

**Justice?: Interviews with front-line domestic violence workers**

by

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B.A., Simon Fraser University, 1998

A Thesis Submitted in Partial Fulfillment of the  
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MASTER OF ARTS

in the Department of Studies in Policy and Practice

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This thesis explores the concept of justice and its relationship with violence against women in intimate heterosexual relationships (VAWIHR). Open-ended questions elicited information on the work conducted by five women who self-identified as working on the front lines of VAWIHR. A themes analysis of the interviews located five practices of justice in the interviews: front-line workers, government policy and funding allocation, custody practices, the criminal justice system, and alternative responses. None of the five practices of justice was able to respond effectively to VAWIHR. Front-line workers, essential for supporting and guiding women through the other practices of justice, are limited in their responses by government policy and funding allocation. Custody practices and the criminal justice system are unable to deal adequately with VAWIHR because such practices cannot contextualize responses to the issues, and realities of VAWIHR. The potential alternatives for VAWIHR address some of the issues, but not the full complexity of VAWIHR.

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### **Dedication**

I dedicate this thesis to the many people dealing  
with violent relationships and justice systems,  
and to  
the children of my friends, Jaeden, Dante, Lily  
and my goddaughter Salena, in the hopes they  
never live with or accept violence as a way of life.

## Chapter One: Introduction

The response to violence against women in intimate heterosexual relationships (VAWIHR) is an issue of major concern in Canada. This research extends and adds to the debate on the responses of justice to VAWIHR in Canada. In this introduction I highlight the serious nature of VAWIHR, examine the reasons why I widely defined the concept of justice, and the reasons I joined the concepts of justice and VAWIHR together for my thesis. I also include an examination of the language used to describe VAWIHR, and explain the purpose of this research.

The responses of justice to VAWIHR in British Columbia are inadequate. According to the five front-line workers I interviewed, women in violent relationships with men are not receiving the services they should. In this thesis, I look explicitly at front-line workers as an essential service and I look at the ways government funding and policy limit front-line workers' responses. I also examine the ways in which custody practices do not deal adequately with VAWIHR, the ways the criminal justice system (CJS) inadequately responds to the issues of VAWIHR, and how contemporary alternative responses to VAWIHR are not effective responses. First, though, I want to demonstrate the serious nature of VAWIHR in Canada.

*The serious issue of violence against women in intimate heterosexual relationships*

VAWIHR is a serious issue in Canada. A half of all Canadian women have experienced at least one incident of violence since the age of sixteen (as cited in Ministry of Community Services, 2006), and 86% of Canadians believe that it is a crime when a man hits his partner (as cited in Federal-Provincial-Territorial Ministers Responsible for the Status of Women, 2002). Canadians are beginning to perceive VAWIHR to be

serious, as 66% of Canadians believe that VAWIHR is as serious as women's groups' state it is.

Sometimes, far too often, the violence results in death. In British Columbia, between the years of 1974-2000 on average, 1.28 men per 100,000 couples killed their wives, while only 0.46 women per 100,000 couples killed their husbands (Federal-Provincial-Territorial Ministers Responsible for the Status of Women, 2002). This resulted in 279 women in British Columbia losing their lives to their abusive partner between the years of 1974 and 2000 (Federal-Provincial-Territorial Ministers Responsible for the Status of Women, 2002).

Violence in relationships occurs more commonly against women than men. The 1999 General Social Survey (GSS) shows that in British Columbia, 88% of the 9, 841 incidents of heterosexual intimate violence against women reported to the police were due to abusive, male behaviour (Federal-Provincial-Territorial Ministers Responsible for the Status of Women, 2002). The 1993 Violence against Women Survey (VAWS) found that 12% of women had been victimized by a male spouse within the last five years, and that number was increased to 25% when examining the prevalence of abuse over a lifetime. Aboriginal women reported violence at a rate three times higher than non-aboriginal women (VAWS, 1993).

In addition, when comparing the severity of injuries between abused men and women, it is clear that the violence women endure is more serious. The 1999 GSS reports that men subject women more frequently to serious forms of abuse such as sexual assault, assault with a weapon and, as well, twice as many women as men reported chronic and ongoing assaults (Federal-Provincial-Territorial Ministers Responsible for the Status of

Women, 2002). The GSS (1999) also found that women were three times more likely than men to be injured, five times more likely to receive medical attention, and be hospitalized, and three times more likely to take time off from work to deal with the consequences of heterosexual intimate violence against women (Federal-Provincial-Territorial Ministers Responsible for the Status of Women, 2002). In sum, VAWIHR is a serious issue in Canada today, and, thus, it is important to examine the way Canadians support and deal with women involved in VAWIHR, in other words to examine how justice is approached, applied and provided to women living with violent male partners.

#### *Justice and VAWIHR*

I linked justice and VAWIHR together for both academic and personal reasons. Justice for women and children in abusive relationships with men requires effective and wide-ranging responses. Justice is central to both of the theories I use in this research, namely feminist criminology, and penal abolitionism. The feminist criminological literature explores the inadequacies and the importance of the CJS as a response for women's issues (Bonnycastle & Rigakos, 1998; Hudson, 1998; Hudson, 2002; McMahon & Pence, 2003; Razack, 2001; Smart, 1989; Snider, 1998; Snider, 2000). According to penal abolitionists the CJS is an ineffective response for all crimes (Hudson, 1998; Hudson, 2002; Morris, 2000; Mathiesen, 2000; van Swaanigen, 2000). Reading both the feminist criminology theorists and the penal abolitionists led me to ruminate on the concept of justice. I found myself considering what justice could and should look like as it related to VAWIHR, an area where I had worked for four years, as both a woman's support counsellor and as a counsellor for children who had witnessed abuse.

I knew that I wanted to define justice broadly in this research. I wanted to examine more than what I perceived the main response of justice to be, which was the CJS. I wanted to look at the possibilities of justice, and work within the feminist and penal abolitionist literatures to add to the debates around adequate responses of justice. At the same time, as I was beginning to play with the idea of examining justice, the television news stories on crime began to frustrate me more than usual because the focus seemed to be on lengthy sentencing as the appropriate response to crime. I perceived the news stories to judge justice by the length of sentencing, and yet I knew that sentencing and in fact, the court system, itself, are sometimes not useful responses for those involved in crime. The gap between the literature that examines finding justice in various ways and the nightly news' limited notion of justice frustrated me and was the context which led to my definition of justice as multi-layered. For example, justice exists on and between all parts of government, in all and between all systems, between the victim and the offender, etc. Justice is also different for everyone; for instance, justice according to the victim might look very different than justice does according to the offender. Justice, as it relates to VAWIHR and this research, is more than the CJS, beyond punishment for abusive men, and more than the services offered for women in abusive relationships with men. Supporting this idea of justice are the feminist criminological theorist's desire for an effective response to VAWIHR, the penal abolitionist's desire to change society's way of dealing with harms committed, i.e. crimes, and my personal experience as a former front-line worker in various women's shelters.

I am passionate about both VAWIHR and justice. Ever since I was a small child, I can recall wondering about the unfairness of life and being extremely upset by any

violence I witnessed. In my undergraduate degree, I studied criminology and used that degree to enlighten my work on the front lines of the women's shelter movement. I realized quickly that I did not understand the justice or the support systems that were in place to help women leave violent relationships. I especially had a hard time figuring out how the CJS, the family court system, and the income assistance procedures worked. I spent many days and nights feeling powerless to help women put their lives together because I could not figure these systems out. Eventually I realized that the tenuousness and the uncertainties of these systems would never go away unless these systems themselves were changed. It was then that I started wondering why politicians and policy makers did not talk to front-line workers to learn about the complexities of VAWIHR and ways to create policies and programs that would help women in abusive relationships with men find justice. All of the above musing led me, in this research, to focus specifically on VAWIHR. In locating this research in feminist criminological theories, and due to my experiences on the front lines of VAWIHR, it is important to me that I stress that VAWIHR is a gendered crime, and thus I intentionally use language in this thesis to exemplify the gendered nature of the issue.

#### *Discussion of the Terms used in this Research*

Locating the appropriate language to discuss VAWIHR is difficult. Although certain popular terms such as 'domestic violence' and 'intimate partner assault' place the issue squarely in the home and in interpersonal relationships, they are not useful because they de-genderize the issue. The term 'wife assault' likewise is not always appropriate because violence happens in relationships regardless of whether the couple is married or not. In fact, none of the terms we use in regular speech seems adequate to describe male

violence in private space. No single experience of violence is the same, and using one-term risks placing women into a single category. In this research, I specifically contextualize violent relationships as heterosexual, relational and gendered. I use mainly two terms to describe violence against women in intimate heterosexual relationships, 'women in abusive relationships with men' and 'violence against women in heterosexual relationships' (VAWIHR). However, if I do not use one of these two terms I ensure that I am clear that the violence is against women and that the perpetrators are men in intimate relationships with the women. I also want to clarify that my usage of the terms 'violence' and 'abuse' signifies not only physical violence, but also emotional, psychological, sexual and economic violence.

#### *The purpose of this research*

The purpose of this research is to conduct exploratory research into the concept of justice as it relates to VAWIHR. In order to learn more about justice, I utilized open-ended questions to ask five women who work on the front lines of VAWIHR about what happens to women in violent relationships with men once they access the services offered by the front-line workers and the agencies that employ them<sup>1</sup>. In conducting this research, I learned about specific ways that responses of justice to women in abusive relationships with men were not adequate, and that some of the responses required women to struggle with systemic responses in addition to their abusive (ex) male partner.

#### *Concluding remarks*

In this chapter I introduced the importance of this research project, showed that VAWIHR is a serious issue in Canada and explained the reasons I link the concept of justice to VAWIHR. In the following chapters, I provide information that explores and

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<sup>1</sup> I list the interview questions in the methodology section.

expands on the ideas of justice and VAWIHR. In Chapter Two I specifically examine literature that relates directly to the practices of justice discussed in this research. Chapter Three examines the way I used feminist methodology to guide the research, the analytic, and the writing process of this thesis. Chapters Four and Five are the analysis chapters, and are where I explore what was said in the interviews, and show the ways that the responses of justice are inadequate as they relate to VAWIHR. In Chapter Six I conclude this thesis, discuss my findings about justice and VAWIHR from this research, and suggest potential future research projects that would build on this research.

## Chapter Two: Literature Review

The literature I read for this thesis supports my overall finding in this research that the current justice responses to violence against women in intimate heterosexual relationships (VAWIHR) are deficient. In this chapter, I review five areas of relevant literature. First, I examine the practice of justice and the roles of the front-line workers and explore how their roles relate to women in abusive relationships with men. Second, I examine cuts to funding and changes to policy in British Columbia following the provincial election of the Liberal government in 2001. I show how those cuts affect women in abusive relationships with men and the work of the front line agencies. Third, I examine how the construction of contemporary custody practices places an additional burden on women in violent relationships with men. Fourth, I examine feminist criminological literature on the criminal justice system (CJS) which highlights the challenges in turning to law for social change for women. Fifth, I examine potential alternative responses to VAWIHR, and here I utilize both feminist criminology and penal abolition theories to examine new frameworks for justice. Both, feminist criminological theorists and penal abolitionists, advocate change in social, legal and economic structures and support political action for the attainment of these changes. Feminist criminological theorists and penal abolitionists do not always agree on the issue of punishment. Some feminist criminological theorists believe that punishment is a valid justice response, and penal abolitionists do not believe in any punitive responses. However, both perspectives provide helpful lenses through which to examine the interconnections between VAWIHR and the concept of justice. Feminist criminological theory provides discourse on how the CJS and law take over legal changes created for women with oppressive results. Penal

abolitionism critiques the punitive nature of the CJS and searches for other ways to deal with harms committed. These two theories provide a unique way to examine contemporary systemic and potential alternative responses to VAWIHR.

### *Role of Front-Line Workers*

There are many ways to approach the issues of VAWIHR and justice. My research enters these issues via front-line VAWIHR workers. Front-line workers provide much needed support for women in abusive relationships with men. Women leaving heterosexual intimate violent relationships face many challenges, from maintaining personal safety, to finding a safe place to live, to supporting themselves economically (Lutenbacher, Cohen, and Mitzel, 2003; Tutty, 1996). Front-line workers help women in abusive relationships with men deal with their emotional and physical needs, in addition to guiding and supporting women through other practices of justice. Front-line workers play an important supporting and guiding role for women leaving abusive relationships, but sadly, there is not much literature that illuminates the role of the VAWIHR front-line worker.

The available literature supports my statement that front-line workers are an essential response of justice for women in relationships with abusive men, but the literature does not examine as in depth the actual role of the front-line worker as my research does. The literature on front-line workers discusses the impacts of the work on the workers (Brown & O'Brien, 1998) and the perceived effectiveness of the front-line workers from women who have used their services (Gordon, 1996; Lutenbacher et al., 2003; Tutty, 1996). The literature I examined also recognized the importance of a "multi sectoral approach" as well as continuous work towards overcoming individual and

societal conceptions about VAWIHR (Morrow et al., 2004; Se'ever, 2002). Front-line workers perform both the roles of working with other agencies and educating people on the realities of VAWIHR. My review of some of the literature on front-line workers highlights the important role front-line workers perform in supporting and helping women in abusive relationships with men navigate a multitude of systems and barriers.

Front-line workers provide essential support and guidance for women in VAWIHR, even when the government does not adequately fund front line services. Currently, due to inadequate and non-existent programs women's needs are not being met (Gordon, 1996; Lutenbacher et al., 2003). Front-line workers try to meet women's needs and realities, but they are constrained by the availability of funding and government politics (Faith, 1993; Morrow et al., 2004; Se'ever, 2002) to offer services to the best of their ability. However, even with the limitations of government funding, the services offered by front-line workers are still the source of help preferred most by women with abusive, male (ex-) partners, compared to the other services available (Gordon, 1996).

Front-line workers work with the constraints of requiring government funding to keep their agencies open and their desire to change the government's policies and society's beliefs around the issues of VAWIHR. Front-line workers want to end the pattern of abuse against women in intimate relationships (Brown and O'Brien, 1998) but are unable to do so adequately because the government funds their agencies. Thus, they are limited in their ability to work against unfair government policies (Faith, 1993; Se'ever, 2002) for fear that their agencies will lose government funding. It is a complicated area in which to work. Front-line workers jobs are multifaceted because the

women they are serving have complex lives and funding to frontline agencies is erratic, and subject to political whims.

Contemporary government funding and policy further complicates the important work of the front-line workers due to the simple fact that government funding is required to keep these agencies open. Front-line workers developed as a grass roots response to VAWIHR, to advocate for social change (Armstrong, 2001). The current reliance on government funding reduces front-line workers' ability to advocate for change, and changes the focus of their work. In the early 1970s and 1980s, feminists opened the first women's shelters. Volunteers who believed in social change ran these women's shelters (Armstrong, 2001; Faith, 1993). In Vancouver, the focus on social change in the women's shelter located there became more limited when it became apparent that feminist workers needed government funding to continue with their shelter work. The workers in the women's shelter now spent more time diverted by conflicts over state funding as opposed to their social justice work. As well, the government assigned a supervisor to the shelter, a professional, and, thus, the government imposed a hierarchical form on an organization based on consensus, and this introduced the professional aspect of trained social workers and other professional's into women's shelters (Faith, 1993). This government funding resulted in a shift amongst the front-line workers, between remaining more grassroots and feminist (Armstrong, 2001; Faith, 1993; Se'ever, 2002) to becoming professional women who focused on bureaucratic services (Danis, 2003; Danis, 2005). These tensions between grassroots shelter workers and professionalized shelter workers still exist in many front-line VAWIHR organizations. Government funding altered the social change aspect of shelter services.

*The Effects of Government Policy and Funding Allocations*

Both federal and provincial governments fund and create the policy that directs all the practices of justice in the area of VAWIHR examined in this research. However, this section focuses specifically on the provincial government in British Columbia because this study is located in that province, and because the British Columbia provincial government recently changed and cut funding to many social service agencies. The British Columbia government's policy shift resulted in creating more barriers for women in leaving abusive relationships, and the government cuts in funding have resulted in fewer resources available to help women directly.

In 2001, British Columbians elected a Liberal party into government under the leadership of Gordon Campbell. The neoliberal politics of this government focused on fiscal responsibility and tax breaks for the wealthy (McLintock, 2005). These two tenets are part of a neoliberal ideology that essentially undermines the public social safety net and replaces it with a focus on individual responsibility (Martinez & Garcia, 1997). One way the Liberal government changed the availability of social services was by conducting a core service review. One test in this core service review was to ensure that the programs under consideration were relevant to public interest. Unfortunately the government considered many groups of people such as, "... women, children, the unemployed, students, low wage workers, unionized workers, the elderly, the sick, the disabled, First Nations peoples, immigrants and refugees." (Bennett and McLaren, 2003, para. 5) as special interest groups and not the public and therefore, the 'special interest' groups were not part of the core services review. This core service review also focused on the "the moral supremacy of the market" (Creese and Strong-Boag 2005, p. 5) and not on the

importance of a social safety net. Since 2001, women and other marginalized groups in British Columbia have suffered from the devastating funding cutbacks of funding to women's services, health care, and education. This includes both VAWIHR services and other services that women in abusive relationships rely on.

The British Columbia provincial government focused on making people more self-reliant, but the policies implemented make it almost impossible for some people to move towards self-reliance. In the area of VAWIHR, many women who reach out for government services live near the poverty line and require income assistance. Access to income assistance has been limited under the Liberal government. Furthermore, there have been government staff reductions and now there is a toll free number that applicants call in order to make an appointment to apply for income assistance (Creese & Strong-Boag, 2005). It can take weeks to receive an appointment, and once this happens, the applicant must then embark on a three-week work search. If the social worker approves the applicant for income assistance, they must wait another three weeks until the government issues their cheque (Creese & Strong-Boag, 2005). Before the income assistance process ends, many women may be desperate and forced to return to their abusive partners (Morrow et al., 2004). The women who actually leave do not even necessarily have access to transition houses, which might help alleviate the initial financial burden. Since 2001, more single women than before have been referred to transition houses because hospitals and other agencies have a diminished number of places to refer them (Friends of Women and Children in BC (FWCBC), 2002d), thus creating a space crunch in transition houses.

The inability to find a place in transition houses makes it hard for women with limited resources to have a safe location from where they can begin looking for safe housing. In addition, safe and affordable housing is difficult to locate. The ability to find adequate housing is a contributing factor in women's decisions to leave their abusive relationships with men (FWCBC, 2002a). The availability of affordable housing is decreasing. In BC's capital city, Victoria, the length of the region's housing corporation waiting list, in 2002, increased by 38% (FWCBC, 2002e). In Vancouver, community groups and the current Mayor see the lack of affordable housing as a crisis (PIVOT, 2006). What happens to women if they are unable to find safe, affordable housing, childcare and a job that pays enough to cover expenses? One answer to this question is that as "...the cumulative effects of cuts to social assistance, lower wages, higher unemployment and reduce[d] access to legal aid, etc., come into effect, we can anticipate a rise in women's economic dependence on men, and in their vulnerability to such violence." (FWCBC, 2002a, para. 4). The cutbacks have severely limited the resources that are crucial to helping women leave and remain out of a heterosexual abusive relationship.

Legal aid for family court was one of the essential resources the government cut. Women in intimate, heterosexual relationships with men only have limited access to legal aid. Women have to show they fear for their own or their children's safety in order to receive legal aid, which is hard to do because of the complexities of VAWIHR (Creese & Strong-Boag, 2005). This cutback in legal aid service can result in women entering family court without a lawyer, and because their male, ex-partner can often afford a lawyer, women frequently lose custody of their children (Creese & Strong-Boag, 2005).

Legal aid cuts also impact immigrant women who are involved in VAWIHR when their sponsor (who may be their abuser) withdraws sponsorship. In this case, immigrant women can no longer receive legal aid to pursue landed immigrant status, and, if they cannot afford a lawyer of their own, they will not be able to pursue landed status (Creese & Strong-Boag, 2005). The cuts to legal aid put women in difficult positions to obtain custody of their children, and for immigrant women it effectively makes it impossible for them to continue to live legally in Canada.

The government's closure of courthouses in rural locations exacerbates the issues rural women face when dealing with abusive, male (ex-) partners. The intended 40% cut to legal aid and the court closures reduces rural and rural Aboriginal women's access to these services, and as such, it is suspected that many rural women will be forced into mediation because they live in rural areas without access to other legal remedies (Creese & Strong-Boag 2005; FWCBC, 2002a). The closure of courthouses reduces rural women's ability to seek justice in the courts.

The government's proposed revisions to the *Crown Counsel Spousal Assault Policy* are to let the Crown have discretion in prosecuting VAWIHR cases. Crown discretion in prosecuting VAWIHR cases, combined with the decrease in access to legal remedies, creates fewer resources for women in and or leaving abusive relationships (Creese & Strong-Boag 2005; FWCBC, 2002c). The movement from the government requiring the Crown to prosecute all cases of VAWIHR to Crown discretion for VAWIHR cases causes concern for some, especially in the context of limited service programs, and the government's lack of support for women's issues.

The authors of the July 15, 2002 Report Card by the group Friends of Women and Children in British Columbia state that the government cut services to social service to make up for the revenue lost in tax cuts (FWCC, 2002b), although in 2004, the British Columbia Liberal government claimed that it had a surplus of \$865 million (Roman, 2004). Roman (2004) argues that this surplus comes at the expense of the marginalized in British Columbia. The funding cuts and policy changes in British Columbia in the last five years provide the context for what is happening in the service industry for women involved in or leaving VAWIHR. The funding cuts to social service providers and the redirection of funding for employment programs have made it more difficult for women leaving heterosexual intimate violent relationships to support themselves and their families adequately and this includes the cuts in legal aid that make it difficult for women to have a lawyer represent them in custody cases.

#### *Custody Practices*

Currently many Canadian custody practices do not consider the impact that witnessing abuse towards their mothers has on children, (Grant, 2005; Jaffe, Crooks & Poisson, 2003; Kerr & Jaffe, 1999). Custody practices therefore do not respond appropriately to the realities of VAWIHR. In this custody section I examine the 'best interests of the child' test in family court, the 'friendly parent' principle, the lack of effective legislation to deal with VAWIHR and custody, and the importance of education to make custody practices more responsive to VAWIHR.

The principle of best interests of the child in custody is contentious in the area of VAWIHR. Currently, most custody laws based on the best interests of the child do not allow judges to consider the conduct of parents that is not directly related to the child's

needs and circumstances. However, this principle often restricts evidence concerning male intimate partner abuse, based on the belief that violence between adults does not affect children (Grant, 2005). Intimate violence between adults does affect children (Jaffe et al., 2003), and, ironically, if courts do not consider the effects of violence between parents, then the court is not able to provide for the best interests of the child (Kerr & Jaffe, 1999). Combining the best interest of the child principle with the legal presumption that both parents have maximum contact with their children creates difficulties for women in abusive relationships with men (Kerr & Jaffe, 1999).

The basis for the presumption of maximum contact for both parents is the idea that both parents should have as much access as possible to their children. The principle of maximum contact requires women to prove that there was violence in the relationship and that the violence affects the parenting of the abusive spouse (Jaffe et al., 2003). The complexities of violence in intimate relationships and the general belief that women exaggerate violence make it difficult for women to get the courts to understand the impact the violence has had on her and the children. If the courts acknowledge that violence in intimate relationships affects children, the presumption of equal access becomes even more complicated when abusive men claim that they have changed. Judges often feel obligated to grant access in these cases where abusive men have claimed to change because of the presumption of maximum contact (Grant, 2005). The presumption of maximum contact for both parents is not an answer for custody cases that involve VAWIHR.

Similar to the presumption of maximum contact, the friendly parent principle is not an adequate response to VAWIHR. The so-called friendly parent is the parent who

will encourage contact with the children's other parent, and is the parent that will most likely get custody (Jaffe et al., 2003; Kerr & Jaffe, 1999). The friendly parent principle backfires in situations of VAWIHR, especially when combined with the best interest of the child principle (Jaffe et al., 2003; Kerr & Jaffe, 1999) because women with abusive, male (ex-) partners often cannot refer to or prove violence in custody cases. Women who make claims in custody cases to prohibit their abusive, male (ex-) partner from receiving custody often have the friendly parent principle work against them. In these cases, judges who do not understand the complexities and intricacies of VAWIHR often give custody to the abusive men because the women would not encourage access between the children and their father. Custody practices when dealing with VAWIHR would benefit from legislation on custody that directly responds to VAWIHR.

Currently, case law shows that some judges are responding to the issues of violence in custody cases, but this response is piecemeal and varies according to individual judges (Kerr & Jaffe, 1999). Legislation would provide some predictability of outcome (Kerr & Jaffe, 1999). Legislative reform could start with a presumption of no contact between the abusive parent and the child, and take the pressure off women to prove that the abusive behaviour occurred and is detrimental to the best interests of the child (Kerr & Jaffe, 1999). Grant (2005) writes that custody laws need to have some predictability of outcome and a degree of flexibility. The predictability of outcome would help parents to settle disputes among themselves, and the increased flexibility would make the law applicable in highly individualized circumstances (Grant, 2005). However, the legislation is only as strong as the evidence presented and mandating the consideration of VAWIHR in custody cases does not mean that court personnel

understand the complexities and variabilities of VAWIHR (Kerr & Jaffe, 1999). In essence, legislative reform without massive re-education about VAWIHR would not help women in custody cases.

The writers in the area of custody and VAWIHR recommend a coordinated education process of custody personnel, along with legislative changes (Grant, 2005, Jaffe et al., 2003; Kerr & Jaffe, 1999). Currently, judges do not fully understand the impacts of VAWIHR and this lack of understanding results in some variability in sentencing when the judges actually consider VAWIHR in custody cases. Grant (2005) argues that the cultivation of understanding VAWIHR in judges is essential because then the judges can become the experts and respond to custody cases based on the realities of VAWIHR. The judges, the court system and the people within it are not the only areas that need education and change. Kerr and Jaffe (1999) argue that an effective response needs a well-organized, coordinated criminal and civil intervention that coordinates with the community to provide an effective response to VAWIHR. Currently, in British Columbia there is no coordinated and effective justice response, not even the CJS.

#### *The Criminal Justice System (CJS)*

Currently, the CJS is the most recognized response of justice in the area of VAWIHR. In this section, I focus mainly on the feminist criminology literature that critiques the CJS. In this section on the CJS, I provide a succinct synopsis of feminist criminological theory, provide a brief history of the CJS, examine problems feminist criminological theorists encountered trying to change the CJS, and end with an examination of the penal abolitionist critique of the CJS.

### *Feminist Criminological Theory*

This section draws from the perspectives of feminist criminological theorists, as they relate to the CJS. Feminist criminological theories highlight the inadequate response of the CJS. Feminist writers interested in the CJS critique the CJS's response to the social and economic factors of the lives of women who encounter it. Aboriginal and other racialized women writers have criticized white women feminists for not recognizing the complexity of issues surrounding minorities and the legal system (hooks, 1989; Snider, 1990; Monture-Angus, 1995). However, many feminist writers have made a concerted effort to recognize the issues that arise for racialized women when their lives and the penal system interact (Snider, 1990). As well, many feminist criminological thinkers recognize that the CJS criminalizes women, the poor and racialized people more than middle class white people (Comack & Balfour, 2004; Hudson, 1998; Monture-Angus, 1995; Razack, 2001; Snider, 1998; Snider, 2000). Feminist criminology highlights that the CJS is not a fair response to women, especially to racialized and Aboriginal women.

Feminist criminology is important to the discussion on VAWIHR and the CJS because there is debate among the feminist criminological thinkers about using the CJS as a response in order to sanction VAWIHR as a serious issue. Historically, however the CJS has not been a friendly place for women.

#### *A brief history of the CJS*

A brief history of the CJS will show how the legal system regarded VAWIHR as acceptable behaviour, thus leaving feminists a difficult task in getting the CJS to consider VAWIHR a crime. This history looks at some early laws that legalized men's abuse of women based on the belief that women were men's chattel. In the late 1800s and early

1900s advocates for women lobbied for women's rights because, legally, women were the dependents of men and, as such, had no rights and no autonomy. There were laws supporting the chastisement of women by their husbands (Faith, 2003; Fox 2002; MacLeod, Cadieux, and 10<sup>th</sup> Canada Advisory Council on the Status of Women, 1980). The first known law on heterosexual male domestic violence dates from 2500 BC (MacLeod et al., 1980). This law stated that any woman who verbally abused her husband would have her name engraved on a brick and that the brick would be used to bash her teeth in (Metzger, M. in MacLeod et al., 1980). Beating women was acceptable from the Middle Ages, through the Renaissance, and into the 18<sup>th</sup> and 19<sup>th</sup> centuries. Husbands could even kill their wives with impunity (MacLeod et al., 1980). According to MacLeod et al. (1980), women in western legal historical accounts were: 1) owned by their husbands, 2) required to obey their husbands and conform to the ideal of self-denial, 3) required to submit to men who had absolute authority over the women in their homes, and 4) to be in the home. The laws, religions, attitudes and practices entrenched the beliefs of women's subordination to men. Women were to be in the home and under the authority of their husbands. Fox writes

[M]any of our forefathers, be they Greek, Hebrew, Christian or English accepted female inferiority and women's sinfulness advocating, as a consequence, the necessity of male rule, male laws, the superiority of male intellectual contributions, and consequently by extension the advocacy of dominance as natural, inherent in the nature of things (Fox, 2002, p.21).

The prevalence of patriarchal beliefs of superiority pervaded laws and initially prevented women from achieving economic and social equality. Even as women pursued changes to the law and succeeded at doing so the legal system enacted the laws in an unfair manner based on its own methods and practices (Smart, 1989).

*Attempts by feminists to change the CJS*

The first advocates in North America in the late 1800s and early 1900s, now called first wave feminists, were mainly upper and middle class white women who believed in the power of the law to improve society. They called for more state control through criminal law to protect women and children. Although women were granted a number of legal rights, including the right to vote, one contemporary feminist writer notes, "Where our nineteenth century sisters struggled for universalistic reforms which conferred basic rights, they achieved great victories; where they sought increased state control through criminalization, they damaged the lives of those they sought to help." (Snider, 1990, p.156). Contemporary North American feminists have examined the mixed results for women in criminal law reform, especially for women who have experienced violence in heterosexual intimate relationships.

In the intervening years, the feminist critique has expanded to explore how the law is not the only place to seek change, even in fact how the law may not be an appropriate or adequate location for change. Repeatedly when feminists advocate for change in the CJS, it results in negative unintended outcomes for underprivileged women (Snider, 1990). This is especially true for women of colour and Aboriginal women, who often choose not to involve the CJS rather than face the CJS's racist responses (Flynn & Crawford, 1998; McIvor & Nahanee, 1998). Mandatory charging policies that feminists lobbied for are an excellent example of how a well-intentioned reform to the CJS can disadvantage women involved in abusive relationships with men. However, women of colour and Aboriginal women often do not receive either benefit or harm from the mandatory charging policies because often they do not report the abuse they experience

(Flynn & Crawford, 1998). Recognizing that women of colour and Aboriginal women may not be affected the same way, I now turn to explore the mandatory charging policy and the set of problems it creates for women who call the police.

The intent behind the mandatory charging policy is to alleviate women from the responsibility of having to charge their violent, intimate (ex-) partners, themselves; however, it has created its own set of problems. The policy of mandatory charging requires the police to charge the aggressor when they respond to calls of partner violence. Many feminists argued for the removal of police and crown counsel discretion in VAWIHR cases with the hope that this would ensure the serious treatment of VAWIHR. Ideally, the police were to lay charges, and the crown was to prosecute vigorously in every case, thus removing the police and the crown's discretion to either lay or prosecute charges (Ministry of Attorney General, 2003). However, this policy resulted in the arrests of more women than before because both parties involved in these types of incidents blame the other person, and the police tend to arrest both the man and the woman involved in the altercation. Another consequence of this new law, as stated by crown lawyers, is that when the crown loses their discretion to press charges, there are fewer options for women who do not want to go through the criminal justice system (MacLeod, 1995). Women, once they call the police, now have to engage in the CJS regardless of their desire to do so or not. This example shows that the implementation of new laws does not always solve the problems feminists anticipated the laws to solve (Sheehy, 2002; Smart, 1989).

Mandatory charging and arrest show how changes to law are usurped by the existing system, and one explanation offered around the ability of the law to take over the

changes is that the law is inherently (white) male, and there is no space for another perspective (Smart, 1989). Smart (1989) sensitizes us to one way the language of the law excludes women's voices and experiences. The law<sup>2</sup> provides a scripted format, based on the issue of relevance, through which women and others can speak. The legal defence, "battered women's defence", highlights the issue of scripting in the law. This defence arises from the battered women's syndrome, developed in 1990, as a defence for women who have killed their male, abusive partners. The battered women's syndrome, as developed by Lenore Walker, locates the source of the problem of violence on individual women and their inability to make a choice to leave (Comack, 1998). This defence is constructed to answer the question "... why doesn't she just leave?" (Comack, 1998, p. 107), and thus relies on the assumption that women can easily leave abusive relationships and if they do not then they are deviant. The defence individualizes and psychologizes the violence; the defence portrays women as unable to take control over their lives without considering other factors about the women's lives other than the violence (Comack, 1998). The "battered women's defence" applies no economic, political or social analysis to the reality of women in abusive relationships with men (Comack, 1998). This defence frames women solely as victims, and the defence places abusive male's behaviour aside as the "battered women's defence" becomes about women's ability to leave and not about the abusive man's ability to stop being abusive (Comack, 1998). This places the responsibility with the women and offers no analysis of the abusive men's behaviour or the ways in which women's social context can affect their reasons for staying with their abusive, male partner. The battered women's defence utilizes the language of feminism,

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<sup>2</sup>I use Carol Smart's (1989) definition of the term 'law'. Law "constitutes a plurality of principles, knowledges, and events, yet it claims a unity... (p.4)", and can refer to all types and kinds of law such as administrative and criminal law.

addresses feminist concerns for women involved in heterosexual relationships where the male is violent, but it still limits the women defendants to a certain role, not one where they are able to express the complexities of the situation. The “battered women’s defence” scripts the women’s responses and experiences and defines VAWIHR in a limited manner, and once again, women are at the mercy of the law, which does not adequately respond to them.

Smart (1989) argues that the power of law and its ability to define and find the ‘truth’, according to legal method, while using other disciplines’ language (i.e. feminist language, scientific language) helps the law to maintain its power in a changing society. Law is generally accepted as a place for dealing with conflicts. “Law is now the accepted mechanism for resolving social and individual problems and conflicts from the theft of a bottle of milk to industrial conflict and genetic engineering.”(Smart, 1989, p.20). However, in actual practice the law has been unable to provide an appropriate context to address the actual needs and realities of women.

Other feminists focus on the physical space of the CJS. Razack (2002) argues for an examination of the courtroom as a racist space. The courtroom is a place of strict legal rules, rules that do not make sense to the people in the courtroom other than the lawyers and the judges. The portrayal of the courtroom as a space of neutrality is incorrect because it is a place of interlocking systems of oppression (Razack, 2002). Interlocking oppressions occur where the history of the dominant and subordinate groups are masked, such as when a courtroom claims neutrality, or unbiased practices, when the reality is that the courtroom is part of a system of interlocking oppressions that continuously reproduces subordinate and dominant relations (Razack, 2001, p.8-13). Although the

legal system is supposed to be neutral, Gill (2002) states that "...legal narrative and authority are used to protect homogeneous order in an imagined land of equality, [and] law remains indispensable to the formation of universality's companion landscapes of inequality." (p.168). In other words, the law helps to maintain the status quo, and thus makes it difficult to use the law to challenge male violence against women in intimate relationships, especially for racialized women since the world and the courtroom are definitely not places of equality and neutrality. The result is a racist response in the courtroom because the judges in the courtroom through the use of legal method claim that they can find truth in an unbiased manner, thus masking the subordinate and dominant relations and reproducing hierarchical ruling relations.

According to Gill (2002), the notions of abstract liberalism and retribution underlie the law. Analyzing race and space offers room to challenge these notions. It provides a way to challenge the conceptual level of law, to challenge the ideas and beliefs that underlie the law. Gill (2002) encourages the use of analytic practice to show the evidence of legally normalized race-based oppression. Gill (2002) also promotes analytic practice to identify the lines of accountability that link racialized marginality to the social systems, the groups, the institutions, and the people who stand to lose if the status quo changes.

Women have struggled for many years to be included in the law, but the changes have not been significant. As well, once the law legitimizes rights and ideas, there is no guarantee that these laws will always be used in the spirit they were written. The conceptual level, the place where the idea of law evolves and develops, could provide a space for looking at alternative ways of dealing with harms in VAWIHR (Gill, 2002;

Smart, 1989). Creating change at the conceptual level of the law allows challenges to ideas such as retribution and, therefore, provides a way to search for other ways of implementing justice.

### *Alternative Responses*

Looking for effective ways to deal with male abusers and the CJS is not only a feminist concern, but also one that penal abolitionists take seriously. This section begins with a discussion of penal abolitionists' thoughts about changing the CJS, and then I combine feminist criminological perspectives with penal abolition perspectives to explore ways to find effective alternatives to VAWIHR.

### *Penal Abolitionism*

The work of the penal abolitionists has meaningful implications for VAWIHR, because it aims to implement a new framework and a new way of thinking about crime. They look for new programs to deal with harms against people that are reparative, focused on individual relationships and in opposition to the current retributive and state-centered responses of the CJS that are punitive in nature (Mathiesen, 2000; Morris, 2000; Snider, 1998).

Penal abolitionists use the retributive nature of the CJS as their starting point to undermine the CJS process that does not consider the context in which the harm occurred. The penal abolitionist perspective questions a state that regularly and routinely inflicts pain upon people, and penal abolitionists deny that the action of crime is the starting point for dealing with conflicts, and they place emphasis on hearing the victim's perspective (van Swaaningen, 2000). They attack the belief that the CJS is neutral, and that other social problems do not influence crime. Penal abolitionists believe that to deal

effectively with harms, the harms need to be dealt with in the same context in which they occurred, and that reactions should be focused on social inclusion as opposed to social exclusion, i.e. prisons (van Swaaningen, 2000, p.139). Penal abolitionists have a deep concern regarding the current state of the CJS and are interested in finding options to deal with harms committed in a way that focuses on hearing the victims' voices and keeping them safe, along with providing support and re-education with a focus on inclusion for the offenders.

Penal abolitionists search for a justice system that does not ask who has committed the crime or what the system can do to punish them, but rather a system that asks instead what has happened since and what do we need to know to deal with this harm more effectively (Moore, 2000). While not having all the answers, penal abolitionists are generating relevant questions, which may create alternative ways of dealing with crime (van Swaaningen, 2000). Penal abolitionists are firm that retribution is not an effective response for dealing with any harm. However, feminist criminological theorists continue to debate the importance of a punitive response in VAWIHR situations. The next section examines the similarities and differences between feminist criminology and penal abolitionism in alternative approaches to VAWIHR and the spaces that open to examine effective ways to respond to VAWIHR.

#### *VAWIHR and the Connection of Feminism and Penal Abolitionism in alternative approaches*

Many feminists call for stronger criminalization because of their desire to highlight the seriousness of the crime of VAWIHR (Hudson, 1998, 2002). At the same time, many feminists believe that the legal system should be a last response for

heterosexual, male domestic violence, as it has not responded adequately to women's reform. Whatever the argument, the CJS has become a primary response to VAWIHR (Lewis, 2004; McMahon & Pence, 2003; Snider, 1990). Snider (1998) writes that criminalization aimed specifically at VAWIHR accomplishes two positive effects: first, it stops the violence temporarily, and second, it has an ideological significance of condemnation through criminal law. This condemnation shows social disapproval, and sends the message that male violence against women in intimate relationships is unacceptable. The message becomes one about women's safety and communicates that violence in the home is wrong. Feminist criminology recognizes the inadequacies of the contemporary CJS, and recognizes that using the CJS to sanction VAWIHR indicates to the public that VAWIHR is a serious issue.

According to Hudson (2002), as long as society offers imprisonment as its most serious consequence, feminist criminological theorists will want VAWIHR to be dealt with in the CJS. According to Snider (1998) locking abusive men away is the only way to guarantee the safety of women in abusive relationships with men. This response rarely happens in VAWIHR cases, and when it does occur, it is only a short period of time before the offender is back on the street, free to terrorize his intimate partner again. However inadequate the CJS responses are, feminist criminological thinkers are critical of alternative responses because, so far, alternative responses have not been able to address issues such as women's safety, power and control issues, and alternatives are not considered serious responses. As a result there is controversy over the use of alternative responses in cases of VAWIHR.

The penal abolition notion of not using imprisonment as a response to harms committed creates a conflict for feminists who want the issue of VAWIHR taken seriously and view the CJS and imprisonment as the only ways of treating VAWIHR seriously. Some alternative responses to the CJS address the issue of scripting in the CJS and allow for fuller discussion of harms committed, which penal abolitionists support. They provide space for the victim to clarify what has happened to them and for the offender to hear how their actions affected the victim. The offender also has a place to speak from his perspective (Hudson, 2002). Intervention in alternative justice systems could possibly be the beginning of a re-education process, as long as the alternative justice system had the authority to send people to programs (Hudson, 2002). Yet, many Aboriginal women in Canada reject restorative justice as a response for women in abusive relationships with men because their communities have not provided the mechanisms that will provide safety for women and children from offenders (Cayley, 1998; McGillivray & Comaskey 1998; Monture-Angus, 1995).

Women require safety when involved in an abusive relationship and the current CJS is not providing this. The only element of the contemporary CJS that penal abolitionists want to maintain is a place to keep the most dangerous offenders away. As Barbara Hudson (1998) states, if the concept of punitiveness is not challenged it will be difficult to end the belief that prisons are the best response for VAWIHR cases. Using both feminist and penal abolitionist theory keeps the issue of the gravity of heterosexual intimate violence against women in the forefront and allows space to look for and examine new ideas and ways of responding to VAWIHR, while bearing in mind the safety of women and children in abusive relationships with men. Specifically, feminist

criminology highlights women's safety, and the importance of showing society that VAWIHR is a serious issue, thus keeping the debate open around the use of the CJS and alternatives that can address these concerns. Penal abolitionists provide a way to examine alternatives by exploring the underlying nature of the alternative responses, and determining if the alternatives are still based on an adversarial or retributive approach rather than restoring relationships, and dealing with the full context of the harm committed.

### *Conclusion*

In this review of the literature, I examined the five responses of justice explored in this research. I explored the front-line workers who struggle with state appropriation of their movement and the recent government policy and funding allocation in British Columbia, which resulted in massive cuts to social programs. I also looked at the current practices for awarding custody that do not consider or fully understand the impacts of VAWIHR on women and children, as well as the inadequacies of the CJS, and examined the problems and desires for alternative approaches. All areas of the literature reveal that VAWIHR is an unresolved issue in society. In the analysis chapters in this thesis, I further scrutinize the awareness that there is not an adequate response of justice to VAWIHR, but first I explore the methodology that guided this research.

## Chapter Three: Methodology

### *Feminist Methodology*

In conducting this research, I chose to use feminist methodology because of its focus on the transparency of the project and on honouring the participants in the research. I felt that in discussing justice and violence against women in intimate heterosexual relationships (VAWIHR) it was essential to be transparent so that others knew exactly how I conducted this research and could make their own decisions on how to use the findings. I also wanted to honour the voices of the women I interviewed because it is their information that allowed me to pursue this research, and without them, there would be no research project. In this chapter, I provide a brief discussion of feminist methodology and then examine the ways that feminist methodology guided the research, the design, the implementation, the analysis, and the write up of this study. Many scholars have pointed out that feminist researchers represent a variety of ideological positions such as liberal, radical, standpoint, anti-racist, etc. (Olesen, 2000; Reinharz, 1992; Tuhiwai Smith, 2002). These feminist positions, some argue, co-exist, respecting and supporting each other, though not always enthusiastically (Stanley & Wise, 1990). In my research, I believe the goals of all feminists are broadly supportive of each other and therefore have taken insight from many areas of feminist research.

Engaging in feminist research provides space to examine new ways of knowledge production, ways to contextualize research, and ways to highlight women's subjective experience. Feminist research that focuses on experiences is problematic because people's experiences are limited, partial, and socially located, however it does provide avenues to knowledge that did not previously exist (Ramazanoglu & Holland, 2002). In

my research, I chose to focus on front-line workers' experiences and knowledges of what happens to women in abusive relationships with men when these women leave or deal with their male (ex-) partners. I recognize that the front-line workers are not the women in abusive relationships with men, but in interviewing front-line workers, I engage the importance of their work, the issues, and the realities they see women in abusive relationships with men regularly face. It is also important for me to state my location in this research to provide the reader a lens for examining my knowledge claims. I am a former front-line worker, and someone who strongly supports the work of the front-line workers. As well, I am someone who is continuously troubled by the criminal justice system (CJS) and society's responses of justice towards VAWIHR. In claiming my location and partial knowledge, and in recognizing that front-line women's experiences are their own, and not those of women in abusive relationships with men, I provide some context for the reader.

Feminist methodology only provides guidelines and ideas on ways to conduct research; there is no one method used in feminist research (Byrne & Lentin, 2000; Olesen, 2000; Reinharz, 1992; Stanley & Wise, 1990). There is a variety of ways to deconstruct traditional research and create new ways to conduct research. Some feminist researchers use conventional methods, and others look for new ways of conducting research. My research uses the conventional method of interviewing with a feminist twist, which provides context to the interviews and honours the participants in the research process.

In deciding the way I wanted the interviews to proceed, I drew from Oakley (1990) who extensively examines interviewing women. In discussing conventional

interview research, she clarifies that there is no discussion of social and personal characteristics of those conducting the research. For example, there is no discussion of the interviewee's feelings about participating in an interview, the quality of the researcher and interviewee interactions, and no examination of the context of the interview (Oakley, 1990). Conventional researchers also try to avoid answering questions from the participants, as they believe their answers might bias the research (Oakley, 1990). This kind of conventional research disregards some information that feminist researchers value, such as discussing what happened in the interviews, for instance including in their research if participants had to stop and gain time to pull themselves together, or reschedule interviews. I used Oakley's approach in this study because it respects the interview participant and allows room for examination of both the physical location of the interviews, and what happened in the interviews, which can affect the answers to the interview questions.

Another element of feminist research is addressing power concerns (hooks, 1989; Johnson Young, 1993; Ramazanoglu & Holland, 2002). The researcher being the participants' employer is an obvious power concern, which is not the case in this research; however, power issues can be as subtle as the researcher's friend choosing to participate because she wants to provide support for the researcher. The issue of power in this research is important because I am the person who conceptualized the research, conducted it, analyzed it and wrote it, and as such, I hold a lot of power in this project. I created questions to which I asked others to respond. My control over both the construction and the interpretation of the research means that I am the one who chose the topic examined, the way I examined the topic, and what I said in the write up. The

participants were not involved in any of these processes. Thus, it was very important to stay true to the women I interviewed, and one way I did this was to use direct quotations from the interviews to highlight the language and the voice of the interviewees (Johnson Young, 1993; Reinharz, 1992) so that my research emphasizes the voices and wisdom of the front-line workers interviewed in this research.

#### *Feminist Methodology as a Guide to this Research*

I chose to explore the idea of justice within the issue of VAWIHR through conducting qualitative semi-structured interviews with five women. These five women self-identified as front-line workers in the area of heterosexual intimate violence against women. There were three reasons that I chose to interview women who worked on the front lines of VAWIHR rather than women in abusive relationships with men. My first reason was an issue of accessibility; I did not have an easy and ethical way of finding women in or leaving abusive relationships with men. My second reason had to do with power. In keeping with feminist methodology, I was aware of the power dynamics (hooks 1989; Reinharz, 1992; Ramazanoglu & Holland, 2002) involved in interviewing women in abusive relationships with men. I decided I would not interview women in abusive relationships with men because this was my first research project, and this thesis will have little direct or immediate value to women experiencing the violence. In this research, I was more interested exploring the concept of justice to see if there are ways to advocate for institutional changes that will improve the responses of justice for many women and not just the women in the interviews. The third reason involved the fact that initially I wanted solely to examine the CJS, thus I wanted to interview people who had encountered the CJS numerous times with numerous women involved in heterosexual,

intimate, violent relationships. Many women in abusive relationships with men may only have had access to the CJS for their personal cases, which could be an isolated, singular experience with responses to VAWIHR. However, I wanted to interview women who had interacted with the CJS several times and thus had extensive experience with the CJS. Although, the research changed from its initial conception, I remained focused on front-line workers because I wanted to interview people who have had numerous dealings with women who have left or are dealing with abusive, male partners.

#### *Finding women to interview*

This study was located in an urban area in British Columbia, in a region where I was not familiar with the services offered to women in abusive relationships with men or with the front-line workers themselves. In an attempt to solicit people to participate, I created a poster advertising the research and asking for participants (See Appendix A). I then emailed and passed this out to my personal, professional and academic contacts. The poster stated the eligibility criteria for participation in the study. I wanted to interview women who have worked on the front lines of VAWIHR for at least five years and are still currently involved. I chose to recruit participants through the indirect method of the poster because I did not know anyone in the region, and because I wanted the women to participate in this research out of their own desire and not because they wanted to help me out (Ramazanoglu & Holland, 2002). It took longer than anticipated to find five women to participate. Ultimately, four women responded to my poster, three via email, and one via the telephone. The fifth participant answered the phone at a location I had called to discern whether I could send an invitation to the organization or not; she agreed to participate while we were talking on the phone. Once the participants were in place, I

had to ensure that my actions ensured the anonymity and the confidentiality I had promised them.

### *Ethical Considerations*

Anonymity was a consideration in this research. Initially, I thought that the site of the research was large enough to ensure anonymity, but upon conversation with some of the participants, it became clear that while the research site was large enough in terms of overall population, it was small when considering the people working in the area of VAWIHR. One participant asked me not to name the location where this research took place. Another woman felt that others might be able to identify her from her comments or her work location. Thus, I decided neither to state explicitly the organizations for which these women worked, nor the location of the study. I will say though that all the organizations the research participants worked in provided support and services to women who were involved with male, abusive partners.

Anonymity was also an issue when phoning the participants. Often, after the women had contacted me, I needed to contact them via the telephone to set up an interview. The phone number they provided for me was often their workplace number, and calling their workplace proved quite challenging. These women are busy and several times, they were unavailable to talk with me when I called. I had to leave messages. My first response was to ask when would be a better time to call, but due to the unpredictable nature of their work, this was not a sound strategy. The result was my leaving a message with my name and phone number, and hoping the women would remember who I was and why I was calling. This strategy worked, and the women called me back and we set up interview times.

In a further attempt to maintain anonymity, I offered the women the opportunity to use pseudonyms. Each woman had the option to choose her own pseudonym, but only one woman did. One woman was not concerned about a pseudonym, but I provided her with one anyway. Her name was unusual in the area where I did the research, and I felt that readers of the research would be able to determine the location of the research if they were familiar with her, which would affect the anonymity of the other four participants. I refer to the five women interviewed in this study as, Kim, Brita, Jordan, Heather and Barb.

Confidentiality, another ethical consideration, was easier to ensure. I was the only person who read the entire set of transcripts or heard all the audio recordings. My roommate listened to a few portions of one interview, which I had some trouble transcribing. The particular participant had previously granted verbal permission for my roommate to listen to her interview. In addition, my thesis supervisor read some of the transcripts in order to help guide the analysis, and, again, the participants were aware of and consented to this. I further ensured confidentiality in these interactions by only using the women's pseudonyms, as their real names appear only on the permission forms for participating in this research which are in a locked filing cabinet.

Sending the transcripts back to the women is a practice that is sometimes encouraged in feminist methodology. I chose not to send the transcripts to the women I interviewed. I made this decision in the interest of not extending the time it would take to finish my thesis. I feel that not handing the transcripts back to the interviewee's is ethically acceptable because I did not promise the women that they could read their transcripts, nor did they request to read them.

One final ethical consideration was that once I conducted the first interview, I felt that I must finish this research in order to honour the women who participated. I became extremely aware of the generosity of time and knowledge that these women voluntarily shared with me. I believe that each of the five interviews is a gift to me in accomplishing my master's degree, and expanding my knowledge in the area of VAWIHR. I hope that this will benefit others.

### *The Interviews*

The interviews took place at several locations: three of them took place at the woman's place of employment; one took place at the woman's home, and one took place in a non-worksite office. The interviews were private, and no one else was present. Each interview was unique. The interviews varied in length from just over half an hour to well over an hour. I spoke to each woman and we mutually agreed on locations. One participant and I had a difficult time setting up a location, and a time, and we cancelled the interview twice before we could meet.

Prior to conducting the interviews, I let each woman know she had the option of participating and that she could decide to opt out of the research process at any time. The women all signed the consent to participate letter that is required by the University of Victoria and all have my contact information (see Appendix B). Once I took care of the formalities, it was time to start the interview itself.

Each participant spent different amounts of time on each of the questions. I structured the questions in a way to open up the research and to encourage the women to talk about their work. I did not intend for the questions to elicit specific information for

analysis but rather to provide a guideline for the women to speak about the concept of justice, without directly telling me what they thought justice was.

I asked the participants the same set of four questions with varying prompting questions, and active listening responses, such as “hmm”, “uhuh”, etc. The primary and secondary interview questions and the reasons for asking the questions were as follows: I created questions one and two to be open-ended questions that encouraged the women to explain, in a broad manner, the work they perform. The first question was,

1. Can you tell me what you do in your job? Secondary questions: how do women come to see you and what happens to women here and what happens from here? Can you give examples?

The second question was,

2. What is most important to you about your work?

Question three asked the women to think about potential alternatives to the current CJS response, and was included because of my direct interest in searching out other ways to respond to VAWIHR. Indeed, while this question addressed the issue of alternatives directly, it became evident from all the questions that responding to VAWIHR was complex and there are many ways of providing assistance. The third question was,

3. Are you familiar with alternatives to the criminal justice system? Can you comment on them?

Question four was a way to open the door for the women to say anything they would like to say about justice that the other questions might not have elicited. Some of the women said a lot while others did not say very much at all. This question gave women time to

pause and reflect on what they said and to add more if they felt it was necessary. The fourth question was,

4. As you know, this research is about justice, so is there any thing else you would like to say related to that?

The questions did not specifically ask the women what they thought justice would look like, but I asked them to keep the concept of justice in their minds while answering the questions. Keeping a definitive definition of justice out of the interviews provided space for the participants to answer the questions according to their own views and ideas, without requiring them to use my definition of justice. Although the intent of the questions was not to be directive, during analysis it became obvious that the questions did in fact structure the women's responses. While their opinions differed, the women answered the questions in their individual interviews correspondingly by focusing on similar subject areas and work practices in the same questions. The fact that my questions were more directive than I thought shows me that in the future when I do interview research I will have to be extremely clear with myself about what I think the interview questions accomplish, and how the construction of the questions affects the knowledge gathered for the research.

During the interviews, most of the participants asked for the definition of justice, commented on something they felt was most certainly a justice piece, or asked if they were on track. There was a desire to know how I defined justice. I think this was important to the participants because they wanted to be helpful, as one of the participants, Jordan, said, "... can you just remind me [of] the question. I want to be... as close as possible." Every time an interviewee asked a question about justice or something else I

answered openly and honestly (Oakley, 1990; Reinharz, 1992; Ramazanoglu & Holland, 2002). I informed them that justice was wide-ranging and encouraged them to keep talking about their work and other issues they felt were pertinent.

The interviews were not as interactive as I had hoped. Most of the women did not know very much about the study or my background. Only one participant and I had a small conversation about what I was hoping to accomplish by conducting this research. Prior to the interviews, none of the women were aware of my background as a former front-line worker. This was partially intentional. I was nervous that disclosing my background would undermine the research process, and that the front-line workers would assume that I shared certain beliefs with them and thus would not explicate precisely what they were saying. However, once the interview was finished, the participants and I often chatted for quite a while. These conversations were fascinating and it was here where I felt a real connection with some of the women I interviewed. I let them know about the work I had done and we discussed various topics. In retrospect, I suspect that identifying what I had done prior to being a graduate student would have been helpful in rapport building. Rapport building leads to trust, and in at least one interview, I feel that if the woman had known more about me, she would have been more open and expansive in her responses.

At the end of the interviews, I thanked the women for participating and encouraged them to contact me if they desired. At the time of writing, I have not heard from any of the participants again. In two instances, I indicated I would find some information for the women and pass it along to them. I followed up, completed those tasks, and moved on to the rest of the thesis process.

### *Transcribing the interviews*

Once the interviews were completed, I embarked on the long and arduous task of personally transcribing the interviews verbatim. I transcribed the “ehms”, “ahhs”, the times the telephone rang and when there was laughter. I wanted the transcriptions to be as precise as possible, so I could have a full set of data for analysis. In the end, for inclusion in the thesis, I decided to edit the participant’s quotations used in the analysis section to make them easier to read and understand in the context of the written word. I removed all of the “umms”, “ahhs”, and repeated words. However, I did not change the women’s language or the content of the quotations, as I feel that their voices need to come through in this research. Using the women’s language in the quotations explains the awkward sentences that remain in some of the quotations. Once I finished transcribing an interview, I did a final listen through to catch errors in the transcription. After the transcripts were finished, it was time to dive into the data and locate the themes that were in the interviews.

### *Data Analysis*

The data analysis borrowed the process of looking for themes in the data from grounded theory, and here I relied on the work of Kirby and McKenna (1989) in the book titled Experience, research, social change: Methods from the margins. The data analysis also involved finding patterns, providing form, and finding a way of transferring the seventy pages of transcripts into a form of knowledge (Ramazanoglu & Holland, 2002). As this was exploratory research, the initial question posed to the data was, “What is being said in these interviews?” I was really trying to examine the interviews and let themes emerge with as little direction from myself as possible. The themes emerged

slowly, and I compared and moved quotations in and out of themes when I determined that they no longer fit in the themes in which they were in (Kirby & McKenna, 1989). I moved the quotations in and out of themes until each theme reached a saturation point, which was where the addition of more information did not add something new to the theme (Kirby & McKenna, 1989, p. 138).

In order to look for themes, I read the transcripts three times and wrote out what I thought the potential themes were. After the three readings, I took my pencil notes and conglomerated them into sixteen themes.<sup>3</sup> I then created these files on my computer and began to copy and paste information from the transcripts into the separate files, using colour coding, and ensuring that I knew if a quote or piece of a quote was in another file, as well as where each quote fit in its original transcription file (Kirby & McKenna, 1989). Once I had done this initially, I read the files again, and as I did, some of the themes merged and I realized that some of the initial themes were not themes. In the next several reads of the files, I tried to create sub-categories within the themes and when something did not fit into a theme anymore, I moved it into another theme, until I ended up with the seven themes<sup>4</sup> that were the basis of the rough draft of this thesis. Unfortunately, I was still unclear as to what the story was in the data. However, once the rough draft was finished, I re-read all the original transcripts. This was a check for validity to ensure that I had included all the relevant information from the interviews. I believe I included all the relevant information; I was just unsure as to what the story in the data was.

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<sup>3</sup> The initial sixteen themes were: complexity, medical, healing, men's responsibility, minority and First Nation's women, government, justice, support, change, children, alternatives to the CJS, education, women, importance answers, criminal justice and jobs.

<sup>4</sup> The seven themes in the rough draft were support for women leaving or involved in a violent relationship, realities of government funding and policy, consequences for abusive male behaviour, navigating the CJS, support for CJS intervention, concerns about CJS intervention, and alternatives to the CJS.

In my rough draft, my committee members indicated that I was just short of saying something important and that I needed to explore the data a bit more. Dr. Pamela Moss suggested I use the term 'practice of justice' to describe the themes, as they were about justice responses to VAWIHR. This was a turning point in the analysis. The seven themes in the rough draft led me to the following five practices of justice that I examine in this research: front-line workers; government policy and funding allocation; custody practices; the CJS; and potential alternative responses. The next moment of clarity came when it became extremely clear to me that justice in this research was about responses to VAWIHR, but I still was not sure what the story in the data was. Eventually, I pretended that the data had been handed to me and my job was to answer the following questions, what does this data say specifically about the responses of justice to VAWIHR in British Columbia and how can we apply the answers of the previous question when constructing alternative approaches of justice to VAWIHR? These two questions highlighted for me that the story in the data was that the contemporary responses in British Columbia were not meeting the needs, realities, issues and contexts of VAWIHR. At last, I settled on the role of my thesis as being simply to document the areas where current practices of justice are inadequate. Thus, the story I tell in this research is how the five practices of justice are inadequate responses to VAWIHR. I believe that knowing the ways the current system is failing will help people to find better solutions for justice response to VAWIHR.

At this point, I want to make a further methodological observation on the power of the researcher and data analysis. While I honour the front-line workers' wisdom, and voices, all the women I interviewed may not fully support my findings about the

inadequacies of the system. At the data analysis and writing up point in the research, I chose how to make sense of and how to present the information in the interviews. The questions I asked the data were mine, and were not necessarily the ones the participants would have asked, but it is their words and wisdom, along with my theoretical location in feminism and penal abolitionism that led me to those questions. However, I do base all my arguments on the information shared with me by the front-line workers in the interviews.

While I acknowledge that I did the analysis from my own perspectives and theoretical location, I want to make it exceedingly clear that I did my best to stay true to the words of the women interviewed. I ensured, to the best of my ability, that I used the quotations in this research in the context of what the women said to me. In discussing the ways I approached, created, conducted, and analyzed this research, I attempt to be transparent about the major decisions of this research and provide a way for the reader to make their decisions about the validity of the research. Transparency includes acknowledging the limitations of the research.

#### *Limitations of the Research*

I believe this research is valid, but I am aware that there are limitations to this research as there is to all research. This research is limited in the following ways: it is exploratory, it is based on front-line workers' experiences and knowledges, and it does not offer a complete analysis of racial inequalities as they relate to practices of justice and VAWIHR. I started this research project with the intent to explore the concept of justice as it related to VAWIHR. I intended for the research to expand on the conversations of

justice, and provide people other ways of looking at justice. I think this research expands the conversation on justice, and that is all it can really claim to do.

I only spoke to five women in one specific location in British Columbia, and can only state that this research is small, exploratory and only relates to British Columbia because actual responses do vary from province to province. However, I think that this research is still useful to other provinces because it can provide starting points for other provinces to explore the five practices of justice in their province. This research is potentially helpful on a federal scale as well because it supports and expands the literature about the inadequacies of the systems, and this information is useful everywhere especially in the CJS as it is a federal system. My findings may suggest locations for both provinces and the federal system to examine the practices of justice available.

One major limitation of this research is that I did not specifically take up racial issues. I wanted general information about justice and VAWIHR; and therefore, the participants spoke about some racial issues in response to my interview questions. I did include the responses on women of colour and Aboriginal women in the analysis section. As well, I included an additional section that discussed some of the specific struggles and challenges justice responses create for women of colour and Aboriginal women. There is a lot of literature on the CJS and its racist response to women of colour and Aboriginal women (Razack, 2002, Monture-Angus, McIvor & Nahanee, 1998; McGillivray & Comack, 1998). I think that conducting research similar to this research with a focus on racial inequalities would add deeply important information to the expansion of the

concept of justice, and the specific barriers women of colour and Aboriginal women face when engaged in practices of justice for reasons of VAWIHR.

### *Concluding Thoughts*

Feminist methodology guided this research. As such, in this chapter, I attempted to be transparent about the research and analytic process, and was clear that my intent in conducting this research is to locate places of improvement in the current practices of justice as they relate to VAWIHR. In the next two chapters, I use the words of the front-line workers to explore the five practices of justice I identified from their interviews, and the ways in which each practice of justice does not meet the issues, realities, and complexities of VAWIHR.

#### **Chapter Four: Practices of Justice – Front line workers**

This chapter and the next comprise the analysis section of this thesis. In these chapters, I use the words of the women I interviewed to explain and support my claim that in British Columbia the responses of justice to violence against women in intimate relationships (VAWIHR) are inadequate. I use the word 'inadequate' purposely to expose the system for generally failing to meet the needs of women who are in situations of VAWIHR. The reasons for these failures are complicated and at times contradictory. VAWIHR is a human interaction and plays itself out in the full range of and with the full complexity of human interactions. It is therefore the case that aspects of the current practices of justice benefit some women while disadvantaging others, inevitably exposing the different treatment of women depending on race, class, disability, etc. My analysis probes these inadequacies and challenges all those involved in the responses of justice to think about and to create a more dynamic system that can accommodate the diverse and unique needs of the diverse and unique women embroiled in VAWIHR.

I have come to my position that the practice of justice relating to VAWIHR in British Columbia is inadequate based on my analysis of the interviews conducted for this research, from my theoretical background of feminist criminology and penal abolitionism, and from my desire to understand justice as it relates to VAWIHR. The individual front-line workers did not necessarily state specifically that the responses of justice were not working, but they all pointed out, and commented on the ways women in violent relationships with men were continuously placed in difficult situations when engaged with justice responses.

My two analysis chapters examine the five practices of justice I found in the interview data. Chapter Four analyzes the first two: front-line workers and government policy and funding allocation. Chapter Five analyzes the closely linked issues of custody practices and the criminal justice system (CJS), as well as alternative responses to VAWIHR.

I recognize that this research is exploratory and that it does not propose remedies for these areas of inadequacy. Rather, my research indicates vantage places for other researchers to look for and evaluate potential new responses of justice to VAWIHR. Furthermore, I do not claim that the current responses should be eradicated but agree with Smart (1989) who argues that feminists should be careful about moving towards creating more law and that there should be a solid understanding of the law and how it takes up feminist reforms.

This chapter begins with a consideration of front-line workers as a practice of justice and examines the importance of their roles. Later, I turn my attention to government policy and funding allocation and to the effect that this second practice of justice has on women in violent relationships with men and how policy and funding limit the front-line agencies in the area of VAWIHR.

#### *Practice of Justice – Front-line workers*

In the five practices of justice that I explore in this thesis, front-line workers are the only practice of justice that developed organically as a direct response to VAWIHR. In fact, the other practices only began to respond to VAWIHR seriously when front-line workers demanded that society start taking the issue seriously. Front-line workers are the practice of justice that deals with and supports women who have violent, male (ex-)

partners. In my own experience and in my interviews, I found that front-line workers put the women first and do everything they can to make the process of dealing with an abusive, male (ex-) partner easier for women. Women and children's safety are the priority for front-line workers. This section examines the ways front-line workers respond directly, and the importance of responding directly to the multitude of issues women with abusive, male partners face.

The literature shows that women leaving abusive, male partners face many issues and that these women rank front-line workers as their preferred response (Gordon, 1996). Women leaving and dealing with abusive men often face emotional factors such as fear and loneliness, in addition to their physical needs such as the need for safe housing. The situation for women with children is even more complex, and all of these issues require emotional support (Lutenbacher et al., 2003; Tutty, 1996). My interviews clearly documented the difficulties women face when leaving their abusive, male partners, and the crucial role front-line workers perform.

One of the most obvious ways that front-line workers play an important role in their clients' lives is by providing for their necessities whenever possible. Front-line workers also provide direct physical support for women involved in or leaving abusive relationships with men. Jordan highlights one way she can provide concrete physical support for women with abusive, male partners.

**Jordan:** I don't have too much money but two, three hundred dollars for some situation[s]. I can ... help. My voucher twenty-five dollars to [the grocery store] or fifty dollars to [the grocery store] ten maybe and those are things which I go the same day, or next day if I get called and ... provide the support.

Women and their children need to eat, and while Jordan's intervention is only short-term, it highlights the importance of financial stability in the area of VAWIHR.

In addition to meeting the physical needs of women, another area where front-line workers have always provided important support is the area of education. Front-line workers help women navigate the variety of issues in VAWIHR. In the interviews, it was clear that the front-line workers saw themselves as helping women in abusive relationships with men understand their own abusive situations, and taught, for example, about financial realities and methods for healing.

Kim illustrates the importance of providing a framework for women to understand VAWIHR and the ways the violence affects them.

**Kim:** I kind of refer to [support groups] as Abuse 101.[laughs] ... it [is a] key component of what any woman who's experienced abuse should probably[know], [to] begin to understand and learn about the dynamic [of abuse], to validate their experience and for them to understand ... that they're not alone in this. It's an epidemic. ... Then offer some opportunity to ... have a place to just talk and discuss and just disclose in a safe trusting environment, to know that they're not alone and a lot of women I think get a lot out of that group.

Brita also comments on women's lack of understanding of the effects of violence and the ways that lack of understanding can affect their decisions.

**Brita:** But, they are struggling with [the abuse] and sometimes they haven't really realized the impact of their own abuse because [their] self-esteem has been beaten down, and they often think they deserve a lot of what happened and so they're still wiping out or setting aside what happened to them and they're thinking my child's still going to need a father. And they're also thinking that [their children need a father] because society has told them that all their lives.

VAWIHR is complex and not all women live through the same experiences of violence or react in similar ways, but support groups and front-line workers can provide ways for women to begin to understand their experience of violence and the effects it has on their lives. These new understandings can help women deal with their abusive, male (ex-) partner. Women's possible lack of understanding about the effects of violence highlights that it may be difficult for women to leave if they still believe, for example, as Brita says

that children need a father. As is evident in the discussion of this section, front-line workers are instrumental in helping people and women in abusive relationships with men understand that the most relevant question is not “Why doesn’t she leave?” (Comack, 1998, p.107) but rather “How could she leave?” (Se’ever, 2002, p. 318).

Front-line workers also act as guides for their clients when it comes to the relationship between education and class realities. The ability to financially support themselves definitely affects women’s decisions to leave or stay in an abusive relationship with men. Barb believes some women stay in abusive relationships because they do not believe they can financially support themselves and their families.

**Barb:** I believe that a lot of ... women get stuck in abusive relationships [because of] economics. .... [T]hey don’t believe that they can support themselves ... that they can support [their] family. And so, they stay a lot longer [in the abusive relationship] because of that fear ... or they get back into or they get into numerous abusive relationships.

Access to economic security plays a large role in women’s decision to leave abusive men, and this situation is complex because violence affects learning, and since education is linked to women finding a career, violence affects women’s ability to find financially secure employment (Smythe & Niks, 2003).

**Barb:** [T]he connection between those two things, how violence affects learning, and affects employability... I think is a really important connection to help the women get and also to see that if they can get some really solid support around learning they can actually change.

Barb provides an example in her work of the transformative power of learning. She saw women learn concepts that they had never understood before and this helped women to believe in themselves.

**Barb:** And the women would start to do math and they would do math in a way where they started to get the concepts. And I saw women transformed by the fact that they could understand fractions. [It] meant that their whole lives changed. ...

[I]t's like this domino effect, if I can understand fractions then I can ... then maybe I'm not stupid. Then maybe I can go back to school, and then maybe I can become this dream whatever it was that they thought they had wanted to be at one time in their lives.

The educational component of Barb's work highlights the importance of education in helping women find adequately paid employment. Thus, the provision of more formal education is important in helping women leave abusive relationships and find ways to live without relying on their abusive, male (ex-) partner for economic support.

In addition to providing essential physical support for and acting as guides for women, front-line workers also provide programs aimed at healing. Kim discusses a healing group she co-led where the focus was on learning ways that women could care for themselves.

**Kim:** I did a group for women who left abusive relationships. ... I co-led it ... [I]t was a holistic health and wellness group. [I]t was a way of looking at healing and health ... and ... personal growth through health activities and ... we did pottery, we did yoga, [we did] meditation, we did strength exercising and ... we went to a spa one day. We did a lot of different things that were outside of just the talk therapy.

Jordan discusses a different type of healing program for women with violent, male (ex-) partners.

**Jordan:** For us [this art project] is representing [the] healing process, because when wom[en] [do] art therapy ... they are thinking about the main message about love and the relationship, and the surprises, and [the] hope ... how we are able to heal and leave behind, and be not ... destroyed by the situation and not lose hope again ... depression is not the solution but to go to the next step and that's what the [art project] will be about.

Women in abusive relationships with men credit extended long-term post-shelter support programs, such as the two mentioned above, as the main reason they did not return to violent partners (Tutty, 1996). These healing and on-going programs offer crucial supports in helping women stay out of violent relationships as they provide emotional

support and expose women to techniques of caring for themselves. Helping women care for themselves and find new ways of coping highlights that front-line workers are concerned directly with the women's needs and with helping women find their own strengths and the courage to move on with their lives.

In addition to helping women in abusive relationships with men, front-line workers have to understand the individual and social contexts of these women's lives in order to effectively support them (Gordon, 1996). It is clear that front-line workers are strong advocates for women with abusive, male (ex-) partners because they have learned and thought deeply about their clients' lives. Kim, for example, speaks about the role of fear in situations of VAWIHR.

**Kim:** ... that's when it's difficult to decipher between when is it about her being afraid and when is it about her actually making her own personal choice that this isn't what she wants? I think that's the struggle spousal assault workers come across ... And they're trying to figure out, ...where's this coming from. Cause' their job is to also educate too, you know "This isn't your fault. [Y]ou're not responsible for this ...". That kind of thing.

In order to help women deal with the issues that face them front-line workers need to know the role fear plays in women's lives. Jordan, for example, understands that women are afraid that she, Jordan, has the power to remove their children from their care. Many women do not understand that Jordan's role is to help the women cope in order to prevent the apprehension of their children.

**Jordan:** I [am] not afraid to knock [on] the door and share what I am doing. ... [Often] the family is extremely reluctant and they don't trust me. ... [T]hey may [be] afraid [that] I deal with social services and [are] afraid ... that the social worker is going to apprehend the children. That's why my job is to support them with their plans. ... [Perhaps] eventually [I can find them] some extra child care worker ... or tak[e] them to [the] doctors ... everything will be possible to improve their life in just little [ways] ... and [if they] believe in themselves they can do it. If they cannot, of course, I will connect them with the support worker if necessary.

Jordan and Kim show that understanding the contexts of women's lives is crucial in providing the necessary kind of assistance women in violent relationships with men require. The contextualized response of front-line workers, in their direct response to VAWIHR is important. It addresses Se'ever's (2002) re-writing of the question "Why doesn't she just leave?" to "How could she leave?" (p. 318) and shows some of the ways front-line workers address the barriers women face when leaving a violent relationship with men. While the above section shows the significant work and knowledge of front-line workers, it does not show ways in which their response is limited and incomplete for the issue of VAWIHR, and it is to those limitations that I will turn next.

*Practice of Justice – Government Policy and Funding Allocation*

Front-line workers, as noted above, are the only justice response discussed in this thesis that started as a direct response to VAWIHR. The front-line movement was initially a grass roots movement with women volunteers who advocated for social change (Armstrong, 2001; Faith, 1993). Front-line workers as a practice of justice are not a practice that is imbued with government power the way the other practices of justice are, and because of that lack of power, front-line workers are limited in their response to VAWIHR. Often a large part of their work is supporting women emotionally and physically to deal with these other systems. This section shows how front-line workers' responsibilities for guiding women in abusive relationships with men through government systems limits their justice response, as does the provincial government policy and funding allocation.

In general, and more specifically, government policy directs all the other practices of justice in this research. Front-line workers spend a lot of time helping women in

violent relationships with men navigating government systems that are not always responsive to the realities of VAWIHR. Kim comments that a large piece of her work is helping women figure out where they should go to seek help.

**Kim:** [A] big piece too, is just kind of pointing women in the right direction. Also, kind of letting them know what the legal aid system is about and ... how women can access legal aid. And ... what some of the criteria are.

Kim expands on this and discusses the myriad of options that face women leaving abusive men and her role in helping women find the best justice response for their situation.

**Kim:** The other thing is no contact orders and restraining orders ... it comes up in our groups where we're telling women what they need to do to go get a restraining order, how to deal with harassment. So, as far as if he is tracking or stalking, what a woman would need to do to help herself within the context of the criminal justice system. [I tell the women] you need to document [what is happening], you need to call an officer, you need to make sure that you've done this and this. ... [K]ind of ... giving them the steps to help them empower themselves to make sure that they're protected.

Kim comments that she can rarely provide one solid answer for women when she is guiding them through the other practices of justice.

**Kim:** I don't think I ever have one ... straight answer. I'm always kind of ... straddling the fence [laughs].

The multiple options and the varied responses of each practice of justice limit front-line workers' ability to respond to women's needs and realities. Brita highlights the tension between helping women realize they deserve to live lives free from violence and helping them navigate through the various systems.

**Brita:** We're trying to help them see that they deserve to be safe and that their children deserve to be safe. But, when we have to deal with the ministry, housing systems, laws and courts and all that, there's no really easy-to-understand information.

Front-line workers are trying to help women navigate systems, maintain their safety, and yet the information they have is not always easy to pass on to women involved with violent men, and the responses of the other practices of justice impacts the ability of the front-line worker to assist women with living violence free lives.

The responses of justice are complex and numerous, and front-line workers do their best to provide accurate information to women in abusive relationships with men to make their interactions with the other practices of justice less overwhelming. Heather said that one of her roles was to provide support and information for women about the CJS.

**Heather:** I explain to them what service I'm able to provide to them. It's primarily giving them information about cases before the court or if it's about to come into the court system. [I can] [p]rovide them with updates on what's happening, information about community resources, information about different procedures that take place in the court system, applications, bills, you know to change bail all kinds of things. And then if the case is set to go to court, if it's set for trial then I'll assist them in going to court. I'll help them prepare and go to court with them.

In this role Heather's response is completely directed and dictated by the rules and procedures of the CJS, and yet having someone in that role provides essential guidance to help women deal with the CJS and its expectations of them. As discussed above, front-line workers do not only have to contend with government systems, they have to deal with changes in government policy and funding. These changes can result in the funding cuts to programs or new government policy that changes the ways issues are dealt with, and this can make it difficult to support effectively women in abusive relationships with men.

In 2001 the people of British Columbia elected a Liberal party to power under the leadership of Gordon Campbell. This government instituted tremendous cuts and program changes to the public social safety net. The front-line workers in this research discussed

the impacts these cuts and policy shifts had directly on women in abusive relationships with men and on the resources available to these women. Front-line workers want to end VAWIHR (Brown & O'Brien, 1998), but are limited because of constraints placed on them by government policy and funding cuts. The situation is even more complex because the government funds many of the front-line agencies and thus the workers are limited in their ability to advocate against unfair government policies (Faith, 1993; Se'ever, 2002). The Liberal government's policy shifts, funding cuts, and reallocations impact the level of service front-line workers can offer and ultimately affect the physical bodies of women in abusive relationships with men.

For example, as discussed briefly in Chapter Two, in 2001 the Liberal government in British Columbia revamped the *Employment and Income Assistance Act*, and it is now harder than ever to access social assistance. In addition, the social assistance staff was cut back and now applicants call a toll-free number to set up an appointment (Creese & Strong-Boag, 2005). It can take weeks to set up an appointment, and after the appointment, the applicant embarks on a three-week work search. If the applicant is unsuccessful in finding work and approved for income assistance, they must wait another three-weeks until the government issues their cheque (Creese & Strong-Boag, 2005). The new income assistance act may result in more women staying with abusive, male partners because economic dependence on a partner is a determining factor for women remaining in abusive relationships with men (Lutenbacher et al., 2003; Morrow et al., 2004). Staying with abusive, male partners can result in more bruises and broken bones for women as well as affect women's hearts and souls. Barb shows the importance of economic security for women deciding to leave an abusive relationship.

**Barb:** [O]nce women get it that they actually can support themselves and actually have meaningful work and actually take care of themselves, then that whole piece of being with an abusive partner just falls away. And they're much better able to make decisions for themselves that are healthier.

The impact of changes to income assistance makes it harder for women to stay out of abusive relationships with men because they cannot financially support themselves. Yet, accessibility to more income assistance is not necessarily the answer either, as the pay rate is meagre and women remain in poverty while on it.

**Barb:** Particularly middle-aged women or maybe older women who had children and the children are grown and now they're trying to live on, I forget what incredibly horrible amount, 550 dollars a month with very few services to help them out. I think poverty is probably the biggest issue.

The Liberal government in BC, based on neoliberal ideology, took funding away from and revamped the accessibility of income assistance in an attempt to make people responsible for their own lives (Martinez & Garcia, 1997). One result of the policy shift is that by focusing on individuality and not on social supports, fewer women in abusive relationships with men can access income assistance and thus support themselves, and even if they could, they would not be able to live on the amount of money available to them. This forces some women into a situation of living in extreme poverty, regardless of whether they receive income assistance or not, or remaining with their abusive, male partner in order to have access to food and housing.

Women in abusive relationships with men, especially if they are in financial difficulty, may have a difficult time accessing safe housing. Locating housing is exacerbated by a housing shortage in British Columbia. In the 1970s and 1980s there was a building boom in cooperative, non-profit, and Aboriginal housing and even with that increase, one person in ten was still unable to find adequate housing (FWCBC, 2002d).

Since 2001 the situation has become more severe as the Liberal government froze funding for building subsidized housing (FWCBC, 2002d), and recently Vancouver, British Columbia's largest city, has declared a housing crisis (PIVOT, 2006). Jordan discusses the housing resources available for women who are leaving abusive relationships with men. Women without young children and/or a disability are not eligible for subsidized housing.

**Jordan:** The difficult part for [a] single woman [is that] she's not eligible for low income housing if she ... [does not have a] disability. That's why she is basically on her own. That's the part [that] is very difficult because if she is on social assistance ... she gets five hundred twenty dollars to find a place and survive. [That] is very difficult. That's the gap, which I think our system is hinging [on]. Single woman not being on disability and the children are gone. She's fifty, the children are gone... she's not able to find a job at the moment because she finished raising the children and is now [wondering] what else, you know? ... [S]he's not eligible to find subsidized housing because [there is] no place for ... [her]. ... [M]om[s] with children ... [are] eligible for priority placement ... Priority placement is this procedure which [gives] families ... extra points to get sooner ... the low income housing, subsidized housing, which is quite important ... [priority placement] speeds the process.

Front-line workers are limited in their ability to assist women finding housing, especially if the women do not fall into the criteria for priority placement, because there is a housing shortage. Due to the government policy and funding allocation, women in abusive relationships with men have fewer options than before and thus more women stay with their abusive male partners for many reasons, one of which is their inability to find safe housing.

*The impacts of government funding and policy on front-line VAWIHR resources*

This next section examines the impacts of the Liberal government's cuts and policy changes on the front-line agencies, which results in fewer and less encompassing support for women. Barb's agency, for instance, had to compete for funding, and it had to

provide a per participant cost in the funding application. Every woman served, therefore, became worth a certain amount of money to the agency.

**Barb:** [I]t was a very difficult thing. So, when we did get the contract it meant that every single person in that program became worth a certain amount of money to us. Which you can imagine really shifts the emphasis of the program, and you know we worked really hard to not have it shift that emphasis, but it can't help but affect you.

The agency reduced its programs because of the competition for funding. Previously, the agency offered the program in one long instalment, instead of the previous three instalments where women could select when they entered the next stage. The funding cut, which resulted in the program change, also resulted in women not being able to complete the longer one program instalment.

**Barb:** A lot of women just couldn't handle it. It was too much or things would come up in their lives [and] then they'd lose the whole program and they'd have to start back at the beginning.

Barb's agency, due to funding cuts, had to adjust the way they offered their services and this resulted in creating a program that many women could not complete.

Furthermore, the Liberal government's funding cuts to resources makes it impossible to implement some policies properly. Heather speaks to the difficulty of implementing a policy when faced with a resource shortfall.

**Heather:** [Some] things that are difficult about the policy are providing enough resources to implement it. You know to make sure that it's properly implemented and that's very difficult. ... Because we're all stretched and there's been cutbacks; tremendous cutbacks. And that's affected many situations ... [of the] many women that come to see me.

The Liberal government's funding cuts undermine the implementation of pre-existing policy, and as a result, women in violent relationships with men have fewer resources to turn to for help.

Currently in British Columbia, services for abusive men exist only after the violence, which makes it difficult to prevent male violence against women. Kim is frustrated that funding for men's programs falls into the area of corrections, which is neither preventative nor collaborative with women's services.

**Kim:** I think its saddening that ... mens' treatment is this thing that gets pushed off to the side. That there's no provincial funding, well there's provincial funding that goes into it but it doesn't come under the same ... funding source. It doesn't come under the same ministry. ... It gets shoved under the corrections you know once the guy has fucked up. Sorry about the language [laughs] but once he's screwed up and he's going through the court system, oh then we'll give some money to it. So, its all intervention funds. ... [T]here's no provincial support around prevention of men's violence in the same way that there is towards women. And I think that's sad. I think that truly to address this problem, it need[s] to be more connected, they need to be supported more. ... more so together than separating them [men and women's issues] and putting them as individual things.

Addressing VAWIHR by isolating men and women's services does not address the whole picture and cannot stop or prevent the violence (Morrow et al., 2004 ; McMahon & Pence, 2003).

One part of a coordinated response would include violence prevention programs.

Brita speaks about a previous provincial government that funded violence prevention programs in high schools.

**Brita:** When we had the NDP government, they started to put in programs in high schools and it was about ... dating violence, date rape. It was preventative. That's really important. We should never pull away resources we have now [as] there are too few already for women who are ... being abused. But, we need to ... spend more money, get it from somewhere else [laughs] and put it on prevention and raising awareness.

Government funding awareness and prevention programs would be part of a coordinated approach, which would help reduce violence and show that VAWIHR is not acceptable behaviour.

Not only are programs for men only available after they commit violence, the British Columbian Liberals also shifted the delivery method of men's treatment. The government changed the approach of men's treatment programs. The government now funds men's treatment programs based on a universalized, standardized system of delivery in British Columbia and not on a community-by-community basis as was done previously. This change in policy, according to Kim, resulted in good programs being eliminated along with weaker programs.

**Kim:** So, what [the government] kind of said was well we want to universalize and standardize the delivery of the service across the province and you know if you look at it in terms of you know [name of city deleted] being the Cadillac, that's great but you know [name of city deleted] has a Datsun or whatever [laughs], right. Like, so, they weren't happy with the fact that ... the rest of the province didn't have the same quality of program ... unfortunately ... [the good programs] got tossed out at the same time.

The policy shift resulted in probation officers offering services to men, rather than counsellors offering those services. Although Kim highly regards the person who trains the probation officers on VAWIHR, she questions the amount of time and support probation officers have to provide women who are dealing with their abusive, male (ex-) partners in the probation treatment program.

**Kim:** [S]he'd probably ... have contact with spousal assault victim support workers, which is very positive. But, she doesn't have that ongoing contact with the probation office to say, "So, how are things going?" and they don't have a detailed interview that they do with her. ... I don't think they have the resources to sit down and be able to do as an extensive amount of understanding of where the woman's at and what's been going on for her, as [community agencies do].

This policy shift away from community agencies offering services for men to probation officers doing the work is not necessarily negative, but it does make for one more move towards the isolation between women's and men's services in VAWIHR. The policy shift in men's programming is also indicative of the government's move towards funding

crime-based services, which are only available if someone reports the abuse to the police (Morrow et al., 2004). The consequence of the government's funding of crime-based services is that no provincial government funded services are available for abusive men unless the CJS is involved. The move towards crime-based funding for abusive men means that women who do not report violence to the police will not even have access to services that might help their violent male partners change. This can affect Aboriginal and other racialized groups in particular as the literature tells us they do not report violence perpetuated against them. Aboriginal and other racialized women do not report violence to police because they often receive a racist response from the CJS (Flynn & Crawford, 1998), and because their community perceives reporting violence as bringing forward an inter-community problem (Razack, 2001). Many Aboriginal women live in rural areas with limited police presence and only the most serious VAWIHR cases are prosecuted (McIvor & Nahanee, 1998), thus leaving many Aboriginal women unprotected. Aboriginal and other racialized women who do not contact the police are placed in the perilous position of continuing to live with and experience the violence because they fear the consequences the response of justice brings more than living with an abusive male partner.

Government policy and funding allocation as a practice of justice has a long way to go in BC. The neoliberal policies of the government, which affected marginalised people, including women in violent relationships with men has made it more likely due to poverty, lack of safe housing, and fewer resources that more women are remaining in violent relationships with men. Women and their bodies pay the price of the neoliberal policies. Malnutrition and poor living conditions are two ways the neoliberal policies

write themselves on women's bodies when women choose to leave abusive relationships with men. This government's policies and funding allocations are hurting women in abusive relationships with men, regardless of whether they stay with the abusive men, or they choose to leave.

### *Conclusion*

In this chapter I examined the crucial work front-line workers perform and the ways in which they respond directly to women in violent relationships with men. I then explored a second practice of justice, government policy and funding allocation, and the effects this practice of justice has directly on women attempting to leave abusive relationships with men and on the front-line resources available to these women. In the next chapter, I investigate the ways that custody practices and the CJS as responses to VAWIHR are inadequate. I also probe some potential alternative responses for practices of justice and show how they address some issues of VAWIHR but fail to be entirely effective responses.

## **Chapter Five: Custody practices, the criminal justice system and potential alternatives**

In this chapter I scrutinize two current government responses to violence against women in intimate relationships (VAWIHR): namely custody practices and the criminal justice system (CJS) and explore the ways that these practices of justice are unable to deal with the realities and issues of VAWIHR. In this chapter, I also explore the ways in which current and potential alternatives to the CJS successfully address the issues of VAWIHR and where these alternatives are not successful. The first practice of justice I examine in this chapter is custody practices.

### *Practice of Justice – Custody Practices*

Custody practices in British Columbia are not adequate because they do not respond to the realities and the issues of VAWIHR. McMahon and Pence (2003) explain that institutional responses to VAWIHR, such as the CJS, do not reflect the diversity of women's needs and circumstances. Furthermore, I argue that custody practices in British Columbia do not address the diversity of issues in VAWIHR. Since the late 1970s VAWIHR has received increased attention from the public, and feminists have worked hard to eliminate the view that women are only wives and mothers dependent on their male spouses (Boyd, 1997). Custody practices that originated prior to the legal consideration of VAWIHR do not attend to the issues of VAWIHR.

Interim custody is often the first custody practice with which women who have left violent, male partners have to contend. Both parents can apply for and receive interim custody. Usually the first parent to apply receives interim custody. Once interim custody is granted, that parent has custody of the children until a family court order is written

(Ministry of Attorney General, 2006), and as a result if women do not receive interim custody, they have to wait to find out if a judge will grant them custody. Since interim custody is one of the first issues mothers face when leaving an abusive relationship with men, they are often fearful to apply for it. Brita believes that women often feel that leaving their partner has angered him enough.

**Brita:** And we do know that a person can go down by themselves to the courthouse and apply for this interim custody, which protects them a bit for the time being. ... and sometimes we've had women who even with that risk [losing custody of their children] would not do it because they're still terrified of setting their ex off more than he already is. The fact they left is enough. ... And something worse has to happen before they'll do those things. So its kind of sad when you see someone risking losing their custody to someone who's really abusive and yet they're afraid to apply for it.

The practice of granting interim custody to the first parent who applies forces women to make a difficult choice between potentially losing custody of their children and increasing the anger of their male partner. This potentially places them and their children at higher risk of harm from him. The practice of interim custody does not acknowledge the potential but very real danger that women may be exposed to if they apply for interim custody immediately after leaving an abusive, male (ex-) partner.

Men who are abusive often use family court as a location to prolong their abusive and controlling behaviour by continuously dragging women back to court over custody orders. Recently, the issue of abusive men repeatedly bringing women back to family court has become more of a problem due to cuts in funding to legal aid. Legal aid, in the area of family court, is only available when women can prove that they are fearful for their own and their children's lives and this, not surprisingly, can be difficult to prove (Creese & Strong-Boag, 2005). Thus, many women have no access to legal aid to fight for custody of their children. The cuts to legal aid can result in women entering

family court without a lawyer, further enhancing the possibility that women will lose custody of their children to their abusive, male ex-partners simply because the men can afford lawyers (Creese & Strong-Boag, 2005; Morrow et al., 2004). Existing economic disparity in society already makes it more possible for men to afford lawyers.

Economic disparity in conjunction with men bringing women back to court several times over custody issues prolongs men's power and control over women in relationships with them.

**Kim:** I think there needs to be way more support ... for women who are going through the family court stuff and have ex -partners who are abusive [and] who manipulate the court system. Like who continuously drag them back into court over custody issues or access issues. And drain their wallets and because that happens all the time and it's about the ex-abusive partner. ... After the separation how the control and the manipulation and the power still continues and how he holds onto that. And I think, wouldn't it be amazing you know for those women to have more support systems or have even more financial support because fighting that is so difficult.

Thus, family court is a location that has the potential to abet ongoing abuse, but as Kim notes, some judges are beginning to see that men coming to court numerous times for custody orders is, itself, an abusive behaviour.

**Kim:** I have had a couple of women who've reported back to me and said finally the judge said [to the man], "If you ever attempt to bring this back into court again I will fine you." ... [T]hey were able to say ... "this is ridiculous like, you're not doing this because you want your children. You're doing this to be controlling. You're doing this to drain your partner and you're dragging this out and there's nothing to drag out anymore ... you've got this order and that's the way its going to stand."

Unfortunately, it takes time for judges to recognize a pattern of abusive behaviour. By that time women may have run out of resources for a lawyer or for other necessities, and the emotional strain of continuously going back to family court to fight for custody of their children may have exhausted them.

Furthermore, judges do not always understand the dynamics of VAWIHR enough to see the ways in which family court is used as a location of ongoing abuse or understand the negative impacts on children who witness the abusive behaviour of their fathers towards their mothers. Brita addresses the issue of judges and lawyers believing that all children need a father.

**Brita:** And I wouldn't be surprised that judges and lawyers still think that [all children need a father]. But if those judges and lawyers could be present and see what happens, they would soon see that to just make a blanket statement, that all children need a father and that an abusive man can be a good father, that's wrong. And I think that judges and lawyers need to have their awareness really raised.

Judges and lawyers who are not aware of the issues of VAWIHR may believe that all children need a father, and this can create ongoing stress for women who need to comply with the court orders. These court orders, written on the assumption that children need their fathers, do not adequately address the safety concerns for women and children during the time of contact with the children's father. The above discussion about the inconsistent response of family court judges to VAWIHR results in very few parameters to help women understand what might happen in court. This unpredictability is unfair, and Grant (2005) argues that for custody laws to be effective there needs to be both a basic predictability of outcomes and the flexibility to deal with highly individualized responses. Currently in Canadian custody laws, there is no predictability of outcome and in most custody cases VAWIHR is not even a consideration for deciding custody and access issues. This lack of consistent consideration of VAWIHR by family court judges, along with the emphasis of family court on giving custody to the parent who will most encourage a relationship between the children and the non-custodial parent works against women in abusive relationships with men (Jaffe et al., 2003). The effects of abuse on

these women's lives may result in anger, frustration, and a distrust of court officials.

Moreover, the women may not be willing to encourage contact between the children and their father. Thus, the court may draw inaccurate inferences about the women (Jaffe et al., 2003), which can result in granting custody or access to the father and placing women and children in ongoing risk for harm.

Once a judge writes a custody order, women and men have to comply with it. This creates ongoing stress for women if the custody order grants access, custody, or visitation to both parents because women must then have ongoing contact with their abusive, male ex-partner. Once they leave abusive, male partners women are in more danger of fatal violence than prior to leaving (Logan & Walker, 2004), and the exchange of children to satisfy a custody order provides men access to women and allows them to continue their violent behaviour. Kim says there are not enough services to assist women in passing children over to abusive, male ex-partners.

**Kim:** I think that if there was abuse ... in a relationship and ... if he has access to the children and it has to be supervised. I think that's important that the government or that the province ... that there's a system in place to help support those supervised access [visits]. Because I think what happens is when family members get involved [to supervise the visits] it becomes ... the whole problem just perpetuates and the family gets drawn into the abuse and the control and the manipulation and intimidation and threats and whatever else might be going on. It's scary for her and she's put in an awkward position and she continues to get abused when she has to have these exchanges or if she has to have contact with her partner. And I think well it would be great if there was more ... it's not that there ... isn't anything [currently available] but more of a supportive system [and] that the cost is covered ... [and] they can safely exchange their children for visitation. Where they [the women] don't feel like they have to put themselves at risk ... when their children are having access 'cause that's what happens right now. [M]any women continue to get abused in the process of allowing access.

The lack of support available for women to help with meeting court ordered visitation highlights the ways in which custody practices do not meet the needs of VAWIHR and

recognizes that in order for women to fulfill safely these types of court orders, there needs to be more supports in place such as visitation centres.

In the area of custody practices, more support for safely exchanging children is important, but that measure does not address the issues of re-victimization many women feel when they have contact with their male, abusive ex- partner repeatedly. Barb discusses how hard it is for women to move on with their lives when forced to have constant contact with their ex-partner in order to fulfill court orders.

**Barb:** I can think of a number of examples where women would be in my office just hysterical. ... [U]nable to function because their kids had just been at the exes for the weekend and either they'd had an encounter with him or the kids had come back telling stories. ... Whatever it was that was happening because of his behaviour or they're just re-triggered because they had ... contact with him. So you know they were so scared, or because it was so difficult. So, it would just really set them back, and then they would feel horrible about themselves again, and it's like they were, had to crawl out of that hole again, sort of every time. So it took a lot of energy for them.

Once again, custody practices do not address the diversity of needs women have and the emotional impact women experience when fulfilling court orders and exchanging children. Custody orders place women with violent male partners in the difficult position of fulfilling the court order because if they do not, they face sanction from the state, but if they do fulfill the court order, there is increased risk of violence from their male, ex-partner.

The family court system is slow, and once written, court orders are difficult to change, especially for women if they do not have enough money to re-enter the court system to challenge the existing court orders. Jordan comments that it is especially frustrating that court orders are in force while there is a current ongoing investigation into the situation.

**Jordan:** During the investigation [of the abuse] ... the court order is at work. She has to send the children ... to him. ... [W]e all struggle with that. This is the part what I think has to be looked after if there's any assertion of danger ... the child could be unsafe or ... [if the police are suspicious of] the men ... the court order should be voided ... until [there is] proof of the situation. That's one part, which I found ... quite annoying [to] us, and [we] worry about the family and the children.

The alteration of custody orders is not accessible on an as-needed basis for women, and even if women can afford to re-enter family court, they will need to wait to have the orders changed. In the meantime, they have to fulfill court orders that put their children and themselves at risk of serious harm. Women need the protection offered by court orders immediately (Kerr & Jaffe, 1999) even if the protection offered is not adequate. The delay of family court dealing with custody cases creates a situation that does not protect women by court orders.

To summarize, custody practices do not address women's fear of their abusive, male ex-partner, or the poverty women live in and, thus, their limited accessibility to enter family court with a lawyer. Many judges are oblivious to the use of family court as a location of ongoing abuse for women. Court practices that encourage access to both parents do not consider the realities of VAWIHR and specifically the lack of services available to support the safe exchange of children. This lack of consideration and/or understanding of VAWIHR often means that the orders are not adjusted to avoid the re-traumatization women experience when having contact with their abusive, male ex-partner to exchange their children in compliance with the court order. Addressing the issues and realities of VAWIHR in custody practices would place women in more equitable positions when trying to obtain custody of their children. The lack of response

to the issues and realities of VAWIHR in the CJS also puts women in unreasonable and impossible situations when dealing with an abusive, male (ex-) partner.

*Practice of Justice – The Criminal Justice System*

The CJS also does not adequately deal with the issues of VAWIHR. This must result, at least in part, from the fact that VAWIHR was not a crime when the CJS was developed, and, actually, was a socially sanctioned practice. In fact, as late as the 19<sup>th</sup> century, British law textbooks still stated that men had power and control over their wives, and that they could beat her (May in Macleod et al., 1980). Over the years, VAWIHR activists demanded that there be recognition that VAWIHR is a serious issue. As a result in the early 1980s VAWIHR became treated as a crime (Kerr & Jaffe, 1999).

Smart (1989, pg. 6-14) argues that the law has powers of its own and in fact, has the power to take over other discourses and incorporate them into its legal method for determining guilt or innocence. VAWIHR is now a crime and is within the structures and power of the CJS. The rules, regulations, systems and policies of the CJS subsume the issues and realities of VAWIHR (Smart, 1989). In the data gathered for this research, I saw the policies and procedures of the CJS manipulate and take over the issues and realities of VAWIHR in two ways: first, women are expected to respond to the CJS's laws, policies and practices under the threat of punishment, and second, the CJS does not respond to the needs and issues that VAWIHR presents for women. The CJS places women in impossible and unreasonable situations over which they have no or little control because the practices of the CJS do not address and are not designed to address the issues and realities of VAWIHR.

Notably, the women interviewed for this study spoke not only of their concerns about the CJS but also of their support of the CJS as a response to VAWIHR. In order to stay true to the interviews it is important to bring forward the positive aspects the front-line workers mentioned. It is also possible to learn from the successes of the CJS when considering new practices of justice to deal with VAWIHR.

Both of the categories I created to explore the responses of the CJS, the requirement of CJS that women to respond to its systems and structures, and the difficulty the CJS has in responding to the realities of VAWIHR, overlap and could be one category as both sections discuss the CJS's inadequate responses to VAWIHR. I separated the two categories because I wanted to show how entrenched the system was and how women are required to respond to the CJS which often places women in horrible positions without any consideration of what other issues they may be facing. The second section focuses more on the ways in which the CJS does not respond to women's realities, without focusing directly on how the CJS requires women to respond to it.

*The CJS requires women to respond to its systems and structures*

The evolution of rigid CJS practices, policies, and procedures results not only in the CJS not being able to meet the needs of VAWIHR but also in requiring women to respond to the CJS's requirements. One of the ways in which the CJS in British Columbia requires women in violent relationships with men to respond to it is in the policies of mandatory arrest and charging, which were developed as a response to VAWIHR. In British Columbia, the police are required to lay charges and the crown is required to vigorously prosecute every case of violence in interpersonal relationships (Ministry of Attorney General, 2003). Mandatory arrest and charging requires the police to charge the

aggressor when they respond to a violent incident in interpersonal relationships, and this means in cases of VAWIHR that women are not responsible for charging their male partner. Kim, for one, supports the policy of mandatory arrest and charging.

**Kim:** the police try to take the responsibility out of the woman's hands for charging ... which I think is positive. I would never go back on that one. I would never think that the police should not be the one to lay charges because I think that to put [charging] in the woman's hands is too big.

However, Kim does not accept that mandatory charging is without its problems, and commented that many women are unhappy with the mandatory charging policy and would not call the police again to help stop the violence.

**Kim:** But the fact that he's going through this whole court process and going to different hearings and having to do ... pleas, ... And sometimes she's devastated and I say "Would you ever call the police again?", "No, I would never call the police again. Because this is not at all what I wanted. I just wanted them to take him away. I wanted them to just remove him for the night and then we [could] seek out some other source of help or something."

Women who have the opportunity to call the police during an attack often call only to have the violence stopped and not to invoke the entire judicial system. Unfortunately, the policies of mandatory arrest and charging mobilize the entire CJS. This mobilization of the CJS places women in a difficult situation from the beginning if they do not wish for their abusive, male partner to be put through the justice system, especially as the police are the only legally available response for women to call for help to stop the violence (Ursel, 1998). The police, as representatives of the CJS, come in and follow the policies of the CJS, which require the police to arrest and charge the abusive partner and thus the abusive partner enters the CJS, and this overrides many women's desires and yet they are powerless to stop it.

The CJS response is a more pressing concern for women of colour and Aboriginal women. Women of colour and Aboriginal women have less access to the CJS and are afraid to invoke it because of the embedded racist responses that are directed towards them and towards their abusive, male partners (McIvor & Nahanee, 1998; Razack, 2001). Aboriginal and other racialized women are aware of and concerned about their communities' perceptions of bringing forward an intercommunity problem (Razack, 2001). In the Caribbean community in Toronto, many women will not call the police to stop the violence because they are aware that there is ambivalence towards their community (Flynn & Crawford, 1998). Another issue for many Aboriginal women is that many live in isolated, small communities and only have periodic access to police and usually only the most serious cases of VAWIHR are prosecuted (McIvor & Nahanee, 1998). Thus, Aboriginal women in rural locations do not even have the opportunity to invoke the CJS response if they desire to do so. The racist response of the CJS results in women of colour and Aboriginal women having few to no options for legally sanctioned and trained assistance to stop the violence, and the result is more damage to their bodies and emotional well being as they remain unable to receive assistance to stop the violence.

Mandatory arrest and mandatory charging often places women in an impossible position between the CJS and her male abusive ex-partner. Once women call the police, they no longer have any control over the situation, and have to follow the CJS's mandates, and often women's male partners demand that women stop the charges, and yet women have no power to do that.

**Kim:** Because what happens so often is even though the police are the ones to charge, he goes back to her [and] says "This is all your fault. This is YOUR [emphasis in original] fault. This is your responsibility. You need to get the charges dropped." She has no power to do that. And the guy is sitting there going,

“You’d better fix this, you’d better fix this” and so I think that then if she goes to court and she either refuses to testify or won’t write a victim impact statement or ... won’t do a police statement. Those things I think come out of fear because her partner is the one saying like “This is your ... fault.” And her life can be made a whole lot worse you know if he thinks and maintains that it’s her fault. Because she’s going to wear that, right, she’s going to wear that energy and that blame.

The CJS and women’s abusive, male ex-partners place women in a tension-filled location between them. Both the CJS and the abusive men have the power to utilize methods that have negative consequences on women if the women do not do what each of them want them to do. The practices of mandatory arrest and charging place women in the unenviable and impossible position of not being able to satisfy either the CJS process or her abusive, male (ex-) partner. This tense situation is made more complicated when some police officers ask women if they want their abusive, male (ex-) partner charged. This question makes women think they have some control over the charging process when in actuality they do not.

**Heather:** What’s difficult is if she’s asked [by the police] ... if she wants him charged. It leaves her with the impression that she has some control of that. .... [I]f he is charged, then she thinks ... she can have it dropped and she can’t. That’s because she didn’t have him charged. .... but just simply by posing that question ... it changes everything for her. It makes her feel like she’s responsible for the charges, that she can have it changed further down the road [and] when she finds out she can’t, sometimes she can be really angry because she thinks that she’s actually charging him.

Asking women if they want their partner charged indicates that the police are trying to discover how she will cooperate with the CJS, instead of asking other questions that would help the CJS respond to her.

**Heather:** So, that’s [asking women if they want their male, abusive (ex-) partner charge] still frustrating because it might be an attempt by someone that’s first responding to kind of assess where she’s at ... where she stands on the issue if he is charged. .... it could be an attempt on their [the police] part to just kind of assess where she’s at about things if there are charges, if he is charged, which in most cases he would be.

The policies of mandatory arrest and charging place women in the awkward position of either not calling the police to receive help to end violence, or calling the police and invoking the entire CJS whether they desire it or not. However, the criticisms of mandatory arrest and charging co-exist with support for the policies because, as Kim points out above, these policies take the responsibility of the charging out of the women's hands.

Mandatory arrest and charging is not the only area of the CJS that requires women to respond. A VAWIHR case that makes it to criminal court requires women to provide testimony as to what happened. This is never an easy task. VAWIHR is never just one incident. It is a pattern of ongoing power and control (McMahon & Pence, 2003) and the criminal court only deals with the one incident in which the police are contacted, and thus this restricts women to testifying on only the one incident of violence. The court is unable to address the issues and realities of VAWIHR. The courts rules and procedures prevent the examination of more than the one instance of violence that caused the telephoning of the police. Prior to a case going to court, CJS personnel may ask women how they feel about testifying, and if women are reluctant, this can affect the handling of the case.

**Heather:** [S]he might be asked how she feels about testifying. ... So if she responds by saying "Well, I don't want to testify.", which is totally normal, nobody likes to testify around here. That also might ... have an impact on how the case is handled. I'm just saying may .... [in some] cases it won't but it can have an affect. ... [T]here could be some kind of a decision or a thought that perhaps that person wouldn't testify in the end, or would be really reluctant to come to court, whereas that might not be the situation at all. But even if it is that situation, then what that should mean is [that] more people come to support her and to explain things and you know help her around that corner.

Heather advocates for more support to help women come and testify against their abusive, male partners. Finding more ways to support women in order to help them

testify is another way of ensuring that women will follow the dictates of the system. However, more support for women involved in the court system because of violence from their male partner is necessary and crucial. Support is important especially if those offering it understand the dynamics of VAWIHR and can negotiate not only with the women but also with the police, the lawyers, the judges, and find ways to make the system work for the women regardless of her individual characteristics such as race, class, etc.

Criminal court is set up as an adversarial process where the accused person is either guilty or not guilty, and as such those working in the court system cannot contextualize their response to VAWIHR. Abusive men are most often charged under the assault laws and these laws are premised on the scenario of two unrelated males in an altercation (Comack & Balfour, 2005; Noonan, 1993), and the assault is conceived of as an individual problem with no regard for social contexts (Currie, 1998). Barb shares how she thinks the adversarial nature of the court system does not work for women.<sup>5</sup>

According to Barb, when men plead not guilty that denies women's experiences.

**Barb:** [T]hese guys wouldn't plead guilty, so ... they're saying all along "I didn't do it", essentially. And so it's a really hard thing to say, this really horrible thing happened to me and to listen to somebody say no it didn't over and over because the defence can really go at it.

Not only do women have to listen to men deny their violence, but women are also not able to include the full story of the violence perpetrated by their male partners. The court can only deal with the specific incident(s) that brought the CJS into play and does not consider ongoing pattern of violence in abusive relationships (McMahon & Pence, 2003).

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<sup>5</sup> The comment Barb makes about the adversarial nature of the court comes from when she worked with sexually assaulted women. I include this comment even though it is not specifically about VAWIHR, because I think that what Barb says is crucial to understanding the ways in which the system does not understand the contexts of women's lives.

The rules of the courtroom take over the language of VAWIHR. In order to make a legal decision judges and lawyers use the legal method to discern what is admissible in court (Smart, 1989). The legal method limits what women can and cannot say and places women in the powerless position of not having their whole story heard, and putting the violence into the context of their lives for the court. The women can only speak to what the court considers relevant in order for the court to use its legal method to determine men's guilt or innocence and thus the legal method forces the complexity of VAWIHR to fit into the legal method.

The above section examined the ways in which the CJS, a systemic response to crime, is not equipped to respond adequately to the issue of VAWIHR. The CJS's legal methods do not consider the contexts of people's lives. The difficulty people in the CJS have in contextualizing women's lives becomes apparent in VAWIHR when women are required to respond to the CJS and when women of colour and Aboriginal women are reluctant to and refuse to call the police for help in cases of VAWIHR, and thus can be left without any help to end the violence.

#### *VAWIHR and the CJS's inadequate response*

This section investigates the ways in which the CJS does not respond adequately to VAWIHR. One way the CJS does not respond to the issues of VAWIHR is in the punishment available for abusive men. The main consequence of the CJS discussed by the interview participants is prison.<sup>6</sup> Heather comments that most people she has contact with assume that once police arrest someone that person is going to prison. Prison not

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<sup>6</sup> I want to point out that I realize that CJS has other ways of punishing abusive men, but prison was the punishment discussed in the interviews.

only inconveniences men but also it can create difficulties for women who rely on their abusive, male partners.

**Heather:** [T]he first impression is that once somebody's going to be arrested they're going to go to jail. And that's going to be it and that can have a pretty major impact on their lifestyle if she depended on him, [to care for the] children and all those things.

The consequence of imprisonment does not consider the reality that even though men are abusive towards women they are also a part of these women's lives and can play a crucial role in the survival of the family. In reality, only repeat offenders usually receive prison time.

**Heather:** [W]e're talking about the number of people that actually go to jail. Only it's not a great amount. ... [T]hey're usually a repeat offender. So, we're not talking about the average first time offence. ... That person doesn't go to jail, or a second time offence, depending on what the charge is.

In the situation of VAWIHR, the definition of repeat offender is different than it is in the criminal justice system. In the CJS, the previous conviction of a charged person indicates they are a repeat offender. In VAWIHR, by the time women actually call the police many men are already repeat offenders, as women often do not call the police after the first incident of violence (Lewis, 2004). The issue here is not solely whether men go to prison or not. Rather the issue is about treating VAWIHR seriously, and society views prison sentencing as the most serious consequence available (Hudson, 1998). The response of the CJS is limited if it only responds in punitive ways, because often times women are looking for help to find ways of staying with their abusive, male partner, and ending the violence. On the other hand, other women are upset if men do not go to prison until the CJS considers them repeat offenders as they may have waited a long time to call the police to get help.

Sometimes judges dismiss cases before they determine the guilt or innocence of the accused. The ability to dismiss a court case because of a technicality indicates the primacy of the legal method over dealing directly with the issue of VAWIHR.

**Barb:** And then there was so many different reasons why he wouldn't get convicted. It could be anything from one of the lawyers blows it and the trial gets discontinued. ... [A]nd then maybe it kind of happens again, and the other thing is that they [the women] wait, and wait ... forever for all these things to happen, and then, ... some kind of rules of evidence that you know weren't followed or the guy gets found not guilty just because they couldn't prove it beyond [a] reasonable doubt. Depending on what judge there was [laughs], depending on what kind of jury, ... there was so many variables.

Once again, the court is not responding to women's realities but is responding and dealing with its own notions of a fair trial. The court's response is extreme. Not following a procedure can result in men not having any consequences, which is entirely ridiculous since the court would most likely find the men guilty under normal circumstances. There is no middle ground available in the CJS for examining VAWIHR; no opportunity to work with women to determine what they would like to see happen, no opportunity to adjust the system so that women can operate within it.

"Lightening the load" is another example of the CJS being primarily concerned with its own practices. Heather explains that "lightening the load" happens when a charge does not proceed because the system is too busy to deal with it.

**Heather:** I want to support the people that are working in the system because ... some [are] very committed ... their response is very committed. People are much more educated than when I first started working here. However, because of time restraints and pressures and all that goes on people scramble to look at ways of lightening the load and simplifying things.

**Stephanie:** Right, and lightening the load?

**Heather:** Lightening the load could mean charges not proceeding.

The CJS personnel make decisions about what crimes are serious enough to proceed and which ones are not. In decreasing the volume of VAWIHR cases CJS personnel indicate

that those working the system do not understand or prioritize the realities, issues and dangers of VAWIHR. These decisions decreasing the volume of VAWIHR cases going to court in order to pursue other cases shows that VAWIHR is still considered a less serious crime than other ones.

Aboriginal women in violent relationships with men also bring specific realities that the CJS cannot deal with. Brita questioned why Aboriginal men were able to stay in small reserve communities when they were the violent partners.

**Brita:** [S]he went back to hugely unsafe housing, where her violent ex could get in at anytime. He already had and kicked in the door and beat her up severely whenever he felt like it. And so to go back to that exact same housing was a huge risk. That woman's beliefs, the way she was raised [was] to be [an] integral part of her family and her community. Why then does [the] court allow the partner to stay there, shouldn't he be removed from the community because she's elderly [and] aunts, younger cousins and so on are depending on her? That's part of their social system there. And she needed to go back.

According to Brita, for this particular Aboriginal woman it was important for her to go back to her community, and yet it was unsafe; the court system allowed the abusive male partner to remain. In addition, this situation does not address issues of poverty, which results in her unsafe housing and means she cannot keep herself safe. The CJS was not able to deal with this woman's needs, and given her limited choices, she went back to her unsafe living conditions. Thus the CJS, through its inability to address this Aboriginal woman's social context, helped place her back in an unsafe situation.

*Support for the criminal justice system*

While there are many shortfalls in the CJS response to VAWIHR, Jordan felt that the police were responsive to women's needs, and were no longer judging women when they returned to an abusive, male partner several times.

**Jordan:** I would say the police are very cooperative with the victim. We don't hear, "well what's your problem you go twelve times to the same partner and you knew he beat you three times and you're still going." There's no assumption. This is the victim. ... There is no mutual responsibility. 'There is no excuse for abuse' is the ... motto for the police and they act upon this rule.

Jordan felt that the police were learning the message about VAWIHR and, overall, she was supportive of the police response. This quotation addresses the idea that perhaps the police are learning that it is hard for women to leave their abusive, male partners with whom their lives have been enmeshed and, as such, some police officers are supporting women in the steps they do take.

Heather is supportive of the CJS because in keeping VAWIHR in the CJS she feels that it is taken seriously as a societal issue.

**Heather:** [VAWIHR] is about a criminal offence. It's about offences of violence. It's about a repetition of an ongoing history ... of this type of behaviour, and I think it's in ... [a] place now where it should be. So in terms of alternative measures I don't have confidence that it holds the weight that the criminal justice response does and can hold an offender as accountable as the criminal justice response. We worked many years at getting this recognized as a criminal offence, because many years ago it was just kind of written off as "oh it's just a domestic dispute. It's a family matter. It's a relationship problem." And so finally after many years, it's been very highly recognized as ... [a] criminal offence in some way. I support that. I support criminal justice intervention. I support a pro-arrest and a pro-charge policy. And I don't support diverting a case away from that process.

Heather's support of the CJS speaks to the notion that VAWIHR is not a private issue, and is, in fact, an issue that many feminist criminological thinkers worked hard to have society recognize as a societal problem. Recognizing VAWIHR as a crime is one way to show that society is taking it seriously. Brita also supports the use of CJS as a response to VAWIHR. In her opinion, VAWIHR is a crime.

**Brita:** I don't think [abusive men] should get diversion. If it was serious enough that they got into the criminal system in the first place, they shouldn't get

diversion. It means society's not taking it seriously that a woman was hit. ... I think it's a crime.

Both Heather and Brita view VAWIHR as a crime and because they view the CJS as the most serious response available, they believe that the CJS is the appropriate location to deal with VAWIHR.

In addition to supporting the CJS as the most serious response, Heather also argues that there are procedures in place in the CJS to deal with VAWIHR.

**Heather:** [T]here's an overall policy that directs the response in these types of offences, and so ... we all live by that directive. So from the time that the police are called, there is a process that we're all required to follow.

Heather highlights that there are processes in place that take VAWIHR into consideration, and that she supports keeping VAWIHR in the realm of the CJS in order to ensure the appropriate sanctioning of abusive men.

Some women in abusive relationships with men support the involvement of the CJS, and Kim speaks about women who are happy that the CJS intervention occurred.

**Kim:** I have a lot of contact with women who are so completely happy that the police were involved. They're going through their process. The charges are being laid. ... They're reluctant to be a witness because there's fear there but they're willing to still go through with the support and testify against him and there's really positive outcomes where he does get charged. And ... [if] he's convicted but he has conditional releases and then he has to do something. And a lot of women are really happy when they know that their partner has to do a program. ... They ... want [being arrested] to be used as a catalyst for change.

The women in abusive relationships with men who support CJS intervention speak to the issue of women wanting help for their partner to change. Many women are not concerned with punishing their partner but want to find a program and some help for change so they can remain together. The variability of responses towards supporting and

not supporting the intervention of the CJS in the lives of women in abusive relationships with men indicates that VAWIHR is a complex and difficult social issue.

To summarize, the CJS is immensely powerful and while not considering the realities of VAWIHR, the CJS has the ability to take over women's lives and force them to respond to its systems and procedures. This creates many difficult situations for women who are uncomfortable with CJS intervention. However, not all women are uncomfortable with CJS intervention, and most of the front-line workers that I interviewed for this study support the continued use of the CJS, although they offered many specific critiques of the current system. It seems as though portions of the large CJS apparatus sometimes work and sometimes do not work for women in abusive relationships with men. The front-line workers in this study desired that society and the CJS take the issue of VAWIHR seriously. In British Columbia at this time the CJS is the most powerful system available, and thus by including VAWIHR in this system, it shows that VAWIHR is a behaviour that society will not tolerate. However, the CJS is not equipped to deal effectively with VAWIHR and places women who are in abusive relationships with men in impossible and difficult positions due to the inability of the CJS to respond to the complexities of VAWIHR. There has been a move towards looking for other justice responses to VAWIHR in order to deal with the shortcomings of the CJS.

*Practice of Justice – Potential alternative responses to VAWIHR*

There are five alternative responses discussed in this section with respect to VAWIHR. All have advantages and disadvantages in responding to VAWIHR. The five responses are healing circles, mediation, diversion, victimless prosecution, and domestic

violence court<sup>7</sup>. Each response deals with at least one element of VAWIHR, but does not extend changes far enough to ensure that the majority of the realities and issues of VAWIHR are met.

Some Aboriginal women view healing circles as an inadequate response for First Nation's women with abusive, male (ex-) partners because these alternatives do not address the specific realities of First Nation's women. Healing circles, similar to sentencing circles, provide a place for those concerned with the crime to come forward, confront the accused, and discuss options other than jail for the offender. Each member of the circle is an equal; they each have the opportunity to speak, and the responsibility to listen (Cayley, 1998). VAWIHR in the context of First Nations' is not only about men's violence against women (Monture-Angus, 1995) especially as VAWIHR was not prevalent in traditional Aboriginal society (Koshan, 1997; McGillivray & Comaskey, 1998; McIvor & Nahanee, 1998). Placing gender oppression as the root of male violence in Aboriginal society is simplistic because racial, cultural and economic oppression contribute to a complex and intersecting set of oppressions (Koshan, 1997), that are part of VAWIHR for First Nation's people.

The specific racial, cultural and economic oppression present in First Nations women's lives makes the current CJS even more inadequate for them and requires specific thought about how to deal with the realities of VAWIHR for First Nation's people. Barb comments that she is aware that Aboriginal people have difficulty with the current court system.

**Barb:** I think often Aboriginal people have a really hard time in the regular court system. ... I'd like to think that there's alternatives out there that could work that

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<sup>7</sup> I am using the term 'domestic violence court' because this is not a court specifically for VAWIHR and it is the term used by Kim.

would have more community input. I think that Aboriginal communities can be too small some times. And I heard lots of women talk about how difficult it was to leave an abusive relationship. ... how difficult it is to deal with family because family is so extended. ... [C]hoice ... would be really important around alternative systems.

Barb also addresses the small size of many communities Aboriginal people live in and the nature of extensive relatives living in the same community, which can present its own set of problems.

According to Brita, the justice responses of healing circles are not working in small First Nation's communities because of the politics in these small communities.

**Brita:** There's also all the dynamics in small communities of who controls the means of sustaining yourself. ... in small communities of two hundred or five hundred and when they have certain families control who gets housing, who get jobs, who gets this, who gets that. They're so linked together. ... I don't think that those healing circles are a good way to handle it there. ... I don't know what to say. It needs to be explored further to make it work.

Healing circles do not necessarily address all the power imbalances in these communities, and the full contexts of Aboriginal women's lives and as a result, the outcomes of these practices of justice are not satisfactory to Aboriginal women.

**Brita:** And I think what you're doing there, you're separating one thing men battering women ... intimate partners in a small community of Aboriginal people. You're separating that from that whole thing of addiction, social oppression of them, racism, lack of employment. You're taking out one thing and saying oh, he did it this was the affect on all these people. They'll all speak and say how it hurt them and then we'll talk about how you can do better and then everything's better. But what about all those other dynamics that are still there? So you need to work on everything that's happening in that community to make a change, not just the one issue whether it was child sexual abuse, wife battering.

Brita sees a need for broader spectrum involvement and for addressing social inequalities rather than only focusing on the violence in the relationship. Both Barb and Brita, along with Aboriginal writers, highlight that the current responses of the CJS are not working for First Nation's women and that in order to address VAWIHR the practices of justice should

apply a wide social and economic analysis (Monture-Angus, 1995; McGillivray & Comaskey, 1998). In other words, Aboriginal writers, like penal abolitionists, believe that the context in which the harm occurred must be considered (van Swaanigen, 2000), and this is important when looking for alternative ways of dealing with VAWIHR and Aboriginal people.

Mediation as an alternative strategy addresses the issue of the context of the violent relationship, but mediation is unable to equalize the issues of power of control in cases of VAWIHR. Mediation is an out of court process for resolving disputes, and it requires that both parties willingly co-operate. The goal of mediation is to work with the parties to solve the problem collaboratively. It is less expensive than going to court (Ministry of Attorney General, n.d.). Mediation, in order to work effectively, needs both of the parties to be on equal footing, and that is not the case in VAWIHR. Barb thinks that mediation is problematic when there is unequal power in a relationship.

**Barb:** I think mediation really sets women up ... if it's an unequal relationship. And I think whenever there's violence in a relationship, it's always unequal. So, I think it's really problematic when women are set up to go for mediation when there's been any kind of abuse and even when women have been economically dependent on a man for a really long time. I think that's problematic.

It is not fair to assume that women and men in situations of VAWIHR come to mediation on equal footing. Women can be set up for failure if they enter mediation. Kim lays out some of the problems of mediation for women who are in violent relationships with men.

**Kim:** And we then just say to the woman like "You need to assess your own situation. [T]hink about all these factors before you make a decision to mediate." ... The male partner might really try to push for mediation. ... Like if he has power over her he's going to be able to manipulate that situation. And also there's a lot less costs. So, you know financially it's better for both people but for somebody who's really fixated on not spending money then you know they might convince somebody to go through mediation instead of getting their own representation.

Mediation is a place where men can still manipulate their female partners, and yet because mediation is a cheaper option, it appeals to women in economic crisis. Mediation is problematic for VAWIHR because women, due to extenuating circumstances such as poverty, may choose to enter mediation in a more powerless position than her male, abusive, (ex-) partner in order to have some legal solution to their problems.

On the other hand, when there are no power and control issues, mediation does bypass the adversarial nature of the courts, and Jordan supports mediation in cases where there has been no physical violence, because she likes the idea of families working together to deal with their problems.

**Jordan:** Mediation ... [is useful when] ... the family cannot solve [their problems] on their own, but the family violence is involved for her and for him and [yet] they produce some desire to ... work together and unless of course there is no physical abuse and danger for the children ... [then there is] the potential [that the] family can be together. ... alternatives to help them not going to get divorce right away. ... [A]nd probably the counsellor of the mediation, they see the options and they see the potential yes and no and provide the advice, no there is no chance to be together, you have go through legal remedies and apply for divorce or at least separation or ... extend the custody.

Jordan highlights that mediation is a way for people to work together and deal with the harms committed, and this supports the tenets in penal abolitionism that want to avoid isolating one member of the situation for punishment (Hudson, 2002). However, mediation is not always an adequate response to VAWIHR because of the power and control men have over women and because of men's ability to manipulate the mediation process and the inability of the mediation process to address and deal with the inherent power imbalances in VAWIHR.

Another current alternative to the CJS in British Columbia is diversion. Diversion is an alternative process outside of the CJS that accepts first time offenders who admit to

their crime and are willing to participate in the program (Canadian Bar Association, 2006). According to Kim, diversion provides alternatives for women who do not want their partners to go to prison.

**Kim:** I think there's some strong benefits to [diversion] because it does address what I was talking about earlier. Where the woman truly doesn't want ... her partner to go through that criminal justice system but she does want him to get help because diversion is about offering alternatives to having a criminal record or being on probation, or that sort of thing.

Diversion supports women who do not want their abusive, male (ex-) partners imprisoned. However, there is debate over the usefulness of diversion because some people feel men need a serious consequence for them to change and not re-offend.

**Kim:** I mean it's such a touchy subject because ... there's so many different schools of thought on that. There's schools of thoughts that are if he doesn't have a criminal consequence ... then he's more likely to re-offend. ... There's some people who say, or there's some evidence to say that ... [criminal consequences are] what helps reduce recidivism.

Other people believe that diversion can provide an opportunity for men to realize and learn from their mistakes.

**Kim:** I see [diversion] as ... an opportunity for him to do something different and for him to go o.k. ... "Yah, I really have a problem and I need to make a change and I'm going to have to prove to them that I'm going to take this seriously. ... I don't have this chance ever again ..." But some people I don't know ... there's definitely certain beliefs that that say [diversion] is not a good thing.

Diversion as an alternative is positive because it focuses on non-retributive ways of dealing with abusive men and yet, this is precisely the criticism of diversion because diversion is a non-punitive approach, and, thus, some believe diversion does not have the stigma of being a serious enough approach for VAWIHR. Diversion is also inadequate because it relies on what the men want, and not what the women may desire. This is complicated by the fact that, although to the court system the men may be first time

offenders, this may not be true for the women as many women endure several assaults prior to contacting the police (Lewis, 2004). While addressing the issue of punishment, diversion does not place power in the women's hands to help make decisions as to how to deal with abusive men either in the criminal court system or in diversion.

Women's fear of their abusive, male partner is another reality many women face, and the current systems dealing with VAWIHR, other than front-line workers, are not equipped to deal with this fear. Heather hopes that one day the court will no longer rely on victim's testimony, thus alleviating women from the responsibility of testifying against their abusive, male partners.

**Heather:** Victimless prosecutions. ... Where the criminal justice system can proceed without the focus being on the victim and her testifying. Because at times that's very difficult. ... [T]here is normal reluctance. ... women aren't sure of really what is happening. ... [T]here are situations where women basically do not want to have to come to court and testify and that's a very challenging situation [for the court].

Victimless prosecution addresses the fear many women have of having to testify against their male partners, and removes the reliance of the CJS on women testifying in order to have a case prosecuted; however, it does not address the punitive and adversarial nature of the CJS.

Kim spoke extensively of a domestic violence court and she supported the ways it had created to work with VAWIHR. Lawyers, judges, support workers, police, and other service providers all work together to see that the VAWIHR cases are dealt with in a supportive manner for both women and men. Kim highlighted that this court had a specific location and personnel to deal with domestic violence.

**Kim:** They have domestic violence judges. They have their own courtroom. ... everything is [in] their own docket.

In addition to domestic violence having its own docket, the defence lawyers work with the accused men to encourage them to hold themselves accountable for their actions and to let the system work with them.

**Kim:** I think that defence lawyers there take on much more of a[n], “O.k. ...you’ve done this. You’re responsible for it. Let’s look at what we can do and how the system can work for you.” I think that that often happens.

VAWIHR has certain issues and realities that do not fit into the current CJS in British Columbia, and this model of defence lawyers working with abusive men and not concentrating on proving men’s innocence, but rather working with men to have them acknowledge their abusive behaviour shows an understanding that VAWIHR is more complex than guilt or innocence.

This domestic violence court focuses on support for both men and women, and the support worker for the men helps alleviate some the punitive nature of the court.

**Kim:** [The domestic violence courts] have not ... [only] someone ... looking out for the woman, but they have someone who is saying [to the man] “ Kay [o.k.], You know what? You got an opportunity here. You got an opportunity to come to court and to ... look at actually not getting a criminal record or having [a] major criminal consequences or being incarcerated or whatever. So, I suggest you take that ‘cause, if you don’t then we’re not going to be able to help you in the same way.” ... [T]hey ... [are] really supportive and not in a mean way, like its not done in a punishment sort of way. Its done in a “Look, o.k. come on let’s help ... let’s work together here. Like let’s work together from this.”

The focus on supporting both women and men in VAWIHR cases deviates from the traditional CJS, which is about holding one person accountable, and punishing that person. In addition, the support workers for both men and women collaborate to deal with the issues of each case and others involved in the CJS.

**Kim:** [T]hey have the women’s support workers, the victim support workers and then they’re directly connected to the men’s treatment programs and the women’s and ... the shelters. And, so, like it’s this whole unit of people. ... They have all these groups of people who are one hundred percent working together and they

have such amazing outcomes. ... I've seen all the research ... they have ... high rates of successes around guys showing up for court, following through with conditions, meeting the requirements of the judge following no contact orders. That's the other thing, too, like, they follow up on the no contact order.

This domestic violence court addresses many realities of women's lives, and the court achieves its success in part due to the cooperation and the collaboration of those who work in the domestic violence court. They work together to address the issues and the specific contexts of VAWIHR. The domestic violence court still offers consequences, and thus women who want consequences for abusive men are satisfied that the men did not get away with their abusive behaviour.

**Kim:** And even if they want their partner to have consequences ... that's still a part of it. Like, they don't feel that, that he gets off scott free. It's not what it's about. ... That's my sense of it.

This domestic violence court addresses many of the inadequacies of the current system in British Columbia, especially with understanding where VAWIHR operates from, the cooperation between all the practices of justice involved, and that both women and men have support and help through these difficult times. The domestic violence court does alleviate some of the punitive and adversarial nature of the court, but those two principles are still part of the court, and that can result in on going difficult situations and positions for women because the courts are still entrenched in the power of the law. I think many feminist criminological theorists would support this domestic violence court model for dealing with VAWIHR because domestic violence courts address VAWIHR as serious, and includes serious consequences such as prison. I think penal abolitionists would still criticize domestic violence courts because they are still based on the practice of punishment, and as such the domestic violence court does not work from the restorative and inclusionary principles that are valued by penal abolitionists. This court is still in the

CJS and structures of the formal court system and as such, I am wary that it cannot address issues such as scripting women's responses in the court and providing ongoing safety for women and children.

The alternatives I discussed in this section, healing circles, mediation, diversion, victimless prosecution, and specific domestic violence courts each address certain aspects of the failures of the other practices of justice, but yet none of these are able to address the full spectrum of the issues, realities and contexts of VAWIHR. The domestic violence court is the closest alternative to addressing many of the issues and contexts of VAWIHR, but its foundations are still in the traditional CJS, and the punitive, adversarial nature of the law.

#### *Conclusion*

In this chapter, I explored the responses of the front-line workers concerning custody practices, the CJS, and potential alternative responses to VAWIHR. All of these systems fail to respond adequately to the issues of VAWIHR in various ways. VAWIHR is an all-encompassing issue, it is not a single incident, it is in the lives of those involved, and for practices of justice to be effective, the practices require a solid understanding and an approach based on the dynamics of VAWIHR.

## Chapter Six: Conclusion

Violence against women in intimate heterosexual relationships (VAWIHR) is complicated, and the contemporary practices of justice in British Columbia do not respond effectively to the complexities of VAWIHR. In this conclusion, I summarize my research project and present my main findings about the inadequacies of the five practices of justice as responses to VAWIHR. I also explain how this research contributes to the theoretical literature, make recommendations for change, examine some unanswered questions and ideas for further research, and conclude with a few final thoughts on the concept of justice.

The intent of this research is to explore the concept of justice as it relates to VAWIHR. I spoke with five women on the front lines of VAWIHR about their work and about what happens to women in abusive relationships with men when they seek help. In their responses, the front-line workers spoke of five practices of justices: (i) front-line workers, (ii) government policy and funding allocation, (iii) custody practices, (iv) the criminal justice system (CJS), and (v) potential alternative justice responses. The central finding of my research was that all five practices fell short of meeting the needs, realities, and issues of VAWIHR.

### *Main findings*

This exploratory research provides important information on the practices of justice as it relates to VAWIHR for British Columbia. It identifies specific points of concern, such as mandatory arrest and charging or interim custody, for other researchers to probe more deeply. I have located areas where the system is not working in situations of VAWIHR.

*The practices of justice*

I level a single criticism against each of the five practices of justice: no practice of justice is fully able to meet the needs of VAWIHR because no practice is currently able to respond dynamically to the diverse and contradictory needs of women trapped in violent relationships with men. Front-line workers, while an essential support for women in abusive relationships with men, are not an entirely effective practice of justice because they are constrained by the limitations of the other four practices of justice. Government policy and funding, for example, restricts front-line workers' ability to provide support to women in abusive relationships with men and recent cuts to government funding has reduced the many services women in abusive relationships with men previously relied on. For example, government cuts have affected income assistance and front line agencies. Compared to the time before those cuts in 2001, the net result of the cuts has been to increase the number and the severity of the challenges facing women leaving abusive relationships with men.

Like government policy and funding, custody practices as a practice of justice could be considered inadequate both for the constraints they place on front-line workers ability to help keep women and children safe and for their inherent inability to respond to VAWIHR. The government constructed the custody practices without considering the issues and complexities of VAWIHR. For instance, it is not common practice in custody cases to consider the impacts of VAWIHR on children. This shortcoming allows the abusive male access to his children, which increases the risk of violence to both the children and their mother. The same criticism is true of the CJS as a practice of justice for VAWIHR. Its unyielding policies require women to respond to them, rather than the CJS

responding to women in abusive relationships with men. The CJS, for example, often places women with intimate, male (ex-) partners in the difficult position of having to choose between responding to the CJS or doing what her abusive male (ex-) partner desires her to do. Both the CJS and the abusive men have power over women, and both can inflict uncomfortable consequences on her.

The main criticisms against alternative responses to VAWIHR, on the other hand, are not as simple as the criticisms against custody practices and the CJS. In the development of some of these practices, specific aspects of VAWIHR were addressed. Still, the general criticism that can be levelled against alternative responses is that they do not yet think broadly enough about the range of circumstances VAWIHR can create for women or the range of environments VAWIHR exists in, and therefore, as a whole alternative practices need to develop before they become an adequate justice response. Alternative responses, for example, have to be able to address issues such as power and control of men over women, safety of women and children, awareness of the context of the harm, and, in the case of women of colour and Aboriginal women, alternative responses need to be aware of the specific realities these women deal with. Thus, none of the five practices of justice was able to meet adequately the needs, issues, and complexities of VAWIHR.

#### *Main theoretical findings*

Theoretically, this research highlights that both penal abolitionism and feminist criminology need to be aware of and work with the diversity, complexity, and dynamism of VAWIHR. Penal abolitionists want to abolish the CJS and prisons and deal with harms committed based on the principles of restoring relationships rather than on the principle

of punishment. My research situates VAWIHR directly in penal abolitionist theory and highlights that penal abolitionists need to think both about alternative approaches in a context that deals directly with the safety of women and children and to find ways that ensure alternatives are able to address the power and control issues inherent in VAWIHR. As well, VAWIHR is a multi-faceted issue and many women in these situations do not wish for an approach that restores relationships. In fact, many women desire punishment for their abusive, male (ex-) partners. This desire for punishment highlights an area for penal abolitionists to examine: is it possible to find alternatives that deal with the harms committed in a way that women perceive as a just and fitting consequence to the crime?

My research also supports the findings of feminist criminologists who believe that the CJS is not an adequate response for VAWIHR. However, my research goes a step farther and reflects on the failings of four other practices of justice. It is my belief that feminist criminologists need to investigate and expand on their concept of justice to consider the other four practices of justice as responses to VAWIHR. Some feminist criminologists believe safety of women and children is paramount, and in order to show both women and society that VAWIHR is a serious issue they believe that VAWIHR must be dealt with within the CJS. However, as this research points out, VAWIHR is complex and varied and not all women in abusive relationships with men desire to have their current or ex-partners go to prison or receive punishment. Some women are more interested in finding ways to facilitate change in their male (ex-) partners. The fact that not all women in abusive relationships with men wish for a punitive response challenges feminist criminological theorists to find other ways of dealing with VAWIHR while still maintaining that VAWIHR is a serious crime.

Theorists in both penal abolitionism and feminist criminology also need to consider not only what they believe in theoretically as an adequate response of justice, but also that their theories need to be informed by the empirical realities of women's lives. However, both penal abolitionism and feminist criminology theories do provide important ways to contextualize the multiplicity of issues in VAWIHR and supply useful frameworks for the discussion of alternative, effective, and just ways to deal with VAWIHR.

### *Enhancing practices of justice*

Each situation of VAWIHR is complex and dynamic, which increases the challenge of finding effective justice responses. The primary importance in situations of VAWIHR is keeping women and children safe. Currently, women and children are not safe and are unable to find safe spaces when engaged with several state practices, such as income assistance, the CJS, housing availability, etc. Two reasons that women and children are not kept safe are, first, that both the people working in the system and the systemic response as a whole do not understand or include VAWIHR as a factor when making decisions, and, second, when working in isolation of one another, the systems intersect in oppressive ways at the site of women's bodies. I propose education and training for those working within the various government systems and for the general public on the realities of VAWIHR. To address VAWIHR justly, society as a whole must understand the fear the women feel and must consider the impacts that government policies and practices will have on women trapped in VAWIHR situations. Education cannot stop there. Officials and service providers need to know how the systems intersect at the site of women's bodies and lives and how the system causes oppression. Thus, I

also recommend a coordination of responses of justice in the area of VAWIHR in order to alleviate some of the oppression women deal with.

Prior to coordinating with other systems, however, professionals in state systems also need to understand the ways in which the accepted practices and policies of their particular response of justice may work against women in abusive relationships with men. For instance, the way that the 'friendly parent' principle in custody cases, which requires the custodial parent encourage extensive contact with the non-custodial parent creates disadvantages for women in abusive relationships with men. The 'friendly parent' principle, combined with the family court's general belief that VAWIHR does not affect children, makes it difficult for women to prove the danger to themselves and their children and can result in custody and access orders that increase the danger to women and children (Jaffe et al., 2003; Kerr & Jaffe, 1999). Professionals, politicians, and others also need extensive education as to how the policies and practices of multiple systems and agencies intersect oppressively at the site of women's bodies.

Currently, many of the systems and agencies that deal with VAWIHR are not coordinating their services, and as a result, women in abusive relationships with men are paying the price with their bodies and their lives. In order to illustrate the oppressive results when the systems and agencies work in isolation of each other, I provide a simple, hypothetical yet plausible example of how the CJS and income assistance practices and policies could intersect at the site of women's lives and bodies. Many women in abusive relationships with men do not have enough money to leave their abusive, male (ex-) partner, and that lack of economic security is often a critical reason women stay in abusive relationships with men. Income assistance is one social support, although a

currently inadequate support, that helps women leave their abusive, male (ex-) partner. However, since it is difficult for people to qualify for income assistance now, fewer women have access to it as a support and thus may stay in their abusive relationships with men for an indeterminate amount of time. While women are making decisions about leaving and staying, the violence does not stop, and at some point they may have called the police to intervene in a violent episode. Once the police respond they are required to charge the aggressor. In this scenario, the men are charged and crown counsel prosecutes. The women's abusive, male (ex-) partner may end up going to court, and the women may be required to testify against the abusive men while living in the same home. Obviously, such situations, where women are still living in the same home with an abusive, male (ex-) partner while having to testify against him, can affect her body in many ways from bruises and broken bones, to the effects of stress and her inability to cope with daily life. My example shows how the intersection between two separate state systems at the site of women's bodies is oppressive. When women's safety is at stake, the state must provide the necessary assistance to enable these women to live in safe situations. To achieve that goal, in the above hypothetical situation, the two state systems, income assistance and the CJS, would need to interact with one another and have the capacity to recognize when to override the regular rules governing income assistance. The extensive coordination and cooperation between agencies is necessary to increase the safety of women and children. The above is only a single example of the kind of education and coordination that needs to take place in a system-wide manner.

Many writers have written about coordinated responses within and between the CJS and VAWIHR front-line workers (McMahon & Pence, 2003; Morrow et al., 2004)

and family law (Grant, 2005; Jaffe et al., 2003; Kerr & Jaffe, 1999). I think coordinating between and among systems is crucial; in cases of VAWIHR, I do not think separation and isolation of services is useful. Coordinated efforts and support for women would help women in abusive relationships with men move through the systems with more safety and would be less stressful as the people in the system would have a better understanding of what was happening in the other practices of justice.

Simply put, VAWIHR is a massive and complex social problem that has affected individuals and societies since the beginning of recorded history. Resolving VAWIHR and providing both individual and societal justice will require education, a coordinated response, and a great deal of thought.

Justice responses to VAWIHR are complicated and while the responses are not currently adequate, I wonder how people can, would, or could create adequate responses that are capable of addressing the numerous issues of VAWIHR. I want to know how people will create adequate alternative responses to VAWIHR that maintain women's and children's safety, that have serious consequences, and that are not punitive in nature. I want to know the way government power works, who changes its policies and how, when its policies are written with the intention of alleviating pressure on women, these policies actually create a different kind of pressure and stress for women? What are the small and large processes that change the outcome of the policy's intention? How does the legal method change those policies, and how do individuals influence the policies and changes in government? These questions indicate some important areas of research that move away from the direction this research took. Below I examine some future research projects that would examine practices of justice in similar ways to my research.

### *Future Research*

Since this research is exploratory, there are many points from which to ponder future similar research. I think focusing future research on specific issues, such as race and class, would help bring forward the barriers facing Aboriginal women and women of colour in abusive relationships with men, as well as examine the barriers that poverty presents to practices of justice. My research could also provide a building block to interview other people such as CJS personnel, i.e. judges, lawyers, clerks, etc. about the responses of justice to VAWIHR in order to learn about their experiences and knowledge of justice and VAWIHR. Interviewing numerous people from the practices of justice examined in this research as well as the women in the abusive relationships themselves, and then comparing their answers and thoughts about practices of justice and VAWIHR would be very beneficial for locating better justice responses for VAWIHR. A research project that coordinated all of those studies would be enormous. However, I think that by conducting those various combinations of research with their various focuses would provide a foundation for building alternatives based on the consistent themes and the knowledge about VAWIHR that resulted from those multiple and comparative research projects.

### *Concluding thoughts*

In this research about justice, I explored new dimensions in the discussion on practices of justice and VAWIHR. Justice is much more than the CJS response and does not operate in a vacuum. Justice operates on and between many layers. It operates on an individual, a community, a provincial, a federal, and on a global scale and in the many relationships in each layer and between the different layers. This view of justice

highlights that there are many factors outside of women's control when women make decisions about leaving their abusive, male (ex-) partner. Viewing justice as operating on and between many layers definitely highlights that the question people should ask about women in abusive relationships is not "how can she stay?" but "how can she leave?" (Se'ever, 2002), because the multiple layers and intersections of justice provide many barriers to women leaving abusive, relationships with men. Women face numerous challenges when leaving and dealing with abusive men. My research shows that justice needs to happen at many layers, and that currently in British Columbia encompassing justice with regards to VAWIHR is not happening in any of the five practices of justice explored in this research.

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**Appendix 'A'***Invitation Letter*

**Do you work in the field of domestic violence?**

**Do you care about justice?**

**Are you willing to share your ideas and thoughts about the two?**

**If you answered yes to the above questions, you might be interested in talking with Stephanie Abel, a graduate student conducting research through the University of Victoria.**

The purpose of this study is to interview front-line domestic violence workers about their thoughts, feelings, opinions, and knowledge on what justice could/should look like for those involved in or leaving situations of heterosexual male domestic violence.

I want to interview women who have worked/volunteered for at least 5 years, and are still involved on the front lines of domestic violence, and who are willing to participate in a face-to-face interview on the topic of justice and heterosexual male domestic violence.

The interview will last from 1 to 1.5 hours. I am looking for 5 women from different work backgrounds to interview. The work backgrounds can include but are not limited to, working in women's shelters, in hospitals, in second stage transition homes, victim services, etc. Please contact me if you have worked in the front lines of domestic violence and the location is not mentioned. The above is not an exclusive list.

I am interested in hearing your thoughts, ideas, opinions, and experiences about justice in situations of heterosexual male domestic violence. If you are interested, please contact me, Stephanie Abel, at 382-4274, or [abels@uvic.ca](mailto:abels@uvic.ca).

If you are not interested, or do not meet the criteria please pass this information along to others you feel may be interested in participating.

Thank you for taking the time to read this and pass it along.

Have a great day!!!

Stephanie Abel

382-4274

abels@uvic.ca

## **Appendix 'B'**

### *Participant Consent Letter*

#### **Justice?: Interviews with front-line domestic violence workers**

You are being invited to participate in a study entitled Justice?: Interviews with front-line domestic violence workers that is being conducted by Stephanie Abel. I am a graduate student in the department of Studies in Policy and Practice program at the University of Victoria and you can contact me if you have further questions by phoning me at (250) 382-4274, or emailing me at [abels@uvic.ca](mailto:abels@uvic.ca).

As a graduate student, I am required to conduct research as part of the requirements for a degree in Masters of Arts. It is being conducted under the supervision of Dr. Susan Boyd. You may contact her at (250) 721- 8203.

The purpose of this research project is to elicit the opinions and thoughts of front line workers who have worked in the domestic violence field on the issue of justice for people who have been involved in heterosexual male domestic violence relationships. In conducting this research I intend to expand the dialogue of justice around the issue of male violence against women in intimate relationships.

Research of this type is important because often the debates are reduced to disagreements about sentencing. This research intends to open up the concept of justice. It is important to put front line workers voices forward into these debates because they are the people that are daily supporting and assisting those involved in situations of male violence against women in intimate relationships.

You are being asked to participate in this study because you have received a letter of invitation to participate, and have indicated willingness to participate in this study. You were asked to participate because you have worked in the field of domestic violence for at least 5 years and continue to do so.

If you agree to voluntarily participate in this research, your participation will include one face-to-face interview that will take place at a mutually convenient location for us. The interview will be between 1 to 1.5 hours long. If a second interview is needed I will contact you again to see if that is possible, and if it is I will get you to initial this consent form and date it at the time of our second interview.

Although I do not anticipate it, there is one potential risk to you by participating in this research. It is possible that the questions asked could elicit memories or situations that you find upsetting. I will take steps to prevent risk to you by taking the following steps during the interview. You may ask for a break, reschedule the interview, or stop participating in the research at any time. During the interview, I will take the opportunity to check in with you and discuss the previous options or other ones that may present themselves at the time of the interview.

The potential benefits of your participation in this research include being in a space where you can talk about your ideas, thoughts and opinions and the work you do and not have to defend your beliefs and knowledge. Participating in this research may also provide you time to really think about what you believe, and know, and enable you to enhance your knowledge. The intent of this research is to expand the concept of justice and locate some themes and tensions in the work of domestic violence and the writing about domestic violence, criminal justice, and justice alternatives by academics and activists.

Your participation in this research is completely voluntary. If you do decide to participate, you may withdraw at any time without any consequences. If you choose to withdraw from the study, at the time of your withdrawal I will check with you to see if I can use the data that has been gathered. I will have you indicate your decision by signing a withdrawal form.

In terms of protecting your anonymity, I will provide you with an opportunity to use an alternative name for the use of the writing up of the research. Anything (place of work, etc.) that might identify you in the research will be omitted. If you wish to use an alternative name, the only location where your real name will appear is on this consent form.

Your confidentiality and the confidentiality of the data will be protected at all times. Therefore the consent form where your real name appears, and the audiotapes, the transcripts and the writing up of the research will remain separate. The data will only be viewed by myself for data analysis, and by those on my supervisory committee for guidance in appropriate analysis.

It is anticipated that the results of this study will be shared with others in the following ways

- ❖ My Master's Thesis
- ❖ Scholarly conferences and publications
- ❖ Community Forums

Data from this study will be disposed of 7 years from February 2006. The electronic data will be erased, the paper copies will be shredded, and the computer files will be deleted.

In addition to being able to contact the researcher, and my supervisor at the above phone numbers, you may verify the ethical approval of this study, or raise any concerns you might have, by contacting the Associate Vice-President, Research at the University of Victoria (250-472-4545).

Your signature below indicates that you understand the above conditions of participation in this study and that you have had the opportunity to have your questions answered by the researcher.

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*Name of Participant*

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*Signature*

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*Date*

***A copy of this consent will be left with you, and a copy will be taken by the researcher.***