



ACQUISITIONS

ISSUES RELATING
TO DOMESTIC VIOLENCE

DISCUSSION PAPER 77-1

NCJRS

MAY 2 1978

ACQUISITION

Wisconsin Legislative Council Staff
State Capitol

October 20, 1977
Revised November 28, 1977
Madison, Wisconsin

49000

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
PART I - DIMENSIONS OF THE PROBLEM	3
DEFINITION OF DOMESTIC VIOLENCE	3
DEVELOPMENT OF DATA	3
National Estimates of Spousal Violence	4
Wisconsin Data and Estimates of Spousal Violence	4
IDENTIFYING THE CAUSES	5
Mental Illness	5
Alcohol and Drugs	6
Poor Self-Image	6
Socialization and Public Acceptance of Violence	6
Stereotyped Sex Roles	6
PART II - STATE LEGISLATION RELATING TO DOMESTIC VIOLENCE	7
LEGISLATION ENACTED	7
California	7
Connecticut	8
Florida	8
Hawaii	8
Illinois	9
Maryland	9
Minnesota	9
New York	9
Oregon	10
Pennsylvania	10
Rhode Island	11
PENDING LEGISLATION	11
Massachusetts	11
New Jersey	11
JOINT RESOLUTIONS ADOPTED	12
Louisiana	12
Maryland	12

Table of Contents (continued)

	Page
PART III - POSSIBLE APPROACHES TO THE PROBLEM	13
CHANGES IN CRIMINAL LAW	13
COURT ORDERS FOR PROTECTION OF ABUSED SPOUSES	14
LAW ENFORCEMENT PROGRAMS	14
COMMUNITY PROGRAMS	14
TREATMENT OF PERSONS COMMITTING DOMESTIC VIOLENCE	15
REPORTS BY HEALTH PROFESSIONALS	15
APPENDIX - ANNOTATED BIBLIOGRAPHY OF SELECTED MATERIALS RELATING TO DOMESTIC VIOLENCE	17
1. Men who Assault their Wives	19
2. Middle Class Violence	19
3. Battered Wives	20
4. Police Response to Domestic Disturbances	20
5. Domestic Violence and the Police	21
6. Law Enforcement Problems with Intra-Family Violence	22
7. Wife Beating: The Silent Crisis	22

DISCUSSION PAPER 77-1*

ISSUES RELATING
TO DOMESTIC VIOLENCE

INTRODUCTION

On July 7, 1977, the Legislative Council established the Special Committee on Domestic Violence to study the subject matter of 1977 Assembly Joint Resolution 36. Assembly Joint Resolution 36 directs a "study of the incidence...of persons suffering physical abuse from the persons with which they cohabit, with special consideration given to identifying legislative solutions to the problem". The study is to determine "the rate and nature of the incidence of domestic violence", "the methods by which state and local government agencies, including police departments, handle and prevent such violence" and "the legislation in other jurisdictions addressing the problem". The Committee is directed to make recommendations for legislation to the Legislative Council for possible introduction in the 1979 Legislature.

The purpose of this Discussion Paper is to identify, for Committee discussion, various issues relating to domestic violence. This Paper is not intended to be a comprehensive analysis of each aspect of the problem, nor is it anticipated that the list of possible approaches to the problem is exhaustive.

This Paper discusses the definition, development of data and identification of causes of domestic violence; summarizes legislation enacted or pending in other states which relates to domestic violence; summarizes some possible approaches to dealing with the problem; and provides an annotated bibliography of selected studies and reports relating to domestic violence.

*This Discussion Paper was prepared by Gordon A. Anderson, Senior Staff Attorney, Richard N. Sweet, Staff Attorney, and Stephen Lythcott, Legal Research Assistant, Legislative Council Staff.

PART I

DIMENSIONS OF THE PROBLEM

This Part defines domestic violence as used in this Paper, discusses the difficulties in developing data relating to domestic violence and summarizes some of the causes of domestic violence as identified by certain writers on this topic.

DEFINITION OF DOMESTIC VIOLENCE

Assembly Joint Resolution 36 directs that the study be of the "incidence of persons suffering physical abuse from the persons with which they cohabit". Thus, for purposes of this Paper, non-physical abuse, including verbal harassment, threats or other activities not related to physical abuse are not discussed.

In addition, the definition of "cohabit" has been given alternatively as "to live together as husband and wife" or "to live together" or, in Black's Law Dictionary, revised 4th Edition, as (a) "dwelling together", (b) "intercourse together as husband and wife", or (c) "living or abiding or residing together as man and wife". In view of these definitions, for purposes of this Paper, the topic of child abuse has been excluded. Wisconsin does, however, have statutes which mandate that certain health professionals, school personnel and others report incidents of suspected child abuse to law enforcement authorities, prohibit abuse of children either in institutions or generally and penalize such acts. The Wisconsin Department of Health and Social Services prepares an annual statistical summary of data gathered from the reports which are filed each year. Should the Committee decide to consider the issue of child abuse, this information can be provided to the Committee.

The articles and the data collected in other states and Wisconsin relate more to physical abuse in situations in which the persons are legally husband and wife. Thus, the data, information and issues presented in this Paper do not specifically include persons who are living together in other than the legal relationship of husband and wife.

DEVELOPMENT OF DATA

One of the major problems in attempting to provide information on this subject is that, until recently, little data was collected to reveal the extent of the problem. Even now, with some efforts being made to collect data, it is difficult to present, with any degree of confidence, statements about the extent of the problem in Wisconsin.

This portion of the Paper summarizes some of the estimates by various writers on the extent of the problem and statistical data provided by the Milwaukee City Attorney's office and by persons and organizations in Dane County.

National Estimates of Spousal Violence

Commentators in the field generally agree that nationwide statistics on the incidence of spousal violence are rough estimates at best. This results in part from the fact that such violence is one of the most unreported of crimes. In addition, the laws of most states do not specifically prohibit this kind of assault; and, therefore, law enforcement officials do not maintain statistical data as to the filing and prosecution of complaints or dispositions of those complaints.

Generally, estimates of nationwide incidence are extrapolations; figures from localized surveys and studies have been proportionately factored to represent nationwide statistics. Thus, Roger Langley and Richard Levy estimate that there are 4.7 million badly battered wives in the country today based upon a study by sociologists Suzanne K. Steinmetz and Murray A. Straus which revealed a 10% incidence rate among a randomly sampled group of families in Delaware. Sociologist Richard Gelles extrapolates data from a similar random sample study he conducted, and estimates that there are at least 15 million battered wives in the country. Author Del Martin estimates that there are one million battered wives in the country. Finally, according to Langley and Levy, studies of divorcing couples in selected localities indicate that between 200,000 and 300,000 battered wives seek divorce every year. These authors also report, in their study, that it was not uncommon for judges, attorneys and domestic relations counselors to estimate that 50% of American wives are battered.

Wisconsin Data and Estimates of Spousal Violence

Statistics from the Milwaukee City Attorney's office reveal that from September 1976 to August 1977, 1,294 cases of wife beating were reported to that office. Of these cases, 109 were referred to the District Attorney's office for criminal prosecution; 241 complaints were abandoned because the wife either failed to appear at the initial hearing or requested charges be dropped; and 542 cases were settled through that office without criminal prosecution. The remaining 402 cases were disposed of in a variety of ways including referral to the municipal court, a legal aid society for civil action or to domestic counselors.

According to estimates by Patricia Barratt Size in an unpublished University of Wisconsin Masters Degree Thesis, 210 cases of wife battery were reported to the Madison Police Department in

1975. Her study, based upon an examination of the problem over a four-month period, reveals that in 85% of the cases, no weapon was involved; in 76% of the cases, no visible injury occurred; and in 30% of the cases, one or both parties had consumed alcohol. Of the assaults, 76% occurred between the hours of five p.m. and four a.m. and 24% occurred between these hours on Sunday evening to Monday morning. Madison police arrested 11% of the husbands, usually charging the husband with disorderly conduct. Four per cent of the wives declared an intention to submit a complaint letter but less than one per cent actually did so.

Dane County Advocates for Battered Women estimates that there are about 4,000 battered wives in Dane County, and reports that 30% of their callers reported weekly beatings and almost 50% reported having received medical treatment for the assault. Only 35% of these persons had called the police. Fifteen per cent reported that children were also subject to abuse. Assailant alcohol use (35%) and drug use (8%) were also reported in significant numbers.

IDENTIFYING THE CAUSES

A number of persons who have written on the subject of domestic violence have indicated what they feel are the principal factors in, or causes of, domestic violence. This portion of the Paper attempts to summarize some of these causes as stated by these writers.

Experts cite a combination of factors, generally involving stress, self-concept, socialization and personal and community values, as causing wife abuse. Most frequently cited are: mental illness; alcohol and drugs; poor self-image; socialization and public acceptance of violence; and stereotyped sex roles.

Mental Illness

Although intuition suggests that many wife beaters are sadists who obtain pleasure from inflicting pain, paranoids exhibiting deep fears or schizophrenics unable to tell reality, authors Roger Langley and Richard Levy state that most researchers do not believe that the majority of assailants are "mentally ill" within the meaning of that term as used by health professionals. In this regard, sociologist Dr. Murray Straus believes that the percentage of wife beaters who are mentally ill is not disproportionate when compared to the society as a whole.

Alcohol and Drugs

Researchers share widely in the view that many family disputes involving assaultive behavior can be traced to the use of alcohol or drugs by at least one of the spouses; the difference is only as to the frequency of alcohol or drug use. Del Martin and Roger Langley and Richard Levy cite in their books many studies, which show between 25% and 60% of the incidents of wife abuse involve use of alcohol or drugs. Some authors, like Del Martin, question the manner in which alcohol or drugs contribute to the attacks.

Poor Self-Image

Sociologists Richard Gelles and Murray Straus have found that assailants often have low self-esteem and state that these men may seek to bolster their image in the eyes of others and themselves by carrying out violent acts. Authors Langley and Levy state that many wife beaters feel inadequate about various aspects of their lives and are often educational dropouts.

Socialization and Public Acceptance of Violence

Some researchers, like Del Martin, place significant blame for violent domestic acts upon a prior history of violence in the family setting. By exposing children to violence, by making them victims of violence and by providing them with learning contexts for the commission of violence, some writers believe that the pattern of violence may be continued in later domestic relations. Many researchers have found that assailants were victims of child abuse or observed attacks by their father upon their mother.

Stereotyped Sex Roles

Some sociologists suggest that many assailants internalize the aggressive-masculine sex role stereotype and attempt to live this role. Del Martin states that society endorses a compulsive-masculinity male role model for boys and passive-female corollary for girls. Both standards contribute to the problem.

PART II

STATE LEGISLATION RELATING TO DOMESTIC VIOLENCE

This Part is a brief description of legislation pending or enacted and joint resolutions adopted in other states which relate to domestic violence.

Legislation relating to domestic violence has been enacted in at least 11 states: California, Connecticut, Florida, Hawaii, Illinois, Maryland, Minnesota, New York, Oregon, Pennsylvania and Rhode Island. In addition, in at least two states, Massachusetts and New Jersey, such legislation has passed one House of the state's Legislature. Joint resolutions have been adopted in two states: Louisiana and Maryland.

LEGISLATION ENACTED

California

Three bills recently enacted into law in California deal with domestic violence:

1. The first law [Chapter 720, Laws of California of 1977] permits a court to grant a temporary restraining order, for a period not to exceed 30 days, upon a showing of reasonable proof of a past act or acts "of actual violence resulting in physical injury for the purpose of preventing a recurrence of actual domestic violence and assuring a period of separation of the parties involved". A wilful disobedience of the temporary restraining order is considered a misdemeanor.

2. The second law [Chapter 892, Laws of California of 1977] grants an appropriation of \$280,000 to the California State Department of Health to contract with public or private non-profit agencies to fund a statewide network of between four and six pilot domestic violence project centers. The centers are funded for a period of two and a half years. The centers are to provide shelter on an around-the-clock basis, an around-the-clock switchboard, temporary housing and food facilities, psychological support and peer counseling, referral to existing services, a day program or drop-in center, arrangements for school-age children to continue their education during their stay at the center and emergency transportation to the center.

3. The third law [Chapter 908, Laws of California of 1977] made a technical change to that provision of the California penal code which makes it a felony for any person to wilfully inflict

cruel or inhuman corporal punishment upon a child or for a husband to wilfully inflict corporal injury resulting in traumatic condition upon his wife. The Bill separated the reporting of the two crimes, thereby making it easier for law enforcement officials to determine the incidence of husbands beating wives.

Connecticut

A law recently enacted in Connecticut [Connecticut Public Act No. 77-336] permits an adult who has been subjected to a threat of present physical pain or physical injury by his or her spouse to enjoin the spouse from "(1) imposing any restraint upon the person or liberty of the applicant; (2) assaulting, molesting, sexually assaulting or attacking the applicant or (3) entering the family dwelling or the dwelling of the applicant". A court order may not exceed 90 days unless an action for legal separation or dissolution of the marriage has been commenced by either party. A court may issue an ex parte order where an application alleges an immediate and present physical danger to the applicant..

Florida

A Florida law [Chapter 77-67, 1977 Laws of Florida] permits a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has committed battery against his or her spouse and "...the officer finds evidence of bodily harm or the officer reasonably believes that there is danger of violence unless the person alleged to have committed the battery is arrested without delay...." Under Florida law, battery is a misdemeanor and, with the above exception, an officer may not arrest a person for a misdemeanor without a warrant unless the act occurred in the officer's presence.

Hawaii

A Hawaii law [Act 189, 1973 Session Laws of Hawaii] makes it a misdemeanor to physically abuse one's spouse. The law further provides that "upon dismissal" of the abusive spouse and "discharge of the proceeding" against the abusive spouse, if no similar offenses are charged for a period of one year, the court is required to expunge from all official records matters relating to his or her arrest, trial, finding of guilt and dismissal of the charges. The Hawaii law further gives police officers the authority to order a spouse to "voluntarily leave the premises for a cooling off period of three hours" where the officer has reasonable grounds to believe that there is probable danger of substantial physical harm being inflicted on a spouse. If the abusive spouse fails to comply with the officer's request or returns within three hours, the officer may arrest him or her "...for the purpose of preventing further physical harm to the injured spouse."

Illinois

A recently enacted Illinois law [Public Act 80-797, Laws of Illinois] gives courts several options to pursue "upon a proper showing of actual or imminent physical harm" to a spouse or to a minor child. The court may enjoin the party from threatening, molesting or injuring the other spouse or children. The court may exclude either party from the home for a period not to exceed 30 days. The court may award temporary custody or establish temporary visitation rights with regard to minor children. The court may also recommend that either or both of the parties undergo counseling. The law provides that the court may use any or all of the options.

Maryland

A Maryland law [Chapter 731, Laws of Maryland of 1977] requires the Secretary of Human Resources to establish a model shelter home located in a major population center to be used by battered spouses and their children. The Secretary is required to establish, by rule, user fees for the model shelter home.

Minnesota

A Minnesota law [Chapter 428, Laws of Minnesota for 1977] appropriated \$500,000 to be used for grants by the Minnesota Commissioner of Corrections. Not more than \$50,000 of the amount appropriated is to be used for grants to develop "...educational programs designed to promote public and professional awareness of the problems of battered women." Not more than \$75,000 is to be spent for administrative costs. The remainder is to be used by the Commissioner for grants to establish four pilot programs to provide emergency shelter services and support services to battered women. Two of these programs are to be located in the Minneapolis-St. Paul area, one in another city and one in a rural area. The law also requires the Commissioner to appoint a nine-member advisory task force. Five of the members are to be representatives of community or governmental organizations which provide services to battered women and four are to be public members. The law also provides an additional appropriation of \$100,000 to the Governor's Manpower Office to enter into contracts to provide counseling and training services to displaced homemakers. Finally, the law requires the Commissioner to develop a uniform form and method for collection of data on battered women. Hospitals, physicians, public health nurses and local law enforcement agencies are required to collect and provide such data to the Commissioner.

New York

New York has recently enacted two laws which relate to domestic violence:

1. Prior to enactment of the first law [Chapter 449, Laws of New York of 1977], family courts had exclusive jurisdiction over assaults or attempted assaults between spouses or between members of the same family or household. Under Chapter 449, family courts and criminal courts are given concurrent jurisdiction. However, a choice of one court by a complainant bars any subsequent proceeding in the other court for the same offense. While a criminal action is pending, a court may issue a temporary order of protection as a condition of pretrial release. Such an order may require the defendant to stay away from the home, school, business or place of employment of the family or household member, may require the defendant to abstain from offensive conduct against the family or household member and may impose other enumerated conditions.

2. The second law [Chapter 450, Laws of New York of 1977] creates a definition of "special care home". These homes are facilities for parents and minor children, to be used where either the parent or the minor child is the victim of an act which would "constitute disorderly conduct, harassment, menacing, reckless endangerment and assault, and attempted assault or an attempted murder by related member of the same family or household". Minor children admitted to the special care home must be accompanied by a parent. Rules for licensing these facilities are to be established by the State Board of Social Welfare.

Oregon

An Oregon law [Chapter 845, Oregon Laws of 1977] enacted in October 1977 gives courts the power to grant a temporary restraining order or an injunction or to approve any consent agreement to bring about cessation of abuse. The orders are to be for a fixed period of time not to exceed one year and cover abuse between spouses, former spouses or persons cohabiting with each other. The order may include temporary custody and visitation rights with regard to minor children of the parties. The law further requires that when a peace officer is at the scene of a domestic disturbance and has probable cause to believe that an assault has occurred between "spouses, former spouses or persons of opposite sex residing together or who formerly resided together" or to believe that one person has placed the other in fear of "imminent serious bodily injury", the peace officer is required to arrest and take into custody the alleged or potential assailant unless the victim objects.

Pennsylvania

A law in Pennsylvania [Act No. 218, Laws of Pennsylvania of 1976] gives courts the power to grant a protection order or to approve a consent agreement to bring about a cessation of abuse by one spouse against the other spouse, by a person living as a spouse against the other person or by a parent against minor children. The protection order or consent agreement may not exceed one year. It may direct the defendant to refrain from abusing the plaintiff or

minor children, may grant possession to the plaintiff of the residence or household to the exclusion of the defendant, and may establish temporary custody and visitation rights with regard to minor children. On weekends, a district justice is given the authority to grant possession to the plaintiff of the residence or household to the exclusion of the defendant in an ex parte proceeding where there is an "immediate and present danger of abuse". Such an emergency order expires once the court resumes business or within 72 hours, whichever occurs sooner. A violation of a protection order or a court approved consent agreement may result in the defendant being charged with contempt of court.

Rhode Island

A Rhode Island law [Chapter 259, 1977 Public Laws of Rhode Island] creates a misdemeanor entitled "domestic assault," which is defined as simple assault occurring "...between adult parties who reside in the same household or are husband and wife...." Domestic assault is punishable by the same penalties as simple assault--imprisonment for not more than one year or a fine of not more than \$500 or both. The law also states that no complainant in a domestic assault case shall be required to post any recognizance. Rhode Island law permits a judge or justice of the peace to require a complainant in other cases to post recognizance of not more than \$50 to insure that the complainant will follow through with prosecution.

PENDING LEGISLATION

Massachusetts

A bill in Massachusetts [Senate Bill No. 1817] has passed the Senate and was ordered to a third reading in the House of Representatives on October 5, 1977. The Bill states that whenever a criminal complaint issue which involves the infliction or the imminent threat of infliction of physical harm upon a person by the spouse or former spouse of the person, the court may, as a part of pre-trial release, impose certain conditions which will insure the "safety of the person allegedly suffering the physical abuse or threat thereof". The court is given the power, as part of the disposition of any criminal complaint above, to order referral for examination, diagnosis, counseling or treatment for the abusive spouse, periodic reporting to a probation officer and reasonable restrictions on the travel, association or place of abode of such person. The court may order the abusive spouse to vacate the marital home. Police are given authority to take a person into protective custody when they have probable cause to believe that the person has violated the court's order. Violation of the court's order may result in the violator being charged with contempt.

New Jersey

Four bills [Assembly Bills 3168 to 3171] dealing with domestic violence recently passed the New Jersey Assembly and have been referred to Senate Committees:

1. Assembly Bill 3168 requires the Department of Human Services to either establish or contract for a shelter for victims of spousal assault and their children. Standards for shelters for spousal assault victims are to be established by the Commissioner of Human Services. The Bill further enumerates purposes of such shelters and services to be provided by such shelters.

2. Assembly Bill 3169 amends the current New Jersey divorce law which states that desertion is a ground for divorce. The Bill states that "one or more beatings inflicted by the plaintiff on the defendant, or cruel and inhuman treatment of the defendant by the plaintiff" is an affirmative defense to a divorce action based on desertion.

3. Assembly Bill 3170 requires that the curriculum for police training courses include "training in the handling of domestic disputes involving an assault by one spouse upon another".

4. Assembly Bill 3171 requires a municipal court judge, who has received information that a person has committed assault, assault and battery or "atrocious assault and battery" against his or her spouse, to question the informant or complainant. If it appears that such act has occurred, the judge is required to question the person complained against. If the judge finds that "immediate or irreparable harm to the spouse of the accused may result from the presence of the accused in the common marital residence", the judge is required to order that the accused be prohibited from returning to that residence for a period not to exceed 72 hours. Violation of the judge's order is punishable as contempt of court.

JOINT RESOLUTIONS ADOPTED

Louisiana

A resolution adopted by both Houses of the Louisiana Legislature [1977 Senate Concurrent Resolution No. 21] states that the Bureau of Women in the Department of Health and Human Resources, Office of Human Services, "is hereby urged and requested to study and research the problem of battered women in this state." The study is to assess services presently available and determine services further needed. The Resolution establishes January 15, 1978 as the date for the Bureau to report its findings and recommendations. According to the Bureau of Women, the study has not been started since no staff or funds were provided by the Legislature for the study.

Maryland

A joint resolution which recently passed the Maryland Legislature [1977 Joint Resolution 61] requests the Maryland State Police to keep records of all assaults and to identify those cases arising between spouses living together or estranged spouses.

PART III

POSSIBLE APPROACHES TO THE PROBLEM

This Part summarizes some of the many suggestions for legislation or programs to alleviate the problems of domestic violence.

CHANGES IN CRIMINAL LAW

Under present Wisconsin Statutes, physical abuse against a spouse is not treated as a special identifiable offense.

Section 940.20, Wis. Stats., penalizes battery as a misdemeanor:

Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed may be fined not more than \$200 or imprisoned not more than six months, or both. [Note: Chapter 173, Laws of 1977, which becomes effective on July 1, 1978, increases the penalties to a fine of not more than \$10,000 or imprisonment for not more than nine months, or both.]

Section 940.22, Wis. Stats., penalizes aggravated battery as a felony:

Whoever causes great bodily harm to another by an act done with intent to cause great bodily harm to that person or another may be fined not more than \$2,500 or imprisoned not more than five years, or both. [Chapter 173, Laws of 1977, also increases the penalty for aggravated battery to a fine of not more than \$10,000 or imprisonment for not more than 10 years, or both.]

Wisconsin's sexual assault law, s. 940.225, Wis. Stats., provides in part:

(6) NO PROSECUTION OF SPOUSE. No person may be prosecuted under this section if the complainant is his or her legal spouse, unless the parties are living apart and one of them has filed for an annulment, legal separation or divorce.

Thus, sexual assault under any circumstances other than the above by a spouse is not subject to the penalties for sexual assault.

Suggestions made for modification of the above statutes include defining spouse abuse as a separate and distinct crime, and penalizing it either as a misdemeanor (as in Hawaii) or as a felony. In addition, it has been suggested that the sexual assault law be expanded to include marital rape.

COURT ORDERS FOR PROTECTION OF ABUSED SPOUSES

It has been suggested that the family courts or family court commissioners should have authorization to order an abusive spouse from the home notwithstanding the fact that no action for divorce or legal separation has been filed.

Legislation has been enacted in other states which permits a court to grant a temporary restraining order for a certain period of time to prohibit certain acts by a spouse even if the spouse continues to occupy the home. As discussed in the portion of this Paper dealing with legislation, California, Connecticut, Illinois, New York, Oregon and Pennsylvania have enacted laws which either permit a temporary restraining order prohibiting certain acts or prohibiting a person from entering the family dwelling of his spouse or both. In addition, Hawaii, has given police officers authority to order a spouse to leave the home for a "cooling off" period of three hours.

LAW ENFORCEMENT PROGRAMS

It has been suggested that training programs for law enforcement officers be created to better enable them to deal with domestic violence situations. It has also been suggested that it is necessary to have better enforcement of anti-harassment orders in cases where actions for divorce or legal separation have begun.

Programs can also be created either through community agencies or in cooperation with law enforcement agencies to inform victims of domestic violence of their rights, to assist them in bringing charges, to provide protection against their abuser and to inform the person of the progress of the case against the abuser.

COMMUNITY PROGRAMS

A number of facilities and programs have been created for the benefit of victims of domestic violence. These include both short-term refuges for immediate crisis situations to physically protect a person against further abuse and to provide immediate psychological and other medical help, and longer term, more comprehensive programs which include displaced homemaker programs with job training, counseling and other services to enable the abused person to reenter the work force. California, Maryland, Minnesota and New York laws have established shelter home programs and, in New Jersey, such legislation has passed one House of the Legislature.

The community programs could also include general counseling, health services, transportation and advocacy programs for victims of domestic violence.

TREATMENT OF PERSONS COMMITTING DOMESTIC VIOLENCE

Treatment programs for a person who commits an act of violence could be created under s. 51.42, Wis. Stats., (Community Mental Health, Mental Retardation, Alcoholism and Drug Abuse Services). Any necessary funding could be extended by the state either through a separate appropriation to the s. 51.42 Board for the program or including funds within the general appropriation for the s. 51.42 Board.

It has also been suggested that in cases where a person has been convicted of battery or aggravated battery in connection with the abuse of his or her spouse that a presentence psychological exam be performed, as is currently done with convicted sex offenders.

REPORTS BY HEALTH PROFESSIONALS

It has been suggested that, as is currently done with incidents involving child abuse, certain categories of health professionals be required to report to law enforcement authorities suspected incidents of physical abuse by a person against his or her spouse. The current statutory physician-patient and psychologist-patient privileges in court actions may be amended to permit the testimony of a physician or psychologist regarding communications made to him or her by a person regarding abuse by or to that person's spouse.

GAA:RNS:SL:tmh:kiw:sem:tmh:plj

APPENDIX

ANNOTATED BIBLIOGRAPHY OF SELECTED MATERIALS
RELATING TO DOMESTIC VIOLENCE

APPENDIX

ANNOTATED BIBLIOGRAPHY OF SELECTED MATERIALS
RELATING TO DOMESTIC VIOLENCE

1. Men Who Assault Their Wives [Faulk, M., Medicine, Science and the Law (July 1974)].

This brief article, which discusses the psychiatric disturbances of men who assault their wives, is based upon a British study in 1973 of a group of 23 men who were in custody for seriously assaulting their wives. Sixteen of the 23 were found to have a psychiatric disorder.

In comparing these men with those in similar studies associated with battered babies, strong differences were reported. Fewer of the men in the 1973 study were diagnosed as immature, aggressive or heterogeneous, while a larger number clustered around the psychiatric poles: psychotic on one hand or apparently stable and resilient on the other. It was found that in 75% of the cases, explicit or implicit warnings had been given prior to the final attack. It is also reported that attacks without warning occurred most frequently by those men who were diagnosed as mentally ill, and the least frequently by those with delusional jealousy and personality disorders in which it seemed that violence was often a means of manipulating or intimidating the victim.

2. Middle Class Violence [Stark, Rodney, and James McEvoy III, Psychology Today (November 1970)].

This article is a report of a 1969 survey for the National Commission on the Causes and Prevention of Violence, which was conducted, in part, for the purpose of determining the extent to which Americans have been the victims of violence or have acted violently. It was reported that one-fifth of all Americans approve of slapping a spouse on "appropriate" occasions. Approval of this practice increases with income and education. Among those with eight years of schooling or less, 16% approve of a husband slapping his wife, but 25% of the college educated approve of this conduct. It is also reported that 41% of all adult Americans admit to owning at least one gun and 6% admit to having threatened another person with a knife or a gun or having been threatened with such a weapon. Additionally, American acceptance of violence, expressed in the context of child discipline, vigilantism, military violence, political assassination and repression, is reported by race, religion, region, age, income and education.

3. Battered Wives [Martin, Del, San Francisco: Glide Publications, 1976].

The author, the Coordinator of the Task Force on Battered Wives of the National Organization for Women, is considered by many persons as a leading authority on the problem of battered wives. Martin highlights the components of the problem, suggests needed changes, describes existing refuges for battered wives and provides hints for prospective grant applicants.

The author acknowledges that accurate statistics of the incidence of wife beating are unavailable. Based upon data from police reports and emergency medical files, she estimates that there are well over one million battered wives in the country today. Martin argues that the foundation of the problem does not lie in husband/wife interaction, or the immediate triggering incidents, but in the institution of marriage, the historical attitudes toward women, the economy and inadequacies in the legal and social service systems.

The difficulties encountered by women seeking help through the police and social service agencies and the courts are discussed: the police often prefer to mediate rather than to arrest; there are few shelters and social agencies provide minimal support for the shelters; civil actions are expensive and geared toward reconciliation; and criminal sanctions are inconclusive and rarely protect the wife from a husband who wants to harm her.

Immediate solutions such as psychotherapy, physical defense training and divorce are proposed. In addition, remedial legislation to affect public attitudes and behavior over time is discussed. Martin suggests that, if necessary to overcome abuse of discretion, the police and prosecutor's functions should be constrained. She proposes that specific legislation prohibiting wife abuse be enacted and suggests that judges protect the wife by closing the revolving door of probation and de-emphasizing reconciliation at this stage of the marriage. Martin also recommends gun control, equal rights, employment and marriage contract legislation.

4. Police Response to Domestic Disturbances [Parnas, Raymond, Wisconsin Law Review (Fall 1967)].

This discussion of police responses to domestic disturbance calls in Chicago in 1966 identifies problems posed by police department policy and practice and suggests certain correctional measures for police departments and criminal justice systems. The author states that the implicit policy of non-arrest and discretionary dispute mediation followed by the police is a fundamental problem.

The report recommends the adoption of a supportive police intervention model akin to the police function in the juvenile justice system. A restatement of departmental policy to include a clear explanation of the adjustment ends of police involvement, the range of alternatives available for adjustment and the underlying values and reasons for the adopted ends and means is cited as the first step toward establishing an effective police posture. It is further recommended that this policy be given careful consideration in the training and selection of recruits.

5. Domestic Violence and the Police [Washington, D.C. Police Foundation, 1977].

This report discusses studies conducted by the Detroit and Kansas City Police Departments and examines the circumstances surrounding homicides and aggravated assaults in those cities. Special attention is given to the incidence and predictability of domestic violence and potential methods to reduce the number of domestic disputes in which force is involved. In the Detroit study, assaults and conflict-motivated homicides were examined; in the Kansas City study, characteristics of aggravated assaults and homicides, and participants in such disputes were examined. Arrest records of participants and previous police responses to disturbance calls at the location of assaults and homicides were also studied.

The studies suggest that there is a strong link to prior police intervention in domestic disputes. In the Kansas City study, it was found that at least one previous domestic dispute had occurred at the same address in about 85% of the cases studied, and at least five previous police visits to the address had occurred in 50% of the cases studied. In the Detroit study, it was found that 56.2% of the assault victims said that they had had previous arguments with others resulting in assaults which were reported to the police. Both studies also show that violence is frequently proceeded by threats made to the victim.

Researchers in the Detroit study found that 23% of those conflict-motivated homicides studied involved husbands and wives and the next most common victim/assailant relationship was as acquaintances and friends. These two relationships were also the most common in conflict-motivated assaults, although the relative frequency of the two relationships were reversed. An analysis of the multi-variable survey in the Kansas City study reveals several statistically significant variables: age, marital status, family background, previous criminal record, use of firearms, sexual behavior and calls for assistance. In addition, three predictors of physical force were identified: the presence of a gun, a history of previous disturbances and the presence of alcohol.

The Police Foundation recommends that greater research on the predictors of violence, as well as the comparative effectiveness of different dispositions be conducted; this data would be integrated in a more sophisticated conflict intervention program for recruits and veterans. The goal is for more scientific mediation techniques for police officers.

6. Law Enforcement Problems with Intra-Family Violence, [Bannon, James, unpublished paper].

In an unpublished paper presented to the 1975 American Bar Association Convention, Detroit Police Commander Bannon discusses the contribution of the criminal justice system to the incidence of domestic violence. He believes that the legal system is more capable of impacting domestic violence at the street level by identifying and correcting problems posed by the criminal justice system than by attempting to address the psychiatric-psychological aspects of the problem. He suggests that wife beating is a social problem bred by a violence-prone society and nurtured by a commonly held view that wives are property-like and subordinate to their husbands.

Bannon argues that the traditionally trained police officer suffers from the same socialization, which results in unenthusiastic intervention. This intervention posture is ineffectual and discourages the reporting of violence. Prosecutors and courts receive similar criticism.

According to Bannon, there is a tremendous attrition rate in domestic violence cases: in Detroit in 1972, there were approximately 4,900 assaults upon wives which resulted in the issuance of warrants. Only 300 of these cases were ultimately tried by a court of law. Bannon argues that this breakdown in problem resolution masks the true proportions of the problem and causes more serious violence to occur. He implies that many homicides of one spouse by the other result from the failure to intervene and mediate at earlier stages of the assaultive relationship.

Several recommendations for lowering the incidence of wife beating are made: improved police training in conflict intervention techniques, commitment to full response and documentation of all domestic violence calls, creation of a multi-disciplinary diagnostic facility, examination of non-criminal remedies and adoption of a view of domestic violence as a public issue.

7. Wife Beating: The Silent Crisis [Langley, Roger, and Richard Levy, New York: E.P. Dutton, 1977].

The authors explore the dimensions of wife beating by discussing legal and social history and data from sociologists, criminologists, psychologists and others who have conducted research on the contemporary problem. The causes of spousal violence and constraints which often keep the wife in the marriage relationship are also discussed. Case histories of battered wives are described. Critical attention is also given the criminal justice system and problems resulting from state criminal codes, judicial and prosecutorial discretion and the police response; and proposals for corrective action are presented. The authors also discuss the problem of the battered husband. They suggest that while attacks

upon husbands are less frequent than attacks upon wives, attacks upon husbands are even less frequently reported in proportion to their numbers.

Exhaustive suggestions for "liberating the battered wife" are made. The wife is given practical advice as to the options generally available to her and the best tactics to employ to resolve her problem. Suggestions as to the mechanics of organizing a community task force are offered. Models for emergency centers and shelters are presented and various recommendations for pressuring authorities to enforce laws against wife beating are also offered.

END