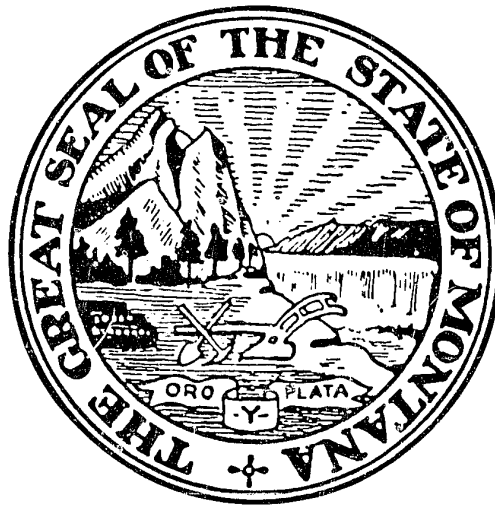


A STUDY OF SPOUSE BATTERING IN MONTANA

APRIL 1978



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Critical Corrections - Spouse Battering Study

- Page 4 - "Dr. James Bannon, Executive Deputy Chief of the Detroit Police Department, however, took note of the relationship between society's historical attitudes towards women and the subsequent development of laws that excluded them from consideration:
- Page 53 - But he saw things... bugs on the wall and his biggest problem was (his fear) that he would stop breathing and he would make me sit next to him and if he would sort of doze off, he'd wake up and say things like, "You're not watching. You have to watch and make sure I'm breathing. If I stop, you have to help me."
- Page 62 - It may be that women are socialized into being attracted to the machismo-oriented male, the domineering male, or the male who has power just as males are expected to fill those roles.
- Page 92 - The child would benefit from the money so recovered. Societal interests would also be served by a policy which provided resources to the child from the parent rather than state welfare funds.
- Page 100 - The decision to arrest must be made on the determination of "probable cause" which is the criteria set forth in the law. The arbitrary insertion of the criteria of relationship of victim and assailant (husband and wife) or the criteria of location (in the home) is constitutionally questionable.
- Page 109 - (#6.) In-service training sessions on the subject are also recommended. (Officers often don't receive such training for many months after hiring.)
- Page 110 - (#9.) Law enforcement officials ought to remember that the Montana Criminal Code sanctions the use of violence under very limited circumstances - and nagging is not one.
- (#11.) Appendix E
- Page 116 - (#27.) Stewart Oneglia

Prepared by Martha Adrian and
Carol Mitchell under contract
with the Department of Social
and Rehabilitation Services.

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We wish to thank those who made invaluable contributions to our study. Foremost thanks go to the victims who shared their experiences with and insights into the battering phenomenon. Contributions of interviews were made by Grace Sicotte of Butte, Patti Callaghan of Glendive, Theresa Sweeney and Claire Johnson of Missoula. Raymond Gold, Dick Vandiver, Women's Place, and Claire Johnson served as consultants. Claire's suggestions on how to proceed with the research, and her support and interest throughout the project were greatly appreciated. The willingness by agencies to deal with forms and interviews were appreciated. We wish to acknowledge the contributions of Marti Jones, psychologist, Glasgow Mental Health Center, and typists Terry Berry, Dena Parker, and Pat Downey.

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What has been a closet issue, has now become a topic of national interest. Television programs, journal articles, and much research in the area of spouse abuse indicates an increasing awareness of the need to do something about the problem. However, what to do is not as obvious due to the complexity of violence in the family.

We have known of wife abuse for centuries. Violence against women has been documented in historical accounts; laws have specified to what extent a man may punish his wife"

Our law, based upon the old English common-law doctrines, explicitly permitted wife-beating for correctional purposes...'the right to whip his wife, provided that he used a switch no bigger than his thumb' - a rule of thumb!¹

We joke about couples who "enjoy" beating one another and say "if that's what they want then that's their right, and they deserve each other."

In the "No Comment" section of "Ms." magazine, July 1973, this now well-known ad was reported from a bowling alley in Michigan: 'Have some fun. Beat your wife tonight. Then celebrate with some good food and drink with your friends.'²

But is it what women want, and do they attain pleasure from such abuse? From all that has been recently written on the subject and from our experience researching battering, we conclude an emphatic NO.

Violence in the family is not restricted to a few cases or perverted individuals but a wide-spread social phenomenon

involving "normal, everyday" people as well as those who are considered "mentally disturbed." Violence is learned behavior, perpetuated by underlying cultural myths and assumptions, not isolated acts by deviant individuals.

The frequency of violence in the home is one indicator of abuse not being an act of individual pathology. One estimate is that one out of every two to three women will become battered women.³ According to F.B.I. statistics in 1973, one fourth of all murders occurred within the family, and one-half of these were husband-wife killings.⁴ "Men are victims in nearly 50% of all domestic homicides...Women are victims in more than 85% of domestic assault cases."⁵

Richard Gelles interviewed the neighbors of known violent families (as reported by social agencies and the police) to establish a control group with which the known violent group could be compared. In the "non-violent" or control group, 37% of the families had had at least one incident of violence and in 12% of the families violence was a regular occurrence.⁶

Estimates range from two to three to ten times as many occurrences of spouse assault go unreported as are reported.⁷

Myths surrounding battering have maintained violence in the home. Gelles states that for many people the marriage license becomes a hitting license.⁸ The underlying social definition of the family, however, has been one of non-violence, a sanctuary.⁹ As such, until recently, we had not come to look at the discrepancy between how we perceive the family

and what really goes on in the home. "Socially shared definitions of the family as nonviolent seem to lead husbands and wives to define and construct instances in which physical force is used as something other than 'violence'." Therefore, no "sizable or influential group in the population has defined it as a problem."¹⁰ Monogamous relationships may be the most dangerous kind.

The sanctity of the home, that what goes on there is the private business of those that dwell within, has kept battering a "mystical" phenomenon. The notion that a man's house is his castle; the concept of woman as property, to be protected and treated as such; and the myth of the masochistic woman left unquestioned the idea of battering as a social issue.

Fear of retaliation and feelings of isolation have kept victims from discussing their circumstances. Victims, like all members of society, internalize the myths about battering and its victims and feel embarrassed for or ashamed of having "let" this happen to them.

Privacy presents a difficult issue when seeking legal solutions to violence in the home. In all but one state (South Dakota), it is legal for a husband to rape his wife. How does the law provide for the legal rights of individuals when the state at the same time must respect their privacy? In the area of assault -- "The problem is not a lack of laws against [domestic assault]; there are many applicable laws... The problem is that these laws, when broken in a family or quasi-family context, are systematically unenforced..."¹¹

The legal system has dealt with spouse assault mostly by ignoring it, thinking that the criminal law is not able to effectively deal with the problem. The same crime of assault or rape perpetuated on another member of society other than one's spouse would be dealt with in quite a different light. "Dr. James Bannon, Executive Deputy Chief of the Detroit Police Department, however, took note of the relationship between development of laws that excluded them from consideration".

It is not an accident that women are not the subject of express concern in the constitution of the United States. That document, as has the law which follows from it, reflects the standard socialization of its framers. Women were not second-class citizens, but in fact were non-citizens. As such they were not entitled to the protections extended to fully-vested male citizens.

These circumstances, according to Dr. Bannon, not only explain the differences in treatment of domestic assault by law enforcement officials but suggest that the victim's search for assistance must necessarily end without success." 12

Having unenforceable laws may be as dangerous as having no laws, as violent behavior is reinforced when nothing is done about it. As a victim explained, "He wasn't retaliated against and so he did it more and more frequently." It is significant that victims seeking legal aid often go away unrewarded in their efforts to take control of their situations, thus reinforcing notions of isolation and fear, that nothing can be done to help them with what seems an inescapable plight.

In order to examine the phenomenon of domestic assault, we have addressed the different aspects of the problem by dividing this report into three sections. Part I explains the research approach and rationale used in this study. In part II, the climate of domestic violence is described, who's involved, and how violence affects their lives. How legal and social agencies approach the problem of spouse abuse, and victim-agency interaction are included in this section. Montana law and legal remedies are presented in Part III. In part IV, law enforcement is discussed. Recommendations are made in Part V.

PART I: Methodology

Our approach to studying battered spouses is qualitative rather than quantitative. In order to understand the phenomenon of spouse abuse in Montana, it was essential to have those involved tell their own stories. Specifically, the research proposal was to study battering from the victim's point of view, to recommend social and legal remedies for the problem. From the ethnographic approach taken, the population was necessarily small in order to attain detailed information and descriptions of the events and attitudes surrounding domestic violence.

Qualitative research assumes that the interviewee is the one with the knowledge of the subject, not the researcher. The person being interviewed largely determines the content of the interview, the specifics, while the interviewer gives broad categories for the interviewee to address. By taking such an approach, we were able to gain insight into the feelings of the victims, why they stayed in such abusive relationships, and what they thought was needed to help themselves and others in similar circumstances. From their stories, we can better understand the difficulties in determining the frequency of spouse abuse.

Victims were located through referrals from agencies, hospitals, doctors, and advertising for volunteers. All subjects volunteered.¹³ Therefore, battering was self-defined, and the amount and duration of physical force varied. As

mentioned previously, people often do not consider what goes on in their homes to be abusive. In describing her home life as a child, one victim makes the point:

He beat me when I was 18 because I wouldn't put the dog down because he was going to beat the dog. He lost control and beat me that time. He hit my mother and gave her a black eye and choked her once but it wasn't an average, normal thing in our house. I guess they were just really normal people who argued once in a while, but like I said, my father was violent at times.

The term "battering" has the sound of excessive, complete physical destruction and many who are physically abused may not consider themselves battered! One such case was called to our attention by an intake worker at Missoula County Department of Social and Rehabilitative Services (S.R.S.) who stated a friend of hers was slapped by her husband periodically, but she would never have thought of herself as a battered spouse. We did not define battering when advertising for victims.

All those who volunteered for the study were women. Although there were several agencies who had come into contact with husband abuse or mutual abuse, none of those victims volunteered for interviewing.

There may be a difference between those who volunteer and those who do not. Most of the victims interviewed had left the battering relationship, some a considerable time ago, and may have felt more confident in disclosing their previous situations. I was told repeatedly by victims that they would not

have contacted us were they still in the violent situation:

Embarrassment, I think. A lot of people don't want to let you know what their downfalls are, afraid of more criticism on top of what their husbands are doing...

One victim who had counselled other victims explained in response to the question why women in that situation do not talk about it:

They are afraid to talk for fear they'll get beat again. Their pride. And also they are afraid to lose their security. So many of them have nothing to fall back on. What would they do? Where would they go? seems to be the biggest thing.

Another victim's response to the question of why she volunteered for interviewing was:

Oh simply because it's over and done with and it's a long time ago, it's another part of my life... I guess a lot of it is that I'm so totally happy now -- that seems a long time ago.

Most responded to the opportunity to help someone else in the battering situation:

Well, for one thing, I think my educational background, and the time that has elapsed, has helped. But I think my background has made me look at this a little more objectively realizing that if I can possibly help even one person to avoid the misery that I went through, it would be well worth it.

The data that appears in Appendix A of this report is a compilation of information from 25 Data Forms filled out at the beginning of the interviews. There were 25 inter-

views, 24 of which were taped.¹⁴ Fifteen of these taped interviews have been transcribed (10 from Missoula, 3 from Glendive, 2 from Butte) and along with 2 other interviews from Glendive that were reviewed, comprise the material found in the body of the report and the other statistics appearing in Appendix A.

PART II: The Environment of Domestic Violence

A. Who's Involved

THE VICTIM

There are no stereotypes for women who find themselves in a battering relationship. Battering occurs in all Socio-economic classes. They are housewives and they are professionals. Their educational experiences are just as varied. Religious preferences or ethnic backgrounds do not appear to be factors.

If there is one common characteristic of battered women, it is low self-esteem.

I think most of us in that situation pretend that it is really not that important, that it doesn't really exist, I don't know really, trying to understand myself during that period, I really don't know what I was or how I thought or whatever, I guess I just wanted to get through it into some -- a better time. I kept thinking it was going to go away. And I think that is true of most of us. Your self-esteem is so shattered that you don't think that you have any alternative or any options.

Another victim's statement exemplifies the myths surrounding domestic violence and how the victim comes to internalize those myths in terms of low self-images:

I don't know how to get across this shame that is connected with being a battered wife. The people, the public always assume you deserve it because this has been the normal thing for years back, from the cave men. People just assume you have the right to beat on your wife and this is not so...The attitude of the public that it is all your fault. You have no self-esteem, you don't feel like you're worth anything anyway.

The assailant mentally as well as physically reinforces her loss of self-respect:

I just felt very down. I felt like I was nothing and I didn't even know why I existed and he just got me down where I felt so awful...and he convinced me that I was sick and that I needed help.

I was completely intimidated to the point -- I mean he -- it was just the continued shouting, swearing, vulgarity, calling me names, accusations. It's unbelievable what these people do when they are alone in their home and yet put up such a good front. I think at times, he almost got me believing it myself, that he would say "dummy"...Looking back, I was pretty dumb to stick around.

Physical and the mental abuse that accompany it destroy one's self concept and renders one immobilized to act for one's benefit. We need look no further than the control and extermination of Jews during World War II, sometimes in the presence of only a few soldiers, to understand the phenomenon of victim psychology.

Above all else, the victim did not ask to be beaten, nor did she find any masochistic pleasure in it. She is frightened, often to the point of fearing for her life. Following their separation, she was threatened with a knife by her spouse:

I thought he was going to kill me that day. He said I had deprived his son of a father and he was going to deprive him of his mother. (The baby) started to cry and I walked over to pick him up and I had on real high heeled shoes...I kicked them off and I thought at least if I run. He's going to kill me anyway. I'll at least die fighting.

After an episode of being knocked unconscious, one victim remembered her fears:

I felt like I was gonna die...I'm deathly afraid of faving a guy hit me really hard.

Verbal threats to kill frequently accompany the attacks.

All of the victims interviewed were smaller than their assailants. Women, unlike men, are not socialized to deal with conflicts using physical force, and often times do not know how to defend themselves.

I thought, I am going to let this son of a bitch know exactly how I feel about him, and I raised my hand to rub my head and I was just about to, I don't know where I was going to hit him but it was coming down and I was going to get him either on the shoulder or head or somewhere. But, I just couldn't do it. I couldn't bring my hand down. It stopped in mid air of its own accord. I wanted to hit him. I wanted to hit him badly. But I couldn't make myself...Maybe I was afraid that if I hit him, was he going to get that knife again or maybe it is because I am essentially a non-violent person...I wasn't equipped to deal with physical abuse. I wasn't equipped to fight back. I didn't know how to fight back, afraid of what he would do to me because I knew he was bigger than me...My only chance was to lull him into a false sense of security and escape him by either locking myself in the bathroom or running.

Many victims learn early that fighting back is futile, even dangerous. Most attempts meet with retaliation.

He one time put his hands around my neck and left black and blue spots, and punched until I thought I was going to pass out.

[Interviewer: "Did you fight him off?"] "Well, as much as I could, I learned very early that the best thing to do was to be passive. Because the more I fought, the more he fought. And he could hit harder than I could."

If I just stand there or something or just fall on the floor or something like that then he would just quit sooner.

One woman was able to fight back successfully but she still lives with the threat of violence:

I fell down by this can (a milk can) and I picked it up and I threw it at him, and he stopped, 'cause he realized what was going to happen and I told him that I realized that I wasn't strong enough to really hurt him but from now on, he's gonna have one hell of a fight. He'd have to see what he could do about it. I told him I would call the cops. Since then he hasn't touched me." (3 years)

One has to know when and how to fight. A friend of one of the women interviewed had told her, "If you would've hit (husband) over the head with a baseball bat the first week you were married, you wouldn't be in this fix now." The victim's daughter, who was present during the interview responded, "That's how people get killed, I think very often when a woman retaliates and he becomes more violent, sooner or later one of them is pulling the gun out of the closet and blasting the other one's head off."

Other means of self-protection were employed such as maneuvering to place furniture between each other, ducking blows and objects, covering one's body with one's arms. Women were not necessarily completely passive, non-resisting victims, but knew the limits of their defenses.

Some used behaviors such as verbal assault, anything to wound, to try to get even while being physically attacked:

I would use my mouth to get back at him. Then I would attack his masculinity. Once he would hit me I would say 'oh, you're a really big man. It takes a really big man to hit a woman.' Pow, I would get it again. I'm not able to leave well enough alone. 'Now did that make you feel better?' and pow he would let me have it again...I think I was into name calling by this time.

Another woman was sorry she had not intervened verbally:

I never hit back. I walked away and cried which was the worst thing I could have done, but I would try to leave the room and walk away and cry...Through all my sort of training, (counseling) and all the things (classes) I've taken, I should have -- least if I could have -- gotten a word in...

Inability to deal with having someone you love and who claims to love you at the same time physically assaulting you, leads to emotional breakdown and immobility.

Oh, I don't know what I thought, I just think I was so shocked that it was real hard for me to realize it actually happened. I remember going into the bedroom and shutting the door and thinking this can't be happening to me. I don't feel very good about myself for putting up with this type of thing.

I just went into a really deep depression. I wouldn't talk to any of my friends or his relatives. I wouldn't do anything. I just felt that it wasn't worth even trying and I just gave up...I was trying to figure out a way to make him stop, I was always trying.

Until they learned that their behavior had no relationship to the beatings, many women accepted responsibility for the beating:

I think that we are learning about all of this is that so many women feel as I did - somehow, that I was at fault. The woman feels that she's to blame. And she is blamed for it. He's told she's to blame.

In an interview, Klaus Sitte, an attorney for Legal Services in Missoula and Mineral counties, spoke of a case where his client had actually experimented with what she did and said to see if she were provoking the assaults. One time trying one behavior, the next time doing just the opposite, she came to the conclusion that it did not matter what she did. The reaction was the same -- violence.

The cultural assumption that one can be justifiably provoked verbally to physical violence, that nagging justifies hitting, often leads women to believe they are to blame.

He would go out drinking, and if he had a hard time at the bar or something, he would come home and be grouchy. And when he would come home in a good mood it would make me so mad that he had wasted that money in a bar that I would really pick on him and we would get into a big fight and I would end up getting hit.

And accepting blame, they stay, trying to make their marriages work. Most battered women believe that they are responsible for the success of their marriages, that if the marriage fails, they have failed personally.

Above and beyond the physical hurts, I think the psychological damage was much worse. At the time it was just something to get through. I didn't know anything else really. I knew marriages that were not like that but that my marriage was all I had and I wanted that marriage to work somehow. I knew it wouldn't but I wanted it to anyway.

Some found their religion to be influential in their decision to stay:

I felt that I wasn't a good wife, that he might be right. I felt I wasn't doing what I was supposed to be doing as a Christian wife...I felt like it was my fault that I couldn't communicate with him...I had been raised into Lutheran belief that marriage is a marriage. I felt that it took a certain amount of time to know if I really tried at it to know if it was worth it...that it was my responsibility to make him happy. I didn't know how much further my marriage could go, but I felt that I had to try at least to make a good enough stab at it...

We were always told, 'Once a Catholic, you remain married, regardless.' And I guess that was ingrained in me enough to think -- these little things you put up with, try to do the best you can with them, hope you can help them. If you can't, maybe it's your fault, maybe you are a failure. Some are and it leaves you with a terrible guilty feeling...I don't feel that way anymore. That's behind me. And the Catholic Church doesn't either. It takes a long time to leave that behind.

If a previous marriage had failed, there was even more pressure to succeed:

This was my second marriage and I wanted so much to have it be successful. So I tried every way I could think of and nothing worked and I couldn't understand it. I couldn't, no matter how hard I tried. I felt sometimes as if I was just pouring my whole being into this and it just didn't work.

"Why do they stay?" is the most frequently asked question concerning battering. The complexity of the situation makes for a complicated answer. There are innumerable factors involved in what on the surface might seem an easy decision to make -- Leave!

Domestic assault differs from other assault in several critical ways:

Victims are dependent on their assailants; Assailants know the habits and life-styles of the victims; and victims and assailants live together (in most instances) and share feelings associated with intimacy.¹⁵

As mentioned before, it is confusing and bewildering to be abused by a loved one, whether or not the person has had such conflicts in his/her history. Battering usually does not start until the 6th month of marriage,¹⁶ or now that living together is popular, until the couple moves in together.¹⁷ Most women see no evidence of violence until they are already caught up in an intimate relationship.

A woman knowledgeable of social learning theory explained why she stayed:

I was getting my reinforcement, I mean all of my reinforcement was there in that person and until the negative things became enough to cancel out all the other reinforcements I was getting, I know I wasn't going to leave. That just makes sense.

Battering relationships are not constantly violent. There are good times, and social learning theory also tells us that intermittent reinforcement produces the most persistent behavior. Each time there is a good time, there is hope for another.

He could be so nice and buy me presents we couldn't afford. Sometimes he would come home and wouldn't let me do anything. He would do the laundry and he would even iron and do dishes...and when he was good, you can't imagine what it was like. He was charming, utterly charming....I was very involved emotionally with that man, I really was. I thought he was the absolute end...he was normally very articulate, had a broad range of interest. We used to talk for hours about books we had read together...so many things.

I never had in my life...So what do you do? You stick it out and maybe the next day it's just great. So then you think well maybe this is just as episode -- well then gradually you know it isn't.

Though in the process of getting a divorce, one victim talks about the good times:

The reason I like to be with him is I enjoy him a lot. We laugh a lot. We have a good time...I can be in the kitchen cooking, he's got to be right there at the door and he'll talk about work and what people are doing or whatever...he's just like a puppy dog and follows me around.

There are notable exceptions to the rule that most women have no violent experiences with their mates prior to co-habitation. It is with considerable reluctance that we draw attention to these exceptions for fear of purporting the idea that women "want to be beaten" or "ask for it." It must be remembered that as products of a violent society, we may accept a certain amount of violence in our relationships, especially if we assume it is a one-of-a-kind incident. This incident happened while dating her husband-to-be:

Once we were having an argument in the car on the way home and I got slapped and I got a bloody nose. It was like a slap. He immediately said - "I'm sorry, I didn't mean to do that."

Apologizing after a violent incident is characteristic of an assailant's behavior.

An underlying element or assumption in our society contributing to violence against women is the use of violence

to teach someone a lesson or to control someone's behavior in certain instances. We believe we have the right to protect children from harming themselves, or to teach them not to behave a certain way by spanking. We believe that slapping a hysterical person makes them "come to her/his senses."

Women, as well as men, internalize these beliefs. During one interview, a friend of the victim came in and disclosed that she had been slapped by her boyfriend the night before. She proceeded to tell us that she had informed him that if she were to ever get out of hand, he should slap her. She was operating on the assumption that men had the right to control women when they are "out of control: or "deserve it," or did something they didn't like.

The degree of violence serves as a cue to the woman about how to behave. One victim did distinguish a slap from a hit:

Yes, they are different. A slap is simply a warning; ...a hit, of course, is more serious.

Another victim who had experienced violence previous to the marriage at the age of 15, relates why she followed through with marriage:

Well, we were dating and after we had been dating, I guess three or four months, he raped me. We got into a situation that made that rather easy for him and he blackmailed me, more or less, into continuing the relationship with threats that he would tell people stories about me and nobody would believe me anyway, and I became pregnant at that point and he convinced me that I had no other solution than to marry him. And I believed him. I believed that I didn't have any other alternative.

A few of the victims told of having gotten married for the "wrong" reason, but still had no awareness of the impending violence:

I realize now that the first time I got married was to get away from home...I was bad, bad, bad, that was all I knew. And I really got better grades in school than anybody else but that never was enough. I guess I always just felt that I could never be quite acceptable to anybody. So if somebody said, 'Let's get married', I thought, 'Oh, wow, I guess I'm all right!'. So when someone wanted to marry me I thought I was pretty lucky because marriage seemed to be at that time, that was the goal for women. If you weren't married, there was something wrong with you...Then when I married the second time, I really thought he cared about me and I think he did, but I think he had so many problems himself which I was not aware of when we were married.

I guess I needed to be needed, and I certainly wasn't needed at home. (first marriage).

By the time patterns of violence had been established, women found themselves trapped by many circumstances. Although they may be working women, or assumed the duty of paying the bills, their spouses would rigidly control all the money rendering them economically dependent. Women sometimes did not know how much their husbands salaries were.

One of the things I think that women stay in a situation like that is like me; I married a man who kept tight control of the purse strings and I never had any money...you just think 'I can't stand this; I've got to get out,' but you don't have any money, you don't even have bus fare to the next town.

If anything were to happen, that baby would probably be the first one to suffer because she's only five or six days old and there were many times when he disappeared in [a city] where no one knew him and he

couldn't get a check cashed where there would be no money in the house for 24 or 48 hours. I would just manage to get enough things together to feed the baby...This was a man that was earning thirty thousand dollars a year, and he controlled the whole account.

Usually he takes care of the money and if he wants to do something, that's usually what we end up doing. I don't have much say in that.

We had one checkbook which he carried always, for convenience I was allowed to sign...It was a joint checking account. Only it wasn't my name, it was Mrs. ...I would write the check for the groceries and I would take it back to him and he would check the cash register slip against the amount of the check.

At other times:

He wouldn't give me any spending money. I mean never a dollar. He would buy my cigarettes he would buy the toothpaste, he would pick up what we needed for dinner.

Extreme control of finances forced victims to use elaborate schemes of obtaining money. To get spending money, this woman resorted to manipulating her husband into giving her money when they had sex, letting him think it was his idea:

There was a little prickling in the back of my mind going, 'What you're doing is called prostitution.' But outwardly and to my more basic needs I was saying 'it's the only way I can get money and he is my husband after all. I was justifying it because I wanted the freedom of being able to buy a gallon of gas and ride up to Lolo for a coke...If your husband can't rape you, how can you prostitute yourself?

Dependent children, lacking the means to support them, and a desire for the children to have a complete family life are other motivations for staying in the relationship:

I wanted our son to have both a mother and a father, more so even, because he was adopted, than otherwise.

If we adopted a child, he should have parents. Once a parent abandoned him, he shouldn't be abandoned again.

Because of my children. And besides the fact that I was very insecure with myself, I did not think I could make it on my own.

Well, there's three or four of them [other battered women] that I know of...It's hard to say, it took me a long time. I think a lot of it is that a woman needs somebody to help her, women get scared about being out on her own and doin' this kind of stuff all by herself... That's what took me so long. And I think sometimes they just don't know what to do. At the time I went through it there wasn't anything you really could do. I could run home to my folks but you don't like to do that...There's a couple of women that I know of right now that I have no idea what they are doing except they are my age or a little bit older, they have got little kids. And I think scared to get out on your own and don't know if you can make it or not...financial reasons and just scared, because...no matter whether you've been beat up or not you still have a certain amount of security. You have a home and a husband who does have a paycheck.

[after being threatened with a knife] How do you think it is that something like that would happen and you still couldn't admit to your self that something was drastically wrong? Well, I knew it was, but you see, I felt like I didn't have any choice. By this time, you see, I was eighteen and a half. I had a three year old child. I had no education and I really felt trapped. I really felt like there was no where I could go. There was nothing I could do. There was no way in the world I was going to leave my daughter with him. I didn't feel like I had any alternatives. I felt like I was just sort of stuck there.

Being alone is one reason cited by a victim for a friend of hers not leaving a similiar situation:

And I think she is scared to death of growing old alone... So she is more afraid of that than she is of being beaten. I can't imagine what else it would be because she doesn't like him anymore. In fact, I've even heard her say that

she hates him...He threatens her, he's going to take the house from her and so forth. But she works for lawyers and she knows better.

Lack of self-confidence is typical of battered women.

I didn't know I could take charge of the situation. I didn't know that I could become responsible for myself. I didn't know that I could even survive without [husband] there to take care of me.

Many a woman hangs on, hoping her spouse would change.

I couldn't quite come to grips with the idea that I couldn't help him. I kept feeling that perhaps I could, there's always a chance.

Isolation completes the trap for a battered woman. She feels her story is so incredible that no one will believe her. Many do not talk to anyone about what is happening to them.

When I went to see my lawyer, he had no conception of what [husband] was like. Like every person who has come in contact with me, he thinks I'm making up half of this. So that's one of the reasons I don't talk about it, it's just too incredible. All my friends think -- ah, she's a little flakey.

Family and friends were supportive in some cases and instrumental in helping the woman to come to grips with her situation.

My superior [at work]...was the one who probably helped me to get the nerve to go ahead and leave and say it's done with, probably more than anyone else in the beginning...my family gave me the most support. They helped me move and made sure I had everything that I needed...

Some felt they did not want to burden their parents or friends:

I could run home to my folks but you don't like to do that, and my folks are like 70 years old.

Once my mother said to me, 'Did you marry [husband] just because your father was always drinking and home was so unpleasant and caused you to marry a man you really didn't want to be with?' And I said, 'Yes, that's exactly it.' She said, 'I should have thought of that, but I didn't.' And I thought, 'She doesn't need the guilt to know that I also got slammed against the wall. It wasn't her fault.'

Others found those closest to them to be the most critical. With no support to deal with the problem and lack of knowledge of resources, the feelings of isolation were enhanced.

Somehow, you know, you had to make a marriage work. When I was divorced the first time, she [her mother] didn't even want me to go out and have dinner with my girlfriends. She would tell me, 'Look, you've made a failure of your life, your meaning now is to your son and to stay home...'

Oh, there were many reasons I stayed. For one reason, I didn't know where else to go. I had no money, no education; I had three children. My family wouldn't take me in. I didn't know welfare would help me. I didn't know any alternative but to stay.

When asked if anyone had known she was beaten, a victim responded that her mother-in-law had known:

...that was one of the times I was hit in the stomach... you know how you go around holding your stomach... that's how she found out.

Interviewer: 'And what was her attitude about that?'
She took me out and bought me a dress. [Her mother-in-law was a battered woman, who sometime later was divorced.]

Pride prevented some women from asking for help.

Like with me to turn to my family -- I couldn't do it because I wanted my marriage to measure up to what my sister had.

What others might think of her situation played a part in deciding whether or not to tell:

I think what I was thinking is: You have made your bed now lie in it. You know, it was a matter of pride... I was 15 and he was 19 when we got married and if I had a nickel for everytime I heard people behind my back say -- 'it won't last,' I would be wealthy... It was hard to be a quitter.

I'm ashamed and I'd certainly never talk to anyone about it. I just wouldn't let anyone know about what was happening to me.

It is not proper to air one's dirty laundry in public.

Battered women sometimes conclude "they haven't got it so bad" when compared to the circumstances of other abused women, or that she is somehow different from other victims.

I never once said, 'Wow, you should hear what happens to me'...because their's had an aura of a story about it. Their's was a special incident that happened. Mine was constant. Mine was something I lived with. Plus, it would put me in a very bad light. Being very insecure, I didn't think that I could handle being put in a bad light, at that time, and I knew that they would walk away.

Most of the women interviewed did not abusively use alcohol or drugs. Some were violently opposed to them, especially drinking, due to alcohol abuse by their spouses. A few had had a period where they used alcohol or drugs extensively. One woman married her second husband at a time when she was drinking; that marriage lasted a year. Another uses alcohol when depressed:

Just to get away from my problems or from when I feel trapped...

I was taking an incredible amount of speed -- I was a terrible speed freak for about eight to ten years of my life which I probably think helped this situation to go on as long as it did...I kept dealing with it. I was totally on an artificial high all the time. It took a great deal to depress me or upset me an awful lot...I'm sure I would have had to face it. I would have gone into some kind of depression or sobbed the whole thing out to somebody and gotten a fresh perspective. But as it was, you had two fairly stoned people most of the time.

How was it then that most these women came to leave their husbands? For many, the motivation for leaving was their children. What seemed impossible to do for themselves, they were able to do for those dependent upon them.

And why it stopped is that I had a three week old baby and I think I probably would have never left had it not been for just plain old female hormones... when I got out of it I did not get out of it because I felt I couldn't deal with it. I got out of it because I felt two very small people were in danger. And that I could deal with them, as long as I kept them afloat.

One of the things that made me snap was that same day, the same incident when he hit me because there was no

fork on the table, [the child] sat in the high chair and she started to cry, and she said 'don't hit her again, Daddy'...I thought to myself, what am I doing to her? What am I doing to me?

Why that day was any different from any other, some cannot explain:

All I can say is one day the sun came up...My son got out of high school and went into the army...and also physical abuse plus emotional and mental anguish became so bad that I realized that I'd either become a complete nervous wreck and never recover mentally...or physically...a combination of all of it.

One day I woke up and I had a whole different outlook on myself. It's like it just happened over night. I gained self confidence. I knew that the situation was bad. It was evil, and it was wrong for my children... I remember the exact date; it was the first of January. And I just calmly took the children, said I was going for a walk and I walked out with just that and I never went back.

Only one woman who had left the abusive relationship some time ago expressed vacillating feelings toward her spouse, not that she had any intensions of returning to that situation:

When you have children and you know there were times when I felt very close to him -- I have never been able to put that all behind me and say 'I'm done...' I haven't been able to resolve all my feelings...

At first, there is elation, a feeling that an enormous burden has been lifted from one's shoulders. When the high comes to an end, some continue alone and some return to the relationship, sometimes due to other dependencies:

I ended up barely even talking to him, very wary of everything because it could all fall in and I do have friends that constantly get divorces and come with this incredible high. That happens during the first year and I always say, Well, "live it up," because it hits an all time low too, to where you think, 'This is it, huh?' I'm going to be out here on the streets with these two kids the rest of my life. I'm going to grow old alone and what will I have? O.K. I did it myself. Big deal. Big deal.

There can be several critical periods, but once beyond them, they do not return to the abusive situation.

When I look back I feel sorry for myself. I have a lot of sympathy for myself that I was so disillusioned with everything, but now I am very assured of myself. I think that there is nothing that I can't do.

I have nothing to offer these people except a picture-- a three dimensional picture of someone who has been all those things, but is no longer those negative things and I walk and I talk and I breathe. I am not a case study and I am not a page out of a textbook. But whether or not other people are willing or even have whatever it takes. From the day you are born, somebody that tells you 'You are worthwhile human being' and makes all kinds of sacrifices for you; then maybe you have the strength to do it. How do you walk out on the one sense of being secure that you have ever known? It was hard enough you know. I knew I could take care of myself.

THE ASSAILANT

...the guy has a pot-belly, wears dirty undershirts and has a beer in front of the t.v. [a victim's description]

The stereotypic image of the batterer hinders us from knowing who he really is. Somehow the picture of poverty and lack of education make him a more believable person. However, only twenty percent of battering occurs in a poverty environment.¹⁸ According to our data, not only is the family more likely to have a middle to upper level income, but they are also likely to have at least some college. [See appendix A] As long as the identity of the assailant is explained away in terms of the actions of "those lower class people," identification of the battering phenomenon in the other sectors of our society is made impossible.

Society does indeed tolerate domestic assault...Yet the assailant is rarely punished. This cultural acceptance, coupled with the diversity among assailants as individuals, leads to another insight" violence among adult males is not only a culturally-approved norm, it is a behavioral norm as well.

Studying the assailant is made extremely difficult due to the lack of volunteers. Batterers often see the problem as the victim's, not their own. They do not readily seek help!¹⁹ He appears to others to be a "nice guy"; he is rarely, if ever, publically identified as the tyrant he is in the privacy of the home, the Jeckel and Hyde personality.

He's always had a pretty good personality; people like him; he gets along well with people. Of course, in the type of work he does he has to deal with people. This is what I don't understand. I don't understand how he can get to work when this is happening. He'll keep a straight face. He's funny, it's like he drinks to a certain point and there's like a switch. Once you turn on a switch, he just gets ugly about nothing.

Victims at times saw violence as the product of insecurity, as uncertainty of one's masculinity or having a distorted view of the masculine role:

...nobody knew this. My husband has a very sweet innocent baby face and he's phony as a three dollar bill...he can put on constantly and everybody thought, "Oh, such a nice guy." He has never picked a fight, the man has never been in a fight in his life and he is a coward...that's the way I feel about men that beat on women. They have to prove they are a big man and they can't handle a man, so they beat up the women... he was just a frustrated, spoiled little boy. His mother basically had run his life....

One woman had a non-traditional job, a machinist in an aero space factory, and her husband resented her good wages. Her husband had dropped out of school in the eighth grade "which was another big resentment toward me." He became a machinist right before their divorce.

Victims saw their spouses as child-like in their emotional development. A mother surrogate is often the function served by the wife:

If he had been drinking to excess [he behaved] like a little kid that had been caught doing something wrong and had been punished. He would actually be like he was going into a temper tantrum....It was more like a mother-son relationship. My husband is someone who needs a mother, not a wife. He needs someone to raise him and someone to slap his hands and say "no, no, that's wrong." When

we were married and he had responsibilities on his shoulders, he fought against it, both mentally and physically.

He reacted like a child, like a really small child. That is what his emotional temperament was. I think that mothers very often are the cause of this. I have seen more mothers not tolerate certain behavior in their female children that they will tolerate in their male children.

He had a whole list of complaints. And I think he still has. He can't maintain a relationship with the kind of girl he wants to have [his ideal] woman who doesn't want children, a woman who is a professional, equal to him. He's had two or three [of those types of relationships], one of whom keeps returning. But they won't cope. They will not be domestic on top of being super woman who hops on planes and goes hunting in Nova Scotia, you know, the whole jet set type of existence. He thinks she should get up on Sunday morning and make pancakes from scratch too. But [if] she walks her dog and goes to a pancake place to eat and comes back and says, 'Get up', [then] he is just freaked, you know, that she went and fed herself and her dog and didn't worry about him. So, he is obviously [emotionally] looking for 'mom' in a big way. The mom that wasn't really there [he was an abused child].

His dependency manifests itself in many ways. Being alone or being left is intolerable. Extra-marital affairs are common occurrences for the batterer.

...he was dating high school girls. [Interviewer: While you were married?] Un Huh. I was really hurt...when I first found out he was still seeing them and I didn't say a word to him. And I think the main reason for that was that I was sort of semi-relieved. When he was out with them he wasn't home...it was peaceful at home and when they were fulfilling his sexual needs, he wasn't bothering me.

[Interviewer: Do you think he was very dependent on you?] Well, I thought so until after this was all over and done with and he was carrying on with a gal at work down at the cleaners. I think that's why it made it easier for him to move out.

I think he is a very dependent person, he cannot stand to be alone. He cannot stand to be in a room alone. One of the reasons that the gas station I set him up with..failed [was] that he was calling the help up to come over and be with him.

Despite the need for interaction, the batterer typically is unable to develop intimate relationships with others:

He wanted, when he was home, to eat in the den and the children and I would eat in the kitchen area. He wanted peace and quiet. He wanted everybody to cater to him when he was home...Somehow there was something about the closeness of the marriage situation that he couldn't handle...

I wanted to know like all about his past history when he was married and so he told me the story of how often he had been married and why they ended up broken up...but he just kind of had a feeling that things happened to him, there wasn't anything he could do about them...I only know of one person that he really loved, that was his grandmother...The rest of the people that he talked about all the time, he just treated them like toys, like everything was there for his use.

He would treat me incredibly bad. He would bang my head against the wall...my hands would be shaking. I would be afraid of my own shadow. and then he would turn on the charm, sort of like a little boy who got caught with his hand in the cookie jar and then asks his mother if she still loves [him]. I'd kick him out and then he'd come back and say 'I will do anything to get my family back.'

Lacking communication skills and not knowing how to meet his needs, the batterer is unable to cope with meeting the needs of others [his spouse, his children]. Intimacy appears to be an overwhelming demand on him and yet his low frustration tolerance makes it imperative that his needs be attended to immediately by his spouse. This complete dependency on his

spouse may lead the batterer to believe that she is "the only person who will save him in a cruel world." 20

...he does feel like he loves me and I am the only one he has ever loved and feels the closest to and [in whom he] has ever confided.

He doesn't have a normal voice, he shouts. As my son did say, "I can't remember him being happy....He doesn't go out to bars, he doesn't want to ruin his great reputation....He sits alone in a corner in the dark with the... drapes closed, with his bottle in the corner and drinks alone. He's a desperate man. I feel sorry for him but there is nothing anyone can do....He said I drove away all the friends. Our friends would call me and say, 'Will you come and see me. We don't want to come. We are embarrassed.' They wouldn't come anymore...he was engaged to a girl...when we were married, and I said, 'you married the wrong person...I think you would have been happier with _____.' He and his girl drank together all the time. He said, 'I wouldn't marry her, she was an alcoholic...no, I would only marry a good girl.'

I think he felt the way he did because he also felt very trapped. We were both very young when we were married and he just didn't know how to let out his agressions constructively. He always said he loved me but I don't think he understood what love was. I don't think it is possible to love and beat someone at the same time.... You're not sharing anything. You're sleeping together and you're maybe going out in public maybe once a week together and you're sharing the bills and yet I still, I mean I don't feel that I'm communicating with him anymore but he is still communicating a lot with me. I still get late night phone calls. And at one point when he was visiting me this summer, I had to inform him that the person he's dealing with no longer exists. She is only in his mind, the woman he is talking to. The memory, of course, has gotten better. You know, I'm suddenly perfect after all those years. I was perfect and I was wonderful, why wasn't he receptive and why wasn't he a good husband after all these years?

Viewing a beating as "trying to teach her a lesson"²¹ the assailant sees his wife as the kind of person who wouldn't

be hurt by such treatment.²² One woman reported that her husband said he thought that the children in such situations should get help but women could get out of it; he had no sympathy for them [her].

Violence of the same nature toward his mother or another woman by another man is unfathomable to the batterer himself. He does not make the connection between his violent acts and others. Just as incredible to him is any aggressive act by his spouse towards him:

The funny thing about this incidence was that my husband was so obsessed that his father could hit his mother... that he was walking around making threats against his father. How dare [his father] hit his mother, etc. etc.

That day I thought he was going to kill me too....He had one of those real heavy brooms that you use for industrial purposes and he was hitting me with it, and he was really drunk then. I grabbed the handle of the broom and it came off the broom part. I cracked it across his arm and I thought he was going to kill me. And he said, 'You broke my arm; and I thought Good....He really hurt me very badly.

Other personality characteristics attributed to the batterer are pent up frustration and anger. Women often see themselves as the outlet for their spouses' hostilities. Unable to accept responsibility for himself, he views his spouse as the source of difficulty:

I don't think he will ever change, because he always blames external forces for everything that happens. Everything that happened between us was always my fault. It was my fault that his business fell through. It was my fault that our checking account was overdrawn. It was always somebody else's fault.

He had forgotten something and he was mad at himself but he had forgotten so he took it out on me....His sister told him one time that I was his whipping boy.

...Anger. Frustration, I think, [was] probably the largest thing. He drank, not excessively, not often. I think probably, if I stop to analyze all the times that he hit me, if I remember them all, and then separate them according to the times he had been drinking and times he had not been drinking, I think he probably hit me more when he was sober. When he was drinking he tended to be a jolly old fellow.

Irresponsibility with money, alcohol, buying other people things, or frivolous spending were frequent complaints by victims. One assailant owed his ex-spouse approximately \$30,000.00 of which she has received none. Another batterer would buy his buddies all their drinks.

He would go buy cars and come home and tell me. I bought us a Volkswagon he would say, or I got us a Riviera.

I suppose in some ways he was generous, he would give people things...he had a lot of friends but they were all four years younger than he was. They were all like high school boys.

...nothing got done if I didn't do it, car insurance, insurance on the house, whatever and when we got into financial trouble, I'm the one that talked to the creditors, because he wouldn't bring his paycheck home or he would bring home \$100.00 of it and I'm trying to figure what to do with \$300.00 worth of bills with \$100.00. I know he was very frustrated but yet he wouldn't do anything about it, you know, to help it out.

Mutual friends appear to be rare in battering relationships. Embarrassment leads to isolation for the woman who very often

does not care for her spouse's choice of company:

He would always find what I used to refer to as the other loser in the group. And usually, they were ten or fifteen years older than him. And yet, he was very comfortable with them. And they were real complainers....

He used to steal things too. That was another thing that bothered me. I was incredibly naive. They would go around with his truck and steal bicycles and file the serial numbers off of them, paint them and sell them. He stole lawn mowers, anything people would leave in their front yards he would steal and sell to second-hand stores or fix up and have a garage sale. It would never even occur to me to think where the stuff was coming from. He and his buddies who were all a bunch of bums....I couldn't believe it. I was working all day. He did nothing all day. He got picked up on an obscene telephone call right before [child] was born....The way I found out about that is I read it in the paper.

Del Martin claims that assailants "are likely to have criminal records." particularly in the area of assault.²³ Though our sample was small, less than one-third of the assailants had criminal records in comparison to approximately fifty percent in the samples Martin sites. In general, our information suggests the batterer is not likely to assault others though there were exceptions:

He realized that he had a temper and he was pretty good about controlling it....in the whole time that I knew him I saw him get...physically violent with a man once, or I didn't see it but I heard about....

[Interviewer: ...people in bars or something like that, would he get into fights with them?] He may have in his past in fact, I think he did at one time. That was one of the reasons why he didn't go into bars.

One woman said her husband had a tough-man image in high

school which he earned in a few fights.

The nature of the lawbreaking revealed in our interviews, varied from speeding to drunk and disorderly conduct to robbery, rape and assault. [See appendix A]

Some batterers had the image of the bright, college professor, the genius, and were chosen as mates by their spouses, in part, for that reason. In the excerpt below, one victim reveals the expectations she had had for a spouse, attributes she learned to value from her social class: to catch a bright, "smart" husband. Having such a "winner's" image is never paired with the stereotype of the batterer. He turned out to be both.

Get the smart ones....Absolutely! I can remember hearing that about my ex-husband before I ever met him.... [friends told me that] there was one person who was absolutely great. 'One of these days, he's going to come to one of these little parties. He lives in that apartment over there. Come over and meet him. He is the smartest guy. He is kind of weird.' He was all those things!

Holding down a job was difficult for some of the batterers:

He said working made him nervous; it drove him to drink... if he had been drinking, his personality would be like he was superior in education or whatever.

He could have gotten a job. Instead he preferred to be a full-time student and let his mother give him a check every month for our support and this sort of thing. Although he never verbalized it, I think that really kind of made him feel badly. And at one point he did go to work for two weeks in a lumber mill....He got his first check and gave notice. He said I don't need this...because [his parents] were financially well off, he was just plain too good for physical labor.

Wives often served as buffers to preserve their spouses' jobs and reputations:

...and then the week days, I would have to call and make excuses at the university for him for which I was really stupid....I should have just let him be called on the carpet, but it was my security and [we had] small infants too....I sheltered him all the time....

A frequent description of the batterer is one of having a need to punish or be punished.

To get his way was a constant problem. Yes, picking up things or threatening to do things or not do things if they were really important to me....Those are the things I never understood. Why was it that what I wanted to do would be turned around for punishment....He would show up at his family or mine and be absolutely charming....

Assailants were often characterized as possessive, jealous, and having the need to control.

I was his possession and I was to do what he told me to do or it wasn't right....One thing I think irritated my husband. He would say your name is not [her Christian name]; it's Mrs. [husband's name]. You're not to call yourself [Christian name] ever....Everything he did and said and would tell people...'She can't do this.' 'You can't do this.' 'You can't go there.' 'You couldn't do this by yourself.' 'She'll be back, she can't make it alone, she couldn't live without me.'

I was not allowed to go out of town without his permission... And he just never really liked me to go out and visit because he always said I was dumb and I didn't talk right.

The concept of women as property, to do with as one pleases was further pointed to as one of the causes of violence. One woman stated that she didn't think her ex-husband had any under-

standing of female sexuality. Rape was mentioned by several victims who thought their husbands had a need to prove their masculinity:

But that was the first time he struck me....We were just having a quarrel over his husbandly rights. I was very pregnant at the time and I figured he didn't have any at that point....He thought that, well, that he had that right....I think I was just being assertive of my rights not to have sex when I felt like a blimp....The thing that upset me most about the whole incident was not that he hit me but he had his way in the end....and so you see that anger overshadowed the anger of having been hit.

Batterers operate on the assumption that what goes on in the home should be of no concern to others, that it is his right to treat his property as he sees fit.

...he grabbed me at a party and one of the boys spoke up and said, 'You had better knock it off.' And [her husband] turned around and said, 'What did you say to me? It's not your business what happens in my marriage.'

As mentioned previously, the assailant expresses disbelief that the victim will leave, that she is not capable of making it on her own. When she does leave, however, he pursues her, harasses her, and in some cases takes his own life.²⁴ Self-inflicted wounds or violence towards his spouse are other reactions to her leaving or asking for divorce:

...when I did leave him the first time, he was always after me...he just really got violent about it and was throwing things at me and stuff so I told him that he'd better not ever come near me again or I'll call the police so he went home and he shot himself. You know, he shot himself, he shot his leg...then another time he cut...his arm really bad and this was in one of our fights and after a while, I just...well, I had to go back to him...So I went back to him and then I knew that if I wanted a divorce from him,

I would either have to go it very slow or I'd just have to completely take off. So I tried going really slow....I said, I think it would be better for both of us if we just had a nice divorce. Well, he agreed on it until the day it was time for him to move out of the house...he got really upset; he got really drunk and he came home. He was choking me; he threatened to cut my throat out....I just really played nice to him and I said, okay, you don't have to leave...and as soon as he passed out, I put my kids in the car and a few clothes and I moved....

CHILDREN

When he'd walk through the door, she [the daughter] would just start crying and run to me for protection. She's just petrified of him. He used to throw her in bed and lock the door on her. One time she was lying [sleeping] on the couch and he threw her on the floor. She was so tired she just lay there. He kicked her and kicked her. It took her two years to warm up to men, even my dad who loves kids. She is still a little wary of some men.

One researcher in the area of domestic violence estimates that child abuse is present in approximately two-thirds of the cases where there is spouse abuse.²⁵ If we include in our statistics, children who witness spouse abuse as abused children, our data show the same proportion. However, actual physical abuse was reported in one-third of our interviews. [See ppendix A] Walker estimates that both spouses contribute equally to the physical abuse of children.²⁶ Our interviews contain no self-reports of child abuse although one woman spoke of her fear that she might have abused her children:

And here was this demanding little red thing and there have been times when I just had to walk out of the room with the other child because there was so much tension between the two of us that she would do some little thing and it would just drive me berzerk. And I was afraid that I was going to start smacking this wonderful one-year old child around because of the tension in the air.

Stewart Oneglia, an attorney specializing in domestic relations, claims husbands are usually not abusive to their children and frequently are loving fathers.²⁷ Some interviews support her theory:

It was all directed at me. There wasn't anybody else he could abuse physically and get away with it. The baby was his little darling pride and joy. He would never abuse her.... [after one incident of spouse abuse]: ...[she] sat in the high chair and she started to cry, and she said, 'Don't hit her again, Daddy.'... And [husband] picked her up out of the high chair and hugged, kissed her and cuddled her...daddy would never hurt you. She was just crying, she was unhappy. She sensed the tension like kids do.

Other interviews show physical abuse or aloofness on the part of the husband:

When I had asked him to get out of the house, he went in and he got the kids up and he set them in the chair. And he was really being violent; it was the look on his face, just was really scaring me. And the kids were so scared of him then that I don't know they, they didn't know what to think, and they didn't even dare cry....Well, for several months, my son, all he would talk about was my daddy hit my mommy. I told him that this was in the past. But he's really protective; he doesn't like guys coming into the home. I don't know if it would be different if his dad came back or what, but he doesn't like guys to come around....They're adjusting now...but I think at that time they did need help.

A daughter of one of the victims was present during an interview and she described an instance of her father's physical abuse [her mother explained that the daughter had asked for a cup of tea]:

I don't remember [the cause]...except that he was so angry and he became very violent and he was choking me...he hit me and knocked me against the door frame against the side of my face....I just immediately had a huge black eye; I had a cut on the inside of my mouth and my mouth was bleeding...he hit me and knocked me into the side of the door and I got up and he hit me again... I learned not to get up....

Whether or not children are physically abused, their emotional adjustment suffers from awareness of spouse abuse.

He [the child] was really, really hyper. He threw temper tantrums all the time. He did little things for attention, partly because I couldn't give him attention, and he wasn't getting any from his father. Interestingly enough, the priest at St. Francis' decided he was going to become a male influence in [the child's] life....He just really needed a man sometimes. He calmed down a great deal.

The same daughter who described her father's abuse stated feelings of isolation because other children's parents would not allow their children to play with her. She was also embarrassed to go to school with visible welts and bruises.

Children's initial reaction to violence is to protect the abused spouse:

One day my husband took a gun after my son....Another time he threw a rock through a picture window and said he was going to kill him because my son was trying to protect me from a beating. My son was bigger than my husband and there was no way he was going to let it happen.

I was pregnant with my last child and I was kicked in the back and began to bleed two days later and pretty near lost the baby. He was born premature....And they [the children] saw all the beatings. In fact, they used to get out and get the police for me. They know I couldn't get out so they would run out of the house and get the police....Once my son hid under the pool table until he could get out of the house and then went and got the police.

He [the child] don't like to see people..he'll cry and stuff...like when someone slaps me, and I just teasingly slap someone else back. He thinks it is a real fight and he goes over there and slaps them.

While children may abhor the violence, they learn violent behavior in the same manner they learn other behaviors. One of the worst tragedies of abuse is its perpetuation by children who have grown up in homes with domestic violence. As male children mature, they may come to physically abuse their mothers and later their wives. There is a high rate of incest in these families. The "man does not see himself in the role of husband/father/protector/provider of the family," and seduces his daughter.²⁸ Our research did not deal with these aspects of batterings; therefore, we have no information concerning incest or children's abuse of their parents. No such information was volunteered.

Walker claims that a high percentage of males who grow up in violent homes become batterers; however, only one-third of the victims came from violent family backgrounds.²⁹ There appears to be little difference in their backgrounds according to our data, the majority coming from non-violent homes; however, I hesitate to draw any sweeping generalizations from a small sample. One possible conclusion is that women learn helplessness; sex role stereotyping casts them into passive roles, whereas men are socialized in aggression, taking what they want, and dealing with conflict through physical aggression. It was suggested in one of the interviews that women who become victims have learned a life pattern of being victims. If estimates are correct as the number of women who become victims, it is not an unreasonable extrapolation that women in general learn victim psychology. As part of the same process, males learn to dominate through the

use of or threat of physical violence. Their violent acts may be expressions of frustrations with the impossibly high achievement expectations and role demands placed upon men in our society.³⁰

Four of the women had been abused in two different relationships: two of those having been married twice to batterers, one having briefly lived with an assailant and had previously been married to a batterer, and one had had one date with a man who abused her and later married a man who had raped her. Victims did not always know about their husband's previous or current relationships, but seven of them reported knowledge of abuse in their spouses' relationships with other women. Thirteen women reported no further abuse. This finding contradicts the notion that women will seek another abusive relationship if the previous one is terminated. Given a high abuse rate, it is conceivable that by sheer coincidence women meet other batterers. It may also be that women who are taught to be powerless are attracted to domineering males, not because they are violent, but because males have the power in our society.

The following excerpts are victims' depictions of their family backgrounds and the backgrounds of their spouses:

I.

My father severely punished my brothers and sisters.... But I was never punished because I was always much smaller....He would take the strap to all of them....I don't think he was an alcoholic as such, he didn't drink all the time, but he would go on sprees. He would come home and beat my mom. I would hear it. She would cry. ...And I remember several times she would have her bag packed to leave...but she never did go...and he was truly sorry. I remember so distinctly coming from the funeral. I sat in the back seat of the car with him. The first time my father would break down and cry....I was sitting next to him and I remember him saying, 'She was the only one I really loved.' And I can remember I looked at him and I thought, 'What's he doing?' I couldn't understand this at all.

II.

I only had too much to drink once in my life and I remember very vividly....My father was an alcoholic up until 15 years ago. So, it is very rare to see anybody in my family get too much to drink....My father was a member of the A.A., counseling, praying, among a number of other things. It works for him. It works for my mother. They are happy and he was not a violent drunk. He was mild...

[Interviewer: Did he ever beat your mother?] Never. He just retreated into a foggy world with alcohol...maybe it is just my observance of alcohol, it brings out your worst or your weakest character.

III.

Like my relationship with my folks is that I love them dearly but I am extremely independent and I always have been..I just can't stand relying on somebody....I got into trouble, not anything bad. I was supposed to be home at 1:00, I got home at 1:30. But I never got beat, I was more or less on my own, it was like an honor system. No, I had a super childhood and he did too, except like I said he was just frustrated for years because he never could do anything on his own.... And my folks always got along super. I think they had a lot of problems when they were first married but they are great people. And I don't think I ever saw them fight. In fact, if I ever did see them argue, it was so funny that we all just sat around and laughed about it.

IV.

I don't remember a great deal of physical violence...mostly it was just my mother attacking my step-father. He did things that would really make her angry, and she would be really smashed or something, and she would beat on his chest....Well, you see what he would do...mother bruises easily...when she would attack him, flailing at him he would push her away....She was an alcoholic, you see, and she would fall to the floor and the next day she would have bruises up and down her side and she would tell how he had beat her. And it wasn't really that way. He was kind of defending himself...he could have cared less and I think that is one of the reasons mother attacked him.

V.

His father used to beat him. And he used to talk about it

to me, kick him, slam him against the wall.

[Interviewer: Him or all the kids?] All the boys.

[Interviewer: Did he hit his wife?] No, he didn't hit his wife. But there was a terrible amount of tension in his house and I figured it out after doing some reading and it was: why were there 6 children born in 7 years? She was only 30 years old. Why were there no more children born in this house? Obviously, they did not sleep together after the sixth child. Figuring it out later, it just seems fairly obvious to me that this was the solution, the old style of birth control. And so I think it created a lot of tension. These kids really suffered from it. And being the brightest kid and the most aggressive kid and the biggest kid although he had older brothers and sisters, he took the brunt of it.

VI.

[Interviewer: Do you know much about his parents? Was there violence in his family home?] Yes, yes....The only thing I ever saw personally and I did not see it happen... an argument of some sort about a letter that his mother had received from a man, not his father, and she came home in a cab with a bloody lip and a black eye and his father did not show up for another day and two days and his mother ...had been drinking. They both had been drinking.

VII.

My parents have always had a good relationship. They've been married for quite a few years. Towards us children they were always fair and good in their punishment. His parents had a very poor relationship with each other.... I've known them for now 10 years, could never talk to each other. They could never converse with one another.... They've never slept together the ten years that I've known them, so as far as I'm concerned, it was a really sad relationship. And as far as punishment for the children goes, they never received punishment. Their parents were just aloof of all the situations: they just didn't really care.

VIII.

He [husband] was a frustrated, spoiled little boy. His

mother basically had run his life, his folks had, and that's where he's at now...under Mommy's and Daddy's thumb, and they like it and so does he....It was a real close family but it was just whenever [husband] was in trouble Mommy and Daddy were there to bail him out and [husband] has never had to do anything on his own, so consequently, he doesn't know how to do anything on his own. When he gets in a jam which is constantly, he would call his mom or dad or his brother, and his brother is an extremely well-known and extremely wealthy doctor. And they would always bail him out. So he didn't know how to handle anything on his own.

Victims characterized their spouses' family backgrounds in the following ways:

His family "spoiled" him.
 His family made his decisions for him.
 He was physically abused as a child.
 He witnessed his father beating his mother.
 The home environment was one of emotional poverty.
 And one woman said her husband had a good homelife as a child.

There appeared to be more women describing their homelives as positive environments; however, the above list of characteristics applied to other of the victims' backgrounds.

Spanking is an accepted form of disciplining children in our society. Physical force is used to "teach" children but how much do we really know about the consequences of controlling behavior through the use of violence? One woman explains:

Now in retrospect I would never lay a hand on a child no matter what, unless...maybe with little children; slap their hands or something if they were doing something that was dangerous to themselves. I just wouldn't do it, but I didn't know any better. [She had spanked her children on a few occasions].

B. Patterns of Violence

As we have already indicated, battering does not occur continuously. As a relationship bares more stress, there is more physical abuse. The severity may increase as battering becomes a strengthened response. Patterns are formed. Sometimes its the time of day, certain days of the week, times when the assailants are most likely to be home [evenings, weekends]. Violence may occur when the woman is pregnant, or when the children are young or when they are teenagers. Whether fists are used, objects thrown, or weapons used may be part of the pattern. Battering takes place whether or not there has been drinking. Alcohol may be correlated to battering but it is not causal. How each spouse responds becomes a pattern.

Victims uniformly attempted to modify, to correct, to change both behaviors and circumstances - in response to violence, whereas the assailants' typical reaction was to become more violent more often...one attribute common to most cases of domestic assault was the likelihood that the violence would increase.³¹

Lenore Walker, who has done extensive research in the area of spouse abuse, developed the theory of the battering cycle, of which there are three phases. In the first, or tension-building stage, minor incidents occur. The woman tries to calm the man, tries to appease him.

The explosion stage is reached when the assailant loses his control and the most severe violence occurs. At this point, the victim may assume responsibility for the violence because her attempts to avoid it have failed. He often withdraws due to fear of further provocation and may in turn receive more attacks from the assailant who fears she is hiding something. This second

stage is where agencies usually get involved. It is also the most difficult and dangerous stage in which to intervene. Most often, it is the police who are called upon to resolve the conflict.

During the third stage, both are sorry that the incident occurred, apologies are made, and reconciliation is often the consequence. The assailant sends flowers, promises never to do it again. This time, intervention is crucial to break the cycle. Immediately after the incident, the victim wants out of the relationship. If the batterer is able to see her, he may be able to convince her to stay. It takes an average of three to six attempts to leave the relationship before the victim leaves permanently.³²

Lenore Walker defines a relationship as a "Battering Relationship" when the cycle has been repeated twice.

Women who kill their spouses often do so in the first phase of the cycle. The law defines self-defense as the use of equal force to counter another's force in defense of oneself or others. During the explosive stage where violence is the most severe, it is unlikely that a woman could overpower her assailant with sheer brut strength nor escape to get a weapon or even leave, though women kill for self-defense seven times as often as men.³³ When she has learned to recognize the signs of what is to follow, to counter the offense when she is able, she kills in self-defense in the first phase when tension is building.³⁴

No homicides were reported in our study. The duration of abuse or numbers of incidents per victim in this stage range from three incidents to over twenty years of abuse. Intensity and

duration of battering and other patterns of abuse appear not to vary between urban and rural settings, although this finding is inconclusive due to the research sample size.

In order to present a more comprehensive picture of the violence endured, we have compiled victims' stories taken from our interviews.

I.

In the last year, from the time I kicked him out till the time he left town, I would say the police were here on an average of two to three times a week...I had a couple broken ribs once, countless black eyes, and bruise spots, broke my hand once, broke my toe once. One time he hit me with the broom making me all black and blue all over my back. My whole back was one big black and blue spot. I remember looking in the mirror and thinking it looked like I had on a dark blue sweater I was so black and blue. He hit the back of my hand once and caused a nerve problem so that I didn't have any feeling in my arm or hand....One time he pulled a gun out of a cupboard and pointed it at me. I thought he was going to kill me that night too. He threw a lot of things at me. He threw a wrench at me once. He threw dishes, anything he could pick up...one time he came at me with the fireplace poker, but most of the time it was his bare fists....I couldn't cope with anything. I remember one weekend I decided I had to get away and I went to Sleeping Child Hotsprings and for four days I sat in front of the fire and I did nothing. I didn't read a book. I didn't write a letter. I didn't think. I didn't swim. I didn't eat. I didn't drink. I didn't do anything. I sat there like a vegetable. And I thought, I'm going to have a breakdown if I keep this up. And [the child] terrorized the place, and I just sat there. And then I came home, resumed avoiding [husband]...every ounce of my energy was gone on avoiding him and I couldn't make a plan from one hour to the next let alone one week from the next. He just is very persistent. I mean in a way no one I have ever known is. He would let the air out of tires of my car, cut my telephone wires. He would fix my car, loosen little bolts in the engine so that a part would rattle, you know, from vibration of the engine, and then come loose

10 miles from nowhere. I was afraid to go out of town with that car. He would hide in the bushes when I'd come home from church and jump out at me and scare me. I mean I was at the point where I was afraid to come home at night alone. I would have the priest follow me home, to make sure I would get in the house all right. He would crawl in my windows. This is all after we quit living together. He would break a window and let himself in and hide in the corner, hide under the bed and when I'd come in he would jump out at me. One morning I woke up and someone was standing in the hall because I could see the smoke and the light from a cigarette. He was standing there looking at me. I don't know how he got in then, because I was very careful about it then...So finally, I told him to leave me and that if he didn't leave Missoula, Montana that I was going to put him in jail, because I was always afraid to put him in jail because he wouldn't be there very long, they can't keep him in there forever, and when he got out then he would really be after me. And I would be giving myself a 30 day headstart, or however long. I went back to New York last winter and didn't tell him I was going and he called everybody, trying to find out where I was. I was there for ten days and on the third day he found me. There was no way he could have known. Not very many people knew I was back there. He hired a private detective. So if I would have put him in jail for 30 days he would have found me. I would have been looking over my shoulder for the rest of my life. And then after he got married again, then I had two of them after me. She was a bad one as he was. She'd sit in my driveway and blow the horn at three in the morning. She ran over the tricycle one day and drove all over the yard. She got drunk and kept hitting all the trees out there...

He still tries to contact her, writes her frequently.

I ignore him. I have an unlisted phone number. The reason I have it is he would call me and say the stupidest things and we would end up fighting with each other and then a day or two later he would call up and talk as if nothing had happened. Then he started writing to me but I do not answer his letters....I just want that relationship to end. It's interesting because I don't think I'll ever be completely rid of him. I think it's his third wife, and everytime we had a fight when he first came out here, he would call her up. I've often thought 'that poor women,' She probably wants to get rid of him as much as I do and here she is with him on her doorstep.

His was like a main thrust to get rid of the anger and hostility and once I had marks on my neck and I've had lots of marks on my arms from where he's grabbed me to make a point. I have never had anything broken and at one point when he was drunk, I said, 'Just watch it. Don't smack me across the face, I have to go to work.' And he said, 'You'll notice that I never smack you across the face. I'm not that kind....' But I used to think, someone mentioned this in one of the workshops, that women have the weapon of being highly sarcastic, verbally, they are very quick on their feet talking. And she said, that is the female's weapon. The man's weapons are his fists. I sat there thinking, wow...I was rather frightened that she was still a spouse and this kind of philosophy was the same kind as I had operated under. Until I realized that no matter what I did or said I was totally being taken advantage of. His business was drinking. He only had one hobby, one little hobby, getting bombed and stoned simultaneously. ...[Husband] became belligerent and negative and so defensive so there was nothing you could say, and this was a weakness, a total lack of self-confidence. When he drank, it just became more pronounced. The dope didn't help. The dope sort of rounded him out--would pacify him unless he got too much of the combination and then he got really strange and saw things on the wall.... He had the whole psychological trauma of - I only heard it when he'd dry out. But he saw things...bugs on the wall and his biggest problem was that he would stop breathing. If I stop, you have to help me.' I had to sit there and watch, except if I would try and go to sleep, he'd get angry and start tumbling on me and things. I was supposed to be in charge of keeping him alive, I guess. And he would set up these elaborate things like a candle and I was to hold the candle in front of him and the mirror and he would go through these rigid things of how I was to do this and how I was to do that. All the while he probably would have not had a meal in three days. He had been drinking and not talking straight. And so you do it, just hoping that they would fall into some kind of sleep so you could get peace for awhile. It was fairly regular. It was at least once a month, at least. The rest of the time you are just waiting for it to happen.

III.

He is insanely jealous. I couldn't talk to anyone. I was making a date with them, or they were making a date with me. He gave me a good selection, at least varied; the mail man, the garbage man, the fellow next door, the fellow who

lived on the other side, the boy that mowed the lawn, anybody. I'd say, 'There's not enough days and nights in the week.' I'd get, 'You can't talk like that to me.' ...I have this great sleeping problem...and it accumulated over the years from his sleeping with a loaded pistol under his pillow, not letting me out of bed....He says, 'There are boyfriends coming in this house to get you and I'm going to shoot them, and if not, I'll get you.' And he even just about killed our son one night. He said, 'Your boyfriend's coming in the family room,' and it was loaded. [The son said] 'Hey, Dad, it's me....' [Husband] was drunk and weaving around....He would work himself up into a rage. I could see the storm brewing. If I would leave the room, he would become intensely angry....I remember one occasion where I was sitting in a chair and he came up back of me and it really hurt; and I was doing something to my hair, combing my hair, and he said, 'I'll show you how I can fix your hair.' He practically pulled my hair out. I had a headache for weeks. He held me down, stepped on my toes with his feet and pulled my hair to the point where I screamed. The neighbors next door heard me. Often they heard me scream in the night. The knew. Finally, or when they saw my black eyes and so on. It wasn't 'til I was ready to leave that they told me that they had known. ...He has had high blood pressure so bad, that the veins on his hands stand up a great deal and the sight of blood apparently just practically makes him berserk. I noticed this particularly after he had been in the South Pacific where he was in all those battles. And he would hit me and break blood vessels and the blood would come all over and he would just lose his mind. So he would just tear my clothes off and wipe it all over me. I was a bloody mess...he'd say I injured him because he'd hit me and break his blood vessels, that I injured him and he just went crazy...They were afraid that I had skull fractures several times and they would x-ray my head and every 12 minutes they'd look into my eyes. He'd say, that's a big front,' and still I never signed anything against him...they [the police] took me away twice and they had to hold him down. 911 took me away. The priest took me away in an ambulance or I'd finally get away in a cab....He tried to get into the hospital room... it was half dark and I saw him and I didn't know how I'd react but it was automatic--all the memories of him beating me the night before came back and the nurse got on the intercom and said, 'Get a doctor and nurse down here, quick.' They thought I was gone. I just couldn't get any respiration or anything, so they made him go out and they called the security officer from downstairs and the two of them came and sat with me....It's the sadest thing, it's worse than death. Divorce from an alcoholic or for some severe reason such as that I'm sure is much worse than death. Death is final. It's severed. Finally, you become adjusted to the

fact they're gone and you make a new life. When they are practically in the same neighborhood, they still follow you around, maybe a block behind you in the car, call you on the telephone. He harrassed me day and night. So the lawyer said if he did it again, he'd be thrown in jail. After awhile, he waits, and then he'll start to call again. He'll call up and then hang up to see if I am home or he'll drive back and forth in front.

IV.

I really didn't know what to do....After he would beat me he would want to say he was sorry and then he would want to make love to me so all would be forgiven, at least that was what his expression was. I don't think I'll ever forgive him for that. I didn't know there was any place I could go for help. But it's gotten so that any time he's displeased any more this is what he does. Anytime he doesn't like something or doesn't want to go anyplace, he abuses me. He says nasty things to me. He tells me I'm no good, that I'm a slut. That I don't cook good meals anymore. I just don't think I can go on anymore. I just don't.

V.

...one time I was in the yard and he had chased me out of the house to bring me back into the house. I was going to leave him and I was trying to scream for help and he put his whole fist in my mouth. That was the least. And what was the worst thing he did to you? The worst thing he did to me was, ah, dragged me into the house and throw me down on the bedroom floor and tell me he was going to rape me and prove to me that he was a man, because he maybe thought I had lost faith in that fact....My ex-husband was pretty passive when he was, had been drinking.

VI.

One victim gave an account of the violence in a friend's relationship of which she was a witness:

Her husband used to beat her up all the time...pick her up and throw her through sliding glass doors...and threaten to kill her...one night he marched right into my living-room in front of their kids...and started to beat her up in my house...so I called the police on him and it took three cops to pull him off of her. He would have killed her. She decided to divorce him.

VII.

Sometimes it went on for days and he wouldn't even go to work, or he would go to work and he maybe would be gone for half an hour and he would come back and stay there for hours. Sometimes it would go on all night and I would try to go to bed and he would come in and jerk me out of bed and make me stand on my feet. And sometimes he would go into the childrens' room; one time he went in and dumped out all their dresser drawers, turned over all the furniture, And he was not drinking. Sometimes he would be very nice and all of a sudden it would just erupt and I wouldn't know what had happened....He did such weird things, like one time he tore off all his clothes in front of the children and ripped them all to pieces. Sometimes he would hit himself in the head with a rolled up magazine until the blood would pour down his face....He would get very mad at drivers when he was on the road and may be forced them off the road. One time he got mad at a bus driver. As the bus came up to the corner to let people out he pulled the car in like this. The bus couldn't move. Of course, I was inside next to the bus, to the bus driver...He would sit like this and say, Goddamn, Goddamn, Goddamn, and he would say it over and over and wouldn't talk to me. And the bus driver was swearing at me and finally turned my head and said there's a police car coming. Then he moved the car....He would grab me with his right hand and twist my coat and shake me driving 70 mph down the freeway. Sometimes he would follow me into the office and I was always the first one there. And he would storm into the office and I was just terrified that someone would hear him....He tipped over the Christmas tree which I had put up a few nights before, tore drapes down and then locked us all in the bedroom and wouldn't let us out....

VIII.

He was real paranoid about getting busted for drugs or something like that. In fact, he was so paranoid about getting busted that he never had them. Occasionally we would smoke pot. He wasn't into drugs very much. We didn't drink very much either....I think that both of the times we were in physical fights he had been drinking.... He never got bombed...or if he did he carried it well.

IX.

...he would come home from work and start drinking about

5:00 and about 9:00 he was ugly....He never put a mark, well, he did once, but like I said, even by the time that he got around to beating on me, unless he got a really good grip on me, you know, I could get away from him. I would just leave....He would grab ahold of me, he used to like to throw me a lot, bounce me off walls. But not anything really serious because I wouldn't let him....I would run, or my biggest defense was, I have a 225 pound Great Dane, which he is a pussycat but he's mine, and he won't put up with anybody messing with me at all. Most of the time he was outside or he was in the basement, when all this was going on. I just let him upstairs....I'll tell you something very strange. I know how people kill other people because, I don't know, there were two or three times that I was so mad that if I had something in my hand I would have killed him. And then he would laugh at me [and] that would get me so mad. Stand there and laugh at me.

C. So Who's Doing Anything About It?

LEGAL AND SOCIAL SERVICES

How do people who provide services for victims perceive the problem? What are their capabilities in dealing with domestic violence? The following section is a product of completed agency questionnaires and interviews with agency personnel.

A significant finding of the survey of agencies for data and services was that no data is kept on spouse abuse; no agency had a category or procedure for keeping such records. Therefore, it is impossible to estimate the number of victims seeking services from these agencies, let alone estimate the number of victims in total. Some agencies were able to gather data for the period surveyed, or for the year by going through their entire records and pulling information they thought appropriate, or estimating the number of cases they had served. This data appears in Appendix B. Such data should be interpreted with caution as it is incomplete or simply an estimate. One agency, the University of Montana Clinical Psychology Center, has since set up a system for collecting data on spouse abuse [See Appendix B].

Record keeping presents the problem of confidentiality. Agency responses indicate that one reason records are not kept is that members of the entire staff have access to records. Victims frequently seek services under the guise of another problem, or simply lie to avoid possible retaliation by the spouse for talking, or to avoid embarrassment.

If inquiring about possible battering is not routine, many cases go unnoticed. Physicians, teachers, nurses, social workers, any people who have knowledge of child abuse cases are required by law to report such cases to Child Welfare Services. As pointed out in the agency interviews often these same people, when confronted with spouse battering, do not know what to do about it, what referrals to make, or whether to ignore it as none of their business. If asked in an understanding fashion, victims will more often respond than if left to volunteer the information.³⁵ The data from the Emergency Room at St. Patrick's Hospital came from one staff doctor, Doug Webber, with whom I had spoken, who had become sensitized to the issue of spouse abuse and approached his patients as to the cause of their injuries. I received several referrals from him, only one from other staff there. Referrals to hospital Social Services is dependent upon medical staff referral and those professionals unaware of the signs or embarrassed to ask will not be able to make those referrals. This neglect is true of any agency.

In doing divorce survival counseling, I, myself had one client who came in for counseling and had I not been doing a study on battering, I would not have been sensitive to the clues nor asked if she was being physically abused. When I determined she was, I obviously was better able to counsel her and make appropriate referrals.

Being understaffed presented problems. Social welfare case workers are overworked with abused children's cases alone. Professional, emergency or crisis counseling is not available due

to client overloads. Peer counseling is available 24 hours a day through Women's Place and the Missoula Battered Women's Shelter [if the victim wishes to enter the shelter], and by phone from the Crisis Center.

Emergency housing can be found at the shelter, the Community Covenant Church, or through County Assistance from the County Welfare Department, if the victim qualifies for financial aid. There is no housing available for extended periods of time.

Finances often keep victims from seeking assistance. Medical care from emergency rooms, private physicians, counselors, and lawyers are available, but at considerable expense. Some services are offered on a sliding fee scale, but how does a victim who left the home in a crisis situation pay for emergency medical care or counseling? She may have no insurance and cannot qualify for Medicaid because her husband's income is too high. Even if she could return to the home for money, there is not likely to be any at hand as batterers often rigidly control the finances. She is apt to encounter numerous problems in filing for divorce due to lack of funds or being unable to qualify for Legal Services, whose services are provided based on the family's income.

Aid for Dependent Children can be obtained from the County Welfare Department only after establishing a separate residence for a period of not less than one month, and be legally separated or divorced. General Assistance is also based on family income.

There is no immediate cash fund to provide for emergencies that arise out of domestic violence.

Restraining orders cannot be obtained until victims take le

action such as separation or divorce, and there is no way to guarantee protection from further assault.

Immediate employment is next to impossible in a town such as Missoula where a large percentage of the population is out of work. C.E.T.A. qualifications of prolonged unemployment [30 days or 15 weeks] or the necessity for applying for unemployment compensation at that time, renders immediate training or employment out of the question.

Forced by the difficulty of obtaining help, the battered woman succumbs to the pressure to return to an unbearable environment, reinforcing her feelings of isolation and the idea that her situation truly is inescapable. Reaching out has not been rewarded.

Not surprisingly, it was found that many professionals, who come into contact with battered spouses, function under the same faulty assumptions of battering as does our society in general.

These assumptions noted in the interviews are as follows:

- [1] Alcohol is the cause of violence.
- [2] Some people "like it" or "get their kicks" from abusive relationships.
- [3] Women will seek other battering relationships if divorced.
- [4] Slapping is an acceptable way to revive a hysterical woman.
- [5] Middle or upper level income women have money or they are educated about community services, therefore, if they wanted to, they could get out.

Several of these issues have already been discussed but it is also important to view them in the context of the agency-victim interaction.

If we view battering from a standpoint of sado-masochism, a reciprocal relationship, then no matter what we do to aid those involved, nothing will change. As previously indicated, women do not enjoy or ask for abuse. It may be that we men are socialized into being attracted to the masochismo-oriented male, the domineering male, or the male who has power, just as males are expected to fill those roles. Sex-role stereotyping has disastrous consequences for both sexes, one of which is physical abuse. Not all women who find themselves in abusive situations are passive people. Some were independent women who found themselves trapped by the circumstances described in the "Victim" section which rendered them "passive". Many are the strengths of their relationships.³⁶ In order to determine individual problems and problems attributed to the relationships, Lenore Walker recommends that each person be seen individually for counseling, and that the relationship should be terminated. There is a dependency that must be broken; each spouse must be able to function on her/his own. Each must learn the difference between choosing to be together and having to be together. Violent behavior has already been established and is very unlikely to be extinguished. Dr. Walters of the University of Montana Clinical Psychology Center says he does not believe there are

certain kinds of personalities that lend themselves to battering--- not the batterer or the victim.

He sites several contributing factors:

1. Lack of communication skills
2. Orientation toward manliness
3. Low frustration tolerance
4. Easily threatened
5. Alcohol may be correlated with, not cause violence

Women were not seen necessarily as being passive.

Another theory was purported by Jim Sriver of the Mental Health Center. He feels women do have passive personality make-ups, that men use alcohol as a crutch due to a loss of control. The abuser feels he has too much responsibility and sees the woman as incompetent and indecisive. Jealous, often characterizes the male.

Ivy Pearson, social worker at the County Welfare Department, believes counseling can take place within the family, that is where the communication difficulty lies. People, she stresses, need to learn how to have their needs met effectively without violence within the context of the family unit.

Another theory purports that women should have the right to self-determination, not to be coerced into returning to the confines of destructive relationships.

Legal counseling also presents a dilemma. Attorneys cross-examine victims as if they were on trial because 99% of them drop the charges within a week. Abusing the law to gain the upper hand in marriage is detrimental to all involved, states

Karen Townsend of the County Attorney's Office. Legal solutions are last resort solutions, not necessarily long-term solutions. No record is kept unless the woman files charges.

Police enter scenes of domestic violence reticently. According to F.B.I. statistics, 20% of officers killed in the line of duty were responding to domestic violence calls [1973]. the number one cause of death for officers³⁷ No such incidents have happened in Missoula. Officers receive little training in crisis intervention in domestic violence. Missoula Police Chief Pfau stated he would like to see another agency involved in doing crisis intervention. The assumptions they make when entering a domestic "squabble" are critical. If they perceive the situation as "just Mary and John fighting it out again", they may ask John to take a walk and cool off and not make any record of the event.

Both the police and sheriff's offices claim national statistics on rape and battering do not apply to Missoula from the cases reported to them. However, National statistics indicate that only 1 out of 10 "wife-beatings" are ever reported to police.³⁸ Along with the fact that many cases are not reported by officers, it is highly likely that police statistics are representative of extreme under-reporting. "We're not going to get involved with a little slap," states Sheriff Moe. Police Chief Pfau saw the problem as a "life-style, a way of living." The Sheriff's department reported that they do not get many cases where either spouse has to leave to ensure the other's safety.

When police do intervene, they encounter a male who is out of control or who claims that his wife fell, and a woman who may not say a word, who is out of control, or who may even physically or verbally attack them. A woman who is out of control, more often labelled hysterical, presents an uncomfortable situation, for male police officers especially. What do you do with a hysterical female? Identifying with the batterer, Police Chief Pfau stated that "men slap women to get their attention and it works" but in the line of duty, it is a difficult problem for the police. A woman, who knows that there is little an officer can do to help her, may turn on the police to show loyalty to her husband, who, left free or only temporarily removed, will retaliate for her having told. What seems irrational behavior on the surface, has just cause when the battering phenomenon is understood.

Awareness of available services for victims assists law enforcement in offering alternatives to the victims. City Police give referral cards to families involved in violence.

As Sheriff Moe pointed out, an officer has no control over society to change social phenomena. We often look to the police to solve problems perpetuated by the nature of the society in which we live.

As part of the agency questionnaire, we requested suggestions for services of which victims are in need. This list of services and proposed reforms is a compilation of recommendations from that survey.

1. foster care for teenagers from violent homes
2. social workers -- crisis intervention and long term counseling with family [do not label counseling - means being crazy]
3. hospital staff could report cases, as with child abuse
4. code book for hospitals put out by Commission on Professional and Hospital Activities [Ann Arbor, Michigan] - try to get new classification for battered spouses
5. need tax supported shelter
6. improved communications between agencies
7. need for legal counselors
8. officers give out cards with services listed
9. an agency, other than the police, to do crisis intervention in domestic violence
10. long-term protection for victims
11. quasi-legal program to require batterer to secure professional help
12. some means to intervene with counseling, for those who do not show for appointments on volunteer basis
13. victims need protection of the law
14. temporary housing
15. divorce counseling or marriage counseling
16. family therapy
17. education about battering similar to educational program on the problem of child abuse to help victims overcome guilt and seek services

18. day care for prevention of child abuse
19. low cost legal aid
20. temporary financial aid
21. financial help for training women to help themselves.
22. more involvement of hospital social services
23. Crisis Center and Women's Place services needed
24. individual counseling
25. job training
26. coping skills for children
27. alcoholism counseling
28. medical assistance
29. legal aid
30. vocational counseling
31. receptiveness by law enforcement and other members of criminal justice system
32. filing assault charges
33. long and short term shelter
34. support groups for women
35. job placement services
36. adolescent groups to prevent this type of relationship from forming
37. eradication of legality of rape in marriage
38. availability of restraining orders to victims without obtaining private legal counsel
39. ability for victims to file complaints against assailants anytime [24 hours, 7 days/week]
40. free legal aid, without using husband's income as eligibility index
41. decrease in granting probation for assailants and increase in issuance of prison terms for more serious assault offences

42. mechanism must be available for police to move satisfactorily upon misdemeanor assaults
43. all these services for urban and rural communities
44. research information about Montanans and wife abuse available to Montanans
45. availability of national research on battering
46. C.R. groups, self-defense, assertiveness training for batterers and victims
47. avenues for leaves from work for victims
48. coordinated data collection
49. public education about causes and effects and solutions to problems of violence in the home.
50. Use of sociology students from the universities to do research of hospital records to retrieve battering data.

VICTIM INTERACTIONS WITH AGENCIES

For the most part, victim interaction with agencies proved frustrating, for both sides. Several victims felt that those who had experienced abuse themselves would be of the most help to them. Many sought legal remedies to their situations. None found those paths solved their problems. Most found their efforts unrewarding and discouraging. It is hoped that with increased interest in spouse abuse and the efforts now being made by some agencies, such impediments will be eliminated.

Most of the victims interviewed were no longer in violent relationships. Many of them became aware of some services after leaving those relationships. Some services were not available at the time of their experiences. Of those now removed from domestic violence, all were aware that there is now a shelter [in Missoula]. They had had some experiences with agencies. In comparison, one victim interview shows a woman in a crisis situation, unaware of her options and uncertain as to what she should do or wants to do. An excerpt from that interview appears last in the series of victims' comments and experiences that follow.

I.

I went to A.A. with him and I don't even drink. I heard these drunk talks 'til they came out of my ear and the lies and all that stuff. [He said] I'm not one of those drunks and he'd come home and physically abuse me. That wasn't getting me very far so I quit that finally....I went to a clinical psychologist which really burned him [the husband] up. He calls anyone in any line of work that has to do with psychology, counseling, anything, a shrink. 'You're going to a shrink because you are crazy. Only crazy people do

this.' I tried to get him into family counseling. Before I left the hospital one time, the doctor said, "I can't let her go out of this hospital unless you will sign that you are going to family counseling before I'll allow her to go home." He did and then I got home, he would not....The clinical pshchologist did help me a great deal and counseling helped me a great deal and this divorce survival thing helped me a great deal.

[Interviewer] How would you, if you had services to offer, get to those people if they won't ask for them? I've wondered about that and I have thought about that a lot; how indirectly you could approach someone without putting them on the spot, letting them know that once I was in that spot, how uncomfortable I was. "Have you ever been that uncomfortable?" I would say hoping to draw them out. And telling them that I had a very bad and very sad experience over more years than I care to remember and I don't think anyone should go through it that many years and I have had, after two or three talks with people, have had them come up to me and say, "That's true, and I'm not going to do it anymore." And I'd say, you can get out. There is help.... I just calmly listen to what they have to say and don't offer too much advice except in a supportive manner as to where they can get help, or help with their children, or something until they find they can seek other things. I ask them, "What did you always want to do in your life?" There are always two or three things they want to do, so I'll help them do things they never felt they could do - take them to classes, help them find places they can do it.

II.

And we had help from a very good friend who is a priest but the help was only towards [husband]. He was extremely nice to me and very supportive, but the problem was not, in his eyes, my problem; it was [husband's] problem. Therefore, he was going to help [husband].

[Interviewer: Did he?] Yes, he did for a while. And I think one thing it did for him was give him a sense of friendship, that he had someone who liked him although he knew the absolute worst about him, which was probably beneficial in the long run. But it didn't help...he had to hire the best shrink in town. He always went first class where he could lay on the couch and talk for hours and this huge bill would come and the shrink - he finally had to quit going to the shrink because he told him that his problem was with women. He just said that the problem was with me. He can't deal with me. So either he has to leave me or keep drinking, which way do I want it?

III.

[Interviewer - looking back, would you go to a psychologist a professional?] Yah, I would have dealt with it. I would have told them lots of things. Whether I would have taken the ultimate advice, 'Why didn't I just leave the situation.' I don't know. I think what I would have needed at that time was to have been told that I was capable.

IV.

And sometimes you don't want to hear about those options first thing. You just want a sympathetic ear, you know. ...She has got to work her courage up...the thing is you can't rush a battered woman who feels she has no alternatives into confiding her fears and frustrations right away.

V.

Not too many people read ads. Maybe an ad would help alongside Alcoholics Anonymous and Crisis Center...something for the social page, I mean every woman reads Dear Abby...saying a service is available and that women with problems like that are encouraged and that women would talk on the phone...if they weren't afraid of being identified with a man and with a home situation or a place in the community...just to get it talked about ...next time she calls back tell her about a 'rap group'.

VI.

First he saw a counselor at the University, who was kind of a student. That guy didn't know what he was doing.

[Interviewer: How long did he try that?] Three weeks, maybe. Then he saw Dr. _____. He was involved with the minister.

[Interviewer: Did you used to talk to him too?] Ya, he was my boss and I always thought that that was kind of a rotten thing that he would go and involve himself where I was employed. Then, he went to see Dr. _____ and he stuck with that for probably two weeks....We had split up by then. He went to see Dr. _____ to see if he could hold that together. Then he went to see - then I switched jobs and went over to [a church] and immediately he was over there harrassing the priest. He talked to Father _____ and Father _____ took him under his wing and talked to him for quite a long period of time. It was kind of

off and on. And then he went to see Father _____. And then he told me he was going to become a Methodist minister and I thought this is the stupidest thing I ever heard of. They wouldn't take him in seminary. Then he joined A.A. and he stuck with that. And while he was in A.A. he was also seeing Dr. _____. Then he went back to another state and now I just got a letter from him a couple days ago and he's involved in this thing called Emotions Anonymous. It is like A.A. only for people who lose their temper. And I think maybe that's what he needs. But you see, it's a joke to me now. Of course, he's off on another kick.

[Interviewer: Did it ever change any of his behavior?]
No, A.A. stopped him from drinking for about six weeks, but it didn't change his behavior in any other way.

VII.

We just tried to work it out together because she was also a battered wife. Women are the best help of one another. We just clung to each other. We really needed each other at the time. I think that one who has been in this situation is better help to another in this type of thing.

VIII.

We have found that the volunteers that are coming in there [to work at the shelter], over 50% of them have been battered women.

IX.

If a man feels that he is in a situation that is intolerable, he should get out...he's got more options than a woman does in most cases. He is usually the one with the higher paying job. He is not saddled with the responsibility of small children and so forth.

X.

The minute I hit the front porch I started screaming at the top of my lungs. And the next door neighbor, who knew what he was like, came running out but [husband] was

right behind him. He ran over to the guy's living room right behind me. And I called the police and they came and he stood right on my front porch and said to the police, "I'm going to kill her" And I hadn't done anything. [The police said to him] 'calm down, it's all right. Don't get upset. Can't you see how upset you're making her?' I told the truth when I was in the hospital because I thought that maybe that would be part of the medical record. At least the, I would have some medical evidence. And my doctor, who has taken care of me ever since I was a little kid, and I talked to him about it, and he was a little upset. And he said, 'Didn't you know that you could come and talk to me about it...I would come to your rescue?' I said, 'I just didn't want to bother you.' He held my hand and taped my ribs, gave me a prescription for tranquilizers...

And the legal system, the city told me to call the county and the county told me to call the city, that was a lot of hassle. I think if I had been uneducated and downtrodden I would have gotten discouraged. That is where that house [shelter] would work, because it seems that if the legal aspect of it, like the city attorney and the county attorney would work through a situation like that, that would be helpful....

Well, I filed [charges] a couple of times...it never got to trial....The assistant county attorney said the court doesn't like to get involved with domestic squabbles. Therefore, 98% of these kind of things are thrown out before they ever get to court. The last time I filed he made me sign this thing that said even though I change my mind, I realize that the county or city, or whatever it is may go ahead and prosecute. And I think that that is a good thing. I understand why they are reluctant because a woman gets beat up and is upset and goes out and presses charges and then backs out after they have spent a lot of money and stuff....[tell why] They never did anything...they never wouldthat was privileged information. It was a decision of the judge. It was because it was a domestic matter. Even after we were separated and he was married to someone else, it was still a domestic matter....At one point I had witnesses. They were never asked; they were never questioned. One time I said to the assistant city attorney, 'If you don't do something about this, if you don't somehow protect me, I'm going to buy a gun and I'm going to kill him the next time he comes around. I'm going to shoot him.' And he said, 'Lady, I wouldn't do that because you'll just end up getting yourself in a bunch of trouble.' Isn't that typical of our legal system! I'm the one being beat up on and I am not being protected and there is no way I could get protection, and yet if I try to protect myself, I will be in trouble....And I saw in the paper a couple of months ago about some woman who killed her husband because he was beating up on her and she

was being sent to prison. And I can understand absolutely, perfectly why she did it. And I sympathize wholeheartedly with her, and I don't think she should have to go to prison because she probably felt trapped, just like I did.... I remember calling the Crisis Center and getting absolutely no help from them

When asked how people in a similar situation could be made cognizant of the services available to them, she suggested putting posters in laundromats, supermarkets, and advertising on television and radio. She also mentioned having a phone number to call with an easily remembered number.

"But in this situation, I couldn't function and part of functioning is being able to take in information and reading, so maybe that wouldn't work, but I think that would be the best way."

She was also a common law wife, in which case her husband was entitled to property which belonged to her, at the time of their divorce, though as yet, he has not pursued its acquisition.

XI.

I did call the police on him once....I got scared when they answered and I hung up. And the thing that scared me worse and probably the reason I never called back again when it happened is that....I believed him [when he said] that they wouldn't believe me....I had absolutely no inclination to strip down for the police which is what I would imagine I would have to do in order to prove my claim, you know, and [husband] had a facility of making me look like a fool...if the police had come to the door and I said, 'that man is beating me, that man hits me all the time.' [husband] would sit there. I would look like the hysterical woman. He would look perfectly reasonable and say, 'she is unmanageable....' As far as other facilities, I didn't know there were any at the time.

XII.

I don't know how you are, but if the police car pulls up across the street, you run to the window to see what's going on. I mean it is just a normal reaction and it is

embarrassing....Whereas if a car or somebody else pulls up, welfare worker or whatever, it is not the same thing as having a big green or blue car there with the lights on it. When you are going through something like this, the last thing you want to be is the center of attention because, you are miserable, you are scared, you are embarrassed, and you need help. I don't think people like to admit to that. It shouldn't be a public display...it's just the symbol, the police car and the lights. Something's wrong...Everybody likes to think they can handle their affairs. I think a plain car would be more suitable....

XIII.

I wasn't aware of anything, of any kind of help I could get. I knew the police wouldn't help me and I thought [they were] my only hope.

XIV.

I was glad they [the police] were around because now when I left him and come back here every time I needed them they would be right there. All I would have to do was say he's in town and they would be right there helping me.

XV.

Yes, I called the police many, many times and they took their good old time coming out and when they did come out they acted like it was all my fault. What am I doing to these poor defenseless men that would drive them to hit me. The police, as far as my spouses both were concerned, were friends; they had been raised together...I was told to go in and pack my ex-husbands' belongings while I sat there with the blood dripping out of my nose and my face battered so bad you could hardly recognize me and the policeman would take him for a ride and would come back an hour later and pick up his things.

XVI.

[Interviewer: Did you file a formal complaint against your spouse?] When I divorced him, that's when I filed the formal complaint and I got a restraining order. I was told by my lawyer that even though I had gotten a restraining order there

was nothing they would really do. He said that it's a piece of paper and that's all it really is.

XVII.

Everybody thinks that their situation is unique. You really don't want anybody to know about it. I think a lot of it is like the attitude toward rape which totally infuriates me. That we don't talk about it. That's a terrible thing that happened to me. What do you do? If you do talk to somebody about rape or you turn and go to the police about it, what happens, nothing? And 90% of the time it isn't and you are torn apart in the courtroom and made out to be a ...and I don't care how rotten a person you are, if you're a prostitute, if you get raped, damn it, they ought to do something about it. I think that this is a lot of it.

XVIII.

And then there's some other friends of ours, and this was funny, in fact, this was in the paper too. About once a year they get into it and usually she beats him up and she is big, like me, and he's not too big and they are a neat couple. But this time he really beat her up and she had him arrested. And the judge, they were separated for a month, and this is what the judge put down on the thing: He was to live somewhere else for a month and he had to give her a rose every day....

XIX.

...If they would have [had] some place like Women's Place or the battered women's shelter around I would have gone there or talked to someone, but then Missoula [only] had a crisis center and I never called it during that period.
[Interviewer: You knew about it?] Yeah, I knew about it.
[Interviewer: Would you do that now if you were in the same situation?] That's hard to say, I don't think I would ever be in that same situation again. I don't have any qualms about asking for counseling now, or about getting it.

XX.

I think it's a bit much to expect a woman, battered or otherwise, to just walk in off the street into the battered woman's shelter. It's going to mean a lot more advertising...I don't know that I would have used it. In fact, I'm sure that I wouldn't have; mainly because

of the shame involved in being hit....I mean you have in your mind the kind of people who are battered. The woman who's battered is frowzy and is usually sloppy and has asked for it....and they live in a tenement. Right! Yes, and who wants to admit to being that kind of a person.

XXI.

Yes, I was hospitalized for a week from the last marriage. And I was to the doctor many times on the first [marriage]. Usually the doctor just looked at my face and would say, "Boy, he got you good this time, didn't he girl?" And I had my ribs bound up and I had a doctor tell me that the blood clot on my cheek bone would eventually go away and that I was lucky it wasn't broken because there was nothing they could do.

XXII.

I don't know how women do it--if I had to go to levels that I had to go to because I didn't have medical insurance and suddenly be thrown in the hospital and having bills start to pile up on em. I don't know what it would be like to have it all happen at once. And I had to deal twice with welfare so I feel very competent in dealing with them. I think I have a real good thing going. But in counseling anybody, tell them what to expect from those people at social services. I used to constantly get coached by someone who had really been into welfare who told me how to go about getting all my day care paid for while I was in school the last year.

XXIII.

Because people when they are upset like that, they don't want somebody saying, 'well, do this and this or whatever.' Actually, at that time they just want to do the talking and that is what they need. 90% of the time, people can figure out their own solutions if they are given a chance. They decide what they want to do and what makes sense to them....rather than have someone tell them what to do. Because if that doesn't work, "well, if it hadn't been for so and so..." you know. It makes people feel good about themselves too. It makes them feel like maybe they really can handle their situation.

XXIV.

[Interviewer: Do you think you have a better view of yourself?] I think I do and I think the reason is because I was able to go back to school. I think that really helped me.

XXV.

I think that, there should be organizations and that they should be well publicized so that women would have a place to go. That's the most important thing, is that they're aware there is help, that they can seek. I think there should be places for women to stay especially. That's important because they cannot continue to stay in the home. And I also think that there should be funds of some kind in order to help get set up in their own place and, above all, I think there should be some kind of counseling and that the police should be more active in restraining the person who is doing the beating.

XXVI.

I think that [it] is important that this [spouse abuse] is brought out into the open. It's been in the closet for too many years and I think it is most important that this is brought out into the open. I think people should be aware of how many times this happens. It's happening every day, all the time, more than you could imagine.

XXVII.

[Interviewer: Have you ever had to call the police officers or something like this?] Oh no. We've been good people. That would be terrible. I couldn't do that. I don't know what you mean when you say services. I've never asked for help from anybody. It's just something that I never did. I don't...I know the reason I'm here now is because my son said why didn't I call you [the interviewer] and now I'm mad and I'm going to call. And I don't know what I'm going to do. Can I ask you what I can do? I can work but I haven't worked in so long. I really don't want to go back to work, but I suppose I'll have to. I'm mad. I don't understand why this has happened.

I've always led a good life, tried to do the right thing and stay home. I don't chase around or do anything like that. I don't know why my husband does this. Just seems like when he gets mad after his work, he just comes home and takes it out on me. I don't know where to turn. Well I don't think I can take another beating like that again. He hurt me. My whole body hurts. What can I do? What can I do? That's why I came. Hasn't anybody else ever been here too? What can I do? I don't know where to look for a lawyer and I don't know if I really want a divorce and I don't want to lose my home. I don't want people saying look at her, she couldn't keep a man. I really don't want that.

Although in the typical pattern of violence males are the batterers and females the victims, interest in the area of battered wives has brought attention to the problem of husband abuse. We were unable to interview male victims as none volunteered for our study. Walker estimates the number of abused husbands to be one to two percent of the male population. Assailants in these cases, she suggests, are women with severe personal problems and does not view such spouse abuse as a social phenomenon.³⁹

Steimetz in an article appearing in The Missoulian claims as high as seven percent of men are physically abused.⁴⁰

Role reversal is another hypothesis in cases of male abuse. Klaus Sitte encountered two such cases in his work as an attorney. He described the men as small in physical stature, who assumed the roles of houseworkers and tended the children. The women were employed, larger in stature, and assumed the dominant role in the relationship.

I present these hypothesis in the interest of further research because very little is known about the nature of these relationships.

PART III: Montana Law and Legal Remedies

COVERTURE AND CHASTISEMENTCoverture

Prior to the ratification of the new Montana Constitution, the subsequent enactment of implementing statutes and the enactment of the new Montana Criminal Code of 1973, the legal impediments to effectively dealing with domestic violence were markedly greater than they are today. While no longer a significant part of Montana's written laws, the legal principles of the past are important to briefly note, for at least three reasons: first, they are part of the legal training of virtually every judge in Montana and most attorneys, second, they reflect the values of vast portions of our populace, and third, there still exist isolated vestiges of the old laws in Montana law today. Thus, the formally abolished precepts such as coverture and the right of chastisement, continue to mold the daily decisions of law enforcement, lawyers, judges and indeed, the public.

The Common Law of marriage was the Law of Coverture. The classic statement of Blackstone, in his Commentaries on the Law of England, summarized coverture:

By marriage, the husband and wife are one person in the law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and cover, she performs everything. ... Upon this principle, of a union of a person in husband and wife, depend almost all the legal rights, duties, and disabilities, that either of them acquire by marriage. ... For this reason, a man cannot grant anything to his wife, or enter into covenant with her; for the grant would be to suppose her separate existence; and to covenant with her, would be to covenant with himself. ... If the wife be injured in her person or property, she can bring no action for redress without her husband's concurrence, and in his name, as well

as her own; neither can she be sued without making her husband a defendant. ...

But though our law in general considers man and wife as one person, yet there are some instances in which she is separately considered; as inferior to him, and acting by his compulsion. And therefore all deeds executed, and acts done, by her during her coverture, are void. 111 And in some felonies, and other inferior crimes, committed by her, through constraint of her husband, the law excuses her. ...

The husband also, by the old law, might give his wife moderate correction.²

To quote Justice Black of the United States Supreme Court in 1966, the Law of Coverture "has worked out in reality to mean that though the husband and wife are one, the one is the husband."⁴¹ Under the Law of Coverture, it is not extreme to analogize the status of a married woman in many respects to that of a slave. In fact, the Law of Coverture was chosen as the model for the slave codes.

When Montana Legislature implemented the so called "equal dignities" clause of the 1973 Montana Constitution, it thrust Montana to the forefront nationally in abolishing the remnants of Coverture. Examples of the steps taken in 1973 and 1974 in implementing this new section include:

R.C.M. 1947, Section 83-303 was amended in 1975 to delete the following provision: (5) the residence of the husband is presumptively the residence of the wife.

R.C.M. 1947, Section 36-102 was repealed. The husband is the head of the family. He may choose any reasonable place or made of living and the wife must conform thereto.⁴²

R.C.M. 1947, Section 36-103 was amended in 1975 to recognize a duty of husband and wife to mutually support one another; and also to recognize the services as "homemaker" as part of that "support". The old section imposed the primary duty to support on the husband.

Vestiges of Coverture still remain. Primary to this study are three:

1. failure to provide the wife with any financial security by virtue of her work within the home;
2. the conclusive presumption of the wife's continuous consent to sexual intercourse and the husband's consequent immunity from prosecution for rape;
3. interspousal tort immunity.

The first results in economic dependence which too often serves as a trap holding women within an intolerable situation. The second, interspousal immunity from prosecution for sexual assault granted by R.C.M. 1947, Section 94-5-502 and immunity from prosecution for the crime of sexual intercourse without consent under Section 94-5-503 is perhaps the major remaining gap in protection of women in Montana's criminal law. The third interspousal tort immunity precludes an injured spouse from suing the other to recover damages for infliction of injury.

Chastisement

Under the Law of Chastisement, it was lawful for a husband to physically chastise his wife. The old Common Law provided that a husband could not use a stick larger than his thumb, thus, "the rule of thumb." The new Criminal Code no longer sanctions this right of chastisement of the wife, however the successor of the old statute, R.C.M. 1947, Section 94-3-107, authorizes parents and their authorized agent, such as guardians, master or teacher to use "such force as is reasonable and necessary to restrain or correct his child, ward, apprentice or pupil."

THE CRIMINAL LAW

Traditionally, conduct defined as "criminal" has been considered an act against the State. Thus, it is the state which takes action to enforce and punish violations. It is important to keep this basic precept in mind for two reasons: first, it is the Legislature which defines what conduct is unlawful, and second, the state alone, through its law enforcement agencies - police, sheriff, and county attorneys, can act to enforce the law and punish violators. Unless the Legislature defines certain conduct as criminal, an individual is not protected from such conduct, but is left to her or his own resources to protect herself or himself from such conduct. And, more importantly, a private citizen, practically speaking, is unable to effectively enforce the laws, by arresting, detaining, prosecuting or punishing violators.⁴³

Of primary concern to this study are the assault statutes. R.C.M. 1947, Section 94-5-201 defines misdemeanor or simple assault as follows:

- (1) A person commits the offense of assault if he:
 - (a) purposely or knowingly causes bodily injury to another; or
 - (b) negligently causes bodily injury to another with a weapon; or
 - (c) purposely or knowingly makes physical contact of an insulting or provoking nature with any individual; or
 - (d) purposely or knowingly causes reasonable apprehension of bodily injury in another. The purpose to cause reasonable apprehension or the knowledge that reasonable apprehension would be caused shall be presumed in any case in which a person knowingly points a firearm at or in the direction of another whether or not the offender believes the firearm to be loaded.

- (2) A person convicted of assault shall be fined not to exceed five hundred dollars (\$500) or be imprisoned in the county jail for any term not to exceed six (6) months, or both.

Felony or aggravated assault is defined by Section 94-5-202:

- (1) A person commits the offense of aggravated assault if he purposely or knowingly causes:
- (a) serious bodily injury to another;
 - (b) bodily injury to another with a weapon;
 - (c) reasonable apprehension of serious bodily injury in another by use of a weapon; or
 - (d) bodily injury to a peace officer.
- (2) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years, except as provided in 95-2206.18.

The police officer or sheriff's deputy in deciding to make the arrest or the county attorney in deciding whether to file criminal charges primarily look to the elements set forth in these two statutes. To convict a person of a crime, the state must prove, beyond a reasonable doubt that the person charged:

1. Committed the act defined by the statute.
2. Intended to do the prohibited act. These statutes require that the person "purposely or knowingly" did the act, or "negligently" injured another with a weapon.
3. That the act caused
4. The prohibited effect, i.e. bodily injury, reasonable apprehension of bodily injury, etc.

If the state cannot prove any one of these elements, the person is not guilty. Proof of assault is usually of three kinds: 1) witnesses who testify, 2) pictures or testimony as to injuries and 3) a weapon.

Since domestic assault or spouse battering nearly always occurs in the privacy of the home, proof of the commission of the crime may be difficult. The victim is usually the only witness. It is not without cause then that the attention of the police and county attorney forces on the victim - without his or her testimony, there usually can be no criminal prosecution. Too frequently, the victim, in deciding whether to call the police, to file a complaint or to testify, is faced with a no-win choice - to complain or testify is the only way to gain protection, but that protection may result in the loss of the family's bread earner or retaliation. The results are that the victim may be hesitant to report or if s/he reports, then frequently decides not to file a formal complaint the next day or later decides not to testify. The other side of the coin, of course, is that law enforcement officers have grown hesitant to arrest or write adequate incident reports, and county attorneys are cautious, if not hesitant, to file criminal charges.

In some instances, Section 94-8-101 defining Disorderly Conduct may be applicable in charging an abusive spouse. It may be useful where proof of the elements of assault is difficult or doubtful.

Other criminal statutes which are far less frequently employed in dealing with spouse battering, but which are available under Montana's Criminal Code, are:

Section 94-5-203: Intimidation

Section 94-5-391: Unlawful restraint

Section 94-5-302 Kidnapping

Section 94-5-303: Aggravated kidnapping

Section 94-6-203: Criminal Trespass

The popular notion of what constitutes kidnapping is not accurate. When one spouse unlawfully restrains the other by secreting the other in a place of isolation, such as locking them in a room, or by using or threatening the use of physical force, that spouse has committed the crime of "kidnapping."

Forcible rape is certainly a type of battery. However, the definitions of the crimes "sexual assault" and "sexual intercourse without consent" exclude spouses. Therefore, a husband cannot be charged with "rape" of his wife, even though she did not consent. Unless, she can prove "bodily injury" or reasonable apprehension of bodily injury" and therefore bring the act within the definitions of "assault" she is left without remedy.

Further, Section 94-5-5-6 expands this interspousal exception to all "persons living as man and wife, regardless of the legal status of their relationship". To this date, the courts have not defined how far this definition will be extended. Certainly it precludes prosecution of persons deemed to have a common law marriage and spouses who are living apart but not formally separated by judicial order. Whether the courts will preclude prosecution of rape between persons who are simply living together is not yet unknown, but certainly county attorneys will be very hesitant to prosecute such cases because of problems of proof, danger of fabricated accusation, and fear of the attitude of the jury toward a victim who has cohabitated with a person to whom s/he is not formally married.

Frequently, a battered spouse fails to seek needed medical care. Should this occur and the battering spouse be aware of the serious need for medical care and fails to procure it, this batterer may have committed "negligent homicide" if the victim dies. Montana case law places a duty upon a spouse to procure medical care for his or her seriously injured spouse. While the State appeared to be unable to prove that the husband had beaten his wife unconscious, the Montana Supreme Court, in State vs. Mally, 366 Mt 599, 366 p.2d 868 (1961) affirmed a conviction of the husband of involuntary manslaughter (a form of "negligent homicide" under the old criminal code) for negligently failing to procure the obviously needed medical care within a reasonable time.

RECOMMENDATIONS RE: CRIMINAL LAW

Enough praise cannot be given to the Montana Criminal Code of 1973. Unlike the archaic codes of many other states, Montana's Code with one possible exception, provides adequate criminal sanctions for dealing with domestic violence. In Montana, the use or threat of use of violence by one spouse against another is clearly unlawful.

The problem area is the interspousal exception to the sexual assault and "rape" provision. Clearly, we believe that forcible intercourse between spouses should not be permitted. For this reason, we would recommend it for discussion by both the advisory committee and the Legislature.

The problems with making sexual intercourse between spouses by force or threat of force a crime are many. This is a private act between married persons. It presents insurmountable proof

problems unless the victim has sustained physical injury. State law enforcement must take its investigation into the complex area of the marital relationship, and most likely to the marital bed. The judge or jury will be placed in the position of judging the credibility of one spouse against the other.

The argument in favor of making interspousal rape a criminal act compels serious consideration. While the United States Supreme Court has recognized a right of privacy, it has not held that this right immunizes a person from criminal liability for injuring another. The traditional prohibition against state intrusion into the home and the marital relationship existed in a society which considered the home safe refuge from the outside world. These traditional views merit re-evaluation in light of recent revelations as to the extent of violence within the family. A marriage license ought not be a license to batter. The state has from the early development of the common law claimed an interest in and duty to protect one citizen from injuring or maiming another and a married person ought not to be excluded from that protection.

The difficulty we have in making a recommendation regarding interspousal rape is due then to two factors. First, public policy, and second, the very real limitations of law enforcement and the judiciary to deal with private acts between husband and wife. We strongly recommend the adoption of a public policy which condemns forcible rape between spouses. The usual way the State does this is to make interspousal rape a crime - an act against society. The result of making it a criminal act is to engage the state's law enforcement and judiciary. Because of the very real limitations

of the criminal justice system, care must be taken in making any act a crime. It is relatively easy to make something a crime, but often difficult to enforce and prosecute. In this instance, making interspousal rape a crime thrusts police and sheriff into the home, investigation of private acts, and the difficulty of proving the act beyond a reasonable doubt. Nationally, the courts are recognizing their ineffectiveness in dealing with domestic problems and are searching for other vehicles of resolution. We, therefore, recommend that the Advisory Committee look not only to the criminal justice system but to the other resources of the state - its social services, schools, private organizations and public media. State action through these agencies is an alternative, and maybe a preferable means of dealing with domestic violence.

INTERSPOUSAL TORT IMMUNITY

Under the Law of Coverture, one spouse could not sue the other because they were one person in the eyes of the law. While much of the unity doctrine is fading, interspousal immunity continues. Montana case law recognizes this doctrine.

As late as 1975, the Montana Supreme Court, in State Farm Mutual Automobile Insurance Company v. Leary, 168 Mont. 482, 544 P.2d 444 (1975), reaffirmed that the Common Law doctrine of interspousal tort immunity still was the law in Montana despite the existence of two statutes:

R.C.M. 1947, Section 3610: A married woman in her own name may prosecute actions for injuries to her reputation, property, and character, or for the enforcement of any legal or equitable right, and may in like manner defend any action brought against herself.

R.C.M. 1947, Section 36-128: A married person may sue and be sued in the same manner as if he were sole.

By so holding, the Court read into these statutes an exception "except suits against her husband or his wife." The exception was expanded in the Leary case to bar wrongful death suits by children against parents. The Court's reasoning in expanding this doctrine is faulty; however, it is currently the law in Montana. The Advisory Committee must consider it in making its legislative recommendations.

This doctrine has serious results. Many married women are employed today. We know that domestic violence occurs in homes where both the husband and wife work. When one spouse injures another, it may well result in hospitals, doctors bills, loss of work or job, and increased child care or housekeeping costs. Who is to pay the bills? If the marriage continues there is a duty of mutual support imposed in Montana by R.C.M. 1947, Section 36-103. However, the victim still is made to suffer economic loss and physical injury without compensation. In addition, the entire family suffers. If the batterer is jailed or unemployed, then the burden of paying the costs falls on the victim.

The bills and the loss of job may well serve as one more element in the victim's continuing decision to stay in the violent marriage. Few people understand property and debt divisions made in "divorce" actions and too frequently assume that they personally will be automatically liable for all the bills after a divorce.

CONTINUED

1 OF 2

While the abolition of interspousal tort immunity would not solve all the problems set forth above, it would provide one more tool to the victim in helping himself or herself. Since domestic assault occurs in families in upper income brackets as well as lower income, the ability to bring a civil action to recover damages would be beneficial in some cases. It would be of little benefit in cases where the batterer is without property or adequate employment. However, where there are sufficient assets, the employed spouse could recover for damages for such items as: loss of income, medical bills, child care and housekeeping costs, future loss of wages due to any permanent impairment, and for the pain and suffering caused.

At least one other state, Michigan, has abolished the doctrine. However, there are reasons for caution in abolishing interspousal immunity. The likelihood for collusion may be greater, particularly if the couple continues to live together as husband wife. However, the law does not preclude a variety of other potentially collusive relationships, such as business partners, from suing one another in tort. The potential of fraud is present in many suits and the courts scrutinize each case for it rather than refusing the right to bring the action.

There is mention in some court opinions that the bar to interspousal tort actions serves to preserve domestic tranquility. However, we would argue that if the parties are ready to sue each other for damage for battery, what harmony is there to protect?

RECOMMENDATION

We recommend that the Montana Legislature abolish by statute the common law doctrine of interspousal tort immunity, at least partially, to allow suits for damages resulting from physical and mental injury, inflicted by battery by a spouse. The immunity doctrine is in fact larger in scope and prohibits all tort suits between spouses, such as for automobile accidents. Additionally, it is part of an intra-family tort immunity which also prohibits tort actions between parents and children. Due to the scope of this study, we limit our recommendation to spouse battering, although it seems logical to allow a child to sue a parent for damages caused to the child by the battering. This becomes even more important when the battering causes the death of the parent. Certainly it would be questionable for the child to remain in the legal custody of the batterer. The child would also be served by a policy which provided resources to the child from the parent rather than state welfare funds.

Whether to abolish the immunity only as to intentionally caused injuries or to include negligently inflicted injuries must also be addressed in drafting such legislation. We recommend that an action should be for intentionally or negligently inflicted injury.

LEGAL JUSTIFICATION FOR VIOLENCE

Finally, it is important to be aware that the criminal law sharply limits the defenses available to a person for assault.

R.C.M. 1947, Section 94-2-109 states that being voluntarily intoxicated or drugged is not a defense. However, "an intoxicated or drugged condition may be taken into consideration in determining the existence of a mental state which is an element of the offense."

R.C.M. 1947, Section 94-2-111 recognizes consent as a defense. If the victim consents to the beating, it is not a crime or a tort. It is doubtful that this will be a very frequently proven defense to spouse battering. (Hit me! Hit me!)

Chapter 3 of the Montana Criminal Code (Section 94-3-105 through 94-3-112 sets forth the instances in which a person may lawfully use force against another person. Essentially, force can be used only when defending one's self, another person, and to a more limited extent, property, from another person's imminent use of force. While self defense is much more complicated than this simple statement reflects, suffice it to say that verbal provocation, even if it threatens the future use of violence, does not justify the use of violence. "Nagging" is not sufficient justification for beating someone. Additionally, if a 125 pound person punches a 175 pound person, the larger person may not lawfully shoot the one who swings first - unless s/he knows that the 125 pound person has the present ability to seriously injure or kill her/him and intends to do so now.

Part IV

LAW ENFORCEMENT

While the Montana Criminal Code, with one exception, provides adequate legal remedies, the law enforcement system must become more responsive to the needs of battered spouses. It is this portion of the criminal justice system which demands the greatest change - changes which will be far more difficult to accomplish than simple legislative amendments.

The discussion and recommendations in this section are based upon interviews with the victims, the Missoula County Sheriff and two Deputies, City of Missoula's Chief of Police, a police officer assigned to work with domestic assault, Missoula County Attorney, one Deputy County Attorney and the personal experience of one of the researchers who has worked for the County Attorney's office.

The first thing to be noted is that law enforcement records are not kept in a form which enables easy retrieval of information on the number of calls for assistance, incidents investigated, arrests, formal complaints, prosecutions, convictions or sentencing dispositions for domestic assaults. Police departments and sheriffs offices evidently compile statistics under categories used for the FBI Uniform Crime Report and there is no specific category for domestic assault or murder. (See attached Appendix C) A manual survey would be required of each report filed within such categories of "disturbances", "assaults", and "homicides" in order to determine the number of calls for assistance or investigations of domestic assault.

While every call to the "911" system is recorded on tapes, these tapes are erased after a few months. It would not then be possible to gather any accurate statistics on the number of calls for assistance or complaints of battering for a period of a year. Police officers and sheriff's deputies are not required to report each contact made. According to local administrative policy, only if the contact was of "significance" must the officer report. Whether an incident is significant is left to the individual officer's discretion. If there is an arrest made, then a written report is required.

This lack of reporting has broader impact than just on the ability to gather statistics. If a battered spouse should eventually kill or injure the batterer in self-defense, there is no official record to substantiate any claim by the victim of previous violence.

The need for statistical information and what could be learned from it, alone would justify requiring such reports. For example, a study in Kansas City indicates that in 50% of all domestic homicides, the police had been called five or more times before the murder occurred.⁴⁴

THE POLICE AND SHERIFF

In the opinion of the Sheriff and Police Chief, most calls or complaints are made by the victim, however, occasionally a child or neighbor will call.

The Missoula County Sheriff indicated that in his opinion most reports of domestic disturbances came from the two largest mobile home courts in the county. City Police concur. They

respond to a higher percentage of complaints from low-income areas. The police officers agreed that victims in higher income brackets were more resistant to reporting domestic violence to police. However, the Sheriff said that in his opinion all incidents of domestic assault, like rape, were reported in Missoula County. He discounted national statistics indicating a low rate of reporting as not transferable to Montana. While we know from interviews with victims and from attorneys handling divorces for battered spouses that this is not accurate, it may be wise to exercise caution in transferring national statistics, often from large urban areas, to Montana, especially rural Montana. It may be that rural areas have an even lower rate of reporting because everyone knows everybody else. Interviews with attorneys who handled divorces for upper and middle income parties, and from interviews, it appears that the higher the income and visibility in the community, the less likely the spouse is to call the police.

The Sheriff and Police Chief both indicated that their offices received the most complaints of domestic disturbances in the evening and early morning hours on weekends and paydays. Both felt that alcohol was involved in 90-95% of the reports.

The contact of victims with police is critical to the victim and a highly complex situation to analyze. Risking over-simplification, the important points to be noted for purposes of this study are set forth below.

The stated goal of the Missoula law enforcement agencies is to "mediate", "restore peace" and "to get the problem taken care of for now". How to accomplish this is obviously in the

discretion of the officer: a warning, request that one party (nearly always the male) leave the home for the night, an arrest, transportation of the victim to a hospital, or, recently, to the Missoula Battered Women's Shelter or a Safe Home in Eastern Montana, or the Missoula police handing out a card listing services, or verbal referral to other sources.

It is notable from both the interview with the Sheriff and with the Police that there is a clear policy of not arresting unless a criminal act took place in the presence of the officer or unless there is visible physical injury. While this policy is a safe one in terms of successful prosecutions, it is not required by Montana law. The Montana Code of Criminal Procedure was purposely changed by the Commission to allow a law enforcement officer to arrest for misdemeanors not committed in his presence. Yet police policy seems to follow the outdated law of not making such as arrest. Professors William Corwley and Larry Elison of the University of Montana School of Law, both members of the Criminal Procedures Commission, indicate that this statute was changed expressly to allow arrest in domestic assault cases where there are seldom third party witnesses and where the officer usually arrives after the crime has occurred. The parties tend to be just screaming by the time the officer arrives.

Consideration must be given to the interaction between almost exclusively male police officers and almost exclusively female victims. Not only is it logical to assume that cultural stereotypes enter into this interaction but it is substantiated by the interviews with the law enforcement officials. One officer indicated his frustration with dealing with a hysterical female

by saying that a slap is the most effective way to get her attention. It seems logical to agree with the findings of other studies that the male police officer, when faced with a screaming, hysterical female, tends to identify or sympathize with an assaultive but less hysterical male.

The Missoula County Attorney's Office has recognized this tendency in the investigation and handling of sexual crimes and domestic violence. As a result, they have applied for a LEAA grant to hire a special police team composed of a male and female officer to investigate domestic disturbances and other crimes in which the presence of a female officer might be of particular value.

The use of one special team will work better for such cases as rape, which are far less frequent than reports of domestic disturbances. It is highly unlikely that there will be a sufficient number of such teams in every county in Montana in the near future, but urban police departments might well look to the Missoula program, if funded (and we recommend that it be funded). And it seems patently obvious that all law enforcement agencies ought to consider the hiring of women so that female officers are trained and available to respond to such calls. Until such hiring is required and accomplished, law enforcement agencies ought to adopt new policies regarding domestic disturbances which emphasize investigation of a crime. Present police officers and sheriffs' deputies ought to receive in-service training and training at the state law enforcement academy on the management and investigation of domestic assault complaints.

The Missoula City Police force has at least one officer working energetically in one area of rape and domestic assault.

He works closely with community groups in providing education and acting as a liaison with the police force.

The Missoula County Sheriff has a written policy on the handling of domestic disturbances. A copy of this policy statement is attached as Appendix D. It is a well thought out, articulate procedural guide to an officer responding to a domestic dispute. It is notable that the goal set forth is mediation. The policy takes a very conservative view of the legal action available to the officer. Arrest is recommended only when it cannot be avoided, --"where a serious crime has occurred" or where "there is no reasonable alternative". The policy statement discounts the request by the spouse to arrest the other as a result of the "heat of the dispute" and that too frequently the request will be withdrawn or criticized the next day.

The "mediation" and "avoid arrest" goals are disturbing to the interviewers--at least on a constitutional level. The federal and state constitutions both guarantee the rights of "due process" and "equal protection" of the law. Inherent in these rights is that any law is to be applied equally to all persons unless the law specifies that it applies only to a certain category of citizens; and that classification must satisfy criteria established by the Courts. The criminal assault statutes of Montana do not set out any exclusions. They apply equally to all citizens. Yet, the Sheriff's policy and the instructions given to the Missoula Police by the former police judge clearly carve out an exception to the misdemeanor assault section: "avoid arrests for

less serious assaults unless it occurs in the officer's presence. While we recognize that the victims of domestic assault too often fail to sign a formal complaint the next day, the present policy places far too much discretion in the hands of law enforcement officers. We can easily foresee the charge by a victim who has requested the officer to arrest her or her assailant that the failure of the officer to arrest denied the victim the equal protection of the law. The decision to arrest must be made on the determination of "probable cause" which is the criteria of relationship of victim and assailant or the criteria of location (in the home) is constitutionally questionable.

A very practical result of these law enforcement policies is that the officer is making a determination that there will be no prosecution for a particular criminal act. This decision rightfully lies with the city or county attorneys in Montana. The duty of the police officer is to determine whether a crime has been committed and whether there is probable cause for making an arrest. The city or county prosecutor can then decide whether to prosecute.

It is questionable if peace officers have the necessary skills to mediate or conciliate. They are trained to enforce the law. They should do so.

THE PROSECUTOR

The Missoula County Attorney and a deputy county attorney who handles many of these cases were interviewed. They told us that their office receives many verbal complaints by phone, but many do not show up at the office. Coming to the office indicates some commitment to follow through on the prosecution. But some who do come in to the office later change their minds. They stated that the procedure used by their office in handling domestic assault complaints is the same as for any other assault. The case is investigated and statements are obtained from the potential defendant and witnesses. One variance they noted is that the deputy county attorney assigned to a battering case tries to assess what the wife wants to do and to emphasize the need for the victim to follow through on the prosecution. "Frequently, the women (victims) are panic stricken." It would be helpful to the county attorney's office, the deputy informed us, to have community resources to help victims, who are frequently fearful, to decide what to do with their lives and whether to follow through on the prosecution. A safe place is often needed which affords a battered spouse the time to make these decisions. This might be with friends, relatives or in a shelter.

It was clear from the interview that the county attorney's office placed special emphasis on getting a commitment from the victim to follow through with the prosecution, i.e. sign a complaint once typed up and to appear as a witness at a trial, if the accused spouse pleads not guilty and the case goes to trial. This

concern about victim follow-through was echoed by every law enforcement person with whom we spoke.

The emphasis upon follow-through is readily understandable but it also may present another obstacle for the confused and uncertain victim. Great care must be taken by prosecutors in gaining this commitment from victims. Such a conversation can easily be viewed by victims as discouragement or disapproval. It might be wise for the county attorney to accept the victim's short term commitment to sign a complaint and a statement or affidavit setting forth the facts. Attempting in the first interview to lay out all the legal obstacles and difficulties in prosecuting a case of assault by a spouse is too often overwhelming. The victim has very likely been recently beaten, fled from home, or had his or her spouse jailed and is frantic about the thousands of decisions about the future and feeling guilty about the marriage failure. To be informed how difficult it is to obtain a conviction for assault by a spouse or that she must testify in court (remember television witnesses and attorneys!) may be overwhelming. These considerations, along with considerations of alternative methods of sentencing or conditions of suspension, can be made subjects of a future conference with the victim.

The Deputy County Attorney indicated the need for a community resource capable of assisting a victim make decisions. Most County Attorney's staffs simply do not have the time (and probably not have the skills) to assist the victim in deciding what to do.

The guidelines used by the Missoula County Attorney's Office in deciding whether to prosecute an assault are:

1. If the assault is a misdemeanor (no serious injury), the decision whether to prosecute is left up to the victim.

2. If the assault is a felony (serious injury or substantial risk of death) the County Attorney prefers to prosecute, but sometimes this is impossible because the victim refuses to sign a complaint or to testify.

3. If a homicide results, then the case will be prosecuted.

The County Attorney and Deputy thought that the current criminal statutes were adequate to prosecute cases of domestic assault.

The Missoula County Attorney's Office has initiated a new Deferred Prosecution Program. A deferred prosecution is an agreement between the county attorney and the person accused of a crime that in exchange for the county attorney agreeing not to prosecute a person for a crime, the accused agrees to do or not do certain things for a period of time. In the agreement, the accused agrees to waive his/her right to a speedy trial. The Missoula program currently is available only to non-violent, first offenders. But, the County Attorney indicated an interest in exploring the inclusion of spouse batterers. The program is aimed at persons who take some responsibility for their actions. (Yes, I have a problem.)

The Missoula County Attorney's Office has also expressed interest in another sentencing alternative suggested by the researchers. Since some victims hesitate or refuse to prosecute

the other spouse because they fear the loss of the family wage earner, and since the batterer might benefit from some counseling or therapy, it might be effective to design a program of social and psychological assistance for the accused and the family which could be made conditions of a suspended sentence, deferred sentence or prosecution. Marti Jones, a psychologist from the Mental Health Clinic in Glasgow and an activist in dealing with the problem of spouse abuse, designed an outline of such a program at our request. We attach it as an example of what city and county attorney's offices might consider using. (See Appendix E) The program, of course, assumes the existence of community counseling services and therefore will not be useful in isolated rural areas.

It is important to note that the Missoula County Attorney's Office is not typical of county attorney's offices in Montana. In addition to being the best (at least numerically) staffed office in the state, it also has three deputy county attorneys who are women, two of whom have backgrounds in psychology. It thus has a capacity, both in terms of sufficient staff and training to very capably handle cases of domestic violence. With this abundant resource, successful prosecutions of domestic assault are still rare. We mention this to emphasize the difficulty of the problem. In addition to raising questions about the impediments imposed by law enforcement, the lack of prosecutions raises the question of whether the criminal justice system really has anything of true value to offer a battered spouse. Red tape, tedious questioning, delays, and public notoriety are just what

the battered person does not need. More effective solutions may lie elsewhere. The self-defined role of law enforcement to temporarily intervene to stop the violence and restore peace may accurately reflect the limits of effective police action. To successfully prosecute a case requires a fairly strong, self-confident victim. Such a description does not match up with victim's descriptions of themselves at the point of first encountering the violent spouse or upon first leaving the home. If the criminal justice system is to become a better resource for victims, it needs significant reform and sensitizing. Law enforcement has a role to play but certainly other resources must be mobilized.

TEMPORARY RESTRAINING ORDERS: JUST A PIECE OF PAPER?

Temporary restraining orders are available in Montana to the victim of domestic assault--under certain circumstances. They are available upon the filing of another action, i.e. a criminal complaint or a petition for separation or dissolution of marriage (divorce). In communities which have district court judges available five days a week, they are obtainable Monday through Friday. In rural areas, the district court judge may be miles away and only there one or two days a week. No place in Montana are they available on the weekends.

The temporary restraining order (TRO) may be obtained "ex parte", upon the application of one party, and a showing that irreparable harm may result if the person is not so restrained. It must then be served upon the party to be restrained. Service must

occur at least five week days before the hearing. The person served has the right to a hearing to show cause why he or she should not be restrained. A person may be ordered not to go near the battered spouse or the minor children pending the outcome of the legal action under which it is filed.

So the battered spouse may obtain such an order if she files for separation or "divorce" or a criminal complaint is filed by the city or county attorney.

Once issued and served, the batterer is under an order of a district court not to disturb the victim. But nothing physically restrains the batterer. A piece of paper has never kept anyone from beating someone else if that is what she/he wants to do. The one sure effect would seem to be that if the batterer violates the order and the police or sheriff is called, the likelihood of arrest is increased dramatically. So the actual restraint ordered by the court may occur too late--after the beating when the erring spouse is jailed. A person who violates the TRO is subject to contempt charges.

Other states, such as Pennsylvania, have passed new legislation authorizing the issuance of temporary protective orders, such as restraining orders, temporary custody and child support, as independent filing any other action, such as divorce. An example of Pennsylvania's new law is attached in Appendix F. Care must be exercised in insuring the person subject to such an order the right to immediate judicial hearing and other due process rights.

To the extent that temporary orders are effective, this

type of legislation would enable a battered spouse to gain some protection without having to make the decision of getting a divorce or filing criminal charges at the same time. It might allow married couples the time to make decisions and seek help while providing some protection to the victim and children.

Part V

Recommendations:

1. The FBI ought to be requested or the Congress ought to enact legislation to require the FBI to gather national crime data which includes a specific category for domestic violence. This category ought to include: misdemeanor and felony assault, homicide and child abuse.

2. Police and sheriff's offices should be required by state statute to keep a record for at least five years of:

- (1) each call for assistance or citizen complaint of a domestic disturbance.
- (2) response made (none, offices dispatched, etc.)
- (3) result of contact (arrest, further investigation, victim transported to hospital or referral to other service.

This report ought to be kept short or it will not be used. A check off form would be most useful.

3. Law enforcement officers must begin to handle domestic disturbances as the investigation of a possible crime, in addition to their present goal of restoring peace. "Equal protection" of the law demands no less.

4. Police and sheriff's departments ought to hire women not just to satisfy requirements of equal employment opportunity but in order to have female officers trained and available to respond to and investigate domestic disturbances and sexual

crimes, such as rape and incest. Demonstration projects would be useful in determining the effectiveness of such staffing.

6. Present police and sheriff's officers ought to receive training on the management and investigation of domestic assault as a crime. The state law enforcement academy ought to incorporate such a course. In-service training sessions on the subject are also recommended.

7. City and county attorneys should be required by law to report the number of informal or verbal complaints made, the number of formal criminal complaints filed for misdemeanor and felony assault, homicide by a spouse and the disposition of such cases, including the sentence imposed. Once some accurate records are available, we will be far better able to pinpoint the obstacles to a battering victim's access to the full range of the criminal justice system.

8. Prosecutors ought to make their decision whether to prosecute a domestic assault case on the same criteria as for other assaults on the merits of the case. Special sensitivity ought to be exercised in gaining the commitment of the victim to following through with the prosecution in order to minimize the message of discouragement from and difficulty in successfully prosecuting a batterer.

9. Police, Sheriff, County Attorneys and counselors ought to stop asking the victim "what did you do to provoke this assault?" This

question presumes that the victim is guilty of provoking the beating. The question is similar to the asking a rape victim what she did to provoke the rapist. Research now shows that provocation by the victim usually does not exist. Law enforcement officials ought to remember that the Montana Criminal Code sanctions the use of violence under very limited circumstances--and beating is not one.

10. Staffing of county attorney's offices ought to be reviewed to determine if there are adequate deputies to handle domestic assault cases. Since the best staffed office in Montana shows few, if any, prosecutions, it is unlikely that offices with less staff could even begin to effectively deal with such cases. It appears advisable to assign at least one deputy to gain some expertise in the handling of such complaints. Resistance to this proposal can be anticipated as lawyers consider domestic assault cases as tedious and not a very "classy" type of case.

11. The development of alternative sentencing programs and deferred prosecution programs which provide for social and psychological counseling to the assailant, the victim, and possibly the children is a needed step for city and county attorneys to take. See an example of such a program in Appendix _____. To be effective, such diversion programs must necessarily maintain the threat of future criminal action.

12. Legislation ought to be passed to enable a battered spouse to obtain protective orders for limited periods of time without the requirement of instituting a divorce action or criminal pro-

secution. See Pennsylvania's law in Appendix F and "Protective Orders" in Appendix G, Legislative Reform in Other 49 States.

13. Law enforcement agencies need to work more closely with other community agencies in making referrals of assailants and victims to these programs.

14. One of the most important actions which needs to be taken is public education. Such a program should focus on the frequency of domestic violence (message to victim that "you are not the only one"), and how to get help, including legal, socio-psychological, financial or simply a shelter. The aim of such a public education program, in addition to providing information to victims, ought to be the clear public policy statement that intra-family violence is a criminal act and that we as a society reject it!

We recommend supporting programs in the public school system such as the program proposed by Women's Place (to the Community Projects Fund, C.E.T.A., Missoula) to deal with violence and learning alternative behaviors to violent behavior.

15. Reform of welfare laws is needed to entitle victims to ADC immediately upon leaving the household to enable victims to set up separate households and to support the children. Eligibility for welfare should not be dependent upon the husband's salary.

16. Establishment of emergency funds through county welfare offices to provide victims the resources to set up a separate household.

17. Alter foodstamp eligibility requirements to allow victims to qualify immediately.

18. Create advocacy programs statewide to assist victims with transportation needs, to accompany victims to obtain services. Advocacy training and employment could be C.E.T.A. funded.
19. Wages for staffing shelters could be provided by C.E.T.A.
20. State funding is needed for emergency professional counseling for victims and assailants.
21. Creation of training programs for police, welfare workers, city and county attorneys, counselors, etc., working with battered spouses and assailants is essential.
22. Revise eligibility requirements for job training and employment programs such as C.E.T.A. to enable victims to qualify immediately.
23. We recommend the establishment of tax supported shelters, safe homes, or the use of empty hospital rooms for shelter purposes.
24. Eligibility for Legal Services should not be determined according to the husband's income. The victim's income and resources should be considered as the criteria for eligibility.
25. Encouraging or making data collection mandatory for those agencies which come in contact with victims, assailants, and their children is imperative to effective methods of dealing with spouse abuse. The State should take the initiative in such action.

26. Funding for advertising of services such as referral cards for victims, posters and brochures to inform the public of services should be provided through the State.

27. Research on counseling approaches, i.e. whether the couple separates and are counselled separately or counselled within the relationship should be encouraged through state agencies involved with serving battered spouses as well as through private counselling agencies.

28. We recommend studying domestic violence from the batterer's point of view.

29. Given the limited resources available to fund social services in Montana, plus the need for specialists trained and experienced in handling not only battered spouses, but also other family violence and sexual crimes such as incest, child abuse, rape, we recommend that S.R.S. expand its county child protection units to provide a nucleus of such expertise and services in each community. Highly trained people must staff such units and high salaries provided to attract and maintain such a staff. The Montana university system must develop adequate educational programs to supply staff.

30. We recommend that S.R.S. immediately look at the type of center currently operating in Santa Clara County in California as a model. This center is pioneering in the treatment of people accused of incest.

(Also see recommendations in Part II - Legal and Social Services and Victims' Interactions with Agencies. Other recommendations are made concerning the legal aspects of battered spouses in Part IV.)

FOOTNOTES

1. Martin, Del, Battered Wives, Glide Publication, San Francisco, California, 1976, p. 31.
2. Ibid, p. 10.
3. Walker, Lenore, speaker, Violence Against Women Conference, Sponsoring Organization: Women's Place, October 14-16, 1977.
4. Federal Bureau of Investigation, "Uniform Crime Reports," 1973.
5. White, Karol, "Spouse-Beating: Sometimes It's Murder," San Francisco Chronicle, April 26, 1977
6. Gelles, Richard, The Violent Home: A Study of Physical Aggression Between Husbands and Wives, Beverly Hills: Sage Publications, 1972, p. 36.
7. Resnik, Mindy, Wife-Beating--Counselor Training Manual #1, NOW Domestic Violence Project, Inc., Ann Arbor, Michigan, 1976.
8. Gelles, p. 50.
9. Ibid. - Forward by Murry Straus
10. Ibid. - Forward by Murry Straus
11. Michigan Women's Commission, Domestic Assault: A Report on Family Violence in Michigan, Lansing, Michigan, 1977, p. 4. (quoting Susan Jackson, "In Search of Equal Protection for Battered Wives," unpublished monograph, 1975, pp. 1-2.)
12. Ibid, p. 5. (quoting James Bannon, "Law Enforcement Problems with Intra-Family Violence." Paper presented at the annual convention of the American Bar Association, Montreal, Quebec, August 12, 1975, p. 9.)
13. The process for selecting victims in Butte and Glendive is unknown to the authors.
14. One woman did not want the interview taped because she was concerned that her former husband's identity might be disclosed. Since their divorce, they have become good friends.
15. Michigan Women's Commission, p. 12.
16. Walker, Lenore.
17. Martin, Del, p. 18.

18. Walker, Lenore.
19. Ibid.
20. Ibid.
21. "Battered Women: Violence Behind Closed Doors" - film.
22. Walker, Lenore.
23. Martin, Del, p. 51.
24. Walker, Lenore.
25. Walker, Lenore.
26. Walker, Lenore.
27. Moore, Sally, "The Battered Wife, An Expert Says, Can Be Found in Millions of American Homes, Rich and Poor." an interview with Stewart Queglia, "People", (clipping - no date)
28. Pizzey, Erin, Scream Quietly or the Neighbors Will Hear, Penguin Books Ltd., Harmondsworth, Middlesex, England, 1974, p. 68-69
29. Walker, Lenore.
30. Martin, Del, p. XV.
31. Michigan Women's Commission, p. 24.
32. Walker, Lenore.
33. Martin, Del, p. 14.
34. Ibid.
35. Ibid.
36. Ibid.
37. Martin, Del, p. 14.
38. Ibid.
39. Walker, Lenore.
40. Missoulain, "Study Finds Battered Husbands," Associated Press, Washington, Steinmetz. (clipping - no date)

41. United States v. Yazell, 382 U.S. 341, 361 (1966).
42. These sections on residency had little effect on the actual places that husbands and wives chose to live. "Residency" is a term of art, and is used to determine such things as: where a person may register to vote or apply for welfare, in which county or state a law suit may be initiated, and whether a student is to pay in-state or out-of-state tuition.
43. The Montana Code of Criminal Procedure does authorize citizen arrests under certain conditions.
44. Kansas City Police Report as cited in Del Martin, BATTERED WIVES, Glide Publications, 330 Ellis Street, San Francisco, Calif. 94102, (1976) at page 14.

APPENDIX D
Missoula County Sheriff's Department Policy Re: Family Disputes

FAMILY DISPUTES

by Robert Zaharko, Undersheriff

I. Policy

When the Sheriff's Department is called to intervene in a family dispute, the responding deputy must remain calm and collected to be able to successfully manage the confused, emotional and often dangerous situation. The deputy role in the family dispute situation is more that of mediator, counselor, and peace-maker, than enforcer of the law. Crucial to this role is neutrality, tact, and patience.

The stakes riding on the effectiveness of deputy sheriff's intervention are high. More homicides are committed in the heat of domestic rage than in any other circumstance, and if the deputies fail to cool the present anger and reconcile the disputants, there are likely to be many more future calls for deputies help, and perhaps one requiring the presence of the Medical Examiner.

The procedures which follow are intended to set out methods of approach that will be of aid in successfully responding to domestic dispute calls. Of course, because of the uncertainties involved in these incidents, the procedures cannot cover every situation. Inventive responses will often be required.

(Note: While the family dispute is the most difficult kind of dispute for the deputy sheriff to successfully intervene in, and hence, special guidelines are needed, the priorities and strategies outlined below to restore calm and to make effective referrals can be usefully applied to other disputes too, like barroom tussles, landlord-tenant arguments, etc.)

II. Procedures

A. First Stage: The Initial Contact

The mere entrance of sheriff's deputies onto the scene of a family dispute always has a great impact and usually causes the people to stop their fighting or arguing at least temporarily. If properly exploited, this impact can be used to lead the people to stop fighting altogether.

The object of the intervention at this stage is to take the disputants' attention away from each other and to direct it toward the deputy in such a way as to allow a breathing spell in which tempers may cool, this making a later resolution possible.

To accomplish this, the deputy is to follow these guidelines:

1. Here, as at the other stages of the family dispute intervention, be alert for his safety and take precautions to protect himself.
2. At all times when possible, back-up unit will be requested.
 - a. Upon approach of the disturbance (bar, home, or other), immediate survey of the area should be taken in reference to location, and type of place and surrounding of the disturbance for the purpose of determining if and what

type of danger the officer may encounter and if possible officer should wait for assistance from back-up unit.

3. Upon first contact with the disputants, convey a professionally calm, positive and helpful image:
 - a. Beforehand, check uniform or other attire: cleanliness and neatness can have an important effect at this point.
 - b. Introduce himself by giving name and title.
 - c. Explain that a call was received, and that he would like to be of assistance.
 - d. Avoid profanity, cockiness, or belittlement of the problems. (Even where no crime has been committed, the decision to call in the deputy sheriff indicates that someone is deeply upset. The goal of the deputy is to calm such emotions and reconcile the parties.)
 - e. Don't boss the people around. Particularly if the man of the house is present and involved, one of the easiest ways to get in serious trouble is to show disrespect of him and his family. Always act with respect.
 - f. Indicate neutrality: that as a deputy sheriff he is not on the side of the person who called, but rather, that he is there to see that there is no danger of serious trouble and to be of help. (Since it is frequently the woman of the house who summons the deputy, upon arrival of the deputy sheriff, the man of the house commonly sees him as an agent of his wife and transfers to the officer the anger he was directing against her. Because of this it is crucial to immediately assure the man of complete neutrality.)
4. If entry onto the premises is refused, don't go away. Be persistent. Knock again. Convey to the person that his or her attitude is understood but that it is required of the deputy to make sure there is no serious trouble here.

Of course, if there is probable cause to believe that a felony or an arrestable misdemeanor has occurred, entry may be forced to make an arrest or to make some other appropriate disposition short of arrest. Undertake forced entry, however, only where there is no reasonable alternative.
5. Size up the situation. Pay close attention to the possibility of the use of weapons and to the emotional state of the people present.

B. Second Stage: Restoration of Calm

Following the positive freezing of the situation by the initial contact, the goal then is to restore calm. To achieve this goal, the deputy is to follow these guidelines:

1. If violence is occurring, physically intervene and arrest, if necessary. If summary arrest is needed, it should be made. But avoid arrest if possible. In separating the persons involved, make a quick visual survey of the area for objects which could be used as weapons.
2. Be calm, firm and neutral. Don't shout; by speaking firmly yet softly, the disputants will usually moderate their voices, too.
3. Separate the disputants. Get enough distance between them so that each may relate his story individually without interruption. Take them to different rooms if possible. At the same time try to always maintain visual contact with the other deputy. Where any kind of anger has been displayed, do not take a person into the kitchen; there are too many potential weapons there.
4. Carefully listen to the person's story. This is important for two reasons. First, facts may be needed upon which to base a later course of action. Second, the opportunity to blow off steam and tell his or her story to an interested third party can, by itself, contribute in a major way to the defusing of that person's rage.

Avoid any display of disinterest. If such is displayed, the person will be frustrated even more and so increase the chance of a violent outbreak.

5. For disputes involving children or teenagers, avoid the adult tendency to use an overbearing attitude in calming or distracting the youth. Treat them as adults. By doing so, the youths will feel that they are being approached with respect.
6. Consider a parent's bitter indictment of his or her child with a little skepticism. Keep in mind when attempting to assess the situation that parents frequently use their children as scapegoats for their own inadequacies, problems and frustrations.
7. Never take verbal or emotional reactions as personal affronts or as insults to the integrity of the Force. Remember that an appearance on the scene allows the disputants to blow off steam and that sometimes they blow it off at the deputy. Also, by being a deputy he is seen as authority, and people may react emotionally to the presence of authority in their own home where they expect to be in charge. In such situations indicate that there is no intention or purpose to challenge the person's authority or to order him or her around. In any case, observe and listen to these episodes when they occur and try to determine what the underlying causes are.

8. When necessary, inform parties of the limits of sheriff authority. Where one party demands the arrest of another and there are **not** sufficient legal grounds for arrest, such as where a man in his own home is clearly drunk but has not created any disturbance in the officer's presence, explain to the person demanding arrest the limits of sheriff authority in the situation.

C. Third Stage: Fact Finding

The purpose of this phase of the intervention is to gather information which will assist in the effective evaluation and handling of the problems involved. The deputy is to:

1. Ascertain the family relationships between the disputants and others present, their identities, and any other facts which may be helpful to an understanding of the situation. (The period of relative quiet afforded by the asking and answering of questions can contribute to a general calming effect.)
2. Where there is drunkenness present, be even more patient in trying to get the true facts - if one of the parties is sober, get the story from him or her. (But even here give the drunken person the opportunity to give his version. Any fact can be relevant. Avoid any impression of favoritism. Don't sympathize with the drunk's state, for the desire for sympathy commonly underlies alcoholism.) Remain professionally objective and firm. Determine the extent of the drinking problem.
3. Where mental illness is indicated, also be patient. Make an extra effort to impress upon the person that the deputies are there to be of assistance and not to punish.
4. Exercise tact and sensitivity in asking questions and in the whole approach. This is crucial to maintaining the position of impartial mediator. Bear in mind that he may be in a household where the ethnic, economic and social atmosphere may be completely different from his own. Because of this the officer may find himself shocked or confused by what he sees or hears. But if he is to be effective, he must remain neutral and polite. A couple of suggestions as to approach.
 - a. Avoid the use of phrases or expressions which challenge a person's dignity, selfpride or respect for his background.
 - b. Call the people "Mr." and "Mrs.", or by whatever title they prefer.
 - c. Use normal asking and receiving terms, for example, "Please," "Thank you," "yes, sir," "No, sir," or "May I." This can play a role in establishing the needed rapport.
 - d. Avoid asking questions in such a manner as to give the impression of demanding or commanding the needed information. Make polite requests.

- e. Probe personal type questions only upon the person's willingness to respond.
 - f. Be a good listener but avoid being unwisely "taken in".
5. Maintain an attitude and image of attentive impartiality.
 6. Arrange for an interpreter if possible if the disputants do not speak English or some other language that he knows. But be careful to see that the interpreter is neutral in the dispute. Try to get both parties' approval of him. Using other members of the family for interpreting is usually not advisable, due to emotional ties and to a tendency to interpret to the advantage of the party they favor.

D. Fourth Stage: Course of Action to Take

After having established an atmosphere of relative calm, gathered the accounts from the disputants, and observed other significant facts, the next step is to attempt a solution.

1. Mediation This is the number one goal of sheriff intervention in family disputes, and except where serious crimes have occurred necessitating arrest, all efforts should be directed to achieving a real mediation. Follow these guidelines:
 - a. Keep in mind the important role the participants have in deciding on any solution. A settlement cannot be imposed. Unless the parties themselves agree that a given solution is a good thing, any agreement between them will quickly disappear after the officer is out of their sight. Ask the disputants what they feel they should do. This will enable them to grasp the fact that they have a responsibility to themselves and their family. Remind them that any real settlement of their problems can be reached only by their own initiative and a willingness to help themselves. Participate in reaching a solution by asking: "What are we going to do to solve this problem?"
 - b. Discover a positive aspect of the home that can be brought to the attention of the disputants. There is always something complimentary that can be said, whether it be that the children appear well cared for or they act politely, or that the home is neat or whatever. The point of doing this is that when you as an outsider recognize some attribute of a home and compliment the people on it, this increases the people's feelings of self-worth and it erases some of the embarrassment of having the deputies in their home. Also, where the disputants are from the same household, a compliment brings them together, for the pride it raises is something that is shared. And bringing people together is what you're after. You might want to add something like: "Anyone who can take good care of children like that can certainly work out minor problems of the type found here".

- c. As to the content of the mediations, this cannot be specified beforehand. Essentially what is to be sought is a recognition by each party of how he contributed to the problem and a commitment to solve the problem in other ways than fighting and screaming.
2. Temporary Separation. Sometimes as part of a mediation and in addition to a referral, it may be advisable to separate the parties temporarily while emotions cool. Perhaps a friend or a relative living nearby will agree to put one of the people up for a night or two.
3. Arrest. There are some situations when there is no reasonable alternative but to arrest, for instance where there has been a serious assault committed in the officer's presence. But as a general guideline, avoid, if possible, resorting to arrest as the solution to a family dispute. Too often the bitterness which is created by the arrest either makes the situation between the disputants worse or creates a serious danger for the arresting officer due to possible efforts to resist arrest. This last point is especially true when a husband or father is arrested in his home: he is upset in the first place and if he is taken into custody from his home in front of his family, desperate resistance can result. .

It is not uncommon for one of the parties in the heat of the dispute, where any kind of assault has occurred, to demand the other's arrest. But it is also not uncommon the next day following arrest for the same person who demanded arrest to refuse to cooperate in the prosecution and even criticize the deputies for having made the arrest in the first place. Being aware of this, when no serious crime has been committed and yet one of the parties demands arrest, try to discuss with the parties ramifications of such action, i.e., filing a complaint, court appearance, bail proceedings, etc. Use tact in attempting to convince the complainant to be calm and logical. Point out the existence of other ways to solve the dispute and that the other person (usually the husband) would lose income from not working and that a detrimental effect on the children is likely.

But, as stated above, in some cases arrest is the only alternative. Where it is, the normal arrest procedures outlined in the "Arrest" section of this chapter must be followed. Remember to inform the complainant of his or her responsibilities to institute and sign the complaint and to testify in court.

E. After Disposition: Notations and Reports

Following whatever course of action is taken, record in the Memo Book all significant facts surrounding the incident and the steps taken, in addition to filing whatever reports, forms, etc., as may be otherwise required.

APPENDIX E
Treatment Plan for Abusive Husbands and Battered Wives

TREATMENT PLAN FOR ABUSIVE
HUSBANDS AND BATTERED WIVES

1. Psychological Evaluation
(husband, wife and children) To determine prognosis and specific treatment plan. A report will be made to the court when the evaluation is completed, so that the court may decide to sentence immediately or defer sentence until treatment is terminated (approximately one year).

2. Treatment to include any or all of the following:
 - *A. Individual counseling for husband which includes instruction in how to control his anger and behavior during anger, plus referral to other appropriate agencies when necessary. (I am including residential treatment for alcoholism here.)

 - *B. Individual counseling for wife which includes instruction in how to control her fear and assertiveness training, plus referral to other appropriate agencies when necessary.

 - C. Marriage counseling which includes communication skills.

 - D. Family counseling.

 - E. Individual counseling for children and/or referral to other agencies which may provide assistance (e.g. schools).

 - *F. Parenting classes for one or both parents.

- * All starred items should be included in the majority of cases.

Note: For a certain percentage of abusive husbands treatment is either not useful or feasible. At this time sufficient research is not available to determine that number. These are cases in which the husband is either psychotic, or has controlled his wife's behavior by beating her for so long that it would be unhealthy for her to remain in the home. In such cases, removing him from the home is probably the only viable alternative. At completion of the evaluation a recommendation should be made regarding the potential effectiveness of treatment.

Martv Jones
Psychologist

APPENDIX F
Example of Legislation Authorizing Protective Orders

SB 1243

Relating to abuse of adults and children by a person who resides with them; and providing for remedies and procedures.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the "Protection From Abuse Act."

Section 2. Definitions.—As used in this act:

"Abuse" means the occurrence of one or more of the following acts between family or household members who reside together:

(i) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon.

(ii) Placing by physical menace another in fear of imminent serious bodily injury.

Sexually abusing minor children as defined pursuant to the act of November 26, 1975 (No. 124), known as the "Child Protective Services Law."

"Adult" means any person 18 years of age or older.

"Court" shall mean the court of common pleas.

"Family or household members" means spouses, persons living as spouses, parents and children, or other persons related by consanguinity or affinity.

Terms not otherwise defined by this act shall have the meaning given to them by the Crimes Code.

Section 3. Jurisdiction.—The court shall have jurisdiction over all proceedings under this act. The plaintiff's right to relief under this act shall not be affected by his or her leaving the residence or household to avoid further abuse.

Section 4. Commencement of Proceeding.—A person may seek relief under this act for himself or herself, or any parent or adult household member may seek relief under this act on behalf of minor children by filing a petition with the court alleging abuse by the defendant.

Section 5. Hearings.—(a) Within ten days of the filing of a petition under this act a hearing shall be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of his right to be represented by counsel.

(b) The court may enter such temporary orders as it deems necessary to protect the plaintiff or minor children from abuse, upon good cause shown in an ex-parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

Section 6. Relief.—(a) The court shall be empowered to grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children, which may include:

(1) Directing the defendant to refrain from abusing the plaintiff or minor children.

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant and/or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties.

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant and/or restoring possession to the plaintiff, or by consent agreement allowing the defendant to provide suitable, alternate housing.

(4) Awarding temporary custody of and/or establishing temporary visitation rights with regard to minor children.

(b) Any protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(c) No order or agreement under this act shall in any manner affect title to any real property.

Section 7. Notification.—A copy of any order under this act shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement.

Section 8. Emergency Relief.—(a) When the court is unavailable from the close of business at the end of the week to the resumption of business at the beginning of the week a petition may be filed before a district justice who may grant relief in accordance with section 6(a),(2) or (3) if the district justice deems it necessary to protect the plaintiff or minor children from abuse, upon good cause shown in an ex-parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(b) Any order issued under subsection (a) shall expire as of the resumption of business of the court at the beginning of the week or within 72 hours, whichever occurs sooner; at which time, the plaintiff may seek a temporary order from the court.

(c) Any order issued under this section and any documentation in support thereof shall be immediately certified to the court. Such certification to the court shall have the effect of commencing proceedings under section 4 and invoking the other provisions of this act.

Section 9. Procedure.—Any proceeding under this act shall be in accordance with the Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

Section 10. Contempt.—Upon violation of a protection order or a court approved consent agreement the court may hold the defendant in contempt and punish him in accordance with law.

Section 11. Effective Date.—This act shall take effect in 60 days.

APPROVED—The 7th day of October, A. D. 1976.

MILTON J. SHAPP

END