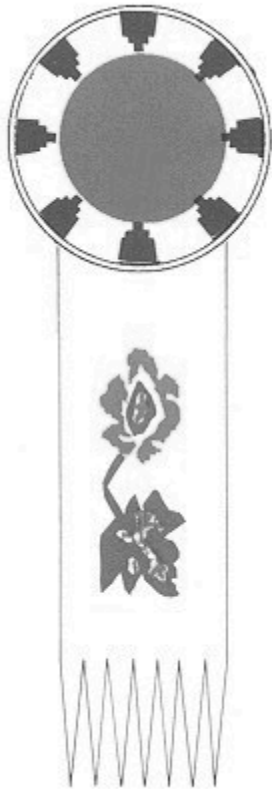


Native Women's Association of Canada



ABORIGINAL WOMEN:

POLICE
CHARGING
POLICIES
&
DOMESTIC
VIOLENCE

~ 1994 ~

A study on the policies that impact
aboriginal communities.

An NWAC Report

Table of Contents

1.	Poem Excerpt: Death Murmur	4
2.	Introduction.....	5
3.	Methodology	5
4.	Findings and Recommendations	6
5.	Conclusion.....	10
6.	Chapter 1 - Mandatory Charging Policies	11
	a) How the Mandatory Charging Policy is Enforced	11
	b) Where Evidence Required/Lack of Policy's Enforcement	12
	c) Failure of the Victim to Follow-Through With Charges.....	14
	d) Problem of Discrepancies	14
	e) Jurisdictional Problems	15
	f) Women's Role	16
7.	Chapter 2 - Laying Charges: Aboriginal Domestic Violence	17
	a) Problems with Reporting Domestic Violence	17
	b) Third Party Responsibility.....	17
	c) Problems with Third Party Intervention Police Response	18
8.	Chapter 3 - Reluctance to Report Domestic Violence.....	19
	a) Fear of Retaliation of Spouses	19
	b) Mistrust of the Justice System.....	20
	c) Concern for Children's Welfare	20
	d) Dependence on Spouse's Financial Support	20
	e) Problem with Low Self-Esteem	20
	f) The Belief System of Aboriginal Peoples	21
	g) Problem with the Failure to Follow Through with the Charges.....	22
	h) Shame and Stigma Attached to Reporting Spousal Abuse.....	23
	i) Problems Living in an Isolated Community	23
	j) The Community Must Take Responsibility.....	24

9.	Chapter 4 - What Alternatives are Available	26
	a) Alternatives identified	26
	b) Access Problems.....	27
	c) Community Involvement and Responsibility	29
	d) Aboriginal Women's Role	30
10.	Chapter 5 - Difficulties Encountered by Aboriginal Women	31
	a) Geographical Problems	31
	b) Fear of Further Abuse and Removal from the Home and Community	32
	c) No Community Assistance	32
	d) High Tolerance of Community Violence	33
11.	Chapter 6 - Discerning the Role of Tribal Police	36
	a) No Tribal Police Role.....	36
	b) Jurisdictional Matters.....	36
	c) Cooperative Effort Between Tribal Police and the R.C.M.P.....	37
	d) Towards Self-Policing.....	37
	e) Role of Women.....	38
12.	Chapter 7 - Aboriginal Govmts. Role in Domestic Violence.....	39
	a) No Perceived Role for Aboriginal Governments	39
	b) Jurisdictional Problems	39
	c) Need to Provide and Support Alternative Resources.....	40
	d) Need for Aboriginal Women's Involvement in the Solution	40
	e) Need for a Cooperative Justice System	41
	f) Need for Self-Policing for First Nations	42
	g) Need for the Involvement of Non-Aboriginal Professionals.....	42
	h) Alternative Police Commission.....	42

1. Poem Excerpt: Death Murmur

By Jeanette Armstrong

*There are some Indians
hanging around Kings hotel
and they are dead,
preserved in alcohol.
It would be neater though
to kills us all at once.
Whole clans and tribes
could be dressed and stuffed.
Add a fifth floor to the museum
to accommodate us.
Better yet
pile us up like cordwood
in those longhouses
we would be home at last
and it would be good value.*

(Excerpt from poem published in: Connie Fife, *The Colour of Resistance: A Contemporary Collection of Writing by Aboriginal Women* (Toronto: Sister Vision Press, 1993) at 10)

2. Introduction

The results of this study indicate that mandatory charging policies are not uniform throughout the various federal, provincial and territorial jurisdictions. As a result, charging policies are not applied uniformly throughout Canada by police officers. Nor do police officers have uniform authority to intervene in aboriginal domestic violence situations. Wife assault within the aboriginal community has reached epidemic proportions. It is imperative that those who work in the criminal justice system recognize that aboriginal women in domestic violence situations are at a higher risk than women violated by strangers. The mandatory charging policy, issued by the Royal Canadian Mounted Police, has been in effect in the Northwest Territories since 1981. It has been in effect in southern Canada since 1984. The assumptions behind the charging policy are: first, the police will lay charges where there are reasonable and probable grounds that an offence occurred; and, second, the victim should be relieved from laying charges in domestic violence situations. The Administration of the Criminal Code in Canada is the responsibility of each province and territory. Each has the jurisdiction pertaining to the assault provisions used in domestic violence situations. This report will show that the national charging policy did not necessarily relieve the victim from bearing the burden of reporting the violence crime, nor did it always aid the police in carrying out their mandate. For clarification, the term "Native Justice Projects" is a misnomer. These particular projects deal with the administration of Canada's criminal laws, not with enforcing traditional or customary laws in aboriginal communities. While there is one law, there are also many law enforcers, Native and non-Native.

3. Methodology

It is evident, upon review, that little has been written on the mandatory charging policies in aboriginal domestic violence situations and the impact of those policies upon the aboriginal community. It was necessary, therefore, to obtain data on charging policies affecting aboriginal women in domestic violence situations. To collect the data, a questionnaire on charging policies was sent to 240 Native justice projects nationwide including Attorneys-General; regional and local police forces; the Royal Canadian Mounted Police; court workers; diversion projects; Indian Bands; and Native-controlled justice projects. Set within the framework of seven questions, each question is divided into responses received from the Native justice projects and those of the police. This includes those police who answered on behalf of "Native justice projects". The compilation listing Native justice projects which were surveyed was obtained from an inventory distributed by the federal Department of Justice. Some of these projects were funded by the federal Department of Justice and some were funded by provinces. The only concern with "Native Justice Projects" here is their response to the questionnaire on charging policies by the police in aboriginal domestic violence situations.

4. Findings and Recommendations on Charging Policies and Aboriginal Domestic Violence

There is no specific legislation aimed at criminally penalizing those who abuse aboriginal women and children. The police usually enforce the assault provisions of the Criminal Code and charge [mostly] men who violate women. The assault provisions of the Criminal Code, in conjunction with a mandatory charging policy, have not contributed to a decrease in violence there are reasonable and probable grounds an offence has been committed against others living in the home. The victim should not be required to leave the family home.

Recommendation 1

It is recommended that adequate resources be provided by government to policing agencies, especially those in geographically isolated aboriginal communities.

Recommendation 2

It is recommended that charges be laid in aboriginal domestic violence situations where there are reasonable and probable grounds to believe an offence has been committed.

Recommendation 3

It is recommended that accused in domestic violence situations be removed from the home when there are reasonable and probable grounds to believe an offence has been committed, and that accused not return to the home until the matter has been resolved in the criminal justice system by the courts or through a community sentencing process.

Recommendation 4

It is recommended that charges be dealt with in a timely fashion. Failure to do so promotes the withdrawing of charges by abused aboriginal women.

Recommendation 5

It is recommended that the imposition of a non-communication order, as well as the enforcement of 'stalking legislation', be enforced to keep aboriginal women from being threatened by the behaviour of third parties acting on behalf of the abuser. For example, relatives or friends of accused men may threaten women who lay charges.

Recommendation 6

It is recommended that further research be conducted into the reluctance of aboriginal women to report domestic violence, including their fear of retaliation, community abuse or non-support, and economic factors.

Recommendation 7

The charging policies are necessary to fulfill the obligations of the State to respect the section 7 [security of the person] rights of victims under the Canadian Charter of Rights and Freedoms.¹ It is recommended that while the Charter rights of accused must be respected, equal consideration and weight be given to the Charter rights of victims. There is a duty under the Charter to enforce the assault provisions within aboriginal communities to the same standard as in other parts of Canada.

Recommendation 8

It is recommended that enforcement agencies convene a meeting to discuss the problems arising from the differences in mandatory charging policies across jurisdictions.

Recommendation 9

It is recommended that where there are tribal police and Band constables that they benefit from having a uniform charging policy to better protect abused aboriginal women and other victims.

Recommendation 10

It is recommended that further research be conducted into eradicating racism in the criminal justice system, and that amendments be considered to the Criminal Code to accommodate the Canadian mosaic, for example, cultural defences, community-sanctioned crime prevention and community punishment, retribution and preservation of community harmony.

Recommendation 11

It is recommended that more alternative resources be made available in domestic violence situations for aboriginal women. For example, community diversion projects need to be developed and implemented in the aboriginal context. The development of these alternatives may include specifying that family violence is a criminal act.

Recommendation 12

It is recommended that consideration be given to introducing a Family Violence Act enforceable at the community level.

¹ Elizabeth Sheehy, "Personal Autonomy and the Criminal Law: Emerging issues for Women" (Ottawa: Canadian Advisory Council on the Status of Women, 1987) at 53.

Recommendation 13

It is recommended that police in aboriginal communities enforce a mandatory charging policy which has been developed in consultation with the community. Social control policies at the community level need to be developed and enforced at the community level to prevent violence against women and children.

Recommendation 14

It is recommended that leadership, elders and women within aboriginal communities develop and enforce social control policies through local police including the R.C.M.P., Band Constables, tribal police, peace keepers and Women' s Control Committees.

Recommendation 15

It is recommended that Indian reserves across Canada and aboriginal women's organizations be consulted to develop an agreeable policy on mandatory charging in aboriginal domestic violence situations and that these policies be enforced by the R.C.M.P., tribal police, Band Constables, peace keepers and others responsible for law and order in aboriginal communities.

Recommendation 16

It is recommended that aboriginal women and elders be given a meaningful role in eradicating violence on Indian reserves and in aboriginal communities.

Recommendation 17

It is recommended that aboriginal women be informed of their right to involve police in aboriginal domestic violence situations where communities have not acted to protect women in these situations.

Recommendation 18

It is recommended that there be a standardization of mandatory charging policies among various jurisdictions.

Recommendation 19

It is recommended that federal, provincial and territorial Attorneys-General address the need to create safe environments for aboriginal women who lay charges in domestic violence situations including creating halfway houses for violent men; shelters for men removed from their home for violent behaviour; community carceral facilities for violent men [and women]; and counselling services to prevent violence.

Recommendation 20

It is recommended that there be more dialogue between law enforcers and victims of domestic violence to ensure consistency in enforcing criminal assault violations against women, children and elders.

Recommendation 21

It is recommended that mandatory charging policies be developed in every jurisdiction with direct consultation with aboriginal women's organizations. It is recommended that the charging policies accommodated the use of aboriginal women's circles at the community level to deal with offenders who commit violent acts within the aboriginal community.

Recommendation 22

It is recommended that aboriginal women participate with federal, provincial and territorial agencies in forming mandatory charging policies and setting up alternative resource centres. There is a need to establish elders' services, women's sentencing circles, healing lodges, counselling services, sex offender programs and men's support groups in all aboriginal communities.

Recommendation 23

It is recommended that hotlines, radio and cellular phones be made available to aboriginal women and victims of violence in isolated, northern aboriginal communities.

Recommendation 24

It is recommended that police services be made available to aboriginal women and victims of violence in isolated, northern aboriginal communities and that communications services to outside police forces be increased including 1-800 numbers and other emergency communications services.

Recommendation 25

It is recommended that holding cells and temporary shelters be made available in all aboriginal communities where crimes of violence are a regular occurrence and where numbers warrant.

Recommendation 26

It is recommended that healing centres be established in all aboriginal communities with a population of 150-plus where crimes of violence are a regular occurrence, and that funds be made available for the training of sex offender counsellors and traditional healers.

Recommendation 27

It is recommended that healing lodges be established in central locations-isolated, rural and urban aboriginal communities-to service populations of 2,000 aboriginal persons or 500 families. Healing lodges should provide services to children of violence, aboriginal women, and aboriginal men.

Recommendation 28

It is recommended that counselling by traditional aboriginal psychiatrists, psychologists, elders or traditional healers be mandatory treatment for all abusive men, even when incarcerated.

Recommendation 29

It is recommended that services in aboriginal languages be made available throughout the criminal justice system.

5. Conclusion

This study focused on the charging policies of various jurisdictions as they affected the aboriginal community and victims of violence, especially aboriginal women. It is noted that ninety-two per cent of battered woman cases are not prosecuted.² What became evident were the discrepancies arising from the charging policies and how this impacted upon law enforcement officers dealing with domestic violence in the aboriginal context. It has been found that police are reluctant to enforce the law, especially in charging husbands for assault unless they receive strict guidelines or instructions.³

² Elizabeth Sheehy, *"Personal Autonomy and the Criminal Law: Emerging issues for Women"* (Ottawa: Canadian Advisory Council on the Status of Women, 1987) at 53.

³ Jane W. Ellis, *"Prosecutorial Discretion to Charge in Cases of Spousal Assault: A Dialogue"* (1984) 75: 1 *Journal of Criminal Law and Criminology* 56-102.

6. Chapter 1 - Mandatory Charging Policies

Do the police automatically lay charges in domestic violence situations in your community or region?

Fifty-two responses fielded the question as to whether the police lay charges automatically in domestic violence situations. Although the majority of police responded affirmatively to laying charges immediately in domestic violence disputes, their reasons for doing so varied. On the whole, police action appeared erratic. Most of the respondents' answers to this question supported the existence of mandatory charging policies and verified their enforcement. Discrepancies were revealed in the policy's effectiveness across Canada. Contradictions in executing the charging policies became visible when the respondents of Native justice projects were juxtaposed with those from police forces. A gap was found to exist in how the victim reacted in domestic violence situations. Both parties appeared to experience problems concerning the legal procedures involved in domestic violence situations. Problems arose from attempting to report the crime to securing a conviction. Compounding the problem was a mutual distrust of the criminal justice system when the offender was not convicted.

An unidentified individual responding to the survey provided the following description of the R.C.M.P. charging policy:

"All complaints of domestic violence involving spousal assault should be investigated immediately and thoroughly, with the intention of charges being laid or [face] court prosecution, irrespective of whether the assaulted spouse wished to proceed with charges. An early objective of the investigation should be the protection of and assistance to victims.

This explanation forms the basic assumption the police are to be operating under when laying charges. The following report divides the answers of the Native Justice Projects from that of the police."

a) How the Mandatory Charging Policy is Enforced

Native Justice Response

Some respondents stated that the mandatory charging policy is enforced in their region where there are reasonable and probable grounds to believe an offence has occurred. In Manitoba, a "zero tolerance policy" was established in domestic violence situations. The Manitoba policy directive reads:

"Where a police officer has reasonable and probable grounds to believe that a husband or wife has been assaulted (by their partner), the police have been requested to lay the appropriate charge."⁴

On the one hand, it was asserted that the "decision regarding whether to lay charges rests with the police."⁵ On the other hand, some Native justice respondents also stated that the police, in some areas, required concrete evidence (hospital reports, eye-witness accounts, and victim's statements) before enforcing the 'mandatory charging' policy. These varied responses are an indicator of the inconsistencies in laying charges and they reveal the need for legislation directed at family violence. The mandatory charging policies were intended to alleviate the victim from bearing the burden of laying criminal charges. All of the hurdles, however, have not been removed.

Police Response

Most policing agencies agree that the mandatory charging policies are enforced *only where there are reasonable and probable grounds to believe an offence has occurred.*⁶ Tribal police respondents confirmed that charges were laid as directed by the Manitoba Attorney General. In Winnipeg, Manitoba, for example, charges are laid automatically. The Attorney General of Manitoba's instructions to the police are to lay charges in all domestic violence situations. In Saskatchewan, one respondent commented that *"the police and crown prosecutors are directed by the Minister of Justice to lay charges automatically in all incidents of domestic assault."*

This study pertains to the R.C.M.P. mandatory charging policy set out in 1984 south of 60 and the Northwest Territories 1981 policy. Most responses from the police verified that the mandatory charging policy was in effect in their area. One individual from New Brunswick stated that the police *often lay charges even when women say they will not go to court.* Similarly, in the Northwest Territories, the R.C.M.P. enforce the policy with the full support of the N.W.T. Department of Justice. The charging policy specifically states that it is up to the police to enforce the law. In some jurisdictions, however, the enforcement of the policy depends on evidence to support the charge.

b) Where Evidence Required/Lack of Policy's Enforcement

Native Justice Response

Most abused aboriginal women experience the discrepancies involved in the policing of domestic violence situations. In one community in Alberta, the respondent stated that *"statements are taken first and [then] legal papers signed. A warning is given first. If it happens again, then charges will be laid."* Police discretion seems to determine the outcome, hence, aboriginal women are wary of the justice system protecting them. In

⁴ Margaret Wiebe, *Women's Advocacy Program, Winnipeg, Manitoba; Ma Wi Chi Itata Centre, Inc., Winnipeg, Manitoba; Community Legal Education Association, Winnipeg, Manitoba; Legal Aid Manitoba, Winnipeg, Manitoba.*

⁵ *Ibid.*

⁶ *Ibid. and Manitoba Justice; Ontario Solicitor General; R.C.M.P. Winnipeg; R.C.M.P. Charlottetown*

British Columbia, one respondent noted that domestic assault charges are laid even when the abused woman contested proceeding with the charge. However, it was also stated that the matter was passed to the Crown attorney to decide if there was enough evidence to prosecute. It was also reported in Alberta, Saskatchewan and British Columbia, that charges for domestic violence disputes are not laid automatically.

Where the lack of enforcement of the charging policies is compounded in relation to the perceived evidentiary requirements, this negates the practicality of the policy's intent. The provisions of the mandatory charging policy seem contradictory, rather than complementary, to the Criminal Code assault provisions. Respondents also contended that evidentiary problems arise when aboriginal women refuse to testify in court, provide a statement, and then withdraw their complaints.

There are various other reasons why the charging policy is not enforced. The effect of the mandatory charging policy is further diminished when there is delayed police response in a domestic violence crisis. The delay in police response can be attributed to any number of reasons. In isolated communities it is difficult for police to respond immediately if the only means of transportation is by air or boat. For aboriginal women the delay may be due to the lack of a telephone, or other means of communication. It was suggested by a respondent from Nova Scotia that even in urban centres there can be a delayed police reaction. The police may also delay responding if the woman *"has a long history of dropping the charges. She may be required to personally lay the charge rather than have the police follow through with the charging policy."* In some isolated communities, there are no police services available.

Police Response

In many situations, the mandatory charging policies do not come into effect until the victim provides evidentiary proof to police by laying an information. One respondent from the Akwesasne Mohawk police stated that *"charges will be laid automatically if there is sufficient evidence and reliability on the part of the victim to testify."* Without a formal complaint, some law enforcers were hesitant to lay charges. Some also required the additional validation of witness testimony. The respondents also stated that *"charges were not laid automatically because it depended upon the situation."* Some members of the R.C.M.P. want *"to be able to prove the facts"* before laying charges. These facts include the determination of extenuating circumstances, assessing whether a witness is hostile, gathering physical evidence, and acquiring witness statements. One respondent noted that police will lay charges *"when there is evidence of a violation of the Criminal Code, for example, threats or assault."* In Campbell River, British Columbia, for example, the police required substantiating evidence. Though the legal authorities have a strong policy supporting the prosecution of offenders in domestic violence situations there is still some hesitancy in exercising that mandate. This could be due to the police having to balance the evidentiary requirements of the Criminal Code with the rights of accused under the Canadian Charter of Rights and Freedoms.

The following examples of charging discrepancies are evidence that the mandatory charging policies are not followed consistently across the country. In Newfoundland, the R.C.M.P. will automatically lay charges, but it *"cannot be withdrawn without the complainant wishing the same."* In Quebec, the police also do not lay charges automatically where they feel the need to establish factual evidence first. In one Ontario region, the police lay domestic assault charges 'only' where they can establish reasonable and probable grounds to do so. In Yellowknife, Northwest Territories, one respondent stated the onus is on the victim to lay charges 'if' she wishes. Charges are not laid automatically, in some instances, because the investigating police officer might want to collect evidence, take the offender or victim in for questioning, provide a cooling off period, or allow the victim the prerogative of rescinding the charge.

c) Failure of the Victim to Follow-Through With Charges

Native Justice Response

As stated, the mandatory charging policies were intended to relieve the victims of violence from laying charges in domestic violence situations. Perhaps the biggest challenge for an aboriginal female victim, however, is to follow-through once a charge has been laid. A respondent from Bums Lake, British Columbia, noted that women *"who refuse to give statements, or appear as witnesses...may result in the case not going ahead."* A legal writer suggested that the apprehensions of aboriginal women in laying charges stems from a *"lack of public knowledge within the aboriginal community that spousal abuse and domestic violence are crimes."*

Failure to follow-through with the assault charges also might be affected by such variables as to whether the accused is a first time offender, the victim's sympathy for the accused, or whether alcohol was a factor. Every domestic violence situation is different, but the victim's safety and that of her family are paramount.

Police Response

In Alberta, it was reported that charges are usually laid if the victim cooperated, followed through with the charging process, and the evidential circumstances of the assault were proved. Many law enforcers felt they needed the full cooperation of the victim to secure the conviction of the offender. Without concrete evidence to make the charges hold up in court, some police, even with a mandatory charging policy, do not seem confident in the system. This seeming lack of confidence in the criminal justice system, on the part of police and the victims, demonstrates the ineffectiveness of the mandatory charging policies. The mandatory charging policies fail if the burden of laying charges remains with the victim and not with law enforcers.

d) Problem of Discrepancies

Native Justice Response

Discrepancies concerning the application of the mandatory charging policies appear throughout the charging process. There is a long history of discontent and mistrust between the R.C.M.P. and the aboriginal peoples in this country.

In [1972 in] Saskatchewan... Indians [made] up 10 per cent of the population but 50 per cent of the jail and prison population. The figures for women prisoners in Saskatchewan [were] even more disproportionate. Charges such as drunkenness or creating a disturbance, where there is leeway for discretion on the part of the officer as to whether or not he makes an arrest, are common among Indians and Métis.

This tension contributes to one of many reasons for discrepancies in reporting assault charges by aboriginal women, and the varying reactions from law enforcers. Further inquiry would address other contingencies to the issue of investigating aboriginal domestic violence situations. While the respondents of the Native Justice Projects answered an aspect of the aboriginal woman's view, their answers did not constitute enough information for proper analysis. Further explication of the reasons why there are so many discrepancies in the charging policies and their effect upon aboriginal women and law enforcers will be revealed in the following chapters.

Police Response

The results of the study demonstrated some law enforcers lack certainty in implementing the mandatory charging policies. Many respondents wavered in their answers as to whether the police in their area automatically laid charges. Some said, "not always" or "in most cases" or "as far as I know" to "technically the police are supposed to lay charges." The candour of the responses revealed that a substantial amount of discretion is exercised by the police.

e) Jurisdictional Problems

Native Justice Response

Jurisdictional problems also contribute to delayed police reaction in aboriginal domestic violence disputes. One respondent suggested that there was "more variation in adherence among the municipal police departments" than the R.C.M.P. The negativity generated from the discrepancies involving mandatory charging policies and practices among the federal, provincial, or police in domestic violence situation requires further study. It was suggested by one respondent that "few monitoring studies" have been conducted.

Police Response

The issue of reviewing the charging policies and practices of federal, provincial, and municipal police are required to get a total picture of the nature of family violence. This issue was not raised as a concern pertaining to the police respondents of this survey. It did come up, however, in relation to those respondents of the Native Justice Projects.

f) **Women's Role**

The majority of aboriginal women are ill-informed of their legal rights in a domestic violence situation and the availability of legal aid. Sometimes, the effect of mandatory charging policies disempowers aboriginal women from taking responsibility for their own decisions. When the police remove the victim from the home for her safety, the question arises as to whom is being protected? The victim? The offender? The security of the victim should be the first priority.⁷

⁷ Contributor to the chapter include Margaret Wiebe, *Women's Advocacy Program, Winnipeg, Manitoba*; *Ma Wawi Wi Chi Itata Centre Inc., Winnipeg, Manitoba*; *Community Legal Education Association, Winnipeg, Manitoba*; *Legal Aid Manitoba, Winnipeg, Manitoba*; *Manitoba Justice, Charlottetown, PEI RCMP*; *Ontario Solicitor General*; *Dakota Ojibway Tribal Council, Brandon, Manitoba*; *Judy Bartlett, Victim/Witness Assistance Program, Burns Lake, B.C.*; *Happy Valley RCMP*; *Chief Coroner, GNWT*; *Six Nations Police*; *Gitksan-Wewt'suxwet'en Education Society, Hazelton, B.C.*; *Public Legal Education Association, Whitehorse, Yukon Territory*; *Labrador Legal Services*; *MicMac Native Friendship Centre*; *Council for Yukon Indians*; *Akwesasne Mohawk Police*; *Government of the Northwest Territories*; *Native Para-judicial Services of Quebec*; *Justice Canada*; *Siksika Nations Police Services*; *Justice New Brunswick*; *Milton, Nfld. RCMP*; *Yellowknife RCMP*; and *Dalhousie University, Halifax, N.S.*

7. Chapter 2 - Laying Charges: Aboriginal Domestic Violence

Is it the responsibility of the abused party to call the police?

The majority of those surveyed agreed that reporting domestic violence situations is a shared responsibility which should not just rest with the victim. Most respondents agreed that it is not the sole responsibility of the complainant to call the police. Any witness, neighbour, friend, passer-by or police may report the crime. Once it has been reported by the victim or someone else, the R.C.M.P. and the Siksika Nation responded that police will conduct an investigation. Six Nations said police respond to any criminal occurrence. Akwesasne reported the police respond to all complaints.

a) Problems with Reporting Domestic Violence

A Manitoba respondent said while anyone can report a crime of domestic violence, the investigating police must have reasonable and probable grounds before a charge is laid. Often, such grounds can be established if the abused party will speak to police. According to the Ontario Solicitor General, incidents of domestic violence may come to the attention of police from a variety of sources including from the family, the victim, other individuals in the community, or through police investigation. Siksika and respondents in the Northwest Territories stated that charges will only be laid if there is sufficient evidence. Only a small minority felt that the victim should call, especially *"[if] they want the police to be informed, and if no one else will make the call for them."* This group of respondents were in the minority in asserting that the onus is on the victim to report the crime.

Some Native Justice respondents felt that if the woman is willing to report the crime herself, there is no problem. But if the victim refuses to report, someone should report the crime for her, with her permission. This occurred if the victim wanted the police to be informed, but had no one else to place the call for them. It was also contended that she "might be scared to do it herself."

b) Third Party Responsibility

One third of the respondents felt that the weight of the responsibility of the abused party to call the police lay elsewhere. The majority stated that a third party or "anyone" could report the abuse, such as the police, social workers, family or friends. "A call by a family member or neighbour will trigger the 'must arrest somebody' rule." One respondent qualified their answer by stating that a responsible party call the police, inferring that not just anybody report the crime. The police response is that in the majority of cases they respond to third party complaints, but the laying of charges is less certain.

A few respondents from the Native Justice Projects stated that reports can be made by social workers. Anyone who hears, or is aware of, the violence may call the police. It was further reiterated that reporting crime is the responsibility of every citizen.

c) **Problems with Third Party Intervention Police Response**

"It was a neighbour of mine who called the police. When the police came in it was out of my hands totally. My whole life changed. All of a sudden I wasn't allowed to make any decisions. He [police] didn't have discretion... Officers are to charge everybody no matter what. So, the officer did what he was told and destroyed my life without even asking me... They were really upset when I refused to go to court. The process of court and jail is not a solution for the problem..."

This case scenario presents the dilemma of third party intervention where the woman involved resented such an invasion of privacy.

In this case, the law enforcers fully executed the mandatory charging policy without relying on police discretion. In the Northwest Territories, the police respond to Third Party calls concerning domestic violence when it is reported by nurses and social workers. Prince Edward Island police responded that if the assault is 'in progress', police will respond immediately. If the Third Party report is made after the assault, police will question the alleged victim.

It can be surmised that the police exercise caution when responding to Third Party complaints due to the probability of dealing with unreliable or hostile witnesses. When a Third Party does report a domestic violence situation, one respondent found that "Royal Canadian Mounted Police will then take the first step in talking to the victim". Good rapport between the Royal Canadian Mounted Police and the victim is very important. One unidentified individual provided this insight:

"Either the abused party or some other person with knowledge that a crime of domestic violence has occurred can call the police, but the police must have reasonable and probable grounds before a charge can be laid, and often such grounds only exist if the abused party will speak to police."

Probable reasons for Third Party intervention ranged from overcoming language or cultural barriers, no telephone in abuser's or victim's home to victim fear to report. Although the onus can shift from the victim to a Third party, the main problem for police stems from ascertaining the reliability of witnesses, gathering evidence, and having the victim follow-through with charges once they are laid.⁸

⁸ Contributors to the chapter include: Ontario Solicitor General; RCMP Ottawa; Native para-judicial Services of Quebec; Government of the Northwest Territories; RCMP Winnipeg; Arctic PLEI; Brandon City Police; Judge Coutu; Conne River; Saskatchewan Justice; Labrador RCMP; NWT Social Services; Ministry of Community and Social Services, Windsor, Ontario; Native Clan Organization; RCMP Campbell River; Ma Maxwi Wi Chi Itata Centre, Winnipeg, Manitoba; Happy Valley RCMP; Chief Coroner, Department of Justice, NWT; RCMP Burnaby; University of Saskatchewan, Saskatoon, Saskatchewan; Hey-way'-noqu' Healing Circle for Addictions Society, Vancouver, B.C.; RCMP Regina, Saskatchewan; Akwesasne Police; Six Nations Police; Siksika Nation Police Services; Githsan-Wet'surwet'en Education Society, Hazelton, B.C.; Tony Mandamin, Alberta; Charlottetown, P.E.I. RCMP.

8. Chapter 3 - Reluctance To Report Aboriginal Domestic Violence

Are Aboriginal women reluctant to lay charges if their husbands or boyfriends beat them? Explain briefly.

Forty-seven respondents provided valuable insight concerning the reluctance of aboriginal women to lay charges if their spouse or boyfriend beat them. Respondents from the police and Native Justice Projects stated that there were a variety of reasons preventing aboriginal women from reporting violent actions committed against them. After analyzing the results, this question served to expose some of the weaknesses inherent in the mandatory charging policies.

a) Fear of Retaliation of Spouses

Native Justice Response

Most respondents reported that aboriginal women may not follow through with charges for fear of retaliation and because there has never been anything done before to stop male violence in the community. Aboriginal women are intimidated by their spouse or do not want him to go to jail. Aboriginal women also feel intimidated and at further risk once the charge has been laid. Aboriginal women are also concerned about what will happen if the abuser does jail time, and then returns home. The main reason for this fear is that the violence will get worse especially if the abuser is not incarcerated and is out on the street.

Police Response

In the northern communities, aboriginal women are afraid to report spousal assaults to the police. Reasons behind this are that they have very little support from the community as a whole and that they have very little support from the community. Victims also have limited resources. Fear of reprisal from the spouse is also a main concern. Sometimes, there is pressure from the community or spousal threats and pressure which makes aboriginal women reluctant to call police in family violence situations. Akwesasne reported that aboriginal women are reluctant to involve police because of embarrassment and possible repercussions. The woman also finds that it is socially unacceptable to have charges laid against a spouse or live-in boyfriend. Even where the abuse is reported by a Third Party, police must still interview the woman and she will be asked to testify against the accused. There may be, however, additional cultural barriers facing aboriginal women causing them to not report assaultive behaviour. There are many dynamics involved in these situations and non-reporting is common for several reasons: the victim's fear of retaliation, protection of the accused, and the belief that nothing will be done as a result of reporting the incident.

b) Mistrust of the Justice System

Native Justice Response

The Native Justice respondents reported that aboriginal women expressed "*mistrust of the non-Native justice system.*" Reluctance on the women's part was shared by the Royal Canadian Mounted Police even when hospitalization was required. Aboriginal women in these situations may be intimidated by the criminal justice system, or just be afraid. As well, aboriginal women may have a greater distrust of the justice system because of its negative impact on aboriginal peoples over the years.

Police Response

The police respondents reported that within the aboriginal community this distrust of the non-Native justice system may be a factor in the silencing of aboriginal victims.

c) Concern for Children's Welfare

Native Justice Response

An unidentified respondent stated that aboriginal women may be too scared to proceed with laying criminal charges. They worry about what will happen to their children. Who is going to support the family? They worry whether they may be threatened by their spouse. Some aboriginal women do not trust the police.

d) Dependence on Spouse's Financial Support

Police Response

Aboriginal women are reluctant to call police because they have no income or the family member wants help. She will call if beatings persist. Most women who are abused suffer numerous violent incidents over a prolonged period of time before involving the police. Victims need to know that they may lay an information privately before a justice of the peace. One individual stated that the reluctance of aboriginal women to lay charges when their spouses beat them could also stem from the victim's emotional dependence on the spouse. There may also be particular cultural factors which make aboriginal women reluctant to follow through on charges, or practical factors. For example, the victim may rely totally on the abuser for financial support, income, or living arrangements in the community.

e) Problem with Low Self-Esteem

Native Justice Response

The reluctance of aboriginal women to report their abusive husbands ran the gamut of uncertainty, shame inability to handle their own problems, no where to go or loneliness or aloneness. Abused aboriginal women in these situations suffer low self-esteem. They may also fear the future if the crime is reported to the police.

Other factors included "[feeling] intimidated and afraid to lay charges believing they are still in love or that it will not happen again." Sometimes, aboriginal women just feel sorry for the accused even after a beating. This empathy for the accused also may result in requesting that the charges be dropped because it takes a certain amount of stamina to see the charging process to the end. Victims rarely have the strength to follow through with the reporting procedure. There are many abused aboriginal women who think they deserve the violence.

f) The Belief System of Aboriginal Peoples

Native Justice Response

Community beliefs and expectations are also a factor in keeping aboriginal women in abusive situations. The woman is expected to resolve her marriage problems within the family and not go to outsiders. Abused women feel ashamed that they cannot solve their own problems. The aboriginal woman has no where to go. In the vast majority of cases, there are no women's shelters in aboriginal communities. Research on violence against aboriginal women shows that they may be victims of thirty to forty abusive situations before making a report to the police. Some women believe they deserve abusive treatment. One woman said it is customary for a husband to beat his wife if she does not obey him. In most aboriginal communities, there is no "safe house" for victims for abuse. Aboriginal women may not follow through once charges have been laid because the work things out within the community on their own. They may take advantage of a victim and offender reconciliation process in the community, although its existence and use is rare.

Police Response

One police respondent purported that: Aboriginal people usually work things out amongst themselves. For example, by utilizing the victim and offender reconciliation concept. This concept is supported by one respondent:

"Often, [abused aboriginal women] are reluctant. Their society pressures them to keep the family together at all costs. Or they do not see any chance of any changes. She may fear repercussions or loss of her children. Where there is a reconciliation the legal machinery grinds to a halt when the victim fails to appear in court, or attempts to have the charges withdrawn or dropped. Sometimes, the aboriginal woman is blamed for the violence. A respondent from Quebec stated that he abused aboriginal woman may try to resolve the matter herself before involving the police. She will call if beatings persist."

g) Problem with the Failure to Follow Through with the Charges

Native Justice Response

There are many reasons why aboriginal women will not support or follow-through with charges of spousal abuse. The lack of self-esteem, the high tolerance for violence within the aboriginal community, the lack of police services in many communities, and the absence of public education about legal rights contribute to sustained violence against aboriginal women. Crown prosecutors have said that often aboriginal women will want to withdraw the charges before going to court. One reason cited is that it is difficult for aboriginal women to lay charges against a man she is still living with, and she may want to continue the relationship.

One respondent said aboriginal women are reluctant to follow through with charges because of pressure put upon them by their Societies [communities] to keep the family together at all costs. Or, the woman may not see any chance of change in her situation. Also she may fear repercussions or loss of her children. One of the major difficulties faced by law enforcers dealing with aboriginal women is their reluctance to testify against the abuser once a charge has been laid. In this respect, aboriginal women react no differently than non-aboriginal women.

Police Response

Almost all respondents agreed that most abused women are reluctant to carry through with assault charges against their husband or live-in boyfriend who beats them. This is particularly true when a successful prosecution relies on her testimony. The reluctance also depends upon the woman and man involved. Some respondents suggested aboriginal women are no more reluctant than non-Aboriginal women to report abuse and follow through on charges. There are no studies to suggest any other conclusion. The Royal Canadian Mounted Police in Ottawa found that non-aboriginal women show a similar reluctance to report abuse:

"Many women of all cultural groups are at times reluctant to involve the police, for a variety of reasons. It is difficult to separate aboriginal women except to say in some areas there is considerable mistrust of the non-Native justice system which no doubt influences such reports."⁹

Police respondents agree that one of their major difficulties in dealing with aboriginal women in domestic violence disputes is the women's reluctance to testify against the abuser once a charge has been laid. As one respondent noted:

"I find that Aboriginal women are not reluctant in laying charges against their husbands who beat them. The problem which I find is when they have to appear in court and testify against their husband, it creates problems at that point where women feel that they should back out of going through with the assault charges."¹⁰

⁹ Ottawa RCMP; Solicitor General Canada.

¹⁰ Brandon City Police.

This situation is allayed somewhat when sufficient evidence of an assault has been gathered. It is also helpful when police can testify instead of the victim. One aboriginal police force stated:

"There are a lot of incidents where we lay charges of assault on the husband and the wife will not appear in court. Consequently, charges will be stayed or dropped."

If intoxicants are involved, abused aboriginal women may later want the charges dropped for a number of reasons, including the fear of retaliation, the date of the trial, or because there are too many adjournments. Sometimes, the legal process impedes its own function of a speedy trial with too "many adjournments."

h) Shame and Stigma Attached to Reporting Spousal Abuse

Native Justice Response

The environment in which aboriginal women live and their segregated living situation in isolated, rural and urban aboriginal communities also contributes to their reluctance and/or ability to call police. In some cases, a woman's reluctance was based on the "stigma attached with a wife reporting a spousal assault" and the ensuing embarrassment.

Police Response

Because of the small communities in which they live, aboriginal women fear being beaten again. If the husband goes to jail, there will be no family income. There is a stigma attached to an aboriginal woman who reports her husband for abuse, particularly if he goes to jail.

i) Problems Living in an Isolated Community

Native Justice Response

When aboriginal communities politically and silently support abusive men they also ostracize aboriginal women and wives who lay the charges. The abused woman has no choice then but to leave her community. If the woman does not want to leave her community, she must ask that the charges be dropped. This is particularly true in small, isolated and remote communities. This problem is made worse when these communities depend upon circuit courts which come only periodically.

j) The Community Must Take Responsibility

Native Justice Response

Community initiatives in the field of family violence are a fairly recent phenomenon with federal and provincial funding available only over the past few years. It may take time for other communities to reach the stage where aboriginal women feel they can have charges laid without retaliation. In some instances, aboriginal women are changing. It is being reported that more abused aboriginal women in certain areas are becoming less reluctant to call police and are following through with charges in abusive situations. One respondent noted:

"There is a lot of under reporting especially in the municipal jurisdictions. At the same time, there is a much higher rate of peace bonds being sought by native women than by other women in the neighbouring 'white' areas this suggests native women do lay charges even if most are subsequently withdrawn even at the peace bond level. And of course there is a much higher rate of convictions as re personal violence, chiefly assault, something which again suggests that charges are being laid."¹¹

This may be the result of being more informed about the criminal aspect of domestic violence, as well as women encouraging other women to report this crime. Increases in reporting violent crimes against women will occur when women see the perpetrator prosecuted.

Within the community, there is a need for a change in the collective attitude toward violence against women. Once this change takes place, aboriginal women can more freely take control of their lives and work with police to lay charges in abusive situations. *"Women will find the strength to come forward if they feel that the attitude in the community supports them."*

Nurses, doctors, clergy, business people, government workers, teachers, and others living near or in aboriginal communities generally can take responsibility to call the police in domestic violence situations. One study noted:

"At the hospital, we could start calling the police automatically. We could also start documenting the scope of the problem. Maybe we could broadcast the scope of the problem on the FM [radio] so the community is aware of how often it is happening here."¹²

Abused aboriginal women need to recognize that they have alternatives. Where female aboriginal police officers can provide assistance to abused women, there is likely to be an increase in the laying of charges and seeing the legal process through. As was noted in the Kuujuaq study:

¹¹ Don Clairmont, *Sociology, Dalhousie University, Halifax, Nova Scotia.*

¹² *Kuujuaq at 45.*

"I think it is time to start doing things about family violence in the community now. People are starting to talk about it. Women are starting to charge their husbands or boyfriends. It is something that has started to come out. A few years ago the problem did not come out. People are more open about it now than they were before."¹³

When abused women see that there is community support to end domestic violence, they may be less afraid to lay charges.¹⁴

¹³ *Ibid.* at 43.

¹⁴ *Ibid.* at 48. Contributors to this chapter include: Chief Coroner, GNWT; St. Mary's Band Administration; Council of Yukon Indians; Hey-Way'noqu' Healing Circle for Addictions Society, Vancouver, B.C.; Kuujjuaq Study; Ma Marwi Wi Chi Itata Centre Inc., Winnipeg, Manitoba; RCMP Yellowknife, N.W.T.; Siksika Nation Police Force, Gleichen, Alberta; Akwesane Police; Judge Coutu, Quebec; RCMP Charlottetown, P.E.I.; Native Women's Transition Centre Inc., Winnipeg, Manitoba; RCMP Ottawa; Gitksan-Wet'surwet'en Education Society, Hazelton, B.C.; Department of Sociology, University of Saskatchewan, Saskatchewan; Nemaska Band Council; Ontario Ministry of Solicitor General; Manitoba Justice; Government of Northwest Territories [Pepper]; Ontario Native Women's Association; Arctic PLEI; Victim/Witness Assistance Program, Burns Lake, B.C.; RCMP Winnipeg; Six Nations Police, Ohsweken, Ontario; RCMP Milltown, Newfoundland; RCMP Happy Valley; RCMP Campbell River; New Brunswick Justice; RCMP Chilliwack, B.C.; Solicitor General Canada; Brandon City Police; RCMP Winnipeg; Dakoto-Ojibway Tribal Council Police, Brandon, Manitoba; RCMP Regina; Ministry of Community and Social Services, Windsor, Ontario; Department of Justice Canada, Yellowknife, N.W.T.; Mediation Services, Winnipeg, Manitoba; Legal Aid Manitoba; Don Clairmont, Sociology, Dalhousie University, Halifax, N.S.

9. Chapter 4 - What Alternatives Are Available For Abused Aboriginal Women

Are there alternatives within the community or region available to aboriginal women in violent situations?

Forty nine respondents provided input as to whether there were alternatives within their community or region available to aboriginal women in violent situations. They were asked to identify them, for example, elder circles, holistic healing and so on. Feedback from the survey indicated that there were a variety of alternatives for women in violent situations. Although alternative resource centres are available they appear to be few in number and access to them is a greater problem.

a) Alternatives Identified

Native Justice Response

The Native Justice respondents stated that, in most cases, police services are not available to aboriginal women in remote communities. There are also no alternative resources for abused aboriginal women seeking refuge from the offender. What is especially lacking are aboriginally designed traditional alternative resources. Some communities have initiated women's circles, talking circles, healing circles or Elders' circles for used by female victims, and increasingly, for abusive men. Elders also provide advice concerning abused women where they are represented on Boards of transition houses or shelters. Women need immediate protection in violent situations. Shelters should be available in communities either to house abusive men, or victims. Some women's shelters are now available in a few aboriginal communities. Aboriginal women prefer to have "safe houses" available in their community or closer to home.

Police response

The police respondents reported that the victim is usually made aware of women's shelters and is removed where the husband or boyfriend is arrested and expected to be released. Winnipeg respondents identified crisis lines, women's shelters, transition houses, and social service agencies offering group and individual counselling. All employ aboriginal workers and incorporate cultural factors and aboriginal healing principles. Generally, no aboriginal community alternatives are available, but there is a transition house for aboriginal women in Fredericton, New Brunswick. There are also aboriginal women's shelters in Kuujuaq and Chisasibi, Quebec. A respondent from Akwesasne stated that abused women are removed from the home and taken to a shelter "*in [Mohawk] territory.*"

Where the respondents did not provide alternative resource information, they did offer pertinent feedback. Some mentioned that the Band leadership in their area were being criticized for "being unresponsive to women victims." Others stated that tentative plans to set up *"a community-based model for dealing with family violence was being considered."* It appears that some aboriginal communities are taking the initiative and responsibility for resolving domestic violence.

"Most chiefs and council members are male and often exhibit bias in favour of the male partner in a domestic abuse situation. This can effectively chase the woman from her home and community. The unwillingness of chiefs and councils to address the plight of women and children suffering abuse at the hands of husbands and fathers is quite alarming. We are concerned enough about it to state that we believe that the failure of Aboriginal government leaders to deal at all with the problem of domestic abuse is unconscionable. We believe that there is a heavy responsibility on Aboriginal leaders to recognize the significance of the problem within their own communities. They must begin to recognize, as well, how much their silence and failure to act actually contribute to the problem. Aboriginal leaders must speak out against abuse within their communities to their own community members, and they must take steps within their own spheres of community influence to assist the true victims. Women and children who report abuse should never feel they have to leave their communities in order to feel safe. Aboriginal communities and their leaders must do what is possible to make the home communities of abused women and children havens from abuse. The problem of abuse is dealt with presently by women either staying on the reserves and putting up with the abuse, or leaving their communities to live elsewhere, just to escape from it. It is clear, however, that most would prefer to stay in their home communities if they could be protected."¹⁵

b) Access Problems

Native Justice Response

The lack of safe homes or shelters within the communities presents a barrier for those who fear retaliation from the offender. A respondent from Yellowknife stated: *"Most communities do not have programs or services addressing domestic violence due to the lack of resources human and financial."* The apparent lack of funding hampers any progress in trying to offer women and children the protection they need. Sometimes, women who leave abusive men may have to leave their community. Generally, women's shelters are only available outside the aboriginal community. When aboriginal women have to access women's shelters outside their community this adds to their stress. The shelters provide temporary housing and sometimes counselling for women and children victims. "Safe" houses are also available to aboriginal women, but they are located outside the aboriginal community. Usually, "safe" houses are located in urban centres. The urban safe house may not be considered culturally sensitive, including if it is staffed with non-aboriginal workers.

¹⁵ A.C. Hamilton and C. M. Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People, volume 1 (Winnipeg: Province of Manitoba, 1991)* at 485.

The Northwest Territories' respondents reported that ten of the fifty-seven communities have women's shelters. They offer a wide range of services such as counselling, support and referrals. However, victims can only gain access to these shelters in Yellowknife. Some respondents stated that even facilities available in urban centres are too small to accommodate abused aboriginal women and their children. In Labrador, urban-based "safe" houses are available by air from all communities except one.

Other access problems facing battered aboriginal women in a crisis situation include the location of women's shelters in large urban centres. This leaves abused women no alternative but to leave their aboriginal community. In Ontario, one respondent noted that there were aboriginal - specific alternatives, but stated that *"access to these services varies widely."* One respondent noted that there are safe houses for women but not for the husband.

Police Response

Over the past few years, some efforts have been made by communities and the police to develop alternatives for women in abusive situations. Access to service varies. Some of these alternatives include: women's shelters, "safe" houses, transition houses, sexual assault centres, counselling, family counselling, social services, Native women's associations and healing circles. The Royal Canadian Mounted Police have also developed Victim's Services units. Police respondents reported a variety of problems concerning access to alternative resources for aboriginal women. Some outlying communities have to access urban-based women's resource centres. The Royal Canadian Mounted Police report there are shelters and counsellors available within a reasonable distance of isolated communities. There is no women's shelter at Siksika, but abused women can access a shelter in Calgary. The woman may not be able to leave a violent situation because of the cost of travel.

Some aboriginal women and law enforcement agencies have noted that shelters for abused women are not available in most aboriginal communities. They are located outside the aboriginal community and the policy of removal of victims leaves the accused in the home. Often the accused remained in the community with access to the victim. The removal of women and children from the home is an option. The woman victim will be removed from the home if she is in danger, or if the husband is not arrested. This kind of policy needs to be reviewed. Why make the victim homeless in addition to being abused? Some police are presently looking at removing the offender from the home instead of the victim(s). Also, if the evidence warrants it, then the problem of having the abused woman feel re-victimized by removal from the home is eliminated.

The problem of accessing alternative resources for handling aboriginal spousal abuse and family violence may be hindered by the charging policies. Some communities, however, have discussed sentencing diversion projects or measures to involve the community members more in eradicating family violence. The charging policies, however, require that all cases be brought to court if known to the police. Some of the discussions to control family violence have led to the establishment of drug and alcohol abuse centres.

In some cases there are no alternatives for women victims of spousal abuse such as elder involvement or healing circles. One respondent suggested aboriginal women see the Indian Act Band Councillors for assistance, as an alternative.

c) **Community Involvement and Responsibility**

Native Justice Response

Communities need to become involved in a consciousness raising effort to end violence against women and children. One major difficulty which hinders community involvement is lack of resources to develop holistic healing alternatives. A respondent from Nova Scotia reported:

"Increasingly there are alternatives because of the development of Mi'kmaq Family Services and most recently the development of transition and counselling homes and programs. One of these latter has just become operative on Cape Breton (on the Whycocomagh reserve) and another is supposed to come on stream within a year on the mainland (on the Millbrook reserve). As part of the latter development programs... holistic healing is being considered."¹⁶

One respondent suggested that abusive men should attend healing circles like the women. Part of the healing process must involve realizing his own role in the violence against his spouse.

The aboriginal community should try to accommodate women in violent situations. The availability of an alternative resource for women in these situations is critical at all stages of domestic violence, whether as a preventative program or for follow-up consultation. Most respondents felt that establishing aboriginal-oriented shelters located within the community or region would greatly benefit aboriginal women in domestic violence situations.

It has been suggested that community councils on family violence be established in aboriginal communities to replace non-aboriginal justice systems. This proposal would mean that no charges would be laid by police. It also means the aboriginal community government would make the offender responsible for his actions.

"There has to be enough autonomy for a community council to make the man know that this is what he will have to go through. There should be no other place for the man to go if he does not accept the decision of his community. He needs to know he will not be accepted in his community if he is violent."¹⁷

¹⁶ Don Clairmont, *Sociology*, Dalhousie University, Halifax, N.S.

¹⁷ *Kuujuuaq (Quebec)* at 36.

Men with violent tendencies must decide to end the abuse of women and children. *"Men have to control themselves."* The Native justice respondents found that while these initiatives are helpful to victims of crime, what is more urgently required are initiatives for men which are preventative rather than punitive. In the Northwest Territories, one respondent felt that abusive behaviour that is learned can be unlearned. The crux of the abusive situation is that aboriginal women will not use alternatives to domestic violence if they have little knowledge about the criminality of spousal abuse.

Counselling services need to be made available within aboriginal communities. *"This includes counselling for everyone: victims, offenders, children, adults, families... Counselling as an alternative to court."* Abused aboriginal women victims need to be made aware of their legal rights in domestic violence situations. *"Victims have to be made aware that abuse is not acceptable, [and] that they don't deserve what happens to them."* The cycle of abuse can be prevented with the development and implementation of a community education process on domestic violence. Some other service needs brought forward in the survey called for victim advocacy centres, rape crisis centres, crisis lines, the re-examination of priorities and funding practices of agencies, and mediation or reconciliation services as an alternative to present practices.

Indian Act governments and the entire aboriginal community can begin taking responsibility for eradicating domestic violence. But this will only occur when the aboriginal community adopts a zero-tolerance policy and enforces it against violent men. One respondent noted that increasingly there are shelters being built in aboriginal communities. Indian Act governments are receiving a lot of "flak" for being unresponsive to women victims. Some Indian bands are giving support to setting up shelters in nearby non-aboriginal communities. Indian Bands also provide family care workers and some Indian Bands have healing circles. Aboriginal women should be encouraged to organize themselves against violence. This was accomplished by one women's group in Saskatchewan called the Women's Aboriginal Coalition Against Domestic Violence.

d) Aboriginal Women's Role

Native Response

Abused aboriginal women in violent situations can also make a choice to change their lifestyle. Aboriginal women can decide to help themselves by leaving violent situations. A friend or relative can assist women who are afraid to leave. Where alcohol and drug abuse by women contribute to family violence, her spouse can give her support to seek rehabilitation. If possible, she may have to leave for a few months to take in-house treatment, or take a 28-day program for drug and alcohol abuse.¹⁸

¹⁸ Contributors to the chapter include: Conne River, Nfld.; MicMac Native Friendship Centre, Halifax, N.S.; Native Women's Transition Centre Inc., Winnipeg, Manitoba; RCMP Ottawa; Gitksan-Wet'suwet'en Education Society, Hazelton, B.C.; Arctic PLEI; Aispich Chakwan; Justice Manitoba; Justice New Brunswick; Judge Coutu, Quebec; Akwesasne Mohawk Police; Kuujuaq; Ministry of Community and Social Services, Windsor, Ontario; RCMP Winnipeg; Chief Coroner, GNWT; Labrador Legal Services, Happy Valley-Goose Bay, Labrador; Hey-way'-noqu' Healing Circle for Addictions Society, Vancouver, B.C.; Ontario Ministry of the Solicitor-General; RCMP Happy Valley, Labrador; Saskatchewan Justice; Yukon Public Legal Education Association, Whitehorse, Y.T.; Siksika Nation

10. Chapter 5 - Difficulties Encountered By Aboriginal Women

If you deal with isolated or northern communities, what difficulties do aboriginal women face in abused situations? For example, fear of retaliation, delayed police reaction, no access to police, no counselling services, no assistance, and so on.

a) Geographical Problems

Native Justice Response

In Labrador, Nova Scotia, British Columbia and the Northwest Territories, respondents noted that there are great difficulties experienced by aboriginal women in violent situations. Those difficulties include lack of counselling, no support services, and no aboriginal women's shelters or transition houses. Aboriginal women must use shelters outside the community which "creates many barriers." Some police officers indicated services and houses are available outside the aboriginal community which contributes to a belief that this adequately addresses the needs of aboriginal women.

One respondent from Labrador described the Royal Canadian Mounted Police as "very caring," but this does not alleviate the problem of there being no "safe" houses within the community. Isolated aboriginal communities are policed infrequently. This makes the charging policies ineffective in reducing violence against aboriginal women by their spouses or boyfriends.

Police Response

Aboriginal women living in isolated or remote communities have no access to services, shelters, and counselling and they experience delayed police response. The Inuit population are spread in remote communities in the Northwest Territories, northern Quebec and Labrador. Many Métis also live in remote communities, some of which are adjacent to First Nations communities. The research indicated that problems experienced by isolated, northern women is similar to those faced by southern women. One respondent noted:

"In the more isolated areas the police have to fly in, which would definitely delay response time. Where there are no counselling services or shelters available in the north, abused women are placed in shelters in southern or central communities away from their families. Social workers are available in some northern communities, but if prolonged counselling is required one has to go south."¹⁹

Police Services, Gleichen, Alberta; RCMP Burnaby, B.C.; RCMP Milltown, Bay D'Espoir, Newfoundland; Nemaska Band Council, Quebec; Six Nations Police, Brantford, Ontario; RCMP Charlottetown, P.E.I.; Tony Mandamin, Winterburn, Alberta; Dakota Ojibway Tribal Council Police, Brandon, Manitoba; RCMP Campbell River, B.C.; Don Clairmont, Sociology, Dalhousie University, Halifax, Nova Scotia; Victim/Witness Assistance Program, Burns Lake, B.C.

¹⁹ RCMP Regina, Saskatchewan

Geographical barriers prevent aboriginal women from accessing services which could assist them in violent situations, leaving them no protection at all. Most aboriginal women have no funds to travel to the women's shelters because the costs are too high. Financial restraints also impact negatively where there is difficulty getting counselling to the victims in remote communities or reserves. Sometimes there is difficulty in locating the "client" because she or he has moved.

On the positive side, one individual reported that some aboriginal women living in an isolated environment have counselling, police services and a shelter available.

Another difficulty is the fact that the police may not be able to communicate with the victim in her aboriginal language. This impacts negatively on the investigation. This matter is further complicated due to some communities or community members objecting to the use of a "foreign justice system." The situation is greatly improved where there is an aboriginal constable.

b) Fear of Further Abuse and Removal from the Home and Community

Native Justice Response

The major difficulty faced by women has been cited as a fear of retaliation by the husband's family, his friends, and the community. One respondent reported that abused aboriginal women also fear having no access to police. An aboriginal woman's difficulties are increased with a lack of resource centres such as women's shelters, "safe" houses and transition homes. It is an onerous ordeal for a battered woman to be uprooted from her home, family and community, especially when there is no place to escape from family violence.

Police Response

There is always fear of retaliation of the offender by the abused woman. There is usually a delayed police reaction to violent situations in northern communities. In the more isolated areas the police have to fly in and this delays response time. Where there are no counselling services or shelters available in the north, abused women are placed in shelters in southern or central communities away from their families. Social workers are available in some northern communities, but if prolonged counselling is required then the victim has to go south.

c) No Community Assistance

The police and Native justice respondents agreed there is a stigma attached to aboriginal women who make a report to the police and proceed with the charge once it is processed.

Native Justice Response

It is impossible for aboriginal women to "leave" an abusive relationship in a remote community. The man always returns to the community once his sentence has been served. Some abused aboriginal women fear being ejected from their band housing or from the community, especially if it is the husband's reserve or community and not hers. Aboriginal women often have to leave the community to feel safe because there is little or no support. There is no safe place for women to take refuge. Some aboriginal women feel they cannot escape from the community and abuse. There is nowhere to go. They have no support groups and the abuse is kept quiet. Some offenders do their time and then return to abuse the woman again, only to go back to jail. Battered women, nonetheless, feel they will be ostracized if the man is arrested, convicted and imprisoned.

"Often women don't want to press charges against the man who has beaten them. They are afraid. They don't want to press charges and the violence continues. I have known women that did not press charges and were later murdered by their husbands."²⁰

Abuse can be prevented. It becomes cyclical and dangerous if the offender continues his violence with the more serious crime of murder or manslaughter. An evaluation process would benefit those working in the justice system by studying the deterrence factor in imprisoning spousal abusers.

Police Response

Women also do not get much assistance from the community and are often left alone after the incident of spousal abuse. In exceptional cases, mainly in the larger urban centres, a shelter or transition house may be available.

d) High Tolerance of Community Violence

The Manitoba Aboriginal Justice Inquiry found that Native community leaders were remiss in their efforts to end violence against aboriginal women. In some communities in Manitoba, signs in the Indian Act Band Office insist that women report domestic violence to the Chief and Council and not the police.²¹

Native Justice Response

Even when an aboriginal woman has been shot by her husband, she is afraid to press charges because she cannot predict what he may do to her later. An abuser can make threatening phone calls to the victim while he is in prison thus continuing the abuse. The offender is then able to keep the woman in the abusive relationship while he is incarcerated. He may also use the children and custody as blackmail. One respondent

²⁰ *Kuujuuaq at 28.*

²¹ *RCMP Winnipeg, Manitoba.*

noted that it was only in the last year (1992) that police and judges are willing to interfere in domestic violence situations in their area. Aboriginal women feel guilty when charges are laid and they have a hard time dealing with the guilt. They also suffer emotionally and economically when their partner is gone, particularly if they are ostracized by the community. This may be one of the contributing factors explaining why abused women take back abusive men once they have served their time. In child abuse situations, however, the social workers are notified first - before police.

A high tolerance for community violence is evident where *"political interference by Indian Act Chiefs and Council is quite common."* There appears to be some ambiguity, however, as to whether Indian Act governments allow police on reserve to lay charges in domestic violence situations.

Police Response

Aboriginal women face a high community tolerance of violence against women, and violence in general. A change in attitude at the community level is necessary to condemn and stop the violence. Today, the majority of aboriginal peoples live in small, remote communities spread over 2,000 geographic locations. Most communities have a population of less than five hundred people. An Alberta study noted that:

"In most Native communities, the interrelationships between families are very close: the total population is small and the number of children in each family tends to be large. As a result, a great many crimes involve family members of either victims or offenders. (1982: 18)²²

In addition to spousal assault, family crime includes incest, or sexual abuse, and community crimes including gang rape. Aboriginal communities need to adopt a zero-tolerance policy against all kinds of violence.

The most disturbing aspect of all this is child abuse. This abuse is both physical and sexual. All cultural groups have prohibitions against incest and sexual interference with children, but adherence to those rules appears to have broken down both in the broader Canadian society and in Aboriginal society in Manitoba....Dr. Longstaffe said the situations facing Aboriginal children on reserves were particularly worrisome. The children often were the victims of multiple assaults from numerous, and often related, individuals, and often were threatened if they took their complaints to the authorities. In reserve communities, the lack of communication between social agencies, and the lack of connection between the community and the justice system, led to a number of disturbing consequences... The report of the Child Advocacy Project stated:

²² Carol Pitcher LaPrairie, *Native Women and Crime: A Theoretical Model* (Ottawa: Ministry of the Solicitor-General of Canada, 1986) at 5.

"The need for bold action is apparent. Children are suffering from trauma, physical injury, and psychological devastation that result from sexual abuse. The injuries to self-esteem, trust, and emotional functioning last a lifetime. The incidence of sniffing, alcohol abuse, eating disorders, suicide, depression, and sexual acting out among Indian children suggest that the problem of child sexual abuse has reached epidemic proportions."²³

²³ A.C. Hamilton and C.M. Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People, volume 1* (Winnipeg: Province of Manitoba, 1991) at 489. Contributors to this chapter include: MicMac Native Friendship Centre, Halifax, N.S.; Chief Coroner, GNWT; Victim/Witness Assistance Program, Burns Lake, B.C.; Labrador Legal Services, Happy Valley-Goose Bay, Labrador; the Group Home Board of Nain, Labrador; RCMP Ottawa; RCMP Cartwright, Labrador; RCMP Happy Valley, Labrador; Council for Yukon Indians, Whitehorse, Y.T.; Gitksan-Wet'suwet'en Education Society, Hazelton, B.C.; RCMP Regina, Sask.; Ontario Solicitor General; Native Para-Judicial Services of Quebec; RCMP Chetwynd, B.C.; Nemaska Band Council, Quebec; RCMP Milltown, D'Espoir, Newfoundland; Department of Justice Canada; Judge Coutu, Quebec; Miarwpukek Mi'kamarwey Marwi'omi, Amelia Joe Medical Centre, Conne River, Newfoundland; Ministry of Community and Social Services, Windsor, Ontario; Dakota Ojibway Tribal Council Police, Brandon, Manitoba; RCMP Regina; Legal Aid Manitoba, Winnipeg, Man.; Kuujjuaq, Quebec; Ma Marwi Chi Itata Centre Inc., Winnipeg, Man.; NWT Social Services; Siksika Nation Police Services, Gleichen, Alta.; St. Mary's Band Administration, Cranbrook, B.C.; Native Women's Transition Centre Inc., Winnipeg, Man..

11. Chapter 6 - Discerning the Role of Tribal Police

What is the role of tribal versus local police, including the R.C.M.P., in domestic violence situations involving aboriginal women?

Forty-three individuals responded to the question concerning the role of tribal police and the local police in domestic violence situations involving aboriginal women. The majority of respondents could not answer this inquiry since tribal policing services were unavailable in their area.

a) No Tribal Police Role

Native Justice Response

In Canada, the Royal Canadian Mounted Police can enforce the Criminal Code. A tribal police force has not been formed in some territories and provinces.

Police Response

The majority of aboriginal communities fall under the jurisdiction of the Royal Canadian Mounted Police. There are no tribal police in Saskatchewan, the Yukon Territory, or in the Northwest Territories. Where there are no tribal police, some respondents reported tribal leaders can work with the whole community to change social behaviour.

b) Jurisdictional Matters

Native Justice Response

One respondent stated that the Royal Canadian Mounted Police have jurisdiction in their particular area. Another individual said there is no role for tribal police, but emphasized that an aboriginal justice committee was being formed. Sometimes 'tribal police members' are seen as part of the community, but the Royal Canadian Mounted Police is seen as an external police force. In one situation, where a tribal police force was established in an aboriginal community, they did have the authority to handle abuse cases. The role of the tribal police and local police was thought to vary according the multiple factors such as the police officer's knowledge and awareness of violence against women. If the situation is life-threatening, the Royal Canadian Mounted Police are called in to investigate.

Police Response

Band constables enforce Indian Act band by-laws and the Royal Canadian Mounted Police enforce the criminal law. Indian Act Bands are sometimes consulted for suggestions on sentencing when they have no police force. When tribal Councillors are used in domestic violence situations, one police respondent stated, that they are 'rarely notified until after the incident' and usually no charges are requested or needed. The

Royal Canadian Mounted Police are directed to lay charges in domestic violence situations where there are reasonable and probable grounds to believe an offence has been committed. Tribal police could share similar responsibilities as the Royal Canadian Mounted Police pertaining to domestic violence in aboriginal communities. The authority of tribal police is limited by tribal, provincial or federal policy guidelines.

c) Cooperative Effort Between Tribal Police and the R.C.M.P.

Native Justice Response

The survey showed that in some areas where tribal police have jurisdiction it is possible to work cooperatively with the Royal Canadian Mounted Police. A Manitoba respondent reported that the process for apprehension or carrying out an investigation "which was initiated within the city of Brandon" is the only time the local police get involved with the tribal police on reserve land. In some cases, either police force can respond to family violence.

Police Response

Where the tribal police have jurisdiction, the Royal Canadian Mounted Police work in an assistance capacity. Tribal police have jurisdiction for abuse cases, but where the situation is life-threatening, the Royal Canadian Mounted Police will assist or take over the file.

d) Towards Self-Policing

Native Justice Response

In Ontario, an unidentified respondent stated that 'First Nations are policed by First Nations police services, constables and the Ontario Provincial Police.' The Ontario government is committed to facilitating a transition to self-policing by First Nations. Different respondents stated that the tribal police "*try to do more prevention*"; have more in-depth knowledge on the background of individuals involved in domestic violence; and handled incidents of domestic violence satisfactorily.

Police Response

The Prince Edward Island Royal Canadian Mounted Police have a Native policing unit, and an aboriginal staff member of the Force within one aboriginal community. The Royal Canadian Mounted Police work with the aboriginal communities, seeking resolutions to domestic violence situations on a culturally sensitive basis. The role of police does not differ, but members of the community force are First Nations community members. Some respondents asserted that tribal police differ from the Royal Canadian Mounted Police because of their cultural and traditional values in handling family intervention crises. One respondent suggested tribal police have more in-depth knowledge of individuals in the aboriginal community. "They usually know the root

causes." Tribal police are credited with taking preventative rather than punitive approaches to family violence. One respondent stated that tribal police must deal with abuse problems on a one-to-one basis and reach a mutual level of understanding. Court and jail are not absolute answers.

e) Role of Women

Native Response

One respondent said regardless of the relationship between police forces, the protection of women should come first. Cooperation concerning both policing agencies seemed to be the best solution offered. More knowledge is needed concerning how tribal policing services can benefit aboriginal women in domestic violence situations.

*"We recommend that police forces adopt a community policing approach, particularly in aboriginal communities...One way in which the police may begin to convince Aboriginal people of the sincerity of their efforts to improve relations with them is to ensure that Aboriginal people are substantially represented among the members of the force...While employment equity programs should primarily be viewed as supporting the rights of minority group members to employment, there are also other sound reasons for adopting such a policy. Among these are: Aboriginal people will have more confidence that the police force is interested in them; Aboriginal youth will see such officers as excellent role models; the general population will benefit from seeing Aboriginal people in positions of responsibility, protecting the public peace; Aboriginal officers will be able to assist other officers in a better understanding of Aboriginal culture and behaviour; if an Aboriginal person is being arrested and needs family or community support of some kind, an Aboriginal officer will likely have a better idea of where that support might be available...; within the force, there will be officers who speak Aboriginal languages...; Aboriginal officers will be able to do preventative policing more effectively among Aboriginal community members; because Aboriginal officers will have a better understanding of Aboriginal culture, they will be better able to determine whether a situation they encounter requires an arrest or can be settled in an alternative way; when making an arrest, Aboriginal police will be better able to make certain that Aboriginal people understand their rights and what is happening; and Aboriginal officers will be better able to assist those wishing to give statements in ensuring that their true intent is reflected."*²⁴

²⁴ A.C. Hamilton and C.M. Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People, volume 1* (Winnipeg: Province of Manitoba, 1991) at 601-603. Contributors to the chapter include: Department of Sociology, University of Saskatchewan, Saskatoon, Sask.; NWT Justice; St. Mary's Band Administration, Cranbrook, B.C.; Justice Canada, Yellowknife, NWT; Native Para-Judicial Services of Quebec; The Group Home Board of Nain, Labrador; Native Women's Transition Centre Inc., Winnipeg, Man.; Victim/Witness Assistance Program, Burns Lake, B.C.; RCMP Milltown, Bay D'Espoir, Newfoundland; Tony Mandamin, Winterburn, Alberta; Gitksan/Wetsuwet'en Education Society, Hazelton, B.C.; Amelia Joe Medical Centre, Conne River, Nfld.; Legal Interpreting Court Services, Justice, Government of the N.W.T., Yellowknife, NWT; Six Nations Police, Ohsweken, Ontario; Dakota Ojibway Tribal Police, Brandon, Manitoba; Akwesasne Mohawk Police; Solicitor General Canada; Siksika Nation Police Services, Gleichen, Alberta; Hey-way'-noqu' Healing Circle for Addictions Society.

12. Chapter 7 - Aboriginal Governments Role In Domestic Violence

What is the role of First Nations, Métis, and Inuit governments in handling domestic violence situations? Is it a matter for the police or the aboriginal government?

a) No Perceived Role for Aboriginal Governments

Native Justice Response

There are differing views on the role of aboriginal governments in curbing domestic violence. There does not appear to be a clearly defined role for aboriginal governments. It is surmised that aboriginal leaders have not addressed domestic violence seriously because it is perceived to be a women's issue. Male aboriginal leaders have focused on settling land claims rather than dealing with social issues.

Police Response

The Indian Act Band Council does not play a role in domestic violence situations.

b) Jurisdictional Problems

Native Justice Response

A respondent from Ontario stated that the jurisdiction for policing family violence is seen as a police matter. The police also believe that family violence is a police issue. Aboriginal governments need to take responsibility for community violence because in the non-Native community (e.g. the police), there is a lack of education on culturally sensitive issues and their attitudes are different. Domestic violence in the aboriginal community should be controlled by First Nations, Métis and Inuit governments in cooperation with the police and the courts when necessary.

Police Response

Some respondents suggested that it should always be the role of the police to handle domestic violence situations. One initiative such as the Community Policing strategies, support inter-agency cooperation towards resolving violence problems. The Royal Canadian Mounted Police in Ottawa stated that since 1988 they have established over six hundred community consultative groups which gives community people direct input into the policing function. In the urban centres, there are no aboriginal governments today. Until they are in place, the jurisdiction remains with the city, provincial or federal governments. The police, however, are mandated to enforce the law.

c) Need to Provide and Support Alternative Resources

Native Justice Response

More Bands have become involved in eradicating domestic violence since the Department of Indian and Northern Affairs and National Health and Welfare Canada funded family violence projects. Some Indian Act governments support preventative programs for victims of family violence on reserves and actively support public awareness and education forums on the issue of family violence. Aboriginal governments could start providing counselling services, elder circles, or some form of holistic healing for offenders and victims. They could also become involved in implementing policies and lobby for more resources for women's shelters. Alcohol and drug abuse programs have frequently had a beneficial impact on violence arising from alcohol including domestic violence. Lisa Mosher, an elder, explained that it is important in the healing process for everyone, women and others, to benefit from alcohol and drug counselling. An Alberta respondent reported that some other alternatives to institutionalization would include the use of community healing processes such as an Elder's Justice Committee, spiritual cleansing, and counselling by peers and elders. In Ontario, it was suggested that Indian Act bands or tribal councils develop community laws with opportunity for peace bonds and forced counselling for offenders involved in domestic violence. The response from Quebec was that more prevention programs are needed. The First Nations Chiefs of Police Association is currently working with the federal Solicitor General and the Canadian Police College to form a three-week course for First Nations police officers on domestic violence.

Police Response

Indian Act governments should encourage abusers to attend counselling. They need to know and understand that this is a community problem, not just a family problem. Indian Act bands and tribal councils should take a strong stand against domestic violence and alcohol abuse. One respondent from Labrador stated that the Métis have not dealt with the violence issue, therefore, the police and the social services professionals deal with the matter. One alternative to institutionalizing the offender may include teaching non-violent conflict resolution techniques and using a holistic approach to the problem.

d) Need for Aboriginal Women's Involvement in the Solution to Domestic Violence

Native Justice Response

The protection of women and children must come first and the laying of charges, second. Aboriginal women must become involved in seeking solutions to domestic violence. Women's rights to protection is paramount and should be strictly enforced. A respondent from British Columbia stated that domestic violence responses need to be handled in such a way as to stop the abuse of women.

Police Response

When dealing with domestic violence Indian Act Band Councils and tribal councils should ensure that there are facilities for the victims. The accessibility of women's shelters should be established with the involvement of aboriginal women.

e) Need for a Cooperative Justice System

Native Justice Response

A number of respondents favoured the alliance of both the police and the aboriginal political leadership in seeking solutions to family violence. One respondent noted that aboriginal *leaders "are becoming aware that it s not just a women's issue, but a problem that affects the whole community."* While aboriginal communities and Indian Act governments may not assume jurisdiction, there is a sense today that communities should share the responsibility for their own peoples. Family violence is everyone's responsibility. The police are responsible for understanding it and enforcing the law. The community should report it and respect and encourage the victim. The whole family needs to provide support and understanding to the victim.

Police Response

Domestic violence, in New Brunswick, is generally regarded as a matter to be dealt with under the Criminal Code of Canada. The local government is not involved, but the goal is to have a uniform response province-wide. Certain protocols were developed to guide the intervention of all relevant Government services, such as the police, victim-witness coordinators, Family Court counsellors, social workers, and prosecutors. The enforcement of the law rests with police and the prevention of family violence with police and aboriginal governments. The police and aboriginal governments should both be involved because there is a need for education about abuse, prevention, counselling, and laying of charges. The Government of the Northwest Territories has committed considerable resources to assist victims of violence and some programs are jointly funded between the Government of the Northwest Territories and the Government of Canada.

The police, aboriginal community and family all have a role to play in domestic violence prevention. Family violence is an issue for all segments of society. First Nations governments, however, like municipalities, are not involved in domestic violence. In the Northwest Territories this is left to the police, the Federal Department of Justice and the Government of the Northwest Territories. *"Under the philosophy of community policing, responsibility for domestic violence is a shared responsibility within the community. Aboriginal governments and police play an important role in addressing the issue."*

f) Need for Self-Policing for First Nations

Native Justice Response

Aboriginal people would feel more comfortable policing their own communities. However, one area of great concern could be the impartiality of the Indian Act governments. Concern was expressed for Indian Act Chiefs or Councillors who are also abusers. Some women feel that violence is a matter for the individual, the family and friends, or a matter for aboriginal governments because they are "Natives themselves." A combined effort is required which would include the police (Royal Canadian Mounted Police), medical profession, counselling services, and women's shelters.

g) Need for the Involvement of Non-Aboriginal Professionals

Police Response

Most family violence situations are not reported to police. In Ontario, efforts have been made by social service groups to deal with the problem, but the success of those efforts have not been measured.

h) Alternative Police Commission

Police Response

Another alternative for dealing with family violence could be the establishment of a Police Commission. The Police Commission would be comprised of representatives from one or more aboriginal communities. It should also be seen as an independent body from aboriginal governments. Various agencies can provide assistance in drafting the policy. The establishment of a Police Commission would benefit Indian Act and Métis governments who do not generally deal with domestic violence situations. The role of a Police Commission can only be theoretical at this point in time because where a criminal act is committed, it is the responsibility of the police.

"As Aboriginally controlled police departments and regional or local police commissions become more prevalent in Manitoba, it will be desirable to establish a provincial Aboriginal Police Commission to support and coordinate Aboriginal policing. It is our hope that this structure will not lessen the interest and support required from each community, or reduce the sense of ownership that communities should have concerning their police forces. Functions of the commission might include the following: supporting the establishment of Aboriginal police forces through the province; establishing a training facility, standards, curriculum and continuing education for Aboriginal police officers; cooperating with the RCMP, the City of Winnipeg and other police forces in regard to officer training and the delivery of police services; overseeing the

operation of Aboriginal police forces, receiving and hearing complaints, and offering assistance, "helping other police forces recruit Aboriginal police officers; and receiving submissions and recommendations from Aboriginal communities, their Chiefs and councils."²⁵

²⁵ A.C. Hamilton and C.M. Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People*, volume 1 (Winnipeg: Province of Manitoba, 1991) at 626. Contributors to the chapter include: NWT Social Services; Six Nations Police, Brantford, Ont.; Ministry of Community and Social Services, Windsor Ont.; MicMac Native Friendship Centre, Halifax, N.S.; Department of Sociology, University of Saskatchewan, Saskatoon, Sask.; Labrador Legal Services; St. Mary's Band Administration; RCMP Ottawa; Brandon City Police Department, Brandon, Man.; Amelia Joe Medical Centre, Conne River, Nfld.; The Group Home Board of Nain, Labrador; Tony Mandamin, Winterburn, Alta.; Siksika Nation Police Services, Gleichen, Alta.; Akwesasne Mohawk Police; Nemaska Band Council, Quebec; RCMP Cartwright, Labrador; RCMP Charlottetown, P.E.I.; Native Women's Transition Centre Inc., Winnipeg, Man.; Sharon McIvor addressing the Canadian Automobile, Aerospace and Agricultural Implements Workers Union, Port Elgin, Ontario on June 12, 1993; Hey-way'-noqu' Healing Circle for Addictions Society, Vancouver, B.C.; Mediation Services, Winnipeg, Man.; Solicitor General Canada, Vancouver, B.C.; Ma Marwi Wi Chi Itata Centre Inc., Winnipeg, Man.; Chief Coroner, GWNT; Justice Canada, Yellowknife, NWT; RCMP Burnaby, B.C.; RCMP Campbell River, B.C.; RCMP Chetwynd, B.C.; Council for Yukon Indians, Whitehorse, Y.T.; New Brunswick Justice; Victim/Witness Assistance Program, Burns Lake, B.C.; Native Para-judicial Services of Quebec; RCMP Regina, Sask.