and walk on tightrope to prove to them that I really want my kids back. (Ibid.)

> I'm done jumping through their hoops. I'm too old for their hoops. (Focus Group 2, November 2000)

These statements convey a dangerously deep hopelessness—why bother, these women suggest, when you have no control over whether you win or lose?

Service providers and practitioners also described incidents where sentencing worksheets took precedence over victim impact statements, where risk assessments were treated as more truthful and authoritative than the victims' own words, and where women were rendered

voiceless. “Nothing happens,” one observer noted, “because a quote in one 911 report said that no one was credible…I didn’t feel she was heard at all…” (Focus Group 4, January 2001).

The service providers’ and practitioners’ statements reveal that, in fact, women are being heard. Service providers and practitioners clearly understand the need to protect and honor the women’s relationships to their children, families, and communities, share the women’s frustration with their frequent inability to do so, and want to change practices and procedures to accommodate and honor these relationships. Police officers, service providers, and practitioners are struggling with their own relationships with the women they are serving and see the need to restore trust between themselves and the women and communities they are serving. By bringing connectedness and accountability into their relationships with the women, families, and communities they serve, practitioners will be able to draw upon—rather than push against—the strengths and supports that women find in their own relationships with family and community.

Holism

> All things are interrelated. Everything in the universe is part of a single whole. Everything is connected in some way to everything else. It is therefore possible to understand something only if we can understand how it is connected to everything else. (The Sacred Tree, 1984)

The worldview within which we live and act integrates our conceptions of both human nature and the role of human beings in the universe, and the cultural values that guide our relations. Traditionally, the worldviews of most Indigenous North American peoples are holistic, in that they understand that no experience occurs in isolation from other experiences and that every experience ultimately contributes to our single whole and shared experience of the world. The concept of holism asserts the depth and breadth of relational connectedness and interdependence. In Anishinaabe/Ojibwe cultures, an understanding of the holistic nature of human experience is part of *mino-bimadaziwin*, the call to live life fully, honorably, and with consideration to others who share the world. To achieve this, people must integrate and value equally their will and the spiritual, emotional, intellectual and physical aspects of their lives. The cultural values expressed in *mino-bimadaziwin* apply to our lives as individuals, but also apply to the lives of our families, communities, and Nations. We can live holistically only if our own individual efforts are accompanied by the cooperation and effective assistance of other humans and spiritual forces.

The adoption by the justice system of a holistic worldview would have the potential to radically transform its response to domestic violence against Indigenous American women. From a holistic worldview, the response to domestic violence should place the well-being of the victim at the center of any intervention and do so in a manner that immediately considers, supports, and integrates her volition and her physical, emotional, social, and spiritual needs. Holism implies that our response to domestic violence should acknowledge and value the connectedness and

interdependence of the involved individuals. We should also recognize that the best opportunities to prevent domestic violence and provide early intervention almost certainly are held by individuals and systems that are allied closely to women who have been or may be abused.

Unfortunately, the 'what is' reality of the U.S. legal and judicial system's current response to domestic violence against Indigenous American women falls far short of what 'should be' or 'could be,' were the response to start from a holistic worldview. Recent census data indicate that approximately seventy percent of Indigenous people live within majority society communities and outside of their tribal communities or federally recognized reservations (U.S. Census Bureau, 2000). Consequently, most Indigenous women do not have access to systems that are driven, informed, or influenced in a significant way by values central and specific to Indigenous cultures. This is also true in Public Law 280 states (such as the area in which this study was conducted), where, even on federally recognized reservations, most policing and judicial functions are handled by off-reservation local, state, and federal police and court systems.

When an Indigenous woman who has been the victim of domestic violence appeals to the mainstream legal and judicial system for assistance, the system's response fragments and partitions her experience and needs. Responsibility for assisting a woman who has been abused is handed off from 911 operators to dispatchers to police officers, then frequently passed on to prosecutors, attorneys, advocates, judges, counselors, and social workers. The victim must deal with a series of practitioners, each of whom is responsible only for specific institutional tasks and whose concern for the victim consequently must be confined professionally to specific and limited aspects of her safety. None of these practitioners is responsible for or professionally concerned with all aspects of the woman's safety and well-being, and none of the practitioners is

allied with the victim throughout the response. Because institutional protocols and priorities determine most of the decisions and actions taken by practitioners, the mainstream legal and judicial system's response to domestic violence involving Indigenous women frequently either fails to take up the women's needs and volition, or proceeds beyond them.

Holism and the 911 response.

Staff persons attached to 911 centers typically are the 'first contact' for a woman who is seeking the protection of the U.S. legal and judicial system. Their job is to determine what, if any, assistance should be dispatched to assist people who are the subject of 911 calls. Personnel at 911 centers have two primary responsibilities when they make dispatching decisions: They must determine what emergency services the caller needs and they must assess the safety needs of police officers or other emergency personnel who might attend the call. As one research team member noted, these responsibilities may conflict: "Here is the woman who has been beaten, and when she calls 911, they are thinking, 'How dangerous is it [for the police]?'" (Focus Group 8, March 2001) In fact, there is not much of a contest between these needs: 911 personnel are expected to prioritize the safety of police officers and other emergency personnel over the safety and well-being of women who call for their help. Consequently, 911 dispatchers may delay sending officers to a call location until they feel that the officers' safety is reasonably secure. Law enforcement officers are well aware of how quickly domestic calls can turn lethal; they are some of the most dangerous calls to which officers respond. However, in the 911 process, there is not equal regard for police and victim safety. Both should be central features of the process but police safety is institutionally privileged over victim safety in unnecessary ways.

The 911 system's response to an Indigenous woman who is the victim of domestic violence immediately fragments and partitions the woman's experience. The 911 operators are

expected to ask a series of scripted questions; they also may review their own records to determine such things as whether the emergency response system has any history of contact with the involved parties or call location, or whether there are outstanding warrants or OFPs relating to the parties. The operators sift quickly through the information they are gathering, assess the institutional meaning of the woman's experience, and make dispatching decisions based on a quick interpretation of information, institutional protocols and priorities, and immediate resources available to them. The limited information gathered by 911 operators and the limited interpretation they are able to apply to that information may be problematic for Indigenous women. In some cases, because operators have interpreted a woman's experience inappropriately, the woman's immediate safety needs are not prioritized. An advocate described an egregious example: a 911 operator, assuming the slurring caller to be drunk, gave a domestic abuse call low priority. Police arrived 45 minutes and a second 911 call later to discover she had been beaten severely. She slurred because her batterer had broken her jaw (Focus Group 4, January 2001). In this case, more information and a more sophisticated understanding of the woman's situation clearly would have enabled the dispatcher to attend better to the woman's safety. The use of alcohol by victims of abuse is not seen as a factor that requires additional protection, but instead is often treated as an indicator that legal intervention is not what is needed. The abuse of alcoholic women becomes a life style problem rather than a legal problem.

All too often, institutional protocols and priorities prevent 911 operators from taking up a woman's needs and volition. A researcher taking part in a 911 sit-along observed a call from a young woman whose boyfriend was violating the protection order against him. After the dispatcher asked the caller if she had any physical signs of abuse and the caller indicated that she did not, the dispatcher stated that they would send a squad car over when they could free one up.

The dispatcher's decision to make this call a low priority reflects an institutional assumption that women are not in real danger until they have been injured physically (Community H, Sit-along 1, October 2000). This paradoxical assumption seemingly disregards the woman's own urgent belief that she was in danger and needed protection (as indicated by her call to 911), as well as the man's history of violence toward her (as indicated by the OFP). Because the one-size-fits-all approach established by institutional priorities and protocols frequently does not fit the needs or will of Indigenous women who are the victims of domestic abuse, it may lead or force some women to abandon their attempts to get help from the system. A team member was observing the 911 process when a woman called to report that her ex-boyfriend had stolen her car. After the dispatcher asked for a description of the suspect, the woman backed off, indicating that she did not want the man arrested. She said that she was afraid he would return, break into her apartment and damage her belongings. Since the woman was unwilling to have the man arrested, the dispatcher, in the observer's words, just "let that one go" either unable or unwilling to offer the woman any other assistance (Community H, Sit-along 1, October 2000).

In the examples presented above, the failure of 911 operators and dispatchers to respond in a holistic way to Indigenous women seeking protection from domestic abuse contributed to their inability or failure to take up the women's real-world needs and volition. The operators' and dispatchers' responses were constrained by institutional limits placed on their professional responsibility for the women's safety and well-being and by rigid institutional protocols and priorities that direct their dispatching decisions. Similar constraints shape the responses of police officers, the practitioners to whom 911 personnel hand off their limited initial responsibility for the woman's safety.

Holism and the police response.

The immediate concern of police officers who arrive at the scene of a domestic violence incident is the safety of parties involved in the incident, a group that includes, amongst others, the woman who has been the victim of violence and the attending officers. Once safety is secured, the officers will begin an investigation of the incident and, at this point, the focus of officers' work may start to slide away from the well-being of the woman who has been the victim of domestic abuse. If the officers suspect that a crime against the State has taken place, police actions quickly refocus on constructing a case for criminal charges, a process one officer described to a team member:

> We need to determine if there was, in fact, an act of violence and we can obtain circumstances and good information from either witnesses or people involved. We have to then determine who is responsible for having committed that act of violence. We have to then [make a] determination against State statute that dictates what we can and cannot do – arrest, issue a citation, take somebody to jail, all those types of things. We have to go through a checklist. (Community H, Ride-along 7, October 2000)

It is important to note that, in the system's response to domestic violence, police officers are the practitioners who first have the ability and responsibility to create something institutionally recognizable as domestic abuse. In the officer's description above, the woman who was the victim of violence is not mentioned. The victim has disappeared in this process. Both the incident of domestic violence and the woman who has been battered are being reconstructed. The violence is becoming a crime against the State (rather than against the woman) and the woman is becoming a witness to a crime against the State (rather than the victim of violence). The notion of connections in this system is eerily absent of human relations. To build a legitimate and winnable case, officers need evidence. Toward this end, they must gauge the woman's ability to perform as a witness; they will interview her, challenge her story, test her

integrity, measure her credibility, assess her sobriety, and record the results of their investigation in a police report.

It is easy to understand how Indigenous women who have been the victims of domestic violence might feel that their experiences and needs are being fragmented and partitioned by the police response. Police officers' power to define whether a situation constitutes an institutionally 'real' instance of domestic assault challenges the authenticity of the real-life experiences of women who have been abused. The rupture between institutional demands on a police officer and the authority of a victim's experiences and needs appears shortly after the officer's arrival. As one officer admitted, "We [are] the good guys for the first five minutes . . . We can turn into the bad guys really quick" (Ibid.). For many Indigenous women who have been the victims of domestic violence, this perceptual shift follows a recognition that, as one woman put it, "The police are there to investigate a crime, not to help" (Community team meeting, September 2000).

Police officers' response to domestic violence is shaped in large part by the institutional context in which they perform their work. Officers generally must attempt to behave and act in ways that are permissible and unassailable within the law. In addition to this, if they are to produce a winnable case, officers must ensure that any criminal charges they initiate are supported by evidence that meets criteria established by and preserved in law, policy documents, protocols, forms, and other institutional texts. While institutional texts such as law, policy, and protocol can provide adequate instructions for specific situations, they often provide only limited guidance through ambiguous situations. Officers' understanding of how to respond to domestic violence typically comes from a combination of formal education and training (which may or may not specifically address domestic violence) and on-the-job learning, similar to that related by one officer:

> When I went through and got my undergraduate degree in Criminology, we had a specific class that at least addressed the issue of domestic violence. I had other classes in the education process of trying to get licensed as a police officer that addressed the statutes that exist in [the state] regarding domestic violence. The right to arrest, the different types of misdemeanor, gross misdemeanor and felony. I've certainly had training in that. I've also had training in those same areas when I got hired here… You could call it continuing education, perhaps, within our own department, like an internal training seminar… The rest of my training would be on-the job training. (Community H, Ride-along 7, October 2000)

This officer certainly has been well educated about the legal meanings attached to domestic violence and the construction of a domestic assault as a crime against the State. However, she does not appear to have received much formal education about the real-life meaning of domestic violence; the coursework she describes does not refer to things such as the power dynamics in abusive relationships, the psychological, social, and spiritual effects of domestic violence, or the emotional dynamics of families and relationships in which domestic violence occurs. When asked, the same officer admitted that she certainly had not had a lot of training specific to cultural competency, other than participating a few times in a "diversity seminar, where we addressed…issues such as different races, ethnicity, religions, sexual preferences, handicaps, -isms, all of the big highlighted ones" (Ibid.). The extent of training described by this officer seems poor preparation for the cultural specificity of domestic violence involving Indigenous women.

In addition to their formal education and training, officers look to fellow officers for guidance on how to respond to incidents of domestic violence. Many of the officers interviewed for this project indicated their respect for the practice wisdom of experienced officers. Ideally, practice wisdom should integrate officers' education and training with knowledge gained through their personal field experience and the lessons they received from their own mentors on the police force. However, practice wisdom also includes less desirable but equally potent narratives, beliefs, and ways of thinking about domestic violence. Several officers indicated that,

to various extents, they did not trust women who have been the victims of domestic violence. For example, an officer told a research team member that, "as police officers . . . you really do have to watch your back for the victim to physically attack us" (Ibid.). One team member was struck by an officer's apparent inability to refer to women who had been involved in domestic violence as simply victims; instead, he referred to them only with a qualified term (such as "supposed victim") that suggests that they might not, in fact, be victims. Another officer revealed his limited ability to sympathize with victims of domestic violence who are drinking when the abuse occurs:

> It is more difficult to respond to a domestic when there's drinking involved. It's more frustrating. This may not have happened if drinking were not involved. Everything we are working for will be invalid. They will sober up and be sorry in the morning. Those who are sober are experiencing real domestic abuse. (Community Team Meeting, September 2000)

This officer's assertion that *real* domestic abuse happens only to people who are sober flatly denies the reality of abuse suffered by many women. His denial emerges, in part, from dissatisfaction with a common outcome in domestic abuse, that is, that women continue to live with partners who have battered them. The frustration alluded to by this officer was shared by many others who participated in this research. As one officer put it:

> [Y]ou have a boyfriend and girlfriend. Let's say the female, the girlfriend, has been the victim of domestic violence and say it's a nice, neat and tidy situation for us to interpret, where the male is the primary aggressor and there's obviously been a sign of violence and he's…going to jail and there's no ifs, ands or buts about it. It's nice and clear-cut. We take…the male to jail. Two days later, you see them walking down the street holding hands. You know or at least you suspect that the same thing could happen all over again the next day and you hope that the next time it's not going to be twice as bad. It's frustrating to see people staying in violent and unhealthy relationships, day after day, week after week and year after year and you keep responding to the same combatants…you've done everything you can do, but…nothing is going to break the chain. (Community H, Ride-along 7, October 2000)

While this officer clearly is disturbed by the violence repeatedly inflicted on the woman he is describing, his frustration has been amplified to near hopelessness, which has led him, by

including the woman in the category of "combatants," to equate the victim with her abuser. At this moment in the story, as with the other officer's assertion that sobriety of the victim is a defining characteristic of domestic abuse, women who have been the victims of domestic violence are redefined as something other than victims primarily because they have behaved in ways that disappoint these officers' expectations about how victims *should* behave. These expectations include the belief that victims of domestic abuse should help police officers do their job and the frequent assumption that when they are doing their job, officers' interests coincide with the victims' real interests—whether or not the victims recognize and accept this coincidence. Again, the use of alcohol and the behaviors of women who are being beaten in the intimate relationships are not seen as connected to their social conditions, but personal failures of women.

The narrow institutional focus on the legal meaning of domestic violence, along with officers' limited ability to engage with cultural, psychological, and spiritual aspects of women's safety and well-being, make the relationship between Indigenous women who have been abused and police officers tangled and contradictory. Too often, police officers overstep boundaries established by victims' understanding of their own needs and volition or pressure and intimidate the abused women whom they are 'helping.' To gain compliance from women who have retracted allegations, refused to provide evidence or behaved in ways that officers see as obstructing them, officers frequently use institutionally armed threats, power and control. Several victims of domestic abuse described such instances:

> I know a lot of us won't talk about what happened because we are made to believe it is our fault by the system. (Focus Group 8, March 2001)

> [The police] treated me almost like they treated the abuser . . . like I was the abuser. (Focus Group 1, October 2000)

> Towards the end, I wouldn't press charges because I was ending up in jail too…After that I was kind of scared to call the cops…I called relatives to come and get me when I quit calling the police. (Ibid.)
>
> Why should I [call] if I'm going to end up in jail too and risk losing my kids? (Ibid.)
>
> I was raised with police in our home a lot, social services and at times FBI. It was terrifying when they came in…No matter how severe it was I wouldn't allow the police to come because I knew what would happen. (Focus Group 8, March 2001)
>
> It could happen tomorrow and I wouldn't call. This system is not set up the way I understand things to be. (Ibid.)

Indigenous women who have been abused often find their conceptions of reality distorted, discounted and even dismissed by the investigative process. Women also feel that their well-being and the well-being of their families are threatened by the police response to domestic violence. After repeated personal (and a community echo of) experiences such as these, many Indigenous women who are abused have simply stopped calling the police. As one observer stated plainly, "The police need to have a helpful way to come into their homes. The women do not want to be afraid of this process" (Community Team Meeting, August 2000).

Holism and court procedures.

Indigenous women who have been the victims of domestic violence and have sought the help of the U.S. legal and judicial system often find themselves involved in court proceedings. Women who have been abused may initiate a civil court proceeding to secure an Order for Protection against their abuser or may find themselves in civil court to resolve child custody issues. Women who have been abused also frequently must take part in criminal court cases. Domestic violence works its way into the criminal court system when police have documented evidence of a crime against the state. Women who have been abused frequently must testify against their abusers in criminal cases. The victims of abuse may also face criminal charges, often for actions they took in self-defense against domestic violence. For example, we heard of a number of cases in which men with a history of violence against a woman get "street smart" and

start claiming to be the victims of the woman they are abusing. For example, Alice, a woman in one focus group, told us that she was trying to run away from her abuser. She ran to her car, got in and took off. Her abuser jumped in front of the car and she hit him. After he alleged that she had tried to kill him with her car, Alice was charged. She faced a long jail sentence and rather than risking that a jury would believe her, Alice pled to a lesser charge and was convicted and sentenced to jail time. Although she had no history of abusing him, and her partner had a history of abusing her, the prosecutor pursued a course that resulted in Alice's conviction. But it is questionable if any sort of justice was served. In this system, the conviction is proof of her guilt and a score on behalf of justice.

When cases involving men's violence against their partners do arrive in criminal court, they are often dismissed either because there is not enough evidence to support the charges or because witnesses fail to show up in court. Those cases that do make it to court are often plea-bargained down to disorderly conduct (another legal reconstruction of domestic abuse as something far less than the victim's real-life experience of violence), a charge which, if the defendant is convicted, normally leads to jail time, a fine and/or probation. In some cases, defendants who are found guilty must complete a chemical dependency evaluation or court-ordered attendance at a domestic abuse group. Many decisions that determine the outcome of a proceeding are made before the case arrives in court and, because of this, courtroom procedures may be little more than a formality.

Court proceedings deal only with very specific and narrow aspects of what is entailed in or affected by an incident of domestic abuse and in that sense they further fragment and partition women's experiences of domestic abuse. Whether proceedings deal with criminal charges, an Order for Protection, child custody or financial need, the role of each actor in the courtroom is

prescribed and the tasks for which each is responsible are highly specialized. Each attorney and advocate in the courtroom is there to represent and support his or her respective client. The client may be the State pressing criminal charges against an alleged abuser, an alleged abuser defending himself against the same charges, a woman who is defending herself against charges that arose from a domestic violence incident, or a woman who is the victim of domestic abuse and is seeking protection from the court. Notably, the women who must face their abusers as they testify against them in criminal court are not provided with lawyers and may not even have the support of advocates. This failure to consider and attend to the needs of women who have been abused is particularly troublesome because, regardless of the legal proceeding taking place, many of the Indigenous women who took part in this research found courtrooms and buildings hostile, intimidating places. The oppositional nature of many court proceedings are reflected in the interior design of these spaces. The environment at one courthouse disturbed an observer:

> Out in the hallway, there's a very stark, cold, almost sterile environment. The hallway is set up so there are benches along each side… [The] women who were the victims and the men who were the batterers were sitting opposing each other. The men were on one side and the women were sitting on the other side. There was quite a bit of tension in the hallway…The men [had] lawyers. In some senses, they seemed quite comfortable with the court system and using it, whereas the women seemed a little more timid, shy and noticeably scared. (Community H, Civil Court Observation, August 2000)

In the space described here, women who had been battered were offered no support or affirmation. They were obliged to face their abusers, and did so unaccompanied by allies or advocates. As one advocate pointed out, courtrooms may feel even more inhospitable and uncomfortably foreign for many Indigenous women simply because, like most people drawn into courtrooms as witnesses or defendants, they are unfamiliar with most of the language, customs, and procedures used there. The foreignness of these procedures further abstracts, fragments and partitions women's experience of violence, and removes the response to violence from the real-life context in which the violence occurs. There is an assumption that the man violated state law

and the state is now prosecuting him. This leaves the woman as a witness for the state case against the man. We agreed that his violation was not of a single person, but of a group. But in this system, the abstract notion of the "state" as the victimized party was not in any sense how we saw the violation of her as his partner, of her relationship with her children, of her as a tribal member, of the community already groaning under the history of violence against a people.

In general, courtroom proceedings provide very few opportunities to introduce or acknowledge the real-life context in which Indigenous women experience violence. The voices of women who have been abused may be heard when they testify as witnesses or when judges, on occasion, ask for a verbal statement from a victim. In the procedures observed by the research team, victims' statements were interrupted frequently by objections and conferences between attorneys and judges. In addition, we witnessed surprisingly few conferences or even interactions between Indigenous women and the attorneys who were representing them. In criminal cases, the prosecutor has little need, obligation, or time to talk to a woman who has been abused if her statement is already on file. To our observers, most members of the court seemed more comfortable talking *about* the woman than *with* her. And most case management routines ensured that phenomenon was the norm. For example, a public defender, in a pretrial conference with his client, raised his voice to ask an advocate, who accompanied her, "Does Betty know about this?" rather than address his question to the woman, who was sitting with the advocate. (Community H, Criminal Court Observation, January 2001). Team members watched as some representatives of the court addressed Indigenous women in ways that were "rude," "disciplinary," and "condescending." We never observed anyone challenge those practices. As observers, we were frequently bothered by courtroom camaraderie that sometimes included male abusers and always excluded female victims.

When Indigenous women who have been abused are given the opportunity to speak in court, their voices are shaped in part by courtroom traditions and by their abusers. One prosecutor explained that, "Evidence rules were designed to operate under the presumption that people can come into court and talk, which is exactly the opposite of what a battered woman's situation is" (Interview Attorney, November 2000). Her comments suggest that these rules impede presentation in the courtroom of the whole truth about domestic violence:

> If…you had a system where the burden wasn't on the victim so much to come forward…If you could create a system that didn't have any of those constraints [about getting evidence into court]…I don't want to have a system where you are accused of something before you have your day in court. You want to preserve some of that, but it seems like there's got to be some other grounds—a middle ground is needed to stir some of the truth to come out. To get rid of some of these evidence rules that we have…If you could have something that proves the evidence will come in, instead of proving it's not going to come in. To presume it is important to hear what family members know about what's happened to her and friends know what happened to her, what she said in the past—rather than it being, 'We can't listen to this.' (Ibid.)

This prosecutor wishes there were better opportunities for women to speak about the violence they have experienced, but also wishes that opportunities existed for victims' family, friends and community members to share what they know about the woman's abuse. Stories such as these could reveal the context and history of a woman's abuse and give court practitioners a better understanding of the impact of the violence. Additionally, the presence of family, friends, and community members might provide victims with much-needed strength, affirmation, and support.

The truth about domestic violence may also be constrained and obscured by the actions of a woman's abuser. As a practitioner pointed out, reliance on the testimony of women who have been abused is particularly problematic given the timelines that prevail in the judicial system, in which several months routinely elapse between an act of domestic violence and courtroom procedures relating to the incident:

> The defendant, the batterer, has so much influence over the victim. No matter what we try to do, so much of the case depends on what she can and is able to say in court. He can basically tamper with the evidence for months and months and months. (Ibid.)

As is true in all groups of women who have been the victims of domestic violence, abusers often 'tamper' with evidence to the extent that they convince Indigenous women whom they have abused not to testify against them. In effect, these women have been put at risk by the disjuncture between the real time in which women experience violence (and in which they must manage its impact on their lives) and the institutional time of the courtroom. Regardless of how the women may feel, the court typically will attempt to go forward with the case. As a prosecutor admitted, "If I were representing the woman, my job would be far different. If her interest is to have the case thrown out, because she is afraid to go forward, if I were her private attorney, that's what I would be doing, getting rid of the case" (Ibid.). However, the prosecutor is *not* the woman's attorney, and, because the crime has been defined legally as a crime against the State, the trial typically continues whether or not the woman is a reluctant witness.

Given that Indigenous women's experiences of abuse are often misrepresented, discounted or elided in the courtroom, it is not surprising that many of the women are unhappy with the outcomes of courtroom proceedings. An attorney who participated in one of our focus groups for this research recognizes this:

> Several times I had Native women clients sort of tell me that all the stuff that I am doing, all the machinations of the system is largely irrelevant because it doesn't address the need for healing, the mending the hoop, resolving the conflict. It just settles on, you know, 'You go to jail. You, do this or that.' So when I advise clients, 'Well, we can go and get an Order for Protection, and this is what we can do and we can do this and we can do that,' a lot of times they roll their eyes at me because my language and my solutions don't really mesh with how they want to resolve this situation because it is kind of irrelevant. I don't know how to put it other than that. (Focus Group 5, February 2001)

The awareness of practitioners is there—what remains is making the response relevant to the women it seeks to protect.

Advocacy and the opportunity for a holistic response

If the U.S. legal and judicial system's response to domestic abuse involving Indigenous women is to be relevant to the women it seeks to protect, it must come from a holistic point of view. This means that it must keep the well-being of the victim at the center of its interest; consider, support and integrate her physical, spiritual and social needs; acknowledge and value her connectedness and interdependence with others; and enlist the people and systems closest to the victim for prevention and early intervention. The system has already created, in fact, the possibility for such a response in the role of advocates.

Advocates are responsible for assisting and escorting women who have been abused through various legal and judicial processes. Advocates provide women with a wide range of supports that may include helping them to fill out paperwork, attending hearings, or just listening. They are equipped with skills to assess the well-being of the women they serve and have valuable practice experience. Advocates typically are part of the communities in which they work and are generally knowledgeable about available community resources. Advocacy services are capable of providing Indigenous women who have been the victims of domestic violence with effective and accessible allies. Unfortunately, not all advocacy services consistently deliver on this promise.

Advocacy services are not necessarily available to women when they need them. Advocates often do not engage with victims until well after a violent incident has subsided, even though most practitioners and victims agree that a victim's need for support and assistance is greatest in the time immediately after the incident. Advocates do not have the legal authority to appear at the scene of an incident although police officers, at their discretion, may call advocates to the scene. Police services frequently argue against early advocate involvement, on the bases

that it would jeopardize the safety of advocates, and that it would increase potential for contamination of an investigation. Notably, both of these assertions suggest that the victim is not necessarily at the center of the police response; the first assertion reflects concern for advocates' safety over victims' safety, and the second assertion reflects greater concern for the integrity of the investigation than for the victim. Advocacy in this system is seen as outside of the boundaries of the authorized interveners. The relationship between advocates and the system is often hostile. The advocate who is the mouthpiece of the victim is treated as an outsider. Advocacy is not well funded and is provided by outsiders without the consent or, in many cases, the approval of the professionals in the system.

In most jurisdictions, police officers are responsible for informing the women who are involved in their domestic violence calls about advocacy services. There are no guarantees that the information will be communicated effectively. An Indigenous woman described her experience of this information transaction:

> They didn't tell me about any domestic abuse anything, any groups or anything like that…they [gave] out a card…It's like a fold-out card…It has these numbers, but they didn't tell me, you know, that you can call this place. (Focus Group 1, October 2000)

Some victims do not even receive a card. A victim arrived at one advocacy service with the phone number written on her skin. These incidents suggest that some officers do not understand the importance of the information they are (or are not) imparting and do not recognize the contribution advocacy services can make toward preserving the long-term safety of a woman who has been abused.

In all the areas included in this research, advocacy services are prohibited from 'soliciting' clients, that is, from initiating contact with women who they recognize may need their support. Advocates may develop professional relationships only with women who go through intake and referral processes. This constraint may make some institutional sense, but it

also reduces the agency of women who have been abused and makes it more burdensome for women to seek the support of advocates.

In conversations with research team members, Indigenous women who have been abused, advocates and other practitioners, they noted that, for many Indigenous women, it is crucial that, in the system's response to domestic violence, they have early access to the support and assistance of Indigenous women from their own communities:

> I think that the authority presence would have to be there…Someone needs to say 'stop!'…I can see if the cops were going out, they [could have] one woman advocate that's from this area. (Ibid.)

> The police are there, fine…but we need someone else there, working as an advocate or liaison…to calm things down to begin with. (Ibid.)

> I think they need more female officers that are Native, that know us like neighbors. We would know how to help one another…because we know each other's family and we know our relatives. (Ibid.)

The wish expressed by these women is that someone who knows them—not just as individuals in crisis, but also as people in the whole context of their lives—be part of the system's first response to an incident of domestic violence. In essence, these women are asking that someone bring a holistic approach into the system's response. Advocates could fill this role. To enable this, we must ensure that advocates are drawn from the communities they will serve, that they are given appropriate training and professional support, that they are available to women at the earliest point possible in interventions, and that they are able to accompany, assist, affirm, and support them throughout any legal or judicial procedures that result from the incidents. With advocates who are equipped with these skills, authority, and commitment as their allies, Indigenous women may find that the U.S. legal and judicial system's response to domestic abuse meets and honors their many and complex needs.

Respect for Women

> Thinking about respecting and honoring women, I didn't grow up with the message you have to respect me or honor me. My mother never said that. And I don't remember saying that to my kids, either. But when I think about my relationship with my mother, she would speak of our good relationship to other people so I knew we had a good relationship because I could feel it. If we're looking for a cultural indicator, it's very hard to discuss because it's so behavioral. It was like I said before an unwritten rule. I never heard my Dad talk to me about giving honor to women, but I never heard him raise his voice to my mother, my grandmother, or any other women. See, women had their own ways of working in the family and the men had their way. Most of the women there were always honored. If they made a decision about something, nobody said, 'Oh it's not that way.' They would say 'OK. If that's how it's going to be, that's OK.' Everybody in our community respected the women. (Anishinaabe Elder Margaret Big George, Community Team Meeting, November 2000)

Respect for women is a foundational value of Indigenous North American cultures. For some of us, (including the family members described by this elder) this value is so well instilled that, simply and powerfully, respect for women has been our daily practice. In keeping with the traditional concept of honoring relationship, respect for women includes acknowledging and valuing their relationships with others. Recognizing that women constitute the core of our families, communities and tribal Nations, we also have acknowledged the authority of their perspective, experience and knowledge. Women traditionally have been decision-makers in their families, communities and Nations, and assumed primary responsibility for passing on languages, customs, ceremonies and other spiritual practices and understandings. In many of our cultures, women are linked to our spiritual understanding of the earth itself. As each of us began our lives in the womb of our mothers, our life as a people began with mother earth. This understanding and its reminder of the respect and gratitude due women are presented in creation stories and reiterated by ceremonies and daily rituals in which we honor and thank the earth for all that it provides.

Since European contact, however, the level of esteem and respect extended to women in Indigenous families and communities—and the strength of our families, communities and tribal

Nations—has eroded. An observer on our research team described one consequence of the erosion of respect for women: "If you teach people about relations—not just on an interpersonal but on a spiritual level, [then] you learn that if you're hitting someone, you're hitting your mother. You're hitting someone that you would never hit. But people don't understand that anymore." Indigenous women today are more likely to experience physical and/or sexual violence than women in any other racial group in the country (USDOJ, 2000). When Indigenous women turn to the justice system for protection, they find too often that their own personal safety and other self-identified needs are not adequately protected. While processing Indigenous women as victims of domestic abuse, the justice system fragments and decentralizes their experiences and frequently appears to operate without considering, honoring or regarding their roles as mothers, grandmothers, and partners in families and communities. When police arrive on the scene, they typically focus on producing a winnable case for the state, operating in a prescribed way that protects the safety and legal rights of the responding officers and leaves the women seeking protection as invisible and inactive participants in the cases they are assembling.

A story

"Good evening, Les. Sorry to bother you this evening, but we got a call from the Missus to come check things out here."

"Sure come right in. No bother at all," Les stretched the screen door open as wide as the rusty hinges would allow for Officer John to come into the house. The house was quiet and calm, and no evidence of violence or any disruption was apparent. Furniture in order, there was a smell of homemade baked bread and freshly washed dishes were sitting in the drying rack covered neatly with a dishtowel.

"I'll just take a quick peek around. It won't take me long. When the call came in the Missus mentioned to our dispatcher something about the son being here. Is he here?" Officer John asked, admiring the trophy trout mounted on the living room wall.

Noticing Officer John's silent admiration of the mounted brook trout, Les piped up, "Caught that right over here in Outback Creek." He pointed over his shoulder to indicate the whereabouts of the creek. "The wife hates 'em up there on the wall but they are such beautiful brookies I had to get them mounted. Oh yeah, the boy, he's asleep just down the hall."

Officer John walked down the dark hallway, noticing the closed door at the end of the hallway on the left. Quietly he opened the door and scanned the room with his flashlight. Seeing the boy asleep, he pulled the door closed and walked briskly back down the hall.

"Can I get you something to drink, Officer?" Les asked in a tone that implied this was a social visit.

"No, no, thank you though. I don't want to take up any more of your evening. I can see there is nothing here to keep me or imply any kind of a domestic situation is out of control here Les so I will be on my way. Again, I'm sorry to have bothered you like this—just doing my job."

"Oh, no bother at all. Like I said, when you want to try your luck at the Creek just give me a call, I'd be happy to show you where those brookies are biting."

"Yes, I'll do that. Nice to see you again and take care, have a nice evening." Officer John tipped his hat as he walked down the front steps to his squad car.

"You too, Officer," Les said, closing the oak door and locking it for the night.

"The squad car is just pulling out, Anne." Jean stood in front of the kitchen window that looked directly across the street into the home Anne just fled.

Anne slowly walked into the kitchen from the dark living room where her daughter Dee had been trying to calm her down and draw her attention away from what was happening across the street once the squad car had pulled in to her driveway.

"Oh geez, I wonder what happened. Is the squad coming over here? I hope they put the fear of God in him so this can stop once and for all!" Anne whispered as her grip around her coffee cup tightened.

"Do you think my boy is OK? His father….he's crazy. He probably just smoothed over the officer like all the other times before, when I know he's raging on the inside because I actually called the police. I can just hear him: 'Your mother's crazy, son.' Ooohhh, that man." We could all hear the anxiety, fear and frustration in her voice.

"It looks like the lights are all tuned out over there. Things seem calm. Why don't we all try and get some sleep tonight? The kids are downstairs with Bradlee and Dee has laid some blankets out for you on the couch, Anne. You will be comfortable there for the night."

Respect and the 911 response to domestic violence

The story above is a memory retold by a member of the research team. In this instance, an Indigenous woman who had experienced domestic abuse could find safety only by leaving her home. Although her neighbor willingly gave her refuge for the night, she could offer little help beyond that. With no voice and no agency, the woman watched helplessly as the man who had battered her once again convinced the responding police officer that their home was free of violence. This is a sadly familiar story, which is propelled forward, in large part, by the system's lack of respect for women. Almost immediately after the woman had engaged the U.S. legal system's response to domestic violence by calling for help from 911, the system disengaged from her, concerning itself instead with procedure and protocol, lubricated by the male

camaraderie into which the responding officer and the woman's abusive partner immediately slipped. In terms of institutional needs, the system did what it was supposed to do; the officer arrived at the scene, inspected the home for any signs of violence and protected his own safety by following safety protocols. However, the system did not attend to some of the woman's most urgent concerns, leaving her to wonder whether the officers were going to talk to her, whether they had put the fear of God into the man who had abused her, whether her son was safe and if, at last, the violence would stop. The woman's questions are a reminder of just how great the gap is between what the system provides and what women need.

What would it mean if the U.S. legal system were to incorporate the traditional Indigenous value of respect for women into its response to domestic violence involving Indigenous women? Respect for women would ensure that the women who have asked the system to intervene would remain at the center of the system's intervention. Specifically, practitioners should assume the authority of what women tell them about their own experiences and preserve women's agency over their own lives. Practitioners need to be familiar with cultural practices (with reference, for instance, to methods of communication or family dynamics) in the communities that they serve. In particular, practitioners should recognize the centrality of relationship in Indigenous communities, and the respect they extend to women should include respect for their relationships. Ultimately, interventions made by the system should value and support women, both as individuals, as partners in families and as community members and ensure that they have agency in the decisions and actions that affect their lives.

The first step that many Indigenous women who have been battered take to get help from the criminal justice system is a call to 911. Data collected during 911 sit-alongs, interviews, and

focus groups reveal that, for many women, their call to 911 is also the first place they sense that they are not being treated with respect. A woman offered this story in a focus group:

> I called the police and my hands were shaking and I was crying and I was saying I need help. She asked what my situation was and if he was there now, and I said, 'No.' [The dispatcher] said, 'Are you in immediate danger right now?' And I said, 'He left,' And she said, 'Well what are you asking?' And I said, 'For help.' And she said, 'In what way?' I called a cab and left and the cops never showed up. (Focus Group 6, February 2001)

This woman interpreted the dispatcher's response as a lack of interest in her own well-being. Regardless of their callers' needs, 911 operators seek only as much information as is required to make the right dispatching decision. During the calls, 911 staff also review other information relevant to their dispatching decisions, such as the history of calls made from that location, whether the caller is the subject of a warrant or party to an OFP and officers' responses to the address. Indigenous women who have been abused and call 911 may be frustrated by the scripted questions the 911 operators use to gather information. If they are put on hold while the staff checks to see if their OFP is valid, they may feel (possibly with good reason) that they have been endangered by the delay.

Indigenous women who have been the victims of domestic violence may also, when they reach out to 911 for help, detect attitudes, beliefs, and understandings that suggest that their safety and lives are not held in high regard. For example, one observer heard a 911 dispatcher comment that, "[Orders for Protection] are so wishy-washy. Most often, they are BS. Most women put them on their husbands to try and win the divorce settlement" (Community J, Sit-along 1, October 2000). The frequency of calls made to the communications center from a location in some cases influences the level of respect and service a woman receives. One Indigenous woman who had been abused related this exchange with a 911 operator: "They told me, 'We've been to your house thirteen times in such and such a time limit,' and I said, 'I'm sorry, but isn't that your job?'" (Focus Group 2, November 2000). Not only do 911 operators'

assumptions result in disrespectful interactions with Indigenous women, but they can compromise women's safety. Recall the horrifying story of the 911 operator who assumed the slurring caller to be drunk; police arriving 45 minutes later learned that the abuser had broken her jaw (Focus Group 4, January 2001).

The police are the first physical contact a battered woman has with the criminal justice system when she reaches out for help. Because reporting officers must complete certain institutional tasks, their practices, at times, marginalize the needs of Indigenous women who have just experienced physical or sexual violence. Disrespect for women is sometimes detected as little more than the quiet subtext of an officer's comment or activities. Observers saw police officers walk or turn away from Indigenous women who had been abused while the women were speaking to them. One officer at the scene of a domestic violence incident was reported to have asked the woman involved, "What's your problem? Why don't you just leave?" The research team also repeatedly heard from Indigenous women who had been abused that they had felt that officers attending their 911 calls were reluctant or unwilling to give them the help they needed:

> I think the cops get sick of calls, too. 'Well, she's not going to press charges anyway,' or I called relatives up to come and get me when I quit calling the police. (Focus Group 1, October 2000)

> The police know me. They're like, 'Oh, it's [her] again.' …I think it goes back to how many times I've called the police. There was times that I'd go back to the abuser. 'It's just a waste of time, cause she'll go back to him anyway.' That goes to your self-esteem when you're being abused. You know, you just feel so low. (Ibid.)

> If they see you it is like, 'Oh, it's you two again. Haven't we been here before?' They have that cold attitude about it, no type of compassion or anything. 'Okay, we are just here to do our job. (Focus Group 6, February 2001)

> When I've called the cops, they've come and say, 'Oh, it's just these guys again. Either split up or quit your drinking.' (Focus Group 1, October 2000)

> Sometimes they [believed me], it depended on who responded. A lot of times, me being Native American and also being an alcoholic, they didn't treat me like they would another person. (Ibid.)

> I know we couldn't have solved anything there. Not with this man standing right there in my living room and talking down to me, making me feel like there is something definitely wrong with me. [When he said I was too far gone], the implication is…that there's no use for me, that there's nothing they can do about me. (Ibid.)

As these comments reveal, intervening officers often clearly communicate a lack of respect for Indigenous women involved in domestic abuse. Standard practices that intervening officers use to secure a woman as a witness often involve challenges to her integrity or imply that she is not an authority on her own experience. The following excerpt from a police report reveals some of the extent to which these practices undermine trust and respect between intervening officers and Indigenous women who are the victims of domestic abuse:

> I read her statement. After reading her statement, I asked her why she did not write down what she had told me earlier and she said it was because she wanted us to come over and take him to detox, that she did not want us to take him to jail. I advised her she could face possible charges for withholding information from the police department, at which time she continued and said she was not going to write that down because she did not want him to get into trouble. (Community E, Police report 10)

In this excerpt, the "advice" the officer gave the woman was, in fact, a thinly veiled threat to charge her with a criminal act. Although the woman clearly had stated that she wanted the man taken to a treatment facility, the officer was determined to gather evidence for criminal charges against the man. The use of threats to extract information from Indigenous women who are the victims of domestic abuse appears to be common practice. Threats levied against women who fail to cooperate with officers include criminal charges, jail time, and (perhaps the most potent threat) that their children will be taken from them. When practitioners fail to honor the relationships of Indigenous women with their children, refuse to acknowledge that women's relationships with their partners have any value or entail any responsibility for them, or make women's needs secondary to their own institutional practices, they reveal that, at a fundamental level, they have little respect for the women who have sought their protection.

Respect in judicial processes

As cases that involve Indigenous women who have been battered move through the justice system, the women's voices are increasingly muffled, their experiences are increasingly fragmented and their agency is steadily diminished by institutional protocols and legal processes. Some women seek safety through Orders for Protection (OFPs), a process that begins at the local courthouse. Only the person who is seeking protection can initiate OFPs. As one advocate acknowledged, the process of initiating an OFP can be discouraging:

> There are some obstacles I would imagine for women to get [an OFP]. There are rude clerks at the courthouse, and seemingly, all women are subject to a particular person who works there being rude to them. And not being helpful, not giving them – not telling them they can go to us by not giving them our number. One woman came to our office with a number written on her hand because they didn't give her a piece of paper. But once they get the Order for Protection, how well it's enforced, we don't necessarily know the answer to that. She may call and say there is a violation and maybe nothing happens and we may not know about that. (Focus Group 4, January 2001)

Although OFPs offer Indigenous women who have been the victims of domestic abuse an unusual opportunity to direct the legal processes in which they are involved, women seeking OFPs at the courthouse described by this advocate must first withstand the disrespect of the clerk who is, in effect, the gatekeeper of the process. Even if a woman manages to file the paperwork for an OFP, the order will not be effective until an evidentiary hearing is held. Many women who file OFPs find this delay unbearable:

> I did fill out all the paperwork and I went through all that, the pretrial and all that he had to be there and I had to be there. When I came here I had this, I had to wait a week and then—well, it didn't happen in a week and I got a whole lot of time to change my mind and so I didn't pursue it. (Focus Group 4, February 2001)

> You put your order in and it's a week before you go to trial or longer. And in that week you can change your mind. And you are so vulnerable. It's like why should I go through this anyway, you know—it's as though you are doing something wrong. (Focus Group 6, February 2001)

At the time these women initiated OFPs, they needed the protection the orders promised; however, by the time the legal system was ready to take up their cases, the women were

frustrated and the needs they had addressed by filing OFPs were exhausted. One practitioner described her own exasperation with the system's failure to recognize, acknowledge or meet women's self-identified needs in a timely manner: "That process just doesn't work—it's not fast enough. It doesn't work within the culture. The initial forty-eight to ninety-six hours are crucial. That is where it all has to happen. And if it doesn't happen then, it's over" (Reported by Judge, Focus Group 5, February 2001).

Both research team members and practitioners recognize a similar failure in the criminal justice system. Practitioners are often faced with what one described as, "a disconnect between what the dominant culture…expects as a good result in a case and what the Indigenous culture or Indigenous clients see as a good result in the case" (Reported by Court Practitioner, Focus Group 5, February 2001). The "disconnect" referred to here is generated in part by the system's frequent failure to pursue outcomes that are sought by Indigenous women involved in the cases:

> When you're there, you're not really representing the woman. You're representing the city, the state. It can be difficult sometimes. … If her interest is to have the case thrown out because she is afraid to go forward—if I were her private attorney that's what I would be doing, getting rid of the case. It's this tension for prosecutors to look at both the safety needs for that woman, as well as the safety needs of the community, and try to balance that. …It's kind of looking at her short-term safety and the safety of the whole community. (Interview Prosecutor, November 2000)

> Sometimes I think we have to accept that if the case doesn't [proceed], the charges get dismissed, if the order is dropped, sometimes the process has served their needs. It's not that the system has done anything wrong—it's just that they don't have any use for the system at a certain point. (Reported by Judge, Focus Group 5, February 2001)

Because criminal court proceedings have the safety of the public as a primary concern, women who have been the victims of domestic violence are removed from the center of criminal proceedings that relate to the violence. Although the attorney speaking above describes the women she represents with tremendous respect, the legal processes she refers to do not necessarily offer women the same level of respect. Lawyers may also withhold respect from Indigenous women who have been abused. A research team member was told of a prosecutor's

conversation with another lawyer about a woman involved in a domestic abuse case: "This guy [said] to me, 'If it was so bad, she would leave the relationship. She likes it, these people like having this happen'" (Interview Prosecutor, November 2000).

Indigenous women who are involved in criminal court cases often feel that they are being denied respect in court and respond with distrust:

> When it comes down to the legal stuff, have some type of mediator. I know I didn't feel comfortable talking to the police or the judges you know asking me questions. For all I know it could be a trick question, I didn't feel comfortable. (Focus Group 6, February 2001)

The frequent failure of respect and trust and the consequent impasses in court disappoint and frustrate both the women and court practitioners:

> Most people…are afraid to speak up in court, because it's a foreign environment and they have a lot to say outside the courtroom, or to me or to [name] and they have a lot to tell us. When it's time to tell the judge they have nothing to say. (Interview Prosecutor, November 2000)

> They had in the police report no address or no phone number for the victim. She was in the back row on the left hand side of the courtroom. Why didn't anyone stand up and talk to her, once they realized she was there? (Ibid.)

> When she is asked what she wants or needs it never happens because the system is not designed in a way to develop with her what she wants and needs. (Research Team Meeting, May 2001)

As members of the Indigenous community, legal practitioners and other service providers recognize, each instance in which Indigenous women feel that they are denied respect by participants and procedures in the U.S. legal system's response to domestic violence reduces the likelihood that they will turn to that system for help in the future. The risks are real, but the solution, we hope, is apparent. One research partner proclaimed that, "You can't train somebody who has no way of knowing how we live, what our values are, where we're coming from. A lot of times there are no words for that. There is no way to explain it…they have to be a part of it in order to know." A team member was a little more succinct: "We need to have the police, the

court system, become involved with us—not us involved with them." Involvement and experience will provide a foundation for respect, and create opportunities to hear the voices, validate the experiences, believe in the needs and preserve the integrity of Indigenous women who have been the victims of domestic violence.

A Vision of Integrity

The concept of the "sacred circle" is a part of most Indigenous North American cultures. Representations of the sacred circle vary from community to community; for example, some communities represent the circle visually and refer to it as a medicine wheel (Storm, 1972; also, Figure 3). However it may be represented, the fundamental understanding expressed by the sacred circle is common across the communities, that is, that healthy and whole individuals, communities, and Nations are constituted by physical, emotional, cognitive and spiritual elements. A corollary to this understanding is that individuals, communities and Nations are at peace only when these elements are in balance and harmony. The philosophy expressed by the sacred circle has been put into action by Indigenous people since the beginning of our time and effected by a commitment to integrity in our everyday language, action and ceremony. Indigenous people, as individuals and communities, who value and strive for harmony and balance, understand that they are responsible to one another and to their communities and that their communities are accountable to community members.

Systems such as the U.S. legal and justice system, which are structured as hierarchies (see Figure 4), stand in sharp contrast to societies structured around a sacred circle. While structural features of the U.S. legal and justice system do not in and of themselves necessarily preclude an individual's choice to act with (or without) integrity, the structure of the system *in its entirety* prevents the state from intervening effectively in domestic abuse cases against Indigenous women. During the course of this research, we have attempted to view the U.S. legal system from the standpoint of Indigenous women who have been and are being abused and who have been and are seeking protection from the system. This position led us to envision a system that embraces the Indigenous values of respect for women, holism and honoring relations – that

is, an Indigenous system that operates with integrity. In this section we propose some of the foundational pieces of a system that protects women who are abused and holds offenders accountable to the women (and children) they have abused and to their community of relations.

Towards an Indigenous criminal and civil system

Currently, Indigenous women who seek the protection of the U.S. legal and judicial system must, in the midst of their own personal crises, also manage and negotiate problematic features of the system (these features are discussed in detail in the third chapter of this report). Each practitioner with whom a woman interacts is responsible only for certain highly specialized institutional tasks and consequently attends only to a fraction of the woman's simultaneous and interrelated needs. In this system, the woman's experiences and needs are understood, organized and enacted upon in terms of institutional categories and formulations, recorded and circulated by practitioners in standardized forms and formats. These institutional texts ensure that only what is institutionally permitted and required is communicated across the processing interchanges that manage and constitute the woman's 'case'. As her case is constructed, the opportunities available to articulate her own needs are infrequent and limited. The woman's experience of abuse is stripped of its context, and reconstructed as a series of institutionally actionable events, directed by legal and judicial procedures, protocols and priorities.

Regardless of how a woman's experiences and needs are reconstructed by the U.S. legal and justice system, shortly after police intervene and the systemic response to an instance of domestic assault begins, a dangerous disjuncture develops between the real time in which women experience violence and the relatively sluggish institutional time in which the system's practitioners may sign an emergency order, grant a long-term order for protection, process criminal charges in court or take other institutional action. Given that domestic violence typically

is part of a pattern of ongoing abuse rather than a single incident of violence, the lag time is particularly dangerous for women who are seeking the system's protection. By isolating and decontextualizing abuse, the system's response frequently sidetracks and minimizes aspects of the violence experienced by a woman. As stated earlier in this report, because institutional practitioners working in an institutional manner engage with the abuse rather than with the woman who is being abused, it is difficult for them to fully understand what is entailed in a woman's need for protection. The absence of an avenue for women to speak and be heard derails any possibility of full protection. Because many practices of the U.S. legal and judicial system fail to protect or promote the relationships between Indigenous women who are battered and their children, a fundamental element of a successful response is missing.

The outcomes of problematic features of the current U.S. legal and judicial systems are frequently devastating for Indigenous women. Indigenous people and tribal Nations need legal and judicial systems that value integrity. For Indigenous people, this means that the process must be rooted in our values of holism, honoring relations, and respecting women. An effective intervention in domestic violence against Indigenous women will occur only in a system that enables those who intervene in domestic violence to engage with all aspects of a woman's experience. For a system such as this to operate with integrity, it must incorporate the following understandings:

- The processes and case management strategies currently employed in the U.S. legal and judicial systems typically are more attentive to institutional needs than to the simultaneous and interrelated needs of Indigenous women who are the victims of domestic abuse. A system that operates with integrity will prioritize and be built

around victims' needs for safety, rather than the management needs of the institutional structure.

- The U.S. legal and judicial system currently deal with domestic abuse involving Indigenous women by focusing on and isolating specific incidents of abuse. A community intervention that approaches domestic abuse with integrity will deal with the entirety of a woman's experience. This means that the intervention will not focus exclusively on an act of violence a woman has experienced, but rather will consider and engage with the full range of her needs, be they emotional, physical, economic, cognitive or spiritual. Just as this incident of violence is only a piece of all of the violence she is experiencing so is the violence only a piece of her loss of autonomy and a part of her complex life. Those who intervene in domestic violence need to pay attention to all the aspects of violence in a woman's life and all the aspects of her life itself.
- Practitioners in the current U.S. legal and judicial system currently are held accountable primarily for the specific institutional tasks assigned to them as part of the system's intervention in domestic violence involving Indigenous women, rather than for the overall safety of the women who are the victims of violence. In a system that operates with integrity, individuals intervening in domestic abuse are accountable to each other, collectively accountable to their group and their community and ultimately accountable for the safety of the woman who is the victim of the violence. People who intervene in domestic abuse need to see themselves in relation to the woman they seek to protect and be connected to her in a way that is rooted in her vitality and importance to the community.

- The gap between the real-time in which Indigenous women experience domestic violence and the institutional time in which the U.S. legal system intervenes in that violence endangers women. In a system that operates with integrity, this gap will, wherever possible, be drawn close or bridged. The schedules within which community interventions operate will prioritize the immediate needs of victims. If a woman's need for physical protection is acute, then the community's interventions will proceed with corresponding urgency.
- In the U.S. legal system's current response to domestic violence involving Indigenous women, a woman's knowledge and understanding of her experiences are displaced by institutionally fabricated abstract representations of her experience. A system that operates with integrity will ensure that a woman who has been the victim of violence is in dialogue with those who are intervening in the abuse. The story she offers, one that is told from the context of her whole life, must be validated and returned to her. She must not be rendered as the representation of an abstract idea, in portrayals of women as victimized, battered, battering, alcoholic, homeless, depressed, dysfunctional, colonized and/or "native" or not to some legally measurable degree. The system must create opportunities for each woman to voice her knowledge, then listen carefully and incorporate what she knows and what she wants to happen into the community's intervention.
- In the U.S. legal and judicial system's current response to domestic violence against Indigenous women, responsibility for the protection of women who are abused is taken from the community and discharged to isolated agencies (including tribal agencies) and arms of the government. In a system that operates with integrity,

agencies that are given responsibility for the protection of women will share that responsibility with the community at large.

- In the U.S. legal and judicial system's current response to domestic violence against Indigenous women, practitioners take part only in limited segments of the intervention and are rarely able to see many of the outcomes of their actions. In a system that operates with integrity, people who intervene in domestic violence will be able to maintain their involvement throughout and beyond the formal processes of the intervention.
- The U.S. legal and judicial system's current response to domestic violence against Indigenous women is prescribed by rigid protocols, procedures and priorities. A system that operates with integrity must be dynamic, vital, self-reflective and consequently able to respond to the particular and personal needs of the women it seeks to protect.
- In the U.S. legal and judicial system's current response to domestic violence against Indigenous women, concern, regard and respect for a victim of violence are frequently displaced by more immediate concern for the completion of institutional tasks. A system that operates with integrity will consistently treat women with respect and, in that way, provide a model to others, including (most notably) the men who have abused them.
- In the current response to domestic violence against Indigenous women, crippling limitations are placed on the resources and jurisdiction of tribal legal and judicial systems. In a system that operates with integrity, adequate tribal resources and energy will be devoted to all aspects of the intervention in domestic violence, from

> prevention to healing. It recognizes that we cannot replace one aspect of the intervention with another. On an individual level, this means that a man cannot start on the healing process before he has stopped committing acts of violence. On the tribal level, this means that we cannot alter one aspect of the intervention system without altering all aspects of our ways of helping our families. The features of the U.S. legal system that became so starkly present for us are replicated in all of our agencies and institutions of social management. We cannot change one and expect results if all the other related interventions are rooted in this same problematic ways of knowing and acting.

The quest for integrity is not easily realized, but the path to it is clear. As Indigenous people work toward restoring or rebuilding our unique ways of creating justice and protecting women and children, we must inquire of each process, each rule, each assumption: Does it honor all our relationships? Is it holistic? Does it promote respect for women?

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