

TRIBAL ADVOCATES CURRICULUM

Domestic Violence and Sexual Assault Guide



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One more day, one more time, what next, change?

Our day started without talking about last night when some friends came by for dinner and to watch a movie. When they arrive, my girlfriend and I left to pick up a pizza she had ordered. We got there and they were behind in getting out orders so it took a longer than usual to pick up. When we got back home I got the “look” and the question “where have you been”? I tried to explain but he just said never mind. I felt that fear overcome me, I knew I would not have a relaxing evening but one with wonder about what would be the outcome in the hours after our friends left. I struggled to be comfortable the rest of the evening with my girlfriend. But, without speaking, she knew that things were not right. I was glad our children had spent the night with my family.

Our friends left before midnight. When I turned to close the door he gave me that stare. I feared and wondered what would come next. As I moved towards the kitchen he stood up from the couch and grabbed my hair, yanking my head back, telling me never to talk to him or act like that in front of his friends again. I felt his hand grabbing my arm to turn me around. When I faced him he hit on the side of my head with a closed fist; he knew not to hit me where it would show. My ears were ringing and I thought my head would explode. I would not fight back since he was bigger and I felt it would not get me anywhere. I know some Indian women fight back but my parents raised me in a violence free home.

It is not just who to call, but how would I do it? There is no phone service out on this part of the reservation and he has the cell phone. Our tribe has no domestic violence services. I tried to leave before and access a county shelter but left the next day because I felt like I did not belong, there were too many rules and there was no listening without judgment. If I could contact the Native advocate from another county it would take too long for her to get here. I am ashamed and fear for myself, my family, feeling isolated and alone on my reservation. I do not want to put my children, family or friends in harm's way. There may be retaliation from his family members. I could wait for him to fall asleep but he knows all my relations and he has control over all our money. Generations of my family are here, where would I go? He is related to the Tribal police. Why would they help if I went to them? Local law enforcement wouldn't believe me since I had been in trouble with them before.

He wasn't always like this. I think it got worse when he lost his job at the neighboring casino. He never hit me in front of anyone. He is liked and admired by all tribal members. He admits he doesn't know why he is violent. But he has told me his grandfather and father struggled with violence too. When I lay in bed last night I felt I had some options to consider. I remembered attending a native women's health day put on by Indian Health Services, on another rancheria. What I will never forget is a tribal elder who sat there with her elderly mother and told the tribal advocate after the presentation about domestic violence “Where were you twenty years ago?” She then paused and then said “It matters only that you are here now, and changes for our people can happen”.

About this Curriculum

This curriculum was created as part of the effort to end violence against women in California Tribal communities. Within Tribal communities Indian people have values, traditional stories and life-ways that promote harmony and a sense of belonging. Traditions are to care for one another; bonds that nurture traditional values for mutual support. Pre-reservation lifestyles of California Indians often required cooperation, trust and respect between individuals in the communities.

Additionally, we hope persons in tribal communities will utilize this information to begin or continue a dialogue about domestic violence issues. It will also require the participant to critically reflect upon the systems that exist in their own communities and conceptualize what change would be like if implemented. California Tribal communities have a long history of creating positive social changes. Understanding that ending domestic violence and sexual assault in tribal communities will require time and meaningful effort.

The essential element of this curriculum for ending violence against native women involves a community effort where any individual can lead given the tools and information. Intergenerational commitment to making a positive difference consists of community support, taking action and promoting social change as needed. This information will be helpful in addressing violence against women in your community by providing information about what domestic violence is and how violence affects victims and communities. It is our hope you will access facts and information that will be shared with others to take action. Tribal communities were America's first victims to live through violence and abuse. Today they can reclaim freedom from fear of domestic violence and create healthy families while working together to end violence for future generations.

Training Objectives:

Utilizing the expertise of Tribal advocates these materials seek to accomplish these primary goals;

1. To help community members understand their roles in creating safe environments for Indian women and their children.
2. To provide strategies that can be helpful in offering support to victims of domestic violence and/or sexual assault.
3. To increase awareness of resources available to tribal community members when faced with domestic violence and/or sexual assault situations.
4. To understand one person can make a difference and with persistence tribal communities can make the social changes needed.

DOMESTIC VIOLENCE: WHAT IS IT?

The following definitions are not related to any particular tribe, but may be what you can expect from the laws of your tribe or the state. If your tribe has a tribal court ask the clerk of the court in your community what the legal definition of domestic violence is for your tribe.

Domestic violence is an escalating pattern of abuse where one partner in an intimate relationship controls the other through physical force, intimidation or the threat of violence. Domestic violence includes many forms which may be physical, emotional, mental or spiritual. Domestic violence is a major social problem. Most victims of domestic violence are women but can be defined to cover a range of verbal and physical abusive behaviors between family or household members that can cause harm or fear of harm to an individual.

Domestic violence is known by a series of varied names including wife abuse, spousal abuse, intimate partner violence, and violence against women or battering. Domestic violence is a social problem with consequences reaching beyond the individuals involved in a particular situation. Because domestic violence touches the whole tribal community, it is important the community members learn more about domestic violence. The following section provides basic information about definitions of domestic violence and some commonly asked questions.

Learning both behavioral and legal definitions will give you a better understanding of domestic violence. The behavioral definition of domestic violence is often more comprehensive than the legal definitions. Domestic violence is also a crime and it is helpful to know the legal definition. For the purpose of this curriculum, the behavioral definition is utilized and the legal definition is provided for reference purposes.

Behavioral definition:

Domestic violence is a pattern of behaviors used to maintain control over an intimate partner. Domestic violence encompasses a number of behaviors which include but are not limited to physical battering. In fact, physical violence may occur infrequently, but the other behaviors may be utilized against the victim on a daily basis. In this way the batterer constantly limits the victim's ability to act or think freely. The power and control for the batterer is achieved from domestic violence behaviors from past acts to its continuation and threats of future violence.

Legal definition:

Domestic violence includes both felony and misdemeanor crimes of violence committed by current or former spouses of the victim; a person who shares a child in common with the victim; a person cohabitating; a person similarly situated to the spouse of a victim, or by any other adult person who is protected from that person's acts under domestic or family violence laws.

The legal definition of domestic violence can be found in both civil and criminal laws. The following provides a short explanation of the California legal definition of domestic violence, and is an excerpt from the 1998 Women's Rights Hand Book:

(Domestic Violence) is recognized by state law to be "Criminal Conduct" (Penal Code, 13701.) It is defined in Penal code 243(e) (spousal/cohabitation battery), Penal Code 273.5 (corporal injury to spousal/cohabitant), Penal Code 12028.5 (confiscating firearms), Penal Code 1370 (law enforcement response); and Family Code 6211 (Domestic Violence Prevention Act.) While each statute contains a slightly different description of domestic violence, the following covers the main components of the legal domestic violence definition:

"Domestic violence means intentionally or recklessly causing or attempting to cause bodily injury to a family or household member or placing a family or household member in reasonable apprehension of imminent serious bodily injury to himself or herself or another." (Office of Attorney General, 1998)

Dictionary definition:

Domestic violence (sometimes referred to as domestic abuse) occurs when a family member, partner or ex-partner attempts to physically or psychologically dominate or harm the other. The term "intimate partner violence" (IPV) is often used synonymously. Other terms have included "wife beating", "wife battering", "man beating", "husband battering", "relationship violence", "domestic abuse", "spousal abuse", and "family violence" with some legal jurisdictions having specific definitions. (*Webster, web dictionary)

*(*California Tribal Advocates-if in the jurisdiction of a tribal court see tribal statutes for any possible changes in domestic violence legal definitions.)*

DOMESTIC VIOLENCE IS:

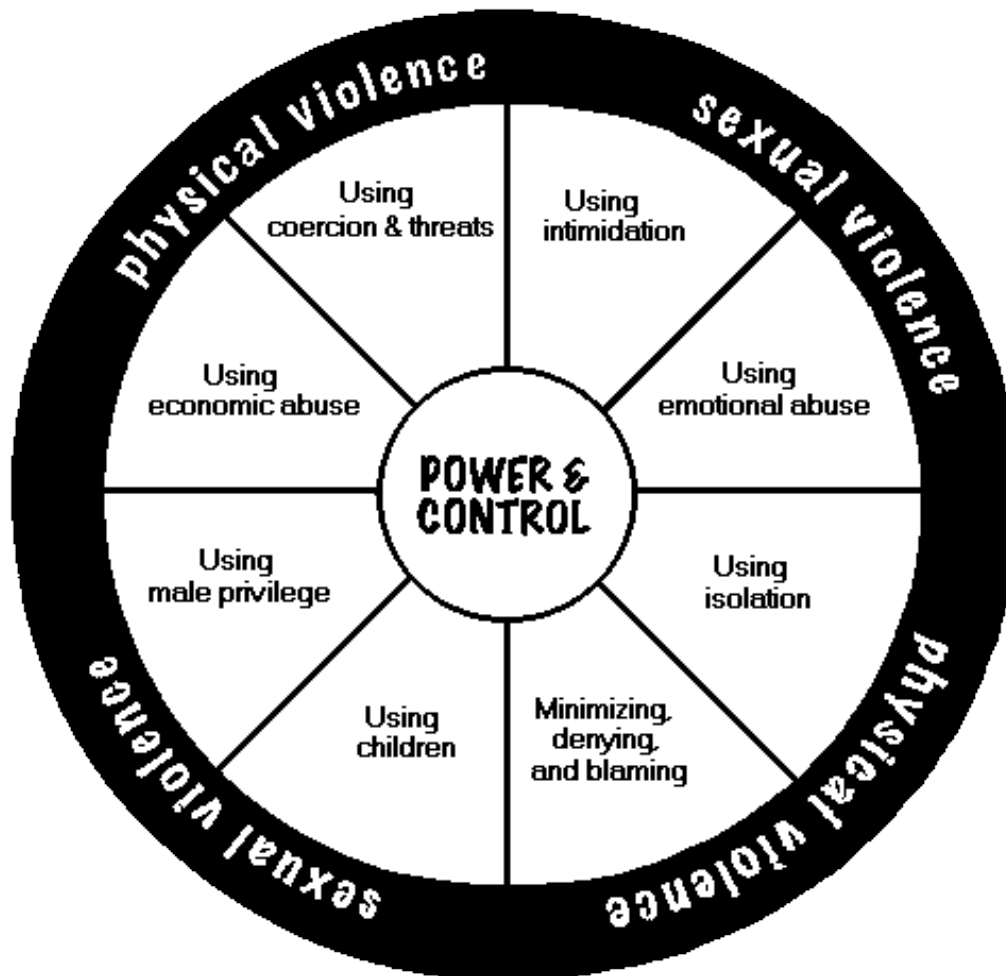
- A learned behavior
- Batterers learn from observations of other people, including family and friends

Domestic violence is defined by distinct characteristics including:

- A) An escalating pattern of varied behaviors and tactics used to control a partner
- B) Occurring within an intimate relationship context
- C) Intentional behavior

(Discuss power and control wheels, A, B-Duluth model, and C-MSH-TA model)

The Wheel of Power and Control

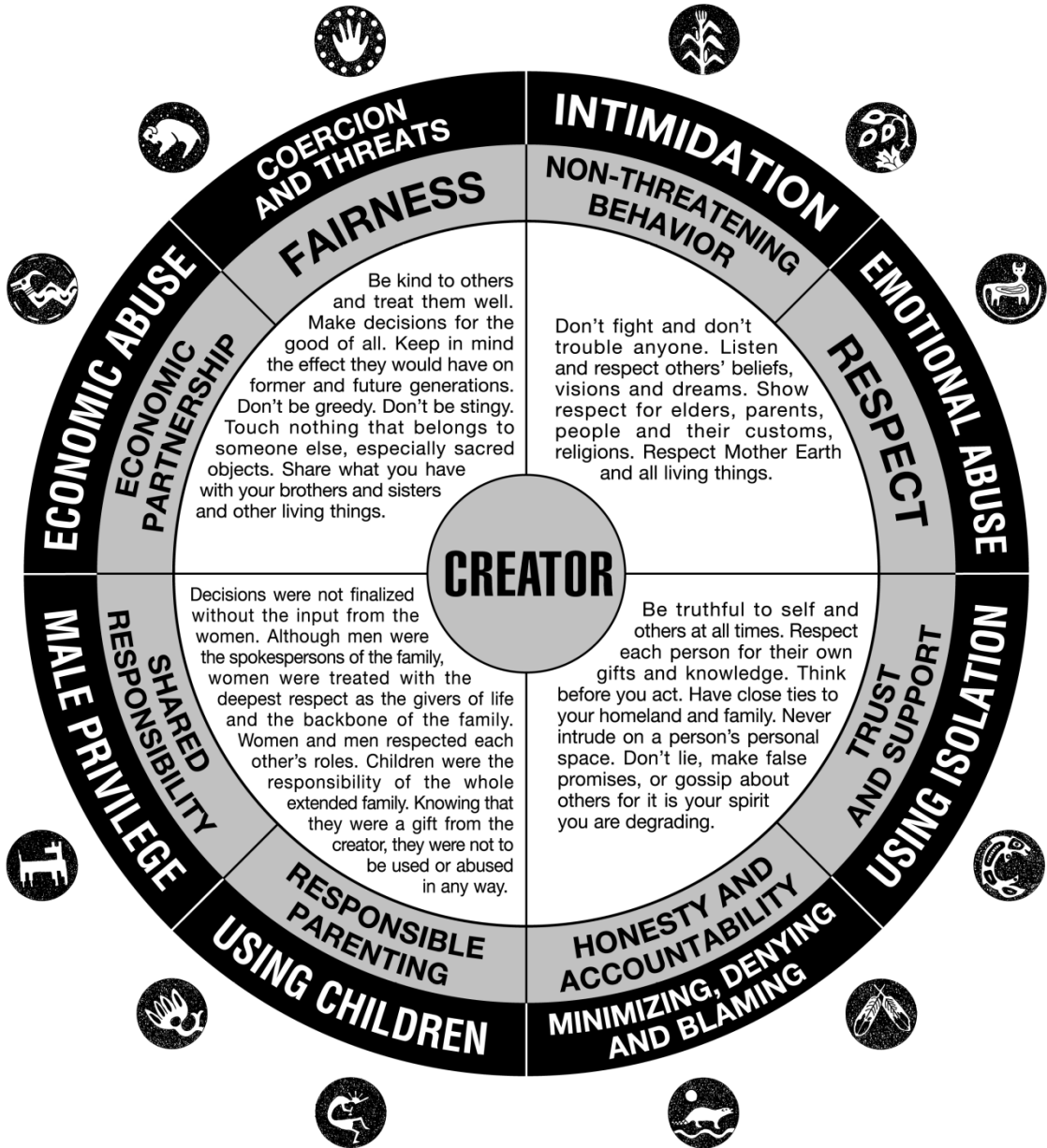


"Wheels" show that Power and Control are at the center of an abusive relationship. In other words, abuse is when there is a pattern of one person trying to gain power and control over the other.



DOMESTIC ABUSE INTERVENTION PROJECT

202 East Superior Street
Duluth, Minnesota 55802
218-722-2781
www.duluth-model.org



MENDING THE SACRED HOOP
 202 East Superior Street
 Duluth, Minnesota 55802
 218-722-2781
 www.msh-ta.org

CYCLE OF DOMESTIC VIOLENCE

Domestic violence often becomes a pattern made up of three stages

1) Tension-building phase;

- a) Batterer may: pick fights; act jealous; be possessive; be critical; yell; swear; use angry gestures; coercion; threats; be moody; unpredictable and drink or use drugs
- b) Partner may: feel like they are walking on egg shells; afraid; anxious; try to reason; act calm; appease the batterer or keep silent, and try to keep children quiet.

2) Violence-crisis phase;

- a) Batterer may: verbally, emotionally or physical abuse; sexually assault; restrain or threaten partner and destroy property.
- b) Partner may: experience fear; shock; use self-defense; try to leave; call for help; pray for it to stop; do what is necessary to survive.

3) Seduction-calm phase;

- a) Batterer may: apologize; minimize or deny abuse; ask for forgiveness; be affectionate; promise it won't happen again and to change; give gifts *(this also explains how three dynamics, love, hope and fear, keep the cycle in motion and make it hard to end a violent relationship)
- b) Partner may: forgive; feel hopeful; manipulated; blame self; arrange for counseling; return home, and minimize or deny abuse.

***LOVE-HOPE-FEAR keeps the cycle in motion**

Love for your partner-the relationship has its good points-it's not all bad. Hope the relationship will change-it didn't begin like this. Fear-the threats to kill you or your family will become reality.

(read & discuss 'One Native Woman's story')

ONE NATIVE WOMAN'S STORY

I once owned a lot of beautiful jewelry that I wore all the time. Rings on all fingers, gold necklaces, silver bracelets-always on show. When told how beautiful my jewelry was, I'd quietly say, "My husband buys these for me". But I didn't wear the jewelry because I was proud of it.

An envious person once said, "Oh, how I wish my husband would surprise me and buy such beautiful gifts". So I began to strip off pieces of the jewelry I was wearing. I held each item out to her. I offered her a ring, a bracelet—whatever she wanted. She couldn't imagine why I would so freely give away the precious jewelry that my husband had given me. She asked, "Won't your husband be upset that you're giving his gifts away?"

I replied, "No, I have so much, you see that he'll never miss it".

I didn't tell her the personal price I'd paid for the finery which decorated my hands, arms, and neck. I didn't say that I'd bought every meaningless bauble myself with pain, terror and sadness. But then, how could I explain that I had so much jewelry because each time my husband hit, slapped, or beat me, he would apologize—trying to appease me and win me back--with jewelry?

---Anonymous

DOMESTIC VIOLENCE CONCEPTS

A) DOMESTIC VIOLENCE IS A PATTERN OF ONGOING ABUSE

Battering is part of a pattern of ongoing abuse. It is not a one time "incident".

Domestic violence is not isolated acts of violence but a pattern of repeated behaviors used by one partner against another designed to control the victim's thoughts, feelings, and actions. These behaviors are utilized by the same perpetrator against the same victim. *Victims of domestic violence experience worse injuries and are more likely to be killed when drugs and/or alcohol are involved.*

B) DOMESTIC VIOLENCE OCCURS WITHIN A RELATIONSHIP CONTEXT

Domestic violence is violence occurring between intimate partners in a marriage or marriage-like relationship. These are relationships where the perpetrator and the victim have been in or continue to be in marriage, dating, living together, separated or divorced. These relationships may have been long lasting or short term. The relationships may be heterosexual, gay, lesbian or transsexual relationships.

Additionally, because the domestic violence occurs within an intimate relationship, the abuser has ongoing access to the victim. Unlike violence committed against strangers, the perpetrator may know intimate details of the victim's life and use these details to keep the victim in the relationship. Abusers have multiple ways of retaliating against their victims, not only with violence but through economic means and child related forms of punishment, (if children are involved).

C) DOMESTIC VIOLENCE IS A BEHAVIOR USED TO CONTROL ANOTHER INTIMATE PARTNER

Domestic violence is purposeful behavior. The perpetrator's patterns of abusive acts are directed at achieving power and control over the victim. Abusive relationships are supported by the belief one person has the right to control and dominate the other. The behaviors used by the perpetrator can restrict the life of the victim to a level independent thought and actions are curtailed. The victim is devoted to fulfilling the needs of the perpetrator.

When behaviors such as intimidation and mind games do not work to get compliance from the victim, the perpetrator utilizes actual physical and sexual violence. Even if there is no physical assault, those who may be battered will modify behaviors because they fear violence from their perpetrator. Abusers often escalate their use of violence when victims try to leave. Violence is then utilized as a method for controlling as well as punishing.

ACTIVITY: TAKING A CLOSER LOOK

Have the group divide into pairs, and have each partner decide who will be an "a" or "b".

QUESTIONS:

- From your community what kind of images did you receive about Indian women when you were younger?
- How has this changed you, today?
- How will it change for your daughters or Granddaughters?

Explain that partner "a" will begin by answering the questions while "b" listens and that at the end of five minutes the partners will switch roles. Give the signal to switch and call the partners back to the large group. There is no right or wrong answers just brainstorming thoughts and ideas for generations to share.

There are society expectations (western or larger) of what Indian women are supposed to be like. Even though we may get different messages (from pre-reservation concepts about Indian women) we still have to deal with the expectations of this (western) society. These expectations may create a climate where Indian women are vulnerable to violence today.

REASONS WHY INDIAN WOMEN STAY and/or DECLINE TO REPORT VIOLENCE

- Victim still loves the batterer and hopes he will change;
- Knows the batterer will find victim if she leaves; fearing what batterer will do to her if she attempts escape and is (inevitably) caught;
- May be physically and emotionally isolated by residing in a rural area;
- Lack of transportation or financial resources to provide food and housing;
- Lack of education or marketable job skills;
- Lack of employment opportunities, (often due to racial prejudice), that will provide sufficient income to support victim and her children;
- Because of financial dependence on their abuser they fear they will be unable to support themselves or their children;
- Fear of being coerced into leaving the home or of being removed from the community;
- Lack of tribal infrastructure or culturally-sensitive infrastructure, including a shelter that is culturally sensitive and appropriate to the victim's specific needs, lack of immediate medical care; lack of facilities to jail or hold perpetrator and/or lack of tribal protection codes;
- Lack of secure shelter in a confidential location if residing in a rural area;
- Lack of affordable housing in a safe area near people of her own tribe, or at least near people whose cultural values and experiences are similar;
- Tribal programs furnish temporary intervention by providing a hotel room for a short stay. This is often insufficient in duration to allow the victim to access other possible options;
- Tribal programs may furnish temporary housing, but offer no help for the victim to accurately evaluate options, resources, feelings or circumstances, and the potential for violence in their life to continue;
- Inadequate response to victim's needs; lengthy investigations, lack of follow-ups, and/or poor prosecution of cases;
- It takes too long for a response by county sheriff's department, (because many of California's rancherias/reservations communities are isolated and rurally located);

- Lack of confidence the criminal complaint will be handled properly;
- California Tribal justice systems have limited if any access to detention or correctional facilities, batterers programs. This diminishes effective sentencing and punishment options;
- Fear the batterer will not be arrested or prosecuted, (particularly in a rural area) because the batterer's relatives or friends are law enforcement officers or criminal justice professionals;
- Fear of losing the respect and approval of tribal community. Conflicts may pit family and tribal members against each other;
- Fear of, and resistance to, alienation from relatives and tribal community;
- Reluctance to expose one's people, culture or community to the criticism or ridicule of people of other races who may indulge in victim-blaming, stereotyping or make uninformed racial comments about Indian people and customs;
- Fear the children will be taken away by the batterer, relatives, county Child Protection Services, or Indian Child Welfare;
- Fear the children will not become properly connected to their historical traditions, customs, and culture and will grow up without a sense of identity or family;
- Fear of relocating to an area where victim and children will become more emotionally isolated than they may already be;
- Duty of providing care for an elderly relative that may prevent the victim from relocating;
- Obligations to tribal or cultural group that may prevent the victim from relocating;
- Spiritual beliefs or practices and spiritual bonds or ties to a specific location;
- Advice and counsel of elders, spiritual counselor, relatives, friends;
- Heavily invested emotionally in home of family/tribe reservation or rancheria;
- The batterer has received more support and protection than the victim;
- Double jeopardy: feeling of isolation and powerlessness experienced as alienation. Both as part of the consequences of "acculturation", and as a consequence of circumstances created by the batterer.

EFFECTS OF DOMESTIC VIOLENCE ON CHILDREN

Unfortunately children are victims of domestic violence both intentionally and unintentionally. Sometimes a batterer will utilize a child to make their partner or spouse feel guilt about leaving a relationship or may use visitation as a way to harass their partner or spouse. Children may be physically, emotionally and cognitively damaged as a result of the domestic violence. The nature and extent of the damage will vary depending primarily on three factors:

1. History of abuse used by the batterer
2. Age and gender of the child
3. Factors such as family/social/tribal community support for the child

Children growing up in a violent home suffer abuse in their own families when they become adults. Children learn by observation learning it is permissible to abuse people they love. If the child identifies with the abused parent they get a message it is alright to be beaten and abused. If children identify with the abusers they will act exactly as their abusive parent acted in relationships.

Children growing up with domestic violence may experience...

- Depression
- Low self esteem
- Poor school performance
- Aggressive behavior
- Runaway episodes
- Suicidal/homicidal thoughts
- Precocious sexuality
- Hyper-responsibility/parent like child
- Perfectionism
- Passive behavior
- Stress-related illness
- Attention-seeking behaviors
- Hyper vigilance

VIOLENCE AS IT AFFECTS THE COMMUNITY

The most effective way of keeping the children safe is to increase the safety of the no battering parent. If a family is hurt by domestic violence the children are hurt. The health of a community is only as strong as the health of the people in that community. By taking an active role to stop domestic violence in tribal communities and creating safety for children we can end domestic violence one generation at a time, raising children to be healthy, respectful and non-violent.

DOMESTIC VIOLENCE

THE FEELING OF BEING TRAPPED

Native Americans who are and have been victims of domestic violence also suffer feelings of being trapped. They are trapped in a situation that is most unbearable, but as survivors of generations of societal abuse, they are easily adaptable.

To change an attitude or behavior of this nature can seem like an impossible task. It is much easier to accept and adapt. After all, that is what has been handed from generation to generation. How does one recover?

Acknowledging this feeling of being trapped and reaching out for help whether they are the abused or the abuser takes great courage, and sometimes one may feel alone, but seeking the support to make a move toward the positive is an act one must take.

Once this action has taken place, insurmountable strength is given to those who choose this path. This is the path where one can find great peace within themselves. Empowerment to pursue a different attitude to walk this path, a sense of self-worth and respect is bestowed upon them. The feeling of being trapped is gradually lifted. Each day brings new rewards. Physical and mental health will come into focus.

The uphill battles and barriers will always be evident for the Native American society, but we have taken the first steps to deal with these trials.

One is blessed if they have never had to experience abuse and violence as part of their lifestyle, but, one is TRULY BLESSED if they have had the strength to recognize and remove themselves from such a situation.

A Native Advocate

POTENTIAL CHARACTERISTICS OF THE AMERICAN INDIAN VICTIM OF DOMESTIC VIOLENCE or SEXUAL VIOLENCE

- Culturally/traditionally keeper of the home, hearth, and family
- Accepts responsibility for the batterer's behavior and believes she deserves the abuse
- Has low self-esteem
- Feels guilt, self-blame, self-hatred, and may deny legitimacy of her own feelings and needs to keep the family together
- Holds unrealistic hopes the batterer's behaviors and actions can change
- May become increasingly isolated
- Defines herself in terms of others needs
- Has a high risk for drugs and alcohol abuse which compounds the abuse she is already experiencing
- Exhibits stress disorders, depression, and psychosomatic complaints
- May reconcile with the batterer because of community and family pressures
- Low educational levels, lacks competitive employment skills
- Usually receives some type of public assistance; Tribal TANF or welfare
- May be suffering from depression to the extent even small decisions seem monumental, overwhelmed to the point of confusion
- Generational boarding school experience: will attempt to keep the family together at all costs, regardless of the danger to herself or the children
- Major distrust of mainstream agencies; law enforcement, CPS, and probation
- Peers, friends, and family are not equipped to offer monetary assistance, model positive relationships, behaviors, etc.
- Has been displaced, disenfranchised from mainstream society for so long, cannot imagine life outside the Rancheria or Reservation

SEXUAL ASSAULT

American Indian and Alaskan Native American populations experience sexual assault and violent victimization at an alarmingly high rate. In fact, the reported rate of violent crime in Indian Country is well above all other ethnic groups and more than twice the national average. (American Indians and Crime: 1999) However, most remain silent due to cultural barriers; a high level of mistrust for non-native dominate agencies; fear of family alienation and a history of inactivity by state and tribal agencies to prosecute crimes committed against them.

Sexual abuse is most often thought of as rape or forced sexual acts. Sexual abuse can include a wide range of behaviors. It may include forced undressing, watching of or participating in sexual acts. Such abusive behavior may include coercion or forced participation in sexual acts that go against the victim's beliefs or comfort level. Forced or coerced sex when feeling threatened or if sick are also forms of sexual abuse. It is any sexual behavior that is unwanted or interferes with the victim's right to say "no" to sexual advances and it is NOT the result of "uncontrolled passions." Rape is one of the cruelest forms of criminal violence. Regardless of the type of sexual assault, it goes against all Tribal beliefs and cultural values.

- It can happen to anyone. Students, working women, girlfriends, wives, mothers, children, aunties, grandmothers and even males are victims.
- It can occur anywhere and at any time, in public or in your home, day or night.
- It can be committed not necessarily by strangers but acquaintances, neighbors, friends or a relative.
- Sexual abuse is one of the most underreported crimes. Many times it is recommitted by the same person because it is not reported. It is important to report any kind of sexual abuse to Tribal Police or local law enforcement.

Examples:

- Date rape
- Unwanted kissing or touching
- Forcing the victim to go further that they want (even if they have had sex before)
- Unwanted, rough or violent sexual activity
- Not letting the victim use birth control or protection

Women are at particularly high risk for being raped or sexually assaulted by their partners under the following circumstances:

- Women married to domineering men who view them as “property”
- Women who are in physically abusive relationships
- Women who are pregnant
- Women who are ill or recovering from surgery
- Women who are separated or divorced

NATIVE AMERICANS

According the Southwest Center for Law and Policy:

- Native Americans are victims of rape or sexual assault at more than double the rate of other racial groups.
- For Native American victims of violence, the offender was slightly more likely to be a stranger than an intimate partner, family member or acquaintance.
- Native Americans described the offender as an acquaintance in 34% of rapes/sexual assaults, and as an intimate partner or family member in 25% of sexual assaults.

Southwest Ctr. for L. and Pol'y, Statistics (2005), <http://www.swclap.org/statistics.htm>; Steven W. Perry, U.S. Dep't of Just., NCJ 203097, *A Bureau of Justice Statistics Statistical Profile, 1992-2002: American Indians and Crime* (2004), available at <http://www.ojp.usdoj.gov/bjs/abstract/aic02.htm>

NATIONAL STUDIES

- American Indian Women are raped more often than any other race. More violence is used in these offenses. Also more often than in any other race, the offender is non-Native (specifically, the offender is white).
- “About 9 in 10 American Indian victims of rape or sexual assault were estimated to have had assailants who were white or black.”

Lawrence A. Greenfeld & Steven K. Smith,
U.S. Dep't of Justice, *American Indians and Crime* (1999).

WHY INDIAN WOMEN KEEP SILENT ABOUT SEXUAL ASSAULT

For Indian women who have been sexually assaulted their choices to deal with the assault in any of the following ways may be healthy or unhealthy. Tribal advocates must recognize the options and resources available, and respect the woman's decisions.

Why Indian women do not report sexual assault:

- Not believed because she is Indian
- Drinking at the time of the assault, blaming herself, feeling shame and guilt
- Distrust of systems, law enforcement, hospitals, courts
- Don't know who to trust with the assault information
- Afraid of retaliation either from the batterer, family, friends or gang members
- Doesn't consider it rape if committed by husband or boyfriend
- Added stigma of homophobia if raped by another woman
- Fear of retaliation in the form of bad medicine if raped by a spiritual leader
- See assault as "normal" –something that happens to all women
- Feel it was her fault, and that "it" will go away in time
- Believe it was due to personal alcohol or drug use
- She fears others will judge her sexual activities and label her
- Fear of AIDS or STDS she may have or could get
- Because of mental illness or disabilities

Why Indian women seek traditional healing:

- Comfort
- Spirituality
- Healing all areas of self, physical, spiritual, emotional and mental
- Prayers, rituals, ceremonies, stories and songs that heal and makes the women feel comfortable, cleansed, valued, supported, as though the burden is removed
- Practices traditional ways
- Have built a relationship with a Native spiritual leader
- Heard other Native women's stories of healing

Why Indian women use mainstream services:

- Only services in their area
- Anonymity
- Does not practice traditional ways
- Bad experience with a past traditional healer
- No confidence in tribal law enforcement or tribal courts
- Her health plan covers it



ACTIVITY: SPIDER WEB

Ask participants to stand in a large circle and stretch

Explain that during this activity each person will have an opportunity to talk. Have them think about someone who helped them when they were going through a hard time in their life.....Ask them to think about a quality that this person had; a good listener, positive person, non-judgmental, etc.....

Next ask them to say their name and one of those qualities. For instance; “I am Carol and the quality that I value in someone who helped me was that they were good listeners”

Begin the activity by saying your name and giving an example while holding on to one end of the yarn. Toss the ball to someone across from you in the circle. This process continues until all have either shared or passed and a “spider web” has been created.

Discussion: the spider web is an example of what we can all create if everyone becomes involved in an effort. In this process we are going to begin learning about what way we can create a web of safety for battered women and children in our community. Also, if every other person lets go of the web, what happened to it?



WHAT IS A TRIBAL ADVOCATE?

One of the most important roles of a Tribal advocate is to be a friend to the person who has been battered. As Tribal advocates we have the responsibility to form a close, trusting, confidential, and ongoing relationship. We welcome her as a sister, relative, family, identifying her as sacred and valued in accordance with her tribal, spiritual, and cultural beliefs. To be ready when a crises call comes in from a battered woman looking for help and assistance. Advocacy includes 24 hour crisis line, emergency shelter placement, providing food, clothing, transportation, temporary restraining order assistance, accompaniment to court, social services, medical assistance if needed, peer counseling, group counseling (talking or healing circles), information, and referrals. Sovereignty is an Indian victim's basic right to make choices without interference.

- As a Tribal advocate you will become the person who is trusted. The face that is seen as friendly, listening with an open mind & heart. Being there without criticism, believing their story. You hear with understanding and patience.
- As a Tribal advocate you will be open and honest never promising anything you can't do. If you are not sure about something they may ask or need, let them know you will find out and give them an answer later.
- As a Tribal advocate you will listen to the battered person's story without being critical or judgmental. Once trust is established parts of the story that have not been told to anyone else may be shared with you.
- As a Tribal advocate you will look for victim's strengths and acknowledge them.
- As a Tribal advocate you will focus on needs related to safety for the woman and her children; what the woman desires and helping her to walk through the process. You will become her extended family (not try to fix her or pressure her to move on.)
- As a Tribal advocate you will support a woman's decisions regardless of her situation, even if she decides to return to the batterer. Give her the knowledge and options regarding her choices for herself and her children, discussing ramifications of the options she may choose.
- As a Tribal advocate you will work at a tribal and grass roots level to make positive changes. This may include educating everyone, tribal and non-tribal, involved in the domestic violence field you encounter.

- As a Tribal advocate, be accountable to the person who has been battered, while maintaining total confidentiality to protect their safety.
- As a Tribal advocate you will know there may be substance abuse issues with the victim or the batterer.
- As a Tribal advocate you will educate personnel within the relevant systems regarding the most effective responses to domestic violence, sexual assault, native batterers, and family members on your reservation or rancheria.
- As a Tribal advocate you insure all victims who have been battered or sexually abused have 24-hour access to crisis intervention, support, accurate information, and resources as needed.

TRIBAL CURRICULUM

Handout Domestic Violence: Assessing the forms of abuse



1. ISOLATION

Isolation behavior on or off the reservation, keeps the victim dependent on their partner and alone without outside support or help. Isolating tactics include keeping the victim from going to a job, school, church, or from seeing family and friends. This is accomplished by such means as the perpetrator removing the telephone while he is away from home, keeping the car keys, following the victim around, opening the victim's mail, and monitoring cell phone calls. Note that isolation increases the danger to the victim. *Listen to the client's story and ask some of the following questions to assess for isolation.*

- Do you have a support system of friends in the community?
- Does your partner ever pressure you to stop seeing your friends?
- Does your partner ever forbid you to see or talk to certain people in your family?
- Has your partner restricted you in other ways from doing what you want?

2. FINANCIAL CONTROL

Exercising financial control makes the victim dependent on the partner and extremely vulnerable to abuse. Examples include denying the victim access to money and to information about the family finances, forcing the victim to beg and plead for money, lying about money, stealing the victim's money, preventing the victim from working, and ruining the victim's credit. *Listen to the client's story and ask some of the following questions to assess for financial abuse.*

- What kinds of arguments do you have over money?
- Who makes the final decision when you disagree with each other?
- If you want to work, does your partner allow it?
- Do you have any money of your own to spend?
- If you or your partner receives money from your tribe or casino do you decide together how it is spent?
- How are finances handled? Who pays the bills? Who controls the checkbook?

3. INTIMIDATION AND THREATS

Intimidation and threats are used to make the victim fear that, if she does not comply, something terrible will happen. The fear can linger for days or weeks, long after an assault is over. Examples of this form of abuse include frightening the victim by certain gestures, looks, smashing things, destroying the victim's possessions, hurting or killing pets, playing with weapons to scare the victim, and threatening to kill the victim, the children, or to commit suicide. Many people who live in situations that are continuously threatened adjust and accommodate with realizing the extent to which they are living in fear. These questions are meant to open the discussion. The interviewer may have to probe to determine to what extent the victim is living with fear. *Listen to the client's story and ask some of the following questions to assess for intimidation, fear or threats.*

- How does your partner let you know that he disapproves of your behavior?
- If you have conflicts or arguments, are there ways that your partner scares you?
- What kind of threats does your partner make?
- Does your partner ever use physical strength or weapons to intimidate you?
- Has your partner make veiled or open threats to kill you, the children, or himself?
- Are there certain subjects you don't bring up anymore?
- Has your partner intimidated or threatened you in other ways?

4. EMOTIONAL ABUSE

Emotional abuse robs the victim of self-confidence and makes her feel subservient, dependent, and weak. Examples include putting the victim down, calling her names, humiliating her in front of family and friends, making her feel stupid, and blaming her for what the perpetrator did wrong. *Listen to the client's story and ask some of the following questions to assess emotional abuse.*

- When you partner wants to insult you, what names are you called?
- How often does your partner do this?
- Do you ever feel you just can't do anything right?
- Do you spend a lot of time trying to figure out how not to upset your partner?
- In what other ways does your partner hurt you emotionally?
- Are you put down or criticized?

5. PHYSICAL ABUSE

Physical abuse is aimed at making the victim do what the perpetrator wants. It causes fear, or punishes the victim for breaking the perpetrator's rules. Examples include pushing, shoving, hitting with an open hand or closed fist, choking, and burning. *Listen to the client's story and ask some of the following questions to assess for physical abuse.*

- Can you think of a time when your partner pushed or shoved you?
- Can you think of a time when your partner choked you?
- Can you think of a time when your partner grabbed you or prevented you from leaving?
- Can you think of a time when your partner threw something at you or at a wall?
- Can you think of a time when your partner hit you with his hand or fist?
- Has your partner abused you physically in other ways, hair pulling, biting?

6. SEXUAL ABUSE

Sexual abuse is degrading and humiliating. Many victims feel very uncomfortable talking about sexual abuse. The practitioner must be able to inquire openly about the presence and nature of the abuse. Many women find that over a period of time, a man who is physically and psychologically abusive will frequently be forceful in sexual ways as well. Sexual abuse includes a broad range of behaviors, including pressuring the victim to have sex in a way or at a time she's not comfortable with. It might include things the perpetrator does to make the victim afraid for her own or her children's sense of sexual safety. *Listen to the client's story and ask some of the following questions to assess for sexual abuse.*

- Can you think of a time when your partner made you feel uncomfortable or embarrassed about sex?
- Do you feel pressured to have sex?
- Are there ways your partner gets you to have sex if you don't want it?
- Are there other behaviors of your partner's that make you feel uncomfortable or unsafe sexually?

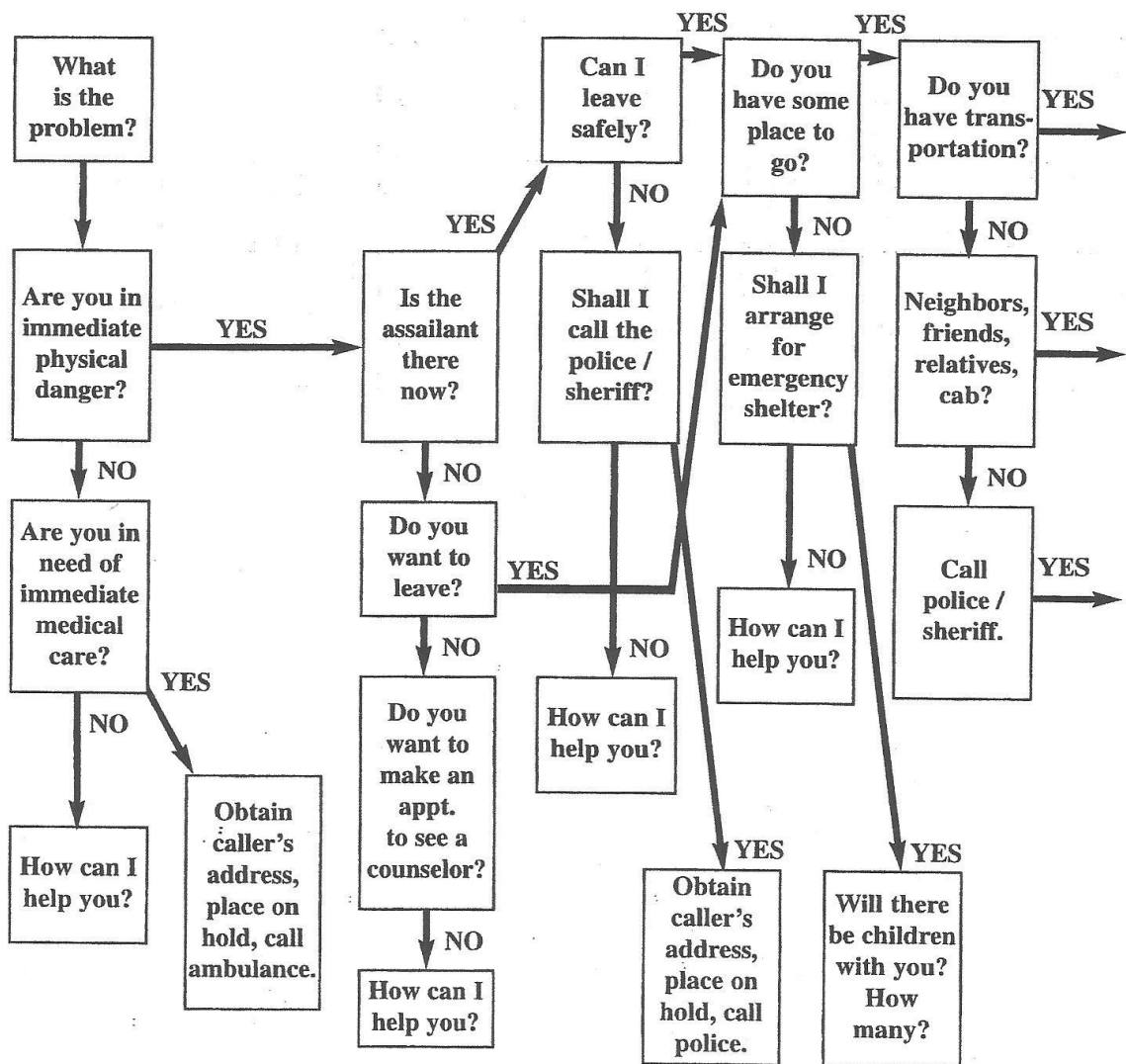
7. USE OF THE CHILDREN TO CONTROL OR PUNISH THEIR MOTHER

Often the man who batters threatens to harm the children as a way to make their mother comply with his demands. Children are also used in a number of other ways (ex: as spies who are required to report to the father about their mother's whereabouts). Children are sometimes forced to witness or participate in assaults against their mother and they often hear their father denigrate their mother. Some perpetrators constantly undermine the mother's authority with the children. *Listen to the client's story and ask some of the following questions to assess these issues.*

- Are there ways that your partner tries to use the children against you?
- Does your partner ever threaten that he will harm or snatch the children if you leave?
- Do you ever feel your children must spy on you for their father, or must side with their father to punish you?

CANGLESKA ADVOCACY MANUAL

**FLOW CHART
FOR HANDLING
DOMESTIC VIOLENCE CALLS**



IF THE VICTIM WANTS TO LEAVE AND HAS CHILDREN

Victims of domestic violence may ask “may I take my children with me when I leave”?

- Yes, if you can do it safely you should definitely take your children with you. It may be more difficult later.
- Get legal custody of the children within a few days, this is very important. Referrals for assistance may be needed.
- If she/he does not have the children with them it may be difficult filing for temporary custody of the children. The parent who has physical possession of the children may have an advantage getting temporary custody.
- Be aware the batterer may try to kidnap, threaten, or harm the children in order to get spouse/partner to return.
- If she/he are in immediate danger and cannot take the children, contact law enforcement immediately to arrange for temporary protective custody. (This does not mean they will lose custody. Permanent custody will be decided later by a judge).

WHERE SHOULD THEY GO?

- Stay with family members if it is safe to do so, on the reservation/rancheria.
- If a woman is asking, advise her not stay with a man unless he is a relative. (Living with a man she is not married to could hurt her chances for getting custody of the children and spousal support. It could also cause conflict with her abuser.)
- Call the tribal domestic violence program or shelter program, if one is located on the reservation or rancheria, or call a county shelter program for assistance or referrals.
- Stay with a friend if it is safe.
- Call 911 if needed...



CONFIDENTIALITY

Confidentiality is critical and protected by law. It is defined as the assurance the access to information regarding the victim utilizing Tribal advocacy (or shelter) programs shall be strictly controlled. Also any violation is not only a breach of faith, but has the potential to threaten the safety and life of a native woman and her children. Confidentiality means no disclosure without permission.

Confidentiality insures the safety of victims who have been battered or sexually assaulted and their children. This provides guidelines for advocates so any requests for assistance are dealt with respectfully. Policy around confidentiality reflects the reality 'violence against native women is a crime'. Actions as advocates must always be mindful a woman's safety may be dependent upon advocates safeguarding information regarding her whereabouts or situation.

It is the intention to hold all communications, observations and information made between, by, or about clients, who are the recipients of Tribal advocacy (or shelter) assistance as paramount to their safety. All communications, regardless of form, and whether between adults or children, advocates, volunteers, safe-house providers, students interns or board members are to be held in trust and confidential.

Documentation contains minimal information and is related to the violence perpetrated against the victim, including description of injuries; statements regarding the assault; past history of violence, and threats. It also documents ongoing law enforcement contact (tribal or county sheriff), and court actions, etc. Advocates shall show the victim any written information after the form has been completed. This information shall be secured in a locked file cabinet and NO person, regardless of the relationship, will have access. Any information released shall be used only for the purpose intended by the victim authorizing the release of the information with informed consent.

Informed consent means providing all relevant information about the nature and consequences of signing a release of information. This includes advising her to consider how the information may be used once released from the Tribal advocacy (or shelter) program to enhance her safety and the possibility of the batterer obtaining the information.

A program or tribal advocate confidential basic rule:

“A client's information is not shared outside the agency unless the
client gives the agency permission to do so”



MEMORANDUM OF UNDERSTANDING OR OPERATIONAL AGREEMENTS

Memorandum of Understanding (MOU's) or Operational Agreements (OA's) are tools to have in place for agency to agency contracts. It states what each agency can provide to the other for the people they are serving. Agreements are drawn up by tribal domestic violence agencies, decided collaboratively with the other agency, agreed upon, and then signed by both agencies. Each agency will retain an originally signed copy for their files. This will let each agency know what they can provide for e.g., referrals, services and collaboration in the best interest of the victim. It is usually for a fixed period based upon funding, or a yearly basis. Year to year contracts let Tribal and non-tribal agencies know your agency is still operating and also is a good outreach tool.

Agencies listed may be suitable for agreements:

- All Law enforcement, Tribal or County
- District Attorney Victim Witness Program
- Social Service Agencies, Tribal or non-tribal
- County Hospital
- County Substance Abuse Programs
- Indian Health Clinics, IHS for mental and or physical health of the victim
- Other outside counseling agencies or programs
- County Shelter Programs (if there is no Tribal shelter)
- Other Tribal Domestic Violence Programs in case the victim wants to relocate



SAMPLE

(TRIBAL PROGRAM NAME)
and
(NAME OF COUNTY) SHERIFF'S DEPARTMENT
OPERATIONAL AGREEMENT

This operational agreement stands as evidence that (Tribal program name) and (name of County) Sheriff's Department intend to work together toward the mutual goal of providing maximum available assistance for Native American survivors of domestic violence and/or sexual assault residing in (name of County). Both agencies believe that cooperative provision of service for domestic violence and/or sexual assault survivors and their families, as described, will further this goal. To this end, each agency agrees to coordinating/providing the following:

(Tribal program name) will coordinate the following:

- *(Tribal program name)* staff being readily available to *(name of County)* Sheriff's Department for service provision through in-person and telephone contact.
- To provide 24-hour (1-###-####), crisis line service, individual and group counseling, TRO assistance, emergency food, clothing, shelter, advocacy, court accompaniment to Native American battered and/or sexually assaulted women and their children who require assistance.
- Regularly schedule meetings at least once annually between representatives from each agency to discuss policies, strategies, delivery of services, and/or any problems as they may arise.
- To refer Native American domestic violence and/or sexually assaulted survivors to the *(name of County)* Sheriff's Department if required.
- To engage in cross training's with *(name of County)* Sheriff's Department as needed.
- To share information regarding Native American domestic violence and sexual assault survivors with *(name of County)* Sheriff's Department, when appropriate.
- *(Tribal program name)* will provide written materials for *(name of County)* Sheriff's Officers to hand out to Native American survivors of domestic violence and/or sexual assault.

(Name of County) Sheriff's Department agrees to the following:

- To refer Native American domestic violence and/or sexual assault survivors to (*Tribal program name*) advocate if requesting a Native specific program.
- To notify (*Tribal program name*) through the 24-hour crisis line or paging the advocate in the event of a domestic violence and/or sexual assault episode.
- To engage in cross training's with (*Tribal program name*) staff and volunteers as needed.
- In order to ensure effective communication and cooperation between the two agencies, each will identify a staff member to serve as liaisons. These staff members will communicate together as needed regarding issues affecting Native American domestic violence and sexual assault survivors.
- (*Name of County*) Sheriff's Department will notify (*Tribal program name*), through the 24-hour crisis line, 1-###-###-####, when responding to a domestic violence and/or sexual assault call on the (*name of*) Rancheria or Reservation.
- To refer Native American domestic violence and/or sexual assault survivors to (*Tribal program name*) when responding to domestic violence and/or sexual assault calls from the (*name of*) Rancheria or Reservation.

We, the undersigned, as authorized representatives of (*Tribal program name*) and (*name of County*) Sheriff's Department, do hereby approve this document a one year period, beginning (*January 1, 2009 through December 31, 2009*).

[use correct dated for your agreement]

Representative for
(*Tribal program name*)

Date

Representative for
(*Name of County*) Sheriff's Department

Date

**** (____) fill in with information from your tribal agency and county***

DOMESTIC VIOLENCE PROTECTION ORDERS

EMERGENCY PROTECTIVE ORDER (EPO)

An Emergency Protective Order (EPO) is issued at the time of the incident to protect the victim and family members living at the residence. This order is in effect for 5 court days and may not be dismissed. The emergency protection order can make the other person leave the home, keep the person away from you, and not see your children, at least on a temporary basis. The responding law enforcement officer can call a judge any time, day or night and ask for an emergency protection order, which goes into effect immediately. The judge may grant the order by phone.

TEMPORARY RESTRAINING ORDER (TRO)

A Temporary Restraining Order (TRO) (domestic violence prevention) is requested by the person seeking to be protected. A request must be filed along with the order the person is seeking. These orders address “stay a ways”, “move outs”, some property and support issues, custody and visitation. They are generally granted for a limited time usually three weeks and can be dismissed by the court at the written or oral request of the petitioner. There is no charge for a domestic violence restraining order.

PROTECTION ORDER

A Protection Order (PO), or restraining order, is an order issued by the court. In situations where there is a domestic relationship, it can protect you from harassment, assault, beating, molesting, wounding, or stalking by another person. It allows law enforcement to prevent a crime before it happens, by preventing the other person from purchasing a firearm or interfering with your daily activities. The order can also prohibit him/her from entering your premises and removing minor children unless the removal is part of a court order. A protection order is good for a limited time, usually three years.

In a criminal proceeding the protection order is issued by the court, either when requested by the prosecutor or imposed by the court. These orders remain in effect for the length of the criminal proceeding (including probation). Issues addressed include contact of all kinds and the safe, peaceful exchange of the minor children. The court may issue this as a “stay away” order, with no contact or as a protective order only, which restricts the behavior of the restrained person. Dismissals or modification to these orders may only be made by the criminal court handling the case. These orders take precedence over any other orders, family law or civil. It can become terms of probation for the batterer.

NOTE: There is one principal disadvantage to a criminal court protective order. The order can be abruptly and unpredictably rendered null and void if the criminal case against the defendant is suddenly dismissed. If you think there is a possibility this might happen in your client's case, then she should be sure and back up her criminal court protective order with a domestic violence restraining order.

If you do not have a domestic relationship, the protection order can only protect you from stalking. Personal protection orders are not intended to be used in situations where there is a neighbor dispute. Protection orders cannot guarantee your safety, but can order the respondent not to do the following:

- Enter your property
- Assault, attack, beat or wound you
- Threaten to kill or physically harm you
- Remove your children from you if you have legal custody
- Interfere with your place of employment
- Interfere with your efforts to remove your children or personal property
- Contact you by telephone
- Send you mail (including e-mail)
- Purchase or possess a firearm

Two types of Protection Order's (PO's)

1. *Restraining PO*: (for victims of dating or domestic violence). To qualify for this restraining order you need to show a domestic relationship does or did exist. A domestic relationship includes a spouse or former spouse, a person with whom you reside or formerly resided, a person with whom you have a child, or a person with whom you have or had a dating relationship.
2. *Stalking PO*: (for victims of stalking). To qualify for this protection order, you are not required to show a relationship with the respondent. However you must establish: (a) a pattern of behavior, (b) at least 2 separate incidents, that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested, and, (c) incidents that actually cause the person to feel terrorized, frightened, intimidated, threatened, harassed or molested.

Civil Harassment Restraining Order

A civil harassment restraining order protects one person from another. It is for people who can't get a domestic violence restraining order. For example: neighbors, (an ex-girlfriend's new boyfriend), etc.

Mutual Orders

A protection order by both victim & batterer with a mutual “no contact” provision directs both parties will not abuse each other. This order should be enforced against the respondent and not the petitioner, unless the respondent cross filed a written pleading for an order of protection. If the issuing court makes a specific finding each party had abused the other, the order will be enforced against both parties.

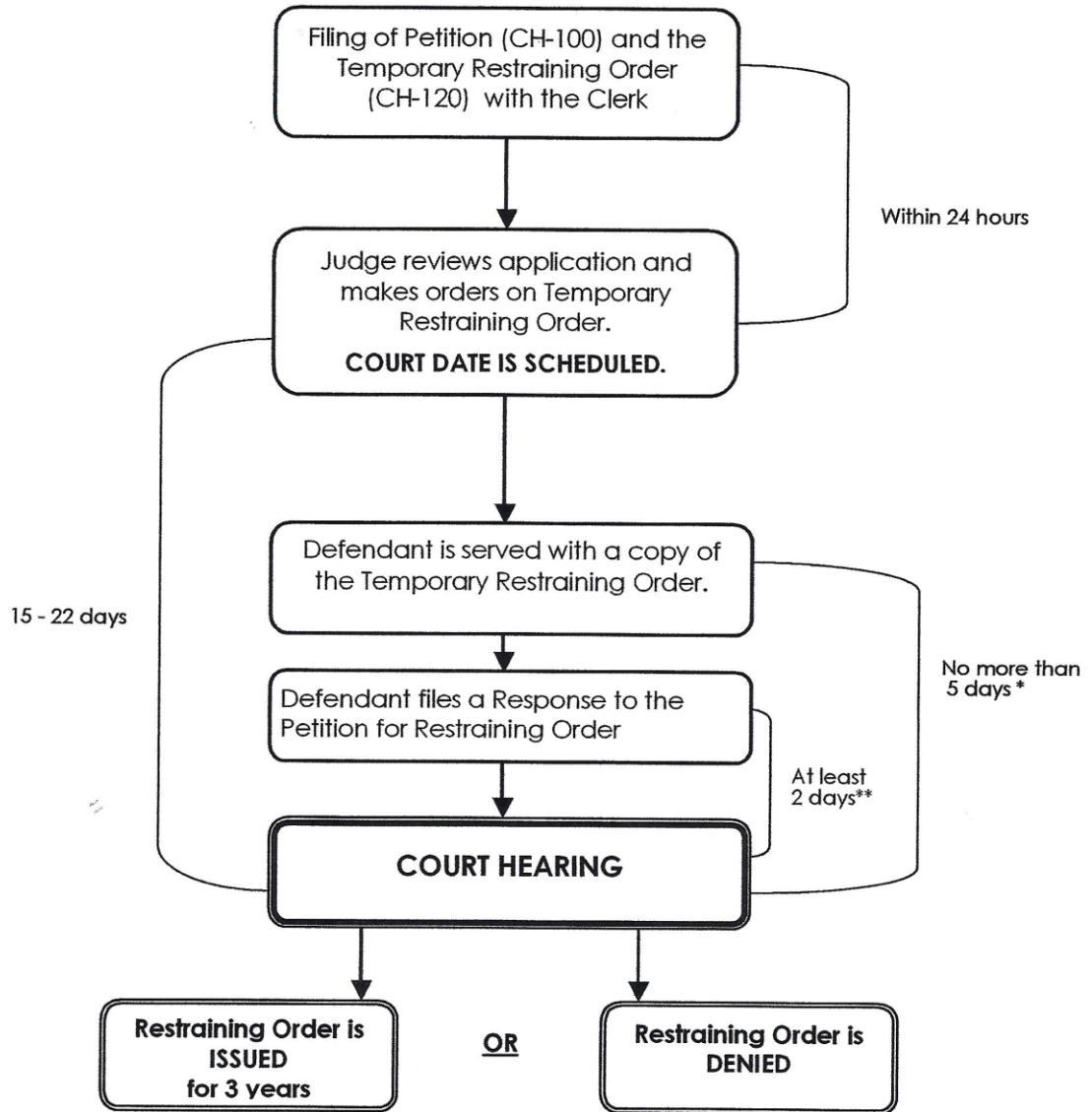
How to file for a Protection Order:

Go to the county clerk’s office or tribal court in the county where you live. Ask for a “do-it-yourself” personal protection order packet. The packet provides all of the forms you will need and instructions on how to fill them out. Find out if your court has any special rules you need to know in filling out the forms. You may ask a private attorney; a domestic violence tribal advocate; non-tribal advocate from county shelter program; the County Family Law Facilitator (when child or spousal support are also involved) or a legal aid center for help in understanding and preparing your court forms. If you are in immediate danger, ask the court for an ex parte order, (without a hearing) and check the ex parte box on the form. Completed forms need to be filed at the court house. There is no fee for filing.

A judge is the only one who can review and approve requests for your temporary restraining order (TRO). It can be signed the same day unless it has been filed late in the day. If the TRO orders are approved they can be picked up at the court clerk’s office where you will be given a date for the hearing, generally about three weeks later. You will be given copies and will be required to provide notice to the person to be restrained before they issue restraining orders. You will need several copies of the order, one for law enforcement, the person protected by the order, school, or others who will enforce the court order, and two for yourself. The law requires the person to be restrained be given formal notice. In fact, the judge cannot make any long term orders until the person to be restrained has been properly “served” with copies of the TRO forms. *YOU can’t be the one who to serve these forms to the person to be restrained.* Forms can be served by anyone over 18 years of age that is not involved in the case, including friends, relatives, county sheriff, tribal police, or a process server. The judge cannot issue a long-term restraining order until the other person has been served a copy of the court papers and has a chance to respond.

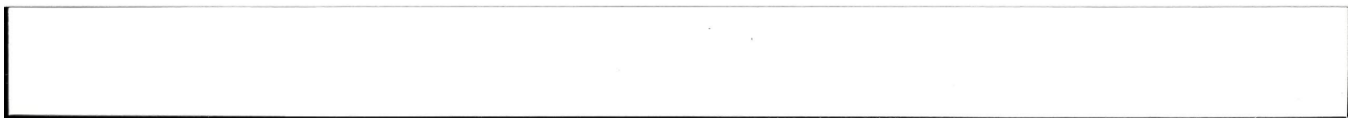
What to do if the order is violated

A violation of an order is contempt of court. It may be both a civil and criminal violation. Call the tribal police; local police; in urban areas, or the local county sheriff’s department in rural areas. If the judge finds your abuser violated the terms of the order they can be fined and/or jailed.



* In some cases, service may be up to 2 days before the court hearing. Read your papers carefully.

** In some cases, the Response may be filed up until the day of the court hearing. Read your papers carefully.



WORKPLACE PROTECTIONS

California state law provides employment protections for domestic violence victims who need to take time off from work to handle issues related to domestic violence.

Under California state law your employer must allow you to use your vacation days, personal leave days, or compensatory time so that you can take actions to protect the health or safety of you or your children from domestic violence or sexual assault, by getting a restraining order for example.* Your employer is not allowed to fire you, harass you, discriminate or retaliate against you (punish you), for taking time off to deal with domestic violence or sexual assault issues against you or your children.** This law applies to all companies. If there are more than 25 employees there are additional things you are allowed to take time off for besides getting a restraining order:

- Seeking medical attention for injuries caused by domestic violence or sexual assault;
- Going to domestic violence shelters or programs, or going to a rape crisis center for services due to domestic violence or sexual assault;
- Getting psychological counseling related to domestic violence or sexual assault;
- Participating in safety planning and taking other actions to increase safety from domestic violence or sexual assault.***

You must give “reasonable advance notice”, telling your employer as early as possible if you need a certain day or days of to go to court. It might be a good idea to ask for your time off in writing and to keep a copy of the letter for proof if you decide to bring legal action against the employer for violating the law. If you need to take an “unscheduled absence” (sudden time off because of domestic violence or sexual assault) your employer cannot fire you. You have to give your employer proof you were absent because of domestic violence or sexual assault.

EXAMPLES OF WHAT TYPES OF PROOF YOU CAN GIVE:

- A police report showing you were a victim of domestic violence or sexual assault.
- A court order protecting or separating you from the abuser or other evidence from the court or prosecuting attorney that you appeared in court.
- Documentation from a medical professional, domestic violence/sexual assault advocate; tribal or non-tribal, health care provider, or counselor that you were undergoing treatment for physical or mental injuries due to domestic violence or sexual assault.

*Ann.Cal.Labor Code S 230(g),

**Ann.Cal.Labor Code S 230(c),

***Ann.Cal.Code S 230.1(a)

What is Full Faith and Credit?

Under the federal Violence Against Women Act (VAWA), jurisdictions must give full faith and credit to valid orders of protection. Full faith and credit is a legal term jurisdictions must honor and enforce orders issued by courts in other jurisdictions.

For the order of protection to be valid, it must meet the following conditions:

- The court that issued the order must have had personal jurisdiction over the parties and subject matter jurisdiction over the case
- The respondent must have had notice and an opportunity to be heard. 18 U.S.C. §2265(b).

Full faith and credit helps to protect freedom of movement by requiring the justice system to enforce orders of protection throughout the country. If an abuser travels across state or tribal lines and violates a protection order, the abuser can be punished under the laws of the jurisdiction where the violation occurred and also may be charged with federal crimes.

What Does Full Faith and Credit Mean for Survivors of Abuse?

The full faith and credit provision of VAWA can enable survivors of abuse to call on law enforcement officers and the courts to enforce their protection orders across state or tribal lines. When survivors cross jurisdictional lines to work, travel, or relocate, they often find themselves in on-going danger since frequently they are pursued or stalked by their abusers. For this reason, VAWA establishes nationwide enforcement of orders of protection.

What Does This Mean for Abusers?

The full faith and credit provision of VAWA requires police and courts in the enforcing jurisdiction to treat the order as if it were issued in their own state or tribe. This means if the abuser violates the order, he/she can be arrested and prosecuted if the laws of the enforcing jurisdiction allow this type of enforcement for violations of protection orders.

Tribes do not have criminal jurisdiction over non-Indians. Tribal police do have authority to stop, detain and transport non-Indian offenders to state or federal authorities who have criminal jurisdiction over non-Indian crimes. In addition, some tribes use their civil laws to impose civil fines or orders of exclusion to escort non-Indian abusers off tribal lands.

What Does This Mean for Advocates?

Full faith and credit may be a passport to safety for many survivors of domestic violence. Advocates need to be familiar with the federal law and understand how it is implemented in states and tribes throughout the country. Advocates need to share this information with all survivors. Advocates also need to advise survivors of the dangers they may face when traveling and assist them with appropriate safety planning.

Abusers who are determined and willing to cross state or tribal lines in pursuit of their victims may be the most dangerous. With information about full faith and credit, survivors can make more informed decisions about safety.*

**National Center on Protection Orders and Full Faith and Credit (NCPOFFC)*

SAFE AT HOME

The Secretary of State “Safe at Home” program is a confidential mail forwarding service ONLY and NOT a witness protection program. It is designed to protect the victims’ new home, work or school address location from public records and abusers through the use of a “substitute address”. If you have a Native woman who needs to relocate in the state of California this will help to keep her and her children safe. There are currently 32 states with confidential mail-forwarding programs, several of which have included sexual assault victims as participants. California’s SAH is the most extensive confidential address program of all states and is a role model for states wanting to start new confidential address programs.

How does Safe at Home work?

If you are a survivor of domestic violence, stalking or sexual assault or if you are living in fear as a provider, employee, volunteer or patient of a reproductive health care clinic, the Secretary of State's Safe at Home program can help keep your assailant from finding you.

- Safe at Home will give you an official substitute address to use in place of your real home address.
- All first class mail, legal documents and certified mail will come to their offices in Sacramento. We will forward them to you and keep your real address confidential. Mail is forwarded within 48 hours.
- For most participants, this is a no-cost mail forwarding service. Doctors and other health care professionals pay just a small fee for this unique service.
- You can apply with an enrolling agency, such as a domestic violence shelter or reproductive health care facility. An enrolling agency will help you understand the program and provide assistance with completing the application paperwork.
- As a Safe at Home participant you can also protect yourself and your family by suppressing your DMV records, registering as a confidential voter or applying for a confidential name change.
- Safe at Home has helped thousands escape the threat of violence. It can help you too

For more information on Secretary of State, California’s Safe at Home program, visit:
www.CASafeAtHome.org
Or call 877-322-5227

CALIFORNIA - A PUBLIC LAW 280 STATE

California is a Public Law 280 state (also known as PL 280) which is a federal statute enacted in the 1950's termination era through which states were given greater authority over Indian reservations. PL 280 was a transfer of legal power (jurisdiction) from the federal government to state governments that significantly changed the division of legal authority among tribal, federal, and state governments. The State maintains law enforcement services, sometimes in conjunction with or contracting with the Tribe for part of local law enforcement services. Congress gave six states (five states initially - California, Minnesota, Nebraska, Oregon, and Wisconsin; and then Alaska upon statehood) extensive criminal and civil jurisdiction over tribal lands within the affected states (the so-called "mandatory states").

*Law enforcement must consider the following:

- Is the perpetrator or victim Indian or non-Indian?
- Is the crime major or minor; victimless or not?
- Did the offense occur in a PL280 mandatory or optional State? (Some tribes' jurisdiction in California cross state(s) lines so collaboration and education may involve several law enforcement agencies).

Indian country jurisdiction as conferred by PL 280

Offender Victim Jurisdiction

Non-Indian	Non-Indian	State jurisdiction is exclusive of Federal and Tribal jurisdiction
Non-Indian	Indian	Mandatory State has jurisdiction exclusive of Federal and Tribal jurisdiction. Optional State and Federal Government have Jurisdiction. There is no tribal jurisdiction.
Indian	Non-Indian	Mandatory State had jurisdiction exclusive of Federal Government but not necessarily of the tribe. Optional State has concurrent jurisdiction with the Federal courts.
Indian	Indian	Mandatory State has jurisdiction exclusive of Federal Government but not necessary of the tribe. Optional State has concurrent jurisdiction with tribal courts for all offenses and concurrent jurisdiction with the Federal courts for those offenses listed in 18 U.S.C. 1153.
Non-Indian	Victimless	State jurisdiction is excusive, although Federal jurisdiction may attach in an optional State if impact on individual Indian or Tribal interest is clear.
Indian	Victimless	There may be concurrent State, Tribal, and in an optional State, Federal jurisdiction. There is no State regulatory jurisdiction.

Source: U.S. Department of Justice. "Jurisdictional Summary," U.S. Attorneys' Manual, Title 9, Criminal Resource Manual 689. Retrieved October 24, 2004, from the World Wide Web: www.usdoj.gov/uaso/eouse/foia_reading_room/usam/title9/crm00689.htm

(*Annual trainings by tribal advocates for Tribal Police and local or county law enforcement is recommended for (new) officers responding to domestic violence/sexual assault on reservations or rancherias).

TRIBAL CODES

DIFFERENT FOR EACH TRIBE, AND IN EACH STATE

Banishment: When a Tribal member has been convicted of two or more criminal offenses under some Tribal codes, arising out of at least two separate incidents involving the same victim, and the victim is also a Tribal member, the Court may banish the defendant from the Reservation/Rancheria upon a finding by clear and convincing evidence the defendant's acts of domestic violence are likely to continue unless either the defendant or the victim leaves the Reservation/Rancheria. The banishment may be subject to conditions and may be for a period of (1) one-year.

*AMERICAN BAR ASSOCIATION, COMMISSION ON DOMESTIC VIOLENCE

ROLE OF LAW ENFORCEMENT

If 911 is dialed, the first responders will be law enforcement. When an officer arrives a report will be taken whether the batterer is there or not. Each situation is different so officers will assess lethality (which could lead to an arrest); let the victim know their legal rights; discuss plans to keep you (and your children) safe, referrals for local shelters and or 24 hour crisis lines. You can ask that pictures be taken of injuries or damages to property. If the batterer used a weapon you can ask it to be taken at this time. A copy of the report taken by law enforcement is available for the victim free of charge.

An emergency protection order can be given (24 hours a day) by the responding law enforcement officer (and a call to a judge) at the scene. If a protection order is already in place, officers will insure the order is enforced so a victim is safe no matter where in the country they are located.

If the victim wants to leave when law enforcement shows up and go back later to get personal items, the victim can ask for a civil standby. Law enforcement can assist with a civil standby for a limited time to keep the peace while a person returns to collect property or clothing from their home after a domestic violence incident.

“Law enforcement officers play a crucial role in ensuring that protection orders are enforced so that a victim is safe no matter where in the country she goes.”

(Janet Reno, former Attorney General of the US)

ROLE OF DISTRICT ATTORNEY

Only the district attorney (also called the "DA" or prosecuting attorney) can decide whether to "press" or "drop" charges. The victim of a crime can't press or drop charges. The DA's office will either file ("press") charges or reject the case based on the facts in the police report. If the DA's office decides to file charges, they will file either a felony charge or a misdemeanor charge. A felony is more serious than a misdemeanor. A person convicted of a felony can go to prison or jail. For a misdemeanor conviction, the maximum sentence is 1 year in jail

If the district attorney files charges, the defendant will go to court. The first time the defendant comes to court is called the "arraignment." If the defendant is taken into custody, the arraignment will happen within 48 to 72 hours. If the defendant is not in jail, the arraignment may not happen for several weeks. At the arraignment, a judge will tell the defendant what the charges are and his constitutional rights. The judge will also ask if the defendant pleads "guilty," "not guilty," or "no contest." If the defendant pleads "guilty" or "no contest," the judge can sentence him or her immediately. The victim has a right to be present and speak to the judge at this time.

For misdemeanor cases only if the defendant pleads "not guilty," the judge will set a date for a pretrial conference. At the pretrial conference, the judge, a DA, and the defendant's lawyer will discuss the case. The victim has the right to be present, but it's not required. If the defendant still pleads "not guilty," the judge will set a court date for trial.

If a defendant charged with a felony pleads "not guilty," there will be a preliminary hearing so the judge can decide if the DA has enough evidence to prosecute the case against the defendant. The victim will be asked to testify. The victim has the right to have a support person with him or her during this hearing.

Most domestic violence cases don't go to trial. Most of the time, the defendant pleads "guilty" or "no contest." If the defendant pleads "not guilty," there will be a trial and the DA's office must prove guilt "beyond a reasonable doubt." The victim will be asked to testify at the trial. The victim has the right to have a support person with him or her during the trial. The victim's cooperation in the case is very important. But if the victim doesn't cooperate, the DA can still prosecute the abusive person. The court can require (or "subpoena") the victim to come to court. If the victim doesn't go to court as ordered, the court can place him or her in custody to make sure the victim will be in court to testify.

If the court doesn't issue a subpoena, the victim doesn't have to go to court. The victim doesn't need a lawyer but the victim may talk to or hire a lawyer. The victim has the right to be present in court for any case the defendant is involved.

ROLE OF VICTIM WITNESS

There are 59 Victim Witness Assistance Offices – one in each county and one in the City of Los Angeles that work directly with the victims of crime and the Victim Compensation Board to assist victims of crime. If you're a victim of a violent crime, you have the right to get money for medical expenses, lost wages, relocating, and counseling for yourself or your children.

The Victim Witness Assistance Center can help you with:

- Emergency services, such as food, shelter, clothes, and relocation
- Counseling
- Restitution
- Case status/disposition information: Notifying victims of the status and final disposition of the case
- Victim impact statements: Assistance in preparing a victim impact statement and delivering it to the judge and deputy district attorney handling the case
- Assist with an explanation of the court process
- The status of your case or when the defendant may be released from jail or prison
- Advocacy; going to court and someone to be with you
- Transportation to a court appearance
- Information about restitution (making the defendant pay for your losses) or about the Victims of Crime Compensation claim process
- Referrals to local agencies that may be able to provide emergency financial help, shelter, or counseling assistance; Tribal or non-tribal
- Temporary Restraining Order against domestic violence
- Any questions about the Victim/Witness Program

ROLE OF PROBATION

The probation department makes recommendations to the judge about how to sentence the defendant. Their recommendations may include:

- Prison or jail time
- Programs to help the defendant take responsibility for the violence
- Restricted contact between the defendant and the victim

In all felony cases, and in some misdemeanor cases, the probation department writes a presentence report for the court. The report describes the crime and the defendant's personal history and criminal record. It includes the defendant's statement and the victim's views about the crime. The victim's statement is very important. It may affect the probation officer's recommendations and the judge's orders. The probation officer (also called a "PO") may talk to the victim about the injuries and emotional harm caused by the violence. Anyone convicted of a felony can never own or have a firearm.

After completing the presentence report, the probation department will tell the victim the date when the judge will sentence the defendant. They will tell the victim about his or her right to go to court and speak to the judge in person or in writing. The victim can also ask the judge to order the defendant to pay for expenses or losses caused by the violence.

The minimum sentence for anyone convicted of certain crimes against his or her partner is:

- 3 years formal probation;
- A criminal protective order to protect the victim from further acts of violence;
- Completion of an approved, 1-year batterer intervention program;
- Payment of medical expenses, property damage, or lost wages to the victim; and
- Jail and/or public service and fines.

If the defendant is put on court probation, the court will monitor the defendant's compliance with the court orders. If the defendant is put on formal probation, a probation officer (or "PO") is assigned to supervise the defendant. The PO's job is to provide protection for the victim and to enforce the court order. Victims can speak directly with the PO assigned to the defendant. The victim has the right to be told about any changes in the defendant's probation.

A defendant must go to a 1-year batterer intervention program. This program doesn't guarantee the defendant will never be violent or abusive again. The program tries to teach the defendant how to stop the violence. Victims aren't allowed to participate in the program with the defendant. But a victim can ask for information about the program and the defendant's participation.

If the defendant disobeys the conditions of probation, the judge can order more jail time and other probation conditions.

ROLE OF PAROLE

When a defendant is released from state prison, she or he will be supervised by a state parole agent. Parole usually lasts 3 years. However, it varies depending on the crime and the parolee's adjustment to life outside prison. Once released from state prison for a domestic violence offense, the parolee is sometimes:

- Not allowed to live with the victim;
- Not allowed to contact the victim without the parole agent's approval;
- Required to attend a parolee outpatient clinic (for psychiatric or psychological counseling);
- Required to get substance abuse counseling; and/or
- Subject to other restrictions as determined by the parole board.

The parole agent will decide if the parolee can live with or have contact with the victim. The parole agent will consider the victim's safety. The parole agent can also serve a restraining order on a defendant.

If a defendant commits a crime, like domestic violence, while on parole, he or she is in violation of parole. The parole agent will investigate the parole violation. The violation is separate from criminal prosecution for the crime. The defendant can be charged with a parole violation and a separate crime. The agent may ask the victim for:

- The case number of the police report
- A statement
- Names of witnesses and ways to contact them
- Photos of injuries or damaged property

A parole violation can have serious consequences. It depends on the severity of the charge. The consequences can include:

- A return to custody for up to 12 months;
- Increased supervision;
- Continued parole with additional requirements or conditions; or
- Continued parole with no additional restrictions or limitations.

A BATTERED WOMAN

A battered woman is of beauty inside.

A battered woman has strength and courage that she chooses to hide.

A battered woman holds on till she can't hold on no more in hopes that there's still a her that will be able to hold.

A battered woman cries at night yet it's a cry she decides to hold inside.

A battered woman sees a brighter future that no one else sees.

A battered woman possesses power that she doesn't know she has.

A battered woman has anger that only her kind can understand.

A battered woman wasn't born.

A battered woman was formed.

Anita Bullock
Ohlone Tribe of California

CLOSING ACTIVITY

Ball Review

- *For this activity ask participants to stand in a circle.*
- *Use a soft, rubber, foam, or the ball of yard used earlier will work for this activity, (the ball can be found at most toy stores).*
- *Ask participants to state something they learned in the session.*
- *Toss the ball to a participant; the participant responds to the question and then tosses the ball to another person.*
- *Feedback will be summarized, then make closing statements.*

