

California  
Tribal  
Advocate

**Domestic  
Violence and  
Sexual  
Assault  
Curriculum**



# Training Competencies

- Participants will develop:
  - An understanding of their role in creating safety for Indian families. A foundational knowledge about the emotional, social, cultural, and legal dynamics of domestic violence. An enhanced awareness of Indian cultural norms and values, in order to become better advocates for Native women.
  - An understanding of their role within the framework of tribal, community, county, and state services and institutions, in order to better access and connect Native women to available and appropriate resources.

# Training Objectives

This training was developed to provide information about what domestic violence and sexual assault is for California Indians and how violence against intimates affects victims, perpetrators, children, and communities.

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

*Participants need to reflect upon the systems implemented in their Tribal communities and counties to utilize this information accordingly.*

# California Tribal Communities

California has the second largest Native American population in the United States consisting of 150+ federally and non-federally recognized tribes.

California Indians have values within traditional stories, ceremonies, annual events and life ways that promote harmony and a sense of belonging. They look out for one another, bond together and nurture traditional values for mutual support.

Pre-reservation lifestyles of California Indian people often required cooperation, trust and respect between individuals in the community. Tribal communities working together can end violence, creating healthy relationships for future generations.

As one Pomo woman suggests-“Our lives are bound together the way the baskets were bound together”

# Domestic Violence



# 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.

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.

### **Behavioral definition:**

Domestic violence is a pattern of behaviors used to maintain control over an intimate partner. Domestic violence encompasses many behaviors not limited to physical battering which may occur infrequently. Also other behaviors that may be utilized against the victim on a daily basis. The batterer consistently limits the victim's ability to act or think freely. Power and control for the batterer is achieved from domestic violent behaviors from past/present acts to continuing 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 the 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.

# DOMESTIC VIOLENCE IS:

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

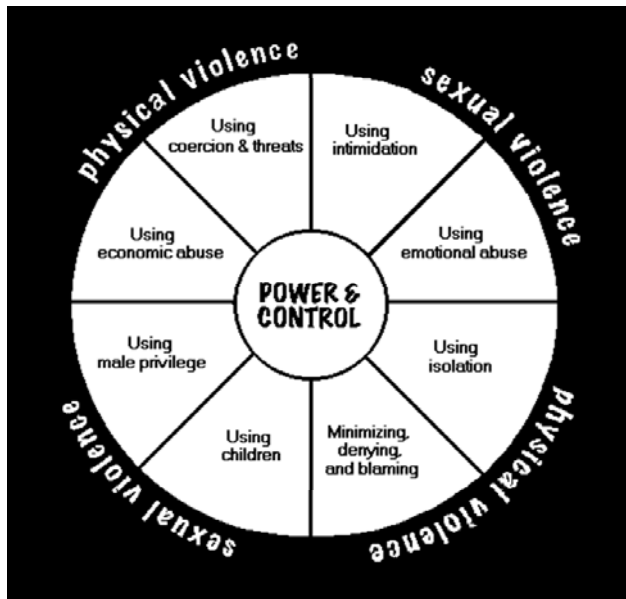
*Substances (alcohol/drugs) are not the cause of violence but can be the catalysts. Domestic violence is defined by distinct characteristics including:*

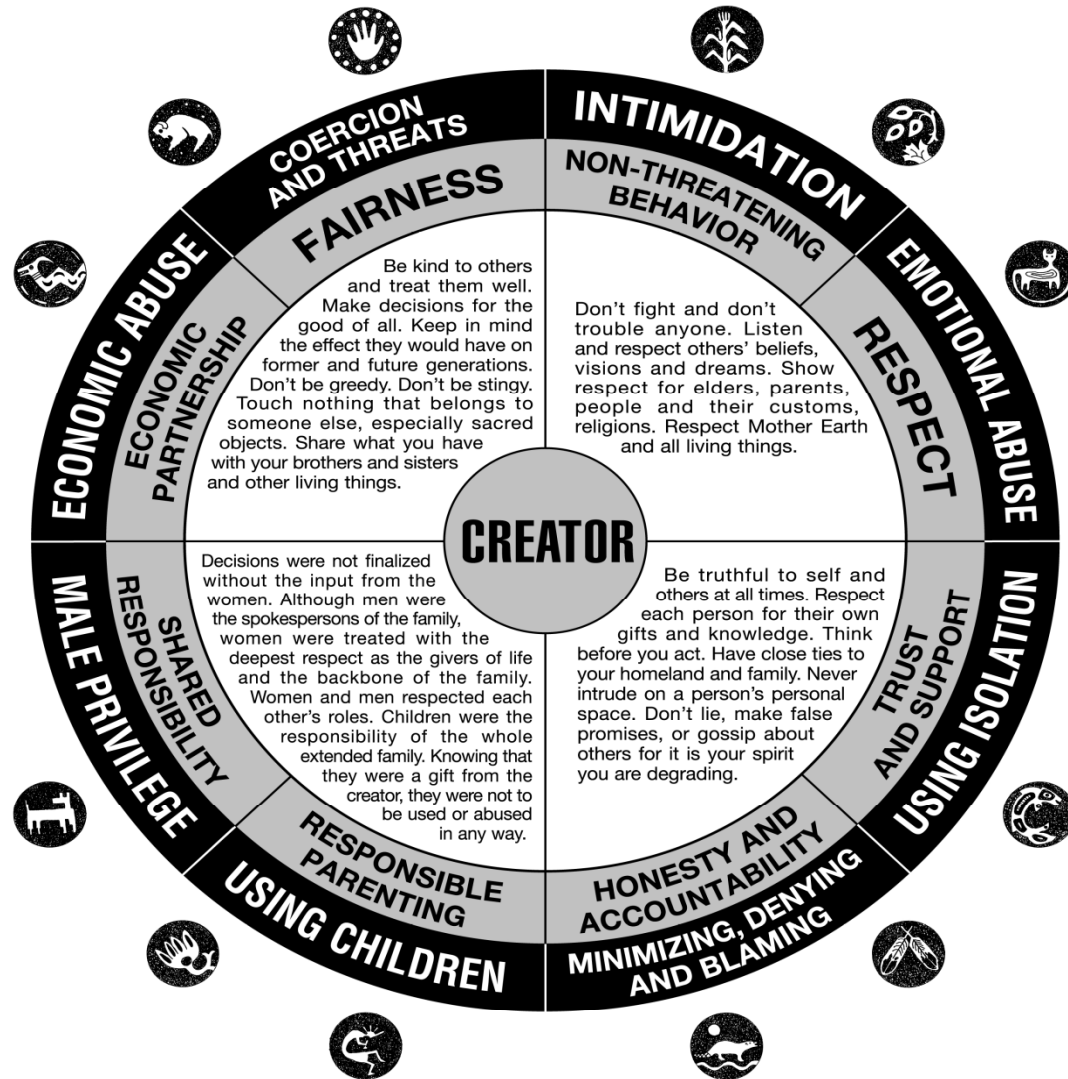
- A) An escalating pattern of varied behaviors and tactics used to control a partner
- B) Occurring within an intimate relationship context
- C) Intentional behavior



# Power & Control

## Wheels of Power and Control





# CYCLES OF DOMESTIC VIOLENCE

1. TENSION-BUILDING PHASE
2. VIOLENCE-CRISIS PHASE
3. SEDUCTION-CALM PHASE



## **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.

*The tendency to ask the question “why does she stay” should be redirected to the question “why does he batter?” And how do we make him stop? (Massachusetts Coalition)*

# BATTERERS

Batterers also come from a variety of age, economic social, occupations and religious groups. It is important to note that the violence may only occur within the intimate relationship. To the public, they may appear well spoken, persuasive and logical. However they may still create a dangerous situation for the victim. A person who is violent is making a choice about their behavior. They operate out of a belief system the violence is justified. There is no real excuse for violence.

# 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.

## **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.

# 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?

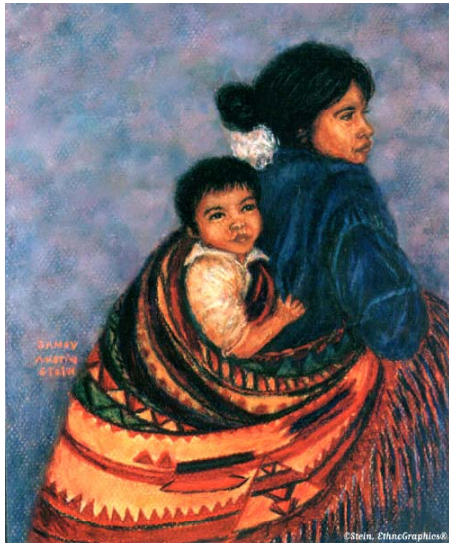
---Anonymous



# REASONS WHY INDIAN WOMEN MAY STAY and/or decline to report violence

- *May be physically and emotionally isolated by residing in a rural area;*
- *Lack of transportation;*
- *Lack of marketable job skills;*
- *Fear of being coerced into leaving the home or of being removed from the community;*
- *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;*
- *Because of financial dependence on their abuser, fear they will be unable to support themselves or their children;*
- *Batterer has received more support and protection than the victim;*
- *Tribal programs furnish temporary intervention by providing a hotel room for a short stay.*
- *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)*
- *Fear of, and resistance to, alienation from relatives and tribal community;*
- *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 elder that may prevent the victim from relocating;*
- *Advice and counsel of elders, spiritual counselor, relatives or fiends*

# EFFECTS OF DOMESTIC VIOLENCE ON CHILDREN



Children growing up with domestic violence may experience...

- Depression, low self esteem
- Temper tantrums
- Poor school performance
- Aggressive behavior
- Runaway episodes
- Suicidal/homicidal thoughts
- Withdrawal from community
- Stress-related illness
- Hyper vigilance
- Precocious sexuality
- Attention-seeking behaviors
- Identification with batterer

# ACTIVITY: Taking a closer look...

## Questions:

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



# POTENTIAL CHARACTERISTICS OF THE AMERICAN INDIAN VICTIM OF DOMESTIC or SEXUAL ASSAULT



- Culturally/traditionally keeper of the home, hearth, and family
- Has low self-esteem
- Holds unrealistic hopes the batterer's behaviors and actions can change
- May have a high risk for drugs and alcohol abuse which compounds the abuse she is already experiencing
- Usually receives some type of public assistance; Tribal TANF or welfare
- May reconcile with the batterer because of community and family pressures
- 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.



# **SEXUAL ASSAULT**

# SEXUAL ASSAULT

American Indian and Alaskan Native Americans 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 dominant agencies; fear of family alienation and a history of inactivity by state and tribal agencies to prosecute crimes committed against them.

# SEXUAL ASSAULT CAN



## HAPPEN TO ANYONE...

- Students, working women, girlfriends, wives, mothers, children, aunties, grandmothers, and even males are victims.

## OCCUR ANYWHERE AT ANY TIME...

- In public, in your community, in your home, day or night.

## BE COMMITTED BY...

- Not necessarily strangers but acquaintances, neighbors, friends, or a relative.

Sexual abuse is one of the most underreported crimes in Indian Country. 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.

# NATIVE AMERICANS

## SEXUAL ASSAULT



- 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 describe the offender as an acquaintance in 34% of rapes/sexual assaults, and an intimate partner or family member in 25% of sexual assaults.

Southwest Ctr. For L. and Pol'y, Statistics (2005);  
Steven W. Perry, U.S. Dep't of Just., A Bureau of  
Justice Statistics Statistical Profile, 1992-2002:  
American Indians and Crime (2004)



## WHY INDIAN WOMEN KEEP SILENT ABOUT SEXUAL ASSAULT

### **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

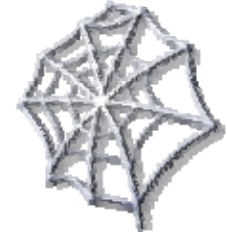
## **Why Indian women seek traditional healing:**

- 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: The Spider Web



- Stand in a circle, stretch and...
- think about someone who has helped you when you were going through a hard time in life...
- now think about a quality that this person had; a good listener, positive person, non-judgmental, etc...

*This 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?*

# TRIBAL ADVOCATE



# 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*



# 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...



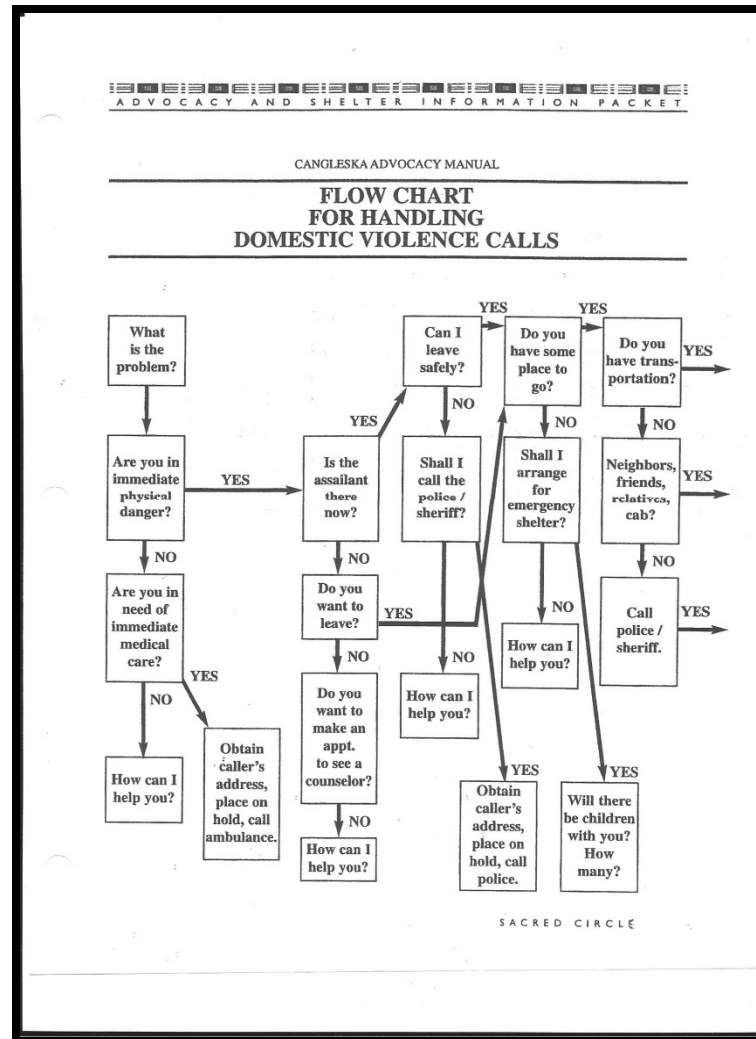
- As a Tribal advocate you will become the person who is trusted. The face that is seen as friendly, listening with an open mind & heart. Being there without criticism, believing their story. You hear with understanding and patience.
- As a Tribal advocate you will be open and honest never promising 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.





# FLOW CHART FOR CRISIS 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.

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.

# CONFIDENTIALITY & 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.

## M.O.U's or O.A.'s

- ***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
- Hospitals
- 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



# PROTECTION ORDERS



# **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.



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**

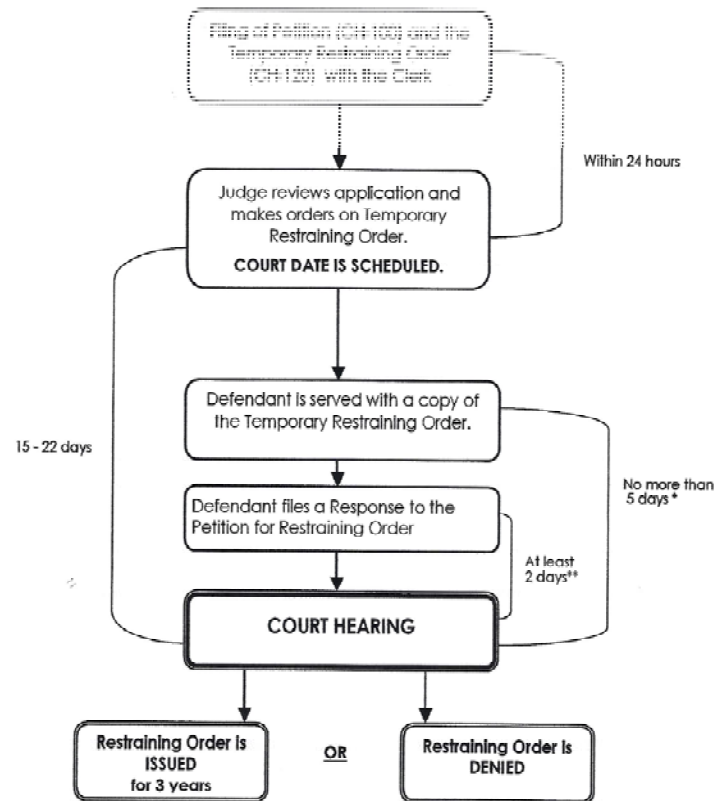
A civil harassment restraining order protects one person from another. It is for people who can't get a domestic violence restraining order. For example: neighbors, (an ex-girlfriend's new boyfriend), etc.

## **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.
- Find out if your court has any special rules you need to know in filling out the forms.
- The clerk can refer you to an advocate to assist you.
- 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.



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

\*\* In some states, 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. 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.

**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

# 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).



**What does Full Faith and Credit mean for survivors of abuse?**

**What does this mean for abusers?**

**What does This mean for advocates?**

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)*

# 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").

# Indian Country jurisdiction as conferred by PL 280

<i>Offender</i>	<i>Victim</i>	<i>Jurisdiction</i>
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.

# TRIBAL COURT BANISHMENT

## TRIBAL CODES ARE 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

# CALIFORNIA SAFE AT HOME PROGRAM

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.

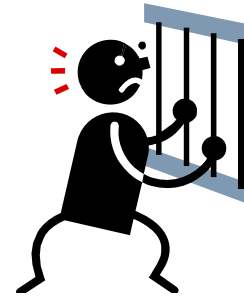
## HOW DOES SAFE AT HOME WORK?



- 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..
- 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.



# ROLES OF AGENCIES



## ***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.

“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 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

## **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.

### ***VICTIM WITNESS ASSISTANCE CENTERS CAN HELP WITH:***

- ***Emergency services***
- ***Counseling***
- ***Restitution***
- ***Case status/disposition information***
- ***Explanation of court process .....and more***

## **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.

## **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.

# 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

2010

# CLOSING ACTIVITY

## **Ball Review**

For this activity ask participants to stand in a circle. 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.