

Best Practice Toolkit for Working with Domestic Violence Survivors with Criminal Histories

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Published by



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Dedication

This document is dedicated to the memory of ***Dolores González Ramírez***, who served as program manager for LA VIDA from March 2000 through March 2010. At a time when it was highly challenging to convey to the larger community the multiple needs experienced by Latina survivors of intimate partner violence, Dolores was widely known as a compassionate and courageous advocate for Latina survivors and their children. This toolkit is but one small tribute to her enormous legacy.

About the Authors

The authors are all members of Michigan State University's Violence Against Women Research and Outreach Initiative, a multidisciplinary group of faculty and students committed to engaging in community-based, collaborative research and evaluation that is highly rigorous while also having significant practice and policy implications at local, state, national and international levels.

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PREFACE

The **MCADSV Open Doors Project** is a national demonstration project that aims to identify and address the many barriers that incarcerated and formerly incarcerated domestic and sexual assault survivors face in obtaining advocacy and support from domestic violence and sexual assault programs. An important capacity-building goal of the Open Doors Project is to enhance the community collaboration between DV/SA advocates, community service providers and those working in the criminal justice and corrections systems. The goal of these collaborations is to facilitate a shared objective of keeping women safe and out of jails and prisons.

The Toolkit was produced by MCADSV. MCADSV is dedicated to the empowerment of all the state's survivors of domestic and sexual violence. Its mission is to develop and promote efforts aimed at the elimination of all domestic and sexual violence in Michigan. The project was funded in part by the Department of Health and Human Services, Administration of Children and Families, Financial Assistance Award, Family Violence Prevention and Services Program, Award # 90EV0394101 awarded to Michigan Coalition Against Domestic and Sexual Violence. The views and conclusions contained herein are those of the authors' and should not be interpreted as necessarily representing the official policies or endorsements, either expressed or implied, of the DHHS or the U.S. Government. This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It's distributed with the understanding that the publisher isn't engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

MCADSV wishes to thank and honor the contributions of both our state and national reviewers, who so generously gave of their time and expertise to provide comment and feedback on the toolkit.

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- Amanda Elliot, MI Department of Corrections
- Sandra Lewis, MS, Executive Director, Shelter Inc.
- Sarah Prout, Esq., Managing Attorney, Lakeshore Legal Aid
- Raquel Olivo, Esq., Michigan Re-Entry Law Project, Legal Aid of Western Michigan
- Vickie Frederick-Toure, Program Director, Amy Merkle, Counselor, SafeHouse Center, Ann Arbor, MI
- Emma Peterson, CEO, Glenda Cook, Advocate, YWCA of Metro Detroit, Interim House
- Margaret Hughes, Advocate, Serenity Services, Detroit, MI
- Jessie Urban, Legal Program Manager, Delores Hernandez, Program Manager, LA VIDA Partnership/CHASS Center, Detroit, MI

National reviewers:

- Dr. Joanne Belknap, University of Colorado
- Anne Menard, Director, National Resource Center on Domestic Violence
- National Clearinghouse for the Defense of Battered Women (Sue Osthoff, Director, Andrea Bible, Special Projects Coordinator, Cindene Pezzell, Esq., Legal Director)
- Dr. Beth Richie, University of Illinois Chicago
- Dr. David Thronson, JD, MSU College of Law Immigration Clinic
- Dr. Veronica Thronson, JD, Director, MSU College of Law Immigration Clinic

The authors were assisted by the MCADSV editorial advisory team whose members reviewed draft text, edited sections and provided valuable feedback. Editorial team:

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Dustin Hartigan, MCADSV Operations and Technology Director, was instrumental in creating an on online toolkit for distribution to state and national partners. Visit <<http://www.mcadsv.org/>>.

Six Penny Graphics was responsible for page layout and design.

We want to give special tribute and thanks to the National Clearinghouse for the Defense of Battered Women and its Director, Sue Osthoff, for their expertise and mentoring given to the MCADSV Open Doors team throughout the duration of this project. We also wish to thank the Institute on Domestic Violence in the African American Community who provided expert technical assistance as well throughout this project and for the important work they do, which has informed so much of the work of MCADSV over the years.

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Section 1: Introduction to the Toolkit

1.1 Background

1.1.1 How the Open Doors Project Began

The Michigan Open Doors project was funded through a 3-year planning and capacity-building grant awarded to the Michigan Coalition Against Domestic and Sexual Violence (MCADSV) by the U.S. Department of Health and Human Services. MCADSV is a statewide membership association for the over 70 domestic and sexual violence agencies in Michigan. The purpose of the Open Doors project was to identify and begin addressing the barriers that incarcerated and formerly incarcerated domestic violence survivors face in obtaining advocacy and support from domestic violence (DV) programs. An important capacity-building goal of the Open Doors project was to enhance community collaboration between domestic violence advocates and those working in the courts and corrections systems.

1.1.2 Michigan Open Doors Project Partnerships

The Michigan Open Doors project brought together community organizations, university researchers, survivors, and state and national organizations to form a dynamic, collaborative partnership. Three domestic violence organizations who specifically serve culturally- and ethnically-diverse abuse survivors in the Detroit area provided case examples and practical knowledge to enhance community readiness and capacity. Researchers from Michigan State University's (MSU) Violence Against Women Research and Outreach Initiative collaborated with designing and evaluating trainings, as well as overall project evaluation. The National Clearinghouse for the Defense of Battered Women and the Institute on Domestic Violence in the African American Community provided expert technical assistance to the project.

1.2 Toolkit Overview

1.2.1 Why the Toolkit was Developed

Domestic violence agencies are committed to assisting survivors with their complex needs, but individual, community, and system-level barriers can make it difficult for them to provide the necessary supports to help women with criminal histories succeed. At the same time, professionals in the criminal legal system are working with many survivors of domestic violence, whether or not they

recognize this to be true. Corrections officers can avoid or minimize crises within the institution by understanding the impact of trauma on people, and engaging in more trauma-informed behaviors. Defense attorneys need to understand domestic violence in order to effectively assist their clients, while probation officers need to understand how survivors' ability to meet court requirements might be impacted by their abusers' controlling behaviors. A primary goal of this toolkit is to provide information and referral sources to assist both criminal legal and domestic violence professionals in overcoming barriers to effectively working with domestic violence survivors charged with crimes.

1.2.2 How the Toolkit was Developed

As part of the Open Doors project, MCADSV conducted numerous statewide trainings with attendees from domestic violence and criminal legal sectors to discuss how to work through the multiple barriers that women with criminal histories are currently facing. In collaboration with MSU researchers, MCADSV also interviewed staff from domestic violence agencies and community organizations who directly serve women coming from prisons and jails about their work with survivors who have criminal histories. Data collected from the trainings and in-depth interviews directly informed the creation of this toolkit.

1.2.3 Who Should Use this Toolkit?

The toolkit was organized specifically for direct service workers interested in the intersections between the domestic violence and criminal legal sectors. This may include advocates from domestic violence programs, professionals working in programs that provide treatment services for women on probation or parole, correctional officers and community corrections officers. Anyone wishing to gain a basic understanding of how to navigate the barriers faced by domestic violence survivors charged with crimes will also benefit from reading this toolkit. While some information is specific to Michigan (and noted as such), the intention of this toolkit is to be useful nationally.

1.2.4 How to Use the Toolkit

The toolkit is intentionally divided into specific sections so that readers can quickly locate what they need when they need it. As such, there is information that may be somewhat repetitious, but this is purposeful in an effort to increase its usability as a reference. *This toolkit is not comprehensive, but instead serves as a brief, practical, introductory guide for direct service workers.* It should not replace specialized professional services when needed, such as legal representation or mental health treatment.

There may be some sections that are more applicable to those working in DV organizations and some more applicable to those working in the criminal legal system. Those working in other human service organizations that provide services to women involved in the criminal legal system will find many sections helpful. Often the section that is useful is dependent upon an individual's role or service sector, the goal of the service being provided, and where the woman is along the criminal/legal continuum. The Table of Contents offers explicit detail in order to help different readers locate the information most useful to them.

1.2.5 What is the Purpose of this Toolkit?

The overall purpose of this toolkit is to:

- Ensure that criminal legal personnel and domestic violence advocates have quick, accessible information about the needs of domestic violence survivors with criminal histories.
- Inform criminal legal personnel and domestic violence advocates about the multiple stressors and barriers impacting the lives of domestic violence survivors with criminal histories.
- Provide practical tips to both criminal legal personnel and domestic violence advocates to work effectively with survivors charged with crimes.
- Enhance collaboration and understanding between these sectors in an effort to decrease victimization and incarceration.

1.2.6 Language and Terminology Used in the Toolkit

The focus of this toolkit is to provide practical tips about effectively assisting any woman charged or convicted of any crime who is also a victim of domestic violence.

While all those being victimized by a partner deserve effective advocacy, protection, and support, the overwhelming majority of domestic violence survivors are women battered by intimate male partners (Durose, et al. 2005). For that reason, survivors are referred to as “women” and “she/her” throughout this toolkit and abusers are referred to as “men” and “he/him.” This is not meant to disregard or minimize the experience of women abused by female partners or men abused by male or female partners.

A conscious decision was also made to use the term “survivor” instead of “victim” throughout much of this toolkit when referring to women who have been abused in their intimate relationships. Although there is debate about the use of these terms in the field, the authors are more comfortable describing women, not in terms of their victimization, but rather by their strengths and resiliency.

We also use a variety of terms throughout that represent aspects of the criminal legal system (prisons, jails, courts, etc.), as well as women’s involvement within the system (e.g., currently/formerly incarcerated women; women charged with and/or convicted of a criminal offense; women involved in the criminal legal system). To be clear, the intent of this toolkit is to assist individuals working with women who have a history of victimization and who have been charged with or convicted of any criminal offense. Therefore, the target is not limited to women charged with “domestic violence” related charges or women in prison for killing their abusers. *Rather, the focus of this toolkit is to provide practical tips about effectively assisting any woman charged or convicted of any crime, who also has a history of intimate partner violence, regardless of whether they are currently imprisoned or not.*

Within the toolkit we refer frequently to two distinct groups of staff: those working within domestic violence agencies, and those working within the criminal legal system. In each sector there are various

roles and functions and a variety of individuals a woman might come into contact with through her involvement in one or both systems. Therefore, we use two 'global' terms when differentiating between those working in the domestic violence sector and those working in the criminal legal system:

- **DV (domestic violence) staff:** This includes domestic violence advocates, counselors, interns, volunteers, and executive leadership.
- **CL (criminal legal) staff:** This encompasses court staff (judges, court officers, attorneys); staff working in jails and prison (corrections officers, institutional administrators, clinical/treatment staff within institutional settings, etc.); and community supervision staff (probation/parole officers).

A third but equally important group for whom this toolkit was intended is *staff working in other human service organizations*. Often those working in other areas, such as housing assistance or substance abuse treatment programs, encounter women exiting prison and jail who have concerns with their physical safety.

1.3 Brief Overview of How the Criminal Legal System and Domestic Violence Programs Are Structured

1.3.1 Overview of the Criminal Legal System

The criminal legal system is comprised of various institutions that enforce criminal law in the United States. It is comprised of many stages, with the primary ones being:

- 1) Arrest
- 2) Arraignment
- 3) Trial or plea bargain
- 4) Sentencing
- 5) Criminal sanctions
- 6) Appeals

Criminal sanctions are determined during the sentencing process and are decided by a judge and/or a jury. They can include fines, restitution, imprisonment (jail or prison, depending on the offense) and community supervision (e.g., probation or parole). *It is important to understand the difference between probation and parole.* Probation is a sentence that places certain supervisory conditions on an individual such as drug testing, treatment, restitution, etc. Although probation sentences can be given in conjunction with brief jail sentences, probation is not a jail sentence—it is served while the individual resides in the community. Parole is a period of supervision after release from state or federal prison that involves monitoring and other conditions of release such as drug testing, restitution and living conditions.

Section 2 of this toolkit provides more extensive information about the stages along the criminal legal system continuum, and Section 4 provides strategies for DV staff to work with women across the various stages.

1.3.2 Overview of Domestic Violence Programs

Currently, there are over 2,000 domestic violence programs across the United States (National Network to End Domestic Violence, 2011). Most of these programs provide free emergency shelter, 24-hour crisis lines and numerous support services such as advocacy, support groups, counseling, sexual assault services, children's programs, and transitional housing. Every state also has at least one state coalition that serves as a membership organization for community domestic violence programs and has a mission that supports the development and promotion of statewide efforts aimed at the elimination of domestic violence. Generally, state coalitions provide training and technical assistance for member programs, and focus on public policy, prevention and community-based social change efforts. Some states (such as Michigan) have a dual sexual assault and domestic violence coalition, while other states have separate coalitions for these services. Go to <http://www.vawnet.org/links/> for an up-to-date listing of state/territory/tribal coalitions, who maintain a listing on their websites of local domestic violence programs. For immediate crisis services for an individual victim, contact the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or TTY 1-800-787-3224.

Section 5 provides additional information for CL staff interested in knowing more about the work of DV programs, while Section 7 offers guidance for how the two sectors might partner together.

1.3.2.1 Women Served by Domestic Violence Programs

Domestic violence is common and affects women all over the world. At least one in four women will be victimized by an abusive partner or ex-partner in her lifetime (Tjaden & Thoennes, 2000), and women are still far more likely than men to be murdered by their intimate partners (Zahn, 2003).

While victims of domestic violence may be of any age, race, culture, religion, economic or social status, educational background, employment, or marital status, not all women are at equal risk for domestic violence victimization. Women with prior histories of sexual and physical abuse, for example, are at a heightened risk for being abused by a partner or ex-partner, as are low-income women, women of color, and women with disabilities (Brownridge, 2006; Campbell, Greeson, Bybee, & Sheela, 2008; Sokoloff & Dupont, 2005; Tjaden & Thoennes, 2006). It is not uncommon for women who have been abused by a partner or ex-partner to:

- Experience symptoms of depression, anxiety, PTSD and other mental health issues
- Use alcohol or drugs as a means to cope with the trauma of the abuse
- Increase their vigilance about their children's safety

Some domestic violence survivors seeking services may have criminal investigations pending, although they may or may not disclose this information to staff. In some cases the criminal matter may be completely unrelated to the reasons the woman is seeking assistance. In other cases, the criminal case is related to the domestic violence, either directly or indirectly. For example, some batterers falsely accuse their victims of crimes and use the criminal legal system as a tool of their abuse. In other situations, women have been compelled or threatened into participating in criminal activity

by their assailants (Gilfus, 2002; Richie, 1996). Often the intersection between domestic violence and the criminal matter is not immediately apparent, such as when the survivor has been forced to serve as a drug mule by an abusive partner and is now facing a drug charge. However, it is important to understand that having been battered can affect the entirety of a survivor's life, including her re-entry into society after a conviction.

A core principle guiding domestic violence services is that no one, regardless of other life circumstances, deserves or should be blamed for the violence perpetrated against them.

Section 3 provides more in-depth information on the prevalence and detrimental consequences of domestic and sexual violence, as well as other forms of violence against women.

1.3.3 Commonalities Across the Sectors

The criminal legal system and domestic violence agencies serve some of the same women. Many women with abusive partners have histories of childhood sexual and physical abuse, mental health concerns, substance use problems, and criminal histories. Similarly, women with criminal records are *also* likely to have histories of childhood sexual and physical abuse, substance use and mental health problems, and high rates of intimate partner violence. However, criminal legal personnel and domestic violence staff often do not recognize that they are working with some of the same women, nor do they work together as effectively as they could. This toolkit was designed to support more collaboration across the sectors, in order to enhance the well-being of women who are victimized by intimate partner violence and who have criminal legal histories.

Criminal legal personnel and domestic violence workers often do not recognize that they are working with some of the same women, nor do they work together as effectively as they could.

1.4 Shared Goals and Practice Guidelines for Both Sectors

1.4.1 Shared Goals within Both Sectors

The goals of criminal legal staff and domestic violence staff may seem completely at odds with each other, but share some important commonalities. Similar to DV advocates, many people working within the criminal legal system are focused on the well-being of women convicted of criminal offenses. Across the criminal legal spectrum, including within jails and prisons, many staff and volunteers—such as treatment professionals, chaplains, Narcotics Anonymous/Alcoholics Anonymous facilitators, and officers—are focused on the rehabilitation and successful re-entry of those charged with or convicted of criminal offenses. Domestic violence advocates are also concerned with the overall wellness of survivors who are charged with and/or convicted of criminal offenses. This toolkit was created to give these individuals the tools they need to meet these shared goals.

It is also true, of course, that these sectors also have different goals and agendas, and when professionals fail to understand this it can create misunderstandings, barriers, and turf conflict. It is not necessary for the two systems to agree completely with each other in order to work together toward common goals. Understanding differences while at the same time recognizing and building from similarities and common goals are a crucial part of creating a strong foundation for effective collaboration. See *Section 7: Working Together* for more information.

Safety is an objective that the majority of those working within the criminal legal and domestic violence sector share—even if some of their goals differ.

- Within DV agencies, the primary goal is keeping women safe from abusive partners and assisting women in keeping their children safe. This is achieved through promoting physical, emotional, mental, and sexual safety and well-being.
- Those working within the criminal/legal system have a goal of preventing recidivism. Factors that increase the risk of recidivism for women include having abusive partners and ex-partners, having unmet needs for mental health services or substance abuse treatment, and lack of positive social support and community resources. Therefore, promoting women’s physical, psychological, sexual and economic safety will reduce recidivism.

1.4.2 Trauma-Informed Strategies for Both Sectors

Several factors may be present for women who have a conviction or are incarcerated and who have also been victimized:

- They face a double stigma of being both victim and criminal.
- They may not label or define their experiences as ‘trauma’ or ‘victimization,’ especially while incarcerated.
- They may also not disclose or may have repressed traumatic memories; however, the symptoms of having experienced trauma may be present in their behaviors.
- They may not trust themselves or others.

Trauma-informed services focus on recognizing, understanding, anticipating, and responding to the reactions and needs that a person who has been victimized may have in a specific environment.

Due to these factors, trauma-informed strategies are useful for those working within the criminal legal system as well as for domestic violence advocates. Trauma-informed strategies are specific practices that recognize the physical, emotional, and mental effects of trauma and victimization. Trauma-informed services focus on recognizing, understanding, anticipating, and responding to the reactions and needs that a person who has been victimized may have within a specific environment. At a basic level, trauma-informed services should strive to prevent re-traumatizing or punishing survivors for behaviors that are trauma-based reactions (Moses, Reed, Mazelis, & D’Ambrosio, 2003).¹

Trauma-informed strategies focus on the following factors:

- Understanding how women may be affected by and cope with trauma and victimization.
- Recognizing and minimizing power dynamics—trauma can take away a feeling of power from victims, and advocates or corrections staff are in positions of power. Trauma-informed strategies focus on restoring a sense of power for the woman who was victimized.
- Explaining to women why certain events are happening, to increase their sense of safety and control.
- Providing an atmosphere of safety.
- Empowering without overwhelming.
 - This element is especially important for advocates who are working with women who recently have been or are incarcerated. These women have had most decisions made for them by the facility (from what they will eat to when they will get up in the morning). For some women, it can be overwhelming to go from this highly restrictive environment to immediately making a wide variety of choices. Trauma-informed strategies focus on assessing for this and starting with small choices, if necessary, in order to build trust with the woman, as well as to build her sense of competence.
- Working in a manner designed to prevent relapse, re-victimization, and re-triggering of trauma.

For more information on trauma informed services, the following resource may be of assistance: The National Center for Trauma-Informed Care, <http://www.samhsa.gov/nctic>.²

1.4.3 Culturally Competent Practices

People of color make up a disproportionate majority of incarcerated populations relative to their numbers in free society. Therefore, those seeking to increase services to women with criminal histories (whether within incarceration settings or community organizations) will consequently increase the services they provide to women of color. This might influence the overall demographics of clientele at some organizations, but will not change in others. Either way, those providing treatment or advocacy services either within community-based organizations or within jails or prisons should be prepared to provide culturally competent, anti-oppressive services to women from all backgrounds.

A culturally aware person is mindful of the dynamic aspects of culture and is cautious not to overgeneralize or stereotype individuals based on an over-simplified evaluation of their cultural backgrounds.

Culture refers to patterns of human behavior (language, thoughts, communications, actions, customs, beliefs, values, and institutions) of racial, ethnic, religious, or social groups that are passed down through generations. *Cultural competence* is a set of knowledge, attitudes, behaviors and policies that interact to enable effective work in cross-cultural situations. Cultural competency requires a “respect for differences both within and between groups of people” (Vann, 2003, pg. 24). At an individual level, a culturally competent service provider develops skills that allow women from different cultural

backgrounds to benefit from services in ways that fit the context of women's lives. The following are examples of how to make a domestic violence organization more culturally competent:

- Collaborate with community-based groups to do an evaluation of internal protocols and procedures
- Ensure an understanding of specific cultural dietary restrictions and religious practices and ensure that time and space is available to accommodate those needs
- Make sure that the flyers, brochures, and pictures around the organization represent various cultural groups. Ensure that materials also represent a wide age range to dispel myths that domestic violence services are not available to domestic violence survivors in later life
- Hire staff that are representative of diverse racial, cultural, and social backgrounds, and who speak languages other than English
- Make personal need products available for different racial or cultural groups
- Outreach to communities of color
- Establish and sustain collaborations with culturally-specific organizations in the area
- Place your organization in a neighborhood that is culturally diverse
- Disseminate organizational information through channels that reach diverse communities
- Integrate a variety of cultural norms, expectations and practices into the organization's curriculum
- Conduct cultural competency trainings regularly (Gillum, 2008)

Vann (2003) suggests that organizations interested in beginning to evaluate whether their agency engages in culturally-specific practices can start by asking themselves the following questions:

- Can you clearly define the service recipient?
- Are you considered a trusted resource by the target community, e.g., do you have a track record of offering relevant services, are you seen as part of the community, or are you thought of as an outsider?
- Who is providing input on the design of your services?
- What are you intending to provide for the community?
- What will the community gain from your services?
- What do you expect in return from the community?

Vann (2003) also recommends that once an agency has decided to increase its cultural competency, it should recognize that the process to becoming culturally competent is a long-term commitment. It is helpful to identify allies throughout the process. Organizations should make sure that people of color have decision-making power at every stage within the process. This means that the board and the staff should be representative of the diverse cultures that the organization would like to serve.

Additionally, cultural problems can arise in the course of providing services to recent immigrants. Providing services to this group will require all of the above-mentioned culturally competent services, but will also require special consideration be taken to cope with problems unique to recent immigrant populations. These can include, but are not limited to:

- Isolation by cultural dynamics
- Cultural differences in concepts of justice
- A culture that may not allow the survivor to leave her husband or household
- Dependence on her husband for her immigrant status
- Unfamiliarity with the American legal system, especially the criminal legal system
- Mistrust or distrust of the American legal system, especially the criminal legal system
- Language barriers
- Unresponsiveness of officials to complaints filed by immigrants
- Fear of deportation³

Advocates must be aware of these culturally unique problems and be ready to respond to them through the provision of specialized services that take into consideration the specific needs of each individual while maintaining cultural sensitivity and avoiding ethnocentrism.

1.5 Common Barriers to Cross-Collaboration

While outcomes for women can be improved with joint collaboration among domestic violence programs and those working in the criminal legal system, a number of barriers can make such partnerships difficult. For example, many domestic violence staff lack sufficient training about the criminal legal system and the macro level barriers that women face as a result of having a criminal record. In a similar fashion, many correctional officers and other criminal legal staff lack sufficient understanding about the potentially long-ranging effects of intimate partner violence on both the mental health of women and on recidivism. Moreover, both systems tend to work independently of each other, with little or no contact or understanding of the value of collaboration. Cross training can provide education for both domestic violence advocates and those working in various capacities across the criminal legal continuum. Joint training sessions can be an effective way to increase collaboration across sectors and ultimately enhance the well-being of women. Such training must be approached with a no-blame philosophy, however, and be designed to build on each system's mutual goals with a sincere respect for differences in perspective.

Time constraints have also been noted as impediments to collaboration among the domestic violence and criminal legal sectors. Decreased funding in both the domestic violence world and the criminal legal system has forced agencies to make cuts to staff, trainings, and programs. Since the client base has not diminished, many advocates and corrections officers have been required to increase their workload. This time restraint makes it difficult for workers to interact and collaborate with other sectors. See *Section 7: Working Together* for more information.

1.6 Rewards of Cross-Collaboration

Working collaboratively across these two systems benefits the individual woman, each system, and the larger community. Women benefit when criminal legal staff and domestic violence staff combine resources, knowledge and advocacy to improve their physical safety and support their goals for community re-entry. Staff in both the CL and DV systems benefit when successful

partnerships expand their resources beyond their own system, facilitating stronger supports and more intervention tools. Perhaps most importantly, the CL system benefits when women have lower recidivism, while the DV system meets its goal of maximizing the safety of a very vulnerable group of women.

1.7 Key Information for Both Sectors

As discussed earlier, there are overlapping objectives among those working in the criminal legal system and domestic violence agencies. Both systems share the common goal of reducing harm and promoting safety. Domestic violence advocates focus on safety options for women with abusive partners and ex-partners, while corrections officers and other personnel involved in the criminal legal system strive to protect the physical safety of individuals in the system and to reduce recidivism. While many corrections personnel may feel unprepared to work with women who have been victimized by intimate partners, and domestic violence advocates may feel they lack the expertise to work with women who have criminal histories, it is important to do so. This toolkit was designed to help staff in both sectors attain the knowledge needed to meet the complex needs of this group of women.

“Failure to address the needs of survivors with criminal histories is a missed opportunity to reduce recidivism and to increase not only their safety and well-being, but also the families that depend on them.”

Anne Menard, Director, National Resource Center on Domestic Violence

Domestic violence staff members are encouraged to remember:

- Ignoring or dismissing criminal histories may lead to collateral consequences for the survivor. For example, women may be in danger of violating conditions of probation/parole, and may be more likely to return to incarceration if their advocates are not working on issues related to court orders.
- Working together with correctional officers can improve women’s outcomes and reduce repeat charges.

Criminal legal staff members are encouraged to remember:

- Most women with criminal convictions have also experienced interpersonal violence, as children, as adults or both.
- Becoming a trauma-informed provider as well as connecting women with trauma-informed services can be key in reducing future violations. However, it is important to remember that women may face a risk of escalated domestic violence if a perpetrator finds out that she is accessing services.
- Working together with domestic violence programs can improve women’s outcomes and reduce repeat charges.

Both sectors are encouraged to remember:

- Abusers may use a woman's legal status, whether criminal or immigrant, as a mechanism of control or coercion, perhaps threatening to report her or lying about her behavior to officials.
- The language we use, and how we communicate, can help or hinder relationships with survivors and collaboration across sectors. For example, there are many ways to describe women with abusive partners. Some common terms include "survivor" and "victim." Most domestic violence agencies prefer to use the term "survivor," while criminal legal personnel may have difficulty referring to a criminal offender as a victim (especially if she has been convicted of murder). It is important to note that many women who have suffered abuse do not see themselves as "victims" of domestic violence (and may not even perceive the abuse to have been that central to their life experiences). Thus, two points to remember are that (1) language can unintentionally divide people rather than help them work together, and (2) women with abusive partners and ex-partners should be viewed and referred to as their whole identities and not by any particular experience they have had (e.g., addict, victim, inmate). Understanding each other's language and developing a shared language can significantly move a collaboration forward.

See *Section 6: Women's Needs After Incarceration: Understanding and Effectively Addressing System Level Barriers*, for information and resources that can help staff from both sectors successfully work with domestic violence survivors who also have criminal histories.

Endnotes

- 1 Adapted from, Moses, 2001; Moses, Reed, Mazelis, and D'Ambrosio, 2003, Women, Co-Occurring Disorders and Violence Study, description of trauma-informed services for women.
- 2 The National Center for Trauma website has a list of trauma-specific interventions with contact information, technical and educational assistance information, and additional information about trauma informed services.
- 3 NATIONAL COALITION AGAINST DOMESTIC VIOLENCE, THE PROBLEM, <<http://www.ncadv.org/learn/TheProblem.php>>. (accessed Aug. 16, 2011); See also, Robert C. Davis & Edna Erez, Research in Brief, Immigrant Populations as Victims: Toward a Multicultural Criminal Justice System, NATIONAL INSTITUTE OF JUSTICE, U.S. DEPARTMENT OF JUSTICE (May 1998).

Section 2: Overview of the Criminal Legal System

2.1 What Domestic Violence Advocates Need to Know About the Criminal Legal System

The criminal legal system in the U.S. involves apprehending and punishing individuals who have committed crimes. It is comprised of various systems (e.g., courts, jails, prisons, probation, parole) that are organized by jurisdiction (federal, state, county and municipal). Jurisdiction level is determined by the location of the crime and the severity of the offense. At each level there are several major subsystems, including: police and/or other law enforcement agencies, the court system, prosecution and public defender offices, the department of corrections (e.g., operating probation/parole), and jails and prisons.¹

The information provided in this section is intended to provide DV advocates, and other human service staff unfamiliar with the criminal legal system, a broad overview of the system and should not replace legal consultation specific to any situation. Furthermore, this broad overview does not reflect the many nuances found in laws or system configurations across the 50 states.

2.1.1 Women's Involvement in the Criminal Legal System

The rate of women's involvement within the criminal legal system has shifted dramatically in the last 20 years. In 2008, more than one million women were involved in the criminal legal system, including an estimated 737,814 on probation and 99,149 on parole (Glaze & Bonczar, 2009). In Michigan alone, 32,084 women were on probation and 2,074 on parole in 2008 (Glaze & Bonczar, 2009) and over 1,735 were in state prison (Michigan Department of Corrections, 2009).

While men continue to comprise the highest proportion of defendants and prisoners within the system, women, particularly women of color, are being incarcerated at increasing and alarming rates. In fact, the increase in the rate of incarceration of women is double the rate of increase for men since 1995 (Harrison & Beck, 2005). Women now account for nearly 7% of the population in state and federal prisons (Glaze & Bonczar, 2009). Women's involvement in probation has also risen in the last 10 years, from 22% in 2000 to 24% in 2008 (Glaze & Bonczar, 2009).

Common profiles of women involved in the criminal legal system:

- Disproportionately women of color
- Thirty years of age with low socioeconomic status
- Unemployed and have not obtained a high school degree
- Unmarried/un-partnered and often parenting in isolation
- Most likely convicted of a drug offense
- Survivors of childhood physical and/or sexual abuse
- Likely to have mental health and substance abuse issues
- Survivors of domestic and/or sexual violence

Adapted from the Women's Prison Association (2003)

Although women's rates of incarceration have increased overall, they are still less likely than men to be arrested. Women are less likely than men to be arrested for violent crimes such as homicide, robbery or assault. Instead, the vast majority of women are arrested for lower level offenses, such as drug use and other crimes related to their substance misuse (property and public order crimes) (Mullen, Cummins, Velasquez, von Sternberg, & Carvajal, 2003). There is some evidence to suggest that many women committing assaultive crimes are acting in self-defense against abusive inmate partners.²

2.1.1.2 When Mothers Are Incarcerated

The majority of incarcerated women (75%) are parents of minor children. Of these, 62% are single mothers and 66% have children under the age of 18 (CDC, 2001). Maintaining contact with a child is difficult during incarceration. Many women are held in prisons that are over 100 miles from their prior residence (Mumola, 2000). Over half of incarcerated women report never having a visit from their child, and one in three reports never speaking with their child by phone (Mumola, 2000). Small things such as having to call collect to a residence in order to speak to their children can be a barrier if the place where the child resides chooses not to accept collect calls, or cannot afford them.

Children are most often cared for by family members when their mothers are incarcerated, but 10% are in foster care (Mumola, 2000; 2006). Termination of parental rights is a likely possibility for many incarcerated women, since more than 60% of mothers in prison are expected to serve more than 24 months (Mumola, 2000). Federal law requires a termination of parental rights when a child has been living under foster care for 15 out of the last 22 months (Mumola, 2000). However, this law varies by state and changes frequently. For example, in May 2010 Michigan courts stated that incarceration alone was not grounds for termination of parental rights.³

Concerns about childcare and custody are particularly painful for incarcerated women who have been in abusive relationships. They may have concerns that the care-giving parent may be abusive toward the children or the partner may continue to use the children to threaten or intimidate her. Children may be removed from the care of the mother by Child Protective Services if they feel that the mother has 'failed to protect' the children from the effects of abuse. In instances where women are intimidated

and controlled by abusers, acting in any way contrary to the abusers demands may be life threatening, often making protection of her children very difficult.

For most mothers, leaving their children behind is the most painful part of confinement, but for women with an abusive partner this may be more painful as she has the inability to protect the children during her confinement. For more information about the impact of criminal convictions on child custody, see 8.5.3 "Custody Concerns."

2.1.2 Criminal Convictions and Immigration Status⁴

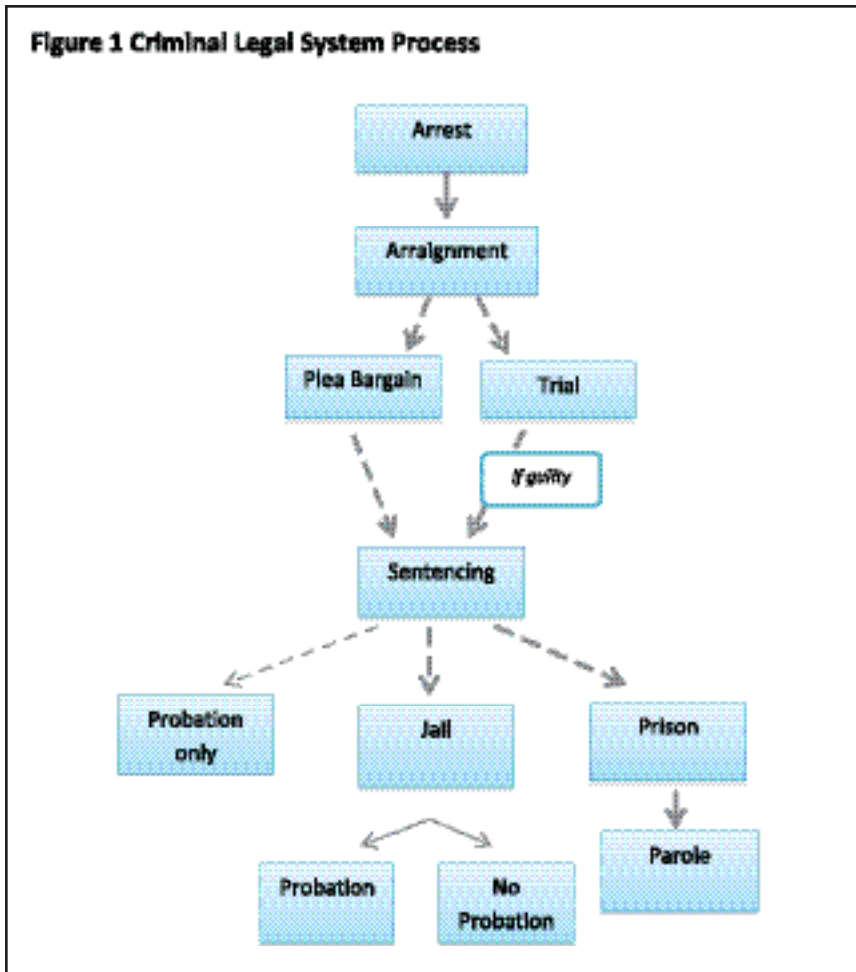
Criminal conduct can jeopardize the immigration status of all non-citizens living in the United States. Even lawful permanent residents who have lived in the U.S. for years and have close family ties, such as U.S. citizen spouses and children, can be affected. Such consequences include deportation, permanent bars to returning to the U.S., and mandatory detention by immigration authorities, as well as difficulties in obtaining permanent residence or becoming citizens through naturalization.

Battered immigrants, even if otherwise eligible for permanent residence through the Violence Against Women Act (VAWA), can be rendered ineligible because of a criminal conviction and subject to deportation. The VAWA self-petition requires the applicant to have no defect of moral character. Certain charges, even misdemeanors, may be considered to indicate a defect in moral character.

Additionally, batterers will frequently use the survivor's status as an immigrant to exercise control over her. This can be true if the survivor's legal status depends on the batterer, but can extend to other circumstances as well. For example, the batterer could exert control over the survivor by making false claims to immigration officials. Additionally, concerns about false criminal claims play a greater role for immigrants, as criminal conviction can be grounds for complications with the individual's immigration status, which can include but is not limited to entrance, admissibility, determinations of good moral character relevant to naturalization, and deportation. The complications related to this determination are not always proportional to the level of the crime, and it is entirely possible that relatively minor criminal offenses result in severe immigration consequences. Finally, if the batterer is the only connection the survivor has to U.S. society, this can result in the batterer manipulating the survivor by providing her with lies about how the legal system would work in her particular case.

2.2 Stages of the Criminal Legal System⁵

The criminal legal system is comprised of many stages (See Figure 1), including but not limited to: arrest, arraignment, trial or plea bargaining, sentencing, and appeals. Criminal sanctions are determined at sentencing and are decided upon by judge and/or jury taking into consideration any applicable sentencing guidelines. Criminal sanctions can include fines, restitution, imprisonment (jail or prison depending on the offense), mandatory programming, and/or community supervision (which can include community service, mandatory rehabilitation, probation as an independent sentence, or parole post-prison), and death. *These stages often do not flow as neatly from one clearly defined stage to another as may be suggested in this section; rather, this section should be used as a general outline of how the criminal justice system should work as a general, textbook example.*



Criminal adjudication is a complicated process that many people (including many DV staff and survivors) find confusing. Processes also often differ by state, and information on the processes and stages within different states is generally available online.⁶ Additionally, the criminal legal process will have wide-ranging effects on other legal processes, such as a survivor’s immigration status. This section will only cover the steps in the criminal justice process. The specific effects of the process will vary from situation to situation, and it is recommended that you contact appropriate legal aid for advice on how best to handle these matters. The information presented here provides an overview of the process that is fairly consistent across jurisdictions. It should not be considered “the last word,” however, given how often procedures and policies change.

1) Arrest

Arrests without a warrant can vary from jurisdiction to jurisdiction depending on applicable statutes. Generally speaking, individuals can be arrested for a misdemeanor if committed in a police officer’s presence, or for a felony or parole/probation violation if there is probable cause that they have committed a felony or other parole/probation violation.⁷ If a police officer does arrest an individual without a warrant, they must later submit the arrest process to Prosecuting Attorney’s office for review by a judge or magistrate. After arrest, people

are brought to the police station to complete the booking process. The booking process involves obtaining fingerprints, mug shots, a physical search, and a series of questions. Police confiscate and store all personal property, such as jewelry and cell phones.

Once the prosecutor reviews the case and determines that there is probable cause that the suspect committed the crime, the individual is officially 'charged' with the crime and the police establish a criminal record. The process of obtaining and charging an individual with a crime varies significantly from court to court, ranging from grand jury indictment to the information process. In some states, even if a person is found not guilty or the charges are dropped, the record of the arrest will remain.

For more information on how to advocate for a woman during the arrest process, see Section 4.3 "*Advocating for Domestic Violence Survivors Who Have Been Arrested.*"

It should be noted that, for undocumented immigrants, arrest alone may be sufficient grounds for deportation. Many jurisdictions now participate in the Secure Communities program, which checks an individual's fingerprints against records taken by immigration officials. If the fingerprints reveal the individual to be an undocumented immigrant, then the individual will be taken into custody by the federal government for deportation proceedings. As such, any interaction with police could potentially trigger deportation proceedings.⁸

2) Arraignment

Once criminal charges are filed, the person being charged is known as the *defendant*. The defendant is brought to court for an arraignment. During the arraignment, they face a judge and are officially informed of the charges brought against them. They are also given the opportunity to plead guilty, no contest, or not guilty. If the defendant pleads 'not guilty' at the arraignment, the case will be set for a *jury trial*, unless the defendant waives their right to a jury trial and opts for a bench trial. In a *bench trial* the case is heard and decided solely by the judge. Defense counsel carefully reviews the pros and cons of a bench trial with the defendant prior to waiving the right to a jury trial. For example, are the facts of the case something a jury would be sympathetic to or would it require the jury to have a sophisticated understanding of domestic violence to understand the survivors' current circumstance?

If the individual does not have an attorney the judge will inform them of their right to an attorney (court appointed or otherwise) depending on the nature of the offense. The judge will then ask the person how they 'plead to' the charge. If a defendant refuses to enter a plea at that time, a default plea of "not guilty" will usually be entered. (Note: A plea of "not guilty" can usually be changed to "guilty" or "no contest" during the arraignment or future court hearings.) If a defendant pleads "guilty" or "no contest," the judge will evaluate whether the plea was made willingly and may accept the plea. Regardless of plea, the judge will decide whether to set bail and release the detainee from jail, may release them from jail without bail ("on own recognizance"), or may hold them in jail without bail. This decision is typically determined

based on the defendant's risk of flight and public safety, which takes into consideration different factors that vary between courts and cases, including, but not limited to, the severity of the charge, citizenship, home ownership, marital status, substance abuse, employment status, criminal history, time in the area, education, bail recommendation by pretrial service officers/probation officers/attorneys, and the judge's perception of the defendant.

Bail is money put forth by the defendant to ensure their presence at future criminal proceedings. In addition to a monetary bail, a bond condition may include an assurance that the defendant will not contact a particular individual or group of individuals. This is called a "no contact" bond. In Michigan, individuals are required to put forth 10% of the total bail amount requested by the judge unless the judge orders otherwise. Specific policies on bail vary by state. In Michigan bail can be paid by cash or through a bail bond.⁹ Once bail is made, the defendant is released from jail. If the judge refuses to set bail under the circumstances of the case, or a statute requires detention, or if bail cannot be made, the defendant must remain in jail until the trial occurs, or a case disposition has been reached and the sentence is served, or if bail is allowed later.

The right to an attorney at the time of arraignment will vary from state to state, though this does not necessarily mean that a defendant will have the right to appointed counsel, nor that a defendant may be represented by an attorney at all parts of a trial. State court rules generally require the court at arraignment to advise defendants of their right to retain counsel and to court appointed counsel when indigent.¹⁰ In Michigan a defendant who is indigent has the right to counsel whenever he or she is charged with a crime with a minimum jail sentence required on conviction, or whenever the court decides it might impose a jail sentence, even if the sentence is suspended.¹¹

If they are indigent, face a qualifying crime, or cannot afford to hire a lawyer, the court will appoint a lawyer that is paid for by the state. The court usually considers the following facts when determining indigence: employment, earning capacity, living expenses, debts, whether the defendant qualifies for public assistance, the existence of real or personal property that may be easily sold and any other factors that impair the defendant's ability to pay for competent legal counsel.¹²

The method of court appointed counsel differs from state to state. Some states require private attorneys to serve as counsel by appointment. Some court appointed lawyers are *public defenders*, or criminal defense attorneys employed by the state, county, city, or municipality to represent appointed defendants. Often, court appointed attorneys and public defenders provide excellent representation; however, there have been many critiques about them that also deserve consideration. For example, a recent report prepared by the National Legal Aid and Defenders Association (2008) found that Michigan's Court Appointed Defense Model had numerous deficiencies, including inadequate defender services.¹³ These services often suffer from a severe lack of resources and an overburdened caseload which severely hampers the appointed counsel's representation.

The defendant's case may also be subject to judicial review before proceeding to trial. This review can take many forms, but the two most commonly used in the United States are the *Preliminary Examination/Pretrial* and the *Grand Jury indictment*. Both of these processes are designed to establish whether there is probable cause that a crime has been committed and, if so, if there is probable cause to believe that the defendant committed it. Whether such a review exists and what process is used will vary from jurisdiction to jurisdiction. For example, Michigan defendants have a statutory right (i.e. a right created by a law) to preliminary examination; defendants before the Federal courts, however, have a constitutional right to have their case reviewed by a grand jury. Usually the review process will be considered a right that can be waived by the defendant if she chooses, but this is not always the case.

A preliminary examination (felony) or pretrial (misdemeanor) is a review of the case by a judge or magistrate. An indictment is a process where a *grand jury* reviews the case. In both cases the review is based on evidence presented to the reviewer, but what evidence can be presented and who may present evidence will vary from jurisdiction to jurisdiction. The same is true for questions of whether the defendant may attend the proceeding, whether the defendant has a right to an attorney, and whether the defendant may cross-examine witnesses.

If probable cause is established that the charged crime occurred and that the defendant committed the crime, the case proceeds to either district court (misdemeanor crimes) or circuit court (felonies). If probable cause for these two elements is not established, then the defendant must be discharged. However, the prosecutor may be able to charge the defendant again for the same offense depending on the process used in that jurisdiction

It is important to remember that the order of the process can change from case to case. It is possible for a grand jury to indict an individual before they are arrested. Similarly, the preliminary examination can come before or after arraignment. Be sure to check what the rules are in your state and before your court to determine what order the particular case will go.

3) Trial or Plea Bargain

Many defendants never go to trial even after they are charged. Often, the prosecuting and defense attorneys negotiate a *plea bargain* instead. The terms of the plea bargain will vary from case to case, but will generally require the defendant to *plead guilty* or *no contest* (where the defendant does not have to admit guilt but will not dispute the charge) to the charged offense, or to a less serious offense, in exchange for a shorter sentence. Plea bargaining can take place at any point in the criminal justice process, including during the trial itself.

Plea bargains may be encouraged by attorneys as it takes less time and energy. However, it is important to be aware of the consequences that may result from plea bargaining within your state.

If a plea agreement is not reached, the case goes to trial, where a jury or a judge will decide whether the defendant is guilty beyond a reasonable doubt. The specifics of the trial process will vary from state to state, but there are some commonalities. The defendant has a constitutional right to a trial by jury in cases involving “serious” crimes,¹⁴ the waiver of which will result in a bench trial. This right, however, can be extended to include non-“serious” crimes by state constitutions and laws. Additionally, the determination of whether an offense is “serious” or “petty” will depend on the specific facts of the case and the offense charged.

Members of the jury (or the judge if there is no jury, as is the case if the defendant and prosecutor both waive the right to a trial by jury) reach a verdict once presented with all of the evidence. If the person is found not guilty then that particular charge is dropped, though the government is free to pursue other charges stemming from the same action so long as it constitutes a different offense. If the defendant is found guilty, the defendant is sentenced by the judge or jury in accordance with applicable sentencing guidelines depending on the state’s requirements. The defendant’s criminal record will contain information about the arrest, the initial charges that were brought, and the final conviction.

It should be noted that the recent Supreme Court decision Padilla v. Kentucky requires criminal attorneys to explain the immigration consequences of a potential plea to their clients.¹⁵

4) Sentencing

If convicted of a crime, either through the trial process or by pleading guilty, an individual is sentenced by a judge or jury depending on the applicable crime and the state’s sentencing requirements. Sentences vary according to the crime, the defendant’s criminal record history, and the state’s sentencing guidelines.¹⁶

Sentences are also impacted by a defendant’s pre-sentencing investigation (PSI) report. The PSI is generally completed by a court probation officer and reviewed by the judge prior to sentences to examine history and extenuating circumstances. The PSI can be amended if the information is incorrect.

Sentences generally include one or more sanctions that can include fines, probation, mandatory programming, community service, and/or jail/prison terms. Defendants may appeal any conviction or sentence by filing an appeal through the appeals court. In some states, if defendants have entered into a plea bargaining arrangement where they plead guilty, they are not entitled to appeal. In other states, such as in Michigan, defendants are allowed to appeal their plea-based conviction. It is important that a defendant is aware of how the appellate process operates in her state and remains in contact with her attorney if she is interested in an appeal.

Types of criminal sanctions that might be imposed by a judge or jury can include but are not limited to:

Probation: a sentence that places certain supervisory conditions on an individual such as drug testing, treatment, restitution, etc. It requires compliance with the pre-determined conditions for a specific period of time. Sometimes probation sentences are given in conjunction with brief jail sentences, or as a suspended sentence, depending on the circumstances of the conviction and the practices in that particular jurisdiction.

- **Probation is different from prison and parole.** Probation is not a jail sentence—it is served while the individual resides in the community. Probation is not parole. Parole is granted by the parole board and involves monitoring after release from state prison.
- Judges can mandate a number of conditions that a defendant must comply with during probation. Each person's probation differs and is specific to their conviction and criminal record.
- Some types of probation include: informal probation, supervised probation and intensive probation. Informal probation involves meeting with a probation officer on a regular basis. Individuals on supervised probation must also meet with a probation officer on a regular basis, and are often subject to regular drug and alcohol screenings. Intensive probation is the strictest form of probation and includes supervisory measures such as home detention or a monitoring device.
- Violation of probation can have serious consequences. Failure to attend a required meeting, committing another crime during the probation period, and failing a drug or alcohol test are all examples of probation violations. Violations can result in a number of disciplinary actions, such as arrest, imprisonment, and extension of the probation period.

It should also be noted that, under the Immigration and Naturalization Act, a suspended sentence will be considered a conviction, as are deferred judgments.¹⁷ As such, it is important that advocates are aware of the particular status assigned to probation in their jurisdiction, and how this could potentially affect the immigration status of survivors convicted of crimes and sentenced to probation.

Jail time: Incarceration sentences of less than a year occur in municipal or county jails. Jails are usually operated by a county or municipal government organization, sometimes but not always the county sheriff. Jails tend to have higher traffic than prisons due to the large number of persons serving relatively short sentences and persons transferred from the jail to court or prison.

Prison time: Incarceration sentences of more than a year occur in state or federal prisons depending on the charges. Prisons usually house those convicted of more serious felonies.

Additional sanctions may be imposed upon detainees when they are released from prison. *Parole* involves one or more conditions people must meet in order to remain in the community post-prison. These conditions can include regular supervisory meetings with a parole officer, inability to leave the state, and monitoring of drugs and alcohol. The terms of parole, including length and conditions, will vary from individual to individual. Parole typically lasts for two years post-release from prison. However, some states do not have a parole phase for those discharged from prison. Therefore, individuals released from prison may have no formal community supervision phase post-release.

Parole is different from probation. Parole is only granted after an inmate has served at least the minimum portion of his/her sentence in prison. Failure to comply with the conditions of parole, or committing another crime, can result in suspension of the parole. A violator will be subject to a revocation hearing, where the board will discuss a consequence.¹⁸ Many individuals who violate parole are required to return to prison.

Electronic Monitoring (Tether): An alternative method of monitoring an individual while in the community is through the use of an electronic tracking device commonly referred to as a 'tether.' The tether unit, generally strapped onto a person's ankle, uses technology to determine the individual's whereabouts. Usually referred to as 'house arrest,' this system allows the individual to be away from their home for certain activities (e.g., employment, AA meetings) but restricts their movement to one location, generally their home, at all other times. Electronic monitoring is used as *a condition of parole and/or probation* rather than as a separate sentence, though it may be required as a part of some sentences.¹⁹ Electronic monitoring may require a 'land line' telephone and additional fees that the convicted individual has to pay.

A related monitoring system uses the more advanced technology of global positioning system (GPS) to continually track the whereabouts of an individual at any point in time.

The above information was adapted from the Prosecuting Attorney Association of Michigan's website (2010). For additional information on processes in the criminal legal system and how to best advocate for women who are involved, please see section 4.3 "*Advocating for Domestic Violence Survivors who have been Arrested.*"

2.3 The Incarceration Environment: Jails and Prisons

Jail and prisons differ by size and location. Generally there are separate units for males and females, but smaller municipal jails may simply separate men and women into different 'holding' cells. Although some jails may still use 'cells' there is often a door with a small window versus the bars that many people think of when thinking about jails/prison. Cells are routinely shared by one or more persons. Depending on the age of the facility or type of prison/jail, a commode and sink may also

be housed within the cell. Prisons are larger and female housing units may have a common day room, toilet/shower area and a yard where inmates can go outside for some part of the day; however, movement is generally restricted to either the 'cell' or common area of a particular housing unit for most of the day. Meals may be in another location and each individual or a block of individuals may have a specific time for meals. Generally there are several 'count' times per day where the individual has to be in her cell or 'lock up' area until the custody staff are certain that everyone is accounted for. Depending on the type of facility, there may be educational or other programming (e.g. substance abuse or parenting groups) opportunities.

By their very nature, jails and prisons are highly structured environments within which people have extremely limited freedom and autonomy. Incarcerated individuals are constantly monitored and watched, even when they are engaged in the most personal activities (such as bathing, grooming, toileting). The lack of privacy, even to have a good cry, is often nonexistent. Adherence to rigid schedules for mealtimes, sleeping, etc., leaves little room for choice or independent decision making. The constant boredom, noise, and isolation from family emotionally impacts a woman. This rigidity can make anyone feel embarrassed or degraded, but is even more difficult for those who have suffered from prior victimizations or traumas. Domestic violence involves a pattern of power and control over the victim, and often includes surveillance, isolation, intimidation, threats, and behavioral control. For survivors of domestic abuse, then, the incarceration environment can be especially traumatizing as it may replicate these similar patterns.

2.3.1 Services in Jails and Prisons

Despite the increase of women within jails and prisons, there are often few services targeted specifically to their needs. This is problematic, as many incarcerated women have physical or mental health concerns, suffer addictions, and/or lack education and job skills they will need to succeed post-incarceration.

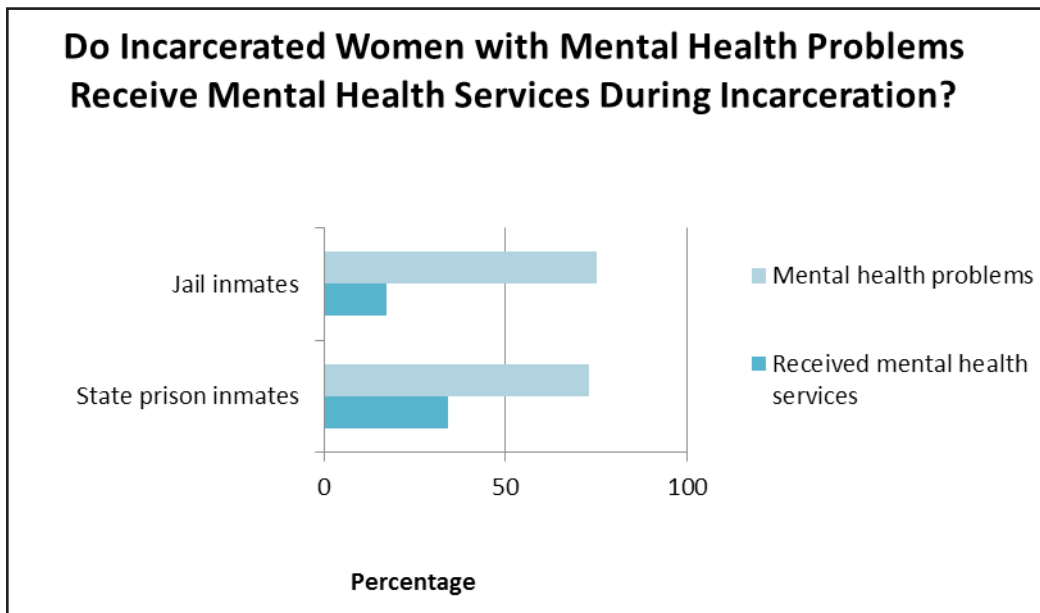
2.3.1.1 Physical Health Services

Women who enter prison have higher rates of chronic health conditions than women not involved in the system (National Commission on Correctional Health Care, 2002). They are five times more likely to have HIV and 10 times more likely to have hepatitis C (NCCHC, 2002). Despite this increased risk, few prisons have HIV prevention programs (Willmott & van Olphen, 2005). Although prisons are not required to support prevention programs, they are mandated by law to provide medical care for prison inmates (Tripp, Holbrook, Walen, & Walsh, 2007). Despite this mandate, concerns have been raised about the quality of health care in the jail and prison setting (Moore & Elkavich, 2008; Wilper, et al. 2009). One report in particular, *Tolerating Failure: The State of Health Care and Mental Health Care Delivery in the Michigan Department of Corrections*,²⁰ documents the systematic failures within Michigan's prison health care system. These included failing to provide information on medication to inmates, failing to provide inmates with prescribed medication or pharmaceutical refills, delayed access to medical service providers and treatment, and poor management of diseases such as hepatitis C (Tripp, et al. 2007).

2.3.1.2 Mental Health Services

The majority of women in local jails and prisons suffer from mental health problems (James & Glaze, 2006). Similar to physical health care, the amount and quality of mental health care is highly variable across institutional settings. Although access to treatment may actually improve for some women in jail or prison (in part because inmates have a constitutional right to treatment), many others receive either no mental health services or inadequate services (Teplin, Abram, & McClelland, 1997). Per the American Psychiatric Association (2000), screening and assessment of mental health disorders begins during the intake process. Because detention in jails is much briefer than prisons, psychiatric care may be more limited and/or may consist of a referral to community mental health providers. Large urban jails and prisons have a continuum of mental health services, including medication maintenance, psychotherapy, and inpatient psychiatric hospitalization. However, even if they exist, these services are often limited, and advocacy may be needed from outside the system to help women obtain needed services during and post-incarceration.

Helping women maintain mental health care post-incarceration (also called “Continuity of mental health care”) is a primary concern. There is often little or no “transition planning” as women are about to be released back into the community, and this can result in their losing mental health services or prescriptions they may need (Kubiak, Essenmacher, Hanna, & Zeoli, 2010). Lack of such care may increase their risk of reoffending or violating conditions of release, which increases the likelihood they will be returned to the institution.



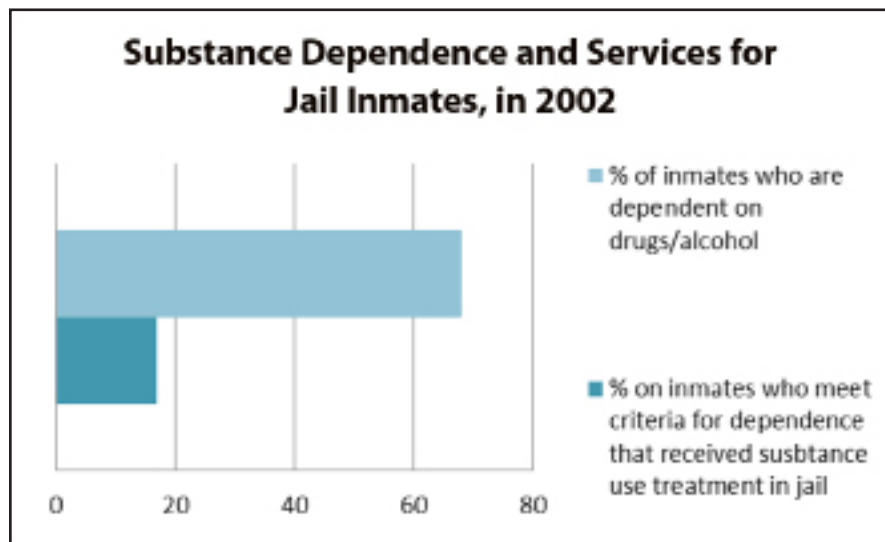
Statistics derived from James & Glaze (2006)

2.3.1.3 Substance Abuse/Misuse Services

Approximately 75% of women entering jails and prisons have a substance use disorder (Brady, Back & Greenfield, 2009; Kubiak, Hanna, & Balton, 2005). Due to the strong correlation between crime and drug/alcohol misuse and the positive effects of treatment in reducing recidivism (Pelissier, Jones & Cadigan, 2007) many prisons and jails provide education and/or treatment regarding addiction. Screening and assessment of substance use disorders take various forms—from asking someone if they have a problem to the use of validated screening instruments for clinical diagnosis. Services within the institution may include educational and/or therapeutic groups, therapeutic communities, or residential treatment. Although substance abuse treatment is becoming more of a routine service within prisons and jails, individuals may not be eligible for services until they are nearing the end of their sentence.

Most importantly, whatever the success of the treatment during incarceration, addiction requires a continuity of care and support, including treatment, after discharge and into the community setting (Pelissier, Jones & Cadigan, 2007).

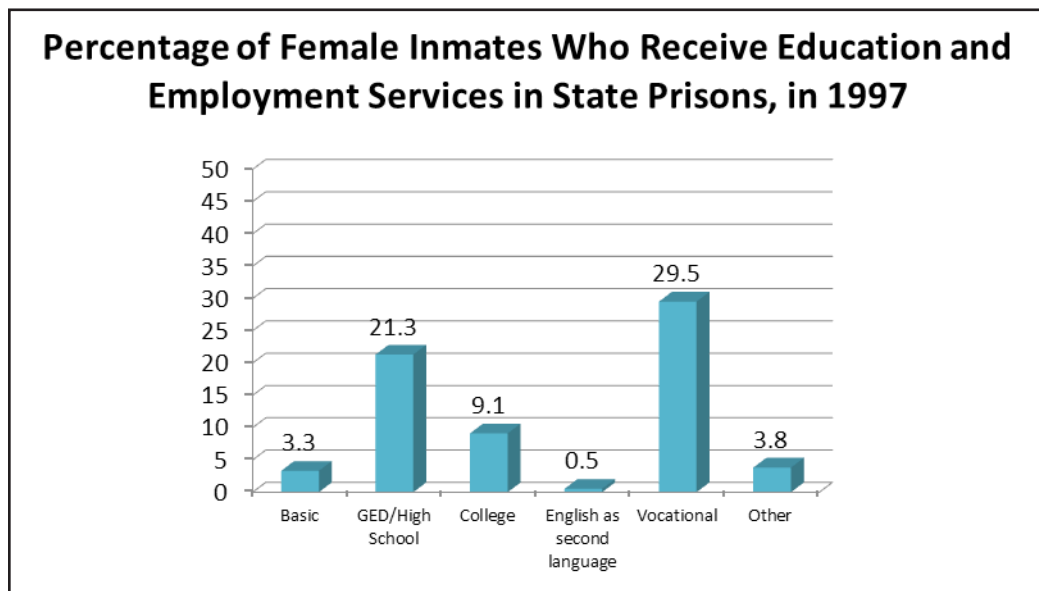
Co-occurring substance use and mental health disorders are quite prevalent among women in the criminal legal system (Zlotnick, et al. 2008). Treatment of these co-occurring disorders demands attention to gender differences in experiences of trauma. Successful interventions using curricula such as *Seeking Safety* (Najavits, 2004) and *Beyond Trauma* (Covington, 2003) have been used within institutional settings with some success (see Battle, et al. 2002; Messina, Grella, Cartier, & Torres, 2010).



Statistics derived from Karberg & James (2005)

2.3.1.4 Educational and Employment Services

Incarcerated women are often in need of educational and employment services. Close to half of incarcerated women have not graduated from high school or received their GED (Harlow, 2003), and 28% are unemployed the month before they enter jail (Karberg & James, 2005). Educational services appear to be the most common service provided in prisons and jails. About 9 in 10 prisons provide educational programs for their inmates. By contrast, only 6 in 10 local jails provide educational programs for their inmates (Harlow, 2003). The most common educational services provided to inmates are GED courses. About 8 in 10 prisons and over half of jails offer high school level or GED courses. Vocational training and special programs designed to train inmates for a job are sparse, with 56% of prisons and 7% of local jails offering these programs (Karberg & James, 2005).



Percentage of Female Inmates Who Received Education and Employment Services in State Prisons, Harlow (2003)

2.4 Conclusion

This section provides an overview of the criminal/legal system in an effort to orient the reader to the various subsystems and processes that are a part of the full continuum known as the criminal legal system. Certainly, volumes have been written about this system and, as such, this is not meant to provide an exhaustive review or take the place of professional legal advice. It provides the reader with general information on the process from arrest to various types of sanctions or sentences to provide a 'scaffold' that they can build upon.

Subsequent sections of this toolkit provide additional information regarding the criminal legal system. For example, Section 3 explores how the incarceration setting can re-traumatize survivors of domestic violence, and Section 4 provides additional information on specific actions advocates can engage in on behalf of and with survivors.

Endnotes

- 1 See, H. ABADINSKY, *LAW AND JUSTICE: AN INTRODUCTION TO THE AMERICAN LEGAL SYSTEM* (1995), at National Criminal Justice Reference Service Library Collection, abstract, <<http://www.ncjrs.gov/app/publications/abstract.aspx?ID=153757>>.
- 2 Carol Jacobsen, Kammy Mizga, Lynn D’Orio, “Battered Women, Homicide Convictions and Sentencing: The Case for Clemency,” *HASTINGS WOMEN’S LAW JOURNAL*, Vol. 18, No. 1, 2007; MICHIGAN WOMEN’S JUSTICE AND CLEMENCY PROJECT, POSITION STATEMENT, THE PROBLEM, at <<http://www.umich.edu/~clemency/position.html>>. (accessed October 24, 2011). See generally, National Clearinghouse for the Defense of Battered Women, <http://www.ncdbw.org>.
- 3 *In re Mason*, (Mich) No. 139795 May 26, 2010, at 16 (holding that an incarcerated parent may provide for a child’s care and is not required to personally care for the child. DHS is required to evaluate whether the incarcerated parent could have provided proper care and custody by granting legal custody to relatives. *Id.* at 20.
- 4 Adopted in part, from Pohl, Fisher-Preda, Benson, & Orloff, Legal Momentum, Battered Immigrants and the Criminal Justice System, *Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants*. Chapter 7, (2004) <<http://www.legalmomentum.org/our-work/immigrant-women-program/breaking-barriers.html>> (accessed Oct.24, 2011).
- 5 Adapted from the Prosecuting Attorneys Association of Michigan, “Steps in a Criminal Case”, Dec. 12, 2010, last modified, <<http://www.michiganprosecutor.org/Process.htm>> (accessed Oct. 24, 2011).
- 6 *Id.*
- 7 RONALD JAY ALLEN, *COMPREHENSIVE CRIMINAL PROCEDURE* at 510 (2d ed. 2005).
- 8 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *SECURE COMMUNITIES PROCESS, FROM ARREST TO RELEASE OR REMOVAL*, <http://www.ice.gov/secure_communities/>. See also, *SECURE COMMUNITIES: GET THE FACTS*.
- 9 MICHIGAN CODE OF CRIMINAL PROCEDURE. ACT 175 OF 1927, CHAPTER V - BAIL.
- 10 MCR 6.610(D)(1)(6).
- 11 MCR 6.610(D)(2).
- 12 MICHIGAN JUDICIAL INSTITUTE, *Monograph 3: Misdemeanor Arraignments & Pleas*, at 3.9–3.10 (3d ed. 2011), See also, MCR 6.610(D)(2), MCL 600.8513(2)(a).
- 13 NATIONAL LEGAL AID AND DEFENDER ASSOCIATION, *A Race to the Bottom, Evaluation Trial–Level Indigent Defense System in Michigan*, at 1 June 2008, (concluding, that the state of Michigan fails to provide competent representation to those who cannot afford counsel I its criminal courts.) <http://www.mynlada.org/michigan/michigan_report.pdf>.
- 14 *Duncan v. Louisiana*, 391 U.S. 145 (1968) (holding that the Constitution guaranteed state defendants the right to a jury trial).
- 15 *Padilla v. Kentucky*, 130S.Ct. 1473 (2010) (reasoning that, “informed consideration of possible deportation can only benefit both the State and noncitizen defendants during the plea-bargaining process. By bringing deportation consequences into this process, the defense and prosecution may well be able to reach agreements that better satisfy the interests of both parties.”) *Id.* at 1486.
- 16 See, MICHIGAN JUDICIAL INSTITUTE, *Sentencing Guidelines Manual* (2010) <http://courts.michigan.gov/mji/resources/sentencing-guidelines/2010%20manual/2010_instructions.pdf>.
- 17 See Immigration & Nationality Act (INA) Sec. 212(a)(2), 8USC Sec. 1182(a)(2), INA Sec. 237(a)(2), 8USC Sec 1277(a)(2); NATIONAL LEGAL AID AND DEFENDER ASSOCIATION, *Common Criminal Grounds of Removal* <<http://www.nlada.org/DMS/Documents/1189086066.64/Criminal%20Grounds%20of%20Removal.pdf>> (accessed Oct. 24, 2011).
- 18 MI Parole Revocation Statute, MCLA 791.240a. See also, MICHIGAN JUDICIAL INSTITUTE, *Criminal Procedure Monograph Series 7, Probation Revocation Flowchart*, at 7.40. <<http://courts.michigan.gov/mji/resources/monographs/monographs.htm>> (accessed Oct. 24, 2011).
- 19 In Michigan, a conviction of Criminal Sexual Conduct (CSC) First Degree, MCL 750.520b(2)(d) or CSC Second Degree, MCL 750.520b(2)(d) requires lifetime electronic monitoring of the offender.
- 20 Angela Tripp, Natalie Holbrook, Raymond Charles Walen, and Robert R. Walsh, AMERICAN FRIENDS SERVICE COMMITTEE AND PRISON LEGAL SERVICES OF MICHIGAN, INC, *Tolerating Failure: The State of Health Care and Mental Health Care Delivery in the Michigan Department of Corrections*, (2007) at <http://www.prisoneradvocacy.org/downloads/tolerating_failure_sans_title.pdf>.

Section 3: How Domestic Violence May Impact Women Before, During and Beyond Incarceration

3.1 Violence Against Women Is Prevalent and Takes Many Forms

Prior to, during, and after incarceration, many women experience some form of interpersonal violence. While this toolkit focuses primarily on survivors of domestic violence (also called intimate partner violence or IPV), it is important to be aware of the many forms of violence women are at risk of experiencing, as these can have devastating consequences on women's physical and emotional well-being and behavior over time.

Throughout their lifetimes, women are at risk of experiencing various forms of male violence, including childhood physical or sexual abuse, adult sexual violence, sexual harassment, domestic violence, stalking, and community violence. Sadly, many women suffer multiple forms of victimization, which is a form of "cumulative trauma" (Kubiak, 2005). As the number of victimizations increase in women's lives, so too does their risk of later experiencing negative mental and physical health outcomes (Campbell, Greeson, Bybee & Raja, 2008).

This section is intended for those working within the criminal legal system, or those in related human service organizations, who are seeking information on the dynamics of intimate partner violence and how the effects of abuse affect women across their life course, including their involvement in the criminal legal system.

3.1.1 Domestic Violence/Intimate Partner Violence

Domestic violence is a pattern of coercive control that may include psychological abuse, sexual coercion, or economic abuse, and that is punctuated by one or more acts of frightening physical violence, credible threat of physical harm, or sexual assault (Bancroft, 2003; U.S. Department of Justice, 2011).

In spite of the widespread misconception that "ending the relationship will end the violence," it is quite common for batterers to continue or even escalate their violence after the relationship ends. Leaving represents a threat to the batterer's control; he may escalate his threats or abuse as a way to attempt to regain or maintain that control.

Understanding the power dynamics underlying domestic violence is essential. Domestic violence is not “mutually violence”, or a “dysfunctional relationship.” It is important to examine whether a pattern of controlling and coercive behaviors is being used by one partner against the other (most commonly by a man against a woman), and whether one person was acting in self-defense. Often the battered partner will “fight back,” allowing the batterer to paint the picture that the partner is the aggressor or the violence is mutual.

Domestic violence can occur in relationships between partners who are married, in a civil union, dating, living together, separated, or divorced, regardless of race or ethnicity, age, sexual orientation, religion, socioeconomic status, ability, or education level. *Further, batterers often escalate their violence after the relationship ends.* In some cases, men *begin* the abuse when the relationship ends (Kurz, 1996), while other men continue or even escalate their abuse (Bybee & Sullivan, 2005; Fleury, Sullivan & Bybee, 2000).

Research has shown that assault after the relationship ends is not at all uncommon:

- It is often more dangerous for battered women after they leave a violent relationship. Although divorced and separated women compose only 10% of all women in this country, they account for 75% of all battered women. Divorced and separated women report being physically abused fourteen times as often as women still living with their partners (Raphael, 2003).
- One study found that a woman’s attempt to leave was the main factor in 45% of the homicides of a woman by a male partner (Block, 2003).

Quick Facts About Domestic Violence:

- **One in every four women** will suffer from domestic violence in her lifetime (Tjaden & Thoennes, 2000).
- An estimated **1.3 million women** experience physical assault by an intimate partner each year (Tjaden & Thoennes, 2000; Tjaden & Thoennes, 2006).
- **Women ages 20-24** are at the greatest risk of experiencing non-fatal intimate partner violence. (Catalano, 2007).
- **Not all women are at equal risk for experiencing domestic violence.** Many women who have been convicted of crimes are victims of domestic violence. For example, some studies indicate that **71%** of incarcerated women have experienced intimate partner violence (Green, Miranda, Daroowalla, & Siddique, 2005).
- Almost one third of female homicide victims **are killed by an intimate partner.** (Rennison, 2003).
- On **average more than three women a day** are killed by their husbands or boyfriends in the United States (Catalano, 2007).
- Domestic violence is one of the most chronically underreported crimes (Catalano, 2004).

3.1.2 Understanding Domestic Violence in Terms of Power and Control

Domestic violence is characterized as a *pattern of abusive behaviors* that focus on *controlling and having power* over an intimate partner. A common way to illustrate domestic violence is to use the *Power and Control Wheel* (see figure) to display how abusers often use multiple types of abuse to strip victims of their autonomy. Common tactics include coercion and threats, intimidation, emotional abuse, economic abuse, isolation, using children (for example, threatening to harm children, or keeping tabs by “grilling” the children during visits), blame, and abusing privilege. These behaviors are illustrated as “spokes” on the wheel, held together by the threat or actuality of physical and sexual violence.

Physical abuse does not have to occur for a woman to be experiencing domestic violence. Often an abuser relies on the threat of violence, which can be against the woman, her children or other family members, or her pets in order to control and have power over his partner.



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

3.1.3 Sexual Violence

According to the Centers for Disease Control and Prevention (2009), “sexual violence (SV) is any sexual act that is perpetrated against someone’s will. SV encompasses a range of offenses, including a completed nonconsensual sex act (i.e., rape), an attempted nonconsensual sex act, abusive sexual contact (i.e., unwanted touching), and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal sexual harassment).” Intimate partner sexual assault is an area that is underreported and it is not uncommon for a batterer to use sexual assault or forced prostitution as a means of further controlling his partner. Batterers may also intentionally infect women with sexually transmitted diseases or threaten to do so if women do not comply with their demands.

Sexual assault includes a variety of unwanted sexual behaviors that are attempted or completed against a victim’s will or when a victim cannot consent because of age, disability, certain contexts or circumstances, or under the influence of alcohol or drugs.

3.1.4 Other Types of Violence

3.1.4.1 Sex Trade–Related Victimization

The term *sex trade* includes a continuum of behaviors that involve using sex as a commodity in exchange for money, rent, food or drugs. Although individuals from all walks of life may engage in this behavior to a certain extent, women who trade sex as a matter of survival are more prone to victimization and degrading treatment.

Women who cope with prior abuse or trauma by using, and then becoming addicted to drugs, may trade sex for drugs. In these exchanges, women are often brutalized, degraded or humiliated sexually (Forney, Inciardi, & Lockwood, 1992; Fullilove, Lown & Fullilove, 1992; Fullilove, Fullilove, & Smith, 1993).

Quick Facts About Sexual Assault:

- Sexual violence may take place in any type of relationship, but most victims of sexual assault know their perpetrators (Tjaden & Thoennes, 2000).
- Women are far more likely to be victims of sexual violence than are men (Catalano, 2004).
- Sexual violence usually occurs in childhood (Tjaden & Thoennes, 2006).
- Sexual assault or forced sex occurs in approximately 40-45% of battering relationships (Campbell, et al. 2003).
- Rape and sexual assault occur in prison. The Prison Rape Elimination Act (PREA) investigation in 2003 found that 13 percent of all inmates had been raped in U.S. prisons and jails. (National Prison Rape Elimination Commission, 2009) (For the full Prison Rape Elimination Commission Report, go to: <http://www.ncjrs.gov/pdffiles1/226680.pdf>).

Some women engage in sex as their means of employment. Often women are coerced into this activity, or believe they have no other financial recourse. Women who are *sex workers* are often sexually victimized by their pimps or customers, and view this as an “occupational hazard” of the work. Many battered women are forced into the sex trade by their intimate partners or forced to barter sex for necessary medicine, food or rent money to insure the well-being of her children. This tactic is again designed to further humiliate and control the survivor. It also increases her risk of being arrested.

3.1.4.2 Child Abuse and Sexual Abuse

Many women who have been abused by an intimate partner were first abused as children (Finkelhor, Ormrod, & Turner, 2007; McIntyre & Widom, 2011; Wyatt, Axelrod, Chin, Carmona, & Loeb, 2000). Further, women in prison are three times more likely than men to report having experienced sexual or physical abuse before the age of 18 (Harlow, 1999).

Being abused during childhood may also increase the likelihood that women will perpetrate violence, which increases their risk of arrest (Feerick, Haugaard, & Hein, 2002; Langhinrichsen-Rohling, Neidif, & Thorn, 1995; Sullivan, 2005; Siegel, 2000).

Quick Facts about Child Abuse:

- 90% of child sexual abuse victims know the perpetrator in some way; 68% are abused by family members.
- Child abuse occurs at every socioeconomic level, across ethnic and cultural lines, within all religions and at all levels of education.
- Over 60% of people in drug rehabilitation centers report being abused or neglected as a child.
- About 80% of 21 year olds that were abused as children met criteria for at least one psychological disorder.
- Abused children are 25% more likely to experience teen pregnancy.
- Children who have been sexually abused are 2.5 times more likely to abuse alcohol.
- Children who have been sexually abused are 3.8 times more likely develop drug addictions.

(ChildHelp, 2011)

3.1.4.3 Sexual Harassment

Sexual harassment is behavior by someone with power over another, who makes degrading remarks, gestures, or jokes, or who engages in unwanted touching, grabbing, pinching, or brushing against someone in a sexual manner. Sexual harassment can occur in a variety of settings. For example, a landlord can sexually harass a female tenant, and a woman who has little income and/or has a conviction history may be particularly vulnerable to this due to her lack of housing options. Research on sexual harassment and rental arrangements has found that sexual coercion is the most common form of sexual harassment (Tester, 2008).

3.1.4.4 Community Violence

Community violence is generally defined as consistent or frequent exposure to weapons, crime and violent acts. A victim of community violence could either be a witness to or a victim of direct community violence. Living in poor neighborhoods with few resources increases the possibility of being a victim of community violence. The impact of community violence on individuals can be either emotional (PTSD, depression) or behavioral (anti-social, low academic performance, engaging in criminal behavior). Being a victim of community violence has also been tied to other forms of victimization, such as domestic violence (Jenkins, 2002; Overstreet, 2000).

3.1.4.5 Trafficking

Human trafficking laws differ from jurisdiction to jurisdiction, but generally will look to whether the individual has been recruited, transported, transferred, harbored, or received by means of coercion, abduction, fraud, deception, or abuse of power for the purpose of exploitation, usually in the form of forced labor including prostitution (NCADV, 2006).¹ This can include a wide range of forms of exploitation, which can include domestic relationships such as mail-order brides or illegal adoption schemes.

Domestic violence survivors who have also been trafficked are subject to many complications. First, their visa status will be questionable if they have been brought into the U.S. unlawfully. They can apply for a special form of visa called a T-Visa, but many may not be aware of this and the resources available to these survivors (both private and community) will be limited. Second, these survivors will face heightened security concerns, as most trafficking is performed by organized crime groups. The individual will likely be threatened not only by their abuser, but also by members of the organized crime group who trafficked them. Additionally, persons aiding the survivor and the survivor's family may face threats by organized crime members in an effort to intimidate or strike back at the survivor.²

3.2 Relationship Between Abuse and Criminal Pathways

Pathways to crime are influenced by many factors—one of which is domestic violence. Richie (1996) notes that these pathways to criminal activity include:

- Coercion by abusers to commit crimes
Women often feel that their families depend on them for care giving and providing essential goods. Some batterers use this internalized expectation and the idea that women will be treated more “gently” by the criminal legal system to coerce them into economically-driven crimes. In other cases, women may be arrested and convicted of crimes committed primarily by their abusers, but in which they took part out of fear for themselves or their children.

- Substance abuse connected to the abuse
Some women use illegal substances as a way to cope with abuse, appease their batterers who pressure them to do so, or to prevent abuse. As changes in drug policies have occurred, more women have been arrested, convicted, and incarcerated for drug-related charges.
- Poverty connected to the abuse
Common abuse tactics include stealing women's money, destroying their credit or ability to work, or withholding finances and resources from them. Some women may turn to criminal behavior to obtain basic needs for themselves and their children.
- Retaliation for past abuse taken out on someone else
Due to previous abuse by a partner or significant other, women often experience anger, shame, physical and emotional injury, and depression. They may respond to past abuse by enacting their rage onto others. They may have the belief of "I will never let someone abuse me again." In some cases, the violence they exhibit may be considered extreme for the current situation, but is actually connected to their past trauma experiences (e.g., Post-Traumatic Stress Disorder).
- Sexual abuse (as a child and/or as an adult) as a vulnerability for later sexual exploitation and illegal sex work
Due to previous sexual abuse as a child (by a family member, community member, and/or stranger) as well as during adulthood (by a partner or another adult), sexuality is often a vulnerability for women. It can become a tool for economic gain in the form of sex work or prostitution, but often involves male control or coercion (either by their pimps or their abusive partners). Some women who have experienced abuse either during childhood or adulthood and are involved in sex work express a lack of control, power, and autonomy over their lives.
- Self-defense or fighting back against an abuser
A battered woman may use violence against her partner in self-defense of his violence or a threat of violence. Many women (especially those marginalized or oppressed) have a sense of disconnection from social services and social institutions due to prior negative experiences. They may feel as though they have only themselves to rely on for protection.

When law enforcement and the courts fail to “distinguish violence used by an ongoing victim of battering from the systematic use of violence and threats used by a batterer,” women are treated like—or even more harshly—than their perpetrators, resulting in unjust consequences (Greipp, Meisner, & Miles, 2010, pg. 2).³

The relationship between abuse and criminal pathways is also influenced by women’s early childhood and family experiences, cultural and racial identities, social norms, experiences of other forms of violence and trauma, and negative responses from social institutions. One or many of these factors make women particularly vulnerable to involvement in the criminal legal system. For example, African-American women are less likely to ask for and/or receive police intervention with domestic violence

and are disproportionately vulnerable to arrest, conviction and incarceration. Richie (1996) discusses how African-American women are negatively stigmatized, marginalized, and oppressed in society, which influences the disproportionately high arrest and conviction rates for African-Americans. Therefore, Richie stresses, African-American women are more likely to be skeptical of 'help' from law enforcement.

In fact, due to differing relationships with, and availability of, law enforcement in some communities, both African American and Latina women are less likely to seek out this type of intervention for domestic violence (Fine & Weis, 1998). Law enforcement might not be seen as helpful source to some communities based on a historical legacy of racist intimidation, harassment and persecution within particular racial communities. As a result, some people of color might have developed a mistrust or "healthy paranoia" of people associated with the criminal legal system. The loss of this option may limit survival strategies women use to cope with violent situations. Similarly, immigrant women may not seek legal help either because of fear of their own or their partner's deportation, fear of law enforcement from their country of origin, or because their partner has advised them of the brutality of police.

Additionally, many immigrants, especially refugees, have traumatic experiences in their past that do not cease to influence them simply because they have relocated to a new country. These often include histories that we would consider domestic violence, yet are overlooked given the extreme levels of general societal violence and chaos in countries of origin. Further, refugees who are aware of gross mistreatment of incarcerated persons in their countries of origin may believe their batterers will face similar abuse in U.S. prisons and may hesitate to seek help accordingly (Human Rights Watch, 1996). Finally, for immigrants who are in the U.S. based on fear of persecution in their home countries, the prospect of deportation is especially frightening.⁴

For more information on how abuse is a risk factor for criminal activity, see *Women's Experiences of Abuse as a Risk Factor for Incarceration* by Mary Gilfus for the Applied Research Forum of VAWnet (2002).⁵ Also, see *Understanding the Links Between Violence Against Women and Women's Participation in Illegal Activity* by Beth E. Richie (2002).⁶

3.3 Effects of Victimization on Women's Well-Being

Domestic violence victimization can have wide ranging and long-term effects. Women with abusive partners are at an increased risk for developing a number of mental health problems, including depression, anxiety and PTSD (Barnett, 2000; Bell, Goodman, & Dutton, 2009; Bennice, Resick, & Mechanic, 2003; Campbell, et al. 2008). Suicide is also a risk for women who have been battered (Leiner, Compton, Houry, & Kaslow, 2008). Women who suffer from PTSD (an anxiety disorder stemming from exposure to trauma) are 15 times more likely than non-sufferers to attempt suicide (Hughes & Jones, 2000).

3.4 How Women Cope with Trauma and Victimization

3.4.1 Psychological Consequences of Trauma and Victimization

A *trauma* is any severe emotional, mental or physical stress that results in lasting psychological or physical symptoms. Domestic and sexual violence are traumatic experiences that can have lasting consequences for women's psychological and physical well-being. Women who have also experienced other forms of trauma, such as childhood physical or sexual abuse, are at even higher risk of experiencing psychological disorders post-abuse.

Scientists are beginning to understand that exposure to traumatic events can sometimes cause permanent changes within our brains (Lisak, 2002). For example, experiencing a traumatic event can alter transmission and neural pathways that impact a woman's ability to remember the event and/or how she might respond to dangerous situations or subsequent trauma. Similarly, changes in specific neural transmission can increase susceptibility to substance use and misuse.⁷

3.4.1.2 Common Responses to Trauma: Intrusive Memories, Flashbacks, Arousal & Avoidance

Women who experience a traumatic event, such as domestic violence and/or sexual assault, often experience effects from the abuse like intrusive memories, flashbacks and generalized fear. While different women experience different consequences after traumatic exposure, common symptoms may include:

- Having upsetting thoughts or memories of the abuse
- Having recurrent nightmares of the abuse
- Feeling like the abuse is happening again when it is actually not, also known as a "flashback."
- Having feelings of severe distress when reminded of the abuse
- Experiencing physical reactions when reminded of the abuse, such as a pounding heart, rapid breathing, sweating, stomach aches and headaches

Many women use substances to cope with the depression and triggers of past abuse. This coping mechanism increases their likelihood of recidivating and violating their probation and parole (Richie, 1996).

In addition, women may experience other symptoms related to the fear they experienced and their worries about it happening again. Some other common symptoms of intimate partner victimization include:

- Having a difficult time falling or staying asleep at night
- Having difficulty concentrating on tasks
- Feeling more irritable or having anger outbursts
- Becoming easily startled, or seeming jumpy after hearing loud noises
- Feeling constantly on guard, or that danger is always around the corner

- Attempting to avoid thoughts, feelings or conversations about the abuse
- Avoiding places or people that are reminders of the abusive experience
- Becoming fearful of places or people that are reminders of the abusive experience
- Losing interest in activities that were enjoyable in the past
- Feeling depressed, emotionally numb, and distant from others

When these symptoms persist over time they are considered symptoms of Post-Traumatic Stress Disorder (PTSD). Even women who do not suffer from clinical depression or PTSD as a result of domestic violence can find that they have difficulty with a number of daily activities, such as sleeping, eating or concentrating. It is important to remember that many women will be experiencing these symptoms while still continuing to be abused, which may further exacerbate the severity and frequency of symptoms.

3.4.2 Common Coping Strategies

3.4.2.1 Common Coping Responses to Stress, Trauma, and Victimization

Coping refers to the way individuals handle their stress. Usually our individual techniques for dealing with stress (often referred to as our *coping mechanisms*) are successful, but sometimes the type of stress experienced overwhelms an individual's personal coping capacity.

Women use a variety of coping mechanisms to deal with stress in their lives. Coping mechanisms are not inherently “good” or “bad”—they are behaviors we engage in to assist us in getting through difficult times. Coping mechanisms can be helpful in some situations and unhelpful in others. For example, one wouldn't do yoga in the middle of a meeting. Other coping mechanisms may be effective if employed infrequently or in moderation, but ineffective if used excessively. For example, drinking a glass of wine may feel calming, while drinking an entire bottle of wine may leave the person incapacitated; a daily exercise routine can reduce stress, while excessive exercise can lead to bodily injury. Usually, when any coping strategy is used in an extreme way, it can become unhealthy.

Women who have experienced childhood abuse, domestic violence and/or sexual assault are more likely to misuse substances than women who have not (Schneider, Burnette, Hgen, & Timko, 2009; Smith, 2010). In fact, women who have been abused are 15 times more like to abuse alcohol and 9 times more likely to abuse drugs than women who have not been abused (Shipway, 2004). Drug and alcohol use/misuse have been linked to coping with the stress of abuse, including minimizing flashbacks and triggers (Covington, 2008, Najavits, 2001; Najavits, 2007; Richie, 1996). Women may also use substances to self-medicate their anxiety and depression. Unfortunately, women who use alcohol or other drugs are at increased risk of experiencing, or re-experiencing, assaults than those who do not (Bonomi, et al. 2006; El-Bassel, Gilbert, Wu, Go, & Hill, 2005; Kilpatrick, Acierno, Resnick, Saunders, & Best, 1997; Testa, Livingston, & Leonard, 2003).

A woman's use of substances to cope with her victimization and/or subsequent mental health disorders may place her at risk for recidivism and returning to jail or prison. Drug testing is a common condition of bond, probation or parole. Using substances is almost always a violation of probation and

parole conditions and will be viewed as non-compliance by criminal legal professionals. It is helpful for women to begin to understand the relationship between trauma and substance use and misuse so that they can develop other coping strategies that are not as 'risky' to their freedom and safety.

3.4.2.2 Coping with Re-Victimization and Triggers While Incarcerated

Life events, especially traumatic life events (including domestic violence) can be overwhelming. Many women find that their usual coping mechanisms do not work when such events occur.

One major life event—incarceration—presents women with a new environment, and they have to learn to adjust, especially regarding their daily life events. Many decisions about their living arrangements, health, mental health, daily food options, and personal freedoms are made for them and are now outside of their control. As a result, some women describe “shutting down,” “shutting off,” or “building up a wall” in order to stay safe emotionally, mentally, and physically within jails and prisons. This kind of shutting down is often referred to as avoidance-focused coping. Individuals utilize these types of disengagement strategies to manage stress if they feel that they cannot change the situation or outcome. Many women with abusive partners have resorted to avoidance coping when they have felt unable to prevent the violence being perpetrated against them (Straight, Harper, & Arias, 2003).⁸

“I’ve been in prison since I was 17. I have been abandoned by my family members, and anyone else who knew me out there. Being in prison forces you to use everything that you have just to survive. From day to day, whatever, you know it’s very difficult. It’s difficult to show compassion, or to have it when you haven’t been extended it.”

—Owen, 1998

Women who are incarcerated may have to cope with new abuses that occur within the institutional setting. In addition, situations or circumstances within the prison may remind them of past abuse which in turn may trigger an emotional and painful memory of the previous abuse.

Prisons and jails are settings in which there is a focus on controlling and monitoring the behaviors of inmates. These incarceration settings are considered closed systems, meaning that they function with their own distinct rules in isolation from the outside environment (Hearn & Parkin, 2001). For example, in some prisons, there are routine policies such as observing activities like bathing/toileting and conducting strip searches after visitation.⁹

For incarcerated women, this closed and restricted environment can carry the risk of victimization and re-victimization by staff and other inmates. Sometimes victimization is an active ‘event’ where an individual is abusing another, but in some instances policies and procedures (e.g., strip searches) can feel re-victimizing as well. *Abuse does not actually have to be occurring for the threat and fear of violence to be present.* The environment’s dynamics suggest a great possibility for such abuse to occur, and promote a sense of vulnerability and threat for some women.

Some women are subjected to abuse within prisons and jails, ranging from name calling to sexual assault. This abuse can originate from staff¹⁰ and/or from other inmates.¹¹ Thus, incarcerated women may face abuse in the institution, as well as extreme frustration and helplessness with their inability to leave or change the situation. Women of color may be particularly vulnerable to abuse due to increases in punitive behavior among guards coupled with a rise in arrests among women of color (Bhattacharjee, 2001).

Also, many women are reminded of previous abuse while incarcerated. The incarceration setting itself can replicate several aspects of an abusive relationship. The “reminders” of abuse are called *triggers*, because they ‘trigger’ the same physiological or emotional reactions women experienced when being abused. Incarcerated women may be reminded of prior abuse as they “walk on eggshells” to avoid upsetting those in authority, or when their activities are highly controlled. Being criticized or ridiculed can bring back memories of past abuse, as can ongoing feelings of fear and helplessness.

“[Officers will] get real petty, call us bitches and things you wouldn’t believe. Some of the young officers are into their power, they stay in the bubble. You know there are some officers that are personal with you, say, “Hi, how are you doing this morning, here’s your breakfast,” but not everybody.”

—Owen, 1998

Incarcerated survivors of domestic violence may also use the same coping tactics within prison they used to survive prior abusive situations. Depending upon the coping strategy used, they may or may not be successful within the prison environment, due to their limited power in this setting. Warshaw, Brashler and Gil (2009) describe searching for a coping strategy that matches a particular circumstance:

“Many women initially attempt to remedy their situation themselves, by talking, seeking help, fighting back, trying to change the conditions either that they perceive or are told cause the abuse. When those attempts fail, they may retreat into a mode that appears more passive and ‘compliant,’ but which may actually reflect how they have learned to reduce their immediate danger. When those tactics no longer work, they may learn to dissociate from feelings that have become unbearable, perceiving that even if they can’t change what is happening outside of them—or face increasing danger or death if they try to leave—they can at least try to change their own responses and ‘leave the situation’ emotionally” (Warshaw, Brashler & Gil, 2009, p. 161).

In replicating coping strategies used during abuse situations, some women who are incarcerated may try to focus on problem-solving techniques (e.g., filing a grievance or reporting the abuse to officers), while others may try to avoid dealing with it, becoming seemingly more compliant (e.g., being quiet, excessively obedient). Some women may “shut off” emotionally and respond violently to perceived threats. Women may try one or many different coping strategies and may alter them based on their specific needs during the situation.

Incarcerated women have to weigh the short-term and long-term ramifications of their coping strategies within the setting they occupy. Overall, their coping strategies, whether problem solving or avoidant, are focused on the objectives of survival and decreasing pain in the current situation. Often, the 'selection' of a coping strategy is not a conscious choice and women may be unaware that they are making an active decision. Therefore, it is helpful for CL personnel and DV staff to help women understand this process and how some strategies may or may not be effective in the prison setting—or when they return home.

Women who have been victimized may perceive greater danger or reduced power in circumstances that remind them of past abuse. When they feel this greater risk, they may react in various ways: feeling defensive and/or angry, shutting down emotionally, or overly trying to please authority.

3.5 Victimization During Incarceration

Within the institutional setting, physical and sexual assaults are perpetrated—as well as acts of intimidation and coercion. The perpetrators of these acts can be other inmates, correctional staff, or even volunteers coming into the prison. In addition, perpetrators residing in the community may still be intimidating, harassing, or threatening women. Irrespective of the perpetrator, the dynamics for the victim reporting or defending against such abuses within the institutional setting are fraught with many complications. Who do you report to? How do you report? Are you jeopardizing your safety more by reporting? Who can protect you from retaliation? What about threats against your children or family in the community—who can protect them?

3.5.1 Experiencing the Institution as Abusive

Even when no overt physical violence, sexual violence, or intimidation occurs, the incarceration setting often reminds women of abusive relationship dynamics. Prisons and jails are paramilitary organizations that use authoritative structures of rules and comportment. The result is that inmates' behavior is strictly regulated and freedom of movement is restricted. Correctional staff have power over inmates' decisions and physical whereabouts.

Although these power dynamics are similar within male and female prisons/jails, women have gender-specific experiences prior to incarceration that can create a particular sensitivity to institutional practices. *Institutional dynamics of power and control can replicate the dynamics that are present in an abusive relationship.* In other words, the rules, structure and power dynamics within the institutional setting often remind women of the powerlessness and helplessness they experienced when in relationships with batterers. In fact, routine practices within the institution often 'trigger' a traumatic memory for women of past abuse.

Some of these routine practices include:

- Pat downs, particularly cross-gender pat downs
- Strip searches
- Dental and medical care—particularly gynecological exams
- Lack of privacy—viewing by staff of dressing, bathing, toileting
- Daily control by correctional staff—being told what to do and when to do it
- Dependency on another for survival

In addition to the setting itself being perceived as threatening, women may experience more overt abuse, as described below, during incarceration.

3.5.2 Abuse During Incarceration by Someone in the Community

Domestic violence can still continue to occur through interactions with abusers from the community, even when a woman is incarcerated. Women may want to or feel a need to maintain contact with their abusers while incarcerated. Some women continue to have positive feelings for their abusers. Even if they do not, there are many reasons why a woman maintains contact with her abuser during incarceration. Her abuser may be her only connection to the outside world and she may be dependent upon him for money, clothes, access to her children and housing upon release. It is important to remember that maintaining contact increases ways for abusers to control women, so strategies need to be put into place to protect women.

Ways that abusers continue to abuse women who are incarcerated include:

- Not allowing her children to visit her
- Threatening to terminate parental rights or relocate the children
- Degrading her when visiting her (especially using her status as an inmate against her—*“You’re a no good convict. You’ll never be more than a screw-up.”*)
- Sending letters and communication that are emotionally abusive, threatening, and/or intimidating
- Portraying her inaccurately and/or negatively to her children, family, and friends
- Telling her lies about happenings outside of the institutional setting
- Invalidating her memory and her experiences of previous abuse
- Communicating threats (*“I’m going to hire someone to hurt you in there;”* *“When you get out, I’ll punish you for what you did to me.”*)

While the institutional setting may protect her from her abuser physically harming her, she may still have contact (wanted or unwanted) from the abuser that is painful, threatening, and damaging. Specific advocacy strategies to protect incarcerated women from this form of abuse are addressed in Section 4 of this toolkit.

3.5.3 Abuse During Incarceration by Staff

The extent of physical abuse, threats, and intimidation committed by corrections staff against inmates is difficult to document. Scant research on sexual abuse perpetrated by staff suggests that such abuses do occur. However, a 2007 study by the Bureau of Justice of both male and female prisons found that sexual abuse of prisoners is widespread and rates vary (0% to 16%) from institution to institution.

In fact, 4.5 percent (or 60,500) of the 1.3 million inmates held in federal and state prisons reported sexual abuse in the previous year (Beck & Harrison, 2007). Prisoners reported more abuse from staff than by other inmates, but both types were found. A similar survey in county jails found that nearly 25,000 jail detainees reported sexual abuse in the past six months (Beck & Harrison, 2007). Other studies, specific to women, also found that abuse varies from one prison to another, with up to one in four inmates being victimized (Struckman-Johnson & Struckman-Johnson, 2002).

The passage of the Prison Rape Elimination Act of 2003 has brought issues of sexual abuse within prisons to the forefront. As part of the Act, the National Prison Rape Elimination Commission investigated sexual abuse within prisons.¹² One example of sexual abuse of female prisoners in Michigan is highlighted below.

Michigan Class Action Against the Michigan Department of Corrections

During 1993 to 1996 the Michigan Women's Commission and the U.S. Department of Justice Amnesty International and Human Rights Watch (Human Rights Watch, *USA: Nowhere to Hide: Retaliation Against Women in Michigan State Prisons*, 1 July 1998) released reports on the sexual abuse of female prisoners in Michigan.

In 1996, a lawsuit was filed against the Michigan Department of Corrections (MDOC) alleging that female inmates' civil rights were violated under Michigan's Elliot Larsen Civil Rights Act (Neal vs. the Michigan Department of Corrections). Michigan's correctional institutions are places of "public service" in which sex-based discrimination is prohibited. Charges levied by inmates against prison guards included rape, sodomy, oral sex, cross-gender pat downs and unwarranted observation during showering and dressing. As many as fifty guards were implicated directly.

In 2008, after 12 years of litigation and three weeks of a jury trial, the jury unanimously awarded millions of dollars to the plaintiffs representing the class of female prisoners. 'Neal' became the first case to affirm that the Michigan Civil Rights Act applies to prisoners.

"At the end of the trial, the jury offered a statement to the plaintiffs apologizing for the physical and mental manipulation they were forced to endure. In a gesture considered extremely rare, according to attorneys litigating the 'Neal' case, the jurors stated: "We, the members of the jury, as representatives of the citizens of Michigan, would like to express our extreme regret and apologies for what you have been through."¹³

For specific information related to advocacy for incarcerated women experiencing sexual assault or harassment within prisons and jails, see Section 4.4.

3.5.3.1 “Consensual” Sex Between Corrections Staff and Inmates

Sometimes women in prison may feel that they want to have a sexual relationship with a particular staff person. This may stem from a sexual desire or romantic feelings for the staff person, or could be seen by the woman as a means to obtain favorable treatment or that the woman sees this as her only viable option for a child. In these instances, both the woman prisoner and the staff person may claim that a sexual encounter was ‘consensual.’ *In most states, any type of sexual relationship or behavior between staff and inmates is considered illegal and criminal.*¹⁴

Courts have ruled that it is not possible for an imprisoned person to give ‘consent’ when power dynamics between staff and inmate are so clearly imbalanced¹⁵. Even if a relationship starts as romance, it can quickly shift. This policy of no consent also protects women who may not feel they have the right to say no because they feel coerced into sexual acts in order to receive necessities, have protection, or to obtain goods.

3.5.4 Abuse During Incarceration by Other Inmates

Women may be forced or coerced to perform certain acts by other inmates. They may also experience the dynamics of domestic abuse, physical intimidation, coercion, and sexual assault as a result of another inmate’s behavior toward them. They may not feel safe reporting such incidents, and/or may not know a safe way to fight back or protect themselves, and/or they may not be heard by staff, especially if they do not have tangible proof.

This section has provided an overview of women convicted of a criminal offense, including abuse that they may endure during incarceration. Specific advocacy for women experiencing the types of abuse discussed above is outlined for DV staff in Section 4.4.7 *Safety Planning with Incarcerated Women*. Information for CL staff is provided in Section 5.1.1.3 *Protection Women From Abuse During Incarceration* and Section 5.1.2 *Protecting Women from Abuse During the Probation/Parole Period*.

Endnotes

- 1 Trafficking Victims Protection Act of 2000. 22USC §7101
- 2 See generally, Amy O'Neil Richard, CENTRAL INTELLIGENCE AGENCY, CENTER FOR THE STUDY OF INTELLIGENCE, *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime*, November 1999, <<https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/trafficking.pdf>>.
- 3 Greipp, Meisner, & Miles, *AEQUITAS, Intimate Partner Violence Victims Charged with Crimes: Justice and Accountability for Victims of Battering Who Use Violence Against Their Batterer*, (Dec. 2010) <http://www.aequitasresource.org/Intimate_Partner_Violence.pdf>.
- 4 CATHOLIC LEGAL IMMIGRATION NETWORK, INC., "The Needless Detention of Immigrants in the United States," Report 4, <<http://cliniclegal.org/sites/default/files/atrisk4.pdf>>.
- 5 Available online at <http://new.vawnet.org/Assoc_Files_VAWnet/AR_Incarceration.pdf>.
- 6 Available online at <<http://www.ncjrs.gov/pdffiles1/nij/grants/199370.pdf>>.
- 7 Dr. David LISAK, *THE NEUROBIOLOGY OF TRAUMA*, (2002) <<http://www.legalmomentum.org/assets/pdfs/neurobiology.pdf>>.
- 8 See generally, *WOMEN IN PRISON: GENDER AND SOCIAL CONTROL* (2003), (Barbara Zaitzow and Jim Thomas ed.). This book covers a variety of topics, from women's experiences entering an institution and trauma coping strategies to the violence women face while incarcerated.
- 9 For examples of controlled disciplinary environments and policies, see Lori Girshick. "Abused Women and Incarceration," *WOMEN IN PRISON: GENDER AND SOCIAL CONTROL*, (Barbara Zaitzow and Jim Thomas eds.). See Generally, SMITH, S. M. remarks, "A Justice Analysis of Inmate Grievance Processes in a California Women's Prison" paper presented at the annual meeting of the The Law and Society Association, Renaissance Chicago Hotel, Chicago, IL, 2010-11-15 (paper available at <http://citation.allacademic.com/meta/p_mla_apa_research_citation/4/0/7/2/7/p407277_index.html>; HUMAN RIGHTS WATCH. *All Too Familiar: Sexual Abuse of Women in State Prisons in the United States*. (1996) <<http://www.aclu.org/hrc/PrisonsStates.pdf>>.
- 10 The National Prison Rape Elimination Commission Report at: <<http://www.ncjrs.gov/pdffiles1/226680.pdf>>.
- 11 OWEN, B.A. "IN THE MIX": *STRUGGLE AND SURVIVAL IN WOMEN'S PRISON*. Albany, New York: State University of New York Press. (1998).
- 12 See supra note 10.
- 13 This section was adapted from: Eric T. Campbell, *Women Prisoners' Lawsuit Addresses MDOC Abuse*, *THE MICHIGAN CITIZEN* January 4, 2011, <<http://michigancitizen.com/women-prisoners-lawsuit-addresses-mdoc-abuse-p6614-1.htm>>. Also see Douglas J. Levy, *Mich. to Pay \$100M for Inmate Abuse*, *MICHIGAN LAWYERS WEEKLY* at <<http://www.correctionsone.com/jail-management/articles/1859953-Mich-to-pay-100M-for-inmate-abuse/>>.
- 14 Gary Hunter, *Sexual Abuse by Prison and Jail Staff Proves Persistent*, *Prison Legal News*, Nov. 7, 2011 <<https://www.prisonlegalnews.org/>>.
- 15 *In Farmer v. Brennan*, 511 U.S. 825 (1994), See generally, QUAKER UNITED NATIONS OFFICE, HUMAN RIGHTS AND REFUGEES PUBLICATIONS, *WOMEN IN PRISONS, A COMMENTARY ON THE UN STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS*, June 2007; Just Detention International, *Legal Resources, Review of Applicable Federal and State Sex Offense Laws*, <http://www.justdetention.org/en/state_by_state_laws.aspx> (accessed Nov. 7, 2011).

Section 4: Advocating for Domestic Violence Survivors Across the Different Stages of the Criminal Legal System

Across the criminal legal continuum women will have varying needs for advocacy and resources. Although the bulk of this toolkit focuses on advocacy post-conviction, *often the best intervention is prevention*. Therefore, information is also provided about assisting women who have warrants out against them but who have not been arrested, as well as tips for advocating for women fighting criminal charges against them. The remainder of the section provides practical guidelines for working within prisons and jails, as well as advocating for women on probation or parole. Issues pertaining to client confidentiality and record keeping can be found at the end of the section.

This section is intended for advocates and others working within human service organizations who work with domestic violence survivors. The information presented here should not be viewed as legal advice and should not replace legal consultation specific to individual situations.

4.1 Forming New Collaborations to Assist Women Across Different Stages of the Criminal Legal System

Frequently, domestic violence advocates are used to thinking of survivors as the *victims* of a crime. Consequently, they are used to working with prosecutors and police to protect women's rights as crime victims. In working with women who have been *charged* with a crime, it is important to think about building new alliances. This includes forging relationships with local defense attorneys, public defenders, corrections staff, and probation and parole officers. Creating and maintaining these relationships is similar to the relationship-building activities that many domestic violence organizations have already engaged in with local police, prosecutors, and judges.

Having a trusting relationship with a number of private defense attorneys as well as public defenders will make it easier to help a woman locate effective counsel quickly if they have been charged with a crime—and time is often of the essence because the initial stages of the system can move quickly. It is also worthwhile to create a good working relationship with members of the local immigration bar for similarly quick referrals. It can be a good first step to rely on trusted referrals to locate potential attorneys, and then ideally an advocate would set up an introductory meeting to discuss how the domestic violence organization might be useful to defense activities. This is a good time for an advocate to mention their organization's confidentiality policy and to ask how they might be useful to the defense without inadvertently causing difficulty for the charged woman.

The defense attorney will likely appreciate the opportunity to work with knowledgeable professionals who understand their roles and limits within the legal system. However, some attorneys might be (understandably) wary about working with an advocate for fear that the advocate will inadvertently hurt, rather than help, their case. Their fear is that the advocate might say something publicly that can then be used against the woman, or will give legal advice to the woman. It is therefore very important that advocates assure attorneys that they understand their role, that they will not speak about the specifics about the case to others, and that they are there to provide additional supports to the woman. This will go a long way toward building a trusting relationship.

Forging collaborative relationships with corrections staff will be necessary in order to gain access to jails and prisons, where valuable services can be offered to survivors. In establishing relationships with local jails, the first step involves identifying the sheriff and the jail administrator (who might be one and the same in smaller communities). Within prison systems, the warden is in charge of the facility and there is often an assistant warden who is in charge of programming. Most states have websites with this information available. Once the correct person has been identified, a relationship can be initiated that is mutually beneficial. Finally, establishing a professional relationship with local probation and parole officers can result in an improved response to women who are under community supervision. Probation and parole offices are organized geographically and will have a supervisor in each office. This would be the best person to contact for an initial meeting. Often probation and parole officers are eager to know of community resources that they can refer their clients to and are likely to welcome learning more about community organizations.

4.2 If a Woman Has an Outstanding Warrant, But Has Not Been Arrested

Some may find it surprising how many people have outstanding warrants. Often, no one in the criminal legal system is actively looking for them to arrest them. In fact, an arrest is likely to occur when the person happens to be arrested for another crime (such as a driving infraction). At that time, however, the person will likely be taken to jail.

If a woman using domestic violence victim services or any other human services mentions that she has an outstanding warrant for her arrest, staff are under no obligation to contact the authorities about this (nor SHOULD they) (See Section 4.6 of this toolkit for further information). Similarly, they have no obligation to contact Immigration Customs and Enforcement if a woman is undocumented. The warrant should not affect service eligibility or provision, including shelter. Providing shelter to a victim who is the subject of a warrant is not “harboring / housing a fugitive” when the decision to provide shelter is made after a determination that the woman qualifies for shelter for reasons consistent with the agencies mission and purpose. If she wants assistance with the outstanding warrant, an advocate can help her directly with this, but if not, the issue should not be documented nor used against her.

4.3 Advocating for Domestic Violence Survivors Who Have Been Arrested

Once an advocate has heard that a woman has been arrested, it is important to know if she has been assigned counsel. Assignment of counsel generally occurs at arraignment, which happens shortly after arrest. If the advocate does not know who the attorney is, they should start with the county clerk's office or the local public defender's office to try to obtain this information. This is public information when someone has been arrested. Generally, a defendant who cannot afford an attorney will be appointed one by the court, and this generally happens at, or right around the point, of arraignment. If the advocate is having difficulty finding out the attorney's name (or the client does not yet have an attorney), the court clerk should be able to say when the woman's court date is, and clarify the process for court appointed counsel.

Advocacy for a woman charged with a criminal offense includes encouraging her to talk with her defense attorney prior to the arraignment or preliminary hearing.

Sometimes advocates will want to go directly to the local prosecutor if they have a good relationship and think that this is an effective strategy for working with women who are charged. While this can sometimes be effective, *it is imperative to think carefully about this before going forward*. For example, an advocate might say something to the prosecutor that actually harms the woman's case (by providing information the prosecutor did not have). Before ever talking directly with the prosecutor the advocate is legally and ethically obligated to discuss this strategy with the survivor, *obtain her permission and release to talk about her case with the prosecutor, and check with her defense attorney about doing this*. There may be some very good reasons NOT to approach the prosecutor, and again, no advocate wants to inadvertently hurt the woman's case.

Although advocates are encouraged not to 'get into the details of the case' when working with women charged with crimes, there are many ways they can continue to be helpful. Advocates should help women with other issues they are facing, such as maintaining their housing and employment, and making sure their children are safe.

Maintaining client confidentiality is a cornerstone of an advocate's work. One of the many reasons is because "*anything you say can, and will, be used against her.*" Confidentiality takes on even greater importance when a woman has been charged with a crime. Advocates should not talk to others about the specifics of a client's case nor should they put anything about the case in writing (depending on the domestic violence privilege in the state, these notes can be subpoenaed and used against the survivor). Additionally, advocates should not offer to serve as an expert witness in any case about which they have first-hand knowledge, as some jurisdictions require that expert witnesses provide the information that forms the base of their opinions in the evidentiary record. For example, Michigan requires that all information used in forming expert opinion be introduced,¹ while New York does not

require the underlying facts of opinion be disclosed unless required to do so on cross-examination.² Instead, advocates can locate a (hopefully free) expert from within the community who can speak in generalities about the dynamics of intimate partner abuse, but who will not be forced by the court to share information about a particular woman's case that could be somehow used against her.

A very difficult dilemma for many domestic violence advocates when working with women charged with crimes is how specific to be when talking with the woman about her case. When a woman has been charged with a crime, she might want to share details about the incident with her advocate that she did not share with the police or prosecutors, and the advocate does NOT want to be in the position of being subpoenaed before the court. It is therefore important for advocates to explain this to women, and to help them understand the importance of limiting conversations about the crime itself to discussions with their defense attorneys. While defense attorneys are focusing on the charges, advocates can be most effective helping the survivor navigate the practical aspects of life complicated by the criminal charge. Examples include dealing with a pending eviction because of the criminal charge, safety planning, or ensuring transportation to and from court.

Protecting confidentiality is critical for DV staff when working with a woman charged with a criminal offense. See Section 4.6 for information and useful tips.

Even in states with statutes protecting the confidentiality of the advocate-client relationship, some advocates (or their records) have been subpoenaed. This requires the domestic violence agency to use time, money and energy to assert the client's privilege. It is imperative that advocates educate themselves about the laws in their state, and err on the side of caution in order to protect the woman who has been charged with a crime. Again, if at all possible, details of the specific crime should be avoided in conversation and in any documentation. It is the role of the defense attorney to help the woman with the specifics of her case.

While there may sometimes be exceptions to these guidelines, the National Clearinghouse for the Defense of Battered Women (NCDBW) strongly recommends that advocates:

1. not talk with a battered woman defendant/ jailed battered woman without defense counsel's knowledge and consent.
2. not talk with a prosecutor without the full knowledge and explicit permission of the woman and her defense attorney.
3. not ask about (and would cut off conversations about) the incident for which the woman was arrested. It is often better for the survivor if the advocate has no information about the incident that led to her arrest.

Criminal convictions can affect immigration status for all non-citizens living in the U.S. Advocates should inform attorneys of the potential immigration consequences to a criminal conviction and work to dismiss the charges or plead down the charges to a civil infraction.

These guidelines and other extremely helpful information can be found in NCDBW's (2009) *Working with Battered Women in Jail: A Manual for Community-Based Battered Women's Advocates*, which can be downloaded at www.ncdbw.org/resources.htm.

Domestic Violence advocates should feel comfortable speaking with the survivor's defense attorney with the survivor's permission and written release. Advocates who have concerns about a particular case, or are called to testify, or who have their records subpoenaed, can call the Battered Women's Justice Project (1-800-903-0111, ext. 1), the National Clearinghouse for the Defense of Battered Women (1-800-903-0111 ext. 3), or their state domestic violence coalition for assistance. Calls to NCDBW should pertain only to those cases involving battered women charged with crimes. In these cases they are available to provide case-specific assistance to the defendant's defense attorney, advocates and expert witnesses.

4.3.1 Advocating for Battered Immigrant Women

It is not unusual for battered immigrant women themselves to be arrested on domestic violence charges. This often occurs because of language barriers. The police may speak to an abuser or his family members but not to the victim, because she does not speak English. An abuser may assault the victim, causing her to fight back in self-defense, and then call the police and claim that she assaulted him. If the victim speaks little or no English, she will not be able to explain what really happened and could be arrested herself. DV and SA on-call response advocates may be helpful in ensuring that a Limited English Proficient survivor has free language assistance to communicate her statement and request medical treatment and safety options.

The relationship between criminal and immigration law is complex, and immigration laws are constantly changing. A misunderstanding of these legal complexities can render an immigrant ineligible for permanent resident status and can possibly result in deportation. *It is therefore essential to consult an immigration attorney with knowledge of the consequences of criminal convictions before proceeding with the defense of a survivor of domestic violence who is facing criminal charges.* This will enable the victim and her defense attorney to assess the potential effects of the criminal case on her immigration status when deciding how to proceed. It is also important that law enforcement personnel understand the complex interplay between immigration and criminal law. Often law enforcement personnel do not want the survivor to be deported, but do not understand that this adjudication can result in deportation. As such, it is important that advocates take time to explain these circumstances to law enforcement personnel, and that law enforcement personnel cross-train with advocates and immigration experts to gain a greater understanding of the needs of immigrant populations.

Additionally, survivors facing criminal cases or with a criminal record should be advised of the availability of visa options if they are a recent immigrant. Women who are married to their abuser and whose spouse or child is a lawful permanent resident or citizen can apply for temporary residency through VAWA³ or, if they are willing to assist law enforcement in investigating and/or prosecuting their abuse, may apply for temporary residency through a U-Visa⁴. If a survivor is not married to

her abuser, or if they are not married to or have a child who is a lawful permanent resident, then the survivor can still apply for a U Visa, but they must have suffered physical or emotional abuse from the criminal activity, possess information about the crime, the crime occurred in the U.S or otherwise violated the U.S law, and the victim has been or are likely to be helpful to an investigation or prosecution of criminal activity.⁵ The U Visa process is complicated, and it is best that a survivor looking at applying for a visa consult with an immigration attorney before processing any paperwork.⁶

4.3.2 Issues for Women to Consider Before “Pleading” to a Crime

As explained in Section 2, an individual charged with a crime generally has the option to plead ‘guilty,’ ‘not guilty,’ or ‘no contest’ to the charge. Pleading ‘no contest’ has the same outcome as pleading guilty—the judge will sentence them—but the record indicates that the defendant did not admit guilt. Sometimes defendants are also given the option to ‘take a plea’ or ‘plea down’ to a lesser charge. This may be offered by a prosecutor in order to avoid a costly and time-consuming trial, or because the prosecutor questions their ability to win the case with the higher charge.

Many women, especially if they are mothers of dependent children or concerned about losing their jobs due to the court process, will be tempted to plead to a lesser charge *even if they are not guilty of the crime with which they are being charged*. They simply may want the process to be over, and often believe that receiving probation or a “suspended sentence” is worth having the legal process end. Unfortunately, what they are often *not* told is that the criminal record can have negative repercussions in the areas of housing, employment, education, certain licensing and certifications, immigration, receiving government benefits, and custody.

Advising non-citizens to plead guilty to seemingly low-level misdemeanor offenses without considering potential immigration consequences to such a criminal conviction can have disastrous consequences. For example, a conviction for domestic violence is grounds for deportability and can render a battered immigrant ineligible for certain relief under the Violence Against Women Act (VAWA). To avoid these consequences, advocates and immigration attorneys should work with defense attorneys and prosecutors to inform them of the potential immigration consequences. Attorneys and advocates should work to dismiss the criminal charges or attempt to plead down the charges to a civil infraction (or other similar charges that do not reflect “moral character”⁷) even if such a plea requires the accused to pay higher fines or court costs.

Domestic violence advocates can be extremely helpful during this stage of the process by educating women about their rights and options and ensuring that survivors have all of the information they need to *make the best decision for themselves*. Regularly updated and thorough resources on housing, health care, and other benefits for non-citizen legal residents can be found at the National Immigration Law Center, at <http://www.nilc.org/>.

4.3.3 Advocating During the Trial

If the case goes to trial, and the crime is related in any way to the woman having been abused in the past, as an advocate it may be important to educate the judge or jury about this connection. This education can be instrumental in ensuring a good result for the survivor, and could involve providing information about power and control, common responses to trauma, the role of self-medicating after being abused, or other relevant factors. Otherwise, the judge or jury may not be provided with a clear picture of the underlying causation for the crime, particularly if the crime involves an act of lawful self-defense by the survivor.

It is also important to note that the cost of the defense incurred by the State, using a public defender/court appointed defense counsel, can be re-allocated to the survivor as costs and court fines if the survivor offers a plea or is found guilty. Because of this, some domestic violence programs have developed, "defense funds" for impoverished women accused of crimes so survivors are able to work with quality counsel without this potential financial backlash. Other domestic violence advocates have begun to develop criminal defense panels trained in the dynamics of domestic violence who will take domestic violence cases pro bono or at a reduced fee. Using an attorney who understands the dynamics of domestic violence will greatly improve the legal outcome for survivors accused of crimes.

4.3.4 Advocacy During Sentencing

Between the time of conviction and sentencing, a report called the Pre-Sentence Investigation (PSI) is compiled by the court on the person that has been convicted of the crime. This report will include information on her educational attainment, employment, family and criminal history. It will be read by the judge prior to sentence for a review of history as well as extenuating circumstances in the case. Advocates should take necessary steps to ensure that all information in her PSI report is accurate and includes information regarding the steps she has taken or will take to address the underlying issues related to the crime. Domestic violence advocates can also assist in developing a plan to help address any concerns raised in the report. Further, it is important that a survivor understands that she has the right to request factual corrections in the PSI if any of the information is incorrect. It is crucial that all information in the PSI report is accurate, as misrepresentation could negatively impact her sentence.

Often, particularly for those for whom this case is their first involvement in the criminal/legal system, *alternative sentencing* may be a possibility. Alternative sentencing may include diversion or treatment programs, restitution, or community service that could substitute as a term of confinement in jail or prison. *It is much easier to advocate for these alternatives prior to sentencing than it is to change the judge's mind later!* It is common to see representatives from treatment programs in the courtrooms informing the judge that they have interviewed the convicted person and are willing to accept them into their program. Because the judges generally have some knowledge or experience working with these programs, they are more likely to write the sentence ordering the person to complete treatment, rather than remand them to jail.

An advocate who is aware of such community programs might, with the woman's permission, contact the intake person and request an admission interview. If the woman fits the program criteria and the

program has space, it may be possible for the judge to send her there rather than to jail or prison. These options are often available for substance abuse treatment programs.

4.4 Working with Currently Incarcerated Domestic Violence Survivors

4.4.1 General Guidelines and Protocols

For domestic violence advocates, working in jails and prisons is a very different experience than working within community settings. These institutions are organized to exert and maintain control over others and often enforce rules in seemingly arbitrary ways. Advocates may find that different staff have different information—or make different decisions—about what is permissible or possible to do. It is therefore important that advocates understand the rules and regulations guiding the behavior of corrections staff and inmates, and to also understand what is expected of them within the setting as well.

The next three sections on obtaining access to jails and prisons, establishing individual visits, and providing programs within jails and prisons, were adapted with permission from *“Working with Battered Women in Jail: A Manual for Community-Based Battered Women’s Advocates,”* available from The National Clearinghouse for the Defense of Battered Women: call 1-800-903-0111 ext. 3 or download at www.ncdbw.org/resources.htm

4.4.2 Obtaining Access to Jails and Prisons

Obtaining access to jails and prisons is a challenging task. Regardless of the service to be provided, permission has to come from an administrator of the facility, generally the person in charge of ‘programming’ or ‘activities.’ Administrators will consider a proposal for services against the needs of the institution and the available space for the activity.

It is crucial that all information in the PSI report is accurate, as misrepresentation could negatively impact the woman’s sentence.

To begin the request process, it is best to send a formal letter on letterhead to the warden (prison) or sheriff (jail). The letter should be clear in its intention and provide the following information: type of activity (e.g., support group); program content (e.g., re-entry services; DV services in the community, etc.); credentials of the staff person overseeing the activity; frequency (e.g., once a week); length of the activity (e.g., 2 hours a week for 10 weeks); and the maximum number of people who can attend the group if the activity is provided in a group setting. If the advocate knows the person who is in charge of programming within the institution it may be helpful to copy them on the letter. Letters should then be followed up with a phone call to request a meeting.

Before a person is able to work in a jail or prison, they will likely have to take the following steps to prepare for such work:

1) **Initial Background Information/Clearance**

The advocate may need to supply fingerprints and personal information so that the jail/prison can conduct a criminal background check. If the advocate was previously incarcerated, they should be up front with that information. Some institutions welcome volunteers who were formerly in prison or jail because they recognize that they are often especially well informed and impassioned advocates. Some may require that a certain period of time has passed since the last arrest or incarceration. Other institutions may have stricter policies that permanently prohibit formerly incarcerated people from volunteering. It may take several weeks to gain clearance into the institution so advocates should prepare for this in advance.

As a general guiding practice, try to bring as little as possible into the institution. Ask a staff member if you are unsure of an item's acceptability. State-issued photo ID is required in order to enter the facility. Allow time for this "check-in" process and especially allow extra time if you are bringing in materials. Be prepared for officers in the jail or prison to search your materials and to potentially pat you down before you enter the facility. It is strongly suggested that you request to go through a facility orientation, including where you will be meeting with clients, prior to the first meeting.

2) **Orientation/Training**

The advocate may get into the jail or prison by joining their volunteer program. In that case, they may need to attend an orientation or volunteer training. Some institutions require training only when someone first begins to provide services; others require people to attend a yearly training session.

3) **Understanding Rules and Regulations**

The advocate will be bound by the institution's rules and regulations, so a copy of them should be obtained in writing. Verbal (or written) clarification should be requested any time questions arise.

4) **Initial Questions and Confirmations**

It is essential that the advocate receive answers to the following questions *before beginning* working with a jail or prison:

4a.) What materials can you bring into the institution?

Are printed handouts acceptable? Does their content need to be approved in advance? Who gives this approval and how long does it take?

What about books? Most institutions will not allow advocates to give books directly to individual women, but they may allow book donations to their libraries. Are hardcover books acceptable or must the books be paperback?

Are handbags, wallets, and money allowed? What about coats and jackets? If such items are prohibited, will lockers be provided or must those items be left at home or in the car?

4b.) What materials does the institution consider “contraband” (forbidden)?

Obviously, illegal drugs and weapons of any type are forbidden, but other items that institutions prohibit may be far less obvious. For example, it’s possible that the following may not be allowed in:

- Chewing gum (it could be used to jam a lock)
- Paper clips, binder clips, rubber bands, or staples
- Pens that do not have a clear barrel (i.e., that are not “see-through”)
- Prescription drugs or over-the-counter medication of any sort, even if it’s for your own use
- Cell phones and pagers
- Any tobacco products
- Umbrellas
- Keys
- Electronics such as radios
- Drinks and food products

4c.) What materials can be taken out of the jail/prison?

Are people allowed to leave with any correspondence from women to mail or deliver to someone else? Often times, this type of activity is not allowed. Are advocates allowed to take out any papers for them? Are advocates allowed to take notes of their conversations with women? If so, can anyone read them or can they be kept private?

4d.) Is there a dress code?

Are sleeveless shirts permitted? Must women wear a bra? If so, is it okay if it has underwire? Are there any regulations about jewelry?

Each prison has a specific dress code that prohibits certain items of clothing. Short skirts, shorts, halter-tops, toe-less shoes, low cut shirts, and a variety of other articles are deemed inappropriate or prohibited by facilities. *It is important to find out the rules regarding clothing for the particular facility prior to visiting.* Judgment should be used when determining wardrobe, but it can be wise to consider dressing somewhat conservatively. As visitors pass through a metal detector before entering the jail/prison, it is best to avoid wearing a lot of metal, such as jewelry, belt buckles and buttons on a coat. This may delay access to the facility. Also, many facilities are quite large and a lot of walking is often required, so it can be desirable to wear comfortable shoes that are easy to remove if they need to be inspected.

4e.) Are there any restrictions about when visits start end, or how long they can last?

Are there any recommendations around when not to come (e.g., during the correctional officers’ shift change, during meals, or during “count,” when prisoners’

movements are restricted while staff makes sure everyone is accounted for)? What about holidays or weekends?

4f.) Are there any restrictions concerning actual contact with women?

Is there a private space in which advocates can meet with women? Can advocates meet with women who are quarantined (often new arrivals are quarantined) or in segregation? Are advocates permitted to enter women’s cells? Can they meet with juveniles, if they’re at the same facility as adult women? Can the women call their advocates (assuming they have access to a phone), or can they only work with them in person? Can advocates touch or hug the women? In some settings, women are not allowed to touch each other or a staff/volunteer—they are written up for such actions.

4g.) What are the institution’s policies regarding responding to women who are feeling suicidal?

Hopefully an advocate never will be in a position where they are talking with a battered woman in jail or prison who is feeling suicidal. If it were to happen, however, it would be helpful to know ahead of time the extent of one’s obligation to report this to corrections staff, as well as to have training in assessing and responding to someone who is feeling suicidal. *Advocates should ask to review institutional policies on responding to suicide ideation, and know their own agency’s policies before meeting with women.*

Also, if possible, advocates should get information about what the policies mean in practice. For example, when the jail/prison learns that a woman is feeling suicidal, does she then have access to a psychiatrist or another mental health professional? Will she receive follow-up care and support from a mental health professional? Will she be stripped of all clothing and put into 5-point restraints on suicide watch? Will she be transported to the county hospital? Will she receive a disciplinary write-up?

4.4.3 Establishing Individual Visits with a Woman in a Jail or Prison

Once an advocate has obtained clearance in order to work in a jail or prison, they will be required to follow institutional rules and regulations while working with women individually in the institution. It is often extremely difficult to get into a jail or prison for individual visits. The following are suggestions for individual work with women.

Correctional facilities have specific protocols for visitors. To visit or call an incarcerated woman, advocates may have to be on her approved visitors and phone lists. If the woman requests services by writing to the DV agency, an advocate should ask to be placed on her list (and ask to be notified when this has happened). Visits are likely to be monitored, so advocates should ensure that the substance of their conversation is confined to

It is extremely important to follow the regulations of the jail/prison. Failure to do so can result in a cancellation of authorization to enter, and can make access more difficult for advocates in the future.

supportive decision making. Advocates should change the subject if the survivor wishes to discuss any potential rule violation that she may want to disclose, or if she wants to discuss the specifics of her criminal case.

Advocates also need to request specific information about visiting hours and days, when the incarcerated woman is available for contact by telephone (this varies—frequently not everyone is eligible for a visit every day), and what kind of assistance she would like. For example, does she need or want information and pamphlets? And if she does, can they be brought into the institution? Does she want counseling or referrals? When advocates and counselors have been approved to call or visit, they can establish a meeting time. A regular meeting time often works well both in terms of the routine of the jail/prison and for the woman's expectations. However, this arrangement may not be feasible within every facility.

The following are specific considerations for ongoing visits:

- **Meeting Times with Limited Communication:**

If the advocate is only able to see the woman in person, it can be difficult (or impossible) to give notice to her in situations when the advocate has to cancel or reschedule a meeting. Regular meeting times can provide the expectation of when the advocate will see her again, but it may also be helpful to discuss alternate days/times in case something comes up for the regular day/time.

When establishing a regular meeting time, the advocate should be aware of the facility's "off-limits" visiting hours. Also, the woman needs adequate time to return to her location after the meeting. For example, if "count" is at 11:00, the meeting should end by 10:40 or 10:45 to give her time to return and be in compliance with this requirement. The advocate should discuss the timing and time limit of the meetings in order to plan together.

- **Safety Considerations:**

Some advocates may question their safety when working in the institutional environment. While it is critical that advocates trust their gut instincts, especially if they sense danger, it is also important to challenge stereotypes that all inmates are violent or "bad people." It is crucial that advocates address any of these stereotypes before and while doing advocacy work, especially if they interfere with their ability to work with a woman.

After addressing their own stereotypes, it is wise for advocates to utilize some general safety precautions that may be helpful in any setting:

- 1) Awareness of surroundings. Understanding one's location in the building one is in can be helpful in accessing strategies for exit and support. Do you know how to get back to the place you entered? Do you know where alternative routes are for exit? Do you know where staff are?
- 2) Communication with others. When in the prison or jail setting there are usually strict entrance and exit procedures documenting when someone enters and exits.

However, taking a few minutes to let the officer on the unit know of your presence on the unit may be helpful and also demonstrates respect of the institutional protocol.

- **Self-Awareness:**

Attitude is a key component of advocacy work. An advocate might find herself experiencing negative perceptions or attitudes about the women they work with. In our society, we often have a negative attitude of punishment and condemnation for prisoners. Some women have also internalized messages that they are “bad people,” or “throw-aways.”

It is important for anyone working with this population to examine their own beliefs about women who are incarcerated. Many unconscious ideas influence how and what we are able to see, and how we interact with others. A critical first step in preparing to work with battered women in jail or prison is for the individuals to ask themselves:

- What do I feel about women who are in jail (or in prison)?
- Why do I feel that way?
- Do I feel differently about women who have specific coping mechanisms? For example, reliance on prayer as opposed to women who express anger at their incarceration?

Also, it is essential to avoid the trap of thinking in terms of the “good” battered woman versus the “bad” battered woman. This perspective creates an artificial distinction that can interfere with one’s ability to provide quality advocacy to all women in need of services.

4.4.4 Facilitating Counseling and Support Groups in Jails and Prisons

Many organizations provide services within the prison or jail setting in a group format. Obviously, this allows greater access to multiple individuals at the same time and is helpful when giving information and support. While some institutions fund certain groups to provide on-going services (e.g., substance abuse treatment) they are less likely to fund volunteer organizations such as NA/AA, faith-based, or advocacy organizations.

For DV staff working within institutional settings to provide support, the service goals are the same whether provided in jail or prison settings or in agency settings:

- Create a safe space in which to begin to talk about abuse
- Decrease isolation and increase trust
- Recognize that others share similar experiences
- Begin to form networks of support
- Develop increased coping skills to manage the effects of trauma
- Understand the dynamics and effects of battering
- Enhance safety planning
- Learn about how to access community resources

4.4.5 Helping Women Prepare for Re-Entry to the Community

Women will know (at least approximately) when they will be released. One goal of working with women while they are incarcerated is to help them feel better prepared for their return to the community. Certainly, that will involve safety planning. It may also involve discussing feelings about reuniting with children after a forced separation, or the fears of and grief about not being able to reunite with children due to custody battles or termination of parental rights.

The advocate will also want to provide resource and referral information to help women get assistance with housing, employment, education, expungement of criminal records, or any of their other needs (See Section 6)—with the understanding that the barriers that people face who have been incarcerated often are even greater than those faced by other battered women. Information about the effects of a criminal history are listed in Section 6.

The myriad of issues faced by women post-incarceration are often overwhelming and there are few supports provided by the criminal legal system. In fact, sometimes the only resource upon exit is a bus ticket! Women need effective, broad-based advocacy to meet their diverse needs. One model is the Community Advocacy Project (CAP) (Sullivan & Bybee, 1999), which has demonstrated that short-term, intensive advocacy can enhance the safety and well-being of women exiting domestic violence shelters (See Section 7 for more information). Similar advocacy for women released from prisons and jails is likely to have the same positive effects.

4.4.6 Asking Incarcerated Women about Criminal and Victimization Histories

Before or during work with an incarcerated woman, it may be beneficial for the advocate to have a more complete understanding of her criminal and/or victimization history. While a support group facilitator may not need specific information in order to be helpful in a group setting, an advocate may need to know what barriers a woman is facing as they work together to obtain resources in the community. Many women may be reluctant to share this sensitive information, however, and may only begin disclosing details after a trusting relationship has been developed with the advocate. There is still unfortunately a great deal of stigma attached to both criminal behavior and victimization, and many women will likely have experienced negative reactions from other service providers or system personnel that may make them wary or distrustful.

Some incarcerated survivors may not identify themselves as “victims” of domestic violence. Due to feelings of powerlessness within society, their relationships and/or the institution, identifying as a victim can add to the woman’s feelings of vulnerability. She also may not identify her past domestic violence experiences as abusive or even problematic, compared to the other difficulties she has been facing. Therefore, the advocate may need to provide services to her without focusing exclusively on her experience as a domestic violence survivor. Advocates can still effectively help her with maintaining access to her children, obtaining substance abuse counseling, and safety planning, without over-emphasizing her victimization. As with advocacy work with women without criminal histories, most advocates are already very skilled in deciphering which information they need in order to provide effective services.

Women also may not understand why an advocate might need information about her past to provide her with comprehensive services. Advocates need to clearly explain why they are asking for any details they are requesting, and should clarify that women do not have to share anything they are uncomfortable sharing.

Open-ended questions and statements can be extremely helpful here, such as:

“We work with a variety of women with a variety of backgrounds. What would you like me to know, if anything, about why you are here?”

“What concerns do you have right now?”

“What concerns do you have when you are released?”

“How can I help you?”

Advocates can be especially helpful to women as their release date approaches. Questions to explore with her include: Does she have somewhere to live? Who is caring for her children, and how does she feel about that? What are her needs, if any, around retaining or regaining custody? What are her employment opportunities? Who in her life is available to support and help her? There are likely to be many areas of her life in which she needs support and advocacy—and many advocacy activities can occur while she is still incarcerated.

4.4.7 Safety Planning with Incarcerated Women

Discussing safety concerns and options (**safety planning**) is a core component of domestic violence services. For women in jail or prison, there are particular safety considerations related to their incarceration that must be addressed during this process.

Two overarching dimensions of safety to explore with women are:

- 1) Safety within the institution
- 2) Safety from an abuser

1) *Safety within the Institution:*

Survivors who are incarcerated face critical concerns regarding both their physical and emotional safety from correction officers, other institutional staff, and/or other inmates. Prisons and jails use authoritative structures of rules and comportment. The intent of this structure is to uphold safety and security within the institution for both the staff and inmates. The result is that inmates’ behavior is strictly regulated and freedom of movement is restricted. Correctional staff have power over inmates’ decisions and physical whereabouts.

Although these power dynamics can be similar within male and female prisons/jails, women have differing experiences prior to incarceration that create a particular sensitivity to these institutional practices. *These dynamics of power and control replicate the dynamics present in an abusive relationship.* The rules, structure and power dynamics within the institution often produce the same powerlessness and helplessness survivors experienced within their abusive relationships. In fact, routine practices within the institution can trigger traumatic memories of past abuse for women by routine practices, such as:

- Pat downs, particularly by male staff
- Strip searches
- Physical exams, particularly gynecological exams
- Viewing by staff of dressing, bathing, toileting
- Dependency on another for survival
- Being confined
- Having no voice in one's day-to-day activities

Advocates play a vital role in helping a woman engage in a multi-faceted safety planning process that takes into account her risks and resources while she is in jail, in prison, and upon release. Building a supportive community with other women and establishing an effective plan can play an important role in helping women gain a greater sense of safety during and after incarceration.⁸

If the incarcerated woman is experiencing abuse from a correctional employee or another inmate, her possibilities for action within the institution will be influenced by the state's and the institution's policies. The woman may also fear retaliation and may not want to take any action that might put her or her family at risk. The first step would be to find out what her rights are as an incarcerated person and how exactly the advocate can help her. At the very least the advocate can provide her with information and assist her in processing her choices. There may be more than one avenue of assistance, such as contacting Prison Legal Services (available in many states with toll-free numbers), the state police, the state or local chapter of the ACLU, or a prisoner advocacy group. For example, in Michigan, the American Friends Service Committee provides help to inmates and family members, as well as offers resources (www.prisoneradvocacy.org). Advocates can also contact the Michigan Department of Corrections, Prisoner Affairs Division.⁹

2) Safety from an Abuser:

An abusive partner or ex-partner may be threatening a woman even while she is incarcerated. He may try to visit her, write her letters, or send messages to her via her family and friends.

Advocates can help women think through ways they can remain safe from abusers while they are incarcerated. Some examples include:

- Restrict visitors
- Restrict the phone calls she receives

- Refuse to take calls from her abuser
- Request a restraining order (if available in her state)
- Share letters from her abuser that are threatening and abusive with helping professionals that she trusts within the institution
- Document any and all abusive, threatening or stalking behaviors in case she wants charges pressed in the future

Batterers may also continue to control and abuse incarcerated women by acting in ways that will compromise her safety or well-being upon release. Abusers may attempt to turn landlords, employers, neighbors, family members, and friends against the woman so that she has few options other than returning to him upon release. He may also be using her children in ways he knows will frighten or depress her, either by abusing or threatening them, or by seeking custody or turning them against her. These behaviors can have devastating consequences for a woman's emotional and physical well-being. Talking with her about these experiences in a supportive and understanding manner can go a long way toward helping her cope while incarcerated. There may also be practical or legal strategies a domestic violence advocate can pursue to help—such as helping the survivor contact family or friends, obtaining information for her, or—with a written Release of Information—advocating on her behalf with various systems and individuals. The more information that a survivor has the better she will be able to protect her rights. For example, often an abuser will tell a survivor that because she has been jailed she has no right to see the children. However in many states, such as Michigan, it is presumed to be in the child's best interest to have a relationship with a parent. Advocates should be aware of the civil legal resources in their community and develop a basic understanding of the family court system to help dispel the myths that a batterer will often perpetuate.

4.5 Working with Domestic Violence Survivors Post-Incarceration

When advocating for women fighting criminal charges, or working with incarcerated women, advocates are already aware that the women they are working with are involved in the criminal legal system. That will not always be true with survivors who have been incarcerated in the past. Women may not share this information with staff either because they feel stigmatized or ashamed, they feel it is not relevant to the services they are seeking, or because they fear the information might be used to deny them services or treat them in a discriminatory manner.

For the domestic violence advocate, however, having such information can be useful in order to provide the most competent and effective services possible—since a prior criminal record can impact women in a multitude of ways (see Section 6 for more information about the collateral consequences of having a criminal background, and how to address them). It is especially helpful for the advocate to know if a woman is on probation or parole, since without this information the advocate might inadvertently endanger a woman's ability to remain out of jail or prison. For example, the advocate might be encouraging the woman to think about moving out of state with her children for safety reasons, without realizing that such a move would be a parole violation for which she could be imprisoned.

It is important, then, to think about how to: (1) provide a welcoming environment that will encourage women to disclose if they have a criminal background that may impact their access to resources; (2) sensitively and respectfully ask women if they are on probation or parole, and (3) advocate effectively on their behalf to maximize their safety and to reduce their risk of returning to jail or prison.

4.5.1 Creating a Welcoming Environment

There are a number of ways to ensure that a community-based organization reflects a welcoming environment for women involved in the criminal legal system. For example, posters and brochures can include information about the connection between victimization and crime, as well as information about how the agency works with incarcerated survivors and engages in social change efforts to improve criminal legal policies and practices. Staff can engage in outreach efforts not only in jails and prisons but in probation and parole offices, leaving materials that promote the agency's ability to help women in complex situations. Finally, staff need to be trained in how to sensitively talk about women's criminal histories and to work with women around these issues in a non-judgmental, culturally competent manner. Section 1.4.3 provides tips for how to create a more welcoming, culturally appropriate environment for all survivors.

4.5.2 Asking All Women About Criminal History

Many women victimized by intimate partners will have criminal histories, whether the domestic violence program is aware of that or not. It is important for DV professionals to respectfully ask about current and past criminal records during the intake process, including whether a woman is currently on probation or parole. *Having a criminal history or being under probation or parole supervision can be used coercively by the abuser* and this can impact her safety, well-being, options, and freedom.

Some domestic violence advocates have said they do not ask women about criminal involvement because they do not want women to feel stigmatized or embarrassed. However, this is no different from when substance abuse counselors, health professionals, or others use this as their reason for not asking women about victimization histories. Domestic violence advocates understand how these other professionals can offer more effective services if they understand that a woman is being abused. Similarly, domestic violence advocates can be most effective if they understand how a woman's criminal history affects her safety, health, and well-being.

It is important to frame the questions about criminal history in a way that is supportive to the survivor. A woman may not understand why the advocate might need information about her criminal history to provide her with comprehensive services. She may think the advocate is asking in order to establish service eligibility, and that an honest answer will result in her being turned away. *Explaining why the question is being asked* can go a long way toward building trust. It is also in line with the empowerment philosophy of including survivors in sharing knowledge and decision-making.

Because it is important that women feel comfortable answering these and other sensitive questions, it is best not to ask the question on an intake form with no explanation. Instead, use open-ended questions such as:

“Some of the women we work with have probation or parole requirements that are impacting their lives, and we can sometimes help. Do you have any issues like this that you’d like to talk about?”

“Sometimes partners use a wide array of information about a woman to coerce or threaten her. This could be information about past or current involvement with child welfare or legal authorities. Is there any information that your partner might use against you that would intimidate or threaten you?”

Follow-up questions should focus on safety options in light of this information. Examples of questions that an advocate could ask include:

“How do you think he may use this information to harm you?”

“Are you currently on probation? Does your boyfriend sabotage your efforts to meet the conditions of your probation?”

“Does your partner prevent you from attending meetings or programs required by your probation?”

“Does your probation officer know that your husband is abusive?”

Some funding sources prohibit the staff they are funding from working with women who have criminal legal histories. If an agency is receiving such restricted funding, it is still important to ask women about criminal legal history. It is also important to identify the agency staff that are *not* impeded by this funding requirement. It may be even more crucial to ask about criminal history early on in the process so women will not be forced to re-tell their story to multiple advocates.

4.5.3 Advocating with Probation and Parole Officers

It is important for domestic violence advocates to develop strong relationships with probation and parole officers. Domestic violence advocates can play an important role in helping survivors strategize about their safety, which may also reduce probation and parole violations and prevent additional criminal charges and incarcerations. *When appropriate, and only after obtaining voluntary written consent from the survivors* (see section 4.6), advocates should contact probation/parole officers and work with them to enhance the client’s safety and well-being. For example, if a woman divulges that her abusive husband does not allow her to attend probation/parole meetings, the advocate and survivor might decide to explain this to the probation/parole officer and ask to hold their meetings at the domestic violence agency.

Domestic violence advocates may need to educate probation/parole officers about how abusers often attempt to sabotage a woman’s probation/parole requirements, as well as how other factors related to the abuse can impact her terms of probation/parole. For example, a woman on probation/

parole may ask her advocate to share information with her probation/parole officer about how her ex-boyfriend is intentionally preventing her from fulfilling the requirements of her probation/parole. An advocate might also attend a meeting with the survivor and her probation/parole officer to explain how the woman is expected to meet conflicting requirements from different parts of the system (e.g., having the judge mandate no contact with her boyfriend, who has a felony record, while family court mandates her allowing him time with their children).

Some survivors are also concerned about the (common) probation/parole requirement to remain away from others who are on probation/parole, and may think, for example, that they cannot attend domestic violence support groups where other women on probation/parole might be. Advocates need to be aware of actual versus perceived prohibitions and work with the woman and her probation/parole officer to ensure that she receives the services she is seeking, without fear of violating her court conditions. When probation and parole officers understand the complexities facing women with abusive partners and ex-partners, they can collaborate with the domestic violence agency to enhance her safety and minimize her risk of violating conditions of her release/freedom.

4.5.4 Safety Planning with Women on Probation or Parole

With each survivor, the goal of safety planning is to minimize her risk of re-abuse and to identify a variety of options should she be victimized again. Although DV staff are very familiar with safety planning with women in the community, *women who are under community criminal legal supervision have additional risks to consider*. Their fears of being sent back to prison or jail for failure to comply with their orders of probation/parole are very real. In addition, the fear of being sent back to the institution is usually compounded by fears about separation from children and other loved ones. Therefore, women on probation and parole status are vulnerable to coercion when an abuser uses threats associated with non-compliance against her.

Each woman will have specific probation/parole requirements (e.g., drug testing, employment, or house arrest) and each abuser may have strategies for interfering with her compliance. For example, some abusers find it is easier to control women who are addicted to drugs and may pick them up from the institution bearing gifts of drugs and/or alcohol. Others may use less tangible means of coercion, such as lying to a probation officer about her whereabouts or activities, or preventing her from seeking employment. Others may use women's fears as a mechanism to involve her in new criminal activities. Moreover, any contact with law enforcement (even as a crime victim) may have to be reported to their probation/parole officer. Thus, women on parole or probation status may be so averse to involvement with the criminal/legal system, that they may be unlikely to report experiences of physical or sexual violence.

An unfortunate reality is that women who are on probation or parole may have fewer options than women who are not. For example, if a woman is on a monitoring device, it may not be wise to implement a safety plan for her to leave the home late at night, since doing so will be a violation. Although probation conditions may influence the safety plan, it is important to remember that a woman's safety is the first priority. Advocates must be adept at thinking through the implications

and risks of various options with survivors, taking into account conditions of her probation or parole, and be forthright regarding consequences of any safety strategy. *Advocates and probation officers should work together with the survivor to find ways for women to be safe while fulfilling the conditions of probation.*

In addition to the many types of questions asked during any safety planning, these questions are especially tailored to women on probation or parole:

- *“What do you currently do to keep you and your children safe? What works best?”*
- *“Are there conditions of your probation that would prevent you from being safe? For example, are you on a monitoring device? Are you unable to leave the house at night?”*
- *“Would you feel comfortable calling the police if you were in danger?” (If not, who else could she call? What else could she do?)*
- *“Can you find alternative ways to attend required programs or services without your partner finding out?”*
- *“Is your husband/partner doing anything that could get you in trouble with probation/parole? Is he doing that on purpose?”*
- *“Are there conditions of your probation/parole that you think might be jeopardizing your safety or well-being?”*

As an advocate, there may be times that you will have to push against the system. Remember to keep the survivor at the center and work to ensure that your rights and her rights are not being violated. Turn to your program and your local state domestic violence coalition for additional help.

The fears that a woman may have about reporting her abuse, and the stigma that she may feel due to her criminal conviction, make the safety and advocacy found within DV programs all the more important!

4.5.5 If a Violation Occurs

It is critical that advocates make clear that they are available to help if their client violates either probation or parole. Should this occur, it is crucial that the advocate (with the woman’s written consent, see Section 4.6) inform and educate the individuals involved in the criminal legal system about the circumstances surrounding the violation, especially if the circumstances involved factors related to her abuse. If the advocate has already established a collaborative and professional relationship with probation, parole,

Advocates need to be aware of actual versus perceived prohibitions and work with the woman and her probation/parole officer to ensure that she receives the services she is seeking, without fear of violating her court conditions.

prosecutors, and judges, they will likely be taken more seriously. This can make a tremendous difference in a woman's life, and *may be the difference between her being re-incarcerated or not.*

4.6 Confidentiality and Record Keeping

*This section was adapted in part from the following state and national confidentiality resources: Sandra Tibbetts Murphy and Jenna Yauch, Battered Women's Justice Project, *Domestic Violence Programs and Children's Records: Issues of Confidentiality and Release.* (2009); Michigan Coalition Against Domestic and Sexual Violence, *Confidentiality Policy Considerations and Recommendations*, (2001); National Clearinghouse for the Defense of Battered Women, *Working with Battered Women in Jail.* (2009).*

REMEMBER: The information a woman gives to you is HERS—and therefore the privilege regarding sharing that information belongs to her!

Regardless of where the advocate meets a woman along the criminal legal continuum (e.g., charged, in jail or prison, on probation or parole), protecting the confidentiality of communication with her, as well as any documentation involving her, is important. Although the major tenets regarding confidentiality and record keeping are similar to what advocates are familiar with in working in DV programs, there are additional nuances related to the criminal legal system that need to be considered.

4.6.1 Confidentiality When Working with Women Charged, Incarcerated, or on Probation/Parole Status

Criminal legal and domestic violence staff have different policies concerning confidentiality, and understanding these differences can improve the working relationships across these sectors. A lack of understanding may lead to CL staff having the perception that DV staff are unwilling to share any information, and DV staff believing that corrections officers are asking unnecessary questions.

It is important for DV advocates to understand that CL staff have a responsibility to gather and report information that may be pertinent to the case, the individuals involved, or the woman—especially if it concerns her safety or the safety of another. For example, *within a prison or jail setting*, the primary responsibility of the staff is the protection and safety of the staff and inmates within the institutional setting. *Maintaining confidentiality in this setting is often not a priority for those employed in it, and may even run counter to institutional policy.* In fact, situations generally protected by law or other professional ethics such as therapist/client relationships, may not be considered privileged or protected within the institutional setting. For example, the clinician due to institutional rules may not honor a woman's request for confidentiality when disclosing sexual assault within the prison. These variations in confidentiality procedures are usually enforced only for individuals employed by the prison/jail, but all professional staff should be aware of them. Remember, it is the job of correctional staff to monitor and report inmates' behaviors, participation in treatment and services, and conduct throughout the sentenced time.

For DV staff, on the other hand, confidentiality is a cornerstone of service provision. *Domestic and sexual violence staff are required to maintain confidentiality¹⁰ for all clients and it is an essential part of building trust with clients.*

How, then, do DV staff reconcile this with expectations within courts, community agencies serving formerly incarcerated women, and incarceration settings? Domestic violence service providers must follow state and federal laws, which afford survivors of domestic or sexual violence evidentiary privilege to counseling communications and records and further require certain confidentiality practices. *Communications between a domestic violence victim and a sexual assault or domestic violence counselor are protected under the domestic violence/sexual assault counselor privilege statutes.* Exceptions to this policy are usually if the client shares information that requires mandatory reporting (such as current child or vulnerable adult abuse or serious intent to harm self or others) or if the client provides written permission for the advocate to share information. It is the responsibility of advocates in each program and in each state to understand the extent to which their communication with clients is protected by law.

The ABA Commission on Domestic Violence maintains a Summary of DV/SA Advocate Privilege Laws, effective 8/2007 and may be located at their website http://www.americanbar.org/groups/domestic_violence/resources/statutory_summary_charts.html.

Advocates have had to explain this role expectation in the past to police officers, prosecutors, and others with whom they have developed collaborations. The same strategies will apply here, as advocates negotiate their role with corrections personnel. See *“Working with Battered Women in Jail: A Manual for Community-Based Battered Women’s Advocates,”* The National Clearinghouse for the Defense of Battered Women.

Before any services are provided—whether within a jail or prison, community program or in a courtroom—DV staff and appropriate supervisory CL staff must clarify what is and is not confidential. Protocols must include full disclosure to the survivor both verbally and in writing regarding the scope and limitations of confidentiality in these situations. Provision should also be included to inform the client where confidential services can be received.

Advocates working with survivors either charged with a crime, incarcerated or currently on parole or probation status, must openly discuss policies around confidentiality, mandatory reporting requirements, institutional monitoring of sessions/groups (if any) and institutional requirements regarding communications with corrections staff. It is critical to explicitly inform the survivor if there is any information that the advocate may be required to share so that she can make decisions about her level of comfort in sharing information. Further, ethical and legal practice

Advocates should understand that any information entered into the case file could be requested by law enforcement/corrections and potentially used against a woman in her criminal case.

standards require an advocate to obtain a signed *Release of Information form* detailing the survivor's understanding of and consent to the confidentiality limitations before the survivor is asked about or given the opportunity to disclose any personal information.

The National Clearinghouse for the Defense of Battered Women (NCDBW) strongly recommends that advocates:

- not talk with a battered woman defendant/jailed battered woman without defense counsel's knowledge and consent.
- not talk with a prosecutor without the full knowledge and explicit permission of the battered woman defendant's defense attorney.
- not ask about (and would cut off conversations about) the incident for which the woman was arrested; it is often better for the survivor if the advocate has no information about the incident that led to her arrest.

Under the Violence Against Women Act (VAWA), grant funded domestic and sexual assault service providers must use a written *Release of Information form* that contains the following elements:

- Identification of the specific person(s) or organization(s) to whom information will be released
- Time limited effective date—beginning and end dates indicating the time period for which the consent is effective
- Description of the scope and nature of the information to be released, and the purpose for which it is released. The release should be individually tailored to the needs of the specific client, and be clear, concise, and limited to a specific purpose
- Description of the means by which the information will be transmitted
- The signatures of the client and an agency representative

The National Network to End Domestic Violence provides model VAWA sample releases, available in Spanish and English, along with other guidance on best practices for releasing records, and maintaining confidentiality. Advocates are encouraged to visit NNEDV's website and review resources on Technology and Confidentiality at <http://nnedv.org/tools/>.

4.6.2 Record Keeping

The following recommendations were adopted from, Michigan Coalition Against Domestic and Sexual Assault, *Confidentiality Policy Considerations and Recommendations, A Resource Manual for Michigan Domestic and Sexual Assault Programs*, Chapter 3 at 15-22. (2001).

Properly documenting interactions with incarcerated survivors is a key skill for advocates to master. For women who are charged, incarcerated or under probation/parole supervision, personal information can be used against them. Advocates must be sensitive to limiting their documentation, and survivors should be informed regarding the type and scope of information that will be recorded in their file.

Appropriate record keeping practices benefit both the client and the program. Records are kept for several purposes that may be complementary, but distinct. These purposes include: the collection of statistics required by funding sources or for program purposes; documentation of the need/eligibility for services; facilitation and documentation of the quality of care and continuity of services; supervision and review of staff performance; and possible protection from liability.

Files kept by domestic violence and sexual assault service provider programs are not generally kept for investigative or evidentiary purposes. However, in the wake of recent court decisions, programs must acknowledge the reality that client files can be demanded by court. The most dangerous consequence of keeping records is that they may end up in the wrong hands, especially those of the perpetrator or his attorney. But even if they end up in so-called friendly hands, the survivor's thoughts and feelings would still be available and open to someone with whom they were not intended to be shared. In either event, the contents may also be inaccurate, misinterpreted and twisted only to be used against the survivor. When drafting or updating record keeping policies and practices, programs should carefully balance the benefits of recording certain information against the possible harm that the information could cause the program or the client if that information were released. Well thought out program policies and practices regarding record keeping are essential components of confidentiality policies.¹¹

Every program should have a written policy on record keeping. The policy should outline the following:

- a) the type of information/documentation that should be part of a client file/record
- b) the types of information/documentation that is not appropriate for a client file/record
- c) the individuals authorized to make entries or amendments to the file and process for making those entries or amendments
- d) the individuals in the program who have access to the file
- e) the designation of a custodian of the records
- f) provisions for file review
- g) provisions for the maintenance and destruction of files

Case/Progress Notes in Client Files

Case notes generally summarize the domestic violence staff member's and survivor's progress toward meeting the woman's self-defined goals. Case notes should contain enough information to refresh the memory of the staff member working with the client, rather than a detailed or verbatim account of the interaction. Notes and observations documented should be objective in nature. Actual court decisions or legal conclusions, Personal Protection Orders or other documents of public record may be kept in the file as well.

All case notes should be signed and dated so that their entry can be tracked. It is important to remember that several audiences may review these notes and advocates must consider all the potential harm that could arise if their notes were to be open to further scrutiny. It is also important

think about how a client might perceive any notes, how other program staff could perceive any notations, the consequences of a potential review by funders, or how a judge might view the documentation if the file is subpoenaed.

Regardless, the program client should always be considered a primary audience. Staff should never write anything in case notes that they would not want the survivor to read. Client empowerment should be the goal of every action of the advocate up to and including documentation of client files. Furthermore, it is important to be aware of the power dynamic between advocate and survivor and the advocate's ability to embarrass or emotionally harm the survivor, even unintentionally.

Information that Should NOT be Included in Client Files

It is the program's responsibility to ensure that files include the information necessary to provide quality services to the client and to satisfy program requirements. However, unnecessary and potentially harmful information should never be included in a client's file. Counselors, advocates, and supervisors should be trained to carefully evaluate file entries for adherence with the program's record keeping policy.

The following are policy considerations for information that should *not* be included in a client's file¹²:

- a) Poems, journals, creative writing or any mention thereof should never be a part of a client's file. While a client may want to share these with the counselor, such materials should always be returned to the client. *If relevant*, the counselor may note that a particular topic was discussed, but should not necessarily reference the source. If program files were subpoenaed, the mention of the client's journal in the case file could indicate that the survivor has a journal and, therefore the journal itself could be subpoenaed.
- b) Verbatim statements: These statements can be used to impeach the client. Nothing that specific is ever necessary to the program, unless it is to document the basis for a required disclosures report to Child Protective Services or in a situation involving the duty to warn.
- c) Evaluative notes reflecting the opinion or judgment of the counselor.
- d) "Factual" notations regarding client-reported dates, times, and sequence of abuse or other events should be avoided. This type of information should be general (as required for assessment purposes) rather than specific (as would be used for investigative purposes). Specifically detailed documentation is unnecessary for the program's purposes. In the event of worker inaccuracies or incomplete recall on the part of the client, specific documentation could be used to impeach the client's credibility.
- e) Papers/items that a client asks to be kept for safe-keeping, including written statements or letters.
- f) Notes/memos/internal communications from volunteers or other staff regarding the client.
- g) Identifying reference to another client of the program.
- h) Information received from sources other than the client. Files, records, or summary of files or records obtained under release from other organizations.
- i) Documents or statements containing legal opinions. This may breach attorney-client privilege and may be discoverable through the program's records should they be subpoenaed.

- j) Emails, Facebook or other social media provided by the client that could be used to impeach the client as to date, time and facts. Increasingly, offhand remarks, pictures or other posts taken out of context in social media are being used against clients and it is important that the advocate not make such material readily accessible to the Court if the file is subpoenaed.

While these can serve as the general rules regarding what items could be harmful to women, it should also be noted that sometimes immigration attorneys will ask, with their client's consent, for exactly these types of documents. For women who are immigrants, these documents can serve as important sources of corroborating evidence that domestic violence occurred, that survivors face ongoing trauma as a result, and that services and treatment were required as a result, all of which can be necessary for an immigration proceeding or determination. As such, advocates should balance these needs in making a determination of whether they should or should not keep detailed records of a survivor's services.

4.6.3 Frequently Asked Questions Regarding Confidentiality Issues¹³

Can domestic violence agency staff work with a woman who has a warrant out for her arrest? It is important to be aware of confidentiality statutes as they relate to DV staff's work with all domestic violence survivors, as well as those with criminal histories. Some domestic violence staff erroneously believe, for example, that they cannot assist a woman if there is a pending warrant out for her arrest. The fact is, confidentiality statutes don't authorize the disclosure of suspected prior criminal acts. An individual's presence on the program's premises or status as a client also may be protected information, even if the individual is wanted by law enforcement. While assisting a client *with the intent of avoiding arrest or detection* may lead to obstruction of justice charges, providing services in keeping with the program's mission, purpose and philosophy (such as counseling, legal advocacy and even shelter) to a client who is suspected or charged with committing a crime is not, in and of itself, against the law. A program should clearly inform all clients that the program's confidentiality policies would not protect them if a search or arrest warrant were executed on the program's premises.

Can domestic violence agency staff work with a woman who is undocumented? Yes. Domestic violence staff have no legal obligation to contact Immigration Customs and Enforcement if a woman is undocumented.

What if I think she is a threat to our program? Under rare, extenuating circumstances a program may determine that an individual, because of a history of prior criminal acts or for other reasons, poses a threat to the program, staff or other clients. It is important that this determination NOT be made out of prejudice, ignorance, or unjustified fear. If a legitimate concern exists, a program may deny some or all services to that individual, although efforts should be made to obtain assistance for the individual through other means. Denial of services to a survivor under such circumstances, however, does not require the program to breach confidentiality by notifying law enforcement. Privilege statutes that may apply to program staff will in fact most likely prohibit such a report.

What if a client commits a crime against the program? In the situation where a client is suspected/accused of committing a crime against the program (e.g., stealing), program personnel or another client, a police report may be made. Such an occurrence is not “communication” from the client and therefore is not specifically protected. However, care must be taken not to divulge information other than what is necessary and relevant to the report.

Details of her case history and all other information that is considered confidential must be protected.

When do I have a Duty to Warn? In cases where a program has direct and credible reason to believe a client is going to commit a crime that would harm another individual, the program may have a duty to warn. All DV programs have policies about this and it is every advocate’s responsibility to familiarize themselves with those policies. Advocates should consult with their state coalition or legal counsel for information on specific state laws that require a mandatory report.

Domestic violence service providers maintain policies that involve treating all survivors with dignity and respect, with a commitment to providing support and advocacy necessary to realize their right to self-determination. Discrimination based on a criminal record is prohibited, and service delivery must always be client-centered, non-judgmental, and culturally sensitive.

Endnotes

- 1 MRE Rule 703
- 2 Jemmott v. Lazofsky, 772 N.Y.S. 840 (2004); Tarlowe v. Metropolitan Ski Slopes, 28 N.Y.2d 410 (1971).
- 3 Violence Against Women Act of 1994, amended in 2000 by the Battered Immigrant Women’s Protection Act.
- 4 Victims of Trafficking and Violence Protection Act of 2000.
- 5 LEGAL MOMENTUM, IDENTIFYING IMMIGRATION OPTIONS FOR IMMIGRANT SURVIVORS <<http://www.ocadvsa.info/Disc2/Culturally%20Specific%20Resources%20DVAM/Identifying%20Immigration%20Survivors%20Options.pdf>>. (accessed Oct. 24, 2011).
- 6 Women’s Law.org, U Visa Laws for Crime Victims, modified June 2008, <http://www.womenslaw.org/laws_state_type.php?id=10271&state_code=US&open_id=all> (accessed Oct.26, 2011). See also, USCIS, FILING T, U AND VAWA PETITIONS WITH USCIS, June 30, 2009, <http://www.asistahelp.org/documents/filelibrary/documents/CIS_T_and_U_FAQ_630091_F6FFECE756DE9.pdf>.
- 7 See, ASISTA, DETERMINATIONS OF GOOD MORAL CHARACTER IN VAWA-BASED SELF-PETITIONS, <http://www.asistahelp.org/documents/resources/GMC_011905_C59955EE7B784.pdf>.
- 8 McNabb, M. Translating Research into Practice: Improving Safety in Women’s Facilities, (2008) at <<https://www.ncjrs.gov/pdffiles1/nij/grants/225343.pdf>>.
- 9 See, JUST DETENTION International Resource Directory, <www.Justdetention.org>; BRENDA V. SMITH, AN END TO SILENCE: PRISONER’S HANDBOOK ON IDENTIFYING AND ADDRESSING SEXUAL MISCONDUCT, (2d. 2002) The National Institute of Corrections & Washington College of Law <<http://www.spr.org/pdf/smithhandbook.pdf>>.
- 10 VAWA 42 USC 13925(B) (2) and (a) (18). Federal VAWA eligibility requirements forbid grantees and subgrantees from disclosing personally identifying client information collected in connection with services requested, utilized, or denied through grantees’ and subgrantees’ programs, unless the client consents in writing or disclosure is “compelled by statutory or court mandate.” Programs that receive federal funding from the Victims of Crime Act (VOCA) 42 USC S. 10601–10608 and the Family Violence Prevention and Services Act (FVPSA) 42 USC S. 10401–10418 are limited in the information that they may disclose by the language of the acts. See also State laws that afford absolute or semi-absolute privilege between domestic/sexual violence victim and counselor.
- 11 See, NNEDV Technology and Confidentiality Toolkit, Model Policy: Confidentiality, Privacy, and VAWA 2005 for Community-Based Domestic Violence/Sexual Assault Advocacy Programs, <<http://nnedv.org/tools/faq>>.
- 12 MICHIGAN COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE (MCADSV), CONFIDENTIALITY POLICY CONSIDERATIONS AND RECOMMENDATIONS, Chapter 3 at 15. (2001).
- 13 This section was adapted in part from NATIONAL NETWORK TO END DOMESTIC VIOLENCE’S Resources on Confidentiality, Technology and Relocation, Frequently Asked Questions on VAWA & Confidentiality for OVW Grantees at <<http://www.nnedv.org/resources/for-ovw-grantees/technology-a-confidentiality.html>>.

Section 5: What Criminal Legal Professionals Need to Know About Working with Domestic Violence Survivors

5.1 Decreasing Re-Traumatization and Promoting Women's Safety

Criminal legal staff can use a number of strategies to increase women's safety and to reduce re-traumatization. First, they should *assume that every woman they work with has a trauma history* (e.g., survivor of domestic violence, and/or other physical or sexual assaults as children or adults). The odds that a woman has endured some form of prior trauma or victimization is extremely high, and even if she has not experienced prior trauma, these respectful practices will still work well.

This section is intended for those working in the criminal/legal sector, including correctional officers, parole/probation officers, and facility administrators as well as other human service professionals providing services for women with criminal histories.

Trauma-informed practice is a formal approach to working with those who have experienced a traumatic or life-threatening event. It has a set of guiding principles for organizations and the individuals working within them. Put simply, *trauma-informed practice* involves acting in ways that appropriately respond to an individual's behaviors likely to result from prior victimization or other traumas (e.g., their extreme fearfulness or aggression that appears out of sync with the situation currently occurring) and that minimizes reminding the person of (or "re-triggering") a traumatic event. See Section 1.4.2 for more information.

Engaging in trauma-informed practice is not just for the sake of the woman with whom staff are interacting. These practices are also designed to minimize disruptive reactions or outbursts towards others and other forms of aggression and/or psychological distress that cause problems within the workplace (e.g., institution or agency). These strategies maximize staff's ability to work more effectively and sensitively with women with trauma histories, and to ultimately reduce relapse and/or recidivism.

Trauma-informed practice recognizes the importance of power differentials in relationships. One very important element in trauma-informed practices is recognizing that in all of our relationships there are 'power differentials.' This means that the relationship is not among individuals of equal standing, but that one individual has more power than the other. This is true for adults/children; employers/

employees; and teachers/students. This same power differential exists between correctional staff and those under criminal legal or court supervision. When thinking about power differentials, staff should also be cognizant of the aspects of their identity that hold social power and privilege. Being white, being able-bodied, identifying as heterosexual or as Christian, and even having professional employment (and thus perceived as middle-class) can impact interactions with incarcerated women.

When a power differential exists, those with less power may feel that they do not have the same privileges or rights as the one in power and may feel that those with power can make their lives more difficult. This may result in the person in the less powerful position having difficulty asserting themselves or advocating for their needs appropriately. If the person with more power is sensitive to this dynamic, they will create opportunities for honest expression and exchanges of information.

5.1.1 Decreasing Re-Traumatization During Incarceration

5.1.1.1 Screening for a Trauma History

When a woman first enters jail or prison, there is a screening and/or assessment process that involves questions about her general well-being (e.g., risk of harm to self or others) in an effort to assess her immediate needs. Once immediate risks/needs are ascertained, there is generally a longer assessment process based on the length of stay. For example, in jails where stays are generally briefer than in a state or federal prison, this process is often limited to a more thorough mental health assessment. In prisons, where women serve more extensive periods of time, women are typically screened for substance abuse and for mental health disorders, and sometimes they are screened for histories of trauma. *It is important to understand that this screening process itself can be re-traumatizing if questions are not asked sensitively and if women do not know why they are being asked about such personal issues.*

Creation of safe spaces that offer psychological, emotional and physical safety is one of the most important aspects of recognizing power differentials and assuring trauma-informed practices.

Making the screening process trauma-informed is very straightforward. It is first important to determine why these questions are part of the screening and assessment process at all. Is there a treatment intervention available or some other service available that is the catalyst for asking such questions? If not, the risk of re-traumatizing or even embarrassing women should be carefully weighed, and personal questions should not be asked. As noted earlier, staff should start from the assumption that every woman has a trauma history.

When screening for a trauma history, it is important to explain to women why the questions are being asked and that answers can affect access to treatment.

If there is a reason to ask such questions, staff should inform the woman why these questions are being asked, and how her answers can affect her access to treatment and programming. Staff can start by asking brief and general questions, and then determine if more intrusive questions are needed. By asking these questions in a respectful manner, the message is conveyed that the institution wants to adequately respond to the woman's needs.

Sample "Trauma History" Questions for Institutional Screening:

- Have you ever been hurt physically or sexually by anyone?
 - If yes: Do you still experience any problems because of this past abuse, such as sleep problems, finding yourself unable to stop thinking about it, feeling jumpy or fearful in general because of it? How long ago was this? Is anyone threatening you now, or are you afraid of anyone right now?
- Have you had other experiences in the past that are now causing you emotional difficulties, like trouble sleeping or eating, finding yourself unable to stop thinking about it, feeling jumpy or fearful in general?

Irrespective of the need to ask the above questions during a screening process, women can be told that *staff understand that some of the practices and procedures in the incarceration setting can feel demeaning or difficult for women, and that the intent of these procedures is to maintain a safe environment for everyone—not to be personally disrespectful.*

This is also a good time to explain any services that might be available to women during incarceration. Taking five minutes to do this can go a long way toward easing a woman's fears and helping her successfully adjust to this new setting. Also expressing empathy for the woman's trauma with simple comments such as "it sounds like you have been through a great deal" can also help minimize re-victimization. It is important to treat the survivor as a whole person, not just as the perpetrator of the crime for which she has been convicted.

It is also not uncommon for survivors of trauma to recount the traumatic event(s) in ways that may be surprising: survivors may have little or no affect when recounting the events of the trauma, or they may appear hostile or aggressive. These are coping mechanisms and should not be viewed to affect the survivors' credibility or entitlement to empathy if she chooses to share her story.

5.1.1.2 Routine Strategies for Decreasing Re-Traumatization

As described in more detail in Section 3.4, a woman's trauma history can influence her response to the incarceration setting:

- Women may be afraid to be touched, especially in pat-downs and strip searches. They may be perceived as resistant and non-compliant with such procedures when in fact they are terrified due to a previous victimization, or reliving that victimization.
- Due to the restrictive environment of the jail or prison, women may react in ways that they perceive as self-protective, but that staff will perceive as either hostile or "closed off."

- Medical exams may be re-traumatizing. Women may refuse medical care or fail to reveal health concerns and issues in response. This may be particularly true of gynecological exams and medical staff should be particularly sensitive to how invasive and triggering this routine procedure can be.

Many times staff working within institutional settings believe that their behaviors and mannerisms need to be forceful as a mechanism to convey authority. However, women under corrections' supervision understand clearly who has authority and they recognize the power imbalance between staff and themselves. At the same time, they want to be treated with dignity.

Staff who demonstrate respect and fairness can play an important role in minimizing the traumatic memory that routine practices within the prison may evoke. To do that, it is critical that staff first recognize that *practices that may seem routine and 'uncharged' to them may not seem that way at all to the woman.*

Institutional Practices that Prevent Re-Traumatizing Women and Enhance Their Safety:

- Ensure policies of only same-sex exams, pat-downs, and strip searches.
- Do not engage in a practice that involves physical touching (e.g., pat down) without first telling the woman what you will be doing.
- If there is a policy of strip-searching inmates after contact visits, offer the woman the opportunity for a 'non-contact' visit as an alternative. Although this often puts women in the position of choosing between hugging or kissing their children and other family during a visit, and the humiliating and degrading practice of a strip search after they leave, being offered the choice will enhance the woman's sense of autonomy and safety.
- Use a demeanor that carries respect for the women—for example, instead of calling a woman by her number, use her name.
- Do not engage in behaviors prohibited by the Prison Rape Elimination Act of 2003, which include:
 - Staff sexual misconduct: Due to the power imbalances between staff and prisoners, consent is not possible. *Staff are prohibited from engaging in any sexual behavior with inmates.*
 - Staff sexual harassment: This includes repeated verbal statements or comments of a sexual nature to an inmate by an employee, volunteer, official visitor, or agency representative, including:
 - Demeaning references to gender or derogatory comments about body or clothing; or
 - Profane or obscene language or gestures.
- In compliance with the federal guidelines outlined as a result of the Prison Rape Elimination Act of 2003:
 - Protect prisoners from abuse—jails and prisons should be secure environments
 - Create a culture within facilities that promotes safety instead of one that tolerates abuse

- Have information for all inmates about their right to be safe within the facility
- Utilize strict limits on cross-gender searches and viewing of prisoners of the opposite sex who are nude or performing bodily functions
- Create reporting procedures that instill confidence and protect individuals from retaliation without relying on isolation.
- Standards should guarantee that all prisoners can easily report abuse, staff are required to report abuse, and reports are taken seriously in every facility. *A serious response to every report of abuse is also the best way to handle any false allegations.*
- Sanctions must be fair, consistent, and sufficiently tough to deter abuse. Everyone who engages in abuse in a correctional setting must be held accountable for their actions.
- Ensure immediate and ongoing access to medical and mental health care and supportive services for those who experience abuse.

5.1.1.3 Protecting Women from Abuse During Incarceration

Women are at risk of being abused while incarcerated by either a staff member, another inmate, or by the person who abused her prior to incarceration. Corrections staff are generally well-aware of how to protect women from abuse by other staff or other inmates, but are often quite unaware of how to protect them from abusive partners or ex-partners.

An abusive partner or ex-partner may use creative ways to threaten or frighten a woman while she is incarcerated. He may try to visit her, write her letters, or send messages to her via her family and friends. In addition, he may engage in any of the following activities to threaten or coerce her during incarceration:

- Withhold contact with her children
- Threaten to tell her children that she is dead
- Set her up with a rule violation that would delay her discharge
- Convince her that her only option for a home placement is back with him
- Use finances (e.g., putting money into her prison/jail account) to coerce her behavior

Sometimes these actions come across to outsiders as supportive and caring when in fact the woman understands the malicious intent behind them.

If a woman is receiving unwanted or frightening contact, she may need assistance to help her:

- Restrict visitors
- Delete the abuser from all related contact and telephone lists (even when it may be outside the time frame when such requests can be made)
- Obtain a restraining order (if available in her state)
- Document the abusive, threatening or stalking behaviors in case she wants charges pressed in the future
- Submit a different home placement for the parole evaluation report (even if placement is already approved).

- Separate abusive partners who are together within the institution to the extent possible (perhaps offering voluntary protective custody)
- Document abusive behavior targeted to one inmate by another

It is also extremely helpful for corrections staff to arrange for local domestic violence and sexual assault providers from the community to come in to the facility to provide information or support groups. This should include seeking out funding to compensate the programs for their services and expenses. This provides a linkage so that women can contact the local agencies for help with these complex issues. Offering this assistance also sends women a concrete message that staff hear and believe them, and see them as human beings deserving of respect and safety.

5.1.1.4 A Note About Confidentiality and Domestic Violence Advocates

Corrections staff and domestic violence advocates have different policies concerning confidentiality. While corrections staff typically have a responsibility to report any information about an inmate to other staff and are therefore used to openly sharing information, *domestic violence advocates are required to maintain confidentiality for all clients*. This is a professional requirement, with the only exceptions relating to mandatory reporting (in cases of current child abuse, vulnerable adult abuse or serious intent to harm self or others depending on state laws).

5.1.2 Protecting Women from Abuse During the Probation/Parole Period

Women victimized by domestic violence are at a heightened risk for violating their probation or parole. *Why? Because violent partners often place women in situations where they are forced to violate the conditions of their probation/parole.*

Some tactics her abuser may use include:

- Intentionally making her late or causing her to miss an appointment with her probation or parole officer
- Forcing her to use alcohol and/or drugs that violate her probation or parole
- Forcing her to participate in criminal activities that jeopardize her probation or parole
- Intentionally hinder required treatment
- Sabotaging her efforts to comply with probation or parole requirements

Women who are on monitoring devices as a condition of their probation/parole are also at risk for violation due to abuse. A woman who is being victimized may feel that she has to leave the home if the abuse becomes life threatening. If the abuse happens during

In spite of the widespread misconception that “ending the relationship will end the violence,” it is quite common for batterers to continue or even escalate their violence after the relationship ends. Leaving represents a threat to the batterer’s control; he may escalate his threats or abuse as a way to attempt to regain or maintain that control. Research has shown that separation assault is prevalent.

the hours in which she is mandated to be home and she chooses to leave due to safety reasons, she would be violating the conditions of her probation/parole.

Further, batterers familiar with the criminal legal system often know that a future arrest is a violation of probation and parole. They then use this knowledge against women as an additional controlling mechanism. For example, they may corner a woman or physically assault her so she is forced to fight back in self-defense. Once a woman resorts to force against the batterer, he can then call the police and intentionally try to get her arrested (House, undated).

Some batterers will also fabricate charges against the woman and notify her community corrections officer that she is violating conditions when in fact she is not. These behaviors are often intended to prevent her access to their children in common, or may just be a way to let her know that the batterer is still “in control.”

The abuser’s behavior itself is not the only risk factor that increases abused women’s chances of violating probation or parole. Some women cope with the pain of being abused by “self-medicating” with drugs and alcohol. If mandated drug screens come up positive during the probation period, this will be detected and she may have to face incarceration, higher levels of supervision, mandated treatment or other sanctions.

5.1.2.1 Ethical Issues to Consider Before Asking About Domestic Violence

Probation and parole officers should always inform women of the extent and limits of their confidentiality policies upon first contact as well as throughout the supervisory process. Women must explicitly understand what will happen with any and all information they provide (for example, will it be written in her case file? Will it be submitted to a judge? Will her abuser have access to it?) (Frohman & Neal, 2005). ANY information that is documented in her case file can be used against her in a negative and coercive way by her abusive partner.

5.1.2.2 Asking About and Responding to Domestic Violence

It is important that probation and parole officers routinely ask all women about domestic violence. These conversations should be conducted in private, out of the sight and hearing of others (Frohman & Neal, 2005). If a woman always shows up to an appointment with her partner, it could be a sign that the partner is abusive or controlling, *even if he seems charming and personable. Do not ask questions about domestic violence in the presence of others.* Set up a time when you can meet with the woman in private so she is able to divulge any violence or abuse. Given your authority in the situation, you can also simply tell the partner to wait in the other room as a standard part of procedure. This normalizes the situation and protects the woman from being blamed for his being sent out of the room.

Never directly ask “are you experiencing domestic violence?” Many women will be resistant to disclosing this information out of embarrassment, shame, or fear. Some women also do not identify themselves as “victims” of domestic violence, so they may answer negatively when in fact a partner or ex-partner is victimizing them in some way.

It is far better to start out by saying something like “Violence is common in many women’s lives, and I ask about it routinely.”

Sample questions you might ask include:

“Does your partner behave in an over-protective manner or become extremely jealous?”

“Does your partner ever destroy property or throw things around?”

“Does your partner constantly criticize you and your abilities as a spouse, partner or parent?”

“Has anyone ever harmed or posed a threat to your children?”

“Do you ever become frightened by what your partner says or does?”

“Have you ever been forced to have unwanted sexual contact with your partner?”

“Does anyone make it difficult for you to attend these meetings or to meet the conditions of your probation/parole?”

“Does your partner control who you can and cannot see? Who you can and cannot talk to?”

“Does your partner deny you access to things like bank accounts, credit cards, or the car, or control all finances and force you to account for what you spend?”

Questions adopted from Stella Project Toolkit (2007) and Frohman & Neal (2005)

A “Yes” answer to any of the above questions may indicate that a woman is being victimized or controlled by a partner or ex-partner. Probation and parole officers should also always assume that there is more danger than what is being reported to them.

If a woman reports instances of abuse or violence to you, but insists it is not affecting the conditions of her release, at a minimum you should refer her (but not mandate her) to a local domestic violence victim service program. It would also be helpful to let her know that she can talk to you if the batterer ever DOES try to jeopardize the conditions of her probation/parole. Remember that *you may be the first person she has confided in about this*; therefore, it is your responsibility to reassure her that she is not responsible for the abuse. Statements like *“I’m concerned about you, and when you are ready, help is available”* can go a long way to make her feel comfortable to seek out help (Frohman & Neal, 2005).

If there is any reason to believe that the batterer may jeopardize or is jeopardizing the conditions of her release, work with her to problem-solve around this. You may need to modify the conditions of her release to maximize her safety, and again, collaborate with local domestic violence advocates to ensure she stays safe and does not violate her conditions.

The following tips can help community corrections officers accurately identify and respond to issues that might be jeopardizing women’s safety and ability to meet court conditions of release¹:

- Officers should always be alert to the possibility of domestic violence, and remember that physical or sexual violence does not need to be present for women to be experiencing abuse. There is no stereotypical “battered woman” and many women will not admit they are being abused out of shame or fear. They may be especially afraid to report abuse to a probation/parole officer.
- Women need to know they can discuss their situation without staff automatically pressing charges against the abuser. Women have many valid reasons why they may not want charges brought against the abuser, including fear for their children if the children are still residing with the abuser.
- Meetings should be held with women in private. Is her partner/boyfriend/husband always with her during the meetings? Does she have children with her so she must be careful about what she is saying? Is there a way to meet with her at another location?
- Officers can create a safe environment for women who are abused so they feel comfortable disclosing difficult or painful information. One strategy to accomplish this is by visibly displaying domestic violence program brochures and/or the *Power and Control Wheel* in visible locations, to show that the probation department views domestic violence in a serious manner. Staff can make sure that the brochures of domestic violence program have pictures that are all-inclusive so a survivor believes the services apply to her, not just a specific “class” of battered woman. Not only should the brochures be multicultural, women of different ages should be included since many survivors in later life misperceive that battered women services only cater to younger women.
- When an officer becomes aware of abuse, they should approach the woman non-judgmentally. They should not make judgments or give opinions about the relationship.
- It is essential to understand that the decisions women make may be based on safety strategies. Women who are abused are constantly evaluating their risks, and their safety concerns may vary from day to day. Their abusive partners may use a variety of strategies to place them at risk for violating their probation/parole conditions. An educated officer can recognize this and assist women accordingly.
- It takes courage and strength to survive violence. Officers can verbally recognize women’s strength and offer assistance to help them stay safe.
- Officers can connect women with domestic violence services. Receiving help can reduce future violations.

5.1.2.3 Collaborating with Domestic Violence Advocates

Domestic violence advocates are a great resource for probation and parole officers. Collaborating with a domestic violence advocate can go a long way toward enhancing a woman's safety and helping her meet the conditions of her release. Advocates can assist by helping women overcome any barriers that might make it difficult to meet the conditions of release. Officers can assist by reducing unnecessary sanctions due to probation violations (Frohman & Neal, 2005). See Section 7 of this toolkit for other suggestions for collaboration.

If you are unaware of the domestic violence programs available in your area, you can contact 1.800.799.SAFE (7233) or contact your state domestic violence coalition (every state has one).

Endnotes

- 1 This list was adapted from Against Violence and Abuse, Stella Project Toolkit, Domestic Violence, Drugs and Alcohol: Good Practice Guidelines, (2nd ed. 2007) <http://www.avaproject.org.uk/our-projects/stella-project.aspx>>. The Stella Project started as a partnership between the Greater London Domestic Violence Project (GLDVP) and the Greater London Alcohol and Drug Alliance (GLADA) in 2003; See also FROHMAN, S., C. NEAL. (2005, The Probation Response to Supervision of Women Who Are Abused, at MINCAVA electronic clearinghouse, <<http://www.mincava.umn.edu/documents/commissioned/probationanddv/probationanddv.html>> (accessed Nov.15, 2011).

Section 6: Women’s Needs After Incarceration: Understanding and Effectively Addressing System-Level Barriers

This section is intended for use by any person—whether in the DV, criminal/legal or other human service sector—working with women who have been convicted of a crime, particularly a felony offense.

6.1 The Collateral Consequences of Criminal Histories

In addition to the direct consequences of a criminal conviction (such as punishment, probation and economic penalties consisting of court fees and fines, fees for mandatory intervention programs and, in some jurisdictions, costs of probation or parole),¹ women also face the hardships of collateral consequences of criminal convictions. A *collateral consequence* is an indirect effect of conviction that may impede a woman’s ability to vote, obtain employment or attain government assistance. As such, a collateral consequence is considered a civil disability² imposed on the defendant following the criminal conviction. The failure to recognize the collateral consequences of a criminal conviction could create undue hardship for an uninformed defendant and produce barriers to long-term self-sufficiency and immediate safety.

Collateral consequences of conviction include the inability to obtain government-supported housing, welfare, or student loans; loss of voting privileges; and restrictions of many occupations. These consequences may differ based on federal, state statutes and local policies. Readers are advised to check with your local Legal Aid Office for more information on how persons in their community are affected and influenced by these policies.

Criminal records affect women’s lives in many ways. They carry a negative social stigma, as well as create barriers to needed resources such as employment, housing, custody and parental rights, immigration, educational benefits, and public benefits eligibility. Criminal records are often permanent (including juvenile records), and therefore can have consequences for the woman’s entire life. Unfortunately, many of these consequences have direct implications for women’s safety by decreasing their options and resources and/or giving their abusive partners more leverage with which to control them. Many survivors who have been charged with crimes report that they will never call the police again, even if their partner is seriously harming them.

In addition, many domestic violence service providers do not recognize the needs of formerly incarcerated women as both survivors and formerly incarcerated women. The stigma attached to being “a convict” sometimes overrides other factors and prevents agencies from providing services to women who are entitled to them. The ramifications of this stigma are evident by the various system and service level barriers facing women with criminal histories. This stigma can be exacerbated when coupled with other forms of systemic oppression such as racism, ageism, anti-immigrant sentiment or classism.

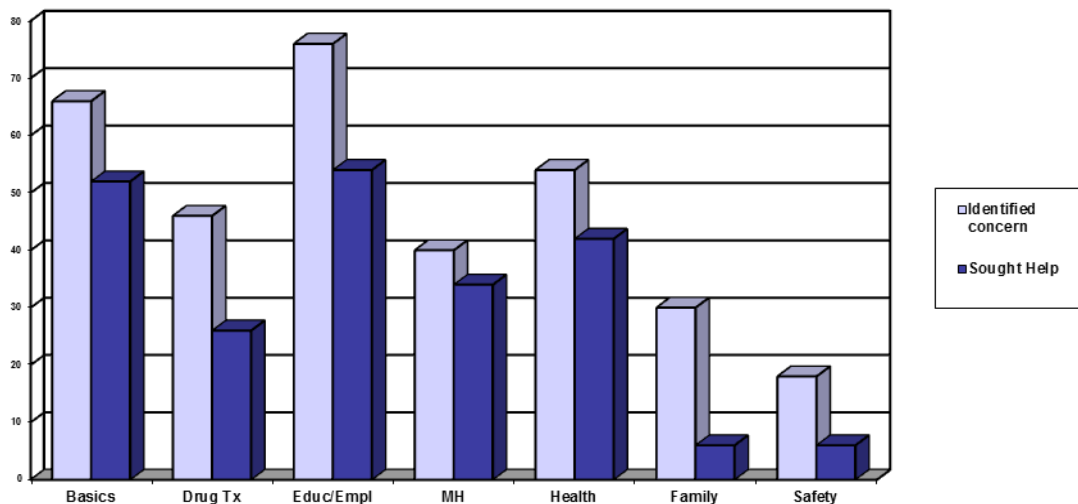
6.2 Women’s Multitude of Needs After Incarceration

Women’s needs going into jails and prisons are often still present when they are released back into their communities. Typical needs include, at a minimum, food, clothing, housing, and steady employment (Freudenberg, 2001; Green, Miranda, Daroowalla, & Siddique, 2005; O’Brien & Young, 2006). It is also increasingly common that individuals on parole or probation have to contribute to the costs of their supervision and are assessed a monthly fee.

In 2009, the Michigan Coalition Against Domestic and Sexual Violence Open Doors Project team conducted individual interviews with 50 women convicted of a criminal offense in Wayne County, Michigan, who were either in the jail currently or sentenced to alternative incarceration in a residential facility. Findings revealed that women’s most pressing needs were obtaining education and/or employment (76%), getting their basic needs met (66%), and receiving and utilizing health care (54%). Approximately one out of four of the women reported having been physically assaulted in the prior year (24%) and/or had been coerced into sexual activity (26%). Ten percent reported being sexually assaulted in the prior year.

Despite these serious concerns, many of the women had not sought help in these areas. For example, while 76% identified education or employment as a need, only 54% sought help to get this need met. While 40% identified mental health as a concern, 30% sought help. Table 6.1 illustrates the differences between women’s self-defined needs and the extent to which they had sought help with those concerns.

Table 6.1 Women’s Self-Defined Needs and the Extent to Which They Sought Help



Kubiak, Sullivan, Nnawulezi, Tillander, & White (2009)

The following quotes are from women with criminal histories (not all of whom identified as having been battered) who needed assistance with the following issues in Chicago or Philadelphia³:

HOUSING:

"I am homeless. I was beaten by my husband. I was staying under a stairwell."

"Well, I have a child by the man who beat on me and I think he might beat me when he come[s] home—he's in jail now. Also, I don't have anywhere to go."

EMPLOYMENT AND ECONOMIC ISSUES:

"I found a job, but was then fired after one day, due to my background."

"[I couldn't get a job because] I had no income, no housing, no address, no start."

CONCERNS REGARDING CHILDREN:

"My children are in foster care—I need help with that issue emotionally."

EDUCATION:

"[I'm interested in] workshops run by administrators from local higher ed colleges and universities, about financing and career goals."

"I want to get a one-year certification for drug counseling."

PHYSICAL AND MENTAL HEALTH CARE:

"[I'm interested in] support for Hepatitis C, like some groups."

"I need to constantly release my emotions. I'm suicidal and I'm bipolar."

DRUG AND ALCOHOL TREATMENT:

"[There need to be] more programs where you can get help when you take drugs. No waiting lists [so] you can get help when you are ready."

"I want to continue bettering myself and get sober."

SUPPORTIVE COUNSELING:

"[I need] exactly that—support—unconditional space, [where I can be] allowed to talk, vent, cry, laugh, etc. A safe space."

"If I had had help in abusive relationships, I probably would not even be here."

6.3 Assisting Women with Collateral Consequences and System Barriers

This section focuses on the most common needs and barriers facing women with criminal histories. Some of the content is specific to Michigan, and it is important to remember that legal statutes and policies differ across the country. Readers from other states are encouraged to verify state laws and resources applicable to their clients' needs and circumstances. This section was adapted with permission from materials developed by Miriam Aukerman, attorney and former director of the Michigan Reentry Law Project, Legal Aid of Western Michigan. This overview is not intended as legal advice but is offered to summarize common issues women face during re-entry. See Section 8 for more detailed information about these barriers.

CASE STUDY: Understanding the Collateral Consequences Post-Conviction

Mary was arrested, and later convicted, of possession of approximately \$25 of crack cocaine, a felony offense. Initially sentenced to probation, she violated her probation orders by continuing to use drugs and not meeting with her probation officer. She was sent to prison, where she found out she was pregnant by her abusive boyfriend. Mary was convinced that she wanted life to be different for her and her child and she began working with staff from a human service organization that was offering groups within the prison. The program offered housing and treatment once Mary left prison and she resided there receiving substance abuse treatment and employment training for 6 months after release. Mary's goals were to find safe housing and employment, and to return to college. Mary found work in a fast food restaurant, the only place willing to hire her with a felony conviction, but her wages did not afford her the safe housing she desired. She applied for Section 8 housing (government-supported housing) but was turned down due to the felony drug conviction. This presented a housing dilemma, forcing her to move in with a drug using colleague rather than the unsafe housing she could afford. Eventually she qualified for a 'Habitat for Humanity' house and felt stable for a return to college. After meeting with an admissions coordinator, she felt hopeful that as a single mother there would be grants and loans to support her tuition. However, once she filled out the formal application and the felony drug conviction was reported, she learned she did not qualify for school loans or Pell Grants. Mary put off her dreams for school and remains working in the fast food industry.

6.3.1 Options to Reduce the Consequences of a Criminal Record

Having a conviction negatively impacts a person's life in numerous ways, including their ability to obtain housing and employment. It is not unusual for a potential employer or landlord to require applicants to undergo a 'criminal background' check, for example. A *background check* usually involves a review of the state's criminal legal database, which may indicate arrests, pending warrants, convictions, and sentences. Depending on the policies of the employer or the landlord, individuals with a criminal record or conviction for a particular criminal offense may be restricted from certain jobs or housing. For women this may be particularly salient as jobs in health care or child care may be restricted.

This may seem particularly harsh if the individual's encounter with the criminal/legal system was an unusual or restricted occurrence, and there may be some protection for that individual through two actions: (1) statutory deferral of adjudication, and (2) expungement of a criminal conviction (explained in more detail below).

It is also important to note that for some women, a conviction for failure to protect or other child abuse or neglect (even if the survivor pled to the charge to insure placement of the child with family) will place the survivor on the Central Registry maintained by the Department of Human Services. This is a separate registry from the Law Enforcement Information Network (LEIN), which lists arrests and convictions and may lead to prohibition of a survivor's ability to enter a teaching or childcare field. Procedures exist for removing a name from the Department of Human Services Central Registry, particularly if the survivor has sought an expungement. An advocate should be aware of local resources to assist a survivor to do this.

Procedures and options will differ by state. *Below are actions that as of this writing are available in Michigan, but readers are advised to confirm the veracity of this and all information before sharing it with clients.*

6.3.1.1 Deferred Adjudication Provisions

Deferred adjudication means that the court waits to come to a final decision on sentencing after someone takes a plea. Under Michigan state law there are specific statutes that permit a court to defer sentencing for a plea-based conviction as long as the defendant complies with all terms and conditions of the deferral. For example, Michigan law⁴ permits the court to defer further proceedings on a first time offender conviction for possession or use of specific controlled substances. When the court agrees to defer adjudication for a drug conviction, no judgment of guilt is entered on the official court record. The defendant is placed on probation in lieu of sentencing and the probation sentence is likely to include participation in drug treatment.⁵ If the defendant successfully meets all of the probation/deferral conditions, the court discharges the person and dismisses the case without an adjudication of guilt.

Importantly, *deferred adjudication provisions generally do not result in keeping the criminal activity from being considered a conviction for immigration purposes*, and thus do not remove the collateral immigration consequences associated with the activity.⁶

Even after deferred adjudications, sentencing, or even expungement, immigration officials will still have access to related records. Moreover, immigration and naturalization records will require disclosure to avoid charges of misrepresentation even if state courts inform a person otherwise. As such, it is important that advocates are aware of the particular status assigned to probation in their jurisdiction, and how this could potentially affect the immigration status of survivors convicted of crimes and sentenced to probation.

Note that *the deferral program must be offered or sought before or during the sentencing phase*. In general, this is not something that an individual can seek once they are sentenced and the terms of probation are completed.

6.3.1.1.2 What Records Exist After a Deferred Adjudication?

After a successful deferred adjudication occurs, a nonpublic record of an arrest and discharge exists, which may only be disclosed under very specific circumstances. Law Enforcement officials have access to this nonpublic record, but the arrest and discharge under a deferral will **not** show up on a person's criminal record through publicly available databases such as Michigan State's Internet Criminal History Access Tool (ICHAT) (see Section 6.3.2).⁷

Some women, whose criminal charges are dismissed or who are ultimately acquitted, may need to take action to ensure that arrest information *that did not result in a conviction* is removed from their criminal record. Michigan law⁸ provides for return of fingerprints and elimination of record if the person is not convicted.⁹

It is also important to note that, even though records of deferred judgment may not generally be accessible, they may be accessible by immigration officials. As a reminder, immigration and naturalization records often require disclosure of these records to avoid charges of misrepresentation even if state courts may rule that they are not otherwise accessible.

6.3.1.2 Expungement: Giving Women a Fresh Start

Expungement involves asking the court to "set aside" a conviction so that information about that conviction is no longer publicly available. If the conviction is "set aside" (and is the only conviction), then the woman can honestly say that she does not have a criminal conviction/criminal record. However, a nonpublic record remains accessible to law enforcement and judicial branch for a variety of purposes, including professional licensure and enhancement of a sentence in subsequent prosecution. Similarly, expungements have no impact on collateral immigration consequences unless they are required due to constitutional error in the initial proceedings. In contrast, changes in sentencing may be recognized by immigration law and may impact immigration rights. According to Michigan law,¹⁰ "setting aside of a conviction under this act is a privilege and conditional and is not a right."

What convictions can be expunged? States can often only expunge state convictions. Federal convictions can generally not be expunged.

Michigan Specific Expungement Requirements¹¹:

On June 23, 2011, Michigan's Senators passed the 2011 Senate Bill 159, which amended MCL 780.621, entitled '*An act to provide for setting aside the conviction in certain criminal cases.*'¹² This bill provides a break for individuals who committed offenses while under the age of 22. Individuals who meet the following criteria can apply for expungement:

- 1) Only one adult criminal conviction over the age of 21. Individuals can have a maximum of three criminal convictions, so long as two of the offenses occurred under the age of 21, and two of them were "minor offenses." A minor offense is a misdemeanor where the maximum penalty is not more than 90 days in jail.

- 2) Two of three convictions are “minor” misdemeanor offenses and must have occurred prior to turning 22.
- 3) Five years have passed from the date of sentencing on the last offense. If sentenced to prison or jail, five years must pass from the date of release. If a formal juvenile adjudication occurred, five years must pass and the individual must be 24 years old.

What convictions cannot be expunged?¹³

- Felony offenses punishable with life imprisonment
- Criminal Sexual Conduct (CSC) crimes in the 2nd or 3rd degree may not be expunged
- Assault with the intent to commit CSC in the 2nd degree may not be expunged
- Traffic offenses

What goes on an expungement application?

In Michigan, a person has to file a request with the court. In a typical case, expungement requires that the applicant submit a statement that describes the crime they would like to expunge and confirmation that they have not committed any other crimes. The applicant must complete an applicant Fingerprint Card (RI-8) and pay a \$50.00 (\$30.00 juvenile set aside) processing fee in the form of a money order or check made payable to the State of Michigan. It is important to note that an applicant can only request expungement of one conviction.

The following Michigan resources are available to guide a person through the expungement application and hearing process.

1. *The Michigan State Court Administrative Office offers an online self-help guide entitled Getting an Adult Criminal Conviction Removed located at http://courts.michigan.gov/scao/selfhelp/intro/criminal/setaside_help.htm*¹⁴
2. *The Michigan State Police offer guidance on its website on how to request a criminal record check for the purpose of completing an expungement application to set aside a conviction located at http://www.michigan.gov/msp/0,1607,7-123-1589_1878_8311-10418--,00.html#setaside*

6.3.2 Obtaining the Criminal Record

Records can often be inaccurate, which is why it is important for women to check them. They should look to see that arrests, without formal charges, are not on their record. In Michigan, persons can access free legal advice at Michigan Reentry Wiki hosted by the Michigan Poverty Law Program, which contains a comprehensive resource library and helpful

**Records can often be inaccurate,
which is why it is important
for women to check them.**

information on Understanding Criminal Records and Correcting Inaccuracies, at http://reentry.mplp.org/reentry/index.php/Main_Page.

A copy of the criminal record may be obtained through the state police (usually available online), local police records, the Department of Corrections, private background checking agencies, employment agencies, and other resources. Different jurisdictions will hold different records based upon the charge or conviction, so it is important for advocates to find out where the record is held in order to access it. In Michigan, the Department of Corrections operates the Offender Tracking and Information System (OTIS) that is a publicly available database, which can be searched using a name. This database has information about convictions, probation and parole sentences as well as confinement in the state prison.

In addition, the Michigan criminal record database is publicly accessible on the Internet via the Internet Criminal History Access Tool, also called ICHAT.¹⁵ ICHAT use requires a person to register and provide a credit card for payment to register before using. There is a \$10 fee charged for each search. If a person cannot afford to pay \$10, the ICHAT website has instructions on how to get a record for free.

See Section 8 for legal resources (both Michigan and national) and consult with a local legal professional for more information on how to access criminal records.

6.3.3 Obtaining Legal Identification

Many women released from jail and prisons do not have any form of official state-issued identification (ID) (e.g., driving license, state identification, social security card). They may not have had ID before they were incarcerated or arrested, lost their ID because it was claimed as evidence, or lost it while incarcerated. A lack of ID can prevent them from getting housing, public assistance, employment, and other necessary resources.

Some offenses automatically result in loss of the driving license. Typically, women have to complete an alcohol assessment and serve a mandatory disqualification period before potentially getting back their license. However, many women have not ever had a driving license.

How to Help Someone Obtain ID

Paradoxically, ID is needed to get ID. To obtain a license or state ID, the following is often required:

- Social Security card (or at least the number)
- Proof of legal United States residency (a birth certificate or passport)
- Proof of Identity (Prisoner ID card can be used)
- Proof of State Residency
 - Parole Order
 - Letter from shelter
- Depending on if the woman had an ID previously; various documents may help with the process such as mortgage papers, court documents, utility bills, or insurance papers

- In Michigan, women can contact the Secretary of State Branch manager for exceptions to the guidelines above if they can obtain enough documents

6.3.4 Regaining Custody of Children

Women are often the sole caretakers of their children prior to incarceration; 84% of women in federal prison, and 64% of women in state prison lived with their children before being incarcerated (Mumola, 2000). Many mothers will make arrangements for their children's care prior to incarceration. Some women leave their kids with close relatives or other family friends. Even when children are left with close relatives, guardianship and custody rights are often affected. Women who are forced to give temporary custody to another adult may not be able to regain custody after incarceration.

Women working on regaining custody should be encouraged to document all of their efforts to stay in contact with their children.

When kinship care is unavailable or there is not enough time to make this decision, children are sent into the foster care system. Sometimes women are not able to inform the government about the new designated caretaker for their children. When this occurs, children are removed from the home of the temporary caregiver and placed into foster care.

Incarceration threatens women's parental rights. The Federal Adoption and Safe Families Act (ASFA) requires the State to terminate parental rights when a child is in foster care for 15 months out of the most recent 22 months, unless a compelling reason exists to not terminate rights. Women are required to show throughout their incarceration that they are maintaining contact and "being good parents." This means that women should be encouraged to document their contact, or attempts at contact, with the children. This can be done through the use of a log, telephone bills, copies of letters, etc. Even if someone is restricting access to the children, it is important to verify the woman's attempts at trying to maintain contact. If they fail to do so, children are considered "abandoned" and mothers are subsequently labeled unfit parents and action to terminate parental rights may ensue. Incarcerated women are also entitled to appear via telephone or videoconference at any hearing that affects their parental rights and should be encouraged to do so. Parents facing termination are also entitled to court appointed counsel and a survivor should be encouraged to not only seek counsel but work to insure she is involved in every aspect of the court proceedings in conjunction with counsel.

Under ASFA, states are supposed to provide supportive services to help families stay together. Yet, there are certain stipulations in place that waive access to these supportive services (see Strickman, et al. 2010, for more information). The 22-month time limit can be daunting and frustrating for women re-entering into the community. Upon re-entry, many lack the necessities such as housing and employment to help show that they are able to provide for their children. Lack of access to transportation might make it difficult to attend regular court dates about parental rights and custody concerns. The lack of steady employment might also make paying court fees more difficult. However, mothers risk being defaulted if they do not show up to court during a custody hearing.

6.3.4.1 Recommended Actions to Help a Woman Maintain or Regain Custody

- **Placement while a mother is incarcerated**—Although child welfare workers (i.e., foster care or child protective service workers) may be mandated to assist with contact, even while the mother is confined, rarely do they have the personnel to implement this in Michigan. If child welfare workers are not involved and a child is staying with another relative, the mother should make sure that one of two forms is completed: 1) Power of Attorney, or 2) Caregiver's Authorization Affidavit. Completion of these forms will allow relatives to provide medical services and enroll the child in school. If the juvenile court becomes involved, the mother can transfer legal rights of the child indefinitely to the relative through a Legal Guardianship. There are two types of guardianships, limited and full. A limited guardianship is effectuated by the consent of the parent and will include a plan for reunification, while a full guardianship is a more adversarial procedure. If a Guardianship is required, the survivor should cooperate with a limited Guardianship with a realistic reunification plan rather than allow a full Guardianship proceeding to take place. Importantly a Guardianship suspends rather than terminates parental rights and can be a good alternative if the survivor is facing a long separation from her children. It is important that the survivor, if at all possible, choose someone who understands her situation and will consent to a return of her children upon release. In cases where there are no relatives or a mother is unable to find someone to watch the child while she is incarcerated, child welfare workers will place the child in foster care. If child welfare is involved:
 - Assist the woman in calling or writing to a child welfare worker as soon as possible to secure a lawyer for the case regarding her child. Remember, she has the right to a free, court appointed lawyer if termination proceedings are brought against her.
 - Encourage her to be present at every court hearing, either in person or by telephone or video conferencing, talk to her lawyer about what she wants for her child and attend any parenting classes or other classes that are offered through the jail or prison.
 - Assist and encourage the woman to maintain contact with her child. Her lawyer can request the court to order collect calls between the mother and child, visits with the child (including transportation for the child to the visits), and counseling for the child.
 - Encourage the woman to maintain a record of all calls and visits with the child when possible. It is also important to keep copies of letters sent to the child while incarcerated. Keeping a record can provide evidence to a judge that the mother is concerned and cares about her child increases the chances that she will maintain custody.
- **Reunification after incarceration**—Encourage the woman to follow the case plan ordered by the court and visit the child as often as possible. If reunification or parental rights have been denied or terminated, there are still steps that a mother can take to gain custody. Assist her in talking with her lawyer to file a Section 388 motion to try and change or modify the court order.
 - It is also helpful to assist moms in understanding their child's behavior during reunification. Although mothers often have wonderful visions of heart-warming reunions with the child, this is often not the case. Children fearing subsequent

abandonment may shy away from or neglect their mothers, causing pain for the mother with uninformed expectations. Advise mothers to be warm, loving and accepting of their child's reaction to them. Generally there is a need for time to reestablish trust. Prepare the survivor for a more gradual reunification process. Often when there is Court involvement, the Court will begin the reunification process with supervised parenting and gradually expand the survivor's contact with the children. While this may seem punitive to the survivor, it is essential that she follow every step of the Court ordered process so as to show her willingness to comply with what the Court has determined to be in the best interest of the children. In addition, survivors may need help getting transportation to structured parenting time; moreover if a batterer is affecting the survivor's ability to engage in a reunification plan, it is essential that the Court be made aware of the reason for any missed appointments immediately.

See Section 8 for referrals and additional resources.

6.3.5 Housing

One in four women leaving jails do not have secure housing upon release (McLean, Robarge, & Sherman, 2006), and many women are forced to live in unsafe, unstable neighborhoods with their children. Landlords can and do refuse to rent to people with criminal records. However, many people, including those with felony records, are eligible for subsidized housing. Lifetime sex offender registry offenses and convictions for methamphetamine production often bar women from admission to subsidized housing and can lead to mandatory eviction. Other types of conviction that can lead to such outcomes are: drug crimes, alcohol abuse, and crimes that threaten the well-being of other residents. Probation and parole regulations may exist for where the woman can live and with whom she can live. Her agent may have to approve her location.

Subsidized Housing Barriers: The three main federally subsidized housing programs, including Housing Choice Voucher Program (Section 8) and the Federal Public Housing Program, often deny housing to women with certain criminal convictions. Public Housing agencies have the discretion to deny admission to three types of tenant circumstances: 1) tenants who have been evicted from public housing because of drug-related criminal activity for a period of three years following eviction; 2) tenants who have in the past engaged in a pattern of disruptive alcohol consumption or illegal drug use, regardless of how long ago; and 3) tenants who have engaged in any drug related criminal activity, any violent criminal activity or any other criminal activity if they deem them a safety risk (Human Rights Watch, 2004).

Nevertheless, many people, including those with felony records, are eligible for subsidized housing and advocates should be aware of state, federal and local housing statutes that prohibit discrimination based on protected class or status as a domestic or sexual violence victim.

To learn more about whether a woman is eligible for subsidized housing, people can contact their local public housing entity, state housing development agency responsible for housing vouchers, or the local Fair Housing Legal Center in their state.

6.3.6 Employment

Having an arrest and/or a criminal record can make it difficult for women to secure employment. Two thirds of employers will not hire someone with a criminal record (Aukerman, 2008), and certain professions may *prohibit* the hiring of individuals with a criminal conviction.

The following are types of jobs that are likely to prohibit employees with criminal backgrounds:

- Positions working with or near children¹⁶
- Positions working with or near vulnerable adults¹⁷
- Licensed professional positions
- Security-related jobs¹⁸
- Transportation related jobs
- Government funded positions

It is important to remember that although many state and federal policies prevent the employment of people with convictions in certain job positions, having a conviction or a criminal record does not necessarily disqualify an individual from obtaining a job. Legal restrictions are complicated and depend on the type of conviction and the age of the conviction. *Do not assume a person with a record is barred from a position.*

6.3.6.1 Recommended Actions for Gaining Employment

A first step in helping a woman gain employment is to see if her arrest record or conviction record can be expunged, and to assist her if she is eligible for and interested in this (see Section 6.3.1.2). Although expungement will not cleanse her record for all purposes, it is likely that this process can lessen the extent of disclosure to employers. If the record cannot be expunged, there are other steps that she can take to increase employment opportunities. Specific employment fields' policies can be identified through contacting Legal Aid, industry websites and organizations, unions, and employer materials. Advocates can also assist the survivor in removing her name from the Department of Human Services Central Registry to increase her ability to work with children if that is a vocation she desires.

Recommendations for Preparing—The Job application and/or Interview

- Information about a criminal history should not be disclosed unless it is directly asked. In Michigan, the Elliott-Larsen Civil Rights Act prohibits employers from asking about or maintaining records concerning any misdemeanor arrests that did not result in conviction.¹⁹ Applicants must read job applications carefully. Information on “arrests” should not be disclosed if the application is asking about “convictions.” She should pay attention to the wording used on the application or during the interview. For example, if an employer asks about felonies, information on misdemeanors should not be disclosed.

- The following states have statutes that prohibit employers from asking employment candidates about arrests that did not lead to a conviction during the hiring process: California, Hawaii, Illinois, Massachusetts, Michigan, New York, Ohio, Rhode Island, Utah and Wisconsin. Some states permit an employer to ask about pending felony charges that have not yet been adjudicated. If you reside in one of these states, contact your local department of civil rights for employee guidance on what an employer may ask of a candidate.
- If you reside in Michigan, the Michigan Department of Civil Rights offers a helpful brochure to both employees and employers on what is a permissible criminal record inquiry on an employment application.²⁰ In addition, the State Bar of Michigan Justice Initiatives Office has produced a brochure called, Employment—Got a Record? Know Your Rights, available for download at http://michbar.org/programs/CII/pdfs/employment_rights.pdf
- Encourage women to answer questions truthfully when an employer inquires about a conviction record. Make sure that she understands her criminal record and her charges before she interviews. She should pay attention to the wording used on the application or during the interview.

When jobs are denied due to criminal records

If a woman you are working with is denied employment due to her criminal record, assist her in contacting a local legal resource for information about appealing this decision. See the National Legal Service Directory at <http://www.lsc.gov/find-legal-aid>, or contact the nearest EEOC (Equal Employment Opportunity Commission) Office for assistance.

See Section 8 for referrals to additional resources on this topic.

6.3.7 Pursuing Secondary Education and Educational Funding

Having a criminal background can make pursuing educational opportunities more difficult. For secondary education, student loans and financial aid may be affected by criminal convictions. Specifically, under the Drug-Free Post-Secondary Education Act of 1990 a conviction involving possession or sale of a controlled substance while receiving student loans may be a violation of state or federal laws and may result in denial of federal financial aid for a specified time.

Federal Financial Aid

The Higher Education Act of 1965 (amended in 1998) did not allow individuals with drug convictions to be eligible for financial aid. However, in 2006, Congress passed new regulations that permit individuals with past drug convictions to apply for and be potentially eligible for federally based financial aid. Students who are enrolled in college and convicted of a drug offense may not be eligible to continue receiving federally based financial aid.

- According to the Federal Student Aid office, an office of the U.S. Department of Education (<http://studentaid.ed.gov/>), “the Higher Education Act of 1965 as amended suspends aid eligibility for students who have been convicted under federal or state law of the sale or possession of drugs, if the offense occurred during a period of enrollment for which the student was receiving federal student aid (grants, loans, and/or work-study).”
 - *Drug convictions while a student is enrolled may disqualify her for federal financial aid for a period of time. Previous convictions before enrollment may not affect her ability to receive federal financial aid.*
- Also, a student subject to an involuntary civil commitment after completing a period of incarceration for a forcible or non-forcible sexual offense is ineligible to receive a Federal Pell grant.
 - *The student may be eligible for other forms of federal financial aid.*
- Federal financial aid restrictions are based only on drug-related convictions and specifically for those occurring while an individual is enrolled in an educational institution.

6.3.7.1 Recommended Actions to Help with Federal Financial Aid

Encourage and assist the woman with contacting the Federal Student Aid Information Center to receive up-to-the-date information on her individual eligibility for aid. The Federal Student Aid Information Center, (<http://studentaid.ed.gov/>), recommends that students interested in federal financial aid do the following:

- If there is a conviction(s) for drug-related offenses, call the Federal Student Aid Information Center at 1-800-4-FED-AID (1-800-433-3243) or go to the www.fafsa.ed.gov site, click on “Before Beginning a FAFSA” in the left column, then click on “Student Aid Eligibility Worksheet” to find out how this law applies.
- If federal student aid eligibility has been lost due to a drug conviction, eligibility may be regained if the individual passes two unannounced drug tests conducted by a drug rehabilitation program that complies with criteria established by the U.S. Department of Education.
- Even if an individual is ineligible for federal aid, the FAFSA form should be completed because an individual may be eligible for nonfederal aid from states and private institutions. If eligibility is regained during the award year, notify the student’s financial aid administrator immediately.

6.3.7.2 Recommended Actions for State and Local Concerns

State laws and educational institutions may have policies in place that deny admission to secondary education for those with a criminal record. In a 2009 survey of 237 colleges and universities about the use of a criminal record for admissions, a majority of individuals applying to the institutions with a criminal record were not automatically disqualified from the institution. However, 25% of these institutions denied admission for those with a violent or sex offense, and approximately 40% of the schools refused admission for those still on parole. Lack of disclosure about a criminal record

was viewed negatively and often resulted in disqualification for admission (Center for Community Alternatives, 2010).²¹

- Encourage and assist the woman with contacting the school of her choice to discuss with (1) the admissions office for admission criteria and regulations based on criminal history; and (2) the financial aid office regarding her funding options and eligibility.
- If a local school does prohibit admissions due to a criminal history, check to see if the school has an appeal process where she could present information and circumstances surrounding the conviction that could assist her with admission. If no appeal process exists, assist her with investigating other schools' policies.

See Section 8 for referrals to additional resources on this topic.

6.3.8 Financial Assistance

Women with criminal histories face the loss of many governmental benefits. Federal benefits such as Social Security and Supplemental Security Income (SSI) will stop when a woman is incarcerated.²² However, benefits for her dependents should continue. SSI stops if she is incarcerated for a year or more, and after release, she must re-apply. Very short-term incarceration may not affect her benefits. *A conviction will not make her ineligible for Social Security benefits.*

According to the U.S. Social Security Office, probation and parole violators are not eligible to receive SSI benefits. A person who faces a probation or parole violation hearing may not receive SSI payments for any month during which he/she is violating a condition of probation or parole imposed under Federal or state law.

The Social Security Administration uses a computer-matching program in cooperation with state law enforcement agencies to identify individuals with outstanding warrants. This results in a number of people with outstanding warrants being denied benefits under the 1996 welfare legislation, fugitive felon's restriction for benefits in four programs: Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), food stamps, and housing assistance (McIntyre, 2003).

A person is deemed "a fleeing felon", if during any part of the month; he/she is fleeing to avoid:

- trial on a criminal charge of felony
- jail or prison after conviction of a felony
- custody after conviction of a felony²³

However recent litigation has limited the Social Security Administration's ability to deem a person a fleeing felon. Moreover, defenses to this determination do exist and it is possible to reinstate benefits under certain circumstances. It is important for a woman to appeal a denial of benefits immediately and seek help from the local legal aid office.

6.3.8.1 Drug-Related Felonies and Public Benefits

Drug-related felony convictions can be detrimental for women who want to seek government assistance. A drug-related felony conviction is defined as “any offense that is classified as a felony by the law of the jurisdiction involved that has an element of possession, use, or distribution of a controlled substance” (MCOLES Training Program). Federal law bans anyone with a drug-related felony conviction from receiving benefits—such as Temporary Assistance to Needy Families (TANF) and Supplemental Nutritional Assistance Program/Food Stamps during her lifetime. Although Michigan was one state that had in the past “opted-out” of this ban, the legislature recently passed a budget bill for the Department of Human Services that imposes a lifetime ban on individuals with drug convictions after 1996 with an exception for those who only have one conviction. Women may need to be aware of specific state laws if they want to move out of state.

Although federal legislation affects cash assistance, it does not affect other assistance programs and women can still receive the following support even with a drug-related felony.²⁴ These benefits include:

- Emergency medical services
- Short-term, in kind-emergency relief
- Public health benefits
- Prenatal care
- Job training programs
- Drug treatment program
- Medicaid
- Federal disability benefits under SSD or SSI

6.3.8.2 Welfare Fraud Convictions

Welfare fraud and similar convictions can result in disqualification from public benefits for *specified periods of time*. These disqualification time periods vary from state to state.

6.3.8.3 Recommended Actions for Economic Assistance

If the woman you are working with has been receiving a form of Social Security, assist her in contacting the local Social Security office to find out about continuing benefits and if needed, how to re-apply or re-instate her benefits. For information on how to contact the local branch, utilize the Social Security Administration website: <http://www.ssa.gov/>.

If she does not have a drug-related conviction, then assist her with applying for the Supplemental Nutritional Assistance Program/Food Stamps and cash assistance, if she is eligible in her community. Obtain information about where and how she can apply, as well as needed documentation. Starting the application process while she is incarcerated can help her obtain benefits quickly after re-entry into the community, as well as help her to develop a plan for re-entry.

See Section 8 for additional resources on this topic.

6.3.9 Physical Health

Physical health issues are a grave concern, as women, especially those who are low-income, often have little access to routine or preventative health care prior to incarceration. In addition, women who are addicted to drugs often ignore physical health concerns. Health issues such as HIV/AIDS (Fitzpatrick-Lewis, 2006), STDs (Green, et al. 2005), pregnancy, asthma, and other types of chronic diseases present themselves as major health concerns among women leaving jail (Lee, Vlahov, & Freudenberg, 2006) or prison. Although prisons and jails are mandated to provide physical health care during incarceration, the care is generally minimal and many women leave the institution with a need for ongoing care.

Women may be eligible for Medicaid (if they have dependent children and meet the income requirements) or Medicare (if they have a severe or chronic health condition that has resulted in a disability status). If women were enrolled prior to incarceration, often their enrollment has been terminated during confinement and will need to be reinstated through a reapplication process post incarceration. This process takes approximately 45 days once the application is completed.

6.3.9.1 Recommended Actions for Obtaining Physical Health Care

If a woman has experienced trauma and abuse, she may be afraid of receiving physical healthcare services—she may feel vulnerable and some services may trigger trauma responses (especially gynecological exams and invasive procedures). Some domestic violence agencies offer free physical health services onsite with medical professionals who understand the role of trauma and focus on not re-traumatizing survivors. Work with her to discuss her ability to advocate for specific care and communicate her experiences with her medical professional as she wishes.

If a woman was receiving Medicaid previously or may be eligible for it after incarceration, assist her with working on the application prior to release in order to expedite the process once she is back in the community. Regardless of whether she can or cannot complete the paperwork while incarcerated, it may be helpful for her to have copies of the application, to know what documentation is necessary for the application, and have contact information for her local Medicaid application office.

If she is no longer incarcerated, assist her with obtaining the application to apply for Medicaid. Many states offer this application online, as well as in person. To locate a local Medicaid or Medicare application office, go to Centers for Medicare and Medicaid Services at <https://www.cms.gov/MedicaidGenInfo/>

If she is ineligible for Medicaid and in need of low cost health care, connect her with a local healthcare clinic that provides a sliding scale or free services. One resource for locating a local free clinic is the National Association of Free Clinics (<http://www.nafclinics.org>). Another resource is contacting your local United Way for healthcare resources in the community (<http://worldwide.unitedway.org/>).

Federally funded healthcare centers specifically target community members who are underserved and without health insurance. They base payment on an individual's income and provide preventative care (check-ups), treatments for illness, pregnancy care, immunizations, pediatric care, dental care and assistance with prescriptions, and mental health and substance abuse care. Find a local federally-funded healthcare center at the U.S. Government Health Resources and Services Administration website: http://findahealthcenter.hrsa.gov/Search_HCC.aspx

Inquire into the resources she may already be receiving to see if free or reduced cost health care is available. For example, many local homeless shelters offer onsite medical care, as do some domestic violence agencies, which focus on not re-traumatizing patients.

See Section 8 for additional resources on this topic.

6.3.10 Mental Health

Many women entering prisons/jails have mental health concerns or were receiving mental health services in the community prior to incarceration (Kubiak, Beeble & Bybee, 2009; James & Glaze, 2006). Some of these mental health issues are not as serious and may be situational due to confinement; others are much more severe and are classified as serious mental illness (SMI). Due to the correction system's limited resources, many mental health concerns are not treated, or are inappropriately treated while in prison or jail (O'Brien and Young, 2006; Richie, 2001; Teplin, Abrahm & McClelland, 1997). It is most likely that women with SMI (e.g., psychosis, schizophrenia) will be treated within the institution while women with mood disorders (such as minor depression, post-traumatic stress or anxiety disorders) will not be treated.

For women receiving mental health services during incarceration it is important that a continuity of care approach is utilized that affords them immediate care upon release. This necessitates linkage with community mental health services. For women who were receiving such services prior to incarceration, linkage will be easier if there is evidence of a serious and persistent mental illness (criteria generally used for eligibility into community mental health). However, often women refuse treatment within prison because they fear that the parole board will view this as incompatible with parole. This disruption in treatment, or alteration of medications, may affect long-term treatment goals and actually thwart the woman's goal for early release.

For women with a range of severity of mental health disorders, it is often a struggle to receive long-term mental health treatment and affordable health care when re-entering into communities. Mood disorders such as depression and anxiety often increase the first year women are released from jail (Freudenberg, Daniels, Crum, Perkins, & Richie, 2005), yet it is much more difficult to find community resources for such care. Women might need emotional and psychological support to deal with their histories of physical and sexual abuse before incarceration and/or during incarceration. Women eligible for insurance for physical health care may have a limited number of sessions with a mental health practitioner, but may feel that mental health concerns are a luxury that they cannot afford to deal with in light of many other concerns they are trying to solve upon re-entry. Addressing the

emotional effects of trauma can be critical to success in dealing with the myriad of other collateral consequences including child custody disputes, employment and compliance with parole/probation. Often survivors have learned to discount their emotional state and need validation to seek treatment, and therefore advocates should encourage survivors to make mental health a priority. In addition, advocates can be helpful in engaging the local mental health community, some of whom may agree to see the survivor on a low fee or no fee basis.

6.3.10.1 Recommended Actions for Obtaining Mental Health Care

Talk with the woman you are working with about the prevalence of mental health concerns, especially among women recently incarcerated. This may help normalize her experience, thus lessening any sense of stigma she may be feeling. Discuss with her any concerns she has about receiving care and work together to address these barriers. For example, she may be facing some of these common barriers to care:

- 1) She may feel as though she is weak for seeking help. Discuss with her that promoting her well-being would actually be an act of strength and connected to the self-care aspect of her goals. If she is focused on “staying safe,” then mental health wellness may be connected to this goal. Discuss the pros and cons of seeking help. In reviewing these aspects, elicit additional barriers to care and work with her to strategize ways of overcoming these issues. Work with her to connect how mental health care is associated with her short-term and long-term goals.
- 2) She may have fears of being judged by a mental health professional. Work with her to find the “right fit” with a mental health professional. Discuss the possible options of mental healthcare resources and different types of care—focus on her ability to make choices about the type of care she receives. For example, she may not want to receive medication. Inform her that she may be eligible to receive therapy instead. Some women prefer to view mental health care as having an additional form of care and support, someone focused on their well-being. Thus, a mental healthcare professional could be discussed as someone in her team of support to assist her in meeting her goals.
- 3) She may be hesitant for a wide variety of reasons. If she is working with you and develops a trusting bond with you (especially if you are her advocate), you may wish to discuss with her the benefits she has received from this relationship and how she can receive similar benefits from a mental healthcare professional. As with other decisions, respect her choices and have information available if she chooses to pursue this option.

For information, referrals, resources, education, and support, connect her with the local branch of the National Alliance of Mental Illness (www.nami.org). Local branches often provide support groups, advocacy, referral and information, and educational groups for those with mental illness and their families.

If the woman is eligible for Medicaid, Michigan provides 20 mental health visits per year under her Medicaid benefits. These benefits can be redeemed through any clinician in the community that accepts Medicaid reimbursement. Advocates can help a survivor immediately upon release apply

for medical benefits or seek free or low cost mental health services. Because accessing services can be bewildering to many survivors it is important that the advocate encourage her to be persistent in navigating these systems or refer her to a local legal services provider who may have a prisoner re-entry program or may specialize in public benefits for low income people.

Contact the Community Mental Health office in your community. Although eligibility criteria are becoming more exclusive, in many communities they are the ‘providers of last resort’ for those with serious mental illness. Often Community Mental Health service providers do offer services for those with less severe mental health disorders.

Federally funded healthcare centers specifically target community members who are underserved and without health insurance. They base payment on an individual’s income and provide preventative care (check-ups), treatments for illness, pregnancy care, immunizations, pediatric care, dental care and assistance with prescriptions, and mental health and substance abuse care. Find a local federally-funded healthcare center at the United States Government.

6.3.11 Substance Misuse/Addiction

A vast majority of women are incarcerated because of nonviolent, drug-related crimes (Freudenberg, 2001; Richie, 2001). Prison treatment programs may or may not suit the gender-specific needs of women who have a drug/alcohol addiction—particularly if they are survivors of physical and/or sexual assault. This may also be true for community treatment programs. Staying sober in unsafe, unsupportive environments coupled with attempts to meet and sustain basic needs can be difficult for many women. Histories of trauma exposure and prior abuse may lead some women to use drugs and/or alcohol as a way of coping with the triggers they experience. A woman’s recognition of when and why she ‘uses’ will be very helpful during re-entry since, depending on the terms of probation or parole, a relapse can result in serious consequences (e.g., violation of community supervision—probation/parole—and return to prison). Substance abuse treatment services that have mixed gender groups or other treatment modalities may be inadvisable for women with abuse histories. Advocacy for women-only treatment services is advised (Covington, 2008).

Governmental assistance plays a critical role in the successful recovery of women. However, it is important to be cognizant of how even modified restrictions on governmental cash and food assistance can severely impact the lives of women (see Section 6.3.8.1 on the impact of drug-related felonies on financial assistance). Some states consider the successful completion of a treatment program as a precursor to receiving assistance. However, the availability of spots in treatment programs within the state could also hinder women’s ability to get treatment in the first place. Some treatment programs do not allow children to accompany their parent; therefore women are forced to leave their children to attend drug treatment programs. However, when a mother leaves her children she loses her ‘dependent’ and may become ineligible for welfare benefits. If this barrier exists for a woman, advocates may want to explore temporary kinship care or guardianship options with their client, during the time required for inpatient drug treatment.

Another resource for substance abuse treatment may be the criminal legal system. Because of the relationship between drug use and criminal activity, many criminal legal entities (i.e., courts, jails, prisons, community supervision) mandate treatment. This mandated treatment may be provided during incarceration and while on probation and parole, often paid for by corrections at no, or minimal, cost to the individual.

Women may be required to undergo drug testing while on probation or parole as a mechanism to monitor their abstinence and adherence to their community supervision conditions. Drug testing may be conducted in conjunction with visits to their parole/probation officer or women may be required to go to a community agency for drug testing. A positive drug screen may require a more intensive treatment level within the community or a return to the institution.

6.3.11.1 Recommended Actions for Obtaining Addiction Treatment

It is important to be aware of the addiction treatment agencies in your area, as well as their treatment protocols, cost, and eligibility criteria. Many women find that addiction treatment centers require them to be in-patients for a particular length of time, with no access to their children, and this can be prohibitive. Some women are interested in women-only treatment, and some will require free or low-cost treatment. The more you know about a woman's options in your community the easier it will be to assist her in locating a program that best suits her needs. This is also an area where development of peer mentoring support may be useful. For example, even after a survivor attends an in-patient program she will need support staying clean. Several domestic violence service providers have worked with local Narcotics Anonymous groups to provide women-only meetings and have trained the groups facilitated in the dynamics of domestic violence and trauma response. Many survivors report that meeting in a group setting with women who have similar experiences is very helpful in developing a sense of community and support, and in reducing isolation.

Every state has a Single State Authority (SSA) that manages the federal block grant that requires the availability of substance abuse treatment for those who are unable to pay for it.

The federal Substance Abuse and Mental Health Services Administration has an online tool for locating substance abuse agencies and resources in the community (<http://findtreatment.samhsa.gov>).

Although it is rare, some treatment providers may restrict admission for those under current supervision (probation/parole). For this reason, many states' departments of corrections across the country purchase community-based treatment directly from agency providers to ensure that treatment is available for those exiting prisons (Kubiak, Arfken & Gibson, 2009). Checking with parole and probation agents as to the resources available through corrections is another option for those seeking treatment.

See Section 8 for additional resources on this topic.

6.3.12 Immigration

Risk of deportation is the most significant collateral consequence of a criminal conviction for an immigrant.²⁵ Grounds of deportation are located in the Immigration Naturalization Act.²⁶ These provisions apply to any noncitizen that has been lawfully admitted to the United States. A criminal conviction for purposes of immigration is when a judge or jury has made a finding of guilt or the defendant has entered plea of guilty or no contest.²⁷ This includes deferred prosecution or deferred adjudication agreements where the defendant enters a plea of guilty.

Moreover, criminal conduct and criminal convictions can also negatively impact trafficked victims', domestic or sexual violence victims', and crime victims' eligibility to access the INA protections under T and U visas and VAWA self-petitions for lawful permanent residency.

Beyond deportation, it is important to note a fuller range of potential collateral consequences such as inadmissibility, and inability to establish good moral character for VAWA and naturalization purposes, as well as barriers to eligibility for certain forms of relief from deportation such as cancellation of removal and asylum.

6.3.12.1 Recommended Actions for Assisting with Immigration Concerns

It is vital that advocates, attorneys and criminal legal personnel assisting immigrant victims of violence have a fundamental understanding of the immigration consequences of criminal conduct and convictions. For a detailed overview of the immigration consequences of different types of convictions see *Michigan Reentry Law Wiki* "Immigration Consequences of Criminal Convictions Chart" <http://reentry.mplp.org>.

It is imperative that women talk to a criminal defense attorney before they make a decision to plead, or admit guilt through a deferral option offered by the prosecutor. Similarly, it is important that women who are immigrants contact their local immigration bar. It is possible for women to be deported for a conviction, even if they do not go to jail. Defense attorneys should know the status of the charged crime, avoid aggravated assault convictions, and thoroughly know the reasons why their clients could be deportable or become ineligible for INA relief. Immigration status should also be considered when attempting to expunge a conviction. If the woman has children in the United States, deportation efforts could be stopped depending on the type of crime and length of time since conviction. If a woman has pled to a particular crime it may still be possible to obtain relief but legal counsel will be necessary. Encourage battered immigrant women to seek legal counsel immediately to assess her choices and options.

See Section 8 for additional resources on this topic.

6.3.13 Additional Needs and Services

Domestic violence survivors who are incarcerated have many needs, only some of which are related to their criminal charge. Advocates are in a position to identify those needs and provide referral information. Your role is as a bridge-builder, connecting women to other sources of support.

Endnotes

- 1 In Michigan, MCL 769.1j (penalties consist of minimum state costs), MCL 780.905 (Crime Victims' Rights Fund Assessments), MCL 780.766 (crime victim restitution).
- 2 Randy E. Davidson, State Appellate Defender Office, Presentation on Collateral Consequences of Criminal Convictions, Michigan Institute for Continuing Legal Education.
- 3 These quotes were included as examples of women's needs in the NATIONAL CLEARINGHOUSE FOR THE DEFENSE OF BATTERED WOMEN'S, WORKING WITH BATTERED WOMEN IN JAIL. The quotes are originally from: Unlocking Options for Women: A Survey of Women in Cook County Jail, Chicago Coalition for the Homeless, (April 2002) and focus groups that were held at the Philadelphia Industrial Correctional Complex and the Cambria Community Center, coordinated by the Working Group to Enhance Services to Incarcerated Women in Philadelphia, (Summer 2001), by Swamir Goswami, Unlocking Options for Women: A Survey of Women in Cook County Jail for Chicago Coalition for the Homeless (2002) <<http://www.prisonpolicy.org/scans/jailstudy.pdf>>.
- 4 MCL 333.7411(1)
- 5 MCL 333.7411(1)
- 6 See NLADA, COMMON CRIMINAL GROUNDS OF REMOVAL, <http://www.nlada.org/DMS/Documents/1189086066.64/Criminal%20Grounds%20of%20Removal.pdf>.
- 7 MCL 333.7411(2) (permissible nonpublic disclosure to criminal legal professionals)
- 8 MCL 28.243
- 9 See also, MICHIGAN REENTRY LAW WIKI'S "Cleaning up Criminal Records: Removing Arrest Information That Did Not Result in Conviction" at <http://reentry.mplp.org/reentry/index.php/Main_Page>.
- 10 MCL 780.621
- 11 MCL 780.621(1), MCL 780.621(1), MCL 780.621(2), MCL 712A.18e, and MCL 780.621(8)
- 12 MI House Bill 4106 (2011) I at Michigan Legislature <<http://legislature.mi.gov/doc.aspx?2011-hb-4106>>.
- 13 MCL 780.621(2)
- 14 The mentioned website is being reformatted to comply with the new law; however, the change in the law may delay final approval.
- 15 See generally, Michigan State Police ICHAT home page at <<https://apps.michigan.gov/ICCHAT/Home.aspx>> (accessed Nov. 7, 2011).
- 16 Mich. Admin Code R. 432.1337 et seq. (Childcare providers), MCL 257.1853; MCL 380.1230; Mich Admin Code R 28.14203, (School Employees)
- 17 MCL 333.16221 (Health professionals)
- 18 MCL 338.1056
- 19 MCL 37.2205a(1)
- 20 See MICHIGAN DEPARTMENT OF CIVIL RIGHTS Hiring People with Criminal Records, An Employer's Guide to Legal Rights and Responsibilities in Michigan, at <http://www.michigan.gov/mdcr/0,1607,7-138-4954_4997---,00.html> (accessed Nov.7, 2011).
- 21 CENTER FOR COMMUNITY ALTERNATIVES, Reconsidered: The Use of Criminal History Records in College Admissions, (2010) at <<http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>>.
- 22 2 CFR 404.468
- 23 42 U.S.C. § 1382(e)(4) (2002)
- 24 Personal Responsibility and Work Opportunity Act of 1996 (focused on certain cash assistance programs, but did not negate others. The act was reauthorized in 2005).
- 25 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA)
- 26 INA §237(a)(2); 8 USC 1227(a)(2)
- 27 Quoting, Ann Benson, Washington Defender Association's Immigration Project Overview of Immigration Consequences of Criminal Conduct for Immigrant Survivors of Domestic Violence, (September 2004) at 6 citing, Matter of Punu, Int. Dec. 3364 (BIA 1998); Matter of Roldan, Int. Dec. 3377 (BIA 1999); Murillo-Espinoza v. INS, No. 00-70096 (9th Cir. 2001); exception for first-time simple possession offenses in the 9th Circuit and Lugan-Amendariz v. INS, 222 F.3d 728 (9th Cir. 2000).

Section 7: Working Together: Practical Guidance to Enhance Collaboration Between the Criminal Legal and Domestic Violence Sectors

A collaborative partnership between the criminal legal and domestic violence sectors is an important step to significantly reduce and/or eliminate the negative impact of incarceration and re-entry on domestic violence survivors. Collaborations between these two sectors are possible at local, county, state and national levels. Many find that successful collaborations are sustained when all involved parties are able to support a common cause, identify the same problems in their communities, and/or envision similar outcomes (Allen, 2006; Roussos & Fawcett, 2000). In the present case, the joint goals among those working within either DV or criminal legal sectors would be: *to reduce/prevent recidivism, promote healing, and enhance overall well-being for all trauma survivors with criminal histories*. This can only happen if people are able to “speak each other’s language” and are familiar with the culture of each other’s system.

The Pennsylvania Coalition Against Rape has published a guide for enhancing relationships across the sectors of sexual violence advocates and criminal legal staff. They offer the following tips to help develop positive working relationships, building from shared goals, despite sometimes conflicting priorities:

1. Always show respect for each other.
2. Demonstrate tolerance, understanding, and empathy at all times.
3. Keep communication lines open. Talk about potential problems before they arise. Be a focused listener, ask questions, and try to inform each other about the role and purpose of each sector.
4. Look for ways to connect—have regular meetings, serve on task forces and boards together.
5. Engage in cross-trainings.
6. Remember the distinct roles of corrections staff and advocates. Acknowledge when these differing roles are at play and find ways to compromise or respectfully agree to disagree.
7. Seek common ground whenever possible in collaborations. A strong working relationship will not only help enhance your experiences and comfort levels inside the jail/prison walls; it will also positively impact inmates/victims. By maintaining positive relationships, advocates will have greater access to victims and jail/prison staff may be more likely to appropriately respond to victims.

This material was reprinted from the Pennsylvania Coalition Against Rape's (2006) publication entitled, *Meeting the Needs of Prison Rape Victims: A Technical Assistance Guide for Sexual Assault Counselors and Advocates*.

7.1 The Difference Between Cooperation, Partnerships, and Collaborations

There may be times when individuals within the criminal legal and DV systems need to simply cooperate with each other, other times when they might want to partner, and still others where it would be most effective to collaborate. A brief distinction among these terms is in order here:

Cooperation is the most informal type of relationship between two parties, and primarily involves assisting each other in some fashion or at least not opposing the other's efforts.

A *partnership* is a (generally legal or contractual) relationship where two or more parties have shared goals, rights and responsibilities. Partnerships are often limited to achieving a particular, targeted objective, and all parties share the risks and responsibilities inherent to the effort.

A *collaboration* is generally not a legally binding relationship, but is perhaps the most rigorous cross-organizational relationship, as it is one in which two or more people pool their common interests, needs, assets and skills to promote a shared vision or goal. Individuals share authority, risks, and responsibilities, and are often working toward a greater good for their communities.

If, for example, a warden was creating a training module for prison staff about trauma-informed services, and invited a domestic violence advocate to facilitate a portion of the training, the advocate might *cooperate* with this request. In a different scenario, the warden and executive director of the local domestic violence program might *partner* to write a grant to fund a cross-training that they would develop together. In yet another scenario, both prison representatives and staff from the local domestic violence agency might join a coordinating council whose mission is to improve the community response to women re-entering the community. Their shared goal might be to collaborate on efforts that would reduce recidivism and enhance the safety of women post-incarceration.

7.2 Finding Partners/Building Partnerships

The decision about who would be involved in different efforts or on different projects will necessarily be driven by the overall *goal* of the cross-organizational relationship. If an immediate goal is to create a cross-training, for example, then educators within the partnering agencies would obviously be involved. If the goal were more policy-oriented, then administrators might be more likely to be engaged. Therefore, the first step in building an interorganizational relationship is to determine: *What is it we want to accomplish?*

Possible collaborators or partners within the **criminal legal sector** include:

- Probation and parole officers

- Police/law enforcement (city, county or state level)
- Judges/courts (criminal and/or family)
- Prosecutor’s office
- Public defender office
- Department of corrections (state prison)
- Local sheriff or jail administrator (city or county level)
- Human Service programs under contract with corrections or the local jail to provide services to those on probation/parole.

Possible collaborators within the **domestic violence sector** include:

- Local domestic violence program
- Statewide coalition of domestic or sexual violence
- State office administering funding/regulation of services to decrease violence
- Legal Services
- Tribal or Collegiate domestic violence services

7.2.1 Formal Methods of Building Partnerships

Some funding agencies, especially at the federal level, mandate community partnerships as a prerequisite for receiving grant money. There are also some legislative mandates that particular organizations or systems must work together toward a shared goal. Although the goal of these formalized relationships is to improve functioning between systems or organizations, it is not necessarily true that the presence of a formal partnership will accomplish that. The individuals working together must have a shared vision and be willing to work together—sometimes overcoming differences—to meet goals that will be mutually beneficial. Collaborations are not always easy, and relationships need to be nurtured and may need to be continually defined and re-defined as circumstances shift.

7.2.2 Informal Methods of Building Partnerships

Informal connections to organizations can be even more powerful and sustainable than formal methods mandated by a grant or other source. Encouraging informal connections across sectors ensures that the partnership will outlast funding periods and employee turnover. Below are a few suggestions to begin building informal partnerships across sectors:

- Participate in training opportunities offered by the other organization
- Network at conferences or seminars
- Offer to assist in co-trainings with the organization in your areas of expertise
- Offer staff trainings to the organization
- Visit the organization
- Learn to “speak the language” of the organization or sector
- Connect with power holders in the organization and maintain those relationships

7.3 Collaboration Challenges

The best partnerships develop when there is a “positive working climate,” a clear, shared vision, and a plan about how to reach joint goals (Allen, 2006; Roussos & Fawcett, 2000). When people feel good about what they are doing and understand why they are doing it, the partnership flourishes. However, conflict tends to arise, even in very successful relationships. Common challenges that can threaten the success of interorganizational collaborations are listed next.

7.3.1 Language/Terminology

Every organizational system has a particular ‘culture’ that is understood by its members, but may not be discernible to others outside the system. This organizational culture includes customs, behaviors, gestures, terminology, the way words are used, and acceptable practices within a particular system. One way these differences become evident is when members of one organization speak in acronyms that members of another organization do not recognize. This is sometimes referred to as “speaking in alphabet soup.”

Differences in language and terminology can not only be barriers to effective communication, but can impede meaningful transactions, mutual understanding and goal setting. Language differences can create a dynamic of “insiders” and “outsiders,” making trust collaboration difficult. Some language and terminology may actually be offensive to the collaborative partner. For example, a domestic violence advocate might refer to a woman who killed her abuser as a ‘survivor,’ because this is a common term in the “DV world” and refers to the fact that the woman survived years of severe abuse. A prosecutor or corrections officer, however, might find this term offensive because through their lens the woman is a murderer and her victim did not ‘survive.’ Similarly, when a correctional staff refers to that same woman as a ‘perpetrator’ it may offend the domestic violence advocate, who knows the woman’s history and believes she acted in self-defense.

7.3.2 Limited or Sporadic Interactions

It can be difficult to establish and sustain contact with members of other organizations due to people’s busy or incompatible work schedules. For example, as part of a study of interagency operations within DV shelters, some staff reported that, although they desired a relationship with CJ staff, and had promoted such partnerships, it was difficult to sustain the relationship due to scheduling issues (Kubiak, Sullivan, Nnawulezi, & Trudell, 2009). In addition to the challenge of figuring out the right people to connect with, it can be equally difficult to know how to make the relationship purposeful, sustainable and useful to involved parties.

7.3.3 Staying “Stuck in the Past”

Sometimes a current partnership is haunted by issues that occurred in the past—sometimes even the far-distant past. Some people have long memories, some hold grudges, and some may even have a belief about another organization based on unfounded rumors. Before attempting to enter any collaboration it may be important to ask how the organizations have partnered in the past, and

whether any “bad blood” still exists between any employees within either system (Roussos & Fawcett, 2000). Being clear and direct about these past issues, and agreeing to move forward together, can be important in ensuring a successful collaboration.

7.3.4 Lacking an Understanding of Each Other’s Roles

Sometimes people get angry with actors in other systems because they want them to behave in a particular way that might be outside of their ability given their job constraints. For example, a probation officer might get angry at an advocate who needs to maintain confidentiality, while a domestic violence advocate might get angry with a corrections officer for behaving punitively toward a woman when in fact the officer may have had no choice given the rules of the jail. Talking with each other openly and respectfully about role responsibilities and constraints can ease these tensions and enhance a collaborative relationship.

7.3.5 Lacking a Shared Vision

Gray (1989) stated that oftentimes partnerships have issues because the problems they are working on together are ill-defined. For example, a group might agree that a problem exists, but they may attribute the roots of the problem to different things. This disagreement could cause tension among group members and derail progress. Sometimes the long-term shared vision of the group becomes blurry or co-opted by more immediate or pressing concerns. In addition, language/terminology may interfere with clear communication (see Section 7.3.1). Sometimes when individuals from different systems are working together they are saying similar things, but using language that the other doesn’t quite interpret accurately. This too can contribute to ‘ill-defined’ issues.

Further, every group member enters into a partnership with their own agenda or goal (their organization’s or their own) that they are trying to accomplish, and this may not be shared by the other members. Individuals who have a “vested interest” in the outcome of the collaboration may disrupt group dynamics, and inevitably lead to conflict (Gray, 1989).

7.3.6 Inability to Share Power

Individuals enter into partnerships and collaborations holding different positions of power both within their organization and within the social world. These power and social dynamics can enact themselves within the smaller group dynamics both consciously and unconsciously (Gray, 1989). A successful collaboration is built on the ability to share power and respect each member’s opinion, expertise, and contribution to the process.

7.3.7 Different Views of Confidentiality

CJ and DV staff have different policies concerning confidentiality, and understanding these differences is important for the two sectors to form a successful working relationship. A lack of understanding may lead to criminal legal staff having the perception that DV staff are unwilling to share any information, and DV staff believing that corrections officers are sharing too much information about

individual women's cases. A clear policy about what information will and will not be shared by whom is important to develop in order for the organizations to effectively work together.

7.3.8 Insufficient Resources

Staff in many social service and government organizations often feel overworked and underfunded. The lack of funding may contribute to staff shortages or the lack of initiative in suggesting or implementing new ideas and innovations. Some organizations become even more insular during economic downturns, as they fear competition from other organizations that might be applying for the same limited community dollars. These concerns, justified or not, can hinder the success of collaborative efforts.

7.4 Rewards of Cross-Organizational Collaboration

Despite the time and resources needed to collaborate across organizations, such initiatives can be extremely beneficial to both sectors. Perhaps most importantly, they provide an opportunity to pool financial and personnel resources to reach collective goals. Collaborations may also lead to new funding opportunities that the organizations can jointly pursue and receive. The benefits to collaborative partnerships exceed what one organization can obtain alone.

In short, working collaboratively across these two systems benefits individual women and families, each system, and the larger community. Women benefit when criminal legal and DV staff combine resources, knowledge and advocacy to improve their physical safety and support their goals for community re-entry. Staff in both the criminal legal and DV systems benefit when successful partnerships expand their resources beyond their own system, facilitating stronger supports and more intervention tools. Perhaps most importantly, the criminal legal system benefits when women have lower recidivism, while the DV system meets its goal of keeping a very vulnerable group of women safer.

Section 8: Helping Women Stay Free and Safe: Additional Information and Resources

This section includes additional information (or pathways to information) that both criminal legal and DV staff may find useful to their daily practice.

8.1 Safety Planning

While domestic violence advocates routinely help women think through safety options, corrections staff and probation/parole officers can engage in safety planning with women as well. The number one rule guiding safety planning is that it must be individualized to each woman's experience. There is no blueprint or checklist, and a strategy that prevents violence for one woman will result in increased violence for another. Each woman must ultimately decide what will work best for her (and her children). We can offer options and information, but should not pressure her into certain decisions.

Some suggested questions for beginning a discussion about safety planning:

- What are you already doing to try to keep yourself (and your kids) safe? How are these working?
- What other safety ideas have you considered?
- Can I share with you some things that other women have tried, and we can talk about what might work or not work for you?

Some specific questions that may help guide safety planning:

If Leaving the Relationship:

- When is the best time to leave?
- Where is the best place to go?
- How will she get there?
- What will she take?
- Who will she inform about where she is going?
- How will she safely get/pick up the children to and from school/activities?
- Does she think a PPO would be helpful?
- Would she feel ok about calling the police if he comes after her?
- How much money can she take? How?
- Would she find it helpful to develop a list of resources that are available to help her if she should need help?

- Does she need a phone?
- Don't forget to take identification, bank account numbers, social security numbers
- Does she have a plan to address the custody of her children if any?
- Don't forget to take immigration documents and evidence of a lawful marriage if the survivor is a battered immigrant
- Does she take medication? Does she have a plan to ensure that her medication or her children's medical needs are met?

If Staying in the Relationship:

- When he assaulted her in the past what did she do to keep safe?
- Who is in her support network?
- If she needed to escape temporarily, where could she go?
- How might she escape from the house?
- Can she work out plans with other people to help her leave or to call the police?
- Can she remove weapons from the home safely?
- Does she need a phone?

On the following pages are two examples of personalized safety plans that can be used when working with survivors of domestic violence. The first is from the Missouri Coalition Against Domestic and Sexual Violence, and the second was created specifically for probation or parole officers.

PERSONALIZED SAFETY PLAN

Safety plans may help you anticipate the dangers you may face. Just as abusers continually shift their tactics of power and control, your safety plan is an adaptable tool to help increase your safety in your ever-changing situation.

▶ WHEN TO USE A SAFETY PLAN

Safety plans can be made for a variety of situations: for dealing with an emergency, such as when you are threatened with a physical assault or an assault has occurred; for continuing to live with or to date a partner who has been abusive; or for protecting yourself after you have ended a relationship with an abusive partner.

▶ USE WHAT YOU ALREADY KNOW

If you are a woman who has been abused, you probably know more about safety planning and risk assessment than you might realize. Being in a relationship with an abusive partner—and surviving—requires considerable skill and resourcefulness. Any time you do or say something as a way to protect yourself or your children, you are assessing risk and enacting a safety plan. You do it all the time; it's just not always a conscious process.

▶ THINK IT THROUGH

It can be a helpful safety strategy to evaluate risks and make safety plans in a more intentional way. Whether you are currently with your partner or have ended the relationship, and whether you choose to use available services or to involve the police, there are certain things that are helpful to consider in planning for your future safety.

▶ BE AWARE OF DANGERS

If you are planning to leave your partner or already have left, be aware that batterers often escalate their violence during times of separation, increasing your risk for harm, including serious and life-threatening injury. Making a separation safety plan can help reduce the risks to you and your children.

▶ EVALUATE YOUR OPTIONS

Only you can judge who it's safe to tell about your situation and who to ask for help. Sometimes, people who don't have good information about domestic violence respond to women who have been abused in ways that aren't helpful, even when they mean well. On the other hand, you might feel comfortable asking for help from someone you know. It's your decision. The important thing is for you to identify all the people who might be willing and able to help you. Make a list of their phone numbers and attach it to your safety plan for easy reference.

▶ PLAN AHEAD

You don't have to wait for an emergency to ask for help. In fact, it's a good idea to talk to people who can help before there's a crisis. Find out what they are willing and able to do for you. That way, you'll know in advance if you have a place to stay, a source of financial assistance or a safe person to keep copies of important papers.

▶ REDUCE YOUR RISK

No woman has control over her partner's violence, but women can and do find ways to reduce their risk of harm. The following safety plan is a tool to help you identify and evaluate your options and assist you in creating a personalized plan to reduce your risk when confronted with the threat of harm or with actual harm. Use what applies or change it to reflect your particular situation. **Your safety plan does not need to be written down (especially if you fear your abuser will find it), though you may choose to.** There's no right or wrong way to develop a safety plan. Make it your own, and review it regularly to make changes as needed.



the missouri coalition against domestic and sexual violence

**PERSONALIZED SAFETY PLAN (CONTINUED)****▶ SAFETY DURING A VIOLENT INCIDENT**

- I will use my judgment and intuition. If I think my partner is going to hurt me, I will try to move to a space that has lower risk, such as _____ (Often bathrooms, garages, kitchens, areas near weapons or rooms without an outside exit are most dangerous.)
- If the situation is serious, I can give my partner what he wants to try to calm him down. I have the right to protect myself until I/my children are out of danger.

▶ SAFETY IF STAYING

- I can tell _____ about the violence and request they call the police if they hear noises coming from my home.
- I can teach my children how to use the telephone or dial 911 to contact the police or fire department and/or how to contact a safe neighbor for help. I will make sure my children know our address.
- If I have a programmable phone, I can program emergency numbers.
- I will use _____ as the code word with my children or my friends so they will call for help if needed.
- If I have to leave my home, I will go to _____ If I cannot go there, I can go to _____
- The domestic violence program hotline number is _____. I can call it or the national hotline at (800) 799-SAFE for help.

▶ SAFETY IF LEAVING**Preparing to leave**

- I will call a domestic violence program to get help making my plans. The hotline number for the nearest program is _____
- I will leave money and an extra set of keys with _____ so I can leave quickly.
- I will leave extra clothes with _____
- I can open a post office box and have personal mail and bills (credit cards, cell phone, etc.) sent there.

- I will ask _____ and _____ to see who would be able to let me stay with them or lend me some money.
- I can increase my independence by opening a bank account and getting credit cards in my own name; by taking classes or getting job skills; and/or by getting copies of all the important papers and documents I might need and keeping them with _____
- I can rehearse my escape plan and, if appropriate, practice it with my children.
- If it's not safe to talk openly, I will use _____ as the code word or signal to my children that we are leaving, or to my family or friends that we are coming.
- I can keep my purse and car keys ready and put them _____ so I can leave quickly.

Items to consider taking if leaving

The following items may be helpful to have if you decide to leave, but remember that almost all of these items are replaceable.

- Identification for myself
- My and my children's birth certificates
- My and my children's Social Security cards
- School and vaccination records
- Money, checkbook, bankbooks, ATM cards
- Credit cards
- Medication and medical supplies
- Keys—house, car, work
- Driver's license, car registration
- Insurance papers
- Public assistance ID/Medicaid cards
- Passports, Alien Registration Receipt Cards, work permits
- Divorce or separation papers
- Lease, rental agreement or house deed
- Car/mortgage payment book
- Children's toys, security blankets, stuffed animals
- Sentimental items, photos
- My personalized safety plan (if written down)

PERSONALIZED SAFETY PLAN (CONTINUED)**▶ SAFETY AT HOME****If my partner and I are no longer living together**

- I can, or ask my landlord to, change the locks on my doors and windows.
- I can, or ask my landlord to, replace wooden doors with metal ones.
- I can, or ask my landlord to, install security systems, including additional locks, window bars, poles to wedge against doors, etc.
- I can buy rope ladders to be used for escape from second-floor windows.
- I can install smoke detectors and put fire extinguishers on each floor in my home.
- I can provide my onsite property manager and/or trusted neighbors with a picture of my partner and ask them to notify the police if they see him near my home.

▶ AT WORK

- I can inform my boss, the security supervisor and the employee assistance program (EAP), if available, about my situation. The number of the EAP office is _____.
- I can ask _____ to screen my calls and visitors at work.
- When leaving work, I can _____.
- If there's trouble when traveling to and from work, I can _____.

▶ SAFETY IN PUBLIC OR IF BEING STALKED

- If I suspect I am in imminent danger, I will locate a safe place for myself (police stations, residences of family or friends, domestic violence shelters, local churches, public areas etc.).
- I can document my partner's actions and keep it in a safe place. This may include taking photos of destroyed property/vandalism, saving answering machine messages, keeping letters/notes, etc.
- I can change my patterns—avoid stores, restaurants, banks, doctor's appointments, self-service laundries and other places where my partner might find me based on my regular schedule.

- I can tell _____ and _____ about the situation and provide them with a photo or description of my partner and any possible vehicles he may drive. I can ask them to call the police if they believe I or my children are in danger.

- When I am out of the house, I will try not to travel alone and will try to stay in public areas.

▶ WITH AN ORDER OF PROTECTION

- I will keep my protection order _____ (Always keep it on or near you.)
- I will give copies of my protection order to the local police or sheriff and to departments in towns where I visit friends and family.
- I will give copies to my employer, my religious advisor, my closest friend, my children's school and child-care center and _____.
- If my partner destroys my order or if I lose it, I can get another copy from the court that issued it.
- If my partner violates the order, I can call the police and report a violation, contact my attorney, call my domestic violence program advocate, and/or advise the court of the violation.
- I can call a domestic violence program if I have questions about how to enforce an order or if I have problems getting it enforced.

▶ PROTECTING MY CHILDREN

- I can teach developmentally appropriate safety strategies to my children.
- I can teach my children how to make a collect call to me if they are concerned about their safety.
- I can teach my children how to use the telephone or dial 911 to contact the police and fire departments and how to contact a safe neighbor for help. I will make sure they know our address.
- I can tell my children's caretakers who has permission to pick them up and make sure caretakers know how to recognize those people.
- I will give the people who take care of my children copies of custody and protection orders, as well as emergency numbers.



PERSONALIZED SAFETY PLAN (CONTINUED)

SAFETY AND TECHNOLOGY

- Each day there are advances in technology. I can ask someone familiar with technology or domestic violence about the ways that my partner may monitor me.
- I will use a computer that my partner doesn't have access to when I look for help, a new place to live, etc. It may be safest to use a computer at a public library, Internet café, community center or _____.
- I can ask my friends and family to be careful about who they give my e-mail address to, and to use the Bcc: option when copying me in on e-mail.
- When making or receiving private calls, I will not use a cell phone that I share with my partner because my partner may have access to cell phone billing records and phone logs and may have put settings on my phone that allow him to track my whereabouts. My local domestic violence shelter may have a donated cell phone I can use.
- I will ask the court systems, post office and other government agencies how they protect or publish my records and request that they seal or restrict access to my files to help protect my safety.

MY EMOTIONAL HEALTH

- If I am feeling down, lonely or confused, I can call _____ or the domestic violence hotline _____.
- If I have left my partner and am considering returning, I will call _____ or spend time with _____ before I make a decision.
- I can attend support groups, workshops or classes at the local domestic violence program or _____ so I can build a support system, learn skills or get information.
- I will look at how and when I drink alcohol or use other drugs. If I am going to drink or use other drugs, I will do it in a place where people are committed to my safety.

KEEP YOUR PLAN IN A SAFE PLACE

Only you can decide if it is safe to have a written safety plan. If you decide to keep a written safety plan, make sure to find a place to keep it where your partner won't find it; maybe you can ask a friend to keep a copy for you. Whether it's safe to write down your plan or not, it's still important to make one.

WHAT CAN A DOMESTIC VIOLENCE PROGRAM DO FOR ME?

Local domestic violence programs are a vital resource, providing free and confidential assistance to women victimized by domestic violence and their children. They provide emergency safety services, such as shelter and 24-hour crisis hotlines. **But you don't have to stay in a shelter to get help from a program.** Most also provide a full range of non-residential services to women who have been battered.

Domestic violence program advocates have accurate information about domestic violence and are experienced in providing assistance to women who have been battered and their children. They understand the criminal justice, family court and social service systems, and they are familiar with other community resources that might be useful to you. In addition to giving you good information, advocates often can accompany you to court, to the police station or to social services offices. They can provide you with practical and emotional support. Getting help from someone who has experience working with survivors of domestic violence and who knows how to work with the different systems can make things a lot easier for you.

NATIONAL DOMESTIC VIOLENCE HOTLINE

800-799-SAFE (7233)

Toll-free, 24-hour crisis intervention
and referrals to domestic violence
programs in your area.

This personalized safety plan was adapted from ones developed by AWARE in St. Louis, the Office of the City Attorney, San Diego, the National Center for Children, Youth, & Families, the National Resource Center and the National Network to End Domestic Violence Safety Net Project.

Safety Plan Specifically Created for Probation and Parole Officers

The following safety plan was developed by Frohman and Neal (2005) to be used by probation and parole officers who work with women who are abused. They note that: “Women who are abused should be referred to domestic violence advocates to complete comprehensive, long-term safety plans. *Safety planning is a tool for developing safety strategies, not a solution to domestic violence.* It is a strategy for women who are abused to contextualize their daily experiences and the safety-based decisions they make on an on-going basis.

If a woman who is abused chooses not to discuss safety planning with an advocate, a probation officer can assist with the process of developing a preliminary safety plan. This safety plan may include information regarding the abuser’s use of technology to perpetrate abuse (e.g., using a GPS chip in her cell phone to track her movement, and accessing her email and phone conversations). Also, in the event of immediate danger, probation officers should discuss contacting the police, instead of the probation officer or department, for an immediate response.

A safety plan does not have to be written, but if a woman decides to develop a safety plan on paper, it should be kept in a place where the abuser will not find it. Be aware that even the most comprehensive safety plan is not a guarantee that a woman who is abused will be safe” (Frohman and Neal, 2005, p. 20).

Preliminary safety plan questions that a probation officer can ask a woman who is abused may include the following:

- Where can you keep important phone numbers (police, hotline, friends, shelter) for yourself and your children?
- Is there anyone you can ask to call the police if they hear suspicious noises coming from your house or apartment?
- If you need to get out of your house or apartment in a hurry, what door, window, elevator or stairwell will you be able to use in order to get out safely?
- If you need a place to stay for a while, where can you go? Can you arrange to stay with family or friends in a crisis? Do you know how to contact the local domestic violence program in order to arrange for emergency shelter?
- Where can you keep your purse, an extra set of car keys or money for public transportation, and some change to make a phone call so that you can grab them quickly?
- Do your children know how to use the telephone to contact the police?
- Is there a code word you can use with friends, family, and/or your children to alert them to call for help?
- Can you keep some money, some changes of clothes, and important papers (e.g., birth records and social security cards for yourself and your children) hidden somewhere your partner doesn't know about, but that you can get to quickly? Can you keep the "escape bag" with a neighbor or in the trunk of your car?
- If you think your partner is about to become physically abusive, how can you get to a room where there are fewer things that can be used as weapons? How can you avoid getting trapped in the kitchen, bathroom, basement, or garage?

8.2 Reaching Out to Domestic Violence Services: What to Expect

On the following two pages is a document that criminal legal personnel and other community partners can copy and provide to women who might have concerns or fears about contacting a domestic violence program. It takes a great deal of courage to make that initial phone call, and having information ahead of time about what to expect can make the effort that much easier. Staff can even provide contact telephone numbers for local programs on the forms, to save women one more step.

What to Expect From a Domestic Violence Program

Adapted from <http://www.wscadv.org/gethelpnow.cfm>

What to expect if you call a domestic violence hotline or shelter:

- **A caring listening ear.** All programs have people who can listen and help you sort out options.
- **Anonymity** if you want it. You do NOT have to give your name when you call.
- **Choices.** No one will force you to do anything you do not want to do. Program staff will help you with what is important to you, and will help you decide how you want to proceed.

Staff will tell you about the services they offer, which often include:

- 1. Crisis services.** Many programs offer 24-hour crisis services. That means you have someone to talk to 24 hours a day who will listen to your concerns and help you sort out your options.
- 2. Advocacy services.** Most programs have specially trained advocates who can help with welfare, Child Protective Services, disability services, immigration, housing, employment protections, and more.
- 3. Legal advocacy.** Most programs offer information about protection orders and other civil matters. Most do not provide legal counsel, but can refer you to free or low-cost attorneys.
- 4. Emergency shelter.** Many programs offer shelter or safe homes.
- 5. Transitional housing.** Some programs have longer term housing for survivors.
- 6. Support groups.** Some programs run groups for children, youth and adults.

Before you call a shelter think about the things that are of biggest concern to you. Ask for all the details you need so you'll feel as comfortable as possible making your important decisions.

What to expect if you contact a legal advocate:

When you talk to a legal advocate, you can expect that:

- Culturally competent services are offered free of charge
- Legal advocates are not attorneys and will be unable to give legal advice
- Advocates can offer a range of services that might include:
 - Accompanying you to court
 - Helping you fill out paperwork
 - Helping you understand the civil or criminal process
 - Outlining or prioritizing the legal options that are available
 - Informing you about what actually goes on in court
 - Preparing you for a hearing or trial, and giving support before, during and after
 - Referring you to low or no-cost lawyers

What to expect if you go to an emergency shelter:

- Shelters are free—no fees are charged to stay. Many shelters have time limits for how long you can stay.
- Most shelters have shared kitchens, common areas, and bathrooms. Shelters provide the food, but if you have special dietary concerns (e.g., gluten-free, allergies, religious restrictions), you should let the staff know.
- If you have children, you might all share one bedroom.
- If you are alone, you might have to share a room.
- You are responsible for taking care of your own children.
- All shelters must welcome service animals.
- However, most shelters cannot accommodate pets. Many will work with you to make arrangements to have your pets cared for elsewhere. (Some DO allow pets, so ask)
- Shelters have laundry facilities and supply linens (sheets, towels and blankets).
- Many have emergency clothing and toiletries available for the first few days of a stay.
- You will be asked to honor the privacy of other residents by not discussing their names or situations with anyone else.
- Shelters are concerned about everybody's safety, so you may be asked to keep the location a secret.
- Visitors are generally not allowed.
- Shelters can be stressful—you will be in a group living situation with others who are experiencing tough times too!
- However, you will also have the support of other women who have been in a similar situation.

Some shelters:

- Allow you to bring your pets.
- Have computers you can use to check your email and access online resources.
- Have private living spaces for each family.
- Offer free cell phones for 911 calls only.

8.3 Domestic Violence and Sexual Assault Referrals

The National Resource Center on Domestic Violence hosts the most updated list of national, state, and local domestic violence and sexual assault resources at <http://www.vawnet.org/links/>

8.4 Additional Readings and Resources on Women's Pathways to Incarceration

The information in Section 8.4 was compiled by the National Clearinghouse for the Defense of Battered Women (2010).

Women's Experiences of Abuse as a Risk Factor for Incarceration

by Mary Gilfus for the Applied Research Forum of VAWnet (the National Electronic Network on Violence Against Women) (2002).

Examines six pathways through which abused girls and women are placed at risk for incarceration. Addresses (1) abused and runaway girls; (2) women forced to live and work on the streets; (3) women addicted to substances; (4) women arrested for economic crimes; (5) women arrested for harm to children or abusers; and (6) women affected by enforcement of discriminatory and coercive welfare, immigration, & corrections policies. http://new.vawnet.org/Assoc_Files_VAWnet/AR_Incarceration.pdf

Understanding the Links Between Violence Against Women and Women's Participation in Illegal Activity

by Beth E. Richie (2002).

An exploratory study of the experiences of women of color from low-income communities designed to advance research on violence against women, women's involvement in criminalized activities, and their subsequent incarceration. <https://www.ncjrs.gov/pdffiles1/nij/grants/199370.pdf>

Pathways to Prison: Impact of Victimization in the Lives of Incarcerated Women

by Dana D. DeHart (2004).

An analysis of interviews with 60 women incarcerated in a maximum security prison to examine victimization as a risk factor for crime, with particular emphasis on the direct and indirect ways in which victimization's impact contributed to women's involvement in criminalized activities. <https://www.ncjrs.gov/pdffiles1/nij/grants/208383.pdf>

From Prison to Home: Women's Pathways in and out of Crime

by Jennifer E. Cobbina (2009).

This study analyzes the pathways Black and white women take into alleged crimes, the challenges they face after release from prison, the strategies they use to reintegrate into the community, the reasons for being re-arrested, their motivators and methods for avoiding criminalized activities, and the meanings of their experiences. <https://www.ncjrs.gov/pdffiles1/nij/grants/226812.pdf>

8.5 Additional Readings and Resources on Collateral Consequences of Having a Criminal History

8.5.1 General Collateral Consequences

Collateral Consequences: Denial of Basic Social Services Based Upon Drug Use

by Robin Levi and Judith Appeal, Office of Legal Affairs, Drug Policy Alliance (2003).

Describes collateral consequences of drug crime convictions focusing on impacts related to housing, higher education, public benefits, and child welfare.

http://www.drugpolicy.org/docUploads/Postincarceration_abuses_memo.pdf

Every Door Closed: Barriers Facing Parents with Criminal Records

by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsburg,

Judith Berstein-Baker, and Joseph Hohenstein for the Center for Law and Social Policy and Philadelphia Community Legal Services (2002).

Examines the impact of a criminal conviction on employment, welfare benefits, housing, child custody, immigration, and student loans. Includes policy recommendations for enhancing the ability of people with criminal records to access needed resources.

http://www.clasp.org/publications/every_door_closed.pdf (Full report)

http://www.clasp.org/admin/site/publications_archive/files/0139.pdf (Fact sheets)

After Prison: Roadblocks to Reentry. A Report on State Legal Barriers Facing People with Criminal Records

by Paul Samuels and Debbie Mukamal for the Legal Action Center (2004).

A comprehensive overview regarding state laws that restrict access of people with criminal records to a range of supports and services. Includes a state-by-state report card rating states according to how restrictive their laws are for people convicted of crimes.

<http://lac.org/toolkits/Introduction.htm>

For a multi-state survey of practices on mitigating the collateral consequences of a criminal conviction, consult: *Relief from the Collateral Consequences of a Criminal Conviction: A State-by-State Resource Guide*

by William S. Hein & Co (2006).

Excerpts are available online through The Sentencing Project at <http://www.sentencingproject.org/PublicationDetails.aspx?PublicationID=486>

Michigan Reentry Wiki

In Michigan, persons can access free legal advice at Michigan Reentry Wiki hosted by the Michigan Poverty Law Program

Contains a comprehensive resource library and helpful information on Understanding Criminal Records and Correcting Inaccuracies. http://reentry.mplp.org/reentry/index.php/Main_Page

Some women, whose criminal charges are dismissed or who are ultimately acquitted, may need to take action to ensure that their arrest information *that did not result in a conviction* is removed from their criminal record. Michigan law provides for return of fingerprints and elimination of record if person is not convicted. For further advice, see *Michigan Reentry Law Wiki's "Cleaning up Criminal Records: Removing Arrest Information That Did Not Result in Conviction"* at http://reentry.mplp.org/reentry/index.php/Cleaning_Up_Criminal_Records

8.5.2 Obtaining or Expunging Criminal Records

MICHIGAN RESOURCES

The following Michigan resources are available to guide a person through the expungement application and hearing process:

Cleaning Up Criminal Records: Expungement Program

by Michigan Reentry Law Project

Information about expungements in Michigan shared through a collaborative effort by people involved in re-entry in Michigan to provide relevant, current information on legal issues facing people with criminal records.

http://reentry.mplp.org/reentry/index.php/Cleaning_Up_Criminal_Records:_Expungement

Self-help guide entitled Getting an Adult Criminal Conviction Removed, The Michigan State Court Administrative Office online self-help at

http://courts.michigan.gov/scao/selfhelp/intro/criminal/setaside_help.htm

How to request a criminal record check for the purpose of completing an expungement application, the Michigan State Police offer guidance on its website located at

http://www.michigan.gov/msp/0,1607,7-123-1589_1878_8311-10418--,00.html

8.5.3 Custody Concerns

Rebuttable presumption against child custody:

Collateral Consequences of Criminal Convictions in the District of Columbia: A Guide for Criminal Defense Lawyers

by the Community Re-entry Program of the Public Defender Service for the District of Columbia (2004). Comprehensive review of statutes in the District of Columbia on a range of issues including civil forfeiture, democratic participation, employment, child custody and parental rights, housing, immigration, and more. Designed for criminal defense attorneys at http://www.reentry.net/search/item.121665Collateral_Consequences_of_Criminal_Convictions_in_the_District_of_Columbia?tab=pane_search-results-1

Resource Center for Immigrant Parents' Rights (RCIPR)

Women's Refugee Commission, the Immigration Law Clinic at the Michigan State University College of Law is developing and will host the **Resource Center for Immigrant Parents' Rights (RCIPR)**, an online resource that will gather information, tools, and best practices as they relate to the parental rights of immigrants who have been apprehended, detained or face potential deportation. This online resource should be available January 2012.

Contact: Veronica T. Thronson, Assistant Clinical Professor of Law
Director, Immigration Law Clinic, Michigan State University College of Law
610 Abbott Road, East Lansing, MI 48823
(517) 336-8088 x 1014, Fax (517) 336-0646

Child Protective Services involvement:

Incarcerated Parents Manual: Your Legal Rights and Responsibilities

by Legal Services for Prisoners with Children (2007).
Overview of California law and legal options for incarcerated parents at:
<http://www.f2f.ca.gov/res/pdf/KnowYourRightsManual.pdf>

Child Protective Proceedings Bench book: A Guide to Abuse and Neglect Cases, Michigan Judicial Institute, Third Edition 2006–December 2010

This bench book explains the procedures required in child protective proceedings, from reporting and investigating suspected child abuse and neglect, to required court hearings in the Family Division of the Circuit Court, to appeals to the Michigan Court of Appeals and the Michigan Supreme Court. Although child protective proceedings involve a complex interplay between the judicial and social services systems, detailed coverage is given only to required court procedures.
<http://courts.michigan.gov/mji/resources/cppbook/cpp.htm>

Termination of parental rights if incarcerated:

When “Free” Means Losing Your Mother: The Collision of Child Welfare and the Incarceration of Women in New York State

by Julie Kowitz Margolies and Tamar Kraft-Stolar of the Women in Prison Project of the Correctional Association of New York (2006).

Explores the impact of the Adoption & Safe Families Act on incarcerated mothers and their children and makes recommendations for policy reforms.

http://www.correctionalassociation.org/publications/download/wipp/reports/When_Free_Rpt_Feb_2006.pdf

Temporary Authorization for Kinship Care, A “Self-Help” kit that allows parents to give, relatives who are taking care of their children the authority they need to do the job.

by William Josh Ard from the Sixty-Plus Law Center of Cooley Law School and Terri L. Stangl from the Center for Civil Justice, in collaboration with members of a Statewide Kinship Care Focus Group (August 2004)

It is based on the Michigan Law in effect at that time. This kit should not be used as a substitute for individual legal advice. Additional or updated copies of this kit can be obtained on-line in the family law section of www.lawhelp.org/mi/ or by contacting the Kinship Care Resource Center at Michigan State University at <http://www.kinship.msu.edu/>

8.5.4 Housing

Got a Record? Know Your Rights, State Bar of Michigan Justice Initiatives — Brochure at

http://www.michbar.org/programs/CII/pdfs/housing_rights.pdf

An Affordable Home on Re-Entry: Federally Assisted Housing and Previously Incarcerated Individuals, by Catherine Bishop for the National Housing Law Project (2009).

Guide for advocates working with individuals with criminal records seeking access to federally assisted housing programs. This article includes an overview of current state of the law, barriers people with records face in securing housing, and suggestions for policy change.

<http://nhlp.org/guidebooks> or <http://nhlp.org/files/01%20Re-entry%20zip%207.09.zip>

Policy brief: No Place Like Home: Housing and the Ex-Prisoner

by Katharine H. Bradley, R.B. Michael Oliver, Noel C. Richardson, and Elspeth M. Slayter for Community Resources for Justice (2001).

An overview of housing policies affecting the needs of formerly incarcerated people at http://cjinstitute.org/files/No_Place_Like_Home.pdf

Preclusion from renting with private landlords who do criminal background checks:

Taking Stock: Housing, Homelessness, and Prisoner Reentry

by Caterina Gouvis Roman and Jeremy Travis for the Urban Institute (2004).

Overview of the housing needs of formerly incarcerated people which include a review of barriers people encounter in the private housing market, in addition to barriers in public housing.

http://www.urban.org/UploadedPDF/411096_taking_stock.pdf

8.5.5 Employment

A Higher Hurdle: Barriers to Employment for Formerly Incarcerated Women

by Monique W. Morris, Michael Sumner, and Jessica Z. Borja for the Thelton E. Henderson Center for Social Justice (2008).

Used unique research methods to measure the differential treatment among formerly incarcerated women seeking employment compared to women who had not been incarcerated. Found that a criminal record has a negative impact on employment opportunities of women.

http://www.law.berkeley.edu/files/A_Higher_Hurdle_December_2008%281%29.pdf

Answering Questions from Employers about Criminal Records or Arrests

from Legal Momentum (2005).

Provides information for individuals who are victims of assault and who have also been arrested or convicted of a crime related to violence, including advice for responding to questions about violence and criminal activity from potential employers.

<http://www.legalmomentum.org/assets/pdfs/answeringcrquestions.pdf>

How to Address Arrests or Convictions when Seeking Employment

prepared by Student Legal Services.

Pamphlet designed to assist individuals with criminal histories seeking employment. Contains advice about job seeking and responding to application and interview questions.

<http://www.odos.uiuc.edu/sls/brochureAds/downloads/EmplArrestsConv.pdf>

8.5.6 Education and Educational Funding

Reconsidered: The Use of Criminal History Records in College Admissions

by the Center for Community Alternatives (2010).

Examines the practice of colleges and universities barring people with criminal records from attending school. Concludes that such policies do not improve campus safety, but do undermine public safety in the larger community and undermine efforts to open higher education institutions to all people, regardless of race or ethnicity.

<http://communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>

8.5.7 Financial Assistance and Public Benefits

Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses

by Patricia Allard for the Sentencing Project (2002).

Explores the impact on women and children of the lifetime ban on receiving cash assistance and food stamps for those convicted of state or federal drug crimes. This ban is a provision of the 1996 “welfare reform” act.

http://www.sentencingproject.org/doc/publications/women_lifesentences.pdf

Unchaining Civil Rights: Overcoming Criminalized Inequality

by the Center for Community Alternatives and the Legal Action Center’s National Hire Network.

Includes information about restricted access to financial aid for people with convictions among other examples of discrimination and structural exclusion.

<http://www.unchainingcivilrights.org/assets/documents/FramingPaper.pdf>

8.5.8 Physical Health Concerns and Resources

Health Resources and Services Administration website:

http://findahealthcenter.hrsa.gov/Search_HCC.aspx

8.5.9 Mental Health Concerns and Resources

Finding the Key to Successful Transition from Jail or Prison to the Community: An Explanation of federal Medicaid and Disability Program Rules for People with Serious Mental Illnesses

by the Bazelon Center for Mental Health Law (2009)

Describes federal income support through the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) programs, and health coverage under Medicaid and Medicare, and how people with a severe mental illness can access these supports to improve their transition from jail or prison.

<http://www.bazelon.org/LinkClick.aspx?fileticket=Bd6LW9BVRhQ%3d&tabid=104>

Health Resources and Services Administration website:

http://findahealthcenter.hrsa.gov/Search_HCC.aspx

The federal Substance Abuse and Mental Health Services Administration has an online tool for locating mental health and substance abuse agencies and resources in the community.

<http://store.samhsa.gov/mhlocator>

Many communities have local organizations that provide free or reduced cost counseling and mental health services, (for example, Catholic Social Services or Catholic Charities). Contact your local United Way for healthcare resources in the community

<http://worldwide.unitedway.org/>

8.5.10 Addiction Treatment Resources

The federal Substance Abuse and Mental Health Services Administration has an online tool for locating mental health and substance abuse agencies and resources in the community.

<http://store.samhsa.gov/mhlocator>

8.5.11 Immigration/Deportation Resources

Legal Momentum, the nation's oldest women's legal defense and education fund, is dedicated to advancing the rights of all women and girls. Its Immigrant Women Program (IWP) is the nation's expert on the rights and services available to immigrant victims of domestic and other violence, sharing this expertise through training, comprehensive publications, and technical assistance for lawyers and advocates nationwide. IWP leads national advocacy efforts for legal protections, social services, and economic justice for immigrant women.

Resources from Legal Momentum:

Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants (2004).

<http://iwp.legalmomentum.org/reference/manuals/domestic-violence-family-violence>

Overview of Immigration Consequences of Criminal Conduct for Immigrant Survivors of Domestic Violence

by Ann Benson, Directing Attorney, Washington Defender Association's Immigration Project (September 2004).

This document contains some extremely helpful information for advocates and attorneys assisting battered women who may be facing immigration consequences due to involvement in the criminal legal system.

http://www.legalmomentum.org/assets/pdfs/www7_1_appendix_immigration_criminal_consequences.pdf

Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault (2010)

<http://iwp.legalmomentum.org/reference/manuals/sexual-assault>

Deportation consequences:

The Defending Immigrants Partnership

Because the immigration consequences of arrests and convictions are so serious, the Immigrant Legal Resource Center, Immigrant Defense Project, National Legal Aid and Defender Association, and the National Immigration Project of the National Lawyers Guild have formed the Defending Immigrants Partnership to assist criminal defenders in representing non-citizens. <http://defendingimmigrants.org/>

Immigration detention while awaiting deportation proceedings:

Detention and Deportation in the Age of ICE: Immigrants and Human Rights in Massachusetts

by Laura Rótolo for the American Civil Liberties Union of Massachusetts (2008).

Study documenting the conditions of confinement for persons held in Immigration & Customs Enforcement (ICE) facilities in Massachusetts. <http://www.aclum.org/ice>

8.5.12 Re-Entry Concerns and Resources

My Sister's Keeper: A Book for Women Returning Home from Prison or Jail

by the Coalition for Women Prisoners (2008).

A book for women returning home from prison or jail, written by formerly incarcerated women. Although specific to women in New York state, it may serve as a good model for women in other states.

http://www.correctionalassociation.org/publications/download/wipp/MySistersKeeper_Re-EntryGuide.pdf

Preventing & Responding to Corrections-Based Sexual Abuse: A Guide for Community Corrections Professionals

by the American Probation & Parole Association, with the International Community Corrections Association and Pretrial Justice Institute (2009).

This resource is written for probation and parole officers (and other community-corrections staff) about preventing sexual abuse. It addresses the fact that many people on probation or parole are survivors of domestic violence, sexual assault, and/or other forms of trauma, includes concrete examples of how such trauma may affect people's responses to state supervision, and gives probation and parole officers suggestions for how to minimize harm. May also be a helpful resource for community-based advocates, as well as people on parole or probation. <http://www.appa-net.org/eweb/docs/APPA/pubs/PRCBSA.pdf>

The Probation Response to Supervision of Women Who Are Abused

by Sherry Frohman and Connie Neal for Violence Against Women Online Resources (2005).

Explores policy and practice implications for probation officers when the women they are supervising are survivors of battering. Also a good resource for community-based advocates to help strategize with women in probation about possible advocacy opportunities.

<http://www.mincava.umn.edu/documents/commissioned/probationanddv/probationanddv.pdf>

Women on the Outside: Understanding the Experiences of Female Prisoners Returning to Houston, Texas

by Nancy G. LaVigne, Lisa E. Brooks, and Tracey L. Shollenberger for the Urban Institute (2009).

One of the few research studies that asked formerly incarcerated women about the nature of their intimate relationships after returning to the community. Although only a handful of women reported experiencing physical violence or threats, 39% reported arguments and 27% reported controlling behavior by their partners. <http://www.urban.org/publications/411902.html>

After Prison: Roadblocks to Re-entry. A Report on State Legal Barriers Facing People with Criminal Records

by Paul Samuels and Debbie Mukamal for the Legal Action Center (2004).

A comprehensive overview regarding state laws that restrict access of people with criminal records to a range of supports and services. Includes a state-by-state report card rating states according to how restrictive their laws are for people convicted of crimes. <http://lac.org/roadblocks-to-reentry/>

8.6 Systematic Review of Evidence-Based and Evidence-Supported Practices

Below are some evidence-based or evidence-supported interventions that are currently available to advocates. These interventions were selected because they have been tested by researchers; used with groups of women who are either survivors of domestic violence, incarcerated women, or both; and have been proven effective. The purpose of this systematic review is to identify current therapeutic and advocacy interventions used with those populations. It is not an endorsement of any of these interventions, and some interventions have more empirical support than others. Further, it is important to note that evidence-based practices are only proven effective with the studied population.

8.6.1 General Trauma Therapeutic Interventions with Incarcerated Samples

Intervention/Article Citation	Study Detail
Intervention Name: Traumatic Incident Reduction	Purpose of Intervention: <ul style="list-style-type: none">• Traumatic incident reduction is identified as “a client-respectful, therapist-directed, memory-based therapeutic intervention aimed at the reduction of trauma-related symptoms.”
Article Citation: Valentine & Smith (2001)	Explanation of Intervention: <ul style="list-style-type: none">• Treatment is given to those who suffer from PTSD. Methods: <ul style="list-style-type: none">• Participants were recruited from a low to medium security prison.• The researchers used a true experiment with a pre-post test design.• N=123 women that were randomly assigned to treatment or control group• Exclusion criteria:<ul style="list-style-type: none">○ On “antipsychotic medication.”○ “Hospitalized within the last 3 years with bipolar disorder or schizophrenic disorder”○ “Experienced a severe depressive episode that required immediate psychiatric hospitalization”○ “Inmates who experience hallucinations, delusions, or bizarre behavior”○ “Inmates with an alcohol or drug abuse disorder”○ “Inmates who were victimized 3 months prior to participation”

- There were 56 in treatment and 67 in control.
- There was a 3-month follow-up.

Outcomes:

- Intervention reduced depression symptoms, and this reduction sustained after 3 months.
- Those in the intervention group had reduced anxiety that were sustained after 3 months.
- PTSD symptoms decreased in intervention group though not within the intrusion subscale.

Study Limitations

- There could have been a longer follow-up.
- They excluded women that had an alcohol or substance abuse disorder.
- Intervention does not deal with acute conditions.

Intervention/Article Citation	Study Detail
<p>Intervention Name: Writing Therapy Group</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> • The purpose of this intervention is “to combine stabilization skills and writing in a group form to decrease negatively related mood and trauma-related symptoms among incarcerated trauma survivors.”
<p>Article Citation: Bradley & Follingstad (2003)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> • The intervention occurred in groups over a course of 9 weeks. • There were 18 sessions in total. • During the 9 sessions, the focus of the group was on “interpersonal victimization knowledge and affect regulation.” • Each session also required women to do a specific writing assignment. Writing was shared with larger group. • Groups were led by trained graduate students. <p>Methods:</p> <ul style="list-style-type: none"> • They recruited 49 women at a medium security prison. • Inclusion criteria: <ul style="list-style-type: none"> ○ Survivors of childhood abuse ○ “Significant impairment on two or more areas of the Trauma Symptom Inventory or on one scale of the TSE and a score of 18 or higher on the Beck depression inventory” • They used a pre-post design to test for differences. • “Women completed assessments at the first session and one week after treatment.” • “There was random assignment to treatment or no-contact comparison group.” • Overall, 24 women were assigned to the treatment and 25 assigned

to the control.

Outcomes:

- “Depression decreased significantly on the dissociation, anxiety arousal, and intrusive experiences scales in the Trauma Symptom Inventory.”

Study Limitations

- They did not discuss differences in victimization across groups.
- They used older versions of the CTS.
- They had a small sample size.

Intervention/Article Citation	Study Detail
Intervention Name: Seeking Safety	Purpose of Intervention: <ul style="list-style-type: none">• The treatment is largely based on the tenet that “safety is the highest priority in recovery from both disorders.”
Article Citation: Najavits, Weiss, Shaw, & Muenz (1998)	Explanation of Intervention: <ul style="list-style-type: none">• The treatment was developed by Najavits in response to lack of treatments designed for women with substance abuse and PTSD.• 24 structured sessions focused on: “cognitive, behavioral, interpersonal coping skills.”• The treatment was designed to be interactive and engaging.• The groups lasted for 12 weeks and occurred biweekly.
	Methods: <ul style="list-style-type: none">• 27 women participated in the study.• All women who participated had PTSD and were substance dependent.• Inclusion criteria:<ul style="list-style-type: none">○ Women required to report active substance use within last 30 days○ Met requirements of DSM for two disorders (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.)• Exclusion criteria:<ul style="list-style-type: none">○ “History of schizophrenia or organic brain impairment”○ “Mandated to treatment”○ “Had characteristics that would interfere with the treatment”• Researchers gave women an assessment at pre, post, and 3 month follow-up and during treatment sessions.• Three treatment groups were conducted.• There was no control group.

Outcomes:

[*outcomes are based on women who completed at least 6 weeks]

- Substance use decreased and sustained through follow-up.
- The three-month follow-up showed a reduction in trauma symptoms.
- The following improved: “suicide risk, social adjustment, family function, problem solving, depression, cognitions about substance use, didactic knowledge.”
- Those who were more likely to complete the treatment had more severe symptoms than those who dropped out.

Study Limitations

- It was a twenty-four-week session but women were defined as completed after only six sessions.
- The researchers only did a three-month follow-up.
- It is not clear how the participants were selected into treatment and comparison groups.
- The sample size is very small.

Efficacy of the Intervention

- The treatment is very long, occurred frequently, and lasts for one and a half hours.

Intervention/Article Citation	Study Detail
<p>Intervention Name: Seeking Safety and Relapse Prevention</p>	<p>Purpose of Study:</p> <ul style="list-style-type: none"> • The purpose of this study is to compare the efficacy in two cognitive-behavioral interventions (Seeking Safety and Relapse Prevention). • Seeking safety emphasizes “decreasing symptoms of PTSD and substance use.” • Relapse prevention emphasizes “managing cravings and relapses.”
<p>Article Citation: Cohen & Hien (2006)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> • Both treatment sessions lasted biweekly for 1 hour over the course of 12 weeks. <p>Methods:</p> <ul style="list-style-type: none"> • Women were recruited through newspaper advertisements and some came through substance abuse treatment referrals. • Inclusion criteria: <ul style="list-style-type: none"> ○ “18 to 55 years of age” ○ “Have PTSD symptoms” ○ “Had current substance use disorder” ○ “English speaking” • Exclusion criteria: <ul style="list-style-type: none"> ○ “Advanced medical disease”

- "Organic mental disease"
- "Suicidal"
- "Had bipolar or psychotic disorder"
- Participants were randomized to either seeking safety treatment or relapse prevention treatment or the control group.
- "41 women were in the seeking safety treatment group."
- "34 women were in relapse prevention."
- "32 women were assigned to the control group."
- There were no differences found between the two treatment groups, so they were collapsed in the outcomes.

Outcomes:

- PTSD and alcohol use disorder symptoms were reduced among treatment group participants.

Study Limitations

- The researchers collapsed both treatment groups, so differences cannot be contributed to one specific treatment.

Intervention/Article Citation	Study Detail
<p>Intervention Name: Seeking Safety</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> ● Seeking safety is an "integrative cognitive-behavioral treatment of SUD (substance abuse disorder) and PTSD." ● The treatment "emphasizes stabilization, coping skills, and reduction of self-destructive behavior."
<p>Article Citation: Zlotnick, Najavitis, Rohsenow, & Johnson (2003)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> ● Intervention was given by trained therapists. ● Bi-weekly group sessions that lasted for 90 minutes for 12 weeks and each group had 3 to 5 women participating.
	<p>Methods:</p> <ul style="list-style-type: none"> ● 18 incarcerated women participated in this pilot study. ● Research setting was a substance abuse treatment program in a women's prison. ● Treatment was given "12 to 14 weeks prior to their release date." ● Inclusion criteria: <ul style="list-style-type: none"> ○ Had PTSD ○ Had SUD (substance use disorder) ● Exclusion criteria: <ul style="list-style-type: none"> ○ Actively psychotic ○ Non-English speaking ○ Had organic brain impairment ● Women were assigned to seeking safety or "treatment-as-usual."

- Assessment was given at pre-, post-, 6 week post-release follow-up, 112-week post-release follow-up.

Outcomes:

- 46% percent of women “received no alcohol, drug, or psychological services on the Treatment Services Review.”
- “53% no longer met PTSD criteria post-treatment.”
- “44% no longer met PTSD criteria at 6 weeks.”
- “46% no longer met PTSD criteria at 3 months.”
- Alcohol and drug use decreased among participants.

Study Limitations

- They had a small sample.

Efficacy of the Intervention

The treatment sessions were incredibly long.

Intervention/Article Citation	Study Detail
<p>Intervention Name: The Trauma Recovery and Empowerment Model</p> <p>Article Citation: Fallot (2007) *information retrieved from personal communication</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> • The purpose of this intervention is to focus primarily on the effects of trauma: <ul style="list-style-type: none"> ○ PTSD and generalized anxiety ○ Modulating emotional expression ○ Emotional numbness and dissociation ○ Difficulties maintaining safe, stable and satisfying interpersonal relationships ○ Depression ○ Difficulties in accurate appraisal of self and the world ○ Substance abuse” • Those who use TREM assume that trauma is a pervasive part of women’s lives. <p>Explanation of Intervention:</p> <ul style="list-style-type: none"> • There are 29 sessions in this intervention with each session focused on a specific theme or question. • There are four parts of the intervention: <ul style="list-style-type: none"> ○ “Empowerment, Trauma Recovery, Advanced Trauma Recovery, closing rituals.” <p>Sample Used:</p> <ul style="list-style-type: none"> • Typically, groups consist of 8 to 10 group members who are survivors of physical and sexual abuse typically perpetrated by men. • Groups occur once a week for 75 minutes.

- TREM includes women who have been diagnosed with severe mental health disorders, substance use disorders, and co-occurring disorders.

Experimental studies:

- Multiple pilot studies were conducted:
 - Pilot Study 1:
 - TREM completers spent fewer days in the hospital and fewer emergency room visits (compared completers with non-completers).
 - Pilot Study 2:
 - The setting was an urban mental health agency.
 - n=14, all had a co-occurring SUD.
 - They assessed symptom change and skill level.
 - They found that women reported better overall function on the Global Assessment Scale and increased their recovery skill levels.
- Multiple quasi-experimental studies were conducted:
 - Women, Co-Occurring Disorders, and Violence Study
 - Overall, 9 selected sites participated and 3 of these sites used the TREM model (DC, Colorado, and Boston).
 - All sites interviewed women at baseline, 6 months, and 12 months.
 - The DC Trauma Collaboration Study (quasi-experimental):
 - Intervention groups at two DC mental health agencies were compared with two regular groups at Baltimore.
 - Groups were not randomized.
 - N=140
 - Outcomes
 - For TREM participants substance use decreased and trauma recovery skills increased.
 - Colorado Site for WCDVS (quasi-experimental)
 - The setting was substance abuse programs.
 - They used an adapted version of TREM.
 - N=64 were in the TREM group and 106 were in the comparison group.
 - The more sessions that a woman participated in TREM, PTSD stress symptoms, mental health symptoms, and social role functioning decreased.
 - Women's Trauma Recovery and Empowerment Study
 - Purpose is to look at the effectiveness of TREM
 - Two study sites based in Baltimore.
 - Sample:
 - N=300 women with victimization histories, diagnosis of SMD, PTSD
 - Method:
 - "Randomized control trial"
 - "Stratified random assignment"

Intervention/Article Citation	Study Detail
<p>Intervention Name: Brief Cognitive (BC) Behavioral Intervention</p>	<p>Purpose of the study:</p> <ul style="list-style-type: none"> • This study assesses the effects of three different conditions: brief cognitive therapy, assessment condition (constantly revisited PTSD symptoms) and supportive counseling. <p>Purpose of Intervention:</p> <ul style="list-style-type: none"> • The intervention is primarily focused on the importance of processing a traumatic event. The author states that “processing traumatic events enhances recovery.” <p>Explanation of Intervention:</p> <ul style="list-style-type: none"> • The women met 4 times a week for 2 hours. • The intervention covers the following topics: “education about normal reactions to assault, breathing/relaxation training, recounting the assault, approaching feared, but safe situations, and cognitive restructuring.” <p>Methods:</p> <ul style="list-style-type: none"> • There were 90 survivors of “recent sexual and nonsexual assault” in the study. • All participants had PTSD symptoms. • Inclusion: <ul style="list-style-type: none"> ○ Score on the PTSD symptom interview ○ “Initial evaluation of clinicians” • Exclusion: <ul style="list-style-type: none"> ○ “Women who were assaulted by intimate partner with whom they had an ongoing relationship” ○ Women with “organic mental disorder, schizophrenia, BD, alcohol/drug dependences” • Women were randomized into two groups initially (the intervention and the assessment condition) later on, a third group was added (supportive counseling). <p>Outcomes:</p> <ul style="list-style-type: none"> • Specific PTSD symptoms did not vary between the assessment condition and the brief cognitive therapy. • PTSD symptoms and general anxiety were significantly reduced with the brief cognitive treatment compared to supportive counseling. • Sexual assault survivors recovered from PTSD symptoms and had lower rates of depression and anxiety with brief cognitive counseling than in supportive counseling after three-month follow-up. <p>Study Limitations</p> <ul style="list-style-type: none"> • It did not record information about why people chose not to participate. • A third condition (SC) was added one year into project. • There was a 28% attrition rate.
<p>Article Citation: Foa, Zoellner, & Feeny (2006)</p>	

Intervention/Article Citation	Study Detail
<p>Intervention Name: Women's Integrated Treatment (WIT)</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> • The purpose of this intervention is to integrate women's specific needs and to acknowledge through practice women's trauma-related concerns. • The intervention is based on the assumption that there will be decreased reliance on substance abuse and lower levels of criminal behavior if the unique concerns of women are considered. • The intervention was developed by Stephanie Covington and prior to this study had not been empirically tested.
<p>Article Citation: Messina, Grella, Cartier, & Torres (2009)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> • The intervention covers four specific intervention modules: "self-module, relationship module, sexuality module, and spirituality module." • All parts of the intervention were delivered by women. • The intervention was developed "to be used in conjunction with Helping Women Recover."
	<p>Methods:</p> <ul style="list-style-type: none"> • The research setting was the Valley State Prison for Women. • They randomized 115 women in the prison to either WIT or a standard prison treatment program. • They interviewed women at "program entry, 6-months post-parole, and 12-months post parole."
	<p>Outcomes:</p> <ul style="list-style-type: none"> • WIT program recipients did not differ from prison program on improvement of psychological well-being. • If chosen, WIT program recipients stayed longer in aftercare treatment programs and residential programs than the comparison group did. However, there were no significant differences in participation in aftercare treatment. • The WIT treatment group was more successful in aftercare treatment programs than the comparison group due to their extended stay and completion of treatment. • There were no significant differences between groups in drug use once released. • WIT participants stayed out of the criminal legal system longer than the comparison group and WIT participants had greater success during parole.

8.6.2 Incarcerated and Formerly-Incarcerated Women Therapeutic Interventions

Intervention/Article Citation	Study Detail
<p>Intervention Name: No specific name given—a group that emphasizes psycho-education</p> <p>Article Citation: Pomeroy, Kiam, & Abel (1998)</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none">• “The goal of this psycho-educational group intervention was to reduce perceived stress, anxiety, depression and trauma”• The intervention was specifically designed for incarcerated women.• The intervention would also be used to reduce recidivism in the long-term. <p>Explanation of Intervention:</p> <ul style="list-style-type: none">• Sessions were held “three times a week over a course of 5 weeks.”• Each session lasted 90 minutes.• A trained professional ran the intervention.• Participants looked at their self-concept and interpersonal relations. The focus of the group was for participants to be aware of their strengths.• Women set goals and learned problem solving skills in the intervention. <p>Methods:</p> <ul style="list-style-type: none">• The research setting was at the jail.• There was a treatment group and a comparison group.• Thirteen women in the treatment group and 7 women were in the comparison group.• Researchers used a quasi-experimental, nonequivalent control group design.• Researchers tested for differences using a pre-post test. <p>Outcomes:</p> <ul style="list-style-type: none">• Intervention significantly reduced depression and anxiety.• There was a smaller effect on reducing levels of stress and trauma. <p>Study Limitations</p> <ul style="list-style-type: none">• There was no real random assignment; the groups were devised by who contacted the investigator first.• The sample size was very small.• There was no follow-up with the women after the intervention.

8.6.3 Domestic Violence Advocacy Interventions

Intervention/Article Citation	Study Detail
<p>Intervention Name: Community Advocacy Project (CAP)</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> • The purpose of this intervention is to see if the integration of social support and community resources would help women stay safe and attain higher quality of life. • The focus of the intervention was “on making the community more responsive to the delivery and distribution of limited or inaccessible services.”
<p>Article Citation: Sullivan & Bybee, (1999)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> • Women received comprehensive advocacy services for 10 weeks. • Advocates were individually assigned to women. • The advocates were undergraduates taking a semester course. • The intervention included safety planning and advocacy had five phases: “assessment, implementation, monitoring, secondary implementation, and termination.”
	<p>Methods:</p> <ul style="list-style-type: none"> • Research setting was women’s natural environments. • Inclusion criteria: <ul style="list-style-type: none"> ○ “Spent at least one night in shelter” ○ “Planned on staying in general vicinity 3 months post-shelter” • Over the course of 2 years, women were interviewed at shelter exit, 10 weeks, 6 months, 12 months, 18 months, and 24 months. • 278 women participated in the study. • 143 women were randomly assigned to a control group.
	<p>Outcomes:</p> <ul style="list-style-type: none"> • Overall, advocacy group women reported less abuse. • There were increases for the advocacy group: <ul style="list-style-type: none"> ○ Quality of life ○ Social support ○ Obtaining helping resources • There was a decrease in depressive symptoms for advocacy group. • “1/10 women stayed completely free of abuse in the advocacy group.”
	<p>Study Limitations</p> <ul style="list-style-type: none"> • All women had been in shelter before participating in the research.

Intervention/Article Citation	Study Detail
<p>Intervention Name: Brief, Counseling, and Outreach Interventions for pregnant survivors of domestic violence</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> • “The purpose of the study here was to test the differential effectiveness of three levels of intervention in decreasing intimate partner abuse of pregnant women who received routine prenatal care in public health clinics.”
<p>Article Citation: McFarlane, Soeken, & Wilst (2000)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> • Brief intervention involved giving pregnant survivors of domestic violence wallet-sized resource cards. The resources cards contain information about legal support, personal safety planning, and women’s center contact. • Women in the counseling intervention received free, unlimited domestic violence counseling services. • The outreach intervention provided women with free, unlimited counseling services and a “mother mentor.” Mother Mentors serve as advocates for women by supporting them with accessing various community resources.”
	<p>Methods:</p> <ul style="list-style-type: none"> • Recruitment took place in two prenatal clinics. • Researchers screened women for abuse over 12 months and those who reported abuse were referred to a bilingual nurse. • The nurse gave them two assessments (Community Resource Use Assessment, Severity of Violence against Women Scale). • Clinics were on a random rotating intervention assignment.
	<p>Outcomes:</p> <ul style="list-style-type: none"> • The outreach intervention lowered physical violence more than just counseling; however, neither outreach nor counseling was significantly lower than the brief intervention. • There were no threats of violence across intervention. • There were no differences in resource utilization across intervention types and times.
	<p>Study Limitations</p> <ul style="list-style-type: none"> • The intervention was tested on a fairly-homogenous sample.

Intervention/Article Citation	Study Detail
<p>Intervention Name: Nurse Case Management Empowerment</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> A nurse case management intervention was designed to “assess the comparative safety behaviors, use of community resources, and the extent of violence following two levels of intervention.”
<p>Article Citation: McFarlane, Groff, O’Brien, & Watson (2006)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> In this study, the nurse case management intervention included three elements, “supportive care, anticipatory guidance, and guided referrals.” Supportive care includes providing emotional empathetic support surrounding domestic violence. Anticipatory guidance includes preparing women for the positive and negative consequences and processes that occur when seeking out resources for domestic violence. Guided referrals are case management sessions occurring when the nurse works on situations based on the survivor’s request.
	<p>Methods:</p> <ul style="list-style-type: none"> This intervention study was a “randomized, two-arm, clinical trial.” Inclusion criteria: <ul style="list-style-type: none"> “English or Spanish speaking” “physical or sexual abuse occurring within the last 12 months” n=360, but the final n=319 with an 11% attrition rate across all of the time points. Women were recruited from 4 health clinics. Two were public health clinics and the other two clinics provided services directly to women, infants, and children. Women were randomized into the nurse management intervention group or referral card group based on the week that they participated in abuse assessment. Women in the intervention trial received nurse management or a wallet-sized referral card that contained basic information about community resources. Researchers used the following assessments: “the safety behavior checklist, the community resource checklist, the severity of violence against women scale, the danger assessment scale, and the employment harassment questionnaire.”
	<p>Outcomes:</p> <ul style="list-style-type: none"> They collected data at baseline, twelve-months, and twenty-four-months. There were not that many differences over time between both intervention groups. Both groups “increased use of safety behaviors, decreased use of community resources and showed a decrease in experiencing physical violence over time.” The overall effectiveness of both interventions was not significantly

different.

Study Limitations

- Every group received some type of intervention.
- “A different measurement period for the initial safety behavior checklist.”

Intervention/Article Citation	Study Detail
<p>Intervention Name: Phone-based advocacy intervention</p> <p>Article Citation: McFarlane, Malecha, Gist, Watson, Batten, Hall, & Smith (2002)</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none">• The purpose of this intervention is to “increase safety-seeking behaviors” of women who are seeking support from the legal justice system. <p>Explanation of Intervention:</p> <ul style="list-style-type: none">• The intervention consisted of women who requested and qualified to receive a Protective Order from the district county’s office.• Women were provided basic services offered by the DA office along with 6 safety intervention calls over 8 weeks (week 1, 2, 3, 5, and 8). Women were given the Safety Behavior Checklist and “strategies for adopting safety behaviors were discussed.” <p>Methods:</p> <ul style="list-style-type: none">• Women were recruited from the family violence unit at the District Attorney’s office.• Inclusion criteria:<ul style="list-style-type: none">○ “Women who qualified for a PO”○ “English or Spanish speaking”• Researchers used the Safety Behavior Checklist to identify safety behavior.• Follow up interviews occurred at 3-months and 6-months, but the intervention group was not given information on safety. <p>Outcomes:</p> <ul style="list-style-type: none">• Researchers only lost one participant in the control group.• “The women in the intervention group practiced a significantly high number of safety behaviors at three and six months.”• “The intervention women increased the average number of adjusted safety behaviors performed from intake to three and six months by two behaviors.”• Compared to control group women, the intervention group used the following safety behaviors more often at three months: “hiding keys, hiding clothes, establishing a code with others, and asking neighbors to call the police.”

Intervention/Article Citation	Study Detail
<p>Intervention Name: Comparison between hotline, counselor, shelter, or Protective Order interventions</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> The purpose of this study is to link “exiting an abusive relationship and overall health status” <p>Explanation of Intervention:</p> <ul style="list-style-type: none"> The intervention was not organic to the article; instead researchers looked at 4 known types of domestic violence interventions: “(1) hotline, (2) advocate or intimate partner violence counselor, (3) shelter stay, (4) restraining order. <p>Methods:</p> <ul style="list-style-type: none"> n=132, 67 women were recruited from posters and 65 were recruited from a survey given at waiting rooms in various medical departments and planned parenthood Inclusion criteria: <ul style="list-style-type: none"> “Women in a heterosexual abusive relationship within the last 12 months” “Patients at the respective medical and community sites” Women were interviewed to understand “specific information about the relative timing of violent incidents to interventions, and the influence of interventions on existing relationships.” They assessed violence in women’s lives using the Conflict Tactics Scale and health using the Short Form Health Survey. <p>Outcomes:</p> <ul style="list-style-type: none"> “Of women who received any service, more than 36% made use of more than one outlet during the previous year.” The DV advocate was the “most commonly used resource among women.” Women who received “at least one intervention had higher rates of exiting the relationship.” Conversations with healthcare providers increased service usage by women. <p>Study Limitations</p> <ul style="list-style-type: none"> There were differential selection sources. There was no follow-up after initial interview. The “intervention” was not one initiated by researchers, it was based on participants’ disclosure of which intervention they participated in.
<p>Article Citation: McCloskey, Lichter, Williams, Gerber, Wittenberg, & Ganz (2006)</p>	

Intervention/Article Citation	Study Detail
<p>Intervention Name: BRIDGE</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> The purpose of the BRIDGE intervention is to “bridge battered women from the emergency department (ED) to community resources.”
<p>Article Citation: Muelleman & Feighny (1999)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> Bridge is an emergency room-based advocacy program. Women are identified as survivors in an emergency room and nurses introduce them to an advocate. Advocacy services are optional to women. They include “safety planning, domestic violence education, and community resources.”
	<p>Methods:</p> <ul style="list-style-type: none"> N=117, comparison group N=105, intervention group Two groups were a part of this intervention: the after advocacy and baseline group. Inclusion criteria: <ul style="list-style-type: none"> “Domestic Violence in past 6 months” “18 years of age or older” “Injured by current or former boyfriend during a 6-month period” The baseline group was given a resource sheet. They were “identified retrospectively.” The after advocacy women that went through the BRIDGE program. Researchers used the police department records to determine who accessed the police department for DV. Researchers used the courthouse records to determine who sought PPOs. (Personal Protection Orders) Researcher used 6 domestic violence agencies shelter records to determine who sought support from a shelter.
	<p>Outcomes:</p> <ul style="list-style-type: none"> There were no differences in filing police reports, previous PPO, previous (ED) visits, emergency police calls, and injuries received over a six-month period. The intervention group utilized the (ED) less and counseling more than the comparison group. “There was a statistically-significant increase in the number of women in the BRIDGE group who sought shelter and counseling after the (ED) visit.”
	<p>Study Limitations</p> <ul style="list-style-type: none"> It is unclear about how people who gave the intervention were trained. Intervention was on women who already were seeking help from the PPO office. personal protection order ()<u>Efficacy of Intervention</u> It is short-term and low-cost.

8.6.4 Domestic Violence Therapeutic Interventions

Intervention/Article Citation	Study Detail
Intervention Name: Drivers Check-Up Style (DCU) and Written Feedback Intervention	<p>Purpose of Intervention:</p> <ul style="list-style-type: none">• The purpose is to “compare the effectiveness of two brief interventions in engaging substance-using female domestic violence shelter residents in substance abuse treatment”
Article Citation: Olge & Baer (2003)	<p>Explanation of Intervention:</p> <ul style="list-style-type: none">• The Drinkers’ Check-Up involves a “brief substance abuse assessment (SUCU) followed by a single feedback session of personalized assessment data conducted in an empathetic style consistent with motivational interviewing.”• The written feedback intervention was a general, brief assessment of substance abuse given placed in women’s’ mailboxes. <p>Methods:</p> <ul style="list-style-type: none">• All participants were recruited from a domestic violence shelter.• All residents who entered into the shelter over a selected period were given a substance abuse assessment at intake.• 147 women were assessed for substance abuse• Inclusion criteria:<ul style="list-style-type: none">○ “reported weekly alcohol consumption was greater than the 50th percentile for U.S. female residents”○ “reported any illicit drug use in the 30 days prior to shelter admission”• 20 women who met eligibility criteria and finished the entire intervention (original n=33), but 13 did not complete the intervention.• The Substance Use Check Up for the assessment given using the DCU-style was used to assess substance use.• Feedback sessions were offered by undergraduate paraprofessionals in DCU-style intervention.• Written feedback was placed in mailbox. <p>Outcomes:</p> <ul style="list-style-type: none">• Sixty percent of SUCU (DCU-style) went to at least one treatment session, whereas no one in the written feedback group. <p>Study Limitations</p> <ul style="list-style-type: none">• The sample size is small.• There was no control group.

Intervention/Article Citation	Study Detail
<p>Intervention Name: Insight</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> • Insight is a holistic cognitive behavioral intervention that considers the “spiritual, physical, and emotional components of a person embedded in the person’s environment.” • The purpose is to change negative thought patterns and teach coping techniques focusing on “awareness, affirmation, and action.” • Insight is ideally used with victims of abuse.
<p>Article Citation: Zust (2006)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> • The intervention focuses on improving battered women’s lives in the following areas: “self-esteem, reduce anxiety, loneliness, hopelessness, and depression.” • Intervention took place over a 20-week period. • Insight is group therapy with a specific focus on “awareness, affirmation, and action.” <p>Methods:</p> <ul style="list-style-type: none"> • The study used a pre- and post-test design. • Women were conveniently selected from the county Women Infants and Children program. • Overall, 27 women participated in the study and 18 of these women had been battered. The 9 women who did not identify as battered women was used as the comparison group. • Inclusion: <ul style="list-style-type: none"> ○ “Signs of depression” ○ “Ability to speak English” ○ “Willingness to participate in 20-week intervention” • Exclusion: <ul style="list-style-type: none"> ○ “Women who showed signs of psychosis” • A nurse therapist conducted the Insight program in this study. • They used the Battering Assessment Questionnaire. • The first 10 weeks were focused on awareness, and last 10 weeks focused on skill building. <p>Outcomes:</p> <ul style="list-style-type: none"> • There was an overall decrease in anxiety symptoms, but non-battered women had a stronger association than battered women. • Overall, there was an increase in self-esteem. However, “self-esteem among battered women was lower than in non-battered women.” • Depression scores significantly decreased with battered women. <p>Study Limitations</p> <ul style="list-style-type: none"> • There was no comparison or control group. • It is not clear whether intervention lowered abuse. • There was a very small sample size. • The attrition rate was high.

Intervention/Article Citation	Study Detail
<p>Intervention Name: Social Support Intervention (SSI)</p>	<p>Purpose of Intervention:</p> <ul style="list-style-type: none"> The rationale behind implementing a social support intervention based on evidence that actual and perceived availability of social support helps women who are surviving violence.
<p>Article: Constantino, Kim, & Crane (2005)</p>	<p>Explanation of Intervention:</p> <ul style="list-style-type: none"> The social support intervention took place over 8 weeks. It occurred once a week and lasted for 90 minutes. It emphasized supplying women with resources and support to help end abuse. It addressed “four functions of social support: belonging, evaluation, self-esteem, and tangible support.” Women were evaluated throughout the intervention. <p>Methods:</p> <ul style="list-style-type: none"> 24 women were in this study. Researchers recruited women who were first-time residents at a domestic violence shelter. Women were randomized into two groups, the social support intervention and the no-treatment group. They used a pre- and post-test design to test for differences. <p>Outcomes:</p> <ul style="list-style-type: none"> Social support intervention group “improved their psychological distress symptoms.” The intervention group improved social support and used health care less frequently than the control group. <p>Study Limitations</p> <ul style="list-style-type: none"> “Eight weekly SSI sessions may not be feasible when women have four-week time limits on shelter stays. There is a small sample size.

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