

**Hearing  
Before the  
United States  
Commission on Civil Rights**

**DOMESTIC VIOLENCE**

**HEARING HELD IN  
PHOENIX, ARIZONA  
FEBRUARY 12-13, 1980**

**Testimony and Exhibits**

## **U.S. COMMISSION ON CIVIL RIGHTS**

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;
- Submit reports, findings, and recommendations to the President and Congress.

## **MEMBERS OF THE COMMISSION**

Arthur A. Flemming, *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Manuel Ruiz, Jr.

Murray Saltzman

Louis Nuñez, *Staff Director*

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# UNITED STATES COMMISSION ON CIVIL RIGHTS

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Tuesday, February 12, 1980

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## PROCEEDINGS

The U.S. Commission on Civil Rights convened, pursuant to notice, in Phoenix, Arizona, Arthur S. Flemming, Chairman, presiding.

PRESENT: Arthur S. Flemming, Chairman; Stephen Horn, Vice Chairman; Frankie M. Freeman, Commissioner; Manuel Ruiz, Jr., Commissioner; Murray Saltzman, Commissioner; Louis Nunez, Staff Director; Eileen M. Stein, General Counsel; Jack P. Hartog, Assistant General Counsel; Mary Anne Hoopes Staff Attorney; and Linda C. Huber, Staff Attorney.

CHAIRMAN FLEMMING. I will ask the hearing to come to order, please.

My name is Arthur Flemming. As Chairman of the U.S. Commission on Civil Rights, I'd like to welcome you to this public hearing on the legal system and women who are victims of domestic violence.

I am joined by my colleagues on the Commission. The Vice Chairman on my immediate left, Stephen Horn, president of the California State University at Long Beach, California. On my immediate right, Commissioner Frankie M. Freeman, who is Inspector General of the Community Services Administration in Washington, D.C. On Commissioner Horn's left, Commissioner Manuel Ruiz, an attorney specializing in international law with offices in Los Angeles, California. And on Mrs. Freeman's right, Commissioner Murray Saltzman, rabbi of the Baltimore Hebrew Congregation in Baltimore.

This hearing is being held under the authority of the Civil Rights Act of 1957 as amended. As required by law, notice of the hearing was published in the *Federal Register* on December 26, 1979.

Over the past 3 years, the Commission and four of its State Advisory Committees have considered various aspects of the problem of domestic violence against women. This hearing grows out of this experience. It will give the Commission firsthand evidence on the response of the legal system to the particular needs of women who are physically abused by their husbands or mates.

While our focus today will be on the law enforcement system in Phoenix, tomorrow we will examine aspects of Tucson's approach and also analyze the problems abused women have in gaining access to and using available legal remedies.

This hearing is part of a larger project which will include a second hearing in another city to compare its approach to that found in Arizona. The testimony received at both these hearings and other evidence obtained by the Commission will then be used to prepare a report to the Congress and to the President containing our findings and recommendations.

I would like to emphasize that this hearing is not being conducted in Phoenix because of any allegations received by the Commission concerning the workings of the legal system in Phoenix or other parts of Arizona. To the contrary, we chose Arizona because its law and enforcement practices appear to be similar to those of most other States.

Our opportunity to conduct this case study of the legal system's response to the needs of women who are victims of domestic violence has been greatly aided by the complete cooperation Commission staff has received from all levels of Arizona's government and particularly the Phoenix Police Department. The Commission deeply appreciates and gratefully acknowledges this assistance. It has allowed us to talk to potential witnesses and develop evidence that will greatly aid the thoroughness, objectivity, and fairness the Commission has sought in all its hearings over our 23-year history.

I would now like to ask my colleague, Commissioner Freeman, to explain the rules and procedures that govern this hearing.

Commissioner Freeman?

COMMISSIONER FREEMAN. Thank you, Dr. Flemming.

At the outset, I should emphasize that the observations I'm about to make on the Commission's rules constitute nothing more than brief summaries of the significant provisions. The rules themselves should be consulted for a fuller understanding and are available from staff members. Staff will also be available to answer any questions that may arise during the course of the hearing.

All persons who are scheduled to appear have been subpoenaed by the Commission. All testimony will be under oath and will be transcribed verbatim by the official reporter.

Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of costs. In addition, within 60 days after the close of the hearing, a person may ask to correct errors in the transcript of his or her testimony. Such requests will be granted only to make the transcript conform to testimony as presented at the hearing.

All witnesses are entitled to be accompanied and advised by counsel. After the witness has been questioned by the Commission, counsel may subject his or her client to reasonable examination within the scope of the questions asked by the Commission. He or she also may

make objections on the record and argue briefly the basis for such objections.

Should any witness fail or refuse to follow any order made by the Chairman, or the Commissioner presiding in his absence, his or her behavior will be considered disorderly and the matter will be referred to the U.S. attorney for enforcement pursuant to the Commission's statutory powers.

If the Commission determines that any witness's testimony tends to defame, degrade, or incriminate any person, that person or his or her counsel may submit written questions which in the discretion of the Commission may be put to the witness. Such person also has a right to request that witnesses be subpoenaed on his or her behalf.

All witnesses have the right to submit statements prepared by themselves or others for inclusion in the record, provided they are submitted within the time required by the rules.

Any person who has not been subpoenaed may be permitted, in the discretion of the Commission, to submit a written statement at this public hearing. Such statement will be reviewed by the members of the Commission and made a part of the record.

Witnesses at the Commission hearings, including those at the scheduled open session, are protected by the provisions of Title 18, U.S. Code, Section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses.

Let me emphasize that we consider this to be a very serious matter and we will do all in our power to protect witnesses who appear at the hearing.

I would also like to explain briefly the special Commission procedure for testimony or evidence that may tend to defame, degrade, or incriminate any person. I would like to make clear, however, that we do not anticipate receiving such testimony or using this procedure at this hearing.

Section 102(e) of our statute provides, and I quote:

"If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in an executive session with a reasonable number of additional witnesses requested by him before deciding to use such evidence or testimony.

When we use the term "executive session," we mean a session in which only the Commissioners are present, in contrast to a session such as this one in which the public is invited and urged to attend.

In providing for an executive or closed session for testimony that may tend to defame, degrade, or incriminate any person, Congress clearly intended to give the fullest protection to individuals by affording them opportunity to show why any testimony that might be damaging to them should not be presented in public. Congress also wished to minimize damage to reputations as much as possible and to provide persons an opportunity to rebut unfounded charges before they were well publicized. Therefore, the Commission, when appropriate, convenes in executive session prior to the receipt of anticipated defamatory testimony.

Following the presentation of the testimony in executive session and any statement in opposition to it, the Commissioners review the significance of the testimony and the merit of the opposition to it. In the event we find the testimony to be of insufficient credibility or the opposition to it to be of sufficient merit, we may refuse to hear certain witnesses even though those witnesses have been subpoenaed to testify in public session. Testimony that may tend to defame, degrade, or incriminate another person is not permitted by witnesses in the open session.

The Commission's rules were drafted with the intent of ensuring that Commission hearings are conducted in a fair and impartial manner. In many cases the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done that in the belief that useful facts can be developed best in an atmosphere of calm and objectivity. We hope that such an atmosphere will prevail at this hearing.

With respect to the conduct of persons in this hearing room, the Commission wants to make clear that all orders by the Chairman must be obeyed. Failure by any person to obey an order by Dr. Flemming, or the Commissioner presiding in his absence, will result in the exclusion of the individual from this hearing room and criminal prosecution by the U.S. attorney when appropriate.

The Federal marshals stationed in and around this hearing room have been thoroughly instructed by the Commission on hearing procedures and their orders are also to be obeyed.

This hearing will be in public session today, Tuesday, February 12, and tomorrow, Wednesday, February 13. The session today began at 8:45 a.m. and will continue until 6 p.m. with an hour and 15 minutes break for lunch. The session will resume tomorrow at 9 a.m. and continue until 3:30 p.m. with an hour and 15 minutes break for lunch.

After the conclusion of the scheduled testimony at 3:30 on Wednesday, there will be an open session for members of the public who wish to bring information concerning the subject matter at the hearing to the Commission's attention. The time available will be filled on a first come, first served basis. If you wish to testify at this open session, please consult our staff in Board Room A of the Adams Hotel.

There are three Commission requirements governing such open session testimony. Testimony must be limited to 5 minutes. It may not defame or degrade or incriminate any person, and it must be directed to the legal system and its response to the needs of women who are victims of domestic violence.

Thank you.

CHAIRMAN FLEMMING. Thank you very much, Commissioner Freeman.

The U.S. Commission on Civil Rights receives very, very significant help in all of the States of the Nation from State Advisory Committees. These Committees are appointed by the Commission and the members of the Committee volunteer their services.

The Commission has been given outstanding assistance in preparation for this hearing by the Chairperson of the Arizona State Advisory Committee and by his associates on that Committee. We are very, very happy that Dr. Morrison Warren is with us this morning and we would be very happy to hear from him at this point.

Dr. Warren.

#### **STATEMENT OF MORRISON WARREN. CHAIRPERSON, ARIZONA ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS**

DR. WARREN. Thank you, Chairman Flemming.

It is with great pleasure and anticipation that I welcome you, Chairman Flemming and Commissioners, to Arizona again, on behalf of the Commission's Arizona Advisory Committee and on behalf of the citizens of Phoenix and the State of Arizona. As you recall, the Arizona Advisory Committee worked extensively with the Commission several years ago during its national hearings on American Indians.

The Arizona Advisory Committee is pleased to have assisted the Commission in its present study of the response of the legal system to the particular needs of women who are physically abused by their husbands and mates. We are also pleased that you have again experienced true western hospitality through the full cooperation you received from Arizona's government and the Phoenix Police Department. This hospitality has enabled you to study the legal system in depth. It is our hope that the role Arizona has played will assist the Commission in developing creative, realistic remedies for domestic violence, not by overriding local needs but by initiating appropriate Federal supportive activity.

The Commission's work is known and respected for its objectivity. This work is permanently rooted in the contacts it has established in the community through its State Advisory Committees. State Committees advise the Commission on local concerns and issues in the area of civil rights by providing information on national projects and writing recommendations for reform to the Commissioners, based on independent studies they have conducted in their regions.

Advisory Committee members, appointed by the Commission, are a diverse group of people in terms of sex, race and ethnicity, religion, age, handicap, political party, and occupation. What we have in common is a sensitivity to civil rights issues and a commitment to the goal of equal opportunity.

The Arizona Advisory Committee is particularly proud of its membership. Committee members come from all parts of the State. They are persons who are highly talented and dedicated and knowledgeable about the history and traditions of their communities.

As Chairperson of the Arizona Advisory Committee for the last 5 years and one of the earliest Advisory Committee members appointed nationwide, I am also proud of the longstanding relationship our Committee has established with the Commission with various projects.

The Arizona Committee has looked at administration of justice in social issues with regard to the American Indians. We have also analyzed the Arizona State prison system, thereby assisting the Commission in formulating recommendations for its national project on State prison systems.

More recently, the Arizona Advisory Committee is conducting an independent study of housing needs of minorities and women in the State. We have continuously monitored and worked toward resolving Arizona's education problems.

The Arizona Committee is also concerned about energy problems affecting minorities, women, and the aged and is looking forward to doing indepth work with the Commission in this area.

The thoroughness and hard work of Commission staff in preparing for this hearing will enable you to present the community with a comprehensive report. This report will greatly contribute toward national and local efforts to combat the growing problems of domestic violence.

Again, we welcome the Commissioners to Arizona.

CHAIRMAN FLEMMING. Dr. Warren, again may I express on behalf of all of us our gratitude and appreciation to you for your long service, both as a member of the Committee and for the last 5 years as Chairperson, and I hope you will also convey to all of your colleagues on the Committee our feeling of indebtedness to them for the services they have rendered in connection with the various projects that you have identified.

DR. WARREN. Thank you, sir.

CHAIRMAN FLEMMING. We are delighted to be here with you and we appreciate all that you have done to contribute to this hearing.

DR. WARREN. Thank you, sir.

CHAIRMAN FLEMMING. Thank you very, very much.

Now, may I ask if the clerks and reporters for this hearing would just stand where you are and raise your right hands.

[The clerks and reporters were sworn.]

CHAIRMAN FLEMMING. Thank you.

Counsel, will call the first witness?

MS. STEIN. Joanne Rhoads, Ellen Lyon, Patricia Magrath.

CHAIRMAN FLEMMING. If you will remain standing and raise your right hand, please.

[Joanne Rhoads, Ellen Lyon, and Patricia Magrath were sworn.]

**TESTIMONY OF JOANNE RHOADS, EXECUTIVE DIRECTOR, RAINBOW RETREAT; ELLEN LYON, EXECUTIVE DIRECTOR, AND PATRICIA MAGRATH, SUPERVISOR, CRISIS UNIT, SOJOURNER CENTER**

CHAIRMAN FLEMMING. Thank you. We are delighted to have you with us.

MS. STEIN. Beginning with Ms. Rhoads and moving from left to right, would you, please, for the record, give your name, address, and title or position?

MS. RHOADS. My name is Joanne Rhoads and I—do you want the address where I live or work?

MS. STEIN. Where you work.

MS. RHOADS. I work at Rainbow Retreat, which is at 4332 North 12th Street, and I am the executive director and founder.

MS. MAGRATH. My name is Patricia Magrath. The address is 357 North 4th Avenue and my position is lead crisis counselor at Sojourner Center.

MS. LYON. Ellen Lyon, Sojourner Center, executive director, 357 North 4th Avenue, Phoenix 85002.

MS. STEIN. Thank you.

MS. Rhoads, would you please explain the services that you provide at Rainbow Retreat to women who are in need of shelter because of domestic violence?

MS. RHOADS. Rainbow Retreat provides crisis treatment and shelter for women and children who are in crisis due to physical abuse and/or emotional abuse. The treatment consists of individual counseling, group counseling, rap sessions, art therapy, music therapy. The shelter consists of room, board, 7 days a week, 24 hours a day up to 6 weeks.

MS. STEIN. Could you give us some idea of the number of women who use your shelter, where they come from and what their racial and ethnic and economic composition is?

MS. RHOADS. We have room for 23 women and children at the shelter that can stay there for 24 hours a day.

Our makeup of the women who use the shelter are predominantly Caucasian. Then the next block of women that would come in would be the Chicano. Then your blacks and a few Indians.

Their needs are—when they first come in their needs are extremely basic. They need a roof over their head. They need clothes. They need food. They want some help in getting jobs. They need some legal services. That is the main priorities when they walk in. They want some help in those areas.

Their emotional status at the time they come in is that they usually are unable to provide themselves with any of those things, particularly



jobs, particularly their ability to earn money. Emotionally they have no self-concept. Their feeling of worth is extremely low.

Ms. STEIN. Thank you very much.

Do you have a written statement that describes Rainbow Retreat?

Ms. RHOADS. I think, yes, you have one there.

Ms. STEIN. Thank you.

Mr. Chairman, I'd like to ask that this description of Rainbow Retreat be introduced into the record as Exhibit No 1.

CHAIRMAN FLEMMING. Without objection it will be done.

Ms. STEIN. Thank you.

Ms. LYON, could you describe the services that you provide at Sojourner Center?

Ms. LYON. Yes. Sojourner Center provides food, shelter, and counseling and informational and referral type of services to women and children who are current victims of domestic violence, of abuse, or have developed some sort of chronic social or behavioral disfunction which seems to come from a background of abuse, from years of violence in their family as kids.

We provide housing. Under our current—we have Title XX contract, which is Federal money through the State of Arizona, which provides for services for up to 7 days for women in immediate need who are in crisis because of being in an abusive relationship.

We, as I said, provide shelter, food, counseling. We refer to places like DES [Department of Economic Security]. We can provide indepth counseling such as assertiveness training, parenting skills at the center, or we work with the systems agency such as the department of economic security to try to get that woman into a place where she can provide the basic needs for herself and her children.

Ms. STEIN. And could you give us some idea of the economic and ethnic background of the women that you serve?

Ms. LYON. I would say at least 90 percent of our particular population would be considered low economic level. Below—actually poverty level people, economically disadvantaged women.

The ethnic breakdown is Anglo, 62.2 percent; Black, 10 percent; Chicano, 15 percent; Native American, 10 percent; other, 0.8 percent.

Ms. STEIN. Thank you.

And do you have a packet of materials describing Sojourner Center?

Ms. LYON. Yes, I do.

Ms. STEIN. Mr. Chairman, I'd like to ask leave to have that packet introduced as Exhibit No. 2 in the record.

CHAIRMAN FLEMMING. Without objection it will be entered in the record as Exhibit No. 2.

Ms. STEIN. Thank you.

Ms. LYON, could you describe the emotional and economic circumstances of women when they arrive at Sojourner Center?

Ms. LYON. The average woman, the major portion of the women who arrive at our center are under extreme stress when they arrive.

I'd say the average age is around 25. She has a little bit less than a ninth-grade education. Probably has not worked at all. If she has worked, she might have worked as a waitress for 6 months, 8 months at one time or another.

Usually, the average woman again has around three kids and that can go—we have had zero through—I think we had one woman in at one time who had 12 kids. So it covers quite a wide range.

The woman, when she comes in, as I said, demonstrates a lot of stress type of responses. She either is weeping, she goes back and forth frequently; and this is the average woman. She goes back and forth between weeping, feeling guilty, feeling as if it's her fault—What has she done to herself, her kids? Why didn't she cook hamburger instead of macaroni for dinner and then everything would have been okay?

And then, on the other hand, 2 minutes later or an hour later she is into a rage type of reaction and is very angry and then it goes back into, again, the fear. After all, she sees this, her husband, her spouse who has been abusing her, the majority of our women see him as somebody who is at least 10 feet 4 inches tall, can do no wrong, can completely wipe her out just by snapping his fingers. She is very intimidated when she comes, is very much afraid, is very much afraid of what he is going to do to her if she does anything, if she says anything bad about him; what he might do to her children, how is she ever going to eat.

Ms. STEIN. Thank you.

Ms. Rhoads, based on your experience and the number of women you have counseled, what is your understanding of how the police respond when they are called to a situation of battering?

Ms. RHOADS. The observation that I have made from the clients that come through Rainbow Retreat and other women who I have had interaction with, that have had to use the police, is that, one, their major complaint is that they are insensitive to what is going on in the home, that they are not advised of their rights. They are told that there is nothing that they can do, "they" the women. They are told that there is nothing that they can do, meaning "they" the police. They are told to leave the home. "Why don't you just leave until things cool down."

Maybe an attempt might have been made to remove the husband in an amiable kind of way, or there may be some kind of instance where the husband is removed by the police and possibly either dropped off at the corner, dropped off at the park, or possibly dropped off at the jail, which does not mean a whole lot because he can be back in 15 or 20 minutes.

I would like to say on the other hand, though, that when the police do answer our calls at Rainbow Retreat, and we depend very, very heavily on them for security since we are an open, published address, that we find they're extremely sensitive to the problem. They are very helpful and they are protective, not just to the center itself but also to the women. It's as if once the woman has made a commitment to do something, they are more willing to work with her.

Ms. STEIN. Thank you.

Ms. Magrath, Can you add anything to that, based on your experience with police response to interspousal violence situations?

Ms. MAGRATH. Yes. I would like to say that our experience at Sojourner has been very similar to Rainbow's experience.

We find that our clients are not advised of their rights. They are not told that they have a right to make a citizen's arrest. They are not told that they have a right to make a complaint and carry through. Most of the time they are told there is no remedy, that the police can make—that their best bet is to go through a civil thing like a temporary restraining order, which most of our clients do not have the money for.

I have heard of extreme situations. In one case I had just recently, a woman was assaulted about 12 times in front of the police. She had bruises up and down her arms. And the only remedy that she was given was they kept saying, "Don't do it again, Jimmy, don't do it again." But she was actually assaulted about 10 times in front of the police.

Her mother and she were not allowed to go back in the home, which is one of their rights. They were told that they would have to leave the home immediately, and he destroyed all their property in the home when they went back there 3 days later.

On the other hand, as Joanne says, most of the police that work in our area are wonderful. They have been very supportive of us. And even with the clients that live in our area, they're very supportive of and informed them of our rights and informed them of their right to shelter.

Many times they are not even told that there are shelters available for them to leave to go to. They are just told to leave the home.

Ms. STEIN. Do you know of any reason to account for the difference between police in other areas and the police in the immediate area of your shelter?

Ms. MAGRATH. It's probably, as Joanne says, the commitment. They feel that the women are making a commitment. I think the other thing is that once the police are sensitized to some of the system's impediments, with why these women don't just get up with their three children and walk out the door, many times they are much more responsive.

Ms. STEIN. Thank you.

Ms. Lyon, I understand that Sojourner has recently been asked to give training to police officers at the recruit academy. Is that correct?

Ms. LYON. That is correct.

Ms. STEIN. Do you have a lesson plan or training plan for the course that you are giving?

Ms. LYON. Yes, I do.

Ms. STEIN. Mr. Chairman, I'd like to ask leave to introduce the training plan as Exhibit 3.

CHAIRMAN FLEMMING. Without objection it will be entered in the record at this point.

MS. STEIN. Can you tell me what you hope to accomplish by teaching this course at the police academy?

MS. LYON. The course consists of 1 hour with a recruit class. My major interest in presenting this class and the reason why I was excited that we were offered the opportunity to do this was I see it as the beginning of a dialogue between the police department and human service workers, human service programs such as ours, which I have seen as being one of the major sources of the problem, lack of communication and coordination among agencies who are working with the problem.

As far as during our 1-hour session, which I do not feel is nearly enough time, my hope, and the hope of the staff of Sojourner who were also presenting, was, as I said, to begin a dialogue, to find out and to explore the attitudes of the police department and the new recruits, the training officers and the new recruits, towards victims of violence and to try to talk about what possible options were available.

Our experience there—we have an outline, which you have entered, which talks about the profile of the abuser and the profile of the victim and the role. Then we discussed the role that the police might play in such a situation. And when we got to that, I think that was the most important part because, again, it got into a question and answer type dialogue situation.

The recruits who were there basically stated, three or four of them stated, that they had been told by training officers that it was a waste of paper to write up a complaint in a domestic violence situation, that it was a waste of time to take the assailant in.

The recruits, who are new to the game, I'd say at least half of them were concerned about that. They wanted to know if there wasn't something they could do. And some of our suggestions, the number one suggestion was, first of all, "I don't feel that you as a police person are responsible to be a counselor as well. However, I feel that you do have a responsibility to intervene when somebody potentially is at risk of being hurt badly by separating, by taking the assailant away as an option, by informing the woman of her right to citizen's arrest if you feel that you cannot take the person in because you did not see any act of violence at the time, to inform the victim of crisis shelters in the area." Although I think, as Pat and Joanne both implied, I don't think that is the best option because, unfortunately, it's the woman and kids who are getting beaten, who have to leave the home, while he gets to stay in his home and drink his beer and possibly rip up her clothes and rip up the kids' birth certificates so that she can't get any services after that.

But to at least inform as to the options, to offer to provide transportation to that woman to a shelter or to her mother's or to a friend's home, to at least get away from the situation at that time. That usually is not done.

Ms. STEIN. Ms. Rhoads, is it correct that Rainbow Retreat has also been asked to conduct training for the police recruits?

Ms. RHOADS. Yes.

Ms. STEIN. And do you have a training plan also of the course you are providing?

Ms. RHOADS. Yes, we do.

Ms. STEIN. Mr. Chairman, I'd like to ask that that be admitted as Exhibit No. 4.

CHAIRMAN FLEMMING. Without objection it will be done.

Ms. STEIN. What response have you found from the recruits?

Ms. RHOADS. Ours was extremely optimistic. I think there were 2 days with 2 hours each session, and we spent the 2 days at the academy, which is something that Rainbow has been trying to accomplish for the last 6 years, incidentally. I can't honestly say we have been pounding on doors trying to do it, but we have tried in many different ways to get into the academy to do training.

After our last two sessions, we were invited back to do one 4-hour session once a month, which gives us a lot more time, and this will be with the whole academy, not just some classes. So, again, it's optimistic.

What we try to accomplish while we are there is not so much going in and telling them that "This is what we hear about you. Why don't you clean up your act? This is what is going on out there. This is what you are walking into. You are not walking into just a fight. You are walking into a pattern that has been established for a very long time, and there is not a whole lot that you as a counselor—" as Eileen said, "We don't expect you to be counselors, but we do expect you to be sensitive to the problem that is going on. We would like to help you become sensitive to it and not get yourself to the point where you become ineffective in your role because of your being overly sensitive." Because there is a delicate balance that the police have to walk there, too.

Another thing that we try to accomplish with the police is to take the picture away of the assailant being the bad guy and the woman—usually it's the woman being abused—as being the victim and seeing the two people as two people who need help. That this is a pattern that has been going on for a very long time. That whether they lock him up and throw away the key or whether they take her to a shelter and leave her there for the next 20 years, the pattern has been established and they will continue this kind of interaction if they're allowed to.

Ms. STEIN. When clients come to Rainbow Retreat after they have been assaulted by their spouse, do you encourage them to prosecute or not?

Ms. RHOADS. No.

Ms. STEIN. Why is that?

Ms. RHOADS. First of all, most of the clients by the time they get to Rainbow Retreat have tried some kind of legal action. They have either called the police and been told that there is nothing anybody can do or they have tried to prosecute and found out that if they did make an attempt, they were told to cool off for a couple of weeks. Or should there be some kind of charges pressed or a signed complaint, usually the man was out on bail in a very short period of time, an arraignment wouldn't take place for about 6 weeks and the woman would have to live at home with that man until she was sought to testify against him, which is—"That's insane for me to live in the same house with the man that I'm going to testify against for assault. Then they could just lock me up."

As far as her being in the shelter and us encouraging her to prosecute, we don't have the time. We have a very short period of time with these women and we have to decide what their needs are. And they have to decide what their needs are. And to sit and go through 2 or 3 or 4 or 5 days or maybe 2 weeks down at the attorney's office or at the city attorney's office is just—it is not the best place to spend our time and energy for that client.

She needs to devote her energies into bettering her way, not into getting him, because it really doesn't do any good. It's a very fruitless kind of a way to go.

Ms. STEIN. Thank you.

Ms. Magrath, what has your experience been with prosecution?

Ms. MAGRATH. We have not done it that often for a number of reasons. First of all, because of our crisis orientation, women are only there for 7 days. A lot of the times when the women come in there has not even been a charge made, so if they are interested we will certainly call the police and have them come back down and take a report. But even that is difficult to do.

As Joanne says, prosecuting one of these type of cases is very, very difficult. The woman has got to be in a safe place. She has got to be away from him.

We have had a number of cases where the men were aware of where they were and calling them up and threatening them every day, that they were going to kill them if they didn't drop the charges.

There is also the economic factors. Many times the sole economic support of the family is the assailant and to prosecute him when it's your only means of support doesn't make a whole lot of sense.

We did have one case that we attempted to prosecute. A woman was dragged out of her parent's house after she had left this man, was beaten with a brick and a stick and a bottle over a period of 8 hours. He was originally charged with kidnapping and assault with a deadly weapon. She was bruised on every part of her body. I have never seen a woman so badly beat up in my life. And the charges were dropped from this kidnapping and assault with a deadly weapon to three counts of a misdemeanor. And we had to even fight for that.

When we went down to the district attorney and asked them why, they said that due to the fact that it was a domestic violence case and also because there were a number of other factors. At one point in time she stabbed him and also they felt that she had many chances to get away from him over this 8-hour period of time. They would not prosecute it as a felony. They would prosecute it instead as a misdemeanor. He was given 6 months in jail for what he did.

Now, luckily in this case, he had a P.O. and we called—

Ms. STEIN. I'm sorry. Would you tell us what you mean by a "P.O."?

Ms. MAGRATH. He was on adult probation. He was on probation for a marijuana charge about 3 years back. His probation officer was irate when he saw what he had done to her and had him violated.

He received 10 years in jail for the violation and 6 months for the actual assault that he committed.

Ms. STEIN. You say that she stabbed him. Do you mean during the course of the incident?

Ms. MAGRATH. During the course of the beating, yes.

At one point in time she had access to a knife and it was a very superficial wound. But they felt that because she would have access to stab him she should have also had access to get away.

She was about 5 feet, if that tall. She probably was shorter than that. And he was about 6 feet 3 inches and extremely threatening. I went through the court case with him and he was threatening me and everybody else in the court—

Ms. STEIN. Do you believe it's true, as is often said, that women frequently drop charges after initially filing charges against their husband?

Ms. MAGRATH. Yes, I do. The reasons that they probably do is because it is very difficult. If you can talk the police into taking the charge and then talk the county attorneys or the city prosecutor into keeping the charge, and then from there go into court; it is a very difficult process, number one. Number two, he is probably out on the streets this whole time and knows where you are and is calling you up every day and telling you to drop the charges, drop the charges.

Also, the economic impingements; and many times the woman still loves the man and just wishes that he would leave her alone. And due to all these factors it is a very difficult thing to prosecute.

Ms. STEIN. What happens if a prosecution is carried through to completion? Do you have any experience of that?

Ms. MAGRATH. In terms of sentencing?

Ms. STEIN. Yes.

Ms. MAGRATH. My only experience is that one, which, like I said, the woman was—I have never seen anyone so badly beaten in my life. She was, she was bruised on every inch of her body and he was given 6 months for that.

Ms. STEIN. Ms. Rhoads, do you have any experience with prosecutions that are carried to completion?

MS. RHOADS. As I said before, Rainbow is not—doesn't really encourage a woman to go through prosecution. If she chooses to go into prosecution, we will act as an advocate and walk her through it or go with her to do whatever we can.

I personally have not had any real significant case that stands out in my mind as to what happens when you follow through with prosecution.

But another center in the State, she and I work very closely together, and the one that was so outrageous to us was the woman did prosecute her husband and it was not only abuse for herself but abuse for her children. And she was in this center, another center.

They went to court and he was sentenced to Florence, which is our State prison. And shortly after he was in prison they started corresponding again and she decided to move down to Florence to be close to him, and then decided that everything she had ever said was a lie and that everyone had talked her into lying. That is probably the most outrageous thing I have ever heard and that is what I get the feeling in trying to find some of those things. This is so rare. It's so rare to have prosecution to begin with and then on top of that it is so rare to have that kind of mutilation that went on in the family.

The thing that is not rare in the whole thing, the whole situation, is the dependency that happens between the man and the woman that are in these kinds of battering situations. There is a dependency that—it's so unseen and yet it's so terribly real. It's so hard to deal with the facts of it.

One of the things that was mentioned earlier, and I really need to respond to it, is I did not give you a description of the economic kinds of women that come in. I gave you a description of what they look like, what they felt like, what their emotions were like. But basically our women that come into the center are not penniless women. They are not the lower economic women. It's your woman who is lower middle, maybe middle-middle class, and some wealthy, wealthy women come into the center. Financially, on paper, that is the way they look.

Unfortunately, when they walk through the door they become penniless. And I think that there is a big difference there, whether it's my center, Sojourner's, or any center across the country. Once that woman walks through the door she is penniless. She may drive a Cadillac into the driveway but she won't have any money to put gas in it.

MS. STEIN. By that you mean that for her social standing or her economic standing she was dependent on her husband's income rather than her own?

MS. RHOADS. Even if she was working and putting half into the home, nine times out of ten when she leaves she is penniless.

MS. MAGRATH. We had an extreme case just recently. There was \$70,000 involved in cash in a trust fund. She was a French citizen and she was here on his visa, and he took all the money. As soon as she walked out the door he took all the money and hid it and took all of



the account and hid it someplace. So she did not have access to a penny. She had no access to work visas or anything like that, and it was a really rough situation for her.

Ms. STEIN. Ms. Rhoads, could you give us your opinion of what remedies, the effectiveness of civil law remedies such as court orders in dissolution proceedings or peace bonds?

Ms. RHOADS. The effect?

Ms. STEIN. The effectiveness of them, whether they are effective or not.

Ms. RHOADS. I have yet to see them be effective. I have yet—

Ms. STEIN. Why is that?

Ms. RHOADS. First of all, they're difficult to get. Well, we don't even have peace bonds here anymore. It's called something else, but they are difficult to get.

Secondly, if someone has been able to obtain a restraining order, or whatever replaces a peace bond at this time, and they are being harassed or they are being bothered by the assailant or the husband or whatever, whomever it is, and she calls the police, they say, "There is nothing we can do until some action actually takes place," which means that she is liable for whatever comes down.

Now, I did not know we were citing cases today, but this one stands out because it's rather recent. We had a woman in the center whose husband had beat her very severely. She left him. She had come into the center and she was there 6 weeks and she had gotten a job and was able to go out and get her own apartment. He found out where she worked and went and asked her to have coffee with him. She went and had coffee with him. He kidnapped her, took her to his apartment, and tried to kill her. She got away from him, went to the police and told them her husband had kidnapped her and tried to kill her and they said, "There is nothing we can do until he actually does something." He found out where she lived, went to her home, killed her, and killed himself, and this has been in the last 6 months.

Ms. STEIN. Do you have any experience with the free legal services that are provided through the Legal Services system?

Ms. RHOADS. Do I have any access to them or do I have experience with them?

Ms. STEIN. Do you have experience of whether they have been adequate to clients of yours?

Ms. RHOADS. No, they have not been. And this gets into a couple of other things.

The women coming in, as I said, they may be penniless when they walk through the door, but on paper or according to our sliding scales that we are governed by, particularly with government funding, our women show up as a family income being more than the maximum or the minimum that is allowable. So, many times they are ineligible for any kind of community services that are available to someone who is indigent or income eligible.

That works with Legal Aid also, in that many times they are ineligible. Unfortunately, before they are able to get any kind of community resources such as DES, welfare, food stamps, legal aid, things of that nature, they have to become eligible. Well, unfortunately, to become eligible they have to either file for divorce or go for a legal separation, which takes money. And, as I said, penniless. They are not able to give that \$250 or \$300 up front to an attorney to become eligible for community resources.

MS. STEIN. Ms. Magrath, have you had experience with the financial assistance provided to women by the Arizona Department of Economic Security?

MS. MAGRATH. Yes, I have.

MS. STEIN. Is that an effective source of support for women who have fled their homes because of interspousal violence?

MS. MAGRATH. Not really. There is a number of problems with the welfare system here in Arizona. First of all, once you apply for a case it takes 4 to 6 weeks to actually receive your check, so during that time you are not going to have access to any resources except for emergency assistance.

How emergency assistance works in this State is that you find a place to live first. You get a statement from that landlord saying that he will rent to you for X amount of dollars.

Now, how they work it is that if, say, a woman with one child, it would be \$156 a month, would be what your check would be. So, what you do is you go to a landlord, find someone who would rent to you for a fourth of that, which would be \$38 a week, and they will pay up to 2 weeks. So that means you have to find a landlord who will rent to you for \$38 a week with no deposits, no nothing besides the \$38 a week, which is extremely difficult to do in Phoenix. It's virtually—it's almost impossible.

The other problem is access. You have to be there by—I had a client just the other day, went down there, got there at a quarter of 7 and was told she would not be seen that day because they had no more appointments left. They usually have to be there by 6:30 in the morning, and if you have three children and no access to day care, yet you are dragging those three children along in the cold at 6:30 in the morning.

Also, some of the welfare workers' attitudes are not that good. I have had welfare workers tell me, "She probably deserved to get beaten. Well, she must like it. That's why she puts up with it."

Now, there are other workers that are wonderful, that have just been super and have done everything they can. But that is not all of them, unfortunately.

MS. STEIN. Are there any documentation requirements for certain types of assistance that are particularly hard for a woman in this situation to meet?

MS. MAGRATH. Yes. There is a number of them. They require documentation of birth certificates on both she and the children, rent receipts, and stuff like that. Most of the time when the woman is fleeing the situation she is not going to have time to pick up her rent receipts or utility deposits, her children's birth certificates, and her birth certificate.

Another common thing that happens is he will destroy every specific piece of documentation she has for this specific purpose, so she cannot prove who she is. I have had them tear up her social security card, every piece of documentation she has. Now, if they are not born in Arizona, they have to send off to the State where they are born, and that usually takes \$2, and most of them, as Joanne was saying, have no access to any resources at all. So, it's very, very difficult.

MS. STEIN. Thank you.

MS. RHOADS, do you have anything to add to what Ms. Magrath has said?

MS. RHOADS. Well, I am sitting here reminiscing, because I can remember when we first started, we went through the same kinds of frustration that Pat is talking about. We were fortunate in that, in the beginning, we were able to find some of those super caseworkers that she talked about, and if you can get them to work with you, you can get some things done.

As time passed, we found that we were becoming more and more frustrated by the system, and Rainbow, in turn, has looked at other areas and other kinds of community contacts to use to get some emergency assistance, to get emergency medical, because we are not just talking about welfare and food stamps.

We are talking about medical care. We are not talking about dental care. We are talking about eyeglasses. We are talking about testing for learning disabilities for the children. We are talking about a lot of different things, not just the fact that she needs \$38 a week for her room. That becomes secondary when one of her children has got an earache and she has got no place to take him. She might be able to take him to the county once, but without a county card it's hard to get in there again. We are talking about a lot of different community contacts that are needed to keep an agency like this or to service this particular client population.

I, in turn, have found different places in the community where I can get these things taken care of very, very quickly. Again, I have built up my own resources. I have doctors that I can send the people to. I still have difficulty in trying to get money because that is always the hardest thing to get, but if the money was going to buy a pair of shoes and I can get the shoes, then we have gone around it. Housing, I think, will always be difficult because you do need the money up front to get that.

DES, the way the bureaucracy is set up, it just does not work for our clients. It might be very, very beneficial to some other kinds of

clients, but for this particular kind of client it is totally inadequate and does not work.

Ms. STEIN. Does your shelter rely on Title XX funds for some of your support?

Ms. RHOADS. Yes, we do. We have about \$120,000 of Title XX monies. Would you like to hear the problems with that?

Ms. STEIN. All right. Yes.

Ms. RHOADS. All right. First of all, we have the Title XX money, which is Federal money, and it has to be matched with one-fourth of clean money, which we call it, which is any kind of money that you can raise or produce that is not mixed with any Federal money, which in some centers— it creates quite a drain on them because there is just no way that they can raise this kind of money.

In other words, what you go after in Title XX funds is totally dependent upon what you can raise—your one-fourth clean money.

The second and more major concern of mine with Title XX money is that it's income eligible monies and 7-day money. You can only use it for 7 days, I think 15 or 16 in a 6-month period, isn't it? Fifteen days in a 6-month period.

Categorical has to be one-third of that income eligible, which means that for our clients we need AFDC [Aid to Families with Dependent Children] clients or SSI [Supplemental Security Income] clients. Since we have no Medicaid, that means that is not a category that we can use to meet that 33 percent. And ADC is not a category that we can meet that percentage with.

So, on top of having to come up with one-fourth of the money ourselves to match it, we also have to stay within the income eligible one-third being categorical to make it work for us, which causes some problems again.

Once you get past that problem—and those of us that are determined to use the Title XX monies will find ways to get by it—legally, not illegally, note that—there is the problem of when this woman comes in, as I said earlier, she may be married to a man that is making \$20,000 to \$30,000 a year. And in order for her to become eligible for the Title XX funding she has to sign saying that she is not planning on ever returning to this man, which puts her in somewhat of a bind because many times she is sitting there saying, "But I don't know if I am or not."

And we try to keep it at the point of where it's at. "Are you planning on going back right now?"

"No, I'm not."

"Okay, then you are not jeopardizing yourself. You are not in contempt of anything. You are not perjuring yourself. Right now, you feel that you are not going back to him and you can become eligible to use these funds."

I am uncomfortable with that. I don't think that that should have to be. Recently, the State of Arizona has just come out without regard

to income for children Title XX monies and I don't know why we couldn't do the same for the women.

Ms. STEIN. Ms. Lyon, does your shelter also rely on Title XX funds?

Ms. LYON. Yes. That is essentially all there is.

Ms. STEIN. And have you had similar or additional problems in obtaining the funds?

Ms. LYON. We have all the problems that Joanne mentioned, plus one additional problem, and that is that we provide the services and we do not get paid for the services that we provide for from 6 to 8, to sometimes 12 weeks after we have provided the services, which makes it very difficult for a small nonprofit agency such as ours. It completely destroys any sort of concept of cash flow. We are constantly in crisis, obviously.

The problems that were mentioned as far as needing to be income eligible in the State of Arizona is one that could be remedied, at least according to the Federal rules and regulations on Title XX use. Section 228.63, or .64, excuse me, says that individuals who—exploitation or abuse of children or adults should be served without regard to income.

Also, and I don't have that regulation here, not only is it recommended that these women and these children be served without regard to income and recommended that it be included in State plans, and it is not in the Arizona State plan at this time, but also that any sort of documentation for qualifying for the funds should be put aside and services should be provided to somebody who is at risk of abuse immediately without having to go through finding a birth certificate, which sometimes can take 2 or 3 weeks or longer.

It's also recommended in the rules and regulations of Title XX, the Federal rules and regulations, or it is stated that a State can provide up to 30 days, pay for up to 30 days of service to victims of abuse, both adults and children. That is not included in this State plan.

We have been attempting to negotiate with DES. I believe the director of the Department of Economic Security is concerned about the issue and we'd like to see some things done about it. I feel that they are open. I feel that we need to keep pushing at them as well, though. There needs to be more time than 7 days. Seven days is not enough time to get anything done.

Ms. STEIN. Mr. Chairman, may I ask that the Federal regulations to which Ms. Lyon referred be placed in the record at this point?

CHAIRMAN FLEMMING. Without objection that will be done.

Ms. STEIN. Thank you.

Ms. Lyon, at our request have you been administering a questionnaire to your clients in order to obtain data about their circumstances when they come to the shelter?

Ms. LYON. Our program has, and Patty is the one who has had the responsibility for administering that questionnaire.

Ms. STEIN. Thank you.

Ms. Rhoads, have you been doing the same?

Ms. RHOADS. Yes, we have.

Ms. STEIN. Mr. Chairman, I'd like to ask that a copy of the questionnaire be received with an appropriate exhibit number and placed in the record and that space be allowed in the record for a tabulation of the results of this data gathering when they are obtained.

CHAIRMAN FLEMMING. Without objection that will be done.

Ms. STEIN. Thank you.

I have no further questions at this time.

CHAIRMAN FLEMMING. Mr. Horn?

VICE CHAIRMAN HORN. Ms. Rhoads, I was interested in your comment that you did not encourage the victim to prosecute, and this certainly is one of the problems in this area, and we can realize all the difficulties that are involved sometimes when people do prosecute.

But we get down, it seems to me, to the point that in a society if any particular type of crime, those in the community did not encourage the people to prosecute, it seems to me you could argue that that would be merely an encouragement for that type of behavior in the community.

For example, the obvious. If banks were robbed in Phoenix on a regular basis and people said, "Well, let's not prosecute them. There might be threats by the bank robbers, we might be kidnapped, beat up," and the Phoenix police did not prosecute bank robberies, I suggest that hundreds of bank robbers would come here to rob banks.

Now, we run into the problem where, difficult as it is, if perhaps the city got a reputation that you did prosecute spouse abuse situations, that perhaps there might be some behavior changes as a result. What is your feeling on that?

Ms. RHOADS. I agree with you. I think that the robbers would come to Phoenix and rob the banks if that were the case.

I also think that I might have been misunderstood. The reason that I don't encourage women to prosecute when they are in the center is not because I'm afraid of the husbands or because of the threats, but because we have so little time and there are so many needs that to spend our days and our staff time and our energy and their energy trying to prosecute a crime that is not going to do anything even if we do get it prosecuted—you see, we had an occasion to be made very much aware of what kind of reporting was done in assault cases. We found out that many of the cases were reported as misdemeanors, disturbing the peace.

We were offering counseling to the abuser as an alternative to fining or jail if they would just sign something saying that they had indeed committed a simple assault. Unfortunately, since the only thing that they had to deal with was disturbing the peace, they were not about to sign anything that said they had committed assault. So nobody would take advantage of it.

VICE CHAIRMAN HORN. But all we are saying is, we are repeating ourselves, that we are in an endless cycle.

Ms. RHOADS. Right.

VICE CHAIRMAN HORN. And the question is how do we break the cycle?

MS. RHOADS. Well, I think that the things should be called what they are. If there is an assault going on, it should be called an assault and not disturbing the peace.

VICE CHAIRMAN HORN. And they ought to be prosecuted for assault?

MS. RHOADS. And they ought to be prosecuted for assault.

VICE CHAIRMAN HORN. As a felony?

MS. RHOADS. Definitely.

VICE CHAIRMAN HORN. With all the problems that means in support, which gets us to the next problem as to the degree to which you feel that—given the fact this is a national problem, it isn't going away, it might even be increasing—that there ought to be a Federal network of shelters or a State network of shelters.

Would you agree with that or should every community limp along based on the well-meaning citizens such as yourself that go out and raise voluntary contributions and try to put this sort of mixed bag of support together to solve what is a very real problem?

MS. RHOADS. I believe it should be a network of shelters.

VICE CHAIRMAN HORN. How do you feel, Ms. Lyon?

MS. LYON. I definitely believe that there should be a coordinated network of shelters, which also coordinates and communicates with the police department and those responsible for prosecuting.

VICE CHAIRMAN HORN. Let me ask you about the cooperation between your two centers, in terms of the ability to check on repeaters where the spouse that is victimized might be going to your centers. Is there that type of coordination and cooperation?

MS. RHOADS. There has to be with the Title XX monies. I mean, even just with that fact alone, if we were not—first of all, referral is pretty heavy between the centers, not just our center but all centers in the community. And those of us that work with Title XX monies have got to know what is going on, because they're only eligible for a certain amount of care under that particular funding.

VICE CHAIRMAN HORN. Do you see success stories in the time both of you have been established, where there has been a stop in the repeaters in some instances? What is your feel for that?

MS. RHOADS. I have been in it now for 6 years, over 6 years, and thank God I have seen success stories, because if I hadn't I wouldn't have been able to continue.

I have seen husbands come into treatment. We have been averaging over the last 6 years that 60 percent of the abusers are coming in to treatment and getting help for themselves. Now, that does not mean that they go off, the husband and wife go off and live happily ever after. It may even mean that these two get a divorce. But what we are saying is that the abusers are coming in for treatment.

VICE CHAIRMAN HORN. One last question, and that relates to alcoholism as one of the causes for the actual beating incident. What

is your perception as to the degree to which alcoholism is a major cause, or drugs or whatever, or how would you describe what are some of the major causes here?

Ms. LYON. I believe up until recently it was thought that drug and alcohol abuse were a major cause of family violence. I believe research is beginning to show differently, that there have been some research studies done in Midwestern States that show that alcohol wasn't present in over 50 percent of the cases that have been brought into the shelter and into the police department that have been reported.

In our own experience, what seems—or in my own experience as a person with a master's in social work and as somebody who has a responsibility to examine causes of behaviors it seems to me that looking at our client population, keeping records, talking to our client population, talking to these women, talking to the kids, talking to the assailants, there seems to be a pattern of violence and chaos which started when they were kids. And violence is a repetitive pattern.

If you were beaten as a kid, no matter how much you say, "I ain't going to do that when I grow up," you do it when you grow up. And it goes on and on and it's an endless cycle of which frequently alcohol or drug abuse might be a symptom, but I certainly don't see it as the cause.

VICE CHAIRMAN HORN. Then you really see basically psychological therapies of one sort or another as getting at the root problems?

Ms. LYON. I feel that, okay? I'd like to clarify that I think that we are talking about two different concerns when we are talking about abuse, when we are talking about an assaultive situation.

We are talking about, one, a legal problem that should have legal action and legal remedies such as prosecution. I don't think we should treat it, as you were saying earlier, any differently than somebody who robs a bank because the bank robber happens to have this kind of pattern in their background. We are going to take them over here and give them 2 weeks of counseling and everything is going to be just fine.

I think we need to talk about prosecution and talk about using the legal system to maximize, first of all, the idea, the concept, the belief that beating people is wrong even if it is your wife. That is not right and it is not sanctioned in this country, in this historical moment, and I think we need to clearly state that, that it is not sanctioned. That is not the attitude we frequently come across.

Okay. I think, on the other hand, I would like to see, taking into account what happens within the legal system or even if somebody does get 6 months in jail or a year in jail, I would also like to see the option presented to a person who has not been in more than once to go into counseling, which would be sanctioned legally. It would be within the legal system.

That person would have to receive counseling and not just two or three shots, 2 or 3 hours in a conciliation court, but a long term, 3



months to 1 year treatment type program, possibly residential, to deal with the problem; or else get sentenced to jail or prison, or failing that, get sentenced to jail or prison.

I also think that another thing that seems to be appearing, or one of the things I have noticed, is that the readings and the treatment approaches in the past, or have been, that we are talking about, is doing relationship counseling. That is, bring them in and talk it over and we will negotiate and you promise not to hit her anymore and you promise to cook hamburger instead of macaroni, and everything will be fine. I don't believe in that.

I believe if we are talking about treatment we are talking about two separate individuals, each with their own problems. Each of whom must be responsible for their own actions. And that they should not receive counseling together until they start dealing with their own behavioral patterns, their own feelings of self-worth, their own feelings of powerlessness.

Each individually should assume responsibility; where the assailant says, "Yes, I have been abusive and yes it has nothing to do with what my wife cooks my for dinner. It has to do with me."

VICE CHAIRMAN HORN. One last question. You mentioned the word options. To what degree are the adult high schools, the community colleges providing options in educational opportunity so the victims of spouse abuse can have some skills with which they can have alternative jobs, careers, etc.? I mean, are you working on that in this community?

Ms. LYON. That is something that I have been very concerned about and I think it relates to your previous question about—very, very much relates to your previous question about drug and alcohol abuse.

Sojourner Center last year did a research project to determine the backgrounds of adult, female ex-offenders. We interviewed 105 women who were currently incarcerated at Arizona State Prison. We were specifically looking for instances of abuse in their backgrounds. Of the 105 that we interviewed, 83 claimed abuse in their backgrounds. Of those 83, I don't have the exact number, but over 60 percent claimed not only physical abuse but sexual and mental abuse as well. That the three seemed to go together.

Of those that claimed abuse, compared to those who did not claim abuse, they started smoking earlier, they started drinking earlier, they started engaging in sexual activity earlier. A difference of 14 years of age as compared to 19 years of age, frequently.

Once we got the results of that report, I saw a need to start talking about going into the high schools with a program on the problems of abuse, on going into the high schools and possibly elementary schools. But let's try the high schools first, giving the kids a place where they can talk about what the problem is, what the core problem is, not what the symptom is.

Because as kids are brought in, they are told how awful drugs are, how awful alcohol is, and I would guess—although I think there needs to be more research in this area, and I would like to see money for research in this area— but I would guess that a lot of these kids are drinking and smoking dope and engaging in sexual activity and getting VD and getting pregnant because they are being abused in the home and, have no place to go, or their daddy is beating mommie and they are only little and they feel it's their fault and they can't do anything about it. But they can't talk to anyone.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Ms. Rhoads and Ms. Lyon, I would like to follow up on your testimony concerning the training at the police academy. You indicated that you have been lecturing to recruits. My question is, To what extent are the members of the police who are not recruits, who are long-term police officers, a part of this training program?

MS. RHOADS. None, to my knowledge, except the ones that are there acting as instructor themselves. The only real contact that I have had with the police outside of the academy or the recruits is in Maryvale when we were doing a project out there in crisis intervention. We worked with the police that were on line and also in the area that we are housed in. I have gone over to that substation and done some speaking with the patrolmen that patrol that area.

Other than that, my interaction with the police has been rather limited. We have offered to make films and at one time they suggested that it might be good if we made some films, but it never went anywhere, to show in the substations at the briefing hours.

We have gone over to different briefings and made all eight, the day or for 2 days. For a while you think you ought to just stay there. But that is the only way you can really get contact with them is to go to their briefings. And you have to be there at 6 and 2 and 11 and it makes for a rather long day, for them and us.

COMMISSIONER FREEMAN. Ms. Lyon?

MS. LYON. As Joanne said, we have approached the police department, offered to participate in joint training where the police could tell us their problems, we could tell them our problems and services, what do we have to offer, how can we coordinate.

We were offered the same thing, I think it was around the same time, that we were to do a video tape. That is what we were told we could do. Our preference was to be able to go in and have a dialogue with the man on the street. And it usually is a man here. Nothing has come of that.

The only place we have been able to get in is with the recruits. Although the police do come to our center, sit down and talk to us, and sit down and talk to the women, and are becoming more and more open to finding out more and more about what is going on and about what the options are.

COMMISSIONER FREEMAN. In the system of jurisprudence, you have not just the police officer, but you have the prosecutor and you have the judge, and the recruit would be a very small percentage of the people who would be approached.

The problem which we have heard described this morning permeates the entire system, and it seems to me that there should be training for the entire police department, and it ought not to be one in which it's on an ad hoc basis where they would give you an opportunity to come down and participate in a briefing. It ought to be an inherent part of the program and also it should extend to the judiciary and to the prosecutor.

Would you comment on it?

Ms. LYON. I completely agree with you. I feel that each part of the problem or part of the solution, whichever way we look at it, from the shelters to the police department through the prosecutors and the judges, each have individual responsibility and they should not try to cop out behind another section of their responsibility.

But I believe one of the biggest problems is coordination and communication among all of us, and I would like to see training where we would all participate and all begin to communicate about what the problems are and where we can work together instead of working against each other or on the side of each other and not knowing what we were doing.

Ms. MAGRATH. We were able to do a small training with the conciliation court. Are you familiar with the process here?

If you file for a divorce, one or the other party can hold up the process by saying that they want to go to conciliation court, which is a three-shot deal. It involves MSW [masters of social work] level people and it's a very good program. And they have really gotten involved with the issue of domestic violence and have been very supportive of the shelters.

They invited us down to do a training. Rainbow was there and myself and the police were there and the district attorney, and which is how we eventually got the training in anyway for the police. And there were some conciliation court judges there, too, in the family law section. And they were very, very supportive of that. But we would like to see more of it and see it, as you say, as an ongoing thing. That would not just be a one-shot kind of thing, but an ongoing communication process.

COMMISSIONER FREEMAN. Mr. Chairman, it seems to me that this area is within the jurisdiction of the Law Enforcement Assistance Administration and perhaps we could—this Commission could direct an inquiry to LEAA asking for information concerning any such programs and recommending that they pursue it.

I would have it in addition to the Federal involvement to extend this to the Title XX criteria and, that is, that HEW [U.S. Department of Health, Education, and Welfare] does approve the State plans; and

you have indicated that the eligibility, income eligibility requirement, the Federal Government is not the problem, it is that the State of Arizona requires a more restrictive income test, needs test, but that the HEW has not withheld approval of that plan.

Ms. LYON. That, I believe, is correct.

COMMISSIONER FREEMAN. If that is correct, I would also like to ask, Mr. Chairman, that we pursue this with HEW.

CHAIRMAN FLEMMING. I think both of your suggestions are excellent and I will ask Mr. Nunez to do that both with LEAA and HEW.

COMMISSIONER FREEMAN. Thank you. I have no further questions.

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. I first conceived a shelter as a specialized mechanism for a temporary purpose. As I listen to testimony, it apparently goes a little bit further than that, beyond the temporary financial help and the testimony of seeking to solve the greater problem. I believe one thing: batterers need to be counseled, and one of the solutions based upon the experience of any one of you, what success has there been in convincing a battering husband that he needs help and may be the cause of the problem?

All three of you want to answer?

Ms. RHOADS. Who? Who do you want?

COMMISSIONER RUIZ. Please.

Ms. RHOADS. First of all, I would go back to saying what I said before. Once you break up that cycle, once that cycle is broken and there is some kind of crisis and those two people have a chance to pull apart, whether it's through shelter or through counseling or through both or either, or geographically, there is some calming that takes effect.

We have seen the patterns that go on when the women come in and I can give them to you. She comes in and after 3 days he either finds her or she finds him, and I don't care what center it is in this country. If they say they have got a closed address and they think that that man can't find her, they are sadly mistaken because if there is a phone within 20 miles, she will find him or find a way to let him know where she's at. That is number one.

He will call her up and he will say to her he wants her home; he is sorry; he will never do it again. It takes him about 3 days to really miss her. If she doesn't go back, then he goes into what we call the courting stage and we get flowers and candy and, oh, she gets taken out to dinner, and we allow this to happen while she is in the center. If she is going to have some interaction with him, we want her to have it while she has got the support of the people in the center so that she doesn't just go home and get caught right back into the same thing with no support.

If the courting doesn't work, then he gets very, very angry, threatens divorce, may break everything up in the house, and if that doesn't work, he comes back and he says, "Okay. What do you want me to do?"

Now, I have seen this over and over and over and over. I have also had the husbands bring the women to us themselves and say, "We need help. I am beating her. I can't help myself. Please take her." Or, "She is crazy. Take her." I have had husbands call me up and say, "I know you help women who are battered, but what do you do for the batterer? I don't want to beat my wife anymore."

And what I have discovered over the last 6 years is, yes, we have those few people that are really into extreme, bizarre behavior, and we have the women who enjoy the extreme, bizarre behavior—and please keep that in context; we are talking about the very, very few.

But when we are talking about the general population of spouse abuse, both the beaters and the women who are being abused, they do not want to be there. And I am speaking for both of them. The man does not want to beat his wife and the woman does not want to be beaten. It's kind—

COMMISSIONER RUIZ. Well, along the line, getting back to the specific question that I have in mind now, you have given me a hate-love relationship that makes—

Ms. RHOADS. I have given you the pattern.

COMMISSIONER RUIZ. And is very frustrating. But what I wanted to know is, Have you an idea as to how these recalcitrant husbands can be brought over to the point where they should accept counseling?

Ms. LYON. I have a very strong idea on that and I believe the only way is through legal sanction.

In our experience they might promise counseling, might promise to go into counseling if she comes back. Once they get back they will not continue. My belief, and I think we differ here, is that there needs to be not a cooling-off period, the 3-week cooling-off period in the county attorney's office before they file, but there needs to be at least a 90-day cooling-off period where the husband and wife do not see each other and he is working on his problems and she is working on her problems, because as soon as you get them together they're going to make all sorts of promises. They are going to make all sorts of commitments saying, "I will never do it again. I really want to do right."

And that might last 2 weeks, 3 weeks, 6 months even, but it's not going to last and the problem hasn't been dealt with. It's just been denied.

COMMISSIONER RUIZ. You believe in compulsory counseling, is that what I get?

Ms. LYON. I believe that is the only way.

COMMISSIONER RUIZ. Now, I notice that Ms. Rhoads kind of shook her head no when you said that. Give me your idea on that thought.

Ms. RHOADS. I believe in compulsory counseling, but I don't believe that is the only way. I believe that nobody—there is not one single solitary behavior or physical illness that somebody wakes up in the morning and says, "Gee, it's such a nice day. I think I'll go get treated today." They do it because they are forced into it. They are either forced into it emotionally, physically, or through the law.

And if we could take—look at our DWI [driving while intoxicated] programs, we have forced people into treatment into all kinds of counseling sessions. Have we really made any impact on the DWI programs? And that is forced treatment. There's got to be more to it than just compulsory treatment.

COMMISSIONER RUIZ. How do you answer that, Ms. Lyon?

Ms. LYON. I believe there has been some success. It depends on how you are measuring success and the depth of the problem that you are dealing with. You take something like heroin abuse. You consider yourself successful if you have got 15, 20 percent of the clients who have been into your program out on a job and still off of heroin in a year. If you take somebody who has repeated DWIs and they go into a program and you have 25 percent greater success than nothing at all or even 15 percent greater success than nothing at all, you are on your way. And I think when we are dealing with the repetitive pattern, which tends to increase, of hurting people, of beating people, we are dealing with such a serious problem and we have to begin somewhere, and I think the only place we can begin is where there is some sort of legally sanctioned situation where the assailant has to be in talking to somebody who is aware of behavioral patterns so that we can start to get a handle on where do we go from here to stop this problem before more people get killed.

COMMISSIONER RUIZ. I have just one more question. Ms. Rhoads gave us an example of the husband of goodwill that comes in and recognizes, at least temporarily, that there is something wrong with him. Now, since the shelter represents a safety to the battered woman, have you, Ms. Rhoads, ever received threats from frustrated husbands—

Ms. RHOADS. Yes, I have.

COMMISSIONER RUIZ. —who might seek revenge?

Ms. RHOADS. Yes, I have. I have received threats. I have had them come down to the shelter. I have, at one point, even gone to court. We went to the supreme court once in a case with a husband.

But I think earlier it was mentioned, once the word gets out that you are not going to allow this to happen and you will prosecute—and that is what we did very, very early when we opened up—that if any husband came down there giving us any trouble at all, we would prosecute and we would go to court and we would sign a complaint; we don't have that problem. The police are very sensitive to it.

It's just—again, it's an attitude. Like, I think someone described the husband the way the woman sees the husband was 10 feet 8 inches, weighing 500 pounds. Again, seeing him put into perspective is extremely helpful.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. I wonder if any of you have any feelings about the deterrent influence of prosecution over against the alteration of behavior through counseling.

Ms. LYON. I think I mentioned earlier I think we are talking about two separate unique tracks that interconnect. I think the legal system and prosecution needs to be there to say, "Beating people is wrong."

COMMISSIONER SALTZMAN. Yes, I realize that. But does it succeed, this deterrent?

Ms. LYON. I don't believe it has. I think there are a number of reasons for it. First of all, there is usually probation or 6 months in jail.

Ms. RHOADS. Or plea bargaining.

Ms. LYON. Or plea bargaining, or one kind of way out or another.

COMMISSIONER SALTZMAN. In keeping with more severe penalties, do you think?

Ms. MAGRATH. I don't think it's ever really been tried to see what would happen with it. There have been a number of things tried recently. Texas has instituted a law now that, once the charge is filed, if the woman refuses to testify she will be held in contempt of court. There are a number of new things that are being tried. Most of them are only very, very recent and I don't think really have been around long enough to see what the results are going to be. This is kind of a new—

COMMISSIONER SALTZMAN. So, what you are saying is that we really don't have enough experience with the increasing intensity of penalties to know that that will be a successful deterrent; yet we have to sometimes use it?

Ms. MAGRATH. Right.

COMMISSIONER SALTZMAN. Okay. The other aspect is, How many people, what proportion of the people who come to you end up in counseling, the abuser or the batterer?

Ms. MAGRATH. Okay. I will answer this real quick and I am sure Joanne will go on with this. But because of our program we are crisis oriented 7 days. The man will come down and we will go through a little session with him and this and that. Because we are crisis oriented, however, we don't really have a whole lot of clout with him. --

Most of the time, if the wife will stay away that may be some impetus for him to go get counseling, but without the legal sanction or without her being away from him it's really difficult to keep him in counseling; and ours has been very—not very good at all.

Ms. LYON. I would like to correct something that Patty said. I don't see our program as crisis oriented. I see us as being funded for 7 days and that makes the difference.

COMMISSIONER SALTZMAN. So, you have no ability to evaluate how successful counseling is in altering the behavior.

Ms. MAGRATH. Okay. Now, the studies I have seen, okay, Joanne also has some expertise on these and I'm sure she'd like to comment. However, the studies I have seen concerning the batterer, you're dealing with a person usually with very, very low self-esteem, very powerless, okay?

I have seen a number of programs that they are trying now that are residential programs. They are forced to live there. They are forced to do male bonding. Most of them have never had a real friend as a man, have never had a friend, someone that they could share things with. The wife becomes the most important thing in their life. And also, you know, a lot of sex stereotyping. The image of the macho man and what is expected of men and real double-bind kind of things, of always having to be powerful. Some of those programs are working, but they also do not have a legal sanction so they do not have many clients and close it down.

I really think that we are in the same kind of thing. That we need more data. We need to try more things.

COMMISSIONER SALTZMAN. So you haven't really identified a counseling program that seems to be able to effectively alter the behavior patterns of the batterer?

MS. MAGRATH. Okay. That one was very—

CHAIRMAN FLEMMING. Mr. Saltzman?

MS. MAGRATH. Are you talking to me?

COMMISSIONER SALTZMAN. To any of you.

MS. RHOADS. Okay. First of all, we do work with the batterer. We have always worked with the batterer since we opened.

COMMISSIONER SALTZMAN. Okay. How successful is that counseling?

MS. RHOADS. I have felt that it's been quite successful and, again, it's who determines what's successful.

COMMISSIONER SALTZMAN. That he doesn't batter, let's use that, that he doesn't abuse his wife.

MS. RHOADS. That he doesn't batter. I would say that I have seen, at least, probably about 40 percent that I have been able to keep track of.

COMMISSIONER SALTZMAN. Success?

MS. RHOADS. Success.

COMMISSIONER SALTZMAN. What extent of counseling? How many times do you feel it's necessary to get this?

MS. RHOADS. I feel that it's ongoing. I have seen them—I like to see them stay in for at least 2 years, and any kind of mandated counseling, whether it's through the court, or—I think one of the questions originally was, Did we feel that stricter kinds of penalties would be a deterrent?

COMMISSIONER SALTZMAN. Through the criminal court?

MS. RHOADS. Through the criminal court. I don't know whether I think that would be a deterrent or not. It's still a matter of who is going to prosecute, and if you can't get the woman to prosecute, you know, you've really—

COMMISSIONER SALTZMAN. Well, if there were all kinds of techniques developed, as Ms. Magrath indicated, to encourage prosecution on the part of the wife, would stronger penalties be a deterrent?



MS. RHOADS. I think they would. I think that they would. But I think that anything that is contemplated, whether it be stricter penalties or mandated counseling or diversion programs or training programs, that they include the family unit, not just the assailant. Because if you are going to work with one member of the family, you are losing four-fifths of it.

COMMISSIONER SALTZMAN. Is there adequate funding, do you feel, of the counseling services?

MS. RHOADS. Well, I don't believe that there is adequate funding today and I don't believe there was 6 years ago, and I don't really believe that there will be in the very near future, simply because when we opened we were the first one in the country and we had a terrible time getting funding.

Since then we have had other centers open in the community and other centers opened throughout the country, and we still turn away over 200 women and children a month and we have increased our services. We have increased our services in the community. We have increased our counseling staff.

We do a lot of other things besides just provide shelter. When I hear today that they are giving out, oh, \$20,000 for 3 years or something, some pittance amount like that, that doesn't—by the time you administer those funds and become accountable and can justify every penny, you are lucky if that client is getting 13 cents of that dollar by the time it gets through all of the bureaucracy and the red tape.

I know it sounds like I am saying that we are not grateful for all the money we get. I am just saying that today, as an administrator, I have to take a look at where I am getting the money from and what I have to give up as far as philosophy and client care to administer that money.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. Ms. Rhoads and Ms. Lyon, you indicated that you have diverse clientele of women, middle income, upper income, and lower income. You also have a racially mixed clientele.

I'd be interested, in your experience in running your respective centers, whether you have ascertained whether there are any distinct or unique problems among the different groups, of white women, Chicano women, Indian women, black women in terms of their experiences in battering.

MS. LYON. Their experiences with the system or—

MR. NUNEZ. Well, in the cases, the case situations.

MS. LYON. This question has been asked. We are trying to determine if there are variations. We incorporate that into the data that we keep.

So far, I think at this point I could not safely say that we see differential treatment. I would say that if there is, the place that we are most likely, okay, to see, where we have seen any kind of differential treatment that was observable, noticeable, and through time and repeated was with Indian women. There has been a tendency to see Indi-

an women as having an alcohol problem and just being on the streets in an urban—there is a stereotype of the urban Indian which comes through when these women are brought into our shelters, if they are brought into our shelter at all and not just left on the street.

I would say if you look at the ethnic breakdown of the police department—or at least I would like to look at the ethnic breakdown of the police department and see in what areas they have minorities. I think that would be kind of interesting. In our experience, I would say I know I myself have not seen a black police officer bring anybody into our center or come to our center at any time.

MS. MAGRATH. The other thing with that, I do think that it's observable, okay? I don't have any data on it, but I do believe that there may be some feelings of—well, for a primary example, we had a client who was a black woman and she was assaulted and robbed and kicked in the head and had her hand broken and all this stuff. Her assailant was let out OR, even though— on his "own recognizance"—even though he had prior assault charges. She was put in jail for protective custody.

It's almost like a feeling of let them kill themselves, you know, as long as they are minority people. Maybe we don't have to deal with them. And that is my own gut feeling. That is my own feelings. I don't know if that can be measured or not.

MS. RHOADS. I can second the biggest change in the cultural difference has been with the Indian ladies that come through. I will say this: when an Indian lady does decide to come into the center, I have never seen anybody make so many behavioral changes so quickly and be so convinced and committed to getting healthier ways, too. And it must be because they go through such a cultural change.

The second change that I see, and not to the magnitude of the Indian, is the Chicano. The Chicano lady coming in. Again, they are going through a lot of cultural things, particularly with their religion. Many Chicano women are Catholic and to leave and contemplate divorce to them is something that goes so much against what they were brought up to believe in. That is another problem that I think we found predominantly in Chicano women.

So, again, their kinds of counseling and their kinds of recovery plan are written up somewhat differently from, say, your Caucasian lady.

MS. LYON. I would also say—

CHAIRMAN FLEMMING. There is one matter that I would like to follow up on, but our time is virtually—it has expired really for this panel. But there is one matter that I would like to follow up on and get into the record.

I noted one comment—I think it was Ms. Rhoads—that talked about a waiting list, in effect. I assume that that also applies, Ms. Lyon, to your operation also?

MS. LYON. Very definitely.

CHAIRMAN FLEMMING. I'd like to ask both organizations what your plans are for expansion of your program and where you feel you may get support in order to expand your programs. I'd like both organizations.

Ms. LYON. With the limited resources that seem to exist in this State, at least, we are having difficulty just staying on top of the services that we presently have.

What we have done is utilize students, volunteers whenever we can, to get students from Arizona State University [ASU] to keep an evaluation component of our program going, because I think it's very important that we monitor what it is we are doing.

We are also trying to get some community development block grant money, HUD money, from the city of Phoenix in order to renovate and build space for 25 more beds for women and children in our area, which I think would be very important.

CHAIRMAN FLEMMING. Where does that stand?

Ms. LYON. I think it stands that we have got a chance of possibly getting one-eighth of what we are asking for, which is not enough to make—it will impact on two beds, essentially, is I think what we will be able to do, and that is still in process.

CHAIRMAN FLEMMING. At the moment you would like to be in a position where you could expand your facility to provide for 25 additional beds?

Ms. LYON. Where we could provide for 25 additional beds and also provide adequate space where we could have people who are trained in child development working with kids.

CHAIRMAN FLEMMING. What is your price tag on what it would cost to do this?

Ms. LYON. On the ideal?

CHAIRMAN FLEMMING. Yes.

Ms. LYON. On the absolute?

CHAIRMAN FLEMMING. No. What do you estimate it would cost you in order to achieve that particular goal?

Ms. LYON. The building for 25 extra beds and adequate space for an adequate program with children just for the construction alone would probably be about \$400,000. But I am a social worker. I don't know about construction, but I think it's somewhere around there.

CHAIRMAN FLEMMING. \$400,000. And that would be a capital investment then that would call for expansion of your staff also?

Ms. LYON. Yes. Operating cost. We would probably—we could probably get by on a budget of \$350,000. That includes an intense program. That is not just shelter; that is 24-hour services.

CHAIRMAN FLEMMING. At the present time, what is the breakdown in terms of your support from the public, from public funds as over against private funds? Just roughly. And if you don't have it available, you can supply it for the record.

Ms. LYON. Our program has only been in existence, only been serving clients for a little over a year and a half, so we have initiated a strong business community private sector drive to raise funds which start—we started working on a plan, initiating a plan in December of '79 to raise \$60,000 from the private sector this year. So far we have raised a little over \$20,000. Next year we will need to raise, if we project just to keep the program going we have now, we would need to raise about \$80,000 and we are getting closer. We are trying.

CHAIRMAN FLEMMING. Ms. Rhoads, do you get the nature of my questions? If you would just apply them to your organization.

Ms. RHOADS. Our present plans at the moment, we just recently purchased the land that our facility is on. Our present plans at the moment are to expand space because we have expanded our program. We have recently gone into—we have just become licensed as a foster care home so we can start to take abused children without their parents, along with their parents, which is something new.

We are planning on putting a building up that would house at least another 20 more. We also would like to go into some satellite areas and put some shelters in and then do transportation into the center for treatment, and one of our long-term goals is to open a training center in training personnel and training other staff members how to open agencies, how to run the agencies, and how to counsel the people that come to the agencies.

We presently have a grant in to HEW for a research project that will determine emotionally—the impact of alcoholism and child abuse on the children.

CHAIRMAN FLEMMING. In terms of your current operating budget, what percentage of it comes from public funds, what percentage comes from private funds?

Ms. RHOADS. I would say probably that one-seventh of it comes from private funds and that is money that we raise.

We have presently gone into running bingo games and that is what we do to—anybody yells bingo, I am ready to make a payoff. But that is our major source of raising money at this point.

CHAIRMAN FLEMMING. Sixth-sevenths comes from public funds?

Ms. RHOADS. Right.

CHAIRMAN FLEMMING. At the present time.

Taking your current operating budget, Ms. Lyon, what percentage comes from the public and what percentage comes from the private—

Ms. LYON. I was just trying to do the math.

CHAIRMAN FLEMMING. Just roughly.

Ms. LYON. Probably about, currently about one-eighth is coming from private.

CHAIRMAN FLEMMING. The rest are from public.

Well, may I—I'd just like to make this statement. I feel that the testimony that you have presented here today has not only been helpful to us, but it has certainly demonstrated very effectively in the com-

mitment of both your organizations to dealing with what we regard as a very serious problem in the light of our day.

And I recognize that even though those organizations have been going for 6 years, you are all pioneers, really, in dealing with them. And we appreciate your sharing your experience with us and you certainly have helped to underline the fact that our society, in both the public and the private sector, have not recognized this need to the extent that it should be recognized. I personally feel it's the kind of a program that should command support from both the public and the private sector.

Commissioner Freeman had one point.

COMMISSIONER FREEMAN. I just have realized that our time has passed and I agree with, and I also support, what the Chairman said. But I want to ask one further question, because I have a picture of a profile of an individual who is totally defenseless, and I wonder if you could answer the extent to which your counseling includes any assertive training or maybe training in karate or somehow to take care of yourself, how to use that frying pan if it's in the kitchen.

MS. RHOADS. First of all—

CHAIRMAN FLEMMING. That is a good practical question to end on.

MS. RHOADS. First of all, when we are talking about a battered woman we are talking about a victim, and one of the ways we start our counseling is to help her see herself not as a victim but as a survivor. That is number one. And start to see herself as someone who is capable of taking care of herself and starting to take the responsibility of her behavior.

We have yet to—we do do assertive training and we do have—we have lectures open to the public every day. And part of our lecture series is that the police do come over and they do a lecture once a month on how to defend yourself, how to make your house safe, things of that nature. So we cover that also. But we do not have—I have often thought that we ought to include that in our program, you know, take them out to trap shooting and things of that nature. But, unfortunately, we haven't been able to whip up enough enthusiasm among the staff.

And I would like to say one more thing while I have an opportunity. The question was asked before about how much alcoholism and drug usage do you see in domestic violence, and I did not get an opportunity to answer that and I really feel that I want this on record.

Our stats show that it's anywhere from 95 to 99 percent where there is alcoholism and/or other drugs used. Now, I am not saying that the beating occurred while the alcohol was being used and I am not saying that the man was drunk when he beat her. But we can show patterns of alcohol usage during and somewhere in that kind of interaction.

Go ahead.

CHAIRMAN FLEMMING. Ms. Lyon, do you want to respond to Ms. Freeman's question about karate?

Ms. LYON. About karate, we haven't gotten into karate, but we do talk about body posture and how to stand and respond in ways that are more intimidating than intimidated and what an impact that has and we do show and tell. And we do some nonaggressive self-defense with some of the staff and some of the women.

Ms. MAGRATH. We also do a whole lot of assertiveness training.

Ms. RHOADS. The whole thing is assertiveness training.

CHAIRMAN FLEMMING. Thank you. Again we are deeply indebted to you for your testimony and thank you very, very much.

Ms. RHOADS. Thank you.

Ms. LYON. Thank you for the opportunity.

CHAIRMAN FLEMMING. Counsel will call the next witnesses.

Ms. STEIN. Richard Twitchell, Glenn Sparks, and Donald Lozier.

CHAIRMAN FLEMMING. If you will please stand and raise your right hands.

[Richard Twitchell, Glenn Sparks, and Donald Lozier were sworn.]

**TESTIMONY OF DONALD LOZIER, ASSISTANT CHIEF, FIELD OPERATIONS DIVISION; CAPT. GLENN SPARKS, TRAINING BUREAU; AND LT. RICHARD TWITCHELL, EIGHTH POLICE DISTRICT, PHOENIX POLICE DEPARTMENT**

CHAIRMAN FLEMMING. I appreciate your being with us.

Ms. HOOPES. Starting from left to right, would you all please state your name and title for the record.

MR. TWITCHELL. My name is Richard Twitchell. I am a police lieutenant for the city of Phoenix Police Department.

MR. SPARKS. I am Glenn Sparks, police captain, city of Phoenix Police Department, training bureau.

MR. LOZIER. I am Don Lozier, assistant chief in charge of field operations, Phoenix Police Department.

Ms. HOOPES. Thank you.

Beginning with you, Lieutenant Twitchell, can you tell me please how many officers you supervise on a shift?

MR. TWITCHELL. On a shift right now there is between 70 and 75 officers and sergeants.

Ms. HOOPES. And which shift are you supervising?

MR. TWITCHELL. I work shift 2. The hours are from 2:30 in the afternoon until 11 at night.

Ms. HOOPES. Thank you.

In your estimation how much time can an officer in your district expect to spend on problems related to domestic violence?

MR. TWITCHELL. Probably the average officer will spend, depending on the day of the week, anywhere from 20 percent of his time up to as much as 80 percent of his time.

Ms. HOOPES. How do most of your officers feel about answering such calls?

MR. TWITCHELL. The police officer, basically, by and large, does not like answering domestic calls of that nature. He is confronted with two things. When he receives the call by radio, the designation is a 415F, which is a family fight.

The two things he feels is probably fear, because more officers are killed in family situations than probably anything else, and the other thing is frustration.

MS. HOOPES. What types of things make an officer feel frustrated when dealing with family fight calls?

MR. TWITCHELL. Many times it's a recurring of the same problem. The names and the faces change, but the problem remains the same.

Maybe I can point it out to you and give you a hypothetical situation. You take a 21-year-old police officer who has been a police officer for approximately 6 months, and he responds to a family disturbance, a family fight. There may or may not be a large amount of violence involved, but he is responding to it.

When he gets there, the people he deals with are a married couple that have already celebrated their 45th wedding anniversary, so they have been married twice as long as he has been alive; and in 30 minutes he is supposed to correct this problem. He knows more than likely he won't be able to do anything but just stay the problem for a while.

MS. HOOPES. I'd like to address the options that the police officer has when he answers the call.

First, the officer can arrest and detain the suspect. What circumstances would indicate that an arrest is necessary?

MR. TWITCHELL. All right. One of the options opened to him, if there is, in fact, a violation provided, which is usually an assault, he may arrest for a felony. And this is an aggravated assault. There are certain things within the Arizona State law that specifically, by codified law, state what is a felony, what is an aggravated assault. And in that given situation he can arrest on his own merits, on the laws of arrest that have given him the power to arrest.

This deals, if you want me to go down some of things that make it an aggravated assault—seriousness of injury is one; whether a weapon was used, two; the fact that he entered into someone else's home to commit this assault. It's a felony regardless how much injury is involved. Then we get into age of the victim. Is the victim capable of taking care of themselves? We even have a section if the victim is bound it's aggravated assault, no matter how hard the assault is.

MS. HOOPES. In what cases would a citizen's arrest be indicated?

MR. TWITCHELL. We'd ask a citizen's arrest be made by the injured spouse if the injuries were not severe, they were in their own home, or if we weren't able to testify on our own behalf exactly what happened in there.

There is physical evidence to indicate one of the two were injured, but we don't know exactly how and the injury wasn't that severe. Then

we'd go for a citizen's arrest, which would mean the injured spouse would be the one that would make the arrest and we would supply the transportation for the suspect.

MS. HOOPES. Are officers instructed to describe to victims the way that they can make a citizen's arrest and the requirements for a citizen's arrest?

MR. TWITCHELL. If the situation calls for it, the officer will explain the requirements of law for a citizen's arrest to be consummated.

MS. HOOPES. Do officers frequently recommend that victims seek noncriminal remedies such as filing divorces or seeking peace bonds?

MR. TWITCHELL. Yes, they do. Quite often.

MS. HOOPES. Can an officer make an arrest if the suspect is found to be in violation of a peace bond or a restraining order?

MR. TWITCHELL. Well, I have to tax my memory. We did away with one of them. I think it was peace bonds. I think we still have restraining orders. To make an arrest for that, it's a contempt of court. The injured person goes, after the violation of the court order, goes to the court. The court issues a warrant for the man's arrest or the woman's arrest, and then with that warrant we make the arrest. But we do not make an onview arrest in a situation of that type.

MS. HOOPES. Do the officers under your supervision have a general idea of how many domestic assault cases get all the way to prosecution and what is their—

MR. TWITCHELL. I think they have a ballpark figure. A lot of their information comes from just exactly where your information comes from, news reporting. They read articles. They are interested in this sort of thing. They stay current because it is their vocation.

They also, where they do make an arrest for a serious assault, by one person upon another, this sticks with them because these are battered humans. When they have seen another battered human being, this sticks with them and they have a tendency to follow through with it.

To answer your question, when it is not prosecuted, yes, they know about that one, and when it is prosecuted, yes, they know about that one also in the more severe of the cases.

MS. HOOPES. Is there a feeling that prosecution in a domestic assault is more or less likely than prosecution in an ordinary assault between strangers or those not related?

MR. TWITCHELL. Let me answer the question by the way you define them. They are two different things. They are looked on by the police officer and by many people as two entirely different types of assault, a domestic assault and then a regular assault.

And, yes, the officer feels that there is less prosecution and less conviction on a domestic assault than there is a regular assault for many reasons.

MS. HOOPES. Does this perception change the way the officer is likely to respond when he is called to handle a domestic assault?



MR. TWITCHELL. I think that is one of the considerations that goes through his mind when he responds to a call, and it probably is a deciding factor in the manner in which he is going to approach the situation.

MS. HOOPES. Does it make it less likely that he will decide that an arrest is necessary?

MR. TWITCHELL. I don't think I can fairly say yes to that. I'd say yes, it probably has a tendency to, but that isn't normally the deciding factor by a police officer, whether an arrest is made or is not made.

MS. HOOPES. What factors would be important considerations in deciding whether or not to arrest?

MR. TWITCHELL. Understanding that he is there on the battle line when it happens, he sees the injured. He knows pretty well what is going to happen from there on. The deciding factors, the number one deciding factor, is how badly injured is the injured party. That is the number one thing that he looks at.

At the same time, and probably paramount, is what is the possibility for this problem to continue. Are we going to have a continuation of this assault? Those two things right there.

Then, thirdly, the attitude of the victim; and those three things are probably the major deciding factors on his course of action.

MS. HOOPES. From the patrol officer's standpoint, is the criminal law an effective weapon against domestic?

MR. TWITCHELL. I can answer that best by saying it's the only one we have got. That is the only weapon we, as a police officer, have at this present time. Effective is relative, I would say, for what we use it for. If you consider it's the only one we have got, yes, it's effective.

MS. HOOPES. Considering the fact that prosecutions aren't very likely in these cases, does this encourage the officer to try to make referrals or try to encourage a victim to pursue civil remedies rather than going through the criminal system?

MR. TWITCHELL. Except in cases where there is a serious assault by one human being upon another, the officer sees himself as Solomon, and he is going to solve the problem with those tools that are there at his hand. And, yes, if he feels that recommending counseling will work he will do so. If he feels that separation will work he will do so. If he figures in the short 20 minutes that he has been there that divorce is the answer, then he will condone their divorce.

The mentality of a police officer, 99 percent of the officers that we have on the police department, I can't speak for any other department because I have never been on any other department, but almost to a man and a woman the people that join the police department join to serve. They join to really honestly help other people. And the domestic situation is one of the ones where there is not a whole lot they can do. So they do whatever they can, hoping in the long run— from lending money to the wife to giving cab fare, to anything they can to help solve this problem.

So, yes, they'd use any other avenue besides the criminal justice system that was legal.

Ms. HOOPES. What do think might be done to maximize the police officers' ability to make referrals and to intelligently decide which route a victim should take to solve her problem?

MR. TWITCHELL. Okay. Number one, you have to give him some alternatives. You must supply him or her some alternatives besides arrest.

Once these alternatives have been supplied on a 24-hour, 7-day a week basis—because that is where we run into the problem. There are some agencies that we can deal with normally 8 to 5 and they are closed on Saturday and Sunday, and I'm not finding fault with them, please, I'm just stating that that is what we are up against.

If you supply for the officer some, what was the statement, "viable alternatives," if you give him some viable alternatives he will use them.

Then the next thing you do is you train him on the parameters of these alternatives and he will use them. Necessity alone will dictate that he uses them, and very, very aptly.

Ms. HOOPES. Do you believe that shelter facilities help the police officer to do the job?

MR. TWITCHELL. Anything that helps remove the two combatants into separate geographical areas helps us. And, yes, the shelters do help. They help the victim, but, yes, your question was do they help the officer in his routine job. Yes, they do.

Ms. HOOPES. Have you had any experience with crisis intervention specialists?

MR. TWITCHELL. I think probably the closest contact I had was with a group called Rainbow, and about a year and a half ago they got a Federal grant and they came into a geographical area, which was a housing area much like I live in, probably, originally \$10,000 homes that are now worth probably \$40,000 to \$50,000 dollars. Average income, heavy density, some government funding on homes. This sort of thing.

And they came in and were really a super-run organization. They came to the police department knowing how we feel about outsiders and said, "Here's what we want to do. Can we meet with your officers and explain to them what we intend to do?" They did. They then made themselves available to come to the scene of a domestic problem 24 hours a day, 7 days a week. And it was amazing.

I have never ever seen police officers by and large accept a group the way they accepted this group. I watched them after the trying process of, "Are you really going to be available 24 hours a day or are you just telling me that?" I watched them on more than one occasion call the people from Rainbow to the location and then step back, which was not what a policeman is trained to do, step back and let somebody take over the situation and quietly sit in a corner.

And I have asked officers, "Hey, can we go now?" and they would look at me and say, "No, let's wait until Jim's done." In other words, they didn't want to leave Jim, the crisis worker, there all alone, and it was just a really extremely well received, functioning program.

The next question is what happened to it. To the best of my knowledge it ran out of money.

Ms. HOOPES. Okay. Do you know of any crisis intervention project now in operation in Phoenix?

Mr. TWITCHELL. Not that we use on a regular call-out basis, no.

Ms. HOOPES. Thank you, Lieutenant.

Captain Sparks, I'd like to address, first, what vital facts about domestic disputes the training bureau tries to impress upon police recruits. Do you believe that it is important to stress that the domestic disputes are more dangerous than other types of calls?

Mr. SPARKS. Well, depending on what other kinds of calls, but, yes, we do try to train the officer that the domestic disputes can become violent.

Ms. HOOPES. Are there specific steps that an officer can take to protect himself in handling these calls?

Mr. SPARKS. Obviously, working within the framework of the law, what they provide and what they don't provide, there are steps he can take.

Ms. HOOPES. Do you attempt to teach the recruits ways that they can deal with the frustration inherent in handling these calls?

Mr. SPARKS. Yes, we have our own training staff within the department and we have training staff from without the department. They get into various subjects in this area.

Ms. HOOPES. Do you believe that family fight calls are always criminal in nature and always call for an enforcement response from an officer, or do you train the officers to also make use of other responses such as referral systems?

Mr. SPARKS. Well, the first part of your question, Are they all violations of the law? Absolutely not. Obviously he is trained to look for violations of the law. Without any violations being present, yes, he is trained in the alternatives that he has available, which we agree are limited. But, yes, he is also trained for the referral services.

Ms. HOOPES. Do you agree with what Lieutenant Twitchell has said, that domestic dispute cases are prosecuted less frequently than other assaults?

Mr. SPARKS. Obviously there is no other answer to that. Two strangers get together and there is battle, one upon the other; the stranger is more likely to file a complaint than is a spouse.

Ms. HOOPES. In your experience as a police officer, have you ever been called to testify at a trial of an abusive spouse?

Mr. SPARKS. No. Let me clarify that somewhat. In my 23-year-plus career, I have never gone to a family dispute between a spouse, between spouses I should say, and the result of which ever went to court.

Now, I have gone to family disputes where I have been assaulted, where I filed a complaint, and, yes, I have testified in court. But not where it is one complaint filed by one spouse upon the other. I have never testified in court upon that.

MS. HOOPES. What effect do you think this has upon the police officer who has to answer the call? Does it change the way he responds?

MR. SPARKS. I am not sure. Obviously there are some people, including police officers, that with enough cries of the wolf and no actual wolf appearing become somewhat immune. But, as Lieutenant Twitchell stated, most of our people are here to serve others, and we train in that area of not becoming complacent, because the 105th time is usually that person's first time that they have called the police, and they need us to respond as the first time.

MS. HOOPES. If an officer answers a call at the home of a couple that he recognizes, perhaps a couple who has called the same officer several times in the last few months, will it be less likely that he will take police action in the last call?

MR. SPARKS. I would say, again, depending on the circumstances existing. If there is no obvious sign, or even not so obvious sign, that there has been any violence occurring, and this is the fifth, sixth, or seventh call, he is probably not going to look any harder than he did on previous calls. But if there is obvious signs on the sixth call that he didn't see the first five, he probably will take more action.

MS. HOOPES. I see. Does the training bureau offer academy units specifically focused on battered women?

MR. SPARKS. Yes.

MS. HOOPES. Who teaches those units?

MR. SPARKS. We have two groups coming out now from Sojourner House and Rainbow Retreat. They teach at the academy along with some other subjects that are very closely related that is taught by a sociology professor from ASU and a psychology professor from ASU, among some of the other items that are closely associated.

MS. HOOPES. In what related units do you also talk about problems with battered women, if you could just name a few?

MR. SPARKS. Well, I will start off—I will just read through the list, and some of them are more applicable than others.

"The Laws of Arrest and Criminal Law," obviously. We have field-related problems. In other words, we put them in a hypothetical situation using trainers in actual domestic violence sort of field problems. We have training in juvenile problems, which obviously affect the home. We have training in perception of danger in answering calls such as of this nature. The "Battered Wives" is, of course, by Rainbow Retreat and Sojourner. "Sociology for Peace Officers," that would be applicable in some cases, how to talk to people. "Child Abuse," again, related to the home setting. "Assault Detail" comes and instructs on the necessary elements for an assault complaint. "Stress Awareness," so that the officer is aware of his own problems with stress in answer-

ing these calls. "Human Communications," taught by the people from the sociology department in dealing with all people, all types of handicap and distressed people. "Sex Crimes," which may be involved in the home.

We teach on referral services that are applicable to the situation, sex assaults that may be occurring, and patrol procedures dealing primarily with the family crisis and the protection of the police officer.

Ms. HOOPES. Thank you.

Some of the training materials provided to the Commission by Assistant Chief Ortega originated at the Regional Criminal Justice Training Center at Modesto Junior College, California. Does the content of these materials accurately reflect Phoenix Police Department policy?

MR. SPARKS. No. When I say no, obviously there are some materials that we use. Any materials we get from any organization are constructed to meet the constraints of our own State law and the policies and procedures of our police department.

Ms. HOOPES. Thank you.

For example, one outline that I would like to have introduced into the record at this point is entitled "Domestic Complaints." It is from the Modesto Junior College West.

CHAIRMAN FLEMMING. Without objection, it will be entered in the record with an appropriate exhibit number at this point.

Ms. HOOPES. The outline states that arrest is to be avoided in domestic crisis situations if possible. Is that your understanding of department policy?

MR. SPARKS. Well, it is the department policy if there isn't an applicable law being violated to the extent that a complaint could be obtained, and there you start to go into the constraints not only of law but of prosecutorial procedures, which I understand will be discussed at a later panel or one previous to this.

When it says "avoided," obviously if we can avoid putting somebody in jail and still solve the situation that is exactly what we want to do in most cases.

Ms. HOOPES. Thank you. In your opinion, is an arrest always indicated when there is probable cause to believe that one party has assaulted the other?

MR. SPARKS. In my opinion, personally, not having particularly viewed the training procedure, but personally, no, there is not always an imminent arrest when there has been some type of an assault. Again, it has to be a decision made on what you see, hear, and what you can find out.

Ms. HOOPES. Can you name any specific factors that might make an arrest undesirable?

MR. SPARKS. Well, again I will refer—I can't give a specific instance, but, again, if the situation can be taken care of where the family life is preserved without putting somebody in jail, because I don't see jail as a panacea for every problem.

Ms. HOOPES. I see. I would like to address departmental record-keeping for just a moment.

In your opinion are officers instructed always to complete a departmental report when there is probable cause to believe that an assault has been committed?

Mr. SPARKS. If I may, due to the length of time that I haven't been on the street, so to speak, I'd like to refer that to either Lieutenant Twitchell or Chief Lozier.

Ms. HOOPES. That's fine. Thank you.

Chief Lozier, in your opinion, how serious a problem is domestic violence for the police department?

Mr. LOZIER. From my perspective, it's a fairly serious problem and for two reasons. One, it takes up an awful lot of the police officers' time and our resources. And, secondly, every one of them has a tremendous potential for injury to the officer. So, I'd have to say as problems go, and we face many of them in the police department, it is one of our more important ones.

Ms. HOOPES. What role can the police play in helping to protect the victims of domestic violence?

Mr. LOZIER. Well, just recently I have been giving that a lot more thought. As you know from a previous conversation, I just took over the field operations division on January 7. I am thinking, in terms of the officers, for a long time have thought that we really could not prevent crimes of violence.

There is strategies we can employ in other types of crime where we feel like we can impact them, but for the longest time many officers have felt that the crimes of violence are very difficult to prevent. And I'm beginning to think that maybe there are some strategies that can be employed by taking advantage of other things that may be outside of our realm of control to impact recurring crimes of violence or violence that escalates to the point where it results in a very serious assault or perhaps a homicide.

And what I am talking about is using more of the type of counseling and shelter care facilities and trying to interact more with those kinds of people so that we can come up with some maybe cooperative strategies to bear on the problem.

Ms. STEIN. Excuse me. Could I ask you to speak a little closer to the microphone? I understand some people are having trouble hearing you.

Ms. HOOPES. Can the police officer's ability to make appropriate referrals be improved? Has the police department done anything along those lines?

Mr. LOZIER. Yes. I think we have made some good efforts along those lines, except that I think we can do some more. In fact, while Lieutenant Twitchell was speaking here I was making some notes because I am thinking in terms of the whole area of family fights. We need to really study a little more closely because I think we can get

some better data by studying the number of family fights where perhaps an assault occurred—we believe assault occurred—but we don't have enough information to verify an assault. That maybe we can do something in that area with some kind of further followup.

That happens quite frequently where the victim or the spouse is not cooperative and won't give the officer any information and there is no obvious evidence of the assault, although maybe there is good reason to believe that one occurred.

And then there is how many of them really drop out of the system. We give estimates quite frequently on that, and I think most detectives that work assaults can give you a pretty good feel for how many of them drop out of the system for lack of prosecution.

MS. HOOPES. How many do they believe do drop out of the system?

MR. LOZIER. Well, I checked on that again just recently and talked to Lieutenant Schnautz, who oversees crimes against persons, and he tells me that assaults overall, about 30 to 35 percent are not prosecuted. Now, with the domestic type, he says that will run anywhere from 10 to 15 percent higher with a domestic assault. And I would have estimated higher just based on past experience. I would have said 50 to 60 percent do not come before the court.

I'm also concerned about, maybe by analyzing that data to some degree, that we may come up with some better strategies, you know. We have to look at the why. Why are they dropping out of the system?

MS. HOOPES. If a way could be found to encourage the victims to cooperate with the police investigation and not drop charges, in your opinion, would that lead to more cases being prosecuted?

MR. LOZIER. Yes. And I should qualify that, you know. Probably not our biggest goal is to prosecute as many people as we can if there are other remedies, but I think there are a lot of them that should be prosecuted and for one reason or another they are not. The victim declines prosecution and there are as many different reasons for that.

MS. HOOPES. Can you tell us a little about the experimental referral project that has now started in the four district? I believe we spoke about it in the interview.

MR. LOZIER. Yes. That was just started a few weeks ago and these people operate out of the LEAP [Leadership and Education for the Advancement of Phoenix] organization, which is a city of Phoenix funded program, and it is kind of a pilot program that we are experimenting with in the south portion of Phoenix, where they have counselors available to us. And, unfortunately, it's not a 24-hour-a-day operation yet, but they are working Thursday, Friday, Saturday, and Sunday from 2 in the afternoon until midnight. They are working right in the southern district station and they are available to go out of the station as well and respond to officers' requests in the field in that district, and it seems to be working out quite well.

In the beginning there didn't seem to be much of an awareness of their availability and now it seems to be catching on. Of course, one

of the biggest benefits I see of the program is that the counselors have developed a very good working relationship with the officers there.

MS. HOOPES. Can crisis intervention counselors also be useful to the police officer?

MR. LOZIER. Very much so. And I think that there is a city program there that's really supposed to be available citywide. I think it's a very small program. That was originally started mainly for alcohol-related types of crisis intervention and, of course, as somebody previously testified here, and I certainly wouldn't question the figures that were given, alcohol is a big factor in the family fight situation.

MS. HOOPES. Let me ask you a bit about recordkeeping. In your opinion, is an officer always required to file a DR [department report] when there is probable cause to believe an assault has been committed?

MR. LOZIER. Not really. There is not a written established policy that says that you will and there is not one that you won't. Some discretion is left to the officer to determine was there an assault. Do I have sufficient information? Are the elements present to make some kind of an assault report?

And in some situations, where either the witnesses or the victim is not cooperative, probably, he may have a good idea that an assault occurred but not feel he has enough to verify that assault did occur. So, consequently, he will not make a report other than maybe what we call a combination report, which is just a small report of the incident.

That kind of thing happens, I think, quite frequently and it's hard to say exactly how often, except that then, if an assault did occur, many of those assaults would not be reported as a crime incident on their uniform crime reports.

MS. HOOPES. Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. All right. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Lozier, I would like to pursue the point you made that some discretion is left to the officer whether to make a report or not.

Is this discretion described in a manual of operations?

MR. LOZIER. Well, it's really kind of a combination of some of the things that Sparks spoke to. All of the training that he has been provided as to making a determination—has the law been violated? Does he have sufficient elements present to make a comprehensive report that could be prosecuted or even could be followed up on prosecuted? If he doesn't have those things it's fruitless for him to make a report.

COMMISSIONER FREEMAN. If you had received information that an officer or a number of officers exercised discretion only with respect to these types of cases of female victims of abuse, and even though they had seen evidence of injury had, over a period of a long time, not made any report, would this be considered to be unprofessional conduct on the part of the officer?



MR. LOZIER. I think you are asking me to make a conclusion on kind of really a vague thing. I'm sorry, but to say something is unprofessional conduct in an officer, I think you have to look at all of the factors and review it very carefully. I can't make that judgment just based on what you said.

COMMISSIONER FREEMAN. One of the concerns that has been expressed by previous testimony is that in individual cases that the complainant did not, that there was selective enforcement with respect to the victim of domestic violence; that the police officer and even the system, the whole system itself, tended to say, "Well, there was something wrong with the victim rather than with the system." That is what I'm asking you about, and if this discretion that is offered an officer is abused or if this is part of the system that the Phoenix Police Department permits.

MR. LOZIER. There definitely are problems with the system. I will have to agree with that. And I think the system probably in some respects discourages people from prosecution.

On the other hand, I think that you have certain limitations on the part of the police. They can be very aware of all the available facilities and counseling and that and then make those known to the victim, try to explain the system to the victim, make as much available as you possibly can and it still really comes back to whether or not the victim wants to pursue it. And that is a lot of the problem, too.

So it's a combination of both, I think. I am not sure I answered your question.

COMMISSIONER FREEMAN. Well, I was referring to the case in which the police had been called. He is there on the scene. There is a situation there in which that person may be injured and you are saying—and may even need treatment—and you are saying the officer has the discretion not to do anything about it.

MR. LOZIER. Oh, no, that is not what I am saying because, first of all, we have to talk about what is the role of the officer. First of all, when he gets there, he or she, it's their responsibility to kind of defuse the situation and stabilize it. And then, secondly, to render any kind of first aid or physical aid to see if anybody is in need of medical attention.

Then after that, try to determine, Has there been any criminal violation and does he have, you know, adequate information to make a report to be submitted for prosecution?

So, that is very basic and fundamental from the beginning of the training of the officers in the police academy and reinforced throughout the inservice training.

COMMISSIONER FREEMAN. Do you see any need for improvement in this procedure?

MR. LOZIER. Well, there is always room for improvement and that is what I was speaking to earlier, that some of these things I think we need to study a little bit more so that we have a better handle on developing some other strategies.

The one thing I was thinking of, that I touched upon earlier, was the fact that maybe there would be a way that we could reach some of the women in the situations where the officer comes to the door and, you know, she is not obviously bleeding and black eyes and that, but she is very emotionally upset. The neighbors have called in about the family fight. She may have some signs of redness on her face where maybe she has been slapped around and she won't tell the officer anything. That maybe we could work together in cooperation with some other agency to follow up on that later on, at some time when the husband is not there, to see if we can help them in resolving the problem. And I think a lot of those are basically right now ignored, and primarily because the officer is not equipped to carry that on, and I don't think the officers are aware of any particular agency that will carry that on.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. Yes. In the evolving and developing of police services throughout the country, specialized teams have come into existence in order to deal with special police situations and problems.

The Rainbow group, a volunteer citizens' team, was mentioned by Lieutenant Twitchell. This success, this alternative ran out of steam and ran out of money. Apparently, a special family crisis intervention team seems to be the answer. A crisis intervention team need only be composed of two or three adult persons, probably with extensive marital background. Say, a psychologist, a nurse, and some other person. Budget-wise, it might be cheaper than to divert police officers with multiple duties to fight crime into an area of interspousal violence and become peacemakers.

If this procedure was successful, and Lieutenant Twitchell said it was, why was it not made a regular component of the police department budget? Do you have an answer?

MR. TWITCHELL. Are you asking me, sir?

COMMISSIONER RUIZ. Yes, sir.

MR. TWITCHELL. Okay. First of all, the group that we dealt with was an established group on the east side of town. They came over, they had to train people to handle the problem. The group came in and they were established for 1 year in our area as a target group.

Your question is, did the police department—why did we not divert funds to a specially trained group of this nature?

COMMISSIONER RUIZ. Yes.

MR. TWITCHELL. I don't object to that. Let me run a parallel, if I may, to possibly answer your question. We constantly deal with people who are mentally ill and we make contact with the people who are mentally ill. We defuse that emergency situation and then we pass them on to people who are trained to handle this situation.

The police department's role within society is pretty well determined at this time. People are now beginning to say and permitting us to go

out other than just enforce the law. I am not sure the police department is the place to have this happen.

A city budgetary item, possibly in one of the other areas better structured for this type of thing, that's fine.

COMMISSIONER RUIZ. No. I'm talking about a backup, a backup as a police component. I'm talking about a mentally ill patient. I'm referring to a sociologist as a member of the team that would specialize.

For example, let us say that during a period of time, during a period of the week there were five calls. This special team would go to those five places instead of having 5 or 6 or 10 different patrolmen go to different places to be a peacemaker. You would have, just like you have a backup with respect to your SWAT [Small Weapons Assault Team] team. When somebody is crazy in an apartment house you have them there because it's a specialized matter. Now, this has developed into a specialized area, interspousal violence.

MR. TWITCHELL. Yes, sir.

COMMISSIONER RUIZ. They are all the same, substantially speaking?

MR. TWITCHELL. By and large, yes, sir.

COMMISSIONER RUIZ. By and large. So you can have a specialized intervention team to back up every police call. Maybe if you had five or six in one night you couldn't do it, but generally speaking, it would be valuable.

Now, why couldn't you check into that because, budget-wise, I have a feeling it would be cheaper for the police department and for the city.

You gave an example of some people that were volunteers. Well, that's fine. I don't think it's a volunteer proposition. But you have a success story, why not capitalize on it?

MR. TWITCHELL. Okay. The answer to that question is, Why not? I think it's probably something we should look into. There is no—as you well know, you are much more versed in this as a panel member than I am—there is no one single answer. That may be part of the answer, in very serious cases we have an emergency backup team that we can call out trained to handle this.

The number of five or six a night would be, sir, minimal in a city this size. We will run—and I am shooting from the hip right now—I would say that we probably, citywide, will answer a hundred a day.

COMMISSIONER RUIZ. Well, it could be a start, couldn't it?

MR. TWITCHELL. Yes, sir, it could.

COMMISSIONER RUIZ. Because you could feel your way along.

MR. TWITCHELL. That's right.

COMMISSIONER RUIZ. And now, who would you go to for such a budget suggestion?

MR. TWITCHELL. Who would I go to?

COMMISSIONER RUIZ. Yes. Pardon me. The chief of police?

MR. TWITCHELL. Yes, sir. That is who I would—I would write up a paper on it with my recommendations. Then it would go to the police

chief who would have it staffed out to find costs, cost effectiveness, implementation possibilities. And upon completion he would put it in his budget as a budgetary item and then the city would finally decide on it.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. I see differences in the situation between a bank robber and abuse of a woman by her husband, one of them being that sometimes it's difficult to get the woman to prosecute, for various reasons. But, nonetheless, do you feel that in the situation of a bank robber, a criminal violation, that prosecution and jail is a deterrent to the bank robber?

MR. TWITCHELL. That is the whole concept of our criminal justice system, is that it is. Let me carry that point on one further and I think you make a good point. It's the fact that the criminal act is just that. The man has a criminal intent to rob the bank.

The police officer responds to the domestic problem. He is seeing an outcropping of a much more deep-seated problem. He only confronts himself with the crack of the whip, the tip of the whip that cracks. And yet the whole whip is there. And the problem is in many, many cases not a police, not a police—it's a police problem when we deal with it but the cause is not a police problem.

COMMISSIONER SALTZMAN. Well, I don't know that the cause of criminality is a police problem either; but there is a certain point at which it becomes a police problem because it becomes a criminal violation, and the theory is that prosecution and penalties are a deterrent.

But now, at which point—is there a definition of when abuse becomes a criminal violation and the criminal justice system is therefore obligated to say, "We will take the measures that the law provides for enforcement in this kind of a situation"? Is there a point, a definition, by which a police officer determines this is a criminal violation? I mean, how much damage must be done to a woman?

MR. TWITCHELL. I see your point. I think it goes back to what Mrs. Freeman was, I think, referring to in her question: If we had a police officer who happened to be of the mentality to believe that if the wife would have cooked the dinner the guy wouldn't have had to beat her with the pot, so because of this he reacts by saying, "It's her fault, not his."

And to answer your question, I think what you were referring to, yes, that would come to light and the officer would—that type of action is not condoned. If it is a routine situation where an obvious violation of the law occurs, we would have checks and balances and we have checks and balances built in to make sure that this doesn't happen again and again and again, and his prejudice in these matters what he is doing.

To answer your question, does the law specifically say at what point does it go from a misdemeanor to an assault, and if it will help you,

I will read to you what the Arizona Code says in that one little area, the way they refer to it. Would that help, sir?

COMMISSIONER SALTZMAN. We may have it but, please, I think it should be in the record.

MR. TWITCHELL. It's going to answer your question.

"Intentionally, knowingly, or recklessly causing any physical injury to another person." Now, for it to be a felony: "If such person causes serious physical injury," serious being the key word and being interpretable by the person viewing it.

COMMISSIONER SALTZMAN. Is that material in the record?

Ms. STEIN. We intend to question the prosecutor more closely on that because he determines in the end what the charge should be in this case.

COMMISSIONER SALTZMAN. But let me pursue it one moment more, if I may.

There is guidance then in this ambiguous, as you pointed out, term, "serious." There must be some guidance by which a police officer determines that this is an assault case.

MR. TWITCHELL. Yes, sir.

COMMISSIONER SALTZMAN. Okay. Fine. What is that?

MR. TWITCHELL. It's an individual thing with each officer, and in saying that, I can see that that is a frightening thing, that we leave that much to the individual officer, but not really. Because serious injury is, to me, pretty much what it is to all officers or what you would consider serious injury.

A slap, a black eye can be serious depending on the way that is interpreted by the person who received the black eye. But a severe laceration, a broken nose, any maiming, teeth knocked out, beaten with a frying pan, beaten with a club, stabbed, hit, any object in the house has probably been used, these things are graphic and I am answering now, sir, dramatically as an officer who has been there and has seen it. And when it's serious, it's serious. It's the difference between a minor automobile accident and a serious automobile accident. That you judge by dollars, and it changes on people.

COMMISSIONER SALTZMAN. Can you take us through the steps of what would happen? A police officer comes upon the scene. Let's say a husband has a brick. He has obviously hit the woman with this brick and there is blood coming from her head and she is apparently seriously bruised. What does he do?

MR. TWITCHELL. Okay. With the officer that responds—

COMMISSIONER SALTZMAN. Yes.

MR. TWITCHELL. —in this type of call, we'd have that and two officers would respond because of the nature of the physical violence.

The first officer would arrive on the scene and he'd gain entry into the house, which in its own way can sometimes be pretty difficult. You can hear the woman crying and sobbing in the back room, and he is standing at the door telling you that you don't have a search warrant

so you can't come in. So you solve that problem and you gain entry into the house.

You now observe her. She has got a large laceration above the eye, maybe a fracture to the bone just under the eye, and he is standing there, in the routine case, inebriated, belligerent, and aggressive.

The first thing you do, is you render him unable to injure anybody else, with that force allowed you by the law. You have him sit down or if necessary handcuff him. Then you go to the victim and you render the immediate and temporary first aid. You check her over. If you need the fire department paramedics, you call the fire department paramedics.

You now have separated these two. You have talked to her and she advises you that he came home, he was inebriated, he had had a bad day at work, and she had cooked liver and he hates liver. So for no reason he picked up a brick, and it's just about that much reason for it, he picks up a brick and smashes her in the face.

We then say, "What do you want to do about it?" And she says, "I am tired of this. This is the third time he has come home drunk. I want to prosecute him." And we say, "Will you prosecute him?" And she says, "Yes." And at that point he is arrested and taken to jail.

COMMISSIONER SALTZMAN. Suppose she says, "No, I don't want to prosecute him"?

MR. TWITCHELL. Okay.

COMMISSIONER SALTZMAN. Yet here is, you know, a criminal act.

MR. TWITCHELL. We would not, if she is a reluctant victim, we will not arrest him. We will make a report on it, but we will not arrest him if she is not desirous of prosecution.

Now, they have been separated at this point so that he is no longer intimidating her because we—basic people—we understand the intimidation that he is there. If she does not wish prosecution, we are not going to force prosecution on her. We then go to the other avenues of separating, so we don't get called back, and make sure that she gets the medical treatment.

COMMISSIONER SALTZMAN. Will the police officer suggest at that point any counseling help or available resources as alternatives in the place of proceeding with prosecution?

MR. TWITCHELL. That may be—well—

COMMISSIONER SALTZMAN. That he is familiar with?

MR. TWITCHELL. Well, he is familiar with some of them, but he doesn't know all of them.

He would suggest that she contact an attorney, or, if it's a drinking problem, that she get ahold of Alcoholics Anonymous; Alanon, I think, is the other half. He would definitely separate the two.

Now he has got the kids to worry about, too. Now we go to the husband who says, "Hey, you have got a bad situation here. We would like you to leave because there are still two kids in the house." And he refuses to leave. He says, "This is my house and I am not leaving.

I am staying here and after you are gone I am probably going to smash her in the head with a brick again.”

So we go back to her and say, “Hey, let us get you someplace.”

“I don’t have any money.”

“Well, let me take you in the police car, I will drive you to your sister’s house.”

“No. I don’t want to make my sister part of this.”

“What do you want to do.”

“It will work out. You can leave now. I just didn’t want him to hit me anymore.”

And that is why the officer, and I know it must sound like a frustrating situation, but that is what the officers come across.

COMMISSIONER SALTZMAN. I am sure it must be frustrating to the officers and, therefore, after some numbers of experience, they, I would assume begin to remove themselves as quickly as possible from the situation unless they are—

MR. TWITCHELL. No. They may mentally desensitize a little bit on the routine thing, but where a woman or a man or a kid or anybody had been hit to that degree—and it’s back to the seriousness that we talked about, sir. His empathy for that woman or that man is great. It’s where he gets desensitized. Where the woman who calls and the husband says, “I didn’t hit her.” There is not a mark on her and we become the bad guy in the situation to give her the power to run her household. That is where we desensitize a little bit.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. Commissioner Ruiz asked the key question I would ask, which I think is a very good one, as to the need for having a unit within the police department that is made up of a type of interdisciplinary team that can back up the officers.

It seems to me with our broadened concept of public safety, rather than police, this is a natural function that ought to be done in a city and not simply depend upon welfare services that are not tied to police or community-based clinics that have a struggle keeping alive.

The other question I want to lead to, which I raised with the earlier panel and which several of you have mentioned, is the degree to which alcoholism seems to be the cause, contributing cause, whatever, regardless if there are deeper causes before the alcoholism—we could all argue that—but how many of these cases do you really find that alcoholism is behind the immediate incident of wife abuse?

MR. LOZIER. A figure was given earlier about, I think, 95 percent, but I can’t say that alcoholism is always the case. Alcohol quite frequently is. It’s hard to determine, you know, how many of those really is alcoholism. But I think most officers who work in the field, that have responded to family fights, will tell you it’s a very high percentage where alcohol is involved, either by one or both parties.

VICE CHAIRMAN HORN. Is that the comparable feeling of the other two panelists?

MR. SPARKS. Obviously.

MR. TWITCHELL. I would be hard pressed to remember a situation of this type that I went to where one of the two parties had not been drinking.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. No questions.

CHAIRMAN FLEMMING. I'd like to ask Captain Sparks, you have responsibility for training of recruits, do you also have an inservice training responsibility?

MR. SPARKS. Yes, sir, I do.

CHAIRMAN FLEMMING. You have testified that you have been involved with the two, or representatives of the two organizations that testified here earlier, the Rainbow Retreat and the Sojourner Center, in the training program for recruits.

MR. SPARKS. Yes, sir.

CHAIRMAN FLEMMING. Dealing with problems in this particular area, have you thought about involving them in inservice training programs for members of the force?

MR. SPARKS. Yes, we often do, sir.

CHAIRMAN FLEMMING. You do?

MR. SPARKS. Yes.

CHAIRMAN FLEMMING. So that you regard that or this as an important aspect of the inservice training program?

MR. SPARKS. Yes, we do.

CHAIRMAN FLEMMING. Fine. I would just like really to ask all three members of the panel about your evaluation of the role that community organizations such as the Rainbow Retreat and Sojourner Center are playing, can play in dealing with this very important problem that confronts the life of any community. You have had contact with them, all three of you, and it's something new. I mean as far as your community is concerned. I understand the oldest one is only 6 years old and the other one I gather is about a year and a half or 2 years.

How do you see this as fitting into the life of the community and helping to deal with this very serious problem?

MR. LOZIER. Well, I would have to say, from my perspective, it's a very important element of the community. It's a community-based program, and the only drawback I see is that at the time that they had this experimental program out in what we call our 800 district they had the capability under the funding then to respond at the officer's request. Now it's primarily we have to take the spouse to one of the centers where they can perhaps receive some counseling there or some shelter care.

CHAIRMAN FLEMMING. Could I interrupt there just to clarify it in my mind?

That was the Rainbow Retreat that ran that particular program, was it?

MR. TWITCHELL. Yes, sir, it was.



CHAIRMAN FLEMMING. That is the same organization that was testifying earlier, but this was a special program that they had, but they had to abandon the program, apparently, because of lack of funds?

MR. TWITCHELL. Yes, sir.

MR. LOZIER. That is my understanding.

CHAIRMAN FLEMMING. Pardon me.

MR. LOZIER. I think probably we need more resources like that in the community, whether they be community-based programs or actually a part of a governmental agency. And I am sure you are very acutely aware that most governmental groups, including our city council, is very concerned about dollars today and there is quite a controversy over whether or not these kinds of programs should be funded by tax dollars. To my knowledge, programs—one part of the police department has not been recommended or suggested here in the city of Phoenix, although that is not to say we wouldn't have something like that.

There is nothing like that in our proposed budget for 1980-81. And, of course, our budgetary problems are very real. The budget that we had to submit for 80-81 is a very lean one. And to fund some kind of program like that we would have probably had to cut out some base police services that we are supplying now. But it's certainly something to consider.

CHAIRMAN FLEMMING. Captain Sparks and Lieutenant Twitchell?

MR. SPARKS. Well, my opinion, obviously, is in the same areas. The big problem I see, and I have followed quite closely the last few years the child abuse laws and things that have been going on especially on the west coast, you are dealing with a family situation, and I go back to Commissioner Saltzman's statement about the bank robber and the person who abuses his wife. I don't think you can draw any type of a real situation where those two equal—because you are dealing with family, and dealing with family you have got to be a little careful of abusing the laws and rights guaranteed to those people.

It would be very simple for an officer to walk in and see a red spot on a wife's eye and say, "I have got probable cause to make an arrest," and jerk the husband out of the house, when in fact it may have been self-inflicted and you are not told the right story. Then we are back into lawsuits.

But, yes, something has to be done and something has to be done on a 24-hour basis.

My own personal, if you will, problem is that we have had a lot, a great number through the years, of people with well intentioned ideas and solutions but it was between 8 a.m. and 5 p.m. The other 16 hours of the day, the police officer is left to his own resources.

Yes, we need help. I am not sure of the idea of a specific team within a police department because you get specialized, you hire specialized people, and what do they do when they are not answering calls, if there isn't enough business for them? What happens to your

budget then? So, there is all sorts of problems and I certainly don't pretend to have the answers and I hope you people come up with all of them.

CHAIRMAN FLEMMING. Lieutenant Twitchell?

MR. TWITCHELL. My feeling, I have to equate it to something we just took a different point of view on in the last 10 years and that is alcoholism. For a long time the only thing that ever happened to the person who was under the influence of alcohol is the police department was called and handled the outcropping of a sickness. Then we got into the LARC [Local Alcoholic Reception Center] programs here in the city and other funded programs identifying a more deep-seated problem.

In most cases, not in all, but in most cases domestic problems are, again, outcropping of a deep, more deep-seated problem. And I think that is one of the major answers that is going to come out of your committee, is the fact that there has to be some services supplied on a 24-hour basis to identify and start correcting because, if not, we are just going to go back as we have been doing now, again and again and again to the same house.

CHAIRMAN FLEMMING. In other words, just summing up the comments, I would gather that you do see a role, based on experience, for an organization such as the Rainbow Retreat and Sojourner Center, but your hope would be that an organization of that kind might be in a position where they could operate on a 24-hour basis, 7 days a week in order to be of maximum assistance to the police department in dealing with these kind of situations.

MR. TWITCHELL. I wish I had said it that way. Yes, sir.

MR. LOZIER. Yes, sir. A good summary.

CHAIRMAN FLEMMING. We are very appreciative.

VICE CHAIRMAN HORN. Excuse me. Can I just add one question to follow up and clarify something?

CHAIRMAN FLEMMING. Yes.

VICE CHAIRMAN HORN. What percent of total police calls in Phoenix do you think are represented by the type of cases we have been discussing, primarily spouse abuse? We won't get into child abuse, although that might be part of it. What percent of your manpower is tied up in this? A hundred cases a day? What does that really boil down to?

MR. LOZIER. I think some recent collection of data indicated there are something like 16,000 each year. Now, I don't know what that figures out to percentage wise.

VICE CHAIRMAN HORN. 16,000 spouse abuse cases?

MR. LOZIER. Yes. Sixteen, yes.

Well, I would have to classify them as family fight calls.

VICE CHAIRMAN HORN. Okay. Out of how many cases of total police activity?

MR. LOZIER. And the police department receives, I think, around 10,000 calls per month, so you are talking about 120,000 calls per year, that is approximately.

VICE CHAIRMAN HORN. You get 10,000 calls a month, so that is 120,000 a year. And out of that 16,000 spouse calls, which is one-seventh, roughly, of the calls.

The reason I raised that, it seems to me, on a cost-benefit analysis, one might ask himself within the police department as to whether gearing up in resources in a transition period, even though it meant a cut in some of your uniformed forces on the street, might not in the long run reduce substantially one-seventh of the calls that the department faces that ties up your manpower so you could be dealing with the bank robberies and all the rest of it.

MR. LOZIER. Well, yes. I see what you are saying and I certainly agree that there may be some possibilities in reducing the amount of time officers spend, although I am not sure that we can take that out of our existing base budget because that would mean that we can't respond to some other things like—

VICE CHAIRMAN HORN. No, I agree with you on that. But it seems to me the city fathers and mothers, or whoever make these decisions, ought to look at that perspective, of not what it costs the police department, but what it costs the community of lost opportunities for the police department to be more effective in other areas if they could get at the solution of some of these problems.

MR. LOZIER. Yes. And that is assuming, that, of course, that the program would be effective.

VICE CHAIRMAN HORN. That's right.

CHAIRMAN FLEMMING. There is one other question I did want to ask. I am sure you don't have the statistics on this, but do you have any experience of family disputes that involve physical abuse of older persons? Is that something that you have identified or noted at all here in this kind of a setting? Would you answer that?

MR. TWITCHELL. Answering from—responding as a street officer, that where it's family related is not a problem that I am familiar with. We have an occasional situation arising, but it's very, very minimal.

MR. LOZIER. And, of course, I should add that that may be a problem that is bigger than we are aware of because we might not be aware of it.

CHAIRMAN FLEMMING. Well, that is the reason, or one of the reasons, I asked the question. That is a little bit aside from the subject matter of this hearing, but the Commission does have responsibilities in the area of aging. There is some indication that we have a problem nationwide on this, that there is a physical abuse of older persons emanating from family relationships. I was just interested.

Well, we are again grateful to you for spending this time with us and providing us with this very helpful testimony. Thank you very, very much.

MR. TWITCHELL. Okay. Thank you.

MR. LOZIER. Thank you.

MR. SPARKS. Thank you.

CHAIRMAN FLEMMING. Counsel will call the next witness.

MS. STEIN. Lawrence Wetzel and Robert Kornegay, please.

[Lawrence Wetzel and Robert Kornegay were sworn.]

**TESTIMONY OF LAWRENCE WETZEL, FORMER CHIEF OF POLICE; AND  
ROBERT KORNEGAY, ACTING POLICE CHIEF, PHOENIX POLICE DEPARTMENT**

CHAIRMAN FLEMMING. Thank you very much. I appreciate your being here.

MR. WETZEL. Thank you.

MS. STEIN. Would you please state for the record your name, business address, and position, beginning with you, Chief Wetzel. And I guess in your case it will have to be your recent position.

MR. WETZEL. My name is Lawrence M. Wetzel. I am retired as of 1 month from the Phoenix Police Department where I spent almost 32 years as a police officer, the last 11 years and approximately 3 months as police chief of the Phoenix Police Department, and now I am intending to go on to another job in the State government.

MS. STEIN. Thank you.

MR. KORNEGAY. My name is Robert G. Kornegay. I am an assistant police chief for the city of Phoenix, temporarily assigned as the acting police chief and still employed by the city of Phoenix Police Department, 620 West Washington in the city of Phoenix.

MS. STEIN. Can you tell us what your position was immediately before becoming acting chief?

MR. KORNEGAY. For the month of January, I was the assistant chief in command of the division of investigations and the acting executive officer. For the 3 years prior to that I was the assistant chief in command of the technical services division.

MS. STEIN. And how long have you been with the department?

MR. KORNEGAY. A little over 21 years.

MS. STEIN. Thank you.

Chief Wetzel, in your experience during the time that you were chief of the Phoenix Police Department, is it your conclusion that domestic violence presented a serious problem for the police officer?

MR. WETZEL. Yes, it does, not only for the police officer but the people involved in the situation and also the children that are involved in these kinds of situations. I think that the ramifications of domestic violence are extreme and have great impact on the delinquency rate, the crime rate, and the time involved by the police officers in their day-to-day operations.

MS. STEIN. What role can the police officer play in protecting a woman from abuse by her husband?

MR. WETZEL. Well, that is a very difficult thing to give a specific answer to because the variables on the family violence can be anything

from a family argument, which is called in by a neighbor, to a very serious violent thing where a homicide is the objective but maybe not completed by the individual man.

But the basic requirement that the police officer has as a police officer is to—I heard Lieutenant Twitchell say a little while ago, stabilize the situation, and I say keep the peace, get things under control, and to attempt to determine if a law in fact has been violated to the point where we can prove it or that there is in fact intent by the part of the woman to follow up on prosecution.

But I think the best thing he does right off the bat is he gets there, stabilizes it, provides an environment that is not going to escalate further into criminal acts, and attempts to start providing some guidance to the people involved and the children involved in this kind of a situation.

MS. STEIN. How should he go about doing this? In other words, what do you think the officer should do upon responding to the scene?

MR. WETZEL. Well, first of all, get it under control as much as possible, in terms of violence. You may not stop the yelling and screaming at each other, but you can at least stop the violence that might be perpetrated, in terms of physical violence.

Questioning the people individually, trying to find out what happened, trying to figure out an answer at that time. Perhaps he has been there three or four times before, too. Sometimes these are just weekly situations and, as was indicated by the previous officers, alcohol is a big factor. Daddy gets drunk on Friday and stays that way all weekend, so you have a fight all weekend. So the officers almost know what is going to happen. They also know that the woman in these kinds of situations probably isn't going to prosecute. All she wants is somebody to straighten this person out.

If the officer, it appears to him that there is no great physical harm, and most cases they don't have a lot of physical harm like the kind we were talking about earlier, about the brick and so forth, involving a lot of arguments and that type of thing. The next move he will try to do is get one of the parties out of the house, because obviously their being together is the mixture that causes the flame here on the problem.

And he starts with the husband, and a lot of times the husband will go stay with someone else, because he figures that is the best thing to do that night, because he is not quite sure what the officer might be able to do in terms of his power.

If that doesn't work then perhaps they take the woman to some facility where she can receive care and also take care of the kids. My feeling about that part of it is that that is the most important thing that we can get to the police officer, on a day-to-day basis out there, to recognize that family situations are tough ones to handle.

Blood is thicker than water is a true thing out here, and it's hard to get the woman to come forward and sign complaints and follow

through on it because in many instances it is her source of revenue to keep the family together. And in many instances she loves him. She still does love him. He is the father of her children and these kinds of things are heavy emotional things to be able to sever that quickly. So, many times they go through a lot of hassle before this thing ever reaches that kind of a situation.

So the best thing the officer can do is attempt to stabilize and get some professional help to the people that are involved here.

And as I said earlier, to me the quickest thing that can happen, and this is a short term thing, is the immediate ability to get that woman out of that household, if she will go, into an environment where she can receive counseling and help and the kids can receive a normal environment and not having the screaming and yelling and threatening around them, and then the followup by that organization if they are capable of doing it.

If there is a serious crime had been committed, obviously a woman is hurt, the first thing we want to get is get her help, medical help. As I say, these are the exceptions, generally speaking, and if there is evidence to indicate that a felony has in fact been committed, and maybe the woman is unconscious, the officer can take the prerogative of signing and making an arrest on that basis of a felony, particularly if he has some admissions or something to indicate that the man did it.

In some instances the man will deny that he did it. He will say, "I didn't touch her. She fell down." And then the officer is left holding the bag in terms of which one is telling the truth, whether in fact she was hit by him or did she fall down as a result of the swing she took at him or whatever.

So, you people have taken on a very tough situation in terms of all the little ends and angles that are involved in one of these family fights, but I think, looking from the police standpoint, our job is to get there, stabilize it, attempt to provide medical assistance, if that is needed, and attempt to get the people separated or into an environment of at least one party or the other where it will be controlled for that evening until the sobering up situation happens or until she can get counseling and decide how she wants to go.

MS. STEIN. If the officer were concentrating on separating the parties, getting the woman out of the house, would he suggest that she go to relatives or would he suggest that she go to a shelter? Which would he pursue first?

MR. WETZEL. Well, I don't know what an individual officer would do. I would think that he would first ask her does she have family here that she can go to. That would seem like the most logical environment for a person to go to. And if not, then he could advise her of those alternatives we have in the community that she can go to and we can take her there if we have to.

But I would think that the normal chronological way of handling this thing would be to talk about family because they are the most immediately involved and more immediately concerned and the one that she could probably feel the most comfortable with at the outset.

MS. STEIN. If the officer felt he did not himself have reasonable, probable cause to believe that an offense had taken place, ought he to explain the citizen's arrest procedures to the woman, in your opinion?

MR. WETZEL. If she is intending on getting him out of the home or having him arrested, I would think he has that obligation at that point to tell her that she—that the alternative she has is a citizen's arrest, if in fact a breach of peace has happened. In other words, a threat of violence or some violence has happened to her.

MS. STEIN. So you feel he should explain that alternative to her?

MR. WETZEL. Yes. If those things I indicated— Is this better?—Sure is, I can hear myself now. Yes, as a general statement. Yes, I would say so. If she indicates violence and indicates the desire to have him arrested.

MS. STEIN. But if she does not ask about having him arrested, then you don't think it is appropriate?

MR. WETZEL. That is a tough one to answer right off. I think she'd have to determine if that is what she wants. She may not want him arrested. She may want him out of the house that night. I think you'd have to determine whether she really wants him put in jail, and then the next stage would be the alternatives that we have, and the one of them being her alternative on a citizen's arrest type situation.

MS. STEIN. Did I understand you to say that you thought the officer should arrest only in case of a felony or only in case he had reason to believe there was a felony committed?

MR. WETZEL. As a general statement I would think that is probably true.

We are working in an environment where, number one, we don't even know if this is the wife. She says she is the wife, number one. We have got a story where she is saying he beat her. She has had some physical damage. He says he didn't.

When you get those kinds of things it's kind of tough to move forward, where you don't have a witness, a third party, to corroborate one story or the other.

As a general rule, I would think that the officer probably would want that felony, or a reason to believe that a felony had been committed, before he will proceed any further in this, a domestic situation.

MS. STEIN. Are there any ways in which you feel that an arrest could worsen the situation?

MR. WETZEL. Sometimes they do. An overreaction by the officer in terms of an arrest that he makes might create a problem in terms of the family turning on him, and that has happened.

The other thing is that the arrest situation, if the family fight is a spontaneous type thing and has a lot of background in terms of a long term problem, arresting him might very well cause him to become very adamant in his attitude towards his wife and upon release may be even more dangerous to her.

And the other thing is that, even though the officer arrests this individual, he is subject to bail and could very well be out in a few hours and be back in the same environment. So that possibility is minimal but it potentially could happen that it could get worse.

MS. STEIN. Earlier you indicated that a shelter might be a good alternative to separate the parties. In your opinion, are the shelter facilities that exist here in Phoenix adequate to the need?

MR. WETZEL. I have to rely on things that were told to me and I have not specific knowledge in terms of it, but my impression is that we probably do not have enough of this kind of facility available. That on a bad holiday season—holiday seasons are our biggest family fight type things—these facilities are taxed beyond their limits to control the problem.

MS. STEIN. What is your opinion of crisis intervention teams that might be available to come to the scene and offer some type of counseling or assistance?

MR. WETZEL. Personally, I think they are probably a good idea. Professionally trained people who then—I think you have got the immediate problem that they could work on—but then you need some ability to get these people into a long term counseling situation to straighten out their marriage problem or figure out what the answers really are.

I think the key to this thing is their accessibility. They have to be available quickly to the police officer. If you have to wait around for an hour before they get there, or whatever, it's not going to be a very successful program. But being immediately available to respond either about the same time the police officer goes or right after he gets there. I think in many instances the officer is going to have to go anyway because the violence is so great you are probably going to need a police officer there. But it has to be where it actually enhances the officer's ability to get the job done. That is a quick response in getting there and making the decision to have to be made beyond the initial combat that might be involved.

MS. STEIN. Thank you.

Chief Kornegay, would you agree with Chief Wetzel that domestic violence presents a significant problem for the police and for individuals here in Phoenix?

MR. KORNEGAY. Yes, I would.

MS. STEIN. Can you give us an idea of what the general, overall policy of the police department is in handling this type of case?

MR. KORNEGAY. Our general direction in domestic disputes are geared around stabilizing the situation, preventing any further violence,



if there has been violence, separating the parties that are at odds with each other, taking enforcement action where deemed appropriate if we have violations of the law, and then trying to keep the situation cool; make reference to appropriate referral agencies and someone to handle it beyond the need for the direct police intervention into the situation.

MS. STEIN. In your opinion, how should the officer determine whether or not to make an arrest?

MR. KORNEGAY. He should probably make that determination based on his knowledge of the State laws and also on his knowledge of the potential for the arrest to not serve as the best solution to the underlying problem that caused the dispute to start with in the first place.

And he must consider past experiences that law enforcement has experienced in these cases and the fact that in such cases it's rather common that prosecution is not pursued by the injured party and, therefore, beyond the mere physical arrest no criminal complaint is issued. The person arrested is merely released without formal charges. And the impact that this could have on the family situation that existed when he originally intervened.

MS. STEIN. You think, then, it's appropriate for the officer to take into account the likelihood that this arrest would end in prosecution and conviction in deciding whether or not to arrest?

MR. KORNEGAY. Would you repeat that question, please?

MS. STEIN. Were you indicating that it's appropriate for the officer to base his decision on whether or not to arrest, at least in part, on how likely he thinks it is that this incident will end in prosecution and conviction?

MR. KORNEGAY. Yes. In part, that is one thing that I think he must consider in light of the individual situation that he is involved in and each one is somewhat different in and of itself.

MS. STEIN. And the other thing you mentioned, the second one was how likely it is that this would be a good resolution to the problem. What did you mean by that exactly, the family's problem?

MR. KORNEGAY. The police officers are called in to intervene in situations such as domestic disputes usually have developed for some period of time. And that is the case in many areas where police are called, usually as a last resort or whenever the particular problem, whether it be alcoholism, drug abuse, spousal abuse, child abuse, mental illness, has reached a point of violence or confrontation.

It's difficult for any police officer to really identify, in the short term involvement that he has, the long-term development of this particular problem, and I think they generally become aware that a criminal prosecution is not the solution of all of the ills of our community.

MS. STEIN. How much weight, if any, do you think should be given to the victims preference about whether or not the man is to be arrested?

MR. KORNEGAY. Considerable weight should be given to the indicated desire of the injured party to have the person arrested. However, from a realistic standpoint, the officers have to realize that minds are changed in these types of situations after the heat of battle, if you will.

During a family dispute, it's my personal opinion from years of experience of seeing the deepest, most ingrown emotions come out during this type of dispute, emotional things happen that people don't necessarily want to happen. I think that things are said that they don't mean, once they have gotten over this particular emotional or angered area and, as Chief Wetzel mentioned earlier, as a followup it appears that the injured spouse often has to consider the long-term responsibilities faced if the other party of the family is arrested as far as income, keeping the family together, financial support, and things of this nature. These two areas, I think, are very instrumental in the development of what we find to be a lack of followup on behalf of the person injured in these types of disputes, which contribute to the lack of continued prosecution, and merely create the kind of revolving door effect as far as the person going into and out of jail without the formal criminal charge being pursued.

MS. STEIN. So you are saying that while the woman may express a desire for arrest on the spot, it's, in your experience, likely that later on she will change her mind?

MR. KORNEGAY. I think that is my experience and I think that has been the experience of many police officers that have been involved in the family dispute problems for many years.

MS. STEIN. And you think it's appropriate for the officer to take that into account in deciding whether or not to arrest?

MR. KORNEGAY. I think it is appropriate to consider that as one of the many factors and many complexities of the role that we play.

MS. STEIN. Police Operations Order C-3 says, and I quote, "In cases where the elements of a felony are obvious officers may make an arrest."

Does the use of the word "may" imply that it's up to the officer and that he can decide not to make an arrest even though the elements of a felony appear to be present?

MR. KORNEGAY. I believe that's correct, yes.

MS. STEIN. Do you agree with Chief Wetzel's opinion that if the offense appears only to have been a misdemeanor that it is generally not a good idea to make an arrest?

MR. KORNEGAY. Well, not only is it a good idea, there are some other complications from my view. I am not in disagreement with Chief Wetzel, but in addition to, and that is the requirements of a citizen's arrest versus the requirements of a citation in lieu of detention. In some cases, under certain conditions, our authority to arrest is followed up with a statutory requirement to cite the person into city court or the proper jurisdiction and release that person right there. I

believe that every officer should consider the potential for further inflaming the situation by making an arrest of one party in a dispute and not removing that party from the location or from the scene of this problem, merely issuing them a citation, handing it to him, and making them promise to appear in court at some future date and then leaving.

I would feel that, myself and many officers would feel that this would not tend to stabilize that particular situation.

Ms. STEIN. There is a specific subsection, subsection 7 of Operations Order C-3 forbids an officer to arrest for violation of a restraining order. Is that right?

Mr. KORNEGAY. I believe that's correct.

Ms. STEIN. Wouldn't it be true that under Arizona Revised Statutes 13-2810, paragraph 2, it is a misdemeanor to resist or disobey the lawful order of a court and, therefore, the person in that case, the elements of a misdemeanor would be present?

Mr. KORNEGAY. There is differences of opinion amongst legal staff within the city and the police department on the authority granted to police officers under that statute, and I am not an attorney and I am not prepared to argue the legal points.

There are some practical problems also that I am perhaps more qualified to respond to. And that is that family disputes, when it gets into the hands of legal assistants and in the courts and what have you, a lot of things can happen very quickly. It would not be uncommon, I don't believe, to have two different sets of court orders very closely related in time and what have you.

If I may cite an example of some types of problems we have had that doesn't directly pertain but does, I think, illustrate problems with court orders. At one time we had a demonstrating group within the city and the restraining order was issued by a local court of proper authority restricting the number of demonstrators to 12. And they showed up with 13 picketers and we were asked to make the arrest. We did not feel we had the legal background or could look into the judge's mind to determine such perhaps silly things as which of the demonstrators is the 13th one and which one is in violation of the court order.

We have taken the position in the past that because it is an order of the court, and because a violation of that order is in contempt of court, and because in my limited legal experience the general procedure for a violation of a court order is for the judge that issued the order to call the person in to show cause, even before the judge himself would have the man incarcerated. That we would not be on good ground in making arrests on court orders, that we don't always have all of the facts or all of the current issues of that particular order or of any of the followup documentation on that particular issue.

Ms. STEIN. So, as I understand you, that is the reason for the police department policy of not arresting for an apparent violation of the order?

Mr. KORNEGAY. In general, yes.

Ms. STEIN. Finally, I'd like to ask you one question about departmental recordkeeping. The departmental report, which is mandated under Operations Order C-4, is it your understanding that officers should always prepare a departmental report when the victim alleges that she was assaulted?

MR. KORNEGAY. No, it is not my understanding.

Ms. STEIN. When should the officer make a departmental report and, in the alternative, when should he make a number 2 disposition on his daily log?

MR. KORNEGAY. Probably, in a general sense, the number 2 disposition, which means no documentation was made, no further action needed, would probably be appropriate in, what I might call, a low-key family dispute. A disagreement where perhaps no more than a disinterested third party is called in as an arbitrator, where there is no particular violence involved, no one has been assaulted, things of this general nature.

I don't think all of our family disturbances involve physical violence, bloodshed, and what have you, and occasionally we are called in as a third person and an objective observer, an arbitrator, and in many cases we are called in because at the particular time of day or the day of the week we may be the only ones available to do this type of service.

In these cases I am not in agreement that we should go into a long, lengthy reporting system on the criminal report form.

Ms. STEIN. In light of the recurring nature of domestic violence though, wouldn't filling out a DR in each case more fully protect the police department's interest in preserving the peace and preserving the officers' safety?

MR. KORNEGAY. I heard the word "might" and that broadens the scope of the question to some extent and I would say yes, it might help us in having background data at a later time.

Ms. STEIN. But you feel that consideration is outweighed by the ones you have just itemized?

MR. KORNEGAY. In cases that, and as has been discussed by other panel members, the police officers do have some discretion and some latitude.

There is such a wide variety of potential situations that our officers can get involved in, it's very difficult to draw hard lines for them to follow. We do have to allow their discretion. And I think it's safe for them to use discretion to the point that this is the type of situation that may reoccur and, therefore, document this particular contact or intervention by the police department in either a combination report, which is available, but not cross indexed to the same extent that a criminal report is, or in a complete criminal DR.

Ms. STEIN. Thank you. Mr. Chairman, I have no further questions at this time.

However, I'd like to have Operations Order C-3, Operations Order E-2, and a copy of Arizona Revised Statute 13-2810 introduced in the record at this time with appropriate exhibits number.

CHAIRMAN FLEMMING. Without objection that will be done. Commissioner Ruiz?

COMMISSIONER RUIZ. Chief Wetzel, Lieutenant Twitchell related to a success story of a family crisis intervention team in Phoenix. It was suggested that perhaps such a team could be a backup component of the police presence on a regular basis.

What is your opinion concerning the Rainbow group crisis intervention team and whether the concept of utilizing such a component as part of the police budget might be feasible?

MR. WETZEL. Well, I think the concept is all right. I don't know as a part of the police budget. I would think that these people could be attached to a county agency that provides maybe other—

COMMISSIONER RUIZ. How would they respond to an immediate call, then, if it's a separate thing?

MR. WETZEL. Well, they would have to be available through our police radio to be called from a county facility.

I was thinking about, and perhaps since I have been chief as long as I have, I have been thinking in terms of getting the 8-hours work out of the individual here. But if they were in an environment where they were performing some other act—maybe it's a conflict situation until they are called out—this would be a lot more cost effective.

COMMISSIONER RUIZ. No, this would be a specially trained team within the police department. If you have split authority and would call on another agency where that agency would have other duties besides police duties, don't you believe, sir, that it would be more feasible if it were to be a part of the police personnel, a special team, like you'd have other special teams within the police department?

MR. WETZEL. Undoubtedly they would be much more manageable and much more—as a police administrator, I would be able to make sure that they performed on a regular basis. The only thing I was thinking of is the utilization of these people on a full-time basis, not just responding to individual calls. We'd probably try to put them on at the time of day when the frequency would be the greatest, that would probably be in the afternoon time. But I was trying to think of another way of utilizing these people in terms of times when they weren't tied up on this kind of activity.

COMMISSIONER RUIZ. Well, I can understand from the testimony that this particular type of activity is continuously going on. That is to say, crisis interventions in domestic relations cases, which my opinion is, to the effect that that would be something that would be continuous within the department and available at once with an office in the department.

MR. WETZEL. Well, I couldn't quarrel with the concept. I think that it would be a viable thing in terms of the support of the police officers

if we can keep these people busy, put them on with the proper timing as far as the greatest frequency of events, which would be weekends primarily and evenings. I don't see anything wrong with being able to turn some part of the situation over to them.

COMMISSIONER RUIZ. I understand the sensitivity of a chief of police with respect to the word "budget", and I understood your—that immediate reaction when I said "budget"—well, let's take this over to another agency.

I am aware of that sensitivity because once you go before the city fathers and say, "Well, we want some more money," you have a problem and you immediately reacted in that fashion, in my opinion. But don't you believe that overall that such a thing could be a correct and feasible thing to further look into?

MR. WETZEL. Yes, it has merit.

And to clarify one thing, I didn't respond about the other agency because of my budget. I responded in terms of giving them an 8-hour job. What I was thinking about was a situation similar to some of the county facilities that operate and help us on specific type things. Mental health is one example that comes out and gives us support in a mental health situation, and yet they have a routine job that they must do for the county during the rest of the time. I was only thinking in terms of that.

COMMISSIONER RUIZ. Well, then you have no real quarrel with the concept?

MR. WETZEL. No, no.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. No questions.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. Chief Wetzel, with your concern for what they do for the full 8 hours, I'd hate to be at lunch with you and the fire chief.

Obviously there is a certain advantage of having personnel ready, whether you need them or not, all day long.

Let me ask you, Chief, in your years as an officer and then later chief of the Phoenix Police Department, how many officers were killed or badly injured as a result of being involved in a spouse abuse incident or disturbance?

MR. WETZEL. Off the top of my head, I don't recall any being killed, but in the last couple of years the violence has escalated in all areas of our police activity. And I can't give you specific numbers, but I would say without a doubt that the assaults on the police officers and the injuries to them have increased and some of it has been related to domestic problems, domestic quarrels.

VICE CHAIRMAN HORN. Most of the testimony here and elsewhere would certainly say that that type of volatile emotional situation is a very tense one in terms of the likelihood of officer injury.

MR. WETZEL. Yes, it is.

VICE CHAIRMAN HORN. I gather you confirm that, based on your experience?

MR. WETZEL. Yes. I say that for one reason is that normally 50 percent of the situations you are going into, they don't want you there. The husband probably doesn't want you there. So you are entering a situation that automatically is resisted by 50 percent, of you being there. And then you have the emotional aspects of it. You have got two people who may have been in combat or right up to the point of that. You have drinking in most instances involved where the thinking and the rational judgments are not apparent or are going to be used by the husband, who many times is very angry by the police presence. So you put all this together and the potential for extreme violence to a police officer or anybody coming into that household is great.

VICE CHAIRMAN HORN. One part of the testimony here interested me, that the General Counsel pursued, and that is the degree to which a police officer when he sees, or when she sees, the elements of a crime does not prefer charges because there is the thought that the prosecutor will not prosecute. Are you aware of any other category of crimes where police officers make that decision other than in spouse abuse cases? What other types of categories of crime generally do officers just sort of throw up their hands and say, "Well, this will never reach court. Why waste the time filling out the paper?"

MR. WETZEL. I don't know that their reaction is that extreme in these kinds of situations. I think that the average officer, if he even thinks he has a felony that has a potential for great violence, he is going to take some action. I think he is going to make out a police report.

I think the only other thing that does frustrate policemen, that I'm aware of, on a constant basis is the handling of juveniles. They seem to be an endless problem sometimes in terms of getting them turned around. But you look at that problem and it's probably a result of the problem we are talking about. So that is why this thing is so closely aligned to many other problems that we deal with as a police agency.

The reason that the handling of the juveniles is ineffective is because the family environment was ineffective. I don't think that the criminal justice system is ever going to be able to supplant the family environment in terms of the training of the individual and control.

VICE CHAIRMAN HORN. Chief Kornegay, you made that statement as to the attitude of officers based on what their perception is of the lack of prosecution of these crimes. Do you have any suggestions as to any other category of crimes which ranks with spouse abuse crimes that in the judgment of officers not much is going to happen?

MR. KORNEGAY. Yes, sir, I do. I was hoping to be able to respond to your question to Chief Wetzel.

One specific area, not in the large volumes perhaps, that we do have the same concern and that is assaults on police officers themselves, and whether or not that will be filed as a felony or as a misdemeanor

or not filed at all, because it goes with the job. And I think in that area police officers make the same level of determination on whether it should be pursued or not.

VICE CHAIRMAN HORN. Is that the only other area?

MR. KORNEGAY. That is the first one that came to mind when you voiced your question to Chief Wetzal, the one that most clearly came to mind.

VICE CHAIRMAN HORN. Is this because the only witnesses are the person assaulted, in this case the police officer, and the assaulter?

MR. KORNEGAY. Yes. There are some similar elements both in domestic violence situations, in general assault type situations, bar-room brawls or other types of assaults, assaults upon police officers, to where there is some relationship between the two parties, and both parties will likely have different stories as to how this thing came about.

VICE CHAIRMAN HORN. I just wonder on reflection if you feel that it's wise policy for the police to prejudge what the prosecutors will do. Why can't the police department take the stand of, "We will clog the prosecutor's office with these cases and try to arouse public opinion," if they feel that something should be done about it?

Why is the policeman, although I recognize that the policeman does play judge in most instances as to "Do you make the charge"—why doesn't the policeman simply say, "There are the elements of a felony and we will file the charges"?

MR. KORNEGAY. When you refer to filing the charges, that is one complete separate act. When you make a physical arrest and then file the charges, that is, as I say it, a little bit of a different situation. There would be no particular problem on us submitting the departmental reports on almost everything. As far as how the county attorney or the city prosecutor's office would handle it, they would still have to make some determination on what they are able to handle. That I don't see as a major problem that is insurmountable there.

The other problem, however, deals with making the physical arrest under situations where it is patently clear to the officer from his past experiences that without the support of the injured party there will be no completed prosecution. I don't see where that serves to accomplish anything towards the goal.

VICE CHAIRMAN HORN. Are statistics available in Maricopa County as to the category of charges filed by the police and their ultimate disposition by the prosecutor?

MR. KORNEGAY. I believe they are.

VICE CHAIRMAN HORN. It just seems to me that if there was a gap between crime, arrest, prosecution, that certainly could become a political issue for anyone that ever wanted to challenge an elected prosecutor; but first you have got to have the charge.

CHAIRMAN FLEMMING. Are you done?

VICE CHAIRMAN HORN. Yes.

CHAIRMAN FLEMMING. Commissioner Freeman?



COMMISSIONER FREEMAN. Chiefs, I want to pursue the questions that Vice Chairman Horn raised from another point of view, and that is with respect to the example that was given this morning about the woman that had been beaten in the face by a brick. The police officer came and saw this, and there was no dispute as to the fact the husband had done it. And he asked the woman if she wanted to prosecute him. He did not cause the arrest.

Under the laws of the State of Arizona would this beating by the brick be considered a felony?

MR. KORNEGAY. I believe it would, yes. But that is without really seeing the injuries and what have you. As you described it, I think it would be.

COMMISSIONER FREEMAN. Assuming that she was banged up, her face was all bruised, would the police officer have the right under the law to have caused the arrest without her consent?

MR. KORNEGAY. I personally believe so, yes.

COMMISSIONER FREEMAN. So then, to the extent that the police department acquiesces in the failure to cause the arrest, then you have a dual standard of law enforcement?

MR. KORNEGAY. I will respond first on that question and statement. I see a difference between dual standards and discretion in dealing with an area with so many different aspects that we find in being the first line in the law enforcement area.

COMMISSIONER FREEMAN. Let me ask you another question. How many police officers are there on the Phoenix Police, on the force? What is the total number?

MR. KORNEGAY. I think in the area of about a little under 1,800 sworn members of the department.

COMMISSIONER FREEMAN. How many of them are women?

MR. KORNEGAY. 49 as of the end of January.

COMMISSIONER FREEMAN. 49 females out of 1,800?

MR. KORNEGAY. Yes.

COMMISSIONER FREEMAN. Maybe this is part of the problem. Maybe if you had more women that you would probably—that would be some sensitivity training for the other members on the force. Is that something that you could consider?

MR. KORNEGAY. Was that a question? If that was a question, I'd have to agree that this could be part of the problem; and we are expanding the use of women in our department.

COMMISSIONER FREEMAN. I have no further questions.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. No questions.

CHAIRMAN FLEMMING. In my opening statement this morning, which you did not hear, I said this: That our opportunity to conduct this case study, mainly here in Phoenix, of the legal system's response to the needs of women who are victims of domestic violence has been greatly aided by the complete cooperation Commission staff has received from

all levels of Arizona's government and particularly from the Phoenix Police Department. The Commission deeply appreciates and gratefully acknowledges this assistance.

I felt that both of you should be aware of the fact that I did make this statement at the opening of the hearing, and I again want to express our appreciation for the cooperation and also our appreciation to both of you for coming here and sharing with us your insights, growing out of an indepth experience dealing with this issue. Thank you.

MR. WETZEL. Well, on behalf of myself and the police department at the time I was there when the Commission staff originally came there, I felt that the problems you were addressing were a very critical one in our society, as I said earlier, because it involved more than just the people involved at the time of the combat. It involved young people and it involved a whole society out here.

And if you could come up with some answers or some logical approaches to helping the police officers do their job, beyond just jail being the only alternative, it would sure be an advantage to the police department. And I appreciate the interest you have had in this problem. Thank you.

CHAIRMAN FLEMMING. Thank you both, very, very much.

Also, this morning, before most of the people who are in attendance now were here, Commissioner Freeman, in explaining the rules for the hearing, said this: that after the conclusion of the scheduled testimony at 3:30 on Wednesday there will be an open session for members of the public who wish to bring information concerning the subject matter of the hearing to the Commission's attention. The time available will be filled on a first-come, first-served basis. If anyone wishes to testify at this open session, please consult our staff in Boardroom A of the Adams Hotel.

There are three Commission requirements concerning such open session testimony. Testimony must be limited to 5 minutes. It may not defame or degrade or incriminate any person, and it must be directed to the legal system and its response to the needs of women who are victims of domestic violence.

We will now be in recess until 1:45.

#### Afternoon Session, February 12, 1980

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CHAIRMAN FLEMMING. Counsel will call the next group of witnesses.

MS. HUBER. Yes, Mr. M. Louis Levin, Mr. B. Robert Dorfman, and Mr. Joseph Tvedt, Jr.

[M. Louis Levin, B. Robert Dorfman, and Joseph Tvedt, Jr., were sworn.]

**TESTIMONY OF M. LOUIS LEVIN, CITY PROSECUTOR; B. ROBERT DORFMAN, ASSISTANT CITY PROSECUTOR; AND JOSEPH A. TVEDT, JR., SPECIAL ASSISTANT TO THE CITY PROSECUTOR, PHOENIX, ARIZONA**

**CHAIRMAN FLEMMING.** Appreciate your being with us.

**Ms. HUBER.** Beginning with Mr. Tvedt, will each of you please state your name and your position?

**MR. TVEDT.** My name is Joseph Tvedt. I am special assistant to the Phoenix city prosecutor.

**MR. LEVIN.** My name is Louis Levin and I am the Phoenix city prosecutor at the present time.

**MR. DORFMAN.** My name is Bob Dorfman, assistant city prosecutor.

**Ms. HUBER.** Mr. Levin, will you please describe briefly your jurisdiction and responsibilities as Phoenix city prosecutor?

**MR. LEVIN.** Yes, we have the responsibility to prosecute all misdemeanors committed within the city of Phoenix; that includes criminal cases, petit theft cases, and driving offenses from minor traffic to major traffic, which includes your drunk driving charges.

**Ms. HUBER.** Approximately how many cases does your office handle a year?

**MR. LEVIN.** I would approximate between 75 and 80,000 cases a year in total.

**Ms. HUBER.** Sir, how long have you been in your position as Phoenix city prosecutor?

**MR. LEVIN.** A little over 5 years.

**Ms. HUBER.** Mr. Tvedt, will you please summarize the nature of your duties in the office of the Phoenix city prosecutor?

**MR. TVEDT.** I occupy a rather special position with relation to Mr. Levin, involving dealing with many of the Federal grants, assisting in accounting procedures that go on with relation to the Federal grants. When the timing is appropriate within our fiscal cycle, I assist in the preparation of grant concepts. I have a lot of small splinter duties. I have occupied the position of supervisor in the past of each of the sections in our office.

**Ms. HUBER.** Thank you.

**Mr. Dorfman,** can you summarize briefly your duties as assistant city prosecutor?

**MR. DORFMAN.** Yes. I currently supervise the charging section of our office and the special prosecution section of our office.

**Ms. HUBER.** Thank you.

**Mr. Levin,** in your experience as Phoenix city prosecutor, does the prosecution of cases arising out of incidents of spousal violence give rise to any particular circumstances or difficulties, as distinguished from the prosecution of other types of cases?

MR. LEVIN. Well, we—those cases are treated basically like other types of criminal cases that we receive and review in the office.

What we have done in the last few years, not only with spousal or domestic type violence cases, when there is a battery, an assault, a one-on-one situation, we have found a number of years ago that we had witnesses or victims who wanted to use the law for some one reason or another, either they were upset when this happened or they wanted to have someone arrested or hold that over their head and we had problems that later on a lot of these witnesses or victims being, especially in the related areas, were reluctant to come down and testify. Many things happened in the interim between the act and the time that it came to trial. What we did in those—

MS. HUBER. Excuse me, was that a problem in cases arising out of domestic assault situations?

MR. LEVIN. It was not limited to domestic assaults. It was limited—for example, it was limited to trespassing in certain areas, where you had certain citizens groups that wanted the police to come down and, so to speak, arrest all the youngsters who were hanging out at a certain place, but they didn't want to follow up and come to court and to testify. What they wanted to use was the arm of the police for a quick arrest and get them away, but they weren't helpful in coming down to court and testifying.

MS. HUBER. Mr. Levin, the focus of our hearing here today is on the handling of incidents of domestic violence and spousal abuse in the criminal justice system. We would be interested in your comments on any circumstances that those type of cases might present for you as a prosecutor?

MR. LEVIN. That's what I was trying to direct my answer to. That in those types of cases, as others, we've required the victim, because of their reluctance to come down and testify, we've required of them to be involved in the case from start to finish, meaning coming down and swearing to and signing the criminal complaint against the defendant.

MS. HUBER. Mr. Dorfman, or Mr. Tvedt, could you explain how your system works for assuring that a victim in fact is firm in her resolve to prosecute?

MR. DORFMAN. In all cases that are submitted to our office through a police departmental report, and I stress in that area because there's three different ways a criminal complaint can be initiated in this State, but in all those cases that involve a report coming to our office for our review, leading, if filed, to the issuance of a summons or a warrant, when that complaint is ready to be signed by an individual. Those cases, the assault cases, are assigned on the direct knowledge of the victim, the person who is the complaining witness.

MS. HUBER. Does that mean that the victim must come down and personally sign the complaints?

MR. DORFMAN. That's correct; they are contacted by our office and told to get in touch with our office to arrange an appointment so that we can set up a time that they can be walked down to the court and swear out their complaint in front of a magistrate.

MS. HUBER. In which types of cases do you put that policy into effect?

MR. DORFMAN. Well, it applies generally to all assault cases, but our reviewing attorneys, the attorneys working in the charging section, have the option of requiring that type of procedure on any case where they may not feel that there is enough corroborating evidence, where the story is believable and the elements of the crime are there, but we want to make sure, we want to have some assurance that the victim still wishes to follow through.

We also require this procedure on such things as dog barking petitions where somebody in the neighborhood has complained about noise created by animals. They also would have to come in and sign as a matter of policy.

MS. HUBER. What about complaints for the offense of threatening and intimidating?

MR. DORFMAN. It would also apply to that situation.

MS. HUBER. Are we correct in understanding that under Arizona law a misdemeanor complaint need not be sworn to personally by the complainant and that an officer is permitted to sign a complaint upon reasonable belief?

MR. DORFMAN. That's correct.

MS. HUBER. This is a practice you have adopted that is not necessarily required by law but that you feel is desirable?

MR. DORFMAN. That's correct.

MS. HUBER. Mr. Levin, and you can turn to either of your assistants, if you wish to, for assistance—if a woman victim of domestic violence in a case in which you have filed criminal charges comes to you and says that she wants to drop the charges that she previously made, how would you respond?

MR. LEVIN. Well, my first response is that, though she being the victim, the State is the one that is pursuing the matter for a crime committed upon that individual. But in most of the cases I feel that if you're going to have an unwilling victim to testify, it is going to do your case damage.

Most of the time we talk to the people. If in fact someone is— say, they don't want to testify because they're afraid of something else happening to them, more times than not we have to go along and abide by the victim's wishes and simply because of their ability as a witness. If it's diminished, it does hurt the whole case; so more times than not we try to talk to them, tell them it's not really their case, it is the State that's pursuing the matter. But more times than not, if they just simply refuse to testify and don't want to have a part of it, we generally will not proceed with it.

MS. HUBER. Do you have any means of providing support services to a fearful or reluctant witness, for example, emotional counseling or obtaining social services?

MR. LEVIN. No, ma'am, the only support that we can provide in a situation like that would be, you know, through the police department in the way of protection, if it's—if, the individual fears more bodily harm, but we have no ability to send these people to any specific types of counseling services.

MS. HUBER. In your experience as a prosecutor, is fear of reprisal at times a factor in a woman victim of domestic violence's decision not to proceed with prosecution?

MR. LEVIN. I think it is in a number of cases. I would not want to say what I believe to be the percentage but I think it's high enough or significant.

Again, you keep in mind the incident has occurred and a lot of people, really, what they want is the police to step in and somebody to make an arrest, maybe, and that will show the other person or it will tame them down. A cooling period happens, and their problems are as significant as they were before, and the reprisal of action, I'm sure, is—has a great affect on these people. Assuming they're still living or in the same household with that individual.

MS. HUBER. Do you find any effect of the emotional or financial dependence of the woman victim of domestic violence on her alleged assailant; does that appear to effect?

MR. LEVIN. I missed that question.

MS. HUBER. In your experience as a prosecutor, do factors of emotional or financial dependence ever come into play in a victim's deciding that she wishes not to continue with prosecution of a case that she has previously initiated?

MR. LEVIN. I'm not aware of it. Maybe Bob or Joe is aware of it.

MS. HUBER. Perhaps Mr. Tvedt could respond to that.

MR. TVEDT. In most cases where a victim comes in indicating in a charge of this nature that they are no longer willing to prosecute, if at all possible, a staff attorney will talk to them and try and get into the reasons behind what's going on. I have spoken to people who have indicated, not so much the emotional dependence, as the financial dependence on the family breadwinner.

I can't count the number of cases but I have had women who have come in for that purpose indicate, "Well, he can't bring money home to feed me and the kids if he's sitting in jail."

MS. HUBER. We understand that the Maricopa County attorney has adopted a policy of declining to initiate proceedings under the peace bond statute of the Arizona Criminal Code.

What impact has this policy appeared to have had on your office?

MR. LEVIN. I think that Mr. Dorfman probably can give you more information on that. I think that his philosophy was not to use the peace bond and go under the threatening and intimidating statute; and

the complaints section gets many phone calls on the peace bond area, and I think that Bob probably could give you more accurate information on that.

MS. HUBER. Mr. Dorfman, could you please describe the character and volume of these types of requests for assistance that you may receive from women seeking protection from abusive conduct by their husbands or mates?

MR. DORFMAN. We estimate that we get anywhere from 12 to 15 phone calls per week from women that have been initially attempting to get what used to be called a peace bond prior to the enactment of the new Arizona Criminal Code in October of 1978, and generally they want me to call the police department, or they will call the county attorney's office and they will be referred to our office.

The county attorney has taken a position that instead of a peace bond procedure, the applicable procedure is to file a criminal complaint under the threatening and intimidating statute, which did not exist prior to the enactment of the new criminal code.

MS. HUBER. Well, how does your office respond when you receive these types of calls, requesting peace bonds or things like that?

MR. DORFMAN. When we receive the typical call, we have to explain to the individual calling that we no longer—the county attorney no longer has a peace bond procedure; that instead of peace bond procedure, there are a couple alternatives. They can contact the police and have a police report made or investigation made, and the results of that investigation submitted to our office for the review of the criminal complaint; or, if they are currently about to initiate divorce proceedings as a result of their domestic difficulties, they can seek a restraining order through the civil courts.

MS. HUBER. Mr. Tvedt, do you have anything to add about the response your office makes to these types of calls for assistance?

MR. TVEDT. No. Our charging section under Mr. Dorfman consists of two attorneys; we do meet frequently, attempting to maintain consistent approaches to problems. I believe Bob's description is accurate.

MS. HUBER. All right. Mr. Levin, Section 13-2810 of the Arizona Criminal Code proscribes as a misdemeanor offense to resist or disobey the lawful order of a court. Would your office initiate proceedings under this statute for violation of a restraining order or an injunction issued in a domestic relations proceeding?

MR. DORFMAN. May I answer that question?

MS. HUBER. Yes.

MR. DORFMAN. We have never, at least since the new criminal code did go into effect, we have not received any calls or any reports from the police department requesting that that action be followed.

It's been our attitude, and I would imagine the attitude of the courts, that if there was a restraining order in effect at the time, that restraining order would have, of course, been initiated from a superior court judge, civil in nature, that the judge himself would take the appropriate recourse.

You have to understand the way our criminal justice system is structured. We do not practice in superior court. We practice in Phoenix City Magistrate Court which does not have the jurisdiction over divorce proceedings or restraining orders. So, in the past, the contempt order was treated as a direct contempt of the court in which the restraining order was initiated, and for that reason we have not had any complaints submitted to us on the basis you're asking.

Ms. HUBER. If the police were to make an arrest and submit such a complaint to you, what action would you take?

Mr. DORFMAN. We would review it to see if all the elements that are required by the statute that you mentioned were contained in the complaint, and then—as I said, you're asking me to deal in a hypothetical situation because we have not been faced with that before—we would—it technically could be filed as a criminal complaint if the judge of the court whose restraining order had been issued desired it to be handled as a criminal complaint. It technically falls within the elements of the charge you're discussing.

Ms. HUBER. Mr. Levin, or either of the other gentlemen, do you have any comments on the standards of serious physical injury used by the Maricopa County attorney in determining whether to file a case as a felony, aggravated assault, or send it to your office for a misdemeanor prosecution?

Mr. LEVIN. I personally do not have any comments. They have their own standards and I'm sure they are well thought out in their own way. We have, I will say this, that on occasion, Bob has an open line of communication with the people at the county attorney in their charging section, and occasionally cases that are sent us are discussed and many times they will take them back. On their degree of injury, I don't know how they arrived at that. I just couldn't comment on it.

Ms. HUBER. Are there any resources or programs not presently available to your office that you would find of value in responding to the needs of women victims of domestic violence?

Mr. LEVIN. Well, I would like to see programs available to us for all types of crime, including domestic violence, and at the present time there are none available.

Ms. HUBER. What sort of programs would you see as of value?

Mr. LEVIN. Well, I'm not a behavioral scientist but in the area of domestic violence, as other crimes that we handle, I would like to be able to encourage those offenders to go through the program with the hope that it will provide them some insight and understanding, and whether it be a domestic thing or shoplifting thing to help, whether it is rehabilitation, so we don't have to process them through the criminal justice system. We don't have any type of diversion program except for drinking drivers.

As far as the domestic violence situation goes, I'm sure that the behavioral scientists have, with the projects that they have done throughout the country and the information that they have in their



specific field, have ways and means that they could deal with or help alleviate a problem that we're talking about. I personally would not be able to comment on the course of therapy.

Obviously, the end result would be to have the situation stopped and the person would not do that anymore.

Ms. HUBER. If your office prosecutes, at the present time, and obtains a conviction in a case arising out of an incidents of domestic violence, what sentencing options are available to the court with its present resources?

Mr. LEVIN. Well, if—the alternatives that I believe are present to the court besides the traditional sentencing, whether it be jail time or a fine, is probation department, which they have. It's the only thing that I know other than to sentence or the jail time or a fine, money fine.

Ms. HUBER. Does the court have the ability to provide rehabilitative treatment or counseling as a condition of probation with its present resources?

Mr. LEVIN. Again, I hesitate to answer. I think the court probably could give you a much better answer, but I know that they are very overworked and they are carrying a great deal of cases, and I do not know if they could provide any type of counseling service to these individuals.

Ms. HUBER. Finally, does your office as Phoenix city prosecutor advise the Phoenix Police Department on the elements of offenses and what action they may legally take?

Mr. LEVIN. Sure. We interact a great deal with the police department when either they have a problem or we have a problem. Most times it comes up when we review reports, and if certain elements aren't present by way of our turndown, saying that X-element is not there, when the case is reviewed by our officer and we turn it down and send it back to them, they get it.

And then other times, we will sit down and discuss certain things. We don't provide them with day-to-day guidance in that area. They have two legal advisors, I think, who probably do more of that.

Ms. HUBER. Mr. Tvedt, I understand that you have brought with you the monthly statistical reports for 1979 of cases presented for prosecution and action taken?

Mr. TVEDT. Yes, ma'am.

Ms. HUBER. Mr. Chairman, I would request that these documents be entered into our record at this time.

CHAIRMAN FLEMMING. Without objection, that will be done.

Ms. HUBER. I have no further questions.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. Mr. Levin, is there any record or indication of the general ratio between police calls and prosecution by your office in cases of assault other than in domestic cases?

Mr. LEVIN. I am not aware of any ratio, are you?

Mr. TVEDT. I'm not aware that we have made any attempt to correlate cases referred versus the requests for assistance they receive.

COMMISSIONER SALTZMAN. Do you have any statistics about how many assault cases you deal with, or—

MR. TVEDT. Yes, sir, those figures are in the folder I provided to the Commission's Chairman. I did a very quick summary. During calendar 1979, through all three vehicles through which we receive cases from the Phoenix Police Department, we reviewed 1,909 assault cases. Understand, sir, that we do not currently make an attempt to distinguish between spousal or nonspousal assaults.

COMMISSIONER SALTZMAN. 1,909?

MR. TVEDT. To the best of my recollection, yes, sir.

COMMISSIONER SALTZMAN. Were these all prosecuted?

MR. TVEDT. No, these are the cases which were referred to us for consideration.

COMMISSIONER SALTZMAN. I see. How many of these did you carry through?

MR. TVEDT. I don't frankly recall the breakdown. They are in the statistics I provided.

COMMISSIONER SALTZMAN. They are. Okay. Do you feel that there is a more constructive way to deal with domestic violence, situation of the battered woman in the family, than putting it through the criminal justice system? Would you recommend other alternatives?

MR. LEVIN. Well, I think that other alternatives should be explored to try to alleviate and reduce the problem. I don't think that any type of assault should be excised from the criminal statutes, and under some exception, if it's done without provocation, and it is a crime, so defined by the State code.

I think that maybe there could be other alternatives along with this to help a person not repeat that type of action, but, no, I don't think it should be removed at all from the criminal code.

COMMISSIONER SALTZMAN. This is the strongest indication that we, or at least I've heard—from the earlier witnesses this morning, there was a lot of hedging about prosecutions in assault cases, and though the police officers this morning indicated that prosecution had an important—the philosophy of our criminal justice system is prosecution and penalties are a deterrent.

Nonetheless, in this instance of spousal abuse, there seemed to be some fudging on that issue of prosecution. There were various reasons they gave, and I wonder how you might characterize, in your experience—anyone who feels qualified to respond to this—the attitude of the police officer as you've experienced it toward the battered woman.

I'll give you a multiple choice. Maybe you want to add another alternative—she deserved it; two, frustration on the part of the police officer of the history of the failure to prosecute on the part of the woman and, therefore, he doesn't really want to suggest that; or, three, that he has a limited responsibility to stabilize the situation and get out without moving toward any other process within the criminal justice system.

Would you see these as characterizing the attitude of the police officer, more often than not? Do you have another alternative?

MR. LEVIN. I can't speak for the Phoenix Police Department. I think that maybe Bob and Joe can give you a better feel of what we get through telephone conversations with a lot of victims. I couldn't even tell you that this police department goes out and says, "Well, this is a civil problem. Go see your civil attorney tomorrow."

They do refer some up to us. I think, as I say, they best can tell you through contacts with either parents or relatives or the victim themselves as to what they were told by the police department.

MR. DORFMAN. I think it's probably a little bit of all three alternatives you've mentioned, coupled with probably the prime determinative is the officer himself, and the attitude of the individual officer on each case in respect to how he views the scene when he arrives upon it, and the severity of the problem that exists at the time.

He's investigating but it's a little bit of all three of the alternatives you mentioned, coupled with, at times, a hard-line approach to prosecution.

MR. TVEDT. Mr. Saltzman, one specific fact that I'm aware of through our office that may shed some light on your question, as Mr. Levin indicated, we certainly can't speak for the police department, but in our experience, when we contact a victim in assault cases, once again across the board, indicating that "a complaint has been prepared, ready for you to come down and sign," we'll try contact first by phone. If that's not successful, then by letter, holding the matter for 30 days and then referring it back to the police for lack of victim action.

We find that probably just under 50 percent of those victims come down and sign.

COMMISSIONER SALTZMAN. Do come?

MR. TVEDT. Yes.

COMMISSIONER SALTZMAN. Only under?

MR. TVEDT. It is very, very close to 50 percent. The other 50 percent we never hear from. We have to assume someone has given up, moved away, or for some other reason simply chooses not to act.

COMMISSIONER SALTZMAN. What happens with this almost 50 percent who do sign a complaint?

MR. TVEDT. They enter the traditional criminal process, arraignment, trial, sentencing.

COMMISSIONER SALTZMAN. Do you have any idea how many go through the process to the point of sentencing of the assailant?

MR. TVEDT. No, sir, I don't.

COMMISSIONER SALTZMAN. No further questions.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. No questions.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. Let me ask you, gentlemen, Is the spouse abuse category of cases, or that group within the assault cases—because it is going to be impressionistic as I look at your statistics—the principal categories of cases that are dropped prior to going to trial?

MR. TVEDT. Since we make no distinction in gathering our stats at the capture points, I don't think we can give you an answer to that, sir.

VICE CHAIRMAN HORN. What category of cases are in the categories of those that are dropped, where most of them are dropped before you go to trial, of any categories that you have?

Are there certain types of cases that just naturally are difficult to get witnesses and you seem to see a tendency or trend to just not go through with them because you know they are sure losers, you're going to get into court, a lot of work, witnesses don't show, etc., and you say, "Look, let's clean out the docket here."

MR. LEVIN. Are you saying because of that premise or—

VICE CHAIRMAN HORN. Or any others. I'm trying to get a feel for what your problems are, and I'm trying to figure out, Are there categories of cases that regularly come into the city prosecutor's office that they just are very difficult to prosecute and you decide, well, let's drop them and do something else?

MR. DORFMAN. First of all, we generally—if we've screened the case and felt that the required elements are there to support a charge, we will not generally make that determination after the charge has been filed, absent a request by the victim to dismiss it or absent the victim's cooperation, such as appearing in court when subpoenaed. We won't drop the charge without that, but you asked impressionistically and I will give you an answer impressionistically; there is a much, much higher degree of lack of cooperation on the part of a victim in the domestic violence type assault cases than any other type of charge that we handle.

VICE CHAIRMAN HORN. Okay, so the answer would be, since of all the cases that come before you by categories, since this seems to be the area where the principal and usually only witness is very reluctant to pursue it, that your impression is that this is the category of cases where it's really not likely that you will be pursuing it, based on the behavior of the witness involved?

MR. DORFMAN. I would say—rather than say not likely, I would say less likely as opposed to other types of charges.

VICE CHAIRMAN HORN. What's your second category in that type of situation?

MR. DORFMAN. I would suppose it would be the regular assault cases after the domestic assault cases, although we do not, as it has been made known to the Commission, we do not break down for statistical purposes a distinction between domestic assaults and regular assaults.

VICE CHAIRMAN HORN. When we use the phrase "domestic assault," are we strictly thinking of male-female, man-wife, live-in, whatever, versus parent-child?

MR. LEVIN. Spousal assault would be the one that you referred to. Domestic violence situations, as you were speaking before—we have many cases where a mother has a child and she might be living with an individual who might beat the child. We see cases like that, too, and we consider that all in the domestic area.

VICE CHAIRMAN HORN. So, I guess, as a layman—I'm not an attorney—one can conclude that when we're dealing with a highly charged emotional atmosphere of a live-in situation or some sort of close relationship, whether by contract of marriage or otherwise, that these become very difficult to pursue in a prosecutorial sense?

MR. LEVIN. Especially so, if that particular individual goes back to that household, which in many cases that is done, and the likelihood there is nil that they will proceed through with this prosecution.

VICE CHAIRMAN HORN. Would you say it's a fair perception of the Phoenix city police that even if they did arrest the person in a domestic violence situation, that really the city prosecutor wouldn't do much about it? Is their feeling misplaced? Is it not the city prosecutor but the circumstances of the parties in the action that they ought to be concerned about?

MR. LEVIN. Well, I don't know what the police have said to you today but I don't believe that's so at all. We review the case, and if the elements are there, we're going to proceed with it as far as we can go with it.

As you know, for years and years, it's domestic violence or otherwise, the police are out arresting people and prosecutors never prosecute them; and whether you're talking about domestic violence or speeding tickets, whatever, that's universal since I've been indoctrinated into this system, and I certainly would disagree with that statement.

VICE CHAIRMAN HORN. Well, I agree with your next statement or the statement you just made that the attitude across the country in many situations has been that the police have blamed the prosecutors, the prosecutors have blamed the judges, probably everybody has blamed the correctional officials, etc.

Is this simply another example of that, or do you see laws that ought to be enacted or processes that ought to be developed to solve this particular problem that we're here today talking about?

MR. LEVIN. Well, as I said in answer to Mr. Saltzman's question, I think there could be other measures taken by way of letting these people find a place where they can be given some help, or some statutes enacted that would provide them with a little, some quicker relief from the problem that they have.

I read an article where in Michigan they've done that. I think that once the problem is identified and the severity of it, I think certain areas of legislation can help; but as to your original question, I disagree from my perspective that they are arresting and prosecutors are not prosecuting.

VICE CHAIRMAN HORN. Do the prosecutors feel that in certain circumstances the police could have filed the charge based on the evidence they have seen, and it might not have mattered whether the spouse was willing to testify, and yet the police have failed to file the charge?

MR. DORFMAN. If I may answer that. We would see very few instances of that, or that situation would rarely, if ever, be drawn to our attention. The only way that would come to our attention would be if the police officer failed to act and the victim, upset with the manner in which the police officer acted, called our office and complained about it; otherwise, we do not review each and every police investigation into a domestic violence situation. We only review, for purposes of prosecution, the cases where an arrest has been made, where a ticket has been issued in lieu of an arrest, or where a report has been submitted to us by the police department to review for the issuance of a summons or warrant at a later date.

We do not—unless it is drawn to our attention from an outside source, and I say outside the criminal justice system; in other words, unless the victim or a relative of the victim draws that situation to our attention, we would not be aware of it.

VICE CHAIRMAN HORN. Based on your experience with crime, criminality, motivations involved, suppose a city was to take a stand in its criminal justice forces—prosecutor, police, etc.—that “Look, in this city the spouse beatings, whatever, are going to come to a halt as far as we’re concerned, and we’re going to throw the book at people that conduct themselves in this manner.” We all know that given the limited resources people have to make choices in the criminal justice system.

Some days, some years, this or that Federal, State, or local agency will make a crusade out of auto theft, out of this or that. Suppose you made a crusade out of spouse abuse; do you think that type of coordinated effort, putting the heat on, if you would, would really make much difference in behavior in the city?

MR. LEVIN. Behavior of individuals abusing their spouses?

VICE CHAIRMAN HORN. If they really know they were going to be hauled off to jail, if they really knew they were going to be prosecuted, if they really knew it was going to cost them a bundle or the public defender a bundle to have to defend them, or whatever. Do you think that would provide deterrence, or whatever you want to talk about, that whatever it is that criminal justice effectively enforced provides?

MR. LEVIN. My personal opinion, it might have some effect, but I don’t think it would have a landsliding effect that everybody will say, “I can’t do this anymore because I’m going to get prosecuted and put in jail,” but I think it would have an effect with some people but not a resounding effect.

MR. TVEDT. I don’t perceive it would make that much difference in the attitude of the victims who are coming to us saying, “My bread-

winner, my physical and emotional support is taken away from me and I want it back.”

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. Isn't it a fact that the difficulty of prosecution and prosecuting domestic violence cases is simply a policy determination when there really is no difficulty of prosecuting under existing laws?

For example, Mr. Levin, in sentencing of criminals who have broken the law, as part of their sentence, oftentimes sanctions, such as restitution of damages suffered by the victims, are imposed by the court; is that not true?

MR. LEVIN. Yes, sir.

COMMISSIONER RUIZ. As an attorney, would you not state that such type of sentence, that is, restitution for damages occasioned to a victim is in fact giving the victim an enforceable remedy for damages suffered by the victim? Is that not true?

MR. LEVIN. Theoretically, it is.

COMMISSIONER RUIZ. Very true theoretically. Now, the sentencing option available to a court, criminal court, in a domestic assault case is extensive, irrespective of what the victim may say.

Are you able to state why a criminal court could not as well impose sanctions in a domestic violation case, irrespective of the victim's desires, given physical evidence of injuries to the victim, suffered by the victim, which are provable, and the inference which could be drawn from the physical evidence, without reference to the victim's testimony or desires, why sanctions could not be imposed?

Do not the people of the State of Arizona present criminal cases instead of the victim's desire? Is that not true?

MR. LEVIN. Sure. We present the case on behalf of the State of Arizona to the court.

COMMISSIONER RUIZ. That's correct. Now, isn't this just a policy determination? I have seen for many years on policy determination cases that are now prosecuted that were not prosecuted 10 years ago, and I've seen other cases by virtue of policy determinations that are just thrown overboard, not paid much attention to on the fundamental proposition that it is the people of the State of Arizona that prosecute.

Now, why couldn't that be done with respect to your criminal courts?

MR. LEVIN. Well, I think that one thing we have to remember is, prosecutors in presenting a case we have to have—we have proceeded with cases where we have had unwilling witnesses who did not want to testify. When they get to the stand and they are forgetful or they make a poor witness, we have not succeeded in doing much but aggravating them more and leaving them with a taste in their mouth that they don't particularly treasure.

You are right, we can pursue any case regardless of what the witness feels, but through our experience, especially when that spouse,

if we're talking about a spouse, is back into that house, living with that person, I think that we have to consider his or her outlook on the situation, too.

COMMISSIONER RUIZ. Then it is a policy determination; it is not a difficult decision?

MR. LEVIN. I think it is a practical determination.

COMMISSIONER RUIZ. All right. Let's get to the word "practical." Is it impractical to pursue a case in the criminal court when you can prove it, irrespective of the victim's desire, unless it be a policy determination?

MR. LEVIN. If we can prove the case without the victim's testimony?

COMMISSIONER RUIZ. Yes.

MR. LEVIN. We would proceed with it.

COMMISSIONER RUIZ. This is the hypothetical case that I have given to you and which is always evident in violations of this type of a crime where the victim is black and blue, is semiconscious when any court can draw an inference that a battery occurred irrespective of, and an impeachment, even of your own witness, who said, "I was beaten up, now I've changed my mind." Isn't it simply a policy determination?

MR. LEVIN. I think so.

COMMISSIONER RUIZ. That's true, isn't it?

MR. LEVIN. I would agree to that.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. I'm not going to ask for a direct—or an answer at this time to this question, but I'm impressed with the fact that all members of this panel are up against this issue on a day-to-day basis. You have become familiar not only with your role but with the role of other institutions in our society in dealing with the problem.

If you have any suggestions to make as to how society—other institutions in our society—that deal better and more effectively with this problem than we're dealing with it at the present time, we'd appreciate having it.

As I say, I'm not going to ask for an off-the-cuff response to that, but just think about it, and if some ideas have occurred to you or do occur, give us a memorandum on it and we will make it a part of the record of the hearing, and it would be very helpful to us; but we're very appreciative of your coming here and sharing your experiences with us. Thank you very, very much.

CHAIRMAN FLEMMING. Counsel will call the next witnesses.

MS. STEIN. Charles Hyder and Alan Johnson, please.

[Charles Hyder and Alan Johnson were sworn.]

**TESTIMONY OF CHARLES HYDER, COUNTY ATTORNEY; AND ALAN JOHNSON,  
DEPUTY COUNTY ATTORNEY, MARICOPA COUNTY**

CHAIRMAN FLEMMING. Appreciate your being here.

MS. STEIN. Mr. Hyder, would you state your name, your business address, and your position, please?



MR. HYDER. My name is Charles Hyder; I'm the Maricopa County attorney. My business address is 101 West Jefferson, Phoenix.

MS. STEIN. Mr. Johnson?

MR. JOHNSON. My name is Alan Johnson; I'm bureau chief, charging bureau, Maricopa County Attorney's Office, 101 West Jefferson, Phoenix.

MS. STEIN. Thank you. Would you please briefly describe, Mr. Hyder, your jurisdiction and responsibilities as Maricopa County attorney?

MR. HYDER. Yes. My responsibilities generally are prosecuting all felony charges, or those charges which carry a penalty of imprisonment in the State prison committed within the boundaries of Maricopa County and all misdemeanor crimes, those which carry up to a year in jail that are committed outside of the incorporated cities of Maricopa County, namely, within the county limits.

We also handle all juvenile prosecutions, and I am advisor to all county officials and the board of supervisors and represent the county in all civil litigation.

MS. STEIN. Mr. Johnson, would you briefly describe the nature of your duties with respect to the charging bureau?

MR. JOHNSON. Yes, ma'am. All the cases that come into the Maricopa County's office for filing, with the exception of organized crime cases or special operations bureau cases, and except for major felony type cases and juvenile cases, we review the offense reports submitted by local prosecution agencies, or law enforcement agencies and make a decision as to whether or not to file those charges. In some instances we have responsibility for preliminary proceedings through preliminary hearings or grand jury proceedings.

MS. STEIN. Thank you.

Mr. Hyder, could you tell us whether in your experience cases that arise out of interspousal violence present difficulties or problems that you don't find in other types of criminal cases?

MR. HYDER. Yes, they do.

MS. STEIN. What type of problems do they present?

MR. HYDER. Well, I think generally the biggest problem, of course, is getting the aggrieved spouse to agree to prosecute. As I explained earlier to the staff, we've gone through an evolution of trying to handle these cases over the last 10 years.

We found early in the 1970s that when we tried to get the spouses, for the most part women, to prosecute that they refused to testify or didn't want to testify. What they were looking for was some immediate relief from the situation that occurred immediately, so that when we filed the case, they were all enthusiastic about the filing until it came time to testify or carrying through with it.

This happened repeatedly, even with the same victims. We also found that where peace bonds were given in those situations, that that did not give us any relief or help solve the problem because, even

though the peace bond was issued, they would take the abuser back into the house with them; they were living together and they would stay together for some time only to report some later incident.

We've tried a number of things: one was to talk to the women, try to encourage them to recognize the problem that they had, especially in those cases of repeated abuse, that this was a dangerous situation that was existing, and that by failure to prosecute, they were just encouraging this type of conduct to continue.

That didn't seem to work too well in the majority of the cases. We came to the conclusion that it was either for love or money that women didn't want to carry through with these types of cases or that they were in fear that, if they did, some type of retribution would happen.

MS. STEIN. When you say "money," do you mean fear of loss of support on the part of the husband?

MR. HYDER. Loss of support or the husband would lose his job, and that was a great concern of theirs; but we found that we had a great majority of women who were chronic complainers. We used to keep a file, which we don't now, which was a list of women who filed these types of charges, and we found that we'd get many repeats over periods of years, many of them, not only with the same individual but with various individuals. And it became so acute, we eventually evolved a 3-week waiting period before filing in any case in which it appeared that there was not any danger of serious bodily injury or not a threat of serious bodily injury.

Surprisingly enough, we found that about the same ratio of women who wanted to carry through with the prosecutions would do it after the 3-week waiting period, but the majority of them still didn't want to prosecute. We had urged them during that time to seek some type of counseling.

Our experience now is that probably the 3-week waiting period, in view of the change of the law, is not necessary, but that nevertheless, we're trying to give them some type of counseling through the victim-witness program. We do file those charges when there's a serious bodily injury that has resulted.

MS. STEIN. Let me go back for a minute. Now, you say you instituted a 3-week waiting period. Did you use that just for women who you say would appear on this list of repeater complainers, or did you use this 3-week waiting period for everyone?

MR. HYDER. No, we used it for all of them, with the exception of those women who had suffered some serious bodily injury.

MS. STEIN. Well, since you only prosecute felonies, as I understand it, wouldn't that be most cases?

MR. HYDER. Well, you have to understand, there's been a change in the law, and though we still have that policy, the exception of that policy is now that it doesn't apply to any woman who suffers, or for any man, for that respect, who suffers from any serious bodily injury or if there's any threat of serious bodily injury.

In the old days, before the law changed, where part of the aggravated assault was man upon a woman, everybody, with the exception of that category, came under that, period.

Ms. STEIN. So, do I understand that at present, if the charge you would be filing is aggravated assault based on the fact that the woman suffered serious bodily injury, you do not impose a 3-week waiting period?

Mr. HYDER. That's correct.

Ms. STEIN. And how long has that policy been in effect?

Mr. HYDER. Since I've been the county attorney, 3-1/2 years.

Ms. STEIN. In what cases, then, do you impose a 3-week waiting period?

Mr. HYDER. Well, we don't have those anymore. Those go to the city because normally they don't qualify.

Ms. STEIN. So you don't have a 3-week waiting period?

Mr. HYDER. No. As I said earlier, it really doesn't have any substance anymore since they had the change in the law. I was trying to give you an evolution of what we had done over the past few years.

Ms. STEIN. I see. What was the date in the change of the law?

Mr. HYDER. I couldn't give you—

Ms. STEIN. Was it 1978, sometime in 1978?

Mr. JOHNSON. I think it was around 1973.

Ms. STEIN. 1973?

Mr. JOHNSON. Thereabouts, yes.

Ms. STEIN. So you have not told a woman that you would not file charges for 3 weeks since 1973?

Mr. HYDER. Not to my knowledge.

Ms. STEIN. Can you tell me why the 3-week waiting period would have been described as your policy in the annual report of your office in 1978?

Mr. HYDER. It's still there. This is one of those policies that is under consideration. That was the policy that we had that we just haven't changed, though it is not in practice.

Ms. STEIN. Well, when the police refer a case to you for charging, do you wait 3 weeks before filing the case or not?

Mr. HYDER. No, we either—we review them now, and if they are filable as felonies, and the evidence is sufficient to file, we file.

Ms. STEIN. Without waiting 3 weeks?

Mr. HYDER. That's true. If it appears to be the normal nonserious aggravated battery situation which might be a misdemeanor, we send it to the city.

Ms. STEIN. Suppose, it was an aggravated assault by reason of being an assault with a deadly weapon; in that case, do you apply the 3-week waiting period?

Mr. HYDER. No.

Ms. STEIN. Even if there was no bodily injury?

Mr. HYDER. That's true.

Ms. STEIN. You do not apply it?

MR. HYDER. No.

MS. STEIN. Mr. Johnson, if a woman, victim of an active interspousal violence, comes to you and says that she no longer wants to continue with the case or wants to drop the charges, how do you respond?

MR. JOHNSON. As a practical matter, that situation doesn't normally— well, it might arise with me. It depends on the situation. A lot of times we'll go along with the victim's desires, but it may be a result of coercion of some kind.

MS. STEIN. Let me just interrupt for a minute to ask why you said it doesn't very often occur.

MR. JOHNSON. Well, it doesn't very often come to me. In other words, once we file a case, just as a procedural matter within the office—I mean, once we file the case and the case is assigned usually to a preliminary hearing deputy, or to a deputy who has trial responsibilities and he's responsible for handling the case, and we don't vertically prosecute those types of cases. We prosecute vertically some types of cases, child abuse cases, but not the normal aggravated assault case, if there is such a thing.

MS. STEIN. I'm not sure, were you saying prosecute vertically?

MR. JOHNSON. Right, some offenses we prosecute vertically; in other words, we—the deputy who receives the offense report does the screening of the case and makes a charging decision.

He will then take the case through the grand jury process if appropriate, the preliminary hearing if appropriate, and then through trial, and we do that, there are numbers of categories, major felony offenses we handle that way. One attorney from start to finish; child abuse cases to the extent possible. We have one attorney who will screen all of them. She won't try all of the cases, but she will be able to take the majority of the child abuse cases, anyway. Those that have, you know, they have particular difficult legal issues she might be familiar with.

MS. STEIN. Mr. Hyder, is there a policy in your office as to what an attorney should do if the woman—if a woman victim of interspousal violence whose case is being handled by that attorney comes to the attorney or tells the attorney she does not wish to continue prosecution?

MR. HYDER. Well, there's no policy, per se. Attorneys have discretion. All the cases are different. What we try to do is long before it reaches that stage through our victim-witness program is to give the victim counseling so she understands exactly what the purpose of the prosecution is, why it's important for her to carry through with it. We try to give them counseling, if needed, or recommend counseling if they—if it appears to us that they need it, and if after all that fails, they still do not want to carry it through, we have tried in the past still to convince them to do otherwise. Sometimes it is just impossible.

We have had some cases where the victim has refused to testify but we have, through negotiations with the defense, obtained a plea of

guilty, either to that charge or to that charge for the most part with stipulation of no prison time or a plead to a reduced plea.

MS. STEIN. Do you ever proceed with the prosecution in spite of their request to drop it and subpoena her as a witness to testify?

MR. HYDER. Not as a matter of policy. It has been done.

MS. STEIN. But your policy would be otherwise?

MR. HYDER. No, there's no policy with regard to do or not to do in that situation. As I say, we leave it up to the attorney's discretion. He's most familiar with the case.

MS. STEIN. Can you give us any idea of how frequently it would occur that the attorney would proceed and subpoena the victim as an unwilling witness?

MR. HYDER. No, I couldn't. I don't think that it's a common occurrence.

MS. STEIN. Is your policy—is there any way in which you would treat an unwilling victim in an interspousal violence case differently from another unwilling victim in another type of case, such as a rape case, where the victim did want to proceed?

MR. HYDER. Well, we have. Again, to give you a general yes or no is impossible. It depends really upon the case. You know, over the past few years we've had a number of rape cases where victims did not want to testify, which we did prosecute because of the dangerous nature of the defendant, one perhaps that we had on repeated charges.

MS. STEIN. Was your experience in those cases that the woman would lie on the stand or when she was subpoenaed and forced to testify, would she tell the truth?

MR. HYDER. Well, the ones that we were able to subpoena to bring into testify, for the most part, we had good success with; they told the truth. A lot of them avoided subpoenas when they knew we were going to proceed with it by either leaving the jurisdiction or remaining in hiding and so forth.

MS. STEIN. But those who are subpoenaed went ahead and testified truthfully for the most part?

MR. HYDER. Well, again, to the best of my recollection, I would answer that question yes, but I'm basing that on my own experience.

MS. STEIN. What about in a case of child abuse by a father or a stepfather? It seems to me in that case there are—many of the same considerations would weigh upon the mother, fear of loss of support, perhaps love for the man, perhaps fear of him, and even the child might have a reluctance to see the father or stepfather prosecuted.

Do you treat those cases in any way differently, or do you drop them if the victim or witness doesn't want to proceed?

MR. HYDER. No, we don't drop those cases. In fact, we have attempted to establish—because of the acute problem of child abuse in this jurisdiction, we've attempted to establish a specialized prosecution program to handle those cases.

I think the difference between those cases practically is that with spouse abuse you're dealing with adults for the most part who are not reliant upon somebody else for their existence. In the case of child abuse you're dealing with people who are relying upon the parents or those adults who are caring for them for their existence.

In many cases those children, of course, are too young to testify. We were successful, I think, in the early, or the late sixties in having the law changed in Arizona. Prior to the change, we have—we have two laws or two privileges in Arizona: one is the spouse disqualification privilege which prevents one spouse from testifying against another, period; and the other is the marital communications privilege which protects those communications made during the marriage which are intended to be confidential.

Because of the child abuse situation and the crimes against members of the family, we were successful in pushing through the legislature a change in the law to show that, if there is abuse or criminal conduct toward the immediate family of one of the spouse members, that privilege, the spouse disqualification privilege, is waived.

But with regard to child abuse, even though we didn't get the program, that does remain a top priority with us. As Mr. Johnson said, we have one attorney who is specially trained in handling those cases.

Ms. STEIN. Thank you.

Mr. Johnson, could you tell us what standard you employ in deciding whether an injury arising out of an interspousal assault is serious enough to be aggravated assault as opposed to misdemeanor assault?

MR. JOHNSON. To a certain extent, the question is difficult because there are some unresolved issues. The law speaks in terms of serious physical injury as being an injury which is creating possibly a reasonable risk of death or serious impairment of a bodily function or organ, and protracted impairment of bodily function or organ.

And one thing that hasn't been resolved by the courts is definition of "protracted" and also, interestingly enough, a definition of "impairment." And what's also—I don't know if this is of any particular interest to you, but the word "impairment"—there's some doubt whether or not medical testimony is appropriate or whether or not, if the doctor or medical expert testified—whether or not he would invade the province of the jury.

To give you a practical example of why it's a problem, we had a situation where somebody suffered a, oh, say an injury called a fractured jaw, and I don't know what various peculiarities are of fractured jaws, but much to our surprise a physician told us this was not an impaired—she did not have an impaired condition, if you will.

I expected the doctor to come back and say, "We have a protracted impairment here." The doctor said, "No impairment." He's using impairment perhaps other than the way I'm using impairment.

Also, there was something peculiar, about one fact situation as far as the nature of the injury, which perhaps put it outside the definition

of serious physical injury, whereas another fractured jaw might have been. But there is a little bit of question regarding one of the subsection definitions of assault, but that cuts across sex, age, or anything else.

Ms. STEIN. Is it your practice to make the decision based on medical advice as to whether something is a protracted injury?

Mr. JOHNSON. To a certain extent, yes. In other words, not so much protracted, although that's not defined by the legislature and the definitions. If there were an impairment, we've been utilizing medical assistance on it. We've usually been going back to the victim's physician and asking for his diagnosis, prognosis, etc.

Ms. STEIN. Do you have any standards for deciding what is a deadly weapon or a dangerous weapon sufficient to make a crime an aggravated assault?

Mr. JOHNSON. Well, it depends on—a deadly weapon is practically well defined, a gun or knife or thing of that ilk. The dangerous instrument depends on the manner and method of use, and that can be a lot of different things depending on how it's used and what it is, a jury question of fact.

Ms. STEIN. Can you give us any impression of how frequently it occurs that the police will forward a charge to you recommending aggravated assault and you will decide that that's not substantiated and only a simple assault prosecution would be warranted?

Mr. JOHNSON. Okay. Are you talking about aggravated assault generally or in any particular area?

Ms. STEIN. Well, if you can give me an impression limited to the interspousal violence field, that would be better.

Mr. JOHNSON. Okay. Well, usually there are various, you know, different ways an aggravated assault can be committed. One of the ways is by the use of a deadly weapon; another way is through serious physical injury; another way is entry into a home with the intent to commit the assault. That latter category is normally difficult to prove.

The use of the deadly weapon—well, use, again, can—means a lot of different things. It may mean as little as exhibition as opposed to the actual firing of the weapon or threat to use the weapon. Serious physical injury is, unless you have these gray areas of what is protracted impairment, what is not—we don't send those back if they're serious physical injury.

We file the cases with broken arms, serious physical injury. Display of the weapon, a gun or a knife, slashing motion of the knife, firing of shots, display of the weapon. A lot depends sometimes on the mental state of mind of both the victim and the suspect, you see. In other words, you talk about the elements.

If the individual is intoxicated so that he cannot act intentionally or knowingly, supposedly, then his state of mind is reckless and reckless only fits some of the subdefinitions of the assault; he may have to go under endangerment theory. Could be a felony or misdemeanor de-

pending—or some other type of misdemeanor. There's a lot of variables involved.

MS. STEIN. With regard to the dangerousness of the instrumentality, what would you say of beating with a stick, let's say, 5 inches long, 1 inch thick by 1-1/2 inches? Would you consider that to qualify?

MR. JOHNSON. Without more I wouldn't even know. If it were balsam wood, it probably wouldn't be much of a club or weapon. It really depends on the individual situation. We filed one case as a stick, the offense report described it as a stick, and we got to the preliminary hearing and it was a twig, basically. I mean, it looks like a stick and you have a vision of something akin to a nightstick.

Well, when you get to court, it ends up being a twig or an elongated branch of some kind. And there's a difference then between the two as far as what types of injuries it can impose.

It really depends on the individual item and when you get down to things that aren't well defined, like guns or knives, you are talking about pieces of wood or stick or clubs or things that can be used as clubs.

You really have to have specific; you really need to know a lot about the specific item. A pencil can be used as a deadly or dangerous instrument. It depends on the manner and method of use. Each individual case is peculiar to its facts.

MS. STEIN. So you would say that that is a decision that has to be left to the individual attorney to decide?

MR. JOHNSON. Yes, ma'am.

MS. STEIN. Mr. Hyder, we understand that you have adopted a policy of not seeking to initiate proceedings under the peace bond statute; is that correct?

MR. HYDER. That's true.

MS. STEIN. What considerations led you to adopt this policy?

MR. HYDER. Well, when we had pursued that policy, what would happen is that the defendant, so to speak, would be taken in front of the court. The peace bond was issued if we could show that the person who requested it was under imminent fear for their life or under fear of death or serious bodily injury.

Normally, they'd come in and relate to us, the women would, exactly what was said to them. "He said he's going to kill me. He's tried to beat me," what have you.

When we got the peace bonds, we found that the majority of those cases, that the individuals who had the peace bonds against them moved right back in or continued to live with the woman, or she continued to see him, and would never report to the police that she was being harassed or threatened or bothered until perhaps she was abused again.

In many of those cases, it had no effect at all. We felt that on our level with the justice courts that it just wasn't an effective deterrent at all. And I think with regard to when the law was changed, with re-



gard to making misdemeanors, making part of these crimes misdemeanors that the city could handle, that we adopted the policy that we felt that the city would deal with them much more severely than the justice of the peace courts would and probably be much more effective than the peace bond route through the threatening statute.

MS. STEIN. Through the threatening statute, the misdemeanor of threatening and intimidating?

MR. HYDER. Yes.

MS. STEIN. That is what you propose as the alternative?

MR. HYDER. Well, that's the way we feel would work out the best.

MS. STEIN. In your opinion, does the criminal justice system deal adequately with the problem of violence between spouses?

MR. HYDER. No.

MS. STEIN. Are there any alternative programs or resources that you feel would enable your office to deal better with it?

MR. HYDER. Just spousal abuse or the whole family?

MS. STEIN. Just spousal abuse, and part of my question is, If the answer is no, where do you think it should be dealt with?

MR. HYDER. Well, I believe that it depends on what your goal is. If your goal is to reduce spousal abuse, I think the criminal justice system is probably, as I say, the last stop on the railroad. It should probably be the last alternative.

I would like to see in between the complaining stage the police officer and, before it reaches the prosecutor's office, some type of mandatory intervention, either by the court or some body set up where both the abused and the abuser would have to go through some type of counseling, and that the problem should be examined closely to determine whether or not prosecution in that particular case is even deserved, whether or not it is a prosecutable case. Certainly, I have no quarrel with the cases in which there is serious bodily injury, or it appears that we have a weapons being used, and what have you.

But I don't think that that's going to stop domestic abuse, prosecuting. I think that anybody who has dealt with this over a period of time can see that prosecution is not the answer. That should be the last alternative available. There are some district attorneys' offices in this country who have specialized programs set up for spousal abuse. Now, we don't have one at this time. I believe Los Angeles does, Colorado Springs.

MS. STEIN. There are some jurisdictions that claim to have reduced the rate of women who do not follow through on these prosecutions to less than 10 percent by means of assuming the full responsibility for the decision whether to prosecute, subpoenaing the woman if she is unwilling to testify, asking for sentences such as incarceration in the evenings and on weekends in order to take into account her fear of loss of support, and giving her supportive counseling during the process.

Are you familiar with those studies and, whether or not you're familiar with those studies, do you think that is a workable alternative that would have good results?

MR. HYDER. I'm familiar with some of those studies. I think some of them have had good results. There are certain questions that I don't know if they have answered: One, I don't know whether they have decreased spousal abuse or just a decrease in reporting, and I don't know if the decrease in reporting is because they have to go through certain mandatory counseling types of events, or whether or not the threat of having a spouse being subpoenaed in has caused some of them not to come forward.

I've heard from district attorneys in those jurisdictions that have some of those programs that they think that might be a result, too; I'm not sure.

MS. STEIN. Is it your opinion that's what the result would be?

MR. HYDER. I don't know, because I haven't—I don't have a program like that. I haven't had the opportunity of really reviewing it. It's just what I read.

MS. STEIN. Thank you very much.

I have no further questions at this time, Mr. Chairman; however, I would like to ask leave to introduce the statutes concerning assault and aggravated assault, Arizona Revised Statutes 13-1203 and 1204, to be placed on the record as exhibits in this place at this time.

CHAIRMAN FLEMMING. Without objection, it will be done.  
Commissioner Horn?

VICE CHAIRMAN HORN. Mr. Johnson, we've had a little discussion between you and counsel and the county attorney on that 3-week waiting period policy. To what degree is that policy still in effect in the charging units of the county attorney's office for any type of case?

MR. JOHNSON. It is still in the policy manual. There's an exception in the policy manual, the situations where there is anticipated harm or danger of some imminency, and those cases are filed.

Now, the aggravated assault statute involves those types of cases invariably; so, as a practical matter, the 3-week waiting period isn't the rule anymore because we deal with serious physical injuries, or the deadly weapon.

Now, we have had cases, and we do have cases, where we do ask for a 3-week waiting period, and they are a minority, but there are cases that we do still have in that particular period, but it depends on the peculiar facts of the situation.

VICE CHAIRMAN HORN. Mr. Hyder, as I understood your testimony, you said you weren't really following the 3-week waiting period anymore since the change in the law. Should it still be in the policy manual, or what is the policy of the county attorney?

MR. HYDER. Well, it is still in the policy manual. That manual and those policies are undergoing possible revision at this time. We've left it in there because, as Mr. Johnson says, though it is not followed now

for, I would say, the majority of the cases, there are some rare instances when it has arisen.

VICE CHAIRMAN HORN. Well, I must say as the administrator of an organization, I find it strange that when the policy changes, the policy manual doesn't. When I change my policy, I change my policy manual. I don't wait to reprint the whole edition.

Is there a problem there, or a difference of opinion in the county attorney's office, or what?

MR. HYDER. No, that's a policy that we have decided pragmatically which should not be followed for the majority of the cases. It has remained in there because there have been some cases, rare as they may be, that it has been used in.

I don't know what type of organization you administer. I can only tell you for us to get our whole policy manual revised and reprinted does take some time. There are editions that are always added to it and notices of deletion. That's one policy that has not been deleted but not been followed, for the most part.

VICE CHAIRMAN HORN. Well, I administer an organization of 3,500 employees and we make frequent changes in policy and we just send out a notice, and I guess my query would be the kind of signals the 3-week policy sends out. If it is not followed in a majority of cases, it seems to me the simple thing to do is take it out of there, and if somebody does not want to act, to seek an exception from a supervising attorney.

MR. HYDER. As I said, that's the procedure we're undergoing at this time.

VICE CHAIRMAN HORN. Let me ask you, Mr. Hyder, you are an elected county official. You, obviously, and your staff deal with the problem of spouse abuse. Do you see a role for the Federal Government in this area, and, if so, what is that role?

MR. HYDER. Well, I think the Federal Government might have a role in being able to fund studies to determine what the causes and possible alternatives to prosecution might be, if any.

VICE CHAIRMAN HORN. What are some of those alternatives that you think make sense?

MR. HYDER. Well, I think, as I said before, there has to be or I think there has to be, some step in between the reported incident of abuse, some type of procedure, before it gets to the prosecutor's office, to determine whether or not prosecution is the alternative that should be taken. Just perhaps counseling might solve it. Maybe one of the parties need, or both of them need, psychiatric care. Maybe they have problems that are facing them in their marriage or their relationship that has continued or is something that has continued even prior to their marriage or prior to their relationship with others.

I think those things have to be explored. I just don't think that the criminal justice system is a panacea for society's problems, and I think that the legislature, for the most part, whenever there's a problem that

nobody can define or knows how to handle it, if it involves some type of violence, they make it a crime. I don't necessarily think that's the right approach.

VICE CHAIRMAN HORN. You mention studies. I wonder how much we need to study. As I listened to some of the witnesses this morning, I asked several of them the degree to which alcoholism was a cause of spousal violence. One could argue, perhaps, it is not a cause, that's just another symptom, as is spousal violence, of deeper troubles.

You mentioned counseling. It seems to me we know a lot of the ways to help alleviate, get at the problem, or provide options to the victims of the problem. It is just a case of getting down to the will and the resources to do something about it, whether you're providing crisis intervention teams, whether you're providing shelters to separate the victim from the abuser, whether you're providing educational opportunities, or whatever. What are we talking about? Lack of will? Lack of resources? Both?

MR. HYDER. Well, I think, first of all, you have to define what your objectives are. If your objectives are just to prosecute those who commit crimes, then admittedly prosecution and the criminal justice system has a role to play.

If you're trying to prevent this from occurring, I think that there are other programs, and I can't tick them off—you've named a lot of them—that should be looked at prior to getting to prosecution. I don't think that prosecution for offenders does anything except to stop the problem with regard to the particular offender.

VICE CHAIRMAN HORN. Well, but that isn't a bad goal. I guess one of my concerns is what we call almost a "Catch-22" situation, that one reason we do not prosecute and cannot get witnesses to prosecute spouse abuse situations is that there's really no other place for the victim of the abuse to go than home, as much hell as that home might be. So, therefore, if you could set up a system of shelters to get people out of the homes so they would not have to live there, take the abuse, and forget for a moment all the other weird psychological attachments that the couple might have in some love/hate relationship, at least then the prosecutor could go ahead and prosecute the abuser, just as you prosecute anybody else that beats up somebody. You know, what shocks me in this whole affair is that, if a policeman walked into a situation where he found blood all over a person, somebody standing there with a brick, there wouldn't be much argument about what you did, but the minute you find out they are living together, either in marriage or out of marriage, all of a sudden there's a great reluctance to throw the book at the person. And I must say, I just keep thinking to myself, I realize people are fickle in this world, whether they are spouses or not, people live in fear of somebody that's going to go after them, prevent them from testifying, kill them, but how do you isolate that problem so you can prosecute them and, if you know they're prosecuting them, it seems to me that is some deterrence to future deviate behavior.

You know, if we all know we can drive 70 miles an hour and the Arizona State Police aren't going to do anything about it, most of us are probably going to drive 70. But, if we know they are going to pick us up at 56 miles an hour, most of us are going to be driving 55. And that's what throws me as I listen to the discussion.

MR. HYDER. Well, I don't think that there's been a reluctance to prosecute at all with regard to these crimes in the last few years. I think it's a matter of pragmatically looking at the problem. Ideally, you would like to have a situation where all victims want to have the defendant prosecuted, and maybe if you had the situation where somebody hits somebody over the head with a brick, you'd have it.

Pragmatically, with regard to these cases, our zeal to prosecute still cannot offset the fact that the victims many times do not want to prosecute, and I think you can talk about forcing the victim to prosecute, subpoenaing the victim in, cajoling them to testify, and again I think it depends on what your goal is. If it is just to prosecute that offender, you can say you're very successful. If it is to get to the causes and prevent it, with regard to that individual who was convicted of that crime, perhaps, if he gets a jail sentence or prison sentence, you'll prevent it during the time he's in there. That doesn't necessarily mean the victim is going to be protected. We found many victims who have had that who go live with somebody else, who come back in with reported abuses in those cases.

VICE CHAIRMAN HORN. Well, again, I just point out that when the abuser goes out and commits an assault on someone else, and the county prosecutes successfully, and the abuser is sent off to jail, and that person might also have been a wife beater, the fact is the wife who is the victim is still living at home, minus the support of the abuser, possibly, etc., etc., and I just again fail to draw the distinction, although I realize the psychology involved.

Let me pursue one last question. Have you had an opportunity to study the local bar association report that was critical of the way the domestic violence cases were handled in the county prosecutor's office?

MR. HYDER. I read it.

VICE CHAIRMAN HORN. What's your reaction to the allegations?

MR. HYDER. I think it is indicative of somebody who doesn't understand how the prosecutor operates or what the problem is in the system.

VICE CHAIRMAN HORN. Did that group ever sit down with the prosecutor's office to elicit statistics and examine the situation? What's the basis for their findings?

MR. HYDER. I don't know if they talked to anybody in my office. They didn't talk to me about it.

MR. JOHNSON. They talked to me.

VICE CHAIRMAN HORN. What's your conclusion, Mr. Johnson, as to their findings?

MR. JOHNSON. Well, as far as possible alternatives, I suppose to a certain extent I have a little disagreement. I was critical of the study because it, like so much of what we're saying, is based on intuition and experience without empirical data because of requirement of difficulty of getting that type of data.

I know when they dealt specifically with the prosecution function, they examined the policy and they dismissed it by saying they were cited to particular episodes that seemed to discount that.

I don't think that's terribly scientific or empirical or anything else. It certainly wasn't discussed with me, and I have no idea how they formed their conclusions. So, you know, I don't want to be nitpicking about it, but I didn't care for the line. But, as far as the—I thought the concern was good about the area. And I know they interviewed the police and got their viewpoints, and I know they talked to the city prosecutor and indicated a concern for handling the situation other than, you know, the present way it's being handled, alternatives to jail and release and things of that ilk. To that extent, I thought it was helpful and people were interested and concerned about the area.

VICE CHAIRMAN HORN. Mr. Chairman, I would like that report to which I refer included at this point in the record.

MS. STEIN. We will have further testimony about it later on.

VICE CHAIRMAN HORN. Well, but I want it cross-referenced to this question and in the record.

CHAIRMAN FLEMMING. Without objection, it will be entered in the record.

VICE CHAIRMAN HORN. One last question. I'm curious—has the sheriff of Maricopa County, the chief of police of Phoenix, the county prosecutor, the city prosecutor ever sat down to discuss a common coordinated policy as to how one might deal with spouse abuse cases in this area?

MR. HYDER. Not that I know of.

MR. JOHNSON. Well, as part of their process involved in Maricopa County Bar, I was involved; Chuck was not. I went over with the city prosecutor, the police department—that was one, I suppose, part of the process. I know Debbie Jaquin, head of our victim witness program from our office has had contacts with the city of Phoenix and their program, seeking to possibly have some type of alternatives to the present ones we're using right now, so there has been a process. It's been informal, I suppose, but there are a number of people involved in the system.

VICE CHAIRMAN HORN. What I'm pressing for is, does it make sense if maybe the chief officials, elected and appointed, in the respective criminal justice areas could sit down and see if they could work out a coordinated approach in the area, making it perhaps a model, because, as you and I both know, all over America different segments of the criminal justice system have spent a good part of their time blaming each other, which is a very sad commentary. I mentioned

earlier today, the police blame the prosecutor who blames the judge who blame the correctional system who blames the probation officer, and I'm just wondering if that would be of some value, and I merely throw it out as a suggestion.

MR. HYDER. Well, I think that that suggestion is a good one. We have tried to get, on the county level, a criminal justice planner so that we could target and prioritize what we feel the most substantial problems in law enforcement. I've tried to get that done through the county, haven't been successful. I think one of the problems is that perhaps prosecutors have higher priorities perhaps than the police do, and maybe higher priorities than the courts do, and I think that the suggestion that we meet and set goals and set priorities is a good one. It hasn't been done.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Hyder, in testimony which we received earlier today, witnesses indicated that the police officers and the prosecuting attorneys, including the county attorney, gave a very low priority to prosecution of charges for spouse abuse. Your testimony indicates a tendency to sustain that because you have indicated that there's a distinction in your mind between aggravated assault generally and a aggravated assault on a spouse, and then you follow it by saying, "The criminal justice system is not a panacea for society's problems."

Well, what is the criminal justice system supposed to do?

MR. HYDER. Well, let me answer you this way. I'm not trying to convey to you that it is not a high priority with us. I think the fact that we have no longer utilized the majority of our cases, the waiting period, the fact that the law has been changed, and the fact that we have legislation which has now, in many respects, made it easier for us to prosecute as felonies some of those crimes, indicates to me, anyway, that it is still top priority with us.

I cannot deny that perhaps with regard to other offenses, it doesn't rate way at the top, but to me it is a serious problem and I think that we've demonstrated it by our programs that we think it is. We have just been able to get a victim/witness program in the last year and a half, and counseling those victims or those types of crimes is a top priority.

We have done something that most prosecutors' offices haven't throughout the country and that is to establish a relationship with the Center Against Sexual Assaults, which gets many complaints about spouse abuse, and we have a working relationship with that organization. They, for the first time, understand the prosecution goals and that is to successfully prosecute.

What I'm trying to tell you is that, again, it depends on what your goal is. If it is to prosecute the offenders for these types of crimes, and the elements are there, we'll prosecute. If it is to stop this type of thing, certainly, as Mr. Horn said, it could be a deterrent, but I don't

think that the criminal justice system—what I said was—is the panacea for those types of problems, to get to the causes of that type of abuse.

We prosecute murderers but that doesn't stop people from killing. I think that with regard to spouse abuse, because it's an emotional thing, involves the family unit, that we have many conflicting aims within the system. We have Department of Economic Security perhaps, whose goal is to keep the family unit together, especially in a case of child abuse. Instead of removing the child from the bad home or bad environment, they are desirous to get the child back into that home. On the other hand, my desire to prosecute the child abuser is to keep that child out of that home and to prosecute.

We're working in the same system but we're working in opposite directions.

COMMISSIONER FREEMAN. You indicated that you believe that there should be less prosecution of a husband than there would be of the beater of a child? Do you have any information to show the relationship between the battery of a spouse and the battery of a child?

MR. HYDER. I'm glad you asked that question because that's part of the program that I was trying to get last year on my budget—was to set up a special program which I believe will give us that type of information. I don't have it now. I can just tell you from prosecuting the last few years that my gut reaction is that in many cases there is a relationship.

COMMISSIONER FREEMAN. Well, would it not be, then, sound for you to consider that, if you prosecuted that man, that you would be removing the person who would beat up the woman as well as the person who would beat up the child?

MR. HYDER. In those cases where there was children and reported cases of abuse of children, I would agree with that.

COMMISSIONER FREEMAN. I also am concerned that you, as an elected official, might have a double standard, and maybe when you present yourself to the electorate they may want to know that you will not be as interested in prosecuting a person who would be involved in spouse abuse as one who would be involved in another less crime.

MR. HYDER. Well, I can't argue with you about your concern. I can only tell you that my consideration as an elected official based upon performance is, really, I don't care what the pressure groups think as long as I think we're doing right. I'm not letting go my—

COMMISSIONER FREEMAN. Do you consider that a person—that the people who ask for prosecution of a female victim, that these people are pressure groups?

MR. HYDER. Are what?

COMMISSIONER FREEMAN. Pressure groups?

MR. HYDER. In some respects. Depends on which group you're talking about. I have no complaint with anybody in the public who is concerned about spouse abuse. I think that along with child abuse and abuse of the elderly are some of the most serious things that we face in the country today, serious crimes that we face.



COMMISSIONER FREEMAN. Do you have a program for carrying out the duties of your office with respect to prosecuting the people who are responsible for the act?

MR. HYDER. That's true. We carry it out.

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. Mr. Hyder, you just said a little while ago, with a smile, there is no reluctance to prosecute in domestic violence cases. Let's go a little bit further.

Unfortunately, staff was unable to find female policymakers or female patrol officers as witnesses. Excepting witnesses who have given shelter to battered wives, the witnesses have been male witnesses—the police, the prosecutors, the policymakers have all been male witnesses that we have listened to.

Now, will you agree with me, Mr. Hyder, that violence between spouses is a serious social problem?

MR. HYDER. I'll agree with that.

COMMISSIONER RUIZ. Will you agree with me that there is an offender and a victim in domestic violence situations?

MR. HYDER. Yes.

COMMISSIONER RUIZ. Do you have a statutory duty to nevertheless prosecute cases of assault even though the victim forgives his assailant?

MR. HYDER. I have a duty to enforce the law, and that oftentimes arises.

COMMISSIONER RUIZ. That's your statutory duty, isn't it, even though he forgives his assailant?

MR. HYDER. That's true.

COMMISSIONER RUIZ. That's true. Now, our system of social relations between husband and wife is rapidly changing. The common law concept of master and servant has changed. The common law concept that a woman is a chattel no longer prevails in our society. The Arizona concept is that man and wife are a community of equal status, of equal dignity.

Now, does that really apply when the male victimizes the battered wife, when the wife is told to "hold off for 30 days and you'd better reconsider or else, and have second thoughts before we will help you"?

Mr. Hyder, do you believe that justice delayed is justice denied? Do you believe that?

MR. HYDER. No, I don't believe that.

COMMISSIONER RUIZ. You don't believe it?

MR. HYDER. No.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. No questions.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. No questions.

CHAIRMAN FLEMMING. I'm glad that my colleague, Commissioner Horn, raised the possibility of the coordinated effort, here in this area,

on the part of those who are playing a role in dealing with this particular issue. I noted that you responded affirmatively to that suggestion and I want to simply express the hope that there could be a followup on that.

I would like to ask both of you if you are acquainted with the work of the Rainbow Retreat, and also if you are acquainted with the work of the Sojourner Center?

MR. HYDER. No, I'm familiar with the Rainbow Retreat.

CHAIRMAN FLEMMING. You are familiar with that?

MR. HYDER. Yes.

CHAIRMAN FLEMMING. But you're not familiar with the work of the Sojourner Center?

MR. HYDER. Not that I know of, no sir.

CHAIRMAN FLEMMING. Mr. Johnson?

MR. JOHNSON. No, the name is not familiar. Is the location Phoenix or Tucson or—is it Phoenix? No, I'm not familiar with it. Rainbow Retreat, no sir.

CHAIRMAN FLEMMING. It is Phoenix. Both of them are shelters for victims of domestic violence and we took testimony from representatives of both shelters. Well, to the extent that you are familiar with the work of the Rainbow Retreat, what is your reaction to the role of a shelter of that type in dealing with this issue?

MR. HYDER. I think they serve a constructive place with regard to this issue in that they offer a good service. We, if I'm not mistaken, 2 years ago, were involved with Rainbow Retreat. They were in our office to counsel people with regard to these types of problems, and they would interview spouses and make recommendations as to which ones they would take as an experimental program when they were first getting started to see whether or not it was a viable concept, and I think they remained with us for over a year. I'm not sure, but it appeared to be a very successful concept, a viable concept.

CHAIRMAN FLEMMING. Mr. Johnson?

MR. JOHNSON. When it was in operation, I was in another section of the office, but my understanding was that the idea was good and unfortunately it didn't work out as expected for a variety of problems. One had to do, I think, with administrative or funding problems of some kind. And, to a certain extent, there was some disappointment with respect to the way everything worked out, and I think the efforts of Phoenix now, for example, with respect to Mr. Levin, I think, is trying to work something out, in respect to a Federal grant, to work with, do something along the same line, but there was a disappointment of some kind.

I don't know exactly what the details were but I know there was an administrative problem of some kind I heard about. But the idea was one of those things that was hoped for to be a good idea, something that would provide an alternative for the women, give them some shelter.

I don't know to what extent, you know, they interviewed the women and found out, you know, if they had a classic battered female situation, or to what extent they got involved in therapy or counseling, but as an alternative, as a shelter, temporary abode, or counseling, I suppose the emphasis was it was a good idea, certainly.

**CHAIRMAN FLEMMING.** Any further questions?

If not, we appreciate very much your being here and providing this kind of testimony and helping us as we try to come to grips with this issue. Thank you very, very much.

Counsel will call the next witnesses.

**MS. STEIN.** Mr. Chairman, at this point, before calling the next witness, the staff would like to introduce into the hearing record a description of the methodology used to examine a sample of records of the Phoenix Police Department, the Maricopa County attorney, and the Phoenix city prosecutor. We request that this document be marked as an exhibit and that the hearing record be held open at this point for submission of the results of our analysis of the data obtained.

**CHAIRMAN FLEMMING.** Without objection, that will be done.

**MR. HARTOG.** Would Anita Gutkin and Philip Bushard please take the stand?

[Anita Gutkin and Philip Bushard were sworn.]

**TESTIMONY OF ANITA GUTKIN AND PHILIP BUSHARD, FAMILY COUNSELORS,  
MARICOPA COUNTY CONCILIATION COURT**

**MR. HARTOG.** For the record, would you both please state your name, your business address, and your title or position?

**MS. GUTKIN.** Anita Gutkin, family counselor, Maricopa County Conciliation Court, 201 West Jefferson, Phoenix, Arizona.

**MR. BUSHARD.** Philip Bushard, family counselor for the Maricopa County Conciliation Court.

**MR. HARTOG.** As counselors for the Maricopa County Conciliation Court, would you please, Ms. Gutkin, explain what it is that you do?

**MS. GUTKIN.** We provide counseling service connected to the superior court. The counseling service includes relationship counseling in cases of divorce, or marriage counseling in cases where there is no divorce. Anyone in the county is eligible to come in for marriage counseling or relationship counseling; that is, we see couples also who are not married. We also provide recommendations to the judges in cases of pending custody decisions and we provide premarital counseling.

**MR. HARTOG.** How often and for what length of time can you see couples that come in to you for either premarital counseling, marital counseling, or relationship difficulties?

**MS. GUTKIN.** Normally, we see clients, we see one spouse for an hour, then another spouse for an hour, and the couple in a joint conference. When the calendar permits, we may see a couple for another one or two times if we deem that as in service to the couple.

MR. HARTOG. Generally, what are your objectives in the counseling?

MS. GUTKIN. Our main objective is to promote family life. If it's possible for the couple to come together in a new way so that their life can be changed and they can live together in a way that's constructive, that is our objective.

If it means that the couple will have to split and relate to each other in a new way, in a divorce situation, then that is our objective. The promotion of constructive family life.

MR. HARTOG. Mr. Bushard, what are the qualifications one must have to be a counselor in conciliation court?

MR. BUSHARD. All of the counselors have master's degrees and also 5 years' experience in marriage and family counseling.

MR. HARTOG. Thank you. I understand that in November of 1979 the conciliation court formed a domestic violence committee which, Ms. Gutkin, you chaired; is that correct?

MS. GUTKIN. Correct.

MR. HARTOG. Could you please explain its origin and the purposes of the domestic violence committee of the conciliation court?

MS. GUTKIN. Yes. Sometime in the fall of 1979 there was a recommendation by the family law section of the bar committee that affected the conciliation court. When that recommendation came out, Judge Cantor selected or appointed this domestic violence committee to try to respond to that recommendation.

I would like to add that the response to this recommendation was a formalization of a domestic violence program. Prior to that time, the counselors on the staff dealt with this and continue to deal with this on a day-to-day and case-by-case basis.

MR. HARTOG. Could you please explain what you are trying to develop and the program you are trying to develop, as a domestic violence committee?

MS. GUTKIN. Well, there are several ideas we've had about developing this program. One of the first things we needed to do was to beef ourselves up and gather information and begin to focus as counselors on this issue and become knowledgeable about that in terms of therapeutic kinds of things we can do and in terms of the problem as a whole, social problem. We have reviewed all the shelters and we're attempting to develop a handout that would be one alternative we could propose to clients if they present this problem in the counseling.

MR. HARTOG. This is to develop a kind of public information sheet; is that correct?

MS. GUTKIN. A public information handout that would provide information about the shelters, provide information for crisis intervention, on times that we're not open, and other information of that sort, the kinds of information that might help a person in a crisis, maybe some tips on assertiveness, that sort of information handout we've been in the process of developing.

We are attempting to develop a process whereby conciliation court counselors may be able to assist a judge in the issuance of temporary restraining orders and looking into the possibility of that kind of a program.

I don't know if I mentioned, also, that we're attempting to keep more accurate statistics on the incidence of spouse abuse in the conciliation court. We have a declaration that clients sometimes fill out and for one reason or another may not list spouse abuse as a problem, and we have attempted to focus on the incidence of spouse abuse numerically or by jotting down when this occurs, whether the client has mentioned it in his initial declaration.

MR. HARTOG. Mr. Bushard, I understand you prepared a report of some of this data gathering you have been doing, called the "Domestic Violence Survey."

MR. BUSHARD. That's correct.

MR. HARTOG. I'd like to introduce this survey into the record at this point with the appropriate exhibit number.

CHAIRMAN FLEMMING. Without objection, it will be entered into the record at at this time.

MR. HARTOG. Could you please explain the methodology you used and then some of the findings that the data have revealed?

MR. BUSHARD. The survey that we utilized for a period of 7 weeks, from December 17 through February 1, was developed by the domestic violence committee. All of the counselors on staff participated in administering this survey to their clients. It is noted that through the survey period we were able to get 75 matched couples' responses, that is, the responses from both husband and wife in 75 couples.

It is noted that there are some limits to the survey methodology from a scientific point of view. I would say that the data that we did gather is an accurate reflection of the type of couples that we see in the conciliation court.

Concerning the results of the 75 matched couples, 38 percent have both spouses reporting that there has never been an incident of domestic violence. That means that 54 percent of the couples, or 38 couples, report one or more incidences of domestic violence. For purposes of our survey, we define domestic violence as hitting, pushing, any type of physical contact during a family or spousal argument.

Of the couples that experienced domestic violence, it is important to note that only one-half report any police contact; therefore, 19 of the 75 couples had 2 or more domestic violence interactions in their marriage, and only that 19 called the police.

In chronically dysfunctional marriages, it is really important to note that the discrepancies reported between the husbands and the wives greatly increased. For example, the couples reporting police contact, the males indicated a total number of 25 involvements by the police, where their spouses reported a total of 46 involvements by the police.

Concerning injury, 5 males reported that their involvement in domestic violence had resulted in a physical injury which required medical treatment and 10 females reported injury requiring medical treatment.

Finally, the perception of police intervention consequence becomes even more discrepant in noting that of the 46 total police involvements reported by the females, there was but one arrest and that was indicated that no prosecution resulted; 3 males reported arrests and none of them indicated that they had ever been prosecuted for the domestic violence.

Overall, our results show that a good 50 percent of all of the couples that we see can be expected to have no domestic violence; approximately 50 percent do have incidents of domestic violence, and the more frequent and more severe the actual physical contact between the spouses, the more likely for physical injury and the more likely for a need for some type of external intervention.

MR. HARTOG. Was that 50 percent figure one which you would have expected from previous experience in the conciliation court?

MR. BUSHARD. Yes.

MR. HARTOG. I understand you took some surveys earlier about people, recording the existence of domestic violence in your regular intake procedures prior to the use of this survey. Could you explain to the Commission what those regular intake procedures revealed or did not reveal about domestic violence?

MR. BUSHARD. Well, I believe that for years the conciliation court has reported in their annual report the types of problems that spouses present to the conciliation court. For several years physical abuse or domestic violence was virtually unreported. Typical problems would have been things like alcoholism, communication problems, unfaithfulness, loss of affection, sexual problems, and many others, and domestic violence really has not been seen by the couples that we see as a presenting problem for their appearance to conciliation court.

MR. HARTOG. Ms. Gutkin, in developing your program for the domestic violence committee, what have been the responses of the police, the prosecutors, or the judges, and the other people in the legal system with whom you had contact in trying to be effective and helpful in this area?

MS. GUTKIN. Our committee presented a handout that had some information about how to deal with the police. That was one area that I had assumed needed some work on, and before putting out anything like that with the conciliation court head on it, we wanted to talk to the police about that, and the initial copy that we recommended or put forth as a sample was dismissed as not being adequate, and so we're in the process now of reworking that handout.

MR. HARTOG. Are you hopeful that the future will show that your efforts are greeted well by the other proponents of the legal system?

MS. GUTKIN. Well, we're hoping that it will be. One of the specific recommendations of the bar committee was that we do provide some kind of a handout and it is our hope that we will do that.

MR. HARTOG. When you commenced your testimony, you indicated some of the positive things you try to accomplish in your conciliation process in talking with people who come before you. Can you give us some of the limitations, however, on your role as a counselor in terms of what you can accomplish with people who come before you with respect to women who are victims of domestic violence?

MS. GUTKIN. Well, I would like to say before I respond to that, that one of the highlights, or one of the things I see so positive about the conciliation court in listening to all the other testimony, it seems to be an area with the blending of the legal system with the behavioral science system, so I see that as real positive. Limitations that we do have are in getting people in who may not be willing to, that are not in a divorce situation. We tend to have greater jurisdiction or a greater clout in cases where there's been a divorce, some method by which we can stop people from getting what they want, namely, the divorce if they don't attend counseling.

So with the general population it would be more difficult to call them in if they haven't gone through some kind of legal process that says we have jurisdiction.

MR. HARTOG. To get back to the question I was asking, what are the limitations, specifically, on what you can do for the women who come before you complaining of domestic violence?

MS. GUTKIN. One of the things that comes to mind offhand is the short term nature of our counseling, but I don't see that as a real strong limitation because it is an initial contact with the behavioral science field; it does allow us the opportunity of opening up a variety of options so that people can be referred to longer term agencies, if that is so required, but I would say that that would probably be the number one limitation, is the constraints of time.

MR. HARTOG. Being located in the courthouse as you are, have you found that that helps or hurts your efforts to aid couples in distress?

MS. GUTKIN. My feeling is that in some cases it is probably helpful, because somehow the aegis of the court does not have the stigma that possibly a mental health agency may have.

However, you're talking about limitations and you brought in mind the limitation of the court, of course, is the location of the downtown area and the constraints of 8 to 5 hours. That, in a way, can be a limitation, but, on the other hand, is not a limitation because people need to get, are allowed to have time off from work if they're ordered to do so by the court. That kind of thing can be a limitation but it also can be construed to be an enhancement.

MR. HARTOG. Mr. Bushard, did you want to add anything to that?

MR. BUSHARD. I would say that many of the clients we see would not respond to their marital situations by seeking counseling unless

they were brought into that through the court process, through the filing of a conciliation petition by one's spouse, and in that way we are very beneficial, where we can draw in clients who normally would not go to any type of counseling or help services for their problems.

MR. HARTOG. I have no further questions at this time, Mr. Chairman.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. No questions.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. Just to help me, how does the client get referred to you?

MS. GUTKIN. There is a variety of ways. Many clients are referred by lawyers. Some clients come to us through a TV spot commercial. Some clients come through word of mouth. Some clients come through other agencies.

COMMISSIONER SALTZMAN. The criminal justice system, do they refer clients to you?

MS. GUTKIN. Only in one case that I know of, two cases, excuse me, in the last year and a half. In one case the woman had shot her husband and still wanted to be in the marriage, and the criminal judge referred them for marriage counseling to the conciliation court. And the other case was a husband who had beat the wife. When the police came, they both beat up on the policeman and they were both prosecuted in that case and the judge sentenced them to counseling at the conciliation court.

COMMISSIONER SALTZMAN. Yet, you are under the aegis of the criminal justice system, aren't you?

MS. GUTKIN. No.

COMMISSIONER SALTZMAN. I thought you were.

MR. BUSHARD. We work for the domestic relations judges, Judge Cantor, a direct arm of the domestic relations division. You asked about referral sources. For 1978, out of 2,400 couples that came into the conciliation court, just 50 percent had an active dissolution filed in domestic relations and about 50 percent had no divorce action filed.

COMMISSIONER SALTZMAN. Why do you think the police, prosecutor's office, the judicial system refer so few clients to you? Why is that? Do they not know about your existence? Do they not understand your services? There are apparently an enormous number of cases; the police get 100 calls a week, approximately.

MR. BUSHARD. I don't believe we have the direct linkage to the criminal divisions, as opposed to the domestic relations where we have many, many referrals from attorneys who deal with divorce law, family law. In terms of criminal justice, we don't have the same analogous program, say, as the PACT [Prosecution Alternatives to Court Trial] program or the drunken driving program where they can be referred directly to us through citation or some type of assignment.

COMMISSIONER SALTZMAN. Would it be possible for you to function in such a manner?



MR. BUSHARD. I'm not sure administratively how we could interface with the criminal divisions of the court without some type of restructuring.

COMMISSIONER SALTZMAN. What's the most effective corrective in your experience in helping to rechannel the abuser?

MS. GUTKIN. One of the things that seems to me that hasn't been paid attention to is the idea of male bonding, or the resocialization of males, and we're speaking here to the rights of women and to the problems of women, and along with that is a focus of the problems of men, so that when women are constrained to their roles, men have equal constraints in their roles, so that one of the things that I see is most helpful to the male abuser would be an opportunity for a reunderstanding or a new learning about themselves, first as people, as persons, and secondly as males.

COMMISSIONER SALTZMAN. So you feel that there is a successful corrective therapeutic program for the male abuser or the female abuser, for the abuser, for the person who resorts to violence in the marital situations?

MS. GUTKIN. I don't know the exact numerical statistics of, proof positive, of men who have been helped so they no longer abuse, but I am in the people changing business, and I have personal evidence of people who are able and capable of making changes and do make changes and, in fact, I envision a kind of self-help akin to AA [Alcoholics Anonymous] or GA called Wife Abuser Anonymous, of that sort, where it would be possible for people to change their behaviors. I believe in people being able to change their behavior.

COMMISSIONER SALTZMAN. Do you think that this process is better under the aegis of the system within which you work or within the criminal justice system, or should they be in both? It doesn't have to be either/or?

MS. GUTKIN. I think the idea of connecting behavioral science to the legal system is a good one, one of the things that seemed to be lacking in the testimony of the other persons. I think there was agreement that jail isn't always the answer, but it seemed to me that the idea of jail was the assumption and all ideas of prosecution rather than diversion programs related to counseling, which I see as being possible at all levels of the system.

COMMISSIONER SALTZMAN. Are you familiar with the criminal justice system beyond what you've heard today?

MS. GUTKIN. No, not really.

COMMISSIONER SALTZMAN. Okay.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. No questions.

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. Just one question. Isn't it true, Ms. Gutkin, that the conciliation court cannot and does not act as a substitute for arrest and criminal prosecution of a battering husband?

Ms. GUTKIN. We have not acted in that capacity, to my knowledge, to this date.

COMMISSIONER RUIZ. Unrelated whatsoever?

Ms. GUTKIN. To my knowledge, to this date, other than in the two cases that I mentioned.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. Yes. We've heard earlier this morning some testimony about the possibility of having a crisis intervention team go to a household when there's a complaint. And you're both professional counselors, are you familiar with the concept of sending a team of behavioral scientists rather than police officers? Do you think that would be a worthy alternative to the present system? What is your opinion of that?

Ms. GUTKIN. I most certainly do think that that would be a worthy alternative, and another alternative that hadn't been mentioned that I would be interested in knowing, that I did not find out about—people talked about helping, that this was their goal and their jobs in helping. What kind of training, what kind of manual, what kind of education do they have that teaches them to be a "helping person"? We talked about arbitrators and mediators—what kind of training do they have for doing this kind of job? So your idea of the alternative of a crisis intervention I see as very helpful and, short of that, training of people if they don't have crisis intervention.

MR. NUNEZ. You're talking about the police officers?

Ms. GUTKIN. Right.

MR. NUNEZ. Giving them a specific kind of training?

Ms. GUTKIN. Right.

MR. BUSHARD. For myself, that would be a good program to initiate for instantaneous intervention of a crisis on the streets, as an assistance to the police officer. For myself, listening to the testimony, I hear the criminal justice system depicted as inadequately responding to the committer of a crime.

I've heard testimony about services to the victim in terms of shelters. For myself, I think the maximum benefit of the conciliation court is that we work with marital systems, with marital relationships, and any change in either spouse is going to lead to some changes in that marital system, so I think you need to have better instant crisis services on the streets, and also much more, perhaps, like a mandatory program in which that marital relationship can be referred into therapy and assistance to both spouses.

MR. NUNEZ. Thank you.

CHAIRMAN FLEMMING. We appreciate your testimony very much. It is helpful in rounding out this picture. Thank you very, very much.

Counsel will call the next witnesses.

Ms. STEIN. Judge Alan Hammond, Judge Irwin Cantor, Judge Ronald Johnson.

[Alan Hammond, Irwin Cantor, and Ronald Johnson were sworn.]

**TESTIMONY OF IRWIN CANTOR, PRESIDING JUDGE, DOMESTIC RELATIONS DIVISION, SUPERIOR COURT OF MARICOPA COUNTY; ALAN HAMMOND, PRESIDING JUDGE, PHOENIX MUNICIPAL COURT; AND RONALD JOHNSON, JUSTICE OF THE PEACE, SOUTH PHOENIX PRECINCT**

**CHAIRMAN FLEMMING.** Thank you for being here.

**MS. STEIN.** I'd like to ask each of you for the record to state your name, your business address, and your position. Perhaps we could start with Judge Cantor and move to your right.

**JUDGE CANTOR.** Irwin Cantor, judge of the superior court, Maricopa County. Superior court has general and unlimited jurisdiction; address is 201 West Jefferson. I am now assigned in a dual capacity—about 5 years ago—the domestic relations divisions were created in this county, and I've been presiding judge since that has been created to the present day. I am also judge of the conciliation court, presiding judge, and was the sole judge for about 6 years of that court, and now all of the judges of domestic relations divisions are assigned judges to the conciliation court.

**JUDGE HAMMOND.** I'm Alan Hammond; I am the chief presiding judge of the Phoenix city court, the business address is 125 West Washington here in Phoenix. We are a court of misdemeanor jurisdiction. We handle no civil matters, no felony matters, strictly misdemeanor violations and crimes.

**MS. STEIN.** Thank you.

**JUDGE JOHNSON.** Ronald D. Johnson, and I am a justice of the peace in a court of limited jurisdiction. My court location is 438 East Southern here in Phoenix.

**MS. STEIN.** Thank you.

Judge Hammond, would I be correct then that any case arising out of interspousal abuse in which a misdemeanor charge relayed would be tried in your court?

**JUDGE HAMMOND.** If it arises within the city limits of the city of Phoenix, it could be filed in the Phoenix city court. It might also be filed in an adjoining town, of course, just depending upon the city lines.

**MS. STEIN.** Where the offense occurs?

**JUDGE HAMMOND.** Yes.

**MS. STEIN.** Approximately how many cases does the Phoenix Municipal Court handle each year?

**JUDGE HAMMOND.** I brought along a statistical report for the month of December that I'll be happy to leave with you, which would give you totals of the various categories of material which come through the courts that we handle. Basically speaking, we handle about 14- to 16,000 criminal misdemeanor charges a year, about 200,000 minor traffic charges a year, probably about 200,000 parking tickets in a year, and 12- to 14,000 driving while intoxicated charges in a year.

**MS. STEIN.** Would you be able to give us an idea of how many cases of assault are filed on the average each month?

JUDGE HAMMOND. I can give you an accurate figure for December, and on this material I'll leave with you, if you'd like to have it, I just indicated by a yellow line through the assault figures so that they're easier to pick out what the figures were.

Ms. STEIN. Thank you.

JUDGE HAMMOND. We had a total of 139 new assault charges filed in the Phoenix city court in December. The prior pending statistics and the total case load statistics and the end of month caseload I have all placed a question mark by; I can take quite a bit your time explaining why I do not believe these to be accurate figures.

I'll short circuit that a lot by saying that these were computer generated for a number of years, and I think there are a number of running totals which are carried here which are no longer active cases and do not really appear in the system. I would think that the 139 cases in December would probably be a fairly typical figure. I can tell you that of that 139 cases, 85 were disposed of during the month of December, which left a balance pending as of January. I do not have a January statistical report as yet.

Ms. STEIN. Thank you. That's very helpful. Do your statistics distinguish between cases that involve abuse between spouses and other assault cases?

JUDGE HAMMOND. Unfortunately not. Most of these might well be nondomestic related. They could be citizen assaults on police officers, they could be citizen assaults between other citizens, and they might also include assaults between husband and wife or other members of the family. I know I have heard of the brother-in-law situation involved as well as the husband.

Ms. STEIN. Based on your experience, could you give us any estimate of how frequent interspousal assault cases are, a monthly average, perhaps?

JUDGE HAMMOND. I think they are relatively rare in our court. Since I knew that I was going to be testifying here I did take the opportunity over the past couple of weeks to discuss this matter in general terms with other judges sitting on the court.

We do have 14 other full-time judges on the court and 14 divisions of the court which might hear these matters. I was not able to talk to all of them, but it seemed to be their best recollection that they might have two or three cases involving domestic violence within the last year which actually preceded the trial.

There typically may have been other cases involving domestic relations which were disposed of through a plea agreement or some other fashion, but very few actually proceeding to trial in court in relation to volume of the other cases handled.

Ms. STEIN. I see. Would it be possible for you to estimate how many are disposed of by plea?

JUDGE HAMMOND. Yes, I can give you those statistics if you let me look for a paper here. I broke it out for my own use; it's a little bit

easier than looking at the long sheet which has coded numbers at the top. The sheets that I'll leave with you do have an explanation of the code, but I can tell you exactly what happened as reported by our computer system in the 85 cases which were disposed of in December.

I can tell you that in two cases a plea of guilty was entered and the sentence was suspended. I can tell you that in three cases a plea of guilty was entered and a fine was paid. I can tell you that in six cases a plea of guilty was entered and the defendant was imprisoned. I do not have the capability of telling you at this time the length of imprisonment ordered in each of these cases.

We do have jurisdiction in first-class misdemeanors to impose a sentence of up to 6 months in prison or to place people on probation for a period of 3 years or impose a fine up to \$1,000. I can tell you that in an additional five cases, pleas of guilty were entered and a sentence included both a fine and imprisonment. I can tell you that there were several trials, apparently, where people were adjudged guilty. In 2 of those cases sentence was suspended; in 8 of those cases, a fine was paid; and in 12 cases a sentence of imprisonment was imposed. In 22 cases probation was successfully completed and terminated. In six cases a term of probation was imposed and it appears that a fine was imposed. There may also have been a period of imprisonment. We do have some overlap in cases disposed of because people are going on probation and people are being terminated from probation constantly.

Of the 85 cases which were disposed of, there were 5 cases in which a defendant was adjudged not guilty; there was 1 case in which a complaint was dismissed as invalid—I don't have the reason; I just know statistically that there was 1 invalid complaint that was dismissed in December.

There were 10 cases dismissed at the request of the city prosecutor, and this may well have been through the vehicle of plea bargaining and a plea may have been entered on another charge; however, I do not have that information available. The city of Phoenix prosecutor, I assume, may have testified or may testify and may be able to give you further information along those lines, and I have a figure of one complaint which was void.

I had a second figure of two and there was an assignment made but, frankly, I'm not sure that was an accurate reflection and I can't tell you what that really was. That is a total of 85 cases.

Ms. STEIN. Okay. Thank you. Is there anything in your experience that would tend to make you think that the ratio of guilty pleas to cases actually tried would be any different than the interspousal abuse case than in the overall cases you have just summarized?

JUDGE HAMMOND. It's a very difficult question to answer. I couldn't really give you an accurate answer. I would be guessing. If you wish me to guess—

Ms. STEIN. If it's no better than a guess, no; if it's an experienced impression, then we'd like to have it.

JUDGE HAMMOND. Well, we find that many cases of assault which are filed or plea bargained—this is uniform, I'm sure, whether it involves domestic violence or other types of violence which led to the initial charge being filed. Most of the cases in our court are disposed of through the vehicle of plea bargaining. I do know some cases do go to trial involving domestic violence. I've tried one or two myself when I was sitting as a trial judge before becoming presiding judge.

MS. STEIN. Thank you. If the clerk would receive that exhibit from you, I'd like to ask, Mr. Vice Chairman, that it be placed on the record as an exhibit at this time.

VICE CHAIRMAN HORN. Without objection it will be entered in the record as an exhibit.

MS. STEIN. Could you tell us, Judge Hammond, what the standards for pretrial release are in your court?

JUDGE HAMMOND. Well, basically, those are the standards as set forth in the Rules of Criminal Procedure. For Arizona they're the same in a domestic case as they would be in any other criminal case filed in the State.

MS. STEIN. Could you briefly tell us what they are?

JUDGE HAMMOND. Yes. If you would like that information, I can.

MS. STEIN. Perhaps I could just ask you specifically, in the case of a man who is accused of having assaulted his wife, could the court take into account possible danger to the victim in deciding whether or not to grant pretrial release?

JUDGE HAMMOND. Yes, that would be one of the criteria involved. Another criteria would be whether or not the person is a resident of the community, has sufficient ties to the community to be presumed to be a good risk for release on their own recognizance without requiring a bond. The presumption of the criminal law is that a person will be released without a bond being required, but if the magistrate before whom the defendant appears has reason to believe that the defendant either will fail to appear in court or may constitute a danger to himself or to others, he or she could, of course, require that a bond be posted prior to any release.

MS. STEIN. Would it be possible if he feared that the person might be a danger to another person, to a material witness, could he refuse release altogether?

JUDGE HAMMOND. Well, he would have to set a bond. There are only a couple of categories in Arizona where the magistrate cannot set a bond and those are basically capital cases, such as first degree murder and treason.

MS. STEIN. But the amount of the bond—

JUDGE HAMMOND. The amount of bond could be commensurate of course with the seriousness of the charge and with the potential danger which an individual defendant might present to the rest of the community.

Ms. STEIN. Could the magistrate make it a condition of pretrial release that the accused must stay away from his home or away from a person, the victim of a crime?

JUDGE HAMMOND. Most certainly, yes.

Ms. STEIN. Is that generally done?

JUDGE HAMMOND. I hate to say something is generally done. I know that it is done, and I would suspect that it's done far more often in assault cases, perhaps, than it is in the ordinary case of other types, because they don't present the potential for violence that an assault case presents.

Ms. STEIN. Are the crowded jail conditions here in Maricopa County taken into account in deciding on what terms to grant pretrial release?

JUDGE HAMMOND. There again, it may have a subjective effect on the mind of the judge setting release. I do not sit in the custodial arraignment court. I would suspect that the judges tend to view the release situation as an individual situation and it becomes the sheriff's problem if someone is ordered to remain in custody unless they can post a bond.

We're, of course, aware of crowded conditions throughout the United States, and here in Maricopa County as well, in jails, but I don't think we can let that affect the setting of a bond or releasing a person on their own recognizance in a particular case.

Ms. STEIN. Did I understand from your earlier testimony that a person convicted of misdemeanor assault in an interspousal violence case could be sentenced up to 6 months imprisonment?

JUDGE HAMMOND. Yes.

Ms. STEIN. What is the usual offense, if there is such a thing, for someone who is convicted of that offense?

JUDGE HAMMOND. I don't believe that I can say there is such a usual thing as a sentence. I would hope that each judge is weighing each case individually, in determining what an appropriate sentence is in a given case.

Ms. STEIN. Do you have an impression as to whether it is common or uncommon for the sentence to be probation in such cases?

JUDGE HAMMOND. I can only rely upon the statistical information before me. I would say from my conversations with judges, which are, of course, hearsay, that it is probably more accurate to say that any case involving domestic violence, it is more probable that the person may be placed on probation and the term of probation may include a jail sentence.

Ms. STEIN. How many probation officers does the court have?

JUDGE HAMMOND. The city of Phoenix has one head probation officer and four other probation officers working for him.

Ms. STEIN. Do you know what the caseload of the probation officers are?

JUDGE HAMMOND. It's approximately 900 to a 1,000 cases per probation officer by last count. It may be much higher than that by now.

We requested additional positions for a probation department in the budget we submitted for the last fiscal year that was tentatively approved.

However, a study was ordered conducted by the city council to determine the procedure which they would follow. That study has not as yet been completed. I think it is to be submitted sometime this month of February.

We have requested not only the positions we didn't get in last year's budget, but additional positions for the next fiscal year, which commences July 1980.

MS. STEIN. What sort of resources, if any, are available to the court for such needs as treatment of alcoholism or family counseling or psychotherapy?

JUDGE HAMMOND. Well, the city of Phoenix is the only lower court, I think, in the State, really, that has its own probation department and has a separate functioning area to treat specifically alcohol-related crimes. We have a number of people assigned to the conglomerate probation/rehabilitation department. We have only the five probation officers, but we do have a far larger number of other people working within the rehabilitation program directed toward alcohol problems.

MS. STEIN. If the number of persons who were prosecuted for inter-spousal abuse were to increase materially, would your court have the resources available to provide rehabilitative treatment as a condition of probation?

JUDGE HAMMOND. The thing that's bothering me now is whether or not we can adequately treat anyone who's placed on probation because of the large caseloads confronting the probation department, and it is a political decision to be made whether or not the increase is going to be granted or whether the status quo will be maintained or whether the department will be eliminated altogether.

I think that's the purpose of the study that I referred to earlier to make that determination. If we have the present capability with caseloads of 900 to 1,100 per probation officer, I think you can envision for yourself how ineffective the individual probation officer might be in treating that many probationers.

VICE CHAIRMAN HORN. Just as a footnote, that's 9 minutes per probationer per month per officer, assuming he does nothing else.

JUDGE HAMMOND. That's about it.

VICE CHAIRMAN HORN. Which I think is rather fascinating in terms of Phoenix's workload requirements.

JUDGE HAMMOND. That's why we've be asking for probation officers.

MS. STEIN. Judge Cantor, we have heard a lot about the criminal justice system so far today. I'd like to turn to you as presiding judge of the domestic relations division to ask a little bit about civil remedies. If a woman wished to seek the aid of your court in excluding her violent spouse from the home, what procedures would she go through in doing so?



JUDGE CANTOR. Yes, well, she could petition, as part of the dissolution act or dissolution request, that the husband be excluded from the house. If in the pleadings she set forth the exact assault, who was present, person and places, the foundation of what we call in law that I would sign an order excluding him forthwith from the house.

Now, in 1977—and you'll have it documented in the sheet to which I was given—Arizona did pass a law that in every divorce case—and I'll use that instead of dissolution, that's the word we use but it is easier to say divorce—in every divorce case there is injunction against both parties that they should not harass or molest each other, and we found in having that, that cut down a great deal on the request that we have for exclusion.

An example, before 1977—and I sign all TROs, temporary restraining orders, it would not be unusual for me to have 6 to 10 of them a day. Since the act, I average one a day.

MS. STEIN. In passing on these requests for exclusion of the spouse from the home, as opposed to the restraining order forbidding harassment that you mentioned, that you just referred to, what standards do you use in deciding whether to grant them *ex parte order*?

JUDGE CANTOR. The standard is basically one of the recent assault, as I say, documented by affidavit by the victim and the certification by the attorney. We feel that a threat is not enough. There has to be an actual assault before I exclude, and the reason is of the Constitution that all property here is community property with the exception of gift proviso; I won't get into those, but if the property is community property, each has a right to live there.

And so if you're going to take away a constitutional right of the right of property or the use of the property, which is an inherent part of the right of property, there has to be something, for lack of a better designation, amounting to a criminal act before you're going to deprive one person from the use of the property.

MS. STEIN. Threatening and intimidating, though, can be an offense under some circumstances, can't it?

JUDGE CANTOR. It can, and what we do in those cases, I will authorize an order to show cause to be heard in an accelerated time, as little as 3 or 4 days, within 10 days if I feel that the threat may be somewhat founded.

MS. STEIN. Do you find any difficulties in the use of exclusionary orders as a tool for protecting women from abuse by their spouses?

JUDGE CANTOR. Yes. A good question that I've been reflecting on it every since I've been signing. I've been on the bench for 19 years and been signing it long before we would have this. I think it is practically worthless in those cases where the man is so emotional, so wrought up that he's intent on doing something. He's so frustrated, a piece of paper saying, "You should not go near your spouse" is not going to stop him, and I, just like a broken record I tell the lawyers, "You're better off advising your client to go to a motel or go to a

friend, because this piece of paper is not going to stop anyone who is determined to harm your client.”

MS. STEIN. If you have entered an order either excluding the husband from the house and he violates that order, or if he violates the standard order you mentioned forbidding him from harassing his wife and she wishes to enforce the order, to take steps to enforce the order, what must she do?

JUDGE CANTOR. Well, we are a civil court, so we can only react to pleadings, to papers that are brought before us, so she would go to her attorney who would then draft a petition for an order to show cause why he should not be held in contempt and punished for violation of the order. Then that would be sent, signed, and an accelerated hearing—and we would set that probably within 10, no longer than 20 days to determine if he has violated the order; but there would have to be notice and a hearing.

MS. STEIN. In the event that you find that he has violated the order, what is the sanction that is most commonly—what, if any, is the sanction that is most commonly imposed?

JUDGE CANTOR. Your question predisposes that we find that he is in contempt?

MS. STEIN. Yes.

JUDGE CANTOR. The most common is that we find him in contempt, that he may purge himself of contempt by not doing this again—the most common. We do have the power all the way to incarceration.

MS. STEIN. I gather from what you say, that incarceration is not typically used?

JUDGE CANTOR. No, it is not typically used. One reason is that usually the subsequent type of violence is usually a violence against property rather than a person. By that time, he may have a lawyer who will have him under control, and say, “Look, if you want to win this case, you want to get your share of property, not whatever the problem would be, that you will behave yourself.”

He may go over and try to visit the children, which the mother will refuse to do so he’ll get so frustrated, assuming he has a temper and tendency toward violence, that he may break down the door. This is the type of thing we hear typically rather than the ground, physical abuse. That’s only rare that I have heard the physical abuse the second time.

MS. STEIN. Could you give us an idea of how often, in the time you have been on the bench, you have ordered incarceration for a violation of an order not to assault or harass a spouse?

JUDGE CANTOR. It is very rare. I don’t know numbers, but the problem I have with it is that once we do it in civil court that we are taking on a criminal sanction, and none of the safeguards of the criminal law are there. One, he can be called for cross-examination, violation of fifth amendment, not entitled to a jury trial, another constitutional right. He may or may not have an attorney. Many of these

men do not have attorneys, so we do use it rarely. If it is amounting to what would be a criminal crime, then it should be referred to criminal divisions and through the prosecutor.

MS. STEIN. But doesn't the failure to enforce the court orders contribute to their ineffectiveness and create an opinion in people's minds that they are worthless?

JUDGE CANTOR. No, because I think you have other sanctions. To me, when you incarcerate, it is like an act of war. You should have the power but you only do it as a very last resort.

MS. STEIN. In a case where there was a second violation within 2 weeks or so of the first violation, do you still think it would be appropriate to say, "You may purge yourself by behaving as a law-abiding citizen"?

JUDGE CANTOR. No. If I felt that there was a physical abuse within 2 weeks, I'd have no reluctance to sentence him for, say, 60-90 days' incarceration.

MS. STEIN. But if it were another type of violation, say physical abuse of the wife on one occasion and destruction of her property 2 weeks later, you would feel differently?

JUDGE CANTOR. Yes. Property can be replaced by payment of money. You have to remember we are a civil court and not a criminal court.

MS. STEIN. Earlier today we had testimony from officials of the Phoenix Police Department and they testified that it was their policy for officers not to arrest persons for violation of orders to stay away from their spouse or not to harass or abuse their spouse.

What are your views on this policy?

JUDGE CANTOR. Whether they should use the civil order as a basis for arrest?

MS. STEIN. Right.

JUDGE CANTOR. I think, again, using the criminal laws, you know if it is a misdemeanor, it has to be committed in the presence of the officer. If it amounts to a felony, it does not. I think he has to judge it independent whether there is this civil order or not. I would be reluctant to have an officer arrest a person solely on a civil order.

MS. STEIN. Why is that?

JUDGE CANTOR. Because I think it is a criminal matter. Again, you're taking away all the safeguards that is afforded to a person under criminal laws and just saying it is a civil order where we may sign it *ex parte* without the necessary investigation. We do no investigation whatsoever. We take the affidavit that's in front of us, and it may or may not be true. He has none of the safeguards there.

MS. STEIN. Do you have a view as to whether or not violating an order is, in fact, a misdemeanor under the section of the Arizona revised statutes that deals with interference with a judicial proceeding?

JUDGE CANTOR. Yes, it is a misdemeanor.

Ms. STEIN. In your view, what is the role of the civil justice system, and especially your court, the domestic relations court, in dealing with incidents of domestic violence?

JUDGE CANTOR. It is a real problem. We're fortunate here that we have a conciliation court. If I could take off my domestic relations hat and put on my conciliation court hat, we've been very innovative here.

You heard two of our counselors during this last hour, and even though the statute creating the conciliation court is primarily to help preserve the family, we have been fortunate that we have been able to add counselors—even though the spirit of Proposition 13 is as strong here as any place in the country, and we saw it coming—that we now add an additional \$10 to the filing fee of any divorce action and \$10 to the response, and that money can only be used for conciliation court purposes. For that I've even asked for two additional counselors to help with this program as well as the others, so we have taken on different things. I think we have a responsibility of doing what we can, and when I do have a matter like this and the parties are there, I will refer them to a counselor even that day to see if the hostilities can be lessened.

The divorce court, I really don't see in and of itself, can really do more than what it's supposed to—decide whether there should be a dissolution of the marriage, a division of property, decide on custody, visitation, alimony, spousal maintenance. That's the purpose of domestic relations. I think you would be overbidding the domestic relations court by making it a quasi— criminal court.

Ms. STEIN. Thank you very much, Judge.

Judge Johnson, could you briefly describe your jurisdiction as a justice of the peace?

JUDGE JOHNSON. Excuse me, I'm sorry I failed to do that when I introduced myself. I am justice of the peace; I'm one of 18 justices of the peace here within Maricopa County. I have a designated geographic area boundary, which is South Phoenix Precinct, which is the southernmost portion of Maricopa County. My eastern boundary of course being 48th Street; my northernmost boundary would be Harrison Street, which is about three blocks south of here; my western boundary goes all the way out to 119th Avenue; and my southern boundary would be the county line, which is approximately 3 miles south of South Mountain. It is a large geographical area of approximately 54 square miles.

Within that, my responsibilities include presiding over preliminary hearings and all felonies, misdemeanor cases, trial, traffic for the highway patrol and the sheriff outside of the city limits; within the city limits, of course, it's handled by the city police. I have civil jurisdiction up to \$1,000. Basically, that is the jurisdiction under which I work.

Ms. STEIN. Could you describe to us the ethnic and economic characteristics of the area over which you have jurisdiction?

JUDGE JOHNSON. I think so. Basically, we have approximately 100,000 people within the boundaries of my precinct. We're one of the unique areas, I guess, in the country where we have pretty much evenly split along racial lines in that we are one-third black, one-third Mexican-American, and one third Anglo-American.

The average income, as I understand from the last study done this past year, our median income has now gone from something like \$10,000 to a median income of about \$14,000, almost \$15,000, across the board.

I hope I've capsulized everything you've asked me.

MS. STEIN. Yes, thank you, that's very helpful. We understand that in a proper situation you will invoke the procedures of the peace bond statute. Could you tell us, if a woman comes into your court and says she's been beaten by her spouse and she fears that he will beat her again and asks you for a peace bond, to impose a peace bond, what procedure do you have her follow?

JUDGE JOHNSON. Well, first of all, I must, of course, abide by the statute which is, of course, 13-3811 in our current criminal code, which states that the complaint laid before a magistrate, the magistrate under oath, after swearing the person must determine certain elements before they can be classified as a potential peace bond violation or complaint.

Number one, if it's a husband and wife situation and they are "living in a common home," it can be categorized as a peace bond. Usually when I come in contact with a husband and wife situation, they have already separated. There are two separate residences then. One of them then comes to the second residence and threatens to harm the privacy and the welfare of that second individual; a peace bond is only good, according to the statute, if two parties are already in two separate locations.

In those cases, well then, of course, I will entertain a complaint alleging a threat of some sort that might violate a person's rights. But that's the only way.

MS. STEIN. Do you hold a hearing then to-

JUDGE JOHNSON. Yes, I would. First of all, after swearing out a complaint and then filing it, giving him proper notice through summons and giving him an opportunity to come in and answer, what we normally use is a form complaint, so he's just told that a complaint has been filed that he has threatened to commit an offense against this particular person's person or property. That is all that he's told. That's basically all, other than the questionnaire that the complainant has provided the court. That's basically all that we have to go on.

And then, of course, my gut feelings as I'm listening to the person tell me why they want the peace bond under oath. But he has to be told, of course, and then he has a right to come into court, and my first instance is always a hearing, an informal hearing in chambers.

Ms. STEIN. Other than the consideration you just mentioned that the procedure can't be used if the two people are living together, do you see any other problems with the peace bond procedure as applied to incidents of interspousal violence?

JUDGE JOHNSON. It's such a multiquestion, I can think of a million ways to answer it. I am perhaps one of the few people in the State of Arizona that don't see that many problems with the statute. I see the problems that give cause for me to have to use the peace bond statute more so than the problems with the actual form itself.

There are problems with the peace bond as it exists primarily because of the constitutional question that is yet to be answered regarding the ultimate test, how far a judge can carry a peace bond. For instance, the statute still says that I can impose a bond from anywhere from \$1 to \$5,000 cash; that person might be incarcerated until such time that dollar amount imposed by the judge is posted.

Well, we know that you can't arrest somebody and put him in jail because he can't pay a fine or post a bond, so that question always hovers over as a dark cloud on anyone who uses a peace bond. However, in the court of first instance or the people's court or the justice court, anyway you want to phrase it, most cases I will hear the complaints of two parties where there's an assault or a threatened assault, and that's basically the only tool that I have to use. So I have to parley some little Yankee ingenuity, if you will, with the law and try to make it work, just to keep the peace.

Ms. STEIN. You referred, when you began to answer, to problems you could see in not using the peace bond statute. I take you to mean that there are some ways in which it is the best thing available for the people in your jurisdiction. Could you tell us what you mean by that?

JUDGE JOHNSON. Well, I think I can. I hope I can answer directly as much as you have asked the question. Basically, any problem that would occur—first of all, I'm a precinct officer, so I'm the closest person to a citizen. I'm the closest court. I am a court, I'm in the neighborhood, so they can run to my court for protection, quite oftentimes when they can't make it to the police department. I have people run in because of that similar type of assault situation or they're just in fear of something.

The problem is again the constitutional question, and whether or not it's always best to use that tool to solve that sort of situation versus calling a police officer is a question that, of course, I must solve and determine myself before I even get involved in any domestic situation or just a community situation.

I'm going to ask, if you would, once again to ask the question that you placed so that I can be sure and be specific in answering it. I'm not sure.

Ms. STEIN. Well, I assume that there are some advantages to the peace bond statute over other procedures, for example, over other civil procedures, over other criminal procedures. For example, do you need to have a lawyer in order to apply for a peace bond?

JUDGE JOHNSON. Peace bonds basically is the only criminal complaint that a citizen can file under our present criminal code. You don't need an attorney to file a peace bond complaint. The advantage to it is that hopefully within a period of time of 3 weeks a person can complain and then hopefully receive some sort of relief from a problem they feel they might have.

That is the advantage, the—well, one other advantage might be there, and that is, of course, sometimes a matter might be passed off as being civil or not criminal enough that the police might want to get involved in it, and then, of course, a person is left with a problem that they don't think they can solve.

And they can, of course, solve it by coming into local court and applying for the peace bond; then, of course, they've got to convince the magistrate that there is an imminent problem. I think the advantages to the peace bond are just strictly in the fact that that is an immediate relief, at least a temporary relief, for a person who has a problem, domestically or what have you.

MS. STEIN. So in other words, the person doesn't have to convince the prosecutor to bring the case for them; they can bring their own cases?

JUDGE JOHNSON. Certainly.

MS. STEIN. Nor do they have to retain an attorney as is commonly done in dissolution proceedings?

JUDGE JOHNSON. Exactly. The peace bond complaint, of course, when filed becomes a matter where the prosecutor would meet its obligation and represent the complaining witness in a proceeding. The biggest problem with peace bonds is that sometimes everyone within our criminal justice system doesn't always agree with the steps taken or even the manner in which it is filed.

In that case well then, of course, if a defendant, a person charged with committing an offense, brings in an attorney, well then that will, of course, require that the State represent the interest of the complaining witness, and sometimes there have been problems in the system as it exists here in Maricopa County where, under those circumstances, peace bonds cannot be effective because of the disagreements within the system.

MS. STEIN. We heard testimony earlier today from the Maricopa County attorney saying that his office will no longer pursue the peace bond mechanism on behalf of citizens. Do you have any comments on this policy?

JUDGE JOHNSON. Nothing except that I've had to live with that policy since the present county attorney has been in office. The statute sets the requirement and the responsibility for the filing of a peace bond complaint with a magistrate, not with the county attorney. The county attorney, of course, is charged with filing most complaints in Maricopa County, but that's one that he's not charged with responsibility.

I have carried my responsibility—I think that because the legislature has saw fit to leave the peace bond with a most current revision of our criminal code within the code that was a message to me as a justice of the peace that that is a right of the citizen, and it's not my determination to say that the citizens of Arizona cannot file a complaint if the county attorney chooses to say he will not file them. Well, he's not named in the statute. It's the JP or the local magistrate to do so, and, of course, he and I have differed and disagreed on that in the past and I guess we will until such time as the legislature clarifies it.

MS. STEIN. I have only one final question but I would like to ask it of each of you and that is, From your perspective as judges, what measures do you think the various components of the civil and criminal justice system could take to improve the response that they provide to the problems of battered women? Perhaps I could begin with you, Judge Johnson, and then ask your colleagues.

JUDGE JOHNSON. That's a good question and I'd like to give you a good answer. One of the reasons why I have continued to utilize the peace bond is because within our current system there's a gray area. There's a gray area where a police officer who goes out on the beat, who answers a call and a person complains, whether that officer at that particular moment—what he's hearing, what the problem is—has to determine whether it is criminal or civil.

If he makes the wrong determination, or if he just takes a report and gives them a card and goes about his business and files it in his normal routine of operation, there is another determination that is made between the time that a complaint is filed and not filed, and that is that an attorney in the county attorney's office is going to receive this departmental report, and then he's going to make a determination absent having been present when the complaint was filed, and having been away from the officer who filed the complaint, he's just looking at a piece of paper.

That particular method of operation sometimes leaves people, normal citizens, wanting and need for protection because the way our system is set up, we don't necessarily feel the importance of it or feel maybe there's something we didn't write in the report as a police officer, or maybe there's something we didn't take into account as an attorney in reading and determining that complaint at that time, whether to file it or not, that that John Q. Citizen out there is going to start to develop a negative attitude towards our entire system; he's saying, "Well, whose protecting who? Are we protecting the system for the system or are we protecting people?"

Being a judge in the court of first instance in a community—that determination—I think, I make a better determination at the time that I hear a complaint on behalf of a citizen than perhaps that county attorney in the county attorney's office who is reading the departmental report written by a police officer.



If anything needs to be improved, and if I am to, perhaps, invoke some sort of sensitivity in the minds of all of you, it is that perhaps in that one instance in our system as it functions today, we need to look at that because people are crying for help on all, every day, and sometimes the help is met with a lot of bureaucrat bungling. Police officer says, "This is a civil complaint, go see your attorney. This is not a criminal matter that should be filed here. Go out and file—go see your local justice of the peace and file a peace bond."

And that leaves the citizen wanting. I hear the county attorney saying he's not going to file peace bonds. I hear police officers telling other people that there are no more peace bonds and, yet, I still get referrals to me from police officers because they don't want to handle the matter, that I ultimately have to refer back to the police department to take a report because it is not a peace bond matter; it should have been filed as an assault or an intimidation or something else. So I think it is within our system. We really need to look at our system and make that determination after we've reviewed ourselves.

Ms. STEIN. Thank you.

Judge Hammond, do you have any suggestions?

JUDGE HAMMOND. I don't know if I can really add much to what Judge Johnson said. I think he's covered the field quite well.

In our particular situation we only see the case that actually gets into the courtroom and gets to trial. You need an examination much further before that point of time if you're going to solve a lot of these problems.

I'm always bothered, as I think Judge Cantor indicated he was, and I'm sure Judge Johnson, with a peace bond situation. It is a piece of paper and if someone is going to be restrained by it, that's very well and good, but if they're not going to be restrained by it, you haven't really solved the problem by issuing either a temporary restraining order or a peace bond in some situations.

We only get the case that's actually been filed and is actually being prosecuted in our court, and I think, as Judge Johnson said, you need to examine how all of this mechanism starts in the first place.

Maybe you need a broader base for a uniform policy among the agencies with which the people come into contact initially, be they the sheriff's department, the various police departments throughout the valley, or whatever so that there is a uniformity of correct information given to people who are seeking these answers.

Ms. STEIN. Thank you.

Judge Cantor?

JUDGE CANTOR. Okay. Like Hill, I'll try to do it in one minute standing on one foot. I think when the complaint is made to an officer, he goes there very leery, and I'm sure you've heard this, because he's in danger, at least he believes so, and some statistics show that's true but be that as it may, he tries to quiet down the situation.

I really feel that he should not leave until there is some other help there, whether that be immediate intervention, crisis intervention; I don't think the courts are equipped to do it, but maybe since we're being so innovative, maybe some stand by counselors through the conciliation court, I'd hate to say that conciliation be all things, maybe that's a possibility.

You've heard from the Rainbow House and Sojourners that maybe they could have a crisis intervention. I think then additional counseling should be done. Of course, if the officer feels there is a crime that has been committed, either a misdemeanor in his presence or he's satisfied that there's an assault that he can arrest on, why, of course, then he should do it and at least alleviate the immediate problem.

But assuming that that's not normally done, then I think what we're doing in conciliation court and plan to do on a short-term counseling and then the last step, long-term counseling.

We have recommended to the legislature, and it is before the house now, that the assault on a spouse be made a specific crime, because to let the police and the prosecutors know that they can point to this and this is not something different, because they are living together or because they are man and wife and somehow that negates the assault statute and the other related criminal statute, battery, etc. We hope that this passed—I understand Michigan and a few other States have that—and we patterned it after that.

Along with that, though, there is a diversion type that they do not have to be actually prosecuted, that if the program is approved as to counseling, and they have done it satisfactorily, then the record can be expunged of that.

As I see it there are about four or five steps in which we can play an important part because no one else is doing it.

Ms. STEIN. Thank you very much. I have no further questions.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Judge Cantor, you indicated, I believe, you just said that you believe that there should be a specific law that assault on a spouse be made a specific crime. Is that not already a crime under Arizona law?

JUDGE CANTOR. Not against a spouse, spelling it out as such, no. Any person hitting another person illegally is a crime but it does not say a spouse hitting a spouse is a crime as such.

COMMISSIONER FREEMAN. I don't understand how you make the distinction.

JUDGE CANTOR. What we're recommending is that it be spelled out, saying to hit one's spouse is a specific crime. The laws we now have, the general assault and battery statute, and by your very question, that's the argument we're getting back on it, "Why do we need such a statute if we already have the assault statute?" Isn't it saying the same thing and being repetitious? And it may be; the only thing is that maybe we can overcome this hurdle by the police and prosecutor by

saying, "You're in a different category," and women saying, "No, we're not, because there's a specific statute saying that."

COMMISSIONER FREEMAN. I can understand the confusion. We have heard testimony throughout the day that indicated a distinction, a different treatment where there was assault on a spouse or other aggravated assault.

I want to pursue a point that I made with respect to LEAA earlier. The testimony also indicated that there was a need for some additional training within the jurisprudence system of criminal jurisprudence of the police officers and prosecutors in terms of trying to get a sensitivity to understanding the value of the police protecting every human, whether it be spouse or otherwise.

I wonder if either of you have given any consideration to whether there is such a need for developing sensitivity to protecting the spouse, and whether there could be funds available or sought from LEAA for the police or all aspects of the law enforcement community, all components of the law enforcement community?

JUDGE CANTOR. I'll start out by saying I am a strong believer in education and training. We have weekly staff meetings. We have seminars twice a year we go to. I would welcome it. The only thing is, our board of supervisors, which is on a county level that appropriates money for the various governmental branches within the county, is very leery of any grant funds where you start something and they have to pick up the tab, but many of those funds and grants have been used and used extensively.

COMMISSIONER FREEMAN. I also wonder. Judge Hammond gave some very interesting statistics but you say you don't have a breakdown as to the differences between the aggravated assaults and unrelated situations on a spousal situation. Could the computer be programmed to include this information?

JUDGE HAMMOND. I believe that it could and it's probable that it will. Our computer system for city work is undergoing a lot of changes, or hopefully will undergo a lot of changes in the months ahead, and one of the changes may well be that we'll get a more specific breakdown of particular types of violence. I don't think there's any plan at this point in time for such a breakdown, however.

COMMISSIONER FREEMAN. Would you comment on the value for such a breakdown?

JUDGE HAMMOND. Well, the value would be that, if I were to testify before this committee or some other committee, I could give you more specific details, really, and we can pinpoint the needs in our own system perhaps of particular crimes, not only assault cases but, for instance, if I knew how many people that were charged with driving while intoxicated in our city court had prior convictions and I could get that information from the computer, it would be very valuable to me, probably for a number of reasons. But I can probably go on a long time about the different statistical information which could be

gathered and different applications, if we had it broken down that way, and I could tell you precisely how many cases we had involving husband and wife, but I don't have that capability at the present time.

COMMISSIONER FREEMAN. Well, we would be concerned, also, not just with the information but what you do with the information to assure that the victim had a remedy. One of the problems that the testimony we've heard throughout has been that the victim has not had a remedy; that there has not been prosecution nor has there been the attitude that this was a crime.

JUDGE HAMMOND. Let me say this. I don't think that I can really fairly comment on some of the statements made by other agencies because I don't participate in that facet of the problem. You recognize the problem.

I could make a comment perhaps about some cases that do enter into the system, and I imagine this has been said earlier today or will be said tomorrow in your second day of the hearing.

It is within my experience to say that very often cases involving domestic violence are filed as assault charges and then dismissed, and this is very often done at the instance of the victim. There are many sociological reasons for this, and one of them is probably economic dependence upon the person who has committed the assault.

I talked to a judge at noon today, or over the noon hour, who had been contacted by a wife who had a charge filed against the husband for assault, as I understand it, who wanted to express a desire that this particular person be given some counseling because they had an alcohol problem and perhaps incarceration.

The problem presented was one which would have made it necessary, had that judge gone any further with the case, probably to disqualify herself because she had preknowledge of the facts, and she was contacted by the person beforehand. Why I'm relating this to you is that today, when the matter was to be in court, it was related to me that the charge was dismissed, but it was dismissed because the wife didn't wish to prosecute. I think that often happens in cases involving domestic violence. I don't think that's an atypical example.

COMMISSIONER FREEMAN. We also heard testimony that these were cases in which the wife wanted to prosecute; however, the prosecuting authorities did not carry out their function.

JUDGE HAMMOND. That might well be, but as I'm not involved in that particular area of the system, I'm really not qualified to give you an opinion as to whether or not that is prevalent or exceptional.

COMMISSIONER FREEMAN. Judge Johnson, do you have any comment?

JUDGE JOHNSON. Not really, not on that one.

JUDGE CANTOR. I would like to. Our county attorney is the prosecuting attorney. I think sometimes people are too hard on him. He sits, when he hears complaints, as a quasi-judicial officer. He has to determine whether, in that instance, whether a crime has been committed

and, if so, is there sufficient evidence to do that; and I would say in many of the cases where you hear the complaints, he has made that determination, rightly or wrongly, that he feels there's not sufficient evidence to take to court.

COMMISSIONER FREEMAN. I have no further questions.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. Judge Hammond, I listened to your exchange with Commissioner Freeman as to the inadequacy of the data in some of these areas. What sort of information system do you have in the courts and is the information system linked in a continuum so that it would include action of enforcement agency, prosecutor, courts, corrections, probation, etc., in the disposition of a case? In other words, can you track a case from its entry into the criminal justice system?

JUDGE HAMMOND. I'll try to answer your question, sir. We can follow numbers through the system in vast quantities, but we don't really have the capability of tracking an individual case through the system very well statistically. We just know that something happened in a given category and that's one of the reasons that I think our total system needs to be redesigned, and I hope that it will to a great extent in the following months.

We know we have so many cases of a particular type in the system by the category of offense. We know that so many of those cases were disposed of by pleas, by findings of guilty, by findings of not guilty. We know how many of them were placed on probation, how many of them were ordered to pay a fine, how many of them were ordered imprisoned, and which combinations were given; but to follow an individual case through the system, we just have to have the complaint involved, and then go to that individual file, run an inquiry on a particular case, and we can see what its status was.

If I had the name of a defendant and a complaint number, I could go to my computer system and have someone punch the appropriate keys, and I could tell you whether the case was awaiting arraignment, whether it was awaiting a pretrial conference, whether it was scheduled for trial, whether it had gone to trial, whether a person was on probation. To get the full details of the sentence or the probation at that point in time, I would want someone to retrieve the file and then look directly at the record.

VICE CHAIRMAN HORN. In the establishment of this system or in any rethinking that you imply is being done, is the judiciary consulted on this as to what are your needs for management data?

JUDGE HAMMOND. Yes.

VICE CHAIRMAN HORN. You have been consulted?

JUDGE HAMMOND. Yes.

VICE CHAIRMAN HORN. Is that also true of the Maricopa County management information system?

JUDGE CANTOR. Yes, both our clerks keep statistics, our conciliation courts keeps separate statistics and our administrator does and then we correlate them.

VICE CHAIRMAN HORN. Well, as I understand the type of statistics that are kept now, they can be very misleading in terms of backlog, etc. Is that correct?

JUDGE HAMMOND. Well, that's particularly true in the situation of the Phoenix city court; I hope it is not true in the case of the superior court. We're working on a situation where the computer system probably went into effect some 10 years ago, and there were apparently problems in the initial installation and a lot of changes made over the years, which surfaced about a year ago when someone suddenly said, "You have a 200,000 case backlog," and the whole court said, "Well, this isn't correct. We know we don't have a 200,000 case backlog."

So on a particular weekend in February 1979 a physical count was conducted, and we found we had about 30,000 active cases and about 50,000 cases on warrant and other cases which were apparently still carried on the computer but which were not active cases. That's why we've gone after to the computer problem at great length over the last several months.

VICE CHAIRMAN HORN. I listened with great interest to the exchange Commissioner Freeman had with regard to domestic violence and being a category of assault, Judge Cantor, and why would you need a separate category that involved spousal assault? And I agree with her on her assumptions. On the other hand, that's one of our problems in trying to determine the degree to which domestic assault cases are handled under a broad assault category.

I wondered if the management information system of either Maricopa County or the city of Phoenix would permit a program to be written so that you would know when the defendant and the person making the allegations have a relationship to each other that this essentially is that type of domestic assault case. Is there any way you can isolate those cases within the broad assault category?

JUDGE CANTOR. Well, as I mentioned, we have the civil courts, so I don't hear it at all about the others, but to answer your question where even we have the broad category of contempt, and contempt could be a minor violation all the way to a very serious physical abuse, and that could probably be broken down because the example was given in a question of, "What about if it happened 2 weeks apart?"

Well, I can only surmise that they were not both physical abuse, yet they both appeared as contempt and that could be done to have sub-categories. Are you talking about physical abuse? How bad is the problem and what is being done now?

VICE CHAIRMAN HORN. I think one of our problems here, as I have suggested several times earlier today from my own experience in the criminal justice systems in corrections, that we have segments of the system blaming each other. The policeman says, "Why file the charge? The city prosecutor, or the county attorney are just going to throw it in the ash can," or blames the victim, in this case apparently. Or if

we file it, the prosecutor says, "Gosh, I bring it into court after this work and the judge puts the person on probation or dismisses the case," and the judge says, "Well, I can't really sentence him to the sort of dungeons we have as jails, which are overcrowded, and even if I do, they will just get worse and the person won't be able to support the family," and the correctional institution says, "Good heavens, look what they're doing to us."

How do we get at the problem here of trying to find out what is going on, and not simply having each segment blame the other when perhaps we're all guilty?

JUDGE CANTOR. First, I hope that's not Gabriel blowing his horn and the walls come tumbling.

VICE CHAIRMAN HORN. We could use his help.

JUDGE CANTOR. I couldn't agree with you more, and I think that's one thing we're all going to have to recognize. The problem isn't going to be solved by blaming each other. We all have to look at our function, what we are doing, and what we can do to improve it and I think anybody that blames someone else only brings discredit on himself.

VICE CHAIRMAN HORN. Well, that leads me to a question I asked of the executive branch, so-called, when I suggested that perhaps it would be useful for the county sheriff, the county attorney, the chief of police of Phoenix, and the city attorney to get together and work out a strategy as to how do you deal with domestic violence cases.

I think of how the Federal judiciary functions; there's a judicial conference of the United States, where judges, be they Federal district judges, appellate, or Supreme Court of the United States, can get together and discuss some mutual problems as to process and procedure.

I just wondered if the judiciary in this area has ever sat down with itself, Phoenix city and county, perhaps even appellate and State, and talked about how do you get the need for some unified policy here, discuss sentencing, discuss uniformity of bail with reference to domestic violence cases. Has that been done at all by the judiciary?

JUDGE CANTOR. Yes, by the superior court of those judges who handle this matter. We have a meeting once a month and we do discuss these types of very problems, and I might say on the State judiciary level there is a college and it is located at the University of Nevada and we encourage all our new judges to go there immediately within the first year that they're appointed. In fact, we even run a mini-college for all new judges—that lasts about 3 days, and we tell them it is not a sign of weakness to consult with each other on the various problems, it is a sign of strength, and probably much more could be done on that.

VICE CHAIRMAN HORN. Does the Phoenix judiciary do the same thing?

JUDGE HAMMOND. We have periodic judges' meetings. We also avail ourselves whenever possible of the facilities of the National Judicial

College of Marino. I think every judge in our court except the one most newly appointed has been there at least once. I've been three times myself in 6 years. I've been back as a faculty advisor the last time and most of the judges have been there one time or another. We discuss many, many problems. I can't, however, recall specifically discussing this particular problem because in the vast number of cases that we handle, these are a very small percentage of those cases that would involve the husband and wife assaults.

VICE CHAIRMAN HORN. Would it be improper for the judiciary to sit down with executive agencies, such as those I've mentioned, in an informal way and discuss the problems in this area in Phoenix or Maricopa County?

JUDGE CANTOR. I think it would be an excellent idea. When the present city of Phoenix chief of police was there, and I might say my own history—some 25 years ago I was city prosecutor; at that time they had one, something like 25 now, but that's another story.

Anyways, I went to him and gave him pamphlets telling about the conciliation court and telling him, asking him if he would give these to his officers so they would have them in the patrol car so when they go there to them and choose to leave afterwards will say "Here's one source that you can go to," and he was cooperative, but like everything else as time went on, it died out and we're in the process, I understand, of getting a new chief and, as soon as he's settled, I plan to have a conference with him.

JUDGE HAMMOND. I might add a comment if I may. There is an informal group here in Maricopa County which is referred to as the criminal justice group, which is composed of representatives from the Governor's office, the attorney general's office, the county attorney's office, the sheriff's office for the county, the chief of the police of the city of Phoenix, the chief of police of the city of Tempe, Glendale, the State corrections officer, a county corrections officer, the head adult probation officer for the county, myself—have been sitting on that committee for about 3 years— and the public defender also is represented, the U.S. attorney is represented, the FBI is represented, and many, many, problems are discussed in the course of the year by that group.

The only person really not sitting on the committee, which has a lot of impact locally, is the city prosecutor for the city of Phoenix. There isn't representation of all the police agencies in the county. There is not representation from all of the courts in the county.

The presiding criminal judge and the presiding juvenile judge for Maricopa County also sit on the committee as does a member of the court of appeals of the supreme court, so there is at least an informal vehicle for the heads of these various agencies of the State, at least the county, to meet once a month and discuss many, many, problems.

But our focus in the last year or so has been on getting prisons and jails built, on a new criminal code, on possible court reorganization,



and on funding from various government agencies that don't seem to appreciate the interrelationship of all the agencies in the county and the State. We're all really independent and working separately as far as the politicians are concerned, I think, and yet when you put it all together it is one system. Anything that happens in any one part of it has an impact on the other part.

VICE CHAIRMAN HORN. I would think that's an excellent forum. Is the city prosecutor not in the group by choice or by invitation?

JUDGE HAMMOND. I think by invitation. As I understand it, this group was founded about 5 years ago. I'm a relatively latecomer since I've only been on it for 3 years, and one of the problems with any group, of course, is size; if it is too big it's unwieldy; if it is too small, it perhaps doesn't have as broad a base as it needs, and I think those decisions were made quite some time ago and it is virtually impossible to include everyone.

VICE CHAIRMAN HORN. Given the size of the group you've named, I wouldn't think one additional, meaning the city prosecutor, would hurt.

CHAIRMAN FLEMMING. This morning when the hearing opened, we took testimony over a considerable period of time from three representatives of shelters for victims of domestic violence, one representative of Rainbow Retreat and two representatives of the Sojourner Center.

As I listened to their testimony, based, of course, on day-by-day contact with this problem, I think I'm summarizing it accurately when I say that they had the feeling that there should be far more vigorous enforcement of the law against spouses who are guilty of violence than is the case at the present time. They also recognize the role and the importance of counseling, psychological counseling, psychiatric counseling, but felt that that should be done under court order, under court supervision.

I am very much interested in the testimony that we received today relative to the conciliation court. It seems to me this is consistent with the nationwide movement; the Congress has just passed, the President has signed into law a new dispute settlement law designed to facilitate the move in the direction of using conciliation, mediation, arbitration to a far greater degree than we have in the past.

At the moment, the conciliation court is, as you point out and as the witnesses from the court pointed out, is not involved in the criminal process at all. I guess they did get one or two cases referred, but by and large they are not involved in that process. Assuming that resources could be made available, do you see any reason, Judge Cantor, why the concept—that underlies the conciliation court—could not be applied to the criminal side?

JUDGE CANTOR. It could be, and it probably should be if there's a lack of any other place to do it. Now, you may have within the adult probation office certain people who might be of sufficient experience and background to be family counselors. They are not hired as such.

Our people are, and I think it could be expanded to include that, that if a man were convicted of assault, domestic violence, assault, that a condition of probation would be that he obtain counseling. That could be done through the conciliation court, yes, and it would be mandatory under court order, even as a condition of probation.

CHAIRMAN FLEMMING. Judge Hammond or Judge Johnson, would you like to comment on that? I mean, you both had some opportunity, I assume, to observe the conciliation court.

JUDGE HAMMOND. I'm a very strong believer that probation can be a very effective tool in this particular area. Incarceration is only temporary, and even if someone were to receive the maximum sentence on a misdemeanor, they'd be out on the street in 180 days. Three-year term of probation has a lot more flexibility even if it does include a jail sentence, but in order to make that an effective term of probation, you have to have an effective probation department.

Our probation department does utilize the services of various service groups or organizations in the valley, and whether or not they use either the Rainbow Center or Sojourner Center to a great extent, I couldn't tell you, our probation department could, how many referrals they might make or whether they're made often or seldom, but I think there is certainly a great potential for utilizing probation services and counseling for the particular people involved in this type of crime, which has far more impact than the mere misdemeanor committed, and someone put in jail for a few days or even 6 months. The continuing nature of these particular offenses are what bothers me. Even I realize, I think—and perhaps this is an uninformed opinion but it is an opinion—that this is a continuing pattern, it isn't a rare occurrence.

We may see a defendant in jail 4 years ago, 3 years ago, 2 years ago for this type of offense and still married to the same wife and back in jail again, or before the court again, and counseling may have a far more rehabilitatory affect than the mere imposition of a jail sentence, because the more deepseated problem, I think, more often, which may be alcohol related, which may be many, many different things that I'm really not qualified to go into because I don't have any expertise in that area, but counselors do.

JUDGE JOHNSON. The only comment I would make on that particular subject is, of course, I think in my prior testimony I've expressed the concern over the need or reassessment of our system as it exists to better protect the public in instances of domestic violence. Being in the justice court, which, by the way, at my particular level, I have seen on a number of occasions the value, the real value of having a conciliation court.

Some of the solutions that I have arrived at in settling domestic disputes at a separate—whether separated parties are not getting along or they have made prior threats at one another—I have made a number of referrals to the domestic courts through the conciliation court and they have just taken the ball and run with it.

I must say at the entry level in the justice court level it is very seldom you are able ever—very seldom are you able to refer to another agency and get immediate assistance, but in the case of the conciliation court I have found that to be the most willing, the most cooperative arm, in terms of working to solve isolated individual cases of problems resulting from husband and wife.

In any referral that we would make to the conciliation court, they have taken it and they have helped to practically resolve the entire matter. They either determine that they want to get back together or they stay away and after having gone through the counseling system, one of the parties being made to come into court and testify in front of a third and impartial party, they seem to solve the problem.

The one thing that, in assessing the questions, and I have said I'll pass on a number of times, I think I better not pass anymore because I think I'm passing up an opportunity to speak and hopefully to improve our system as it exists.

In the justice court, the majority of JPs are nonlawyer judges; we are elected by the people of the precincts where we preside. In Al's case, in the city court, he is employed by the city council. When you go to superior court, they are appointed.

The system has different idiosyncrasies and there are different reasons we have to twist certain ways on certain issues. I perhaps feel more free to comment than any of them, and yet, because I have to work with them, I certainly feel—I don't want to tell any of their trade secrets, but I think my obligation is to the people of my precinct, because they're the ones who ultimately decide whether I'm going to be there next time or not.

Our system has a lot of organization to it in that we have a justice of the peace association, statewide, and we have a justice of the peace association here in Maricopa County; we do not have a presiding judge. We utilize the services of the most cooperative presiding judge of the superior court, who does elect to meet with the JPs once a month. We decide issues of benefit to the JPs, but I must admit at this time very few issues concerning our constituency are discussed in these meetings; it is almost like a welfare meeting for JPs. But I think it is because of the nature of the beast, as our system is established, rather than the individual character of the individual judges.

The need is obvious to me, having been on the bench for the last 4-1/2 years, that we need some extreme overhaul, not just in the city but in the county as well. The JP system—there are charges in the legislature which says, "We need to overhaul and do away with it." Well, that might be so, as long as we have an alternative that is going to solve the problem, whether it is domestic violence or just plain violence or just plain keeping the peace.

You know, when we get into hard times, as we are now, it is very difficult just to maintain the peace, and that's really the only constitutional obligation that I have met, that I have to make, in terms of

being a justice of the peace. I've got to maintain the peace. I've got to put down every riot and fray and confrontation in the community, but how do you do it when you are strapped with one tool, and that is a peace bond that people in the higher levels are saying are unconstitutional, and I agree with.

But yet and still that's the only tool as a JP that I've got to maintain the peace within my precinct. I don't know how superior court judges feel about domestic violence at the superior court level. Probably the only two levels that communicate most is probably the city judges and JPs. I don't know how city judges overall feel about domestic violence. I do know that JPs are inherently concerned because we, again, are the courts that are in the neighborhood, and they run into us for protection. I'm not a police officer. I have been charged with, "Why did you let a prisoner get away because he ran out the door" types of situations.

There's just so much that you can do. In the system as it currently exists in Maricopa County in the State of Arizona, the system does not protect the individual. I think if we're guilty of anything, we're guilty of trying to protect each other as JPs, as judges, and not the people.

There is an extreme need for reorganization, and perhaps if I was appointed, perhaps if the city council was to hire me or the board of supervisors were to have me, my testimony might be different today; but I can tell you being a court of first instance and being the one in the trenches when the people run for some sort of protection, it's not working.

And if you invited me here today because I'm the only JP in Maricopa County that handles peace bonds, well, so be it, but I handle it because it is the only tool that a justice of the peace has with which to put down disturbance in the community, whether it is husband or wife or whether it's two neighbors. Somebody has to do it. Police officers sometimes they look at civil matters and not as criminal. We need a new system and it is not working and I think that perhaps of the three on the panel today, I think I was—I'm the best person to make that statement without repercussion, I hope. Thank you.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. No.

MS. STEIN. Mr. Chairman, excuse me just a moment, before the panel is excused, the staff would like to introduce into the hearing record a description of the methodology used to examine a sample of the case files of dissolution of marriage proceedings in the Maricopa County Superior Court and a preliminary analysis of the results; and for clarity of the record, perhaps I could establish with Judge Cantor that these are the documents you referred to earlier in your testimony that staff shared with you this morning?

JUDGE CANTOR. Yes.

MS. STEIN. Thank you.

We request that these documents be marked and received as an exhibit and that the hearing record be kept open at this point for submission of the results of our further analysis of the data obtained.

CHAIRMAN FLEMMING. Without objection, that will be done.

We're really indebted to you. We appreciate it very, very much. We thank you for sharing with us your own experiences and your own relationship to this very, very important problem, an issue that confronts not only this community and this county but confronts the Nation. It has meant a great deal to us. We want you to know that. Thank you very, very much.

CHAIRMAN FLEMMING. Counsel will call the next witness.

MR. HARTOG. Will Mr. Thomas McLaughlin please step forward.

[Thomas J. McLaughlin was sworn.]

**TESTIMONY OF THOMAS J. McLAUGHLIN, ASSISTANT DIRECTOR, ARIZONA  
DEPARTMENT OF ECONOMIC SECURITY**

CHAIRMAN FLEMMING. Pleased to have you.

MR. HARTOG. Would you please state your name, title, position, and business address for the record, please?

MR. McLAUGHLIN. My name is Thomas J. McLaughlin. I'm assistant director, Arizona Department of Economic Security, and I am responsible for the division of aging, family, and children services. My business address is 1400 West Washington, Phoenix, Arizona.

MR. HARTOG. Thank you. Mr. McLaughlin, as you know, the director of DES, Mr. Jamieson, will be here tomorrow to testify on DES general policy matters. Before I ask you some questions regarding some specific elements of Arizona social services and how they affect women who are victims of domestic violence, is there any general overview in DES policy which you would care to make to preface your answers to my more specific questions?

MR. McLAUGHLIN. Mr. Chairman, Members of the Commission, I would just say a couple of things. The Arizona Department of Economic Security, which is the umbrella agency for social service, labor programs in the State of Arizona has within its programs a number of social kinds of issues and social programs which impact directly upon the problem which you're examining today. We have not, within the department and even more specifically within the children, youth, and programs for the adults and the elderly with which I work, related to this issue, I think, as an individual kind of issue.

We work on a daily and weekly basis with the families and with the children and with some of the adults who are victims of or part of the total problem; but as a general rule we come into the problem in two areas: one, in the area of protecting children who also are abused, neglected, abandoned, or otherwise taken advantage of, and in the adult protective service area, when we are asked to investigate or to provide assistance to one or more of the adults who have likewise been

abused or in some way been taken advantage of. So the programs of the department do not, as specifically as perhaps they should, relate to the issue that you're addressing today.

MR. HARTOG. Mr. McLaughlin, how would you characterize Arizona's level of benefits available to women with dependent children?

MR. McLAUGHLIN. The aid to dependent children program in the State of Arizona is in the bottom 10 percent in the country. I don't know, it's 37th in the Nation or something along this line, it's woefully inadequate, to say the least, as far as the amount of benefits, the type of benefits that are offered. In addition, the State of Arizona does not have an unemployed parent program nor do we have AFDC, emergency assistance program.

MR. HARTOG. Can you give me an example of the benefit levels to make this more concrete to the Commissioners?

MR. McLAUGHLIN. As a matter of fact, I can. The current benefit levels run, just perhaps as an example, a monthly benefit for a mother with three children is \$240 per month. I can go on if you like: \$274 for a family of 5, \$306 for a family of 6 and so forth. It is basically operational off of a 1971 standard of need which was developed at that point in time and of which we are now paying just under 90 percent.

MR. HARTOG. But that standard of need hasn't been revised?

MR. McLAUGHLIN. That's correct.

MR. HARTOG. Since 1971?

MR. McLAUGHLIN. It's been revised, but it hasn't been funded.

CHAIRMAN FLEMMING. Could I just, do you have the parallel figures for SSI, supplement security income for the aged, blind, and disabled?

MR. McLAUGHLIN. Mr. Chairman, I do happen to know what the current benefit payment for an individual at the present time is—\$209 since July for an SSI individual. That's correct, sir.

MR. HARTOG. Is this what you characterize as woefully inadequate level of benefits, a conscious policy on behalf of the State?

MR. McLAUGHLIN. I think that it is. I can only speak—this is the second year that I have been in the State. Last year we presented to the Governor and to the legislature what amounted to an 11 percent increase which you see reflected. Likewise, we have a request in this year for just under 8.5 percent, but I'd have to say it is conscious because the responsibility for the benefit levels and for the amount of money rests with the request on the part of the administration and the voting of those dollars to fund those by the legislature.

VICE CHAIRMAN HORN. How much did you get? You asked for an 11 percent increase. What did you receive?

MR. McLAUGHLIN. We got 10.6 last year.

MR. HARTOG. Mr. McLaughlin, moving on, we had some testimony this morning from the women who staff the shelters in the area who indicated that in most cases women arrive at the door—no matter how

wealthy they had been—when they arrive there they are penniless, and they indicated that it can take a woman from 4 to 6 weeks to obtain AFDC assistance.

Does Arizona have emergency—you indicated Arizona does not have emergency AFDC to help during the period when the women would be awaiting her general AFDC benefits. Could you explain why there is no such program in the State?

MR. McLAUGHLIN. Why there is no emergency AFDC? Yes, we have a State-funded emergency assistance program, but for about the last 4 years the State has attempted—and there is a State statutory base for an AFDC emergency assistance program, to obtain this. The reason we have not been able to, is a ruling on the part of HEW relative to the issue of statewideness.

We have within the State 19 Indian tribes and the Indian tribes have a program called Indian tribal assistance which is kind of a combination of general assistance and emergency assistance. Those benefits, which come through the Bureau of Indian Affairs, are substantially higher than are Arizona's benefits, and as a result, quite naturally, they had opted not to participate or not to be a part of Arizona's emergency assistance program.

As a result, despite the fact that we have argued that the program would be available if they so chose, to this point in time HEW has ruled that because we do not offer a statewide emergency assistance program, that the State is not eligible for Federal matching funds for that program.

MR. HARTOG. What do you think would be the appropriate solution for the problem?

MR. McLAUGHLIN. I think the easiest solution is a waiver of this issue because it is not a matter of our refusing to provide the service on the Indian reservations, it is a matter of their having a better deal to start with, and I would think it should be possible; and I have not been able to carry that argument, but it should be possible to provide for some sort of waiver on that basis.

MR. HARTOG. Turning now to the State's emergency assistance program, how much money is in that program for the State as a whole?

MR. McLAUGHLIN. The State appropriation for the current fiscal year is \$800,000.

MR. HARTOG. I understand that to be a one-time only for the client who is seeking assistance, that works for a 2-week period; is that correct?

MR. McLAUGHLIN. It is basically a one-time program. We can't provide benefits up to three times in 12 months but it is a one-time program basically; it is intended that way.

MR. HARTOG. What is the average benefit level under that program?

MR. McLAUGHLIN. The average benefit that is provided is about \$70.

MR. HARTOG. Once again, from the women who staff the shelters in the area there was some criticism of the emergency assistance program. In particular, they indicated that women, if they did not appear at 6:30 a.m., by 6:45 a.m. they were told they had to come back the next morning, that there was no more assistance that they could possibly get that day, and they indicated it was therefore done on a first-come, first-serve basis and, if you weren't there first, you would have no chance to get emergency assistance.

Is that policy, as they explain it, is that in accord with existing DES policy?

MR. McLAUGHLIN. No, sir.

MR. HARTOG. How would you explain what went on?

MR. McLAUGHLIN. I think there's two things involved with that, and it deals with the issue of policy versus practice. Approximately—I came to the State, November a year ago, and Gloria Young, Mrs. Gloria Young, who is responsible for the family assistance program, pointed out to me very early on that despite the fact that we have some very good staff, the success of the public welfare programs for many years have been measured by how many dollars you turn back to the general fund at the end of the year.

We had a substantial problem, and still have a problem in some areas relative to client access to services, the fact that we are here to serve them, not the other way around. It was necessary about 5-1/2 months ago to relieve the program managers, both Phoenix and Tucson, public assistance food stamp programs, as well as five local office managers here in Phoenix on this exact issue, relative to AFDC and food stamps.

I hope we have made the point, when clients come to the office, we take their applications. If there are instances where that is still not the case, I would certainly be interested in knowing what those are.

MR. HARTOG. Where should people complain if the practice is not in accord in the DES policy?

MR. McLAUGHLIN. The acting program manager here in Maricopa County is Anne Zimmerman; she can be reached through the same address that I have, through Mrs. Gloria Young or myself.

MR. HARTOG. Thank you. The other point that was raised about emergency assistance was a kind of a Catch 22, which is a repetitive phenomenon we've been hearing in this hearing. They indicated that to get emergency assistance to help with the rent, you first had to have a place which you were renting; however, if you didn't have the money to rent the place, you couldn't get the place that you had to rent to be able to get the money in the first place. Is that a possibility under the emergency assistance program as currently administered?

MR. McLAUGHLIN. Well, it depends on how you look at it, I guess. There certainly is a policy with regard to the issuance of emergency assistance that there has to be a documented need because we have so few dollars in the emergency assistance program that we do pri-



oritize the expenditure of those toward rent, utilities, food, these types of things, and we would not issue \$100 for rent without some type of documentation that that's what it was to be utilized for.

I don't think, however, that that excludes an individual who, for example, needs shelter or needs emergency housing of some sort from being able to document that they are indeed going to be able to obtain as soon as they can get the money.

MR. HARTOG. So it is a question of documentation about having a place you would be able to live in?

MR. McLAUGHLIN. Right, and it can be done not only from the standpoint—you don't have to have something in writing. It can be a matter of being able to call a landlord or something of this sort.

MR. HARTOG. So once again, if that kind of assistance was not being rendered by the local office, that would not be in accord with DES policy statewide?

MR. McLAUGHLIN. That's correct.

MR. HARTOG. You indicated that you did not currently receive emergency AFDC. If you did, what difference would that make in your current program with respect to emergency assistance in general?

MR. McLAUGHLIN. We'd have a lot more money.

MR. HARTOG. How much?

MR. McLAUGHLIN. We've estimated that approximately three quarters of the \$800,000 would be matchable with Federal funds and our current Federal match is about 43 percent, or in that neighborhood, so we would have approximately 43 percent more dollars than we have at the present time.

MR. HARTOG. That's almost double your current \$800,000?

MR. McLAUGHLIN. Something like that.

MR. HARTOG. There was also some criticism with respect to receiving AFDC benefits. One point that was made was a problem with respect to documentation; women quite often have to flee their house and, having fled, they either cannot go back and get their documents or they have been destroyed or they're from out-of-State and that can further delay their ability to get the documentation required to get AFDC benefits. Is that a problem in this State?

MR. McLAUGHLIN. It's not one that's been brought to my attention. I wouldn't say that it isn't a problem. We certainly require documentation. At the same time, the application which we use has on it a place to sign from a declaration standpoint, and the policy under which we operate, again, practice being what it may, the policy under which we operate is that, if we have no reason to believe, for example, that a child is not a member of the family or related to the individual, the fact that that mother doesn't have a birth certificate or hospital certificate or something certainly would not be cause to deny that person assistance if that were the only thing that were lacking.

MR. HARTOG. One other point was made by the shelters that on occasion they can find a super caseworker, but most of the time they

find that they don't find the super caseworker. They have a very real problems getting benefits which they otherwise would be entitled to. If that occurs, what should people do?

MR. McLAUGHLIN. I would, again, if they have problems, again refer them to the program manager whose name I mentioned earlier, Mrs. Anne Zimmerman, who has been with the programs here in Maricopa County now for about 5 months.

MR. HARTOG. One other question. I'd like to return once again to emergency assistance. You indicated that the State does try to set priorities in this area. Is it conceivable that one of the priorities could be to assist women, victims of domestic violence, and, if so that is conceivable, would you please explain how that could possibly be done?

MR. McLAUGHLIN. It's conceivable that it has not been. The priorities have been more of a generic nature in terms of types of service rather than types of client category, if you will. The dollars that we have stretch not very far when you're dealing with the kind of need we have. In fact, if it hadn't been for getting some of the energy assistance dollars through to utilize for utilities, they would have gone a lot less far.

I would say it is possible. It would be on the basis of a priority established by the director, but I don't know whether that grouping of individuals could make an argument for being anymore immediately needy than migrants who have no food, shelter, or whatever. That would be the dilemma.

MR. HARTOG. Your major problem is too many varying people competing with too little money?

MR. McLAUGHLIN. That's basically it.

MR. HARTOG. Turning to Title XX programs, I understand that Title XX in this State has two routes by which it gets to the contract services as delivered. There is one set of programs which is administered directly by DES and there's another set through the cities and counties; is that correct?

MR. McLAUGHLIN. That's correct.

MR. HARTOG. Roughly, what is the title amount of money that Title XX has which DES administers directly?

MR. McLAUGHLIN. Which DES administers directly?

MR. HARTOG. Right.

MR. McLAUGHLIN. I believe the total that DES has is somewhere in the neighborhood of \$18 million out of about a little over 28.8 million.

MR. HARTOG. So the balance of roughly \$11 million goes to the cities and counties?

MR. McLAUGHLIN. That's correct.

MR. HARTOG. Are you aware, among the programs which DES administers, of any Title XX moneys that could impact, assist women who have been physically abused?

MR. McLAUGHLIN. I think there are several. One of the things which the Commission heard earlier is a program which is funded through

programs with which I work, Rainbow Retreat, the family crisis program is funded both for families and for children through our programs, and I think the other major area is probably in adult protective services area.

MR. HARTOG. Could you tell me what adult protective services could do for women victims of domestic violence?

MR. McLAUGHLIN. Basically two things: the adult protective service staff, which have 24-hour responsibility, Maricopa-Pima Counties which we now have throughout the State, are responsible for dealing basically with crisis, for providing short-term type counseling; we have access to homemaker service if that's appropriate, and we would be responsible for, if this were a situation that came to our attention, for providing for emergency shelter either through our own funds or through one of the shelters if that were available.

MR. HARTOG. I understand there's a 24-hour hot line that the adult protective services maintains?

MR. McLAUGHLIN. In Maricopa and Pima Counties, that's correct.

MR. HARTOG. In those two counties in the State? Is it in only those two counties in the State?

MR. McLAUGHLIN. At this point in time, it is.

MR. HARTOG. Could that be a possible resource for people to call that advise people, not only of social services to which they could be of assistance, but legal rights?

MR. McLAUGHLIN. I'm not real sure as to the kind of expertise that we have in that area as far as legal rights and advocacy at this point in time through that resource, but certainly as far as dealing with crisis or any kind of emergency situations, there's no question it is a resource.

MR. HARTOG. And they could, maybe let me rephrase—rather as to their options, legal options of where they could go for help and various alternatives not only for social services but from the various other agencies that may be available?

MR. McLAUGHLIN. Yes.

MR. HARTOG. Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. I understand that some Title XX money was made available for Rainbow Retreat, right?

MR. McLAUGHLIN. That's correct, sir.

CHAIRMAN FLEMMING. How about the Sojourner Center? Has that been involved in Title XX money at all?

MR. McLAUGHLIN. As far as I know, Mr. Chairman, there is not. I'll put it this way, there is not through DES. There may be funds through the local area, the dollars that Mr. Hartog indicated in that facility, but I'm not familiar with that.

CHAIRMAN FLEMMING. Through the Rainbow Retreat branch you established the fact that Title XX money can be used for the operation of the shelters?

MR. McLAUGHLIN. That's correct, sir.

CHAIRMAN FLEMMING. How does the State provide services for the medically indigent?

MR. McLAUGHLIN. At this point in time, Mr. Chairman, all of the medically indigent services, with the exception of those services to children in foster care, who are in the care and custody of the State, are provided through county medical indigent programs. The State, as I'm sure the Commission is aware, is the only one which does not have a Medicaid program funded, and all of the services are provided through the county programs.

CHAIRMAN FLEMMING. Take this county, for example; what's the level of those services in this county and would they be in the position to respond to the needs of the victims of domestic violence that needed medical care?

MR. McLAUGHLIN. I'm not sure, Mr. Chairman, I can respond to the last part of that because I'm not really familiar with the kinds of services that they provide specifically. I think the level of services last statewide on a comparison basis, at least to the last State in which I administered the Medicaid program, is probably substantially less as far as what's available to any of the low-income individuals. The county budgets are, as most counties are these days, extremely overtaxed and the cutbacks and services and so forth are coming in many instances in the indigent care issues. It is a major issue that our legislature has not to this point addressed from the State standpoint.

CHAIRMAN FLEMMING. Are there any other—to your knowledge, are there any other shelters for victims of domestic violence in other parts of the State operated at the present time?

MR. McLAUGHLIN. Mr. Chairman, we have a similar family shelter in Tucson that we also are providing some funding for, but I'm not familiar with any in other parts that are specifically oriented in that direction.

CHAIRMAN FLEMMING. I gather that the basic attitude of the department is sympathetic to the development of these shelters of providing them with some assistance?

MR. McLAUGHLIN. That's correct, sir.

CHAIRMAN FLEMMING. Do you have any knowledge as to the status of the community development funds in the State of Arizona in relation to their possible use or the construction of shelters?

MR. McLAUGHLIN. I'm sorry, sir, I don't.

CHAIRMAN FLEMMING. We received some testimony this morning that there is at least one application pending, and I realize it doesn't come within your department, but I thought possibly you might have been caught up with it.

COMMISSIONER SALTZMAN. Can I piggyback this for a moment? Is there any other interfacing with Rainbow Center other than what you've mentioned from your department? Is it just a funding?

MR. McLAUGHLIN. No, it isn't. The primary reason for our initial involvement in Rainbow, which has been an operational facility for a

number of years, dealt with our belief that the whole children service program was very inadequate, was very oriented toward out-of-home kinds of care, and there was really nothing to try to keep families together or get them back together on the front end of system. So our initial association with Rainbow, approximately a year ago, related, first of all, to that, to trying to provide an opportunity for situations where children are or parents have been abused, to offer something on the front end rather than splitting your families up, and that is how we got involved to begin with.

COMMISSIONER SALTZMAN. I'm not sure I understand that. How does Rainbow Center handle that? They don't work within the family home, do they?

MR. McLAUGHLIN. Well, the shelter itself is an opportunity to place not only children, but also to place in some instances as has been indicated here, parents, specifically, mothers. Most of the other programs that we have isolate the child and take the child and place the child somewhere and you're then dealing with a situation of working up a plan to get the child back into the family. This, at least, keeps a part of the family together and allows us the opportunity to intervene at the front end rather than trying to put the family totally back together after everybody has been split in all directions.

COMMISSIONER SALTZMAN. So you make the referral to the Rainbow Center?

MR. McLAUGHLIN. Generally, it is a facility that we utilize a great deal, and we utilize it either from the standpoint of a child protective services complaint, which is the usual way from the police department, from one of the law enforcement agencies, or from adult protective services.

COMMISSIONER SALTZMAN. Is that in any relationship to the number of cases you sent there to any funding patterns?

MR. McLAUGHLIN. Yes, it is. We fund it on the basis of utilization.

COMMISSIONER SALTZMAN. I see.

CHAIRMAN FLEMMING. The testimony today was, as I recall, that six-sevenths of their operating budget does come from public sources; one of those public sources is your agency.

Do you have any further questions, Commissioner Freeman?

COMMISSIONER FREEMAN. No.

CHAIRMAN FLEMMING. Commissioner Horn.

VICE CHAIRMAN HORN. Let me ask you, Mr. McLaughlin—you mentioned adult protective services. When a brick is flying toward the victim in a kitchen, how do they know how to get into contact with adult protective services?

MR. McLAUGHLIN. Generally, Mr. Horn, they probably don't. I'm sure it is the last thing in their mind. The adult protective service program here as well as the child protective service program is primarily put forward, I would say, through the law enforcement agencies. That's where a great many of our initial contacts come, either through the

police or the sheriff's department or through other areas, and that's really how we get in touch with a great many of these individuals.

VICE CHAIRMAN HORN. So in terms of, say, 24-hour hot lines, there's no number that's been put on all the telephones, pay phones or anything in Arizona or anything like that?

MR. McLAUGHLIN. There is a publicized 24-hour hot line that is available, that is in all of the information and referral agencies that operate around the city, and we do get some referrals in that direction, but most of the real emergency kinds of things, as you described, with the bricks flying usually come through the law enforcement agencies.

VICE CHAIRMAN HORN. It seems to me the State regulates public utilities, such as telephone companies—they could sort of make as a condition of licensure that there be an emergency hot line number. Maybe the police is the indirect best route. I don't know.

COMMISSIONER SALTZMAN. Can I piggyback on that?

VICE CHAIRMAN HORN. Yes.

COMMISSIONER SALTZMAN. When does the criminal justice system and how do they relate or interface with you?

MR. McLAUGHLIN. In both adult and child protective service areas; I would say that in many instances involving domestic situations we're probably the front line as far as the children and the mothers.

COMMISSIONER SALTZMAN. From which system?

MR. McLAUGHLIN. From the criminal justice system.

COMMISSIONER SALTZMAN. You do get referrals from the police?

MR. McLAUGHLIN. Absolutely. Absolutely. And in many instances, they will have taken—in a situation where you have a father who perhaps has abused both the mother and child—they will have packed that individual off to jail for the night or something of that sort and said, "I suggest you contact the department or one of the private social agencies for some type of counseling or medical care," or something of this sort.

COMMISSIONER SALTZMAN. Is this usually under a voluntary kind of—

MR. McLAUGHLIN. It is almost always under voluntary. On the adult side we have no statutory authority on involuntary situations; we do on child protective services.

VICE CHAIRMAN HORN. My next question gets back to this emergency assistance situation, which I would agree is simply unbelievable that because the various Indian tribes, Navajo, etc., receive more from BIA, Arizona is held not to be meeting the criterion from HEW that all groups in the State apparently be in some combined program to benefit.

Now, you suggested that perhaps a waiver could be sought by, I assume, the Secretary of HEW. Has the State requested such a waiver?

MR. McLAUGHLIN. Yes, sir.

VICE CHAIRMAN HORN. When?

MR. McLAUGHLIN. I believe the last time—and I provided Mr. Hartog with some copies of our last request in that area and I believe the last one was in either April or May 1979.

VICE CHAIRMAN HORN. What was the response you received from HEW?

MR. McLAUGHLIN. The response was basically the same, that they do not consider us in compliance with the statewideness provisions of the regulations and that our request was denied.

VICE CHAIRMAN HORN. Are they basing their action on an administrative regulation or an actual statute of Congress?

MR. McLAUGHLIN. I'm not real sure about that. I believe it is on an administrative regulation.

VICE CHAIRMAN HORN. Typical HEW.

Mr. Chairman, I would like at this point in the record to have included the copies of the correspondence from the State of Arizona to the Department of Health, Education, and Welfare, the replies of that department. Also, I would like the Staff Director to raise this question with the Secretary of HEW as to on what basis do they make this type of decision, and I would also like the question—appropriately perhaps it is in our report, although I hate to waste 6 months before getting down to this—that this ought to be asked of domestic counsel. It ought to be asked of the Department of Interior, Bureau of Indian Affairs. I think they've got a major stake in not seeing—urban Indians who do not come under the tribal situation but would be eligible for State funds in a urban environment not denied these funds simply because they have a more advantageous program when operated through the Bureau of Indian Affairs.

Has any appeal been made to the Federal courts on this? Let's get that in.

CHAIRMAN FLEMMING. Without objection, that will be done.

VICE CHAIRMAN HORN. Has any appeal been made to the Federal courts on this issue?

MR. McLAUGHLIN. Not to my knowledge, sir.

VICE CHAIRMAN HORN. And you're not aware of any contemplation of such an appeal?

MR. McLAUGHLIN. Not at this point.

VICE CHAIRMAN HORN. And no appeal to the Members of Congress or did Members of Congress from Arizona enter into this?

MR. McLAUGHLIN. The Members of Congress were apprised of this the last time that this issue was raised. Congressman Udall was very supportive but was not able to move—the other Members of Congress, I don't believe, were quite as supportive of this particular program and we were not able to get too much help in that area.

VICE CHAIRMAN HORN. Mr. McLaughlin, you've been a county welfare official; you've served in welfare administrations in two States. What do you see as the appropriate role for the Federal Government to perform in terms of assistance to victims of domestic violence?

MR. McLAUGHLIN. I think, Mr. Horn, the quandry that we're all facing right now with regard to Federal funds is the issue of there is simply not enough to go around. Beyond that I think the way to deal

with that is obviously to begin to target and set some priorities for the utilization of Federal funds.

Without that, what ends up happening is at the State, particularly here in Arizona, at the local levels, is our own priorities begin to get dealt with first and, if there happens to be anything left over, if someone is hollering loud enough or is concerned enough, then perhaps there's some dollars there. But I think the major role would be an initiative with regard to establishing priorities for the utilization of some Federal funds that could be matched with State or local funds.

VICE CHAIRMAN HORN. In other words, do you mean anything more by targeting than simply including victims of domestic violence as one category, or do you mean specific processes and institutions within that category that the Federal Government ought to target?

MR. McLAUGHLIN. I would go beyond simply including them because I think that with the funding cut back—so we're all seeing in soft social services area—it is really necessary to target them specifically in terms of what dollars can be spent for rather than simply a permissive kind of thing that allows State local jurisdictions to choose.

VICE CHAIRMAN HORN. Well, based on your experience, would you feel that targeting these funds for a national shelter program is the best investment of Federal money?

MR. McLAUGHLIN. I think maybe it needs to be looked at not just in terms of this group, but in terms of the family that get involved in this kind of a situation; and I think, relating back to an earlier question of our rather meager attempts to deal with this as a family situation, I would like to see us address the family as a total whole in situations involving domestic violence, because very often we're not just dealing with economic assistance to a mother or economic assistance plus some type of interventive social services, but we're dealing with perhaps having that child in either our juvenile justice system or something else in very short order because of the impact of the whole family situation. I really think that the funds could be targeted in the domestic violence area toward addressing the total problems of the family associated with that problem, and you would probably get not only a lot better array of services but you'd also get a lot more interest, I think.

VICE CHAIRMAN HORN. Do you feel that should be strictly a Federal agency as to the appropriate targeting? You mentioned the word "matching" or do you feel that's a joint Federal/State collaborative effort?

MR. McLAUGHLIN. At the risk of heresy, in the State of Arizona, I think that it needs to be something that is a collaborative type of thing. If it is simply Federal only, chances are that it will do like many others programs have done —are start up in a year or two from now, say, "good luck," and take it over and it will fade off into the sunset. If there's an investment at the State or local level, the chances of its continuing are much better.



VICE CHAIRMAN HORN. But I take it you would not specify a national shelter system as the basic approach in this area?

MR. McLAUGHLIN. I'm not really sure, to be honest with you, exactly what kinds of problems that would address. If that would address all of the things that I mentioned a moment ago, or at least address some of those, then I certainly wouldn't be opposed to that, but I'm not sure whether that addresses the total range of problems, including reemployment of this individual if she decides to become economically independent of her spouse. And those kinds of issues all have to be charted in with this, and I don't know whether that would address all of those.

VICE CHAIRMAN HORN. I probably, in my own assumption, when I use that catch phrase, I would assume certain counseling services, psychological and otherwise, certain job brokerage clearance functions within a community, what, ideally, a parole or probation officer should provide, but I haven't really spoken to the need for cash services to really provide some options in a transition period or anything like that.

MR. McLAUGHLIN. I certainly wouldn't oppose that.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN FLEMMING. Could I ask one other question on your problem on this emergency fund? I notice this ruling comes from the regional office of HEW. Was the regional office ruling appealed to the central office in Washington?

MR. McLAUGHLIN. Mr. Chairman, this is the second time around on this particular issue. The year prior it had gone to the regional office. This time, Mr. Harris, who I believe signed that letter, indicated to us that it was a ruling of the General Counsel in Washington and that it was not a matter of simply interpretation by the regional staff. I don't know if that's addressed specifically in there, but he did indicate that to us.

CHAIRMAN FLEMMING. I didn't read the letter carefully, except I did notice the fact that one sentence which says that current policy does not allow the exclusion of Indians living on a reservation, even though they may receive the more generous BIA assistance, which would indicate to me that it is a policy decision that could be looked at.

MR. HARTOG. Mr. Chairman, if I could, one last question. Is that April 27 letter which we have submitted for the record, is that the latest correspondence that you have had with HEW on this issue?

MR. McLAUGHLIN. It is the latest written correspondence that we have, yes.

MR. HARTOG. Thank you.

CHAIRMAN FLEMMING. Their reply is April 27. Okay. Any other questions? If not, thank you very much. Appreciate your being here with us very much.

Hearing is in recess until 9 o'clock tomorrow morning.

[Whereupon, the hearing was adjourned at 6:05 p.m. to be reconvened at 9:00 a.m. on February 13, 1980.]

**Morning Session, February 13, 1980**

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CHAIRMAN FLEMMING. Counsel will call the next witness.

MR. HARTOG. Will Bill Jamieson please come forward?

[Bill Jamieson, Jr., was sworn.]

**TESTIMONY OF BILL JAMIESON, JR., DIRECTOR, ARIZONA DEPARTMENT OF ECONOMIC SECURITY**

CHAIRMAN FLEMMING. I'm very happy to welcome Mr. Jamieson as a witness, a former colleague in the work of HEW.

MR. HARTOG. Mr. Jamieson, for the record, could you please give your name, title, and business address?

MR. JAMIESON. My name is Bill Jamieson, Jr. I am the Director of the Arizona Department of Economic Security at 1717 West Jefferson.

MR. HARTOG. Thank you. Yesterday, Mr. Jamieson, we heard Mr. McLaughlin, your assistant director's, very interesting testimony. He indicated that one of the problems confronting DES, the Department of Economic Security, is making certain that the policy which you establish in conjunction with the Governor is, in fact, implemented in practice.

Would you please tell us some more about this problems and the other obstacles which may be confronting you in implementing the policies of the Babbitt administration?

MR. JAMIESON. That's a pretty open-ended question, Jack. The problems confronting the department in terms of implementing any kind of a progressive social policy are many. Some of them are Federal rules and regulations. I am particularly concerned with the categorical nature of programs which tend to lock people out.

Of course, the relatively conservative nature of Arizona, Arizona Legislature, sometimes does not bode well for social programs; basically, though, I think the biggest problem that the department has had, and that we are still living with, is the problem with stability.

In the first 5-year history of the department, there were six directors and four governors. That is not a way to establish a consistent social policy. I feel that we are beginning slowly to overcome that. Many of the programs that we inherited were run by people basically who had been hired to protect the State system from those people out there who are trying to rip it off. And we are in the process of trying to change that.

MR. HARTOG. How large is the budget that you administer?

MR. JAMIESON. State and Federal funds together it's approximately \$300 million.

MR. HARTOG. How is that divided among State and Federal funds?

MR. JAMIESON. Approximately 50/50.

MR. HARTOG. This is your fiscal 1979 budget?

MR. JAMIESON. Yes.

MR. HARTOG. Is that budget, is that the same level as previous years?

MR. JAMIESON. No, we get increased levels. Of course, the Labor Department program, which also comes under my department, fluctuate by employment. The staffing levels go up as unemployment goes up. Basically, though, it has remained a little bit below inflation.

MR. HARTOG. Has that little bit below—I'm sorry, I didn't hear the last word.

MR. JAMIESON. We have not kept up with the inflation either with Federal funding or State funding.

MR. HARTOG. Thank you. Yesterday, Mr. McLaughlin characterized DES benefit levels as inadequate; in fact, I think the phrase was "woefully inadequate." Would you agree?

MR. JAMIESON. I would say that woefully inadequate is an understatement.

MR. HARTOG. Could you expand on that?

MR. JAMIESON. Currently, an AFDC mother—we do not have AFDC up in this State—an AFDC mother with three children will receive AFDC benefits of \$202.

With that, given current prices, we estimate she can pay her rent and about a dollar of her utility bill, and that's all.

Food stamp benefits for the same mother and children would be approximately \$240. This State—and I believe society in general—expects people who are receiving assistance to be on some kind of a track moving toward self-sufficiency. In my opinion, the level of benefits in Arizona are such that that will never happen. An individual with the amount of money that we make available to them cannot in any way move toward self-sufficiency.

MR. HARTOG. To what do you attribute this low level of benefits in the State?

MR. JAMIESON. Historically, I believe the State is fiscally conservative. There is not, in my opinion, a view here that people who need assistance should get it. Generally, the feeling is that there should not be welfare. I believe that that's beginning to turn a little bit. There is, of course, the strong feeling that there ought to be an incentive for people to get off welfare; thus, if you keep the benefits low, two things will happen, in the minds of people who believe that: one, people will be motivated to get off, which I don't believe is true; and two, other poor people will not be motivated to move to Arizona.

Couple with the fact that we don't have Medicaid and that becomes a convincing argument in the minds of some.

MR. HARTOG. Mr. McLaughlin also indicated yesterday that, under Title XX funds, there are one and maybe two small programs being funded in the State which directly bear on the needs of women who have been physically abused by their husbands or mates. Do you think

that this is an appropriate policy for this State and this area at this time?

MR. JAMIESON. I honestly don't know. Basically, I hesitate to want to build separate service systems for every kind of individual need. I am increasingly concerned by, again, what is an increasing amount of categorization in both Federal and State programs. I believe it tends to lock people out.

The resources are there. The resources are there in assistance programs; the resources are there in social service programs; but they are divided and categorized in such a way that they are very difficult for people, particularly people who find themselves in crises, to access.

I believe that is the approach we ought to begin looking at, not how many programs are we funding for a specific need, but how can we make the resources we have available to us now, better serve human need and look at an individual as a person, a person who has a particular problem and begin to help that person with their problem instead of categorizing them and labeling them. Once we label a person, I believe we're able to hide from their hurt; we're able to deal with a battered woman, and not a person; we're able to deal with an abused child and not a person.

I have real problems with continuing to set up more and more and more categorical problems to deal with specific individual needs.

MR. HARTOG. Do I understand you correctly to be saying then that while you are not opposed to programs aimed, in general, at solving this issue, you think that the approach with which funds are given should be changed?

MR. JAMIESON. Yes. I think the approach with which funds are given should be changed. I believe that there should be better access to the assistance programs we have now.

The system we have now is not a logical system. The welfare system, social service system is not logical; it is not logical from the Federal level or from the State level. It is logical only if your concern is accountability of dollars. If your concern is the treatment of people, the system doesn't make much sense to me.

MR. HARTOG. In a interview with staff, you mentioned efforts to turn to a client-based approach rather than a categorical approach. Is this what your remarks this morning are about?

MR. JAMIESON. Yes. The direction that we want to head again is to attempt, over the next 2 or 3 years, to take each of our programs and individualize them. We have done this primarily successfully, I guess, in mental retardation, where each person who comes into the system is evaluated for individual needs, and an individual program plan is written.

We're able to work with that individual and we have an end goal for that individual, and it becomes a very personal, not a systematic approach. We are trying to set up the same kind of system right now with Title XX services, which, like the mental retardation program,

deals not only with the State but with approximately 500 community providers.

MR. HARTOG. By individualize, I understand what you're saying then is, if a client walks in, regardless of their problems, they would not be in a slot but rather they would be—a generally trained intake worker who would know—be able to identify what the person's needs were and then match those needs to existing programs.

MR. JAMIESON. That would be the ideal. The bureaucracy and the way the program is written and not just Federal bureaucracy, but my State bureaucracy, make that very difficult to achieve.

MR. HARTOG. If that kind of approach were used, would domestic violence, do you think, be one of the kinds of areas where in which, at least services could be grouped?

MR. JAMIESON. Oh, most certainly. But I would suspect, not being an expert on that particular problem, but I would suspect what individuals who suffer from domestic violence don't all have the same problems. There might be—let's take vocational rehabilitation—there might be that somebody needs a new location. Domestic violence, I am sure, is not one of the disabilities listed in the law that that allows us to serve people through vocational rehabilitation, so I would again say that, based on the individual needs of the people, yes.

MR. HARTOG. Thank you.

Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. Mr. Horn?

VICE CHAIRMAN HORN. Mr. Jamieson, on April 27, 1979, you received a letter from the regional office of the Department of Health, Education, and Welfare, and it concerned the fact that because your State plan on AFDCEA did not include the Indian reservations, that HEW would not approve the plans submitted by Arizona. Has any action occurred on the part of the State since that letter to try and appeal that regional decision?

MR. JAMIESON. Yes, sir. We met with a group of people from the regional office, and I spoke with Mr. Van Leer in Washington, and we were informed that there was absolutely no way, that the law was very clear. And we were caught in a bind, that if we were to include the Indian reservations, Indian citizens of this State would suffer lower benefit levels because the Bureau of Indian Affairs pays higher levels, but the Bureau will not pay if the State will pay, so we made the conscious choice finally that we would leave the Bureau of Indian Affairs funding level on the reservations and we would have to sacrifice the \$1000,000.

A similar bind that we're in by being a non-Medicaid state—we are losing \$11 million a year worth of AFC match. Quite simply, in AFDC there are two match rates: for non-Medicaid States, the Federal Government only matches up to a \$32 average payment per recipient. In a Medicaid State, which is every other State in the Union, they will match over that. They will match up to whatever the State may be

paying. We're up to over \$60 now, so we lost last year \$10 million and this year \$11 million worth of Federal funding from what I think is an arbitrary rule. If you were able to get that \$11 million, we would be able to substantially increase our benefit levels.

VICE CHAIRMAN HORN. On the Medicaid issue, is the grounds for not approving that also the Indian tribes not being included, or is that an Arizona decision?

MR. JAMIESON. No sir, that's an Arizona decision. The Arizona Legislature passed a Medicaid law but refused to fund it. We have an approved medicaid plan on file with HEW but the legislature refused to fund it.

Last year we came in—the assistance of Under Secretary Champion—with an alternative program which would involve about \$30 million worth of Medicaid funds, and the legislature disapproved that. It is clearly an Arizona—

VICE CHAIRMAN HORN. Let me get back to this issue: In the case of the AFDCEA program, you said when you followed up on this letter that you were told by HEW it was the law that said this. Have you had your lawyers check it to so it is a law and not an interpretation by HEW?

MR. JAMIESON. Yes, sir. We feel it is an interpretation, a rather strict arbitrary interpretation, and that it could be interpreted differently.

VICE CHAIRMAN HORN. Well, if you feel that, has it been appealed to the Secretary? Has it been appealed to the courts?

MR. JAMIESON. No, sir, not yet.

VICE CHAIRMAN HORN. Are there any plans to do that?

MR. JAMIESON. Yes, there are.

VICE CHAIRMAN HORN. Because, I must say, I find it a rather shocking policy of HEW that they would discriminate against a State because Indians on reservations in that State receive better benefits through BIA. Is there any other State in that situation in the Union?

MR. JAMIESON. Mr. Horn, I do not know.

VICE CHAIRMAN HORN. Well we asked yesterday to have the Staff Director follow up on that. I assume one of the questions will be is any other State in the Union in similar situation to the State of Arizona simply because the State of Arizona does not want to deprive Indians on a reservation of a certain level of benefits. That seems to me a very inconsistent Federal policy which is not unusual in my jaundiced view of some HEW interpretations.

Now, you have had extensive experience as a welfare official. You have been at the national level; you are now in Arizona. When you look at the issue of domestic violence, battered women in particular, what role do you feel the Federal Government can appropriately perform in this area?

MR. JAMIESON. Well, sir, I believe that the role the Federal Government can most appropriately perform in that area is to make services that they fund right now more accessible. There are, in other pro-

grams—these are inducements to serve people through existing service systems: for instance, under Title XX we get 100 percent appropriation for day care service; in Title XX you get a larger match for family planning services than you do for other services.

I think an appropriate role would be through an existing system of services, Title XX social services being one good one—would be to give States incentives by increased matched programs, or perhaps through targeted appropriations to serve that population of people.

I would also suggest that the Federal Government could look at a number of regulations, again vocational rehabilitation being one, and build in that category a person as somebody who is eligible for service, and, perhaps by offering some special matched rate things like emergency assistance, again using existing systems without setting up new ones, offer incentives and encouragement to State systems and community systems to serve battered women.

VICE CHAIRMAN HORN. Do you favor, say, a national system of shelters so women would have an option where they could get out of the home, receive counseling, training, but not be threatened as it is obvious they are in many situations? I think we have seen repeatedly, from most of our witnesses, in the criminal justice system that women are very reluctant on the whole to pursue cases and make charges in terms of court appearances as far as assaults by their live-in spouse, husband, whatever. How do you feel about that?

MR. JAMIESON. I must qualify my answer by saying, I don't know that much as I should about the subject, but, as you paint the picture, yes, I think that sounds as it should be. We do that right now for abused children. We call the system "foster care." But there are group shelters, there are temporary shelters, and I would suspect that the same kind of system, again through encouragement through the Federal Government, if it were a community-based system, would be successful.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. No.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. The DES doesn't presently make the battered woman problem, or issue, a major policy concern. It doesn't really define it as a separate issue?

MR. JAMIESON. Mr. Saltzman, that is correct, we do not. Let me just explain very briefly the planning and budgeting system that we have adopted this year. We started—and again this year it was very imperfect; next year it will be better—we started by sending not only to my own employees, but to all agencies, requests for issues, what are the issues that we ought to deal with in the budget that we will present to the legislature next year.

Those issues have all come in. I have negotiated them with assistant directors and they go back out now for specific goals. Independent liv-

ing and service access were the two top issues from the community and from my own staff.

I would suspect that in both of those two issues a specific goal will be developed on the issue of battered women.

COMMISSIONER SALTZMAN. Do you expect that there may be a change?

MR. JAMIESON. There may be a change primarily because my executive assistant happens to be the roommate of the director of the Sojourner Center, and I'm being reminded repeatedly about our deficiency in that area.

COMMISSIONER SALTZMAN. Are you aware of any of the testimony we received yesterday, for example, the police telling us of the numbers of calls that they receive, of the abuse to which the policeman is sometimes subject in response to calls of domestic violence? The waiting lists presently for the use of a shelter by battered women—do the statistics and the information we received yesterday seem to indicate that it is a significant problem, a growing problem in our society? Would it be of benefit for DES to see this in terms of a problem? Would it be a benefit to see this as a major policy issue?

MR. JAMIESON. Yes, sir. I would really like to receive the statistics. I am not aware, other than what I read in the newspaper, of testimony yesterday.

COMMISSIONER SALTZMAN. What would happen should the DES, in reviewing the situation, determine that it is indeed a major policy issue? What could DES then theoretically, ideally, do to be responsive?

MR. JAMIESON. I believe that what we would do is again try to use the system that we have now and try to redirect some of that. Try to create better access points. Try to use, perhaps, the adult protective system that we're building. In the child protective system we're right now developing a crisis center in cooperation with community programs. We would try—I would personally try to use the existing resources I have now and to target them.

COMMISSIONER SALTZMAN. Thank you.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. No questions.

CHAIRMAN FLEMMING. First of all, I personally would like to express appreciation for your willingness to tackle what is obviously a very, very tough job. We talk about the turnover in this area in the Federal Government, but you have walked into a situation where the turnover has been obviously much greater than in the Federal Government. I certainly like your approach to the job.

Let me just chat with you for a few minutes about your ideas on moving away from the categorical approach and putting more emphasis on the needs of the individual. Personally, I find myself in agreement with your emphasis.

At the same time, I recognize—and I'm sure you do—that there are certain areas where we have moved forward by utilizing the categorical



approach. We have identified a specific need and been able to turn the spotlight on that need, and, as a result of turning the spotlight on that need, been able to get action on the part of the Congress and action on the part of the State legislatures and local governments.

I have the feeling that this is beginning to take place as far as this particular issue is concerned. I don't know whether you noticed it or not, but the President, in his budget proposals for 1981, has included in the budget for HEW an item of \$10 million. I haven't seen any breakdown on that. I assume, because of the size of the item, that what somebody's got in mind is the possibility of running some pilot or demonstration project. Are you familiar at all with the department's thinking or planning on that?

MR. JAMIESON. No, sir, I am not.

CHAIRMAN FLEMMING. I think it is to be administered by the area you work in, human development services, as I read the budget. But we did have a national consultation on this issue, and a great deal of emphasis was placed on the role of the shelters. A good deal of emphasis and the testimony here has been placed on the shelters.

As I have listened to that testimony, it seems to me that the shelters become another instrument for building bridges between the individual who is in need and the services and benefits that both the public sector and the private sector have made available.

We did take note of the fact that your department has supported one of these shelters through Title XX funds, and I'm wondering if you see a shelter program to deal with this particular problem, as a program that could be operated in a manner consistent with your desire to focus on the need of the individual.

MR. JAMIESON. Yes, sir, I do. I guess my concern would be that we look at the shelter as part of a system and not as the answer to the problem, because that's when we begin to erect another monument. When we say this is the answer to the problem and we're going to put a shelter and then that's the end of it. If we look at the shelter as perhaps the access point to the service or as part of the system, a very important integral part, yes, I would agree.

CHAIRMAN FLEMMING. I kind of reason my analogy from my experience with senior centers, for example. It seems to me that very, very often the senior center becomes an instrument or a vehicle for building bridges between older persons and the services and the benefits that are made available by both the public and private sector.

You say it becomes a part of the system and doesn't become an end in and of itself. I guess that's what you're saying. You'd hate to see the shelter become an end in and of itself, but if it becomes an institution, fits into the system, and then helps those individuals who come to the shelter to build bridges with other services and benefits, then it can be very helpful.

For example, I think you commented on this, and some of the testimony indicate that some of these women are going to be very

much interested in becoming involved in employment. They're going to want employment; they're going to have to have employment in order to replace the income that has been lost as a result of separation from their husbands. Well then, that becomes necessary to build a bridge between them and the employment services that may be available, public or private.

MR. JAMIESON. I would agree with you. Just one comment about your analogy: I think that that's true, that the senior citizens do offer that point of access. In fact, one of the proposals the Governor has this year is to collapse medical services funded by the State around them. My concern, however, can also be used with the same analogy.

In discussions with area agencies on aging, I find that 99.9 percent of our discussions are around turf and who has control of what and not around the needs of people. It becomes an issue of State, local, Federal, who's going to do what to whom.

That is what I would like to avoid happening, so that the bottom line of whatever is built are the service to the people and that it be integrated into an existing State/community service system and not be set up as a separate bureaucracy that we end up debating who is going to control what, and we lose the people in that fight.

CHAIRMAN FLEMMING. I agree with you completely, and, as you probably know, my own approach to the area agency on aging is that it should never become involved in the direct delivery of service; it should be become a vehicle, again, for the building of bridges and serve as an advocate and so on. But it may become a vehicle for making funds available to other organizations, public and private, that in turn help to deliver services, but the minute it becomes involved in the delivery of services itself, then it begins to worry about turf matters and at that particular time we lose sight of the needs of the individual.

Well, again, we're very, very grateful to you for coming. We appreciate having Mr. McLaughlin here yesterday afternoon. Thank you very, very much.

MR. JAMIESON. Thank you, Mr. Chairman. It's good to see you again.

CHAIRMAN FLEMMING. It's nice to see you.

Counsel will call the next witnesses.

MR. HARTOG. Mr. James Keenan and Ms. Lois Kermott, will they please come forward?

[James Keenan and Lois Kermott were sworn.]

**TESTIMONY OF JAMES KEENAN, EXECUTIVE DIRECTOR, COMMUNITY LEGAL SERVICES; AND LOIS KERMOTT, SUPERVISING ATTORNEY, FAMILY LAW UNIT, COMMUNITY LEGAL SERVICES**

CHAIRMAN FLEMMING. Nice to have you with us.

MR. HARTOG. For the record, would you both please give your name, title, and business address?

Ms. KERMOTT. My name is Lois Kermott and my title is that I'm supervising attorney of the Family Law Unit of Community Legal Services. My business address is 903 North 2nd Street, Phoenix.

Mr. KEENAN. My name is James Keenan. I'm executive director of Community Legal Services. I have the same business address.

Mr. HARTOG. Thank you.

Mr. Keenan, as executive director, I would like to ask you about the ability of your program to respond to the needs of the population in the area that you serve. Who is eligible to receive free legal services?

Mr. KEENAN. Jack, as we've discussed, legal services is an area where Federal rhetoric has probably been more impressive than Federal performance. In 1974 when Congress enacted the Legal Services Corporation Act, its avowed purpose was to provide legal services, or access to the justice system for all those within our country who could not afford it. In fact, the experience within the legal services community has been that we are unable to serve the vast demand for our services, but, in fact, only a small percentage thereof. We estimate, in Maricopa County, that we have approximately 180,000 individuals who would be eligible for our services under guidelines established by the Legal Services Corporation.

Mr. HARTOG. What was the number?

Mr. KEENAN. 180,000 eligible clients.

In 1975 the American Bar Association and American Bar Foundation did a joint study of the probable incidence of the demand for legal service by low-income people. Their conclusion was that in the calendar year approximately 23 percent of the nation's poor people would require the services of a lawyer. Based on those projections, we would estimate that an excess of 41,000 clients, in the course of a calendar year, might very well need our services in Maricopa County. In fact, we are able to serve 5,000 or about 12 percent of the total need.

Mr. HARTOG. As a result, I presume you have to set priorities among the cases and the needs which you do choose to spend your limited resources on?

Mr. KEENAN. That's correct.

Mr. HARTOG. How do you set those priorities among this very needy population?

Mr. KEENAN. The priorities are set by a multifaceted process that involves input from client councils; in other words, the effect of client community, staff and other interested community persons who have a stake or an interest in legal services.

Basically, what we try to do is get a substantial amount of input so our policymaking board of directors is capable of making rational choices about who gets served but, just as important, who does not get served. But the net result in the end, we have to tell many clients who are eligible for our services and who do have pressing legal needs, we're sorry but we cannot serve them.

Mr. HARTOG. What level of priority is set for women who have problems with domestic violence?

MR. KEENAN. It is one of six major areas that our program attempts to provide legal services in, the other areas being consumer problems, housing problems, government benefit problems, immigration matters, and health/law matters.

MR. HARTOG. As a result of the high need and your limited ability to respond to it, have you adopted any special measures or conscious approaches to maximize the impact of your resources?

MR. KEENAN. Like many other legal services programs, we have become increasingly aware of the need to focus our services in those areas where we feel we could have the greatest impact. In other words, we attempt to deal with institutional problems or issues that a favorable result would favorably impact on the largest number of possible clients, so that by serving one client or a group of clients, we, in fact, can effectuate a change hopefully that will benefit many clients.

MR. HARTOG. Ms. Kermott, as the supervisor of the Family Law Program, could you please tell us how many people work in that program?

MS. KERMOTT. In the Family Law Program there are two attorneys, two paralegals, and two secretaries.

MR. HARTOG. How many cases would you estimate that your program has dealt with in the past year, let's say, 1979, which would involve domestic violence?

MS. KERMOTT. In 1979 we handled 669 cases.

MR. HARTOG. Would all of those have been involving incidents of domestic violence?

MS. KERMOTT. No, not all of them.

MR. HARTOG. What percentage of them would you estimate?

MS. KERMOTT. I would estimate approximately 59 to 60 percent.

MR. HARTOG. I presume you have more clients coming to your door in this particular area in search of need than those which you are able to serve. How do you choose and decide which cases to take and which ones not to?

MS. KERMOTT. Well, in the Family Law Program, we set our priorities with approval of the executive director, and domestic violence has been a priority of ours since 1976.

MR. HARTOG. Do you have any way of choosing, among those kinds of cases that come to you, which would get priority and which would not?

MS. KERMOTT. Yes, there is some flexibility, and, for example, we require that the violence must have been recent, at least in the last 6 months, and then if the abuser has left the area, which we know for a fact, then we don't feel that the emergency situation exists.

MR. HARTOG. Once you do decide to take a case, what do you normally do for the client who is complaining that she's been physically abused by her husband.

MS. KERMOTT. The only thing that we can do for a client who has been physically abused is to start a domestic relations proceeding, either a legal separation or a dissolution of the marriage. This is the

only civil remedy that we really can do for those clients; however, in addition to this, we do spend a lot of time talking to the client and pointing out some of the alternatives that might be available within the system, including peace bonds, and we also try to give them a lot of helpful advice, like getting away from the danger, taking pictures of the bruises, going to the county attorney. We tell them about shelters, and many of our clients are unable to do these things for themselves without some assistance. We also tell them to apply to welfare for emergency funds.

MR. HARTOG. Turning now to the specific civil remedies that you do pursue, could you please describe them to the Commission?

MS. KERMOTT. Yes. The first thing that we do is we file a petition for dissolution or legal separation, and the reason that we try to do this as rapidly as possible is the fact that when the petition is filed and when the respondent is served there is an automatic preliminary injunction that is imposed on both parties, and this injunction enjoins the parties from disposing of the community property; it enjoins the parties from taking any children out of the jurisdiction; and it also enjoins the parties from molesting, harassing, committing assault and battery on each other.

MR. HARTOG. Do you find the preliminary injunction clause, the last clause which you just mentioned, useful in protecting women against physical abuse?

MS. KERMOTT. I find that possibly it is some deterrent because there are a certain percentage of people that are afraid of or are eager to obey court orders, but if the preliminary injunction is not obeyed, then the only remedy is contempt. And I find that the contempt procedures, especially for my client, are very slow; they are an additional expense, and that judges rarely punish by jail sentence or a fine a person found guilty of contempt.

The abuser is often found guilty of contempt but then the court orders that he can purge himself of that contempt if he doesn't do it anymore, so the result is that the petitioner has a worthless piece of paper. Then the same person who has been abused cannot get a peace bond in the city of Phoenix, except in the South Phoenix precinct, and according to my clients, the police are unwilling to assist them because it is a civil matter.

MR. HARTOG. So you have a system which offers some civil remedies, but everybody points the finger at somebody else to help. In fact, very little of it is helpful.

MS. KERMOTT. Right, and the net effect is that the abused woman is unprotected by the legal system.

MR. HARTOG. We have heard testimony earlier from the women who staff the shelters that their clients typically arrive at their door penniless, no matter what their economic background would be. Does legal services take into account that a woman may have assets but may be frozen out of them because she can't get back to the house or the

husband has control of them. Would she still be able to get your services?

MS. KERMOTT. Yes, she would if she would qualify, and under those circumstances we do not consider the husband's assets.

MR. HARTOG. You mentioned that especially for "my clients"—you said they have problems with enforcing preliminary injunctions in contempt proceedings. By that I presume you mean poor people. Could you elaborate on how that procedure impacts harder on poor people than the wealthier?

MS. KERMOTT. Well, the first thing that I would like to say is that under the rules of civil procedure a petition for a contempt has to be served personally on the respondent, and this is a charge which our clients have to pay, which is the service of process, and it amounts to \$25 to \$30 and our client is usually not working at the time and, if her spouse is beating her, he usually is not financially supporting her.

In addition, she also has to start her divorce proceedings. She also needs certain sums of money, which are \$40 for the filing fee and another \$25 to \$30 for service of process, and there is a possibility in the Maricopa County courts to get the filing fee waived or deferred, but that also takes time.

MR. HARTOG. Mr. Keenan, did you want to add anything to that in general about the problems of poor people in getting legal services, in using those legal remedies that are available?

MR. KEENAN. Well, one of the realities is that if you don't have access to the system, whatever remedies the system might have are really meaningless, and for many of the low income, irrespective of the type of legal problem that they are attempting to pursue, access to the system at the initial level becomes the issue. And unless that is solved, the system's remedies are not going to be meaningful.

MR. HARTOG. Thank you.

Mr. Chairman, at this point I would like to enter with the appropriate exhibit number, a memo prepared by Mr. Keenan.

CHAIRMAN FLEMMING. Without objection, that will be done.

MR. HARTOG. No further questions at this time, Mr. Chairman.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Ms. Kermott, I would pursue a statement that you made. You said that an abused woman is unprotected by the legal system. This is a very serious matter, and I want to know two things: Is an abused woman denied the equal protection of the laws?

MS. KERMOTT. I believe that she is.

COMMISSIONER FREEMAN. Will you indicate the areas within the legal system that have a duty, with respect to abused women, that is not being fulfilled?

MS. KERMOTT. I believe that when a person's physical being or life is threatened, that she does have a right to police protection even if she is married to the abuser, and I cannot understand why a different law should apply to a person because they happen to be married.

COMMISSIONER FREEMAN. Now I would like to ask if Community Legal Services, which has a specific charge in this regard, has given consideration to possibly a class action suit on behalf of abused women?

MS. KERMOTT. Yes, we have given it very serious consideration, and at the time we felt that we didn't have the resources of the attorney time, and I was also on the Domestic Violence Committee for the Maricopa County Bar, and one of the persons that worked on the report that came out from that organization, and it is my personal theory that I believe that the police do have certain problems in this area, and I think that first, the law—there should be statutory changes in the State and a definite procedures established because it doesn't seem like it is exactly fair not to set out specifically what is needed.

COMMISSIONER FREEMAN. Has your agency made recommendations for changes in the law?

MS. KERMOTT. Well, I would say that I would represent our agency and I am working very hard with the bar committee on trying to get changes in this legislature.

COMMISSIONER FREEMAN. Mr. Keenan, do you have anything?

MR. KEENAN. Yes. I would like to follow up on that question because I think it is an important one. It is a prime example of the type of cruel trade off we have to make every single day in our work to free up resources. To file a class action law suit means, in effect, that we have to tell many more clients who come through that door every day we cannot service them because the attorneys who might be available are working on a class action suit.

To free up Lois's time to work on legislative advocacy, means that she, in turn, cannot be free to serve clients who have other pressing daily problems. In many instances, we make these very conscious decisions to pursue the class action or to pursue the legislative or administrative advocacy remedy, but you have to understand that in each instance it is part of a trade off; it is not a free choice we have.

COMMISSIONER FREEMAN. I understand that, and I was also wondering if perhaps the bar, those members of the—attorneys who are not involved or who are not staff attorneys but who, because of their belief that something needs to be done, would be willing to give of their time to help you?

MR. KEENAN. Right now we are in the process—in fact we'll be starting March 1—of starting a volunteer attorney program which will try to increase our resources by the use of private attorneys willing to donate a certain amount of time each month to our program. I think the private bar has a major obligation in this regard.

Traditionally, services to the low income, prior to the coming of the Legal Services Corporation, were provided by private attorneys who were willing to volunteer a certain portion of their professional time to that effort. I don't think the formation of the Legal Services Corporation relieves private attorneys and the private bar of that responsi-

bility. I think it continues today and I think it has to be strongly encouraged.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. In pursuit of Mrs. Freeman's point, do you have an idea of the specific kinds of State law that would be helpful in this area?

MS. KERMOTT. Yes. In the first place, the State law should specifically provide that on the preliminary injunction that a person who violates that injunction would be subject to contempt and, in addition, be subject to arrest and prosecution for interference with the judicial order. I think that in connection with this injunction there should be specific arrest procedures and that there should also be some kind of a provision for a protective order available to the victim, and this is in need at this time. There is no protection for the victim, even when a case is pending in the court; so there should be specifically for that.

In addition, I feel that the police should be given treatment that in the law that they would not be liable for arrests in these situations if they act with probable cause, find probable cause and without malice, and then I think that in addition to making these specific changes in the preliminary injunction that there should be a State statute that legally defines domestic violence and sets out arrest procedures with or without a warrant, and whether or not it is a felony or a misdemeanor.

I think within that law that there should also be provision for a protective order of some kind for the victim. And in addition, there should be a proceeding that if the protective order is denied, *ex parte*, then that there should be a hearing within a very short time, and then, in addition, there should be some kind of a provision, if there is a probation, for example, of the abuser, getting counseling for the court order, some kind of mandatory counseling, and at the same time protect the victim.

COMMISSIONER SALTZMAN. Do you want to add anything?

MR. KEENAN. Yes. I agree with all of the proposed changes Mrs. Kermott has outlined. I guess I want to emphasize, though, in this area, I think, more than anything else, an attitude change is going to be required. We can pass all the laws we want but, if the police and court officials do not take the problem seriously, the existence of new laws on the books is really going to be meaningless. So I think in addition to the legislative changes, all of us involved at some level of this problem are going to have to really focus our attention and get serious about doing something about it.

COMMISSIONER SALTZMAN. May I ask the General Counsel whether the Maricopa County Bar Association study of domestic violence has been entered in?

MS. STEIN. It has not been entered. We intended to enter it with the last panel of the day.

CHAIRMAN FLEMMING. Mr. Horn?



VICE CHAIRMAN HORN. Mr. Keenan, I am curious as to the number of clients you turn away in general in all of legal services. As I recall your testimony, you said only 5,000 of a potential 41,000 who might theoretically receive legal services in your four-county jurisdiction.

MR. KEENAN. This is just Maricopa County I was speaking of.

VICE CHAIRMAN HORN. You're talking only about Maricopa County. As I recall, you represent four counties.

MR. KEENAN. That's correct: We also represent Yuma, Yavapai, and Mojavi Counties.

VICE CHAIRMAN HORN. But the 41,000 relates to Maricopa?

MR. KEENAN. That's correct.

VICE CHAIRMAN HORN. Alright. And the 5,000 relates to Maricopa?

MR. KEENAN. That's correct, also.

VICE CHAIRMAN HORN. How many did you turn away? You handled five; what did you turn away?

MR. KEENAN. We would probably turn away an equal number in terms of cases that we either do not take as a matter of policy or matters that we just determine that we cannot help the client, so we probably have approximately 10,000 to 12,000 people a year come to our door at the Maricopa County offices.

VICE CHAIRMAN HORN. And I take it you keep data on that for the Legal Services Corporation?

MR. KEENAN. We are required to keep data regarding case openings and case closings. We do keep that data very faithfully, yes.

VICE CHAIRMAN HORN. We found, in examining other Federal programs, sometimes they—sometimes people just get turned away by the receptionist and no records are kept, and I wonder if you had a way to solve that problem.

MR. KEENAN. We do keep a record of every—well, I should add, in turning away a client, we always try to make a referral to an appropriate agency or appropriate forum. Sometimes we're not able to do so but we at least attempt, and we do keep records of those referrals, also.

VICE CHAIRMAN HORN. Now the specifics to remedy that you were talking about, Ms. Kermott, I guess your first one sort of threw me a little when you talk about the judge having the power to sentence someone for contempt when the restraining order was not followed. I just assume that was normal practice in most counties. Is that not followed here in domestic violence cases?

MS. KERMOTT. Well, in the cases that I've handled, the judge has usually found the respondent in contempt, but he can purge himself of that contempt by not doing it anymore; so that is a result of the contempt hearing: "Okay, you did a bad act but don't do it anymore."

VICE CHAIRMAN HORN. Is that normal practice in Arizona on most contempt matters, or you're suggesting there is a specific change needed in Arizona law to provide what, monetary damages, jail, both?

MS. KERMOTT. Both. I am suggesting that these specific changes, that there be specific changes in the law concerning the preliminary injunction that goes into effect in divorce proceedings, and that's under Arizona Revised Statute 25-315.

VICE CHAIRMAN HORN. I'm trying to get at the point that, is it the change in the law or is it the attitude point that was mentioned, only this time we're talking about judges more than police and prosecutors? In other words, are there remedies on the books in any assault type situation, ignore domestic violence for a minute, that a judge can impose when additional threats are made or there are violations of court orders relating to a previous assault, that judges simply are not imposing because it is domestic violence?

MS. KERMOTT. I can't say, because the only court that I work in is the domestic court, and I'm only familiar with the civil contempt procedures.

VICE CHAIRMAN HORN. How about you, Mr. Keenan? Do you know if there is a difference in judicial treatment here simply because we are dealing with domestic violence assaults and not other types of assault if there's only restraining orders issued?

MR. KEENAN. I wouldn't be competent to answer that question.

VICE CHAIRMAN HORN. Has Legal Services nationally done any studies in the domestic violence area?

MR. KEENAN. In October of 1979 the Legal Services Corporation created a support center called the National Center on Women in the Family Law, which, for the first time, was, I think, evidence of a national effort on the part of Legal Services to begin to address some of these issues. Unfortunately, the funding for this center has been a mere pittance—I believe about \$100,000 to date, and the staff of that center is very small, but one of their charges or mandates is to deal with that specific question. Hopefully, the Corporation will begin to pay more attention on the national level to this issue.

VICE CHAIRMAN HORN. What I'm thinking of is the idea that's been going for a half century of a model State law. Is there a model State law in the domestic violence area that would have these various escalating remedies, if you will, that deal on both the civil side as well as the criminal side?

MR. KEENAN. I do not personally know of such a law. I would suspect that the national center and other interested agencies will begin to deal in that level.

VICE CHAIRMAN HORN. I would like the General Counsel to pursue that. As you know, there is a series of model State laws that are developed by the States in this country and circulated among the States. Let's see what the one is in this area and insert it at this point in the record.

CHAIRMAN FLEMMING. Without objection, that will be done.

Let me follow up a minute on this. In the case of contempt, because of an order dealing with domestic violence, can a judge at the present

time in the domestic relations division of the superior court, for example, fine a person, commit a person to jail if he so desires? Is there any question about the authority of the judge? I'm not thinking now about practice, but I'm thinking in terms of the authority of a judge to fine and to commit to jail in case the individual has been found in contempt.

MS. KERMOTT. The judges do have the authority to do it, but I believe that the attitude is, in the domestic relations area, that it is a civil proceeding, and it is a civil proceeding and I don't think that it is as freely used as it is in the criminal.

CHAIRMAN FLEMMING. Well, in other words, you do not need a change in law to bring about a change in practice here; you need a change of attitude as far as the judges are concerned. Instead of permitting people to purge themselves of contempt by agreeing not to do it again, they could, if they so desire, either impose a fine or a jail sentence?

MS. KERMOTT. Well, I do believe that a change in the law would help change attitudes, too. You know, they work together.

COMMISSIONER SALTZMAN. May I?

CHAIRMAN FLEMMING. Pardon me for a minute. This is where I lost a little bit as to why change in law is needed, or what would be the nature of the change in the law. Would the legislature, in effect, be issuing some instructions to judges or, I mean, why is a change in law needed if the judge already has this authority?

MR. KEENAN. Well, because quite often, Mr. Flemming, I think a change in a law or a legislative action is a very clear signal to judges, who are elected officials in the State, that the public is demanding a certain level of performance on their part and that a certain issue is a serious issue and must be dealt with.

Granted, a judge does have certain tools to work with right now, and I think can in some instances impose effective remedies, but what we're concerned about is that those tools that do exist aren't being used and we feel that in many instances, it is incumbent upon our elected officials to sound a very clear signal to our judicial branch that changes need to be made.

CHAIRMAN FLEMMING. Would you recommend, then, that a law be enacted which say "In cases of domestic violence, when a person fails to comply with the order of a court and is held in contempt, the judge may fine, commit to jail" and so on? I mean, you would spell out in a special law dealing with domestic violence the powers that the judge already has, but you feel that there is a psychological value, at least, to spelling it out in a law related specifically to domestic violence. Is that the point?

MS. KERMOTT. No. I think the point is that it would be better to specify the procedures from the criminal law point of view. I mean, I don't think that, you know, the judge's role should be defined in the statute.

COMMISSIONER SALTZMAN. Can I pursue this?

Are you saying that in certain instances domestic violence should come under the jurisdiction of the criminal system instead of the domestic court system?

Ms. KERMOTT. Right.

COMMISSIONER SALTZMAN. That the penalty of domestic violence—so that we're not changing the function of the civil courts, we're changing the penalty so that it becomes part of the criminal justice system?

Ms. KERMOTT. Right, and that in the civil courts—there's where we would deal with the preliminary injunction with specific procedures attached to that, and that would be in connection with the divorce and legal separation.

So it's two different laws that should be passed.

CHAIRMAN FLEMMING. The question of contempt would be handled as a criminal violation rather than a civil violation?

Ms. KERMOTT. Yes, I guess it would under the preliminary injunction. It would be both civil and criminal.

CHAIRMAN FLEMMING. If there was a violation of a preliminary injunction, a finding of contempt, that instead of the judge in the domestic relations division handling it, it would shift to a judge of the superior court who is handling criminal matters?

Ms. KERMOTT. Well, I think that the best thing would be to have both remedies, the civil contempt and the shift into the criminal.

CHAIRMAN FLEMMING. We appreciate very much your being with us and providing us with this testimony.

Mr. KEENAN. We appreciate very much the opportunity.

CHAIRMAN FLEMMING. Counsel will call the next witnesses.

Mr. HARTOG. Tom Freestone and Joy Carter, would they please come forward?

[Tom Freestone and Joy Carter were sworn.]

**TESTIMONY OF TOM FREESTONE, ACTING CHAIRMAN, BOARD OF SUPERVISORS; AND JOY CARTER, VICE MAYOR**

Mr. HARTOG. Good morning. I would like to thank you both for being here this morning and I understand, Ms. Carter, you are here in your capacity as vice mayor and at the request of Mayor Hines.

Ms. CARTER. That is correct, sir.

Mr. HARTOG. And Mr. Freestone, I understand you are here in your capacity as acting chairman of the board of supervisors, having confirmed that with Mr. Corey, the current chairman of the board of supervisors.

Mr. FREESTONE. Yes.

Mr. HARTOG. Ms. Carter, based on your contact with your constituents and your long history of service to your community, could you please tell me what are the local community perceptions and awareness of interspousal violence?

MS. CARTER. I would say that there has been a marked increase in the awareness of the problem. I would also say that the problem has been there for many, many years; it has been somewhat, I would say, a closet-type of situation in which the problem has existed, but it has only been in more recent times that it has seen the light of day and a more public awareness has arisen in this community.

MR. HARTOG. To what do you attribute this increased public awareness on the issue?

MS. CARTER. I think that there has been more publicity about it. I think that possibly, in part, the women's liberation movement has made women more conscious of the fact that they can speak out. I also think that in response to this, a number of organizations, private, nonprofit organizations, have come to see the problem and to present testimony to that fact before various citizens groups and before public entities, such as the city of Phoenix.

MR. HARTOG. Of course, if a crime is committed, the city becomes involved through the police and the prosecutors and ultimately the courts, which is involved with it in one way or the other. But, apart from these basic services, do you think the city government should be involved in responding to the needs of women who have been physically abused by their husbands or mates?

MS. CARTER. You know, I think there is a role that the city can and should play, but not in a direct delivery of services role.

The city has been involved. The city has provided funding from some limited general revenue funds. We have also used Federal dollars. We have been involved. I call it as a funnel; the funds come through the city to some of these agencies, and I think the city can serve in that kind of capacity of being a coordinator, of being a monitor, and that services should be provided by the community organizations that are best suited to provide those services.

MR. HARTOG. What has been the city government's role in this area? What programs does the city currently have which can have an effect on the needs of women victims of domestic violence?

MS. CARTER. All right. The city has, out of general purpose funds, funded such agencies as CASA, The Center Against Sexual Assaults; the city has been involved with Rainbow Retreat, and currently is, I might add; the city has funded Information and Referral Services which is a community-based organization providing information and referral.

There are any number of agencies that the city also provides public service employees; the Sojourner and others.

The city also has applied for and was denied, I might add, what I consider a very innovative program titled "Family Violence Center," and we were going to use community development block grants, and I served on that committee and we set aside funds pending LEAA approval of the Family Violence Center, it was a need brought to the city by the community and we applied and we were denied, so I would say that the city has made attempts to secure funding.

We have provided funding through general funds, and we have also utilized public service employees, made those slots available to community-based organizations who are providing the service to the abused spouse, especially women.

MR. HARTOG. I notice you glancing at a piece of paper. Do you have these listed out in a form which we could enter it as an exhibit? If not, Ms. Carter, we could request that you could put that into memo form and submit it at a later date.

MS. CARTER. Yes, I do have a summary by subprogram of the operating budget of the city of Phoenix, and perhaps I could get you a cleaner copy than the one that I have here, which would indicate those programs that are currently funded in this year's appropriation for programs that would fall under the category that we are now discussing.

MR. HARTOG. And could I also ask you for a copy of the family center proposal, which you just discussed, as well, the program proposal be submitted as well?

MS. CARTER. I can get that. Do you need it today?

MR. HARTOG. No, thank you. You can supply it at a later date.

But, Mr. Chairman, I would request that those documents, when they are obtained from Ms. Carter, be entered into the record at this point.

CHAIRMAN FLEMMING. Without objection, that will be done.

MS. CARTER. Thank you.

MR. HARTOG. Mr. Freestone, I would like to ask you the same questions. Based on your contact with your constituents and with your long history of service to your community, what do you perceive to be the local community awareness and perception of the issue of inter-spousal violence?

MR. FREESTONE. I agree with Vice Mayor Carter. The awareness is much keener. I think that's been brought about mostly from the compounded problem of abuses, the growing society, decay of a lot of the moral attitudes, the breakups of more and more—we are seeing in our society—of homes; the tremendous pressures that inflation and other things bring about.

I spent 4 years in the justice courts system by which I came in contact with many and various attorneys. One statement stuck out in my mind over the years was, "After a bankruptcy, nine times out of ten I'll settle that divorce 6 months later."

So that we can see the compound effect that we have on other related problems dealing with it. Most of the situations that we find in these domestic problems comes through domestic violence. I think we're all aware of that. It's many and varied situations that we have, and, because of the media, because of the size of our communities here, particularly in Maricopa County now, I think the awareness is here.

MR. HARTOG. Mr. Chairman, Mr. Freestone brought with him a short statement. I would like it entered into the record at this point with the appropriate exhibit number.

CHAIRMAN FLEMMING. Without objection, that will be done.

MR. HARTOG. Once again, the county, of course, is involved in servicing the needs of women who complain of physical abuse by their spouses through the police and the courts, but, apart from those basic services, do you think the government should be involved in other ways in responding to this issue?

MR. FREESTONE. I think government could act as a catalyst; however, I have a great fear of government intervention, particularly in the private lives of the home. I think there's a great danger we have to be cognizant of. We can see how that can be used in an adverse situations when there's a situation or problem in the home.

I think where we can act as a catalyst is, that was mentioned before, there is non-profit organizations working very successful within Maricopa County today that should be given utmost consideration for funding, whether it be through Federal, State, or local monies, to expand an outreach programs to help to curtail this rising situation.

The Sojourners, of which we funded this year just a little over \$38,000, our portion for Maricopa County, has a 7-day program by which not only for battered women but also for abused children, by which they actually have a shelter for them during the peak critical time of the problem, and, of course, that—you have the RFP [requested for funding proposals] that states just—that's exactly what they do, so I won't belabor the situation of going into it.

I think we can play a primary role. However, we have to be cognizant of the health and the safety of the women in the homes where there is a serious violation of injury, and to be able to judge that, to be able to prosecute that, just as we would any assault and battery case of that serious nature.

However, there should be a line drawn. I think the most important thing that we have to point to, that particular point can be handled, and is by law and probably should be expanded upon.

I heard previous testimony where they said they felt the courts and the lawyers do not show interest. I tend to disagree with that somewhat, being that my experience for 4 years marching in court and 99 times out of 100 the battered wife will withdraw the complaint at the preliminary hearing of the husband for many and varied reasons. Either they're dependent upon their income, the emotions of the contact being abused has had a 24-hour, 48-hour cooling period—whatever the situation may be, and, therefore, attorneys' and judges' hands are tied in those various situations. I've seen it repeatedly.

As a matter of fact, I can't remember one case in 4 years that I saw that it was carried through. It may have been, but not in my presence. It is an overwhelming withdrawing complaint. This shows to me that

the preventive and the first, second, or third offense type situation should be developed away from the government, the government being the catalyst to deal with this problem.

It is somewhat perplexing to me that our society is drawing to where their emotional, religious, their respect for family members is such at a point of decay, and I have to assume that the various pressures that are coming, and the test of the family home, the violence, the crimes have become more violent; we find also the domestic violences is becoming of a greater proportion and in many more type situations.

Whether this can be attributed to the competition among husband and wife, caused by inflation, whether it has to do with how one or the other feels challenged in their roles in life, I don't know.

I would assume there is many things that contribute to it that would have to be handled on other levels with government leaders to deal with those situations that are compounding the problems of the home.

MR. HARTOG. You indicated that nonprofit organizations should receive governmental support, and I would understand you to say that's one supported way, the catalyst that the government can help in this area. In fact, both of your remarks share that.

We had earlier testimony from those nonprofit organizations indicating that roughly between 80 and 90 percent of their funding comes from public entities, which would indicate that their continued existence is highly dependent upon public funding. Do you think that the county government should continue to support those organizations?

MR. FREESTONE. Yes. The thing that we have to be careful of that we find with a lot of non-profit organizations in their growth patterns in these outreach programs to handle these various problems is duplication, expansionism in staff beyond the delivery of the services. This is why, I think, it is important that the government come in on their RFP programs. We are going through a complete overhaul in our resources department, and reorganization to get those services delivered to the people at a lesser cost so they can feel the impact of those services much greater and to lower the level of our administrative cost; and we are very closely looking at duplication where the effort is being duplicated and the numbers may be few and for the cost it is not the best way to go.

We have found out an emergence of a greater zeal among these nonprofit organizations, with greater determination to increase these services at the level that's acceptable to Maricopa County.

We have spun off our CETA program away from county government to keep from being a cumbersome, costly, nonresponsive government, to the nonprofit organizations by which, if these funds should ever run out, we don't feel liable for picking them up on local taxes and giving them papers to shuffle, more or less to speak, but we also warn annually of the changes in the programs and in the costs so that they can prepare themselves to also look for other funding sources, and this is why it is important to bring out that they have local participation



on private groups for their subsistence for the major part of running of their programs.

MR. HARTOG. If I understand you correctly, Mr. Freestone, we're talking about support but with a careful distance between the government and the private sector?

MR. FREESTONE. Yes.

MR. HARTOG. Ms. Carter, would you care to comment on that line?

MS. CARTER. I think I'm basically in agreement that there is an obligation by governmental entities, such as a city, to support, but I think that the amount of community support is also important and the city has for several years, in our budgeting process, looked at those CBO, community-based organizations, to see what is the level of support by the communities so they were not funded totally through CETA, PSE [public service employment] positions coming from the city, general revenue funds coming from the city, and nothing coming from the community.

I think it is an important part that there is this mix of the dollars coming from the private and the public sectors because then it shows a commitment by both the public and the private sectors for various programs, and I think that is one criterion that should be used.

I would like to ask you, Mr. Hartog, when you were asking me about the city's involvement—I forgot to mention that is a sizable amount of money, \$164,000 this year that goes to a program that we call crisis intervention, which is a long-time program of the city of Phoenix which deals with crises, whether it is alcohol related, spousal abuse, but any of the crises that come along, and I failed to mention that in my earlier remarks.

MR. HARTOG. But that will be included in the exhibit you are submitting later?

MS. CARTER. Yes.

MR. HARTOG. Thank you. This, at least, leads to the next area, which is the Federal Government's role. What do you think it should do, Mr. Freestone, in this area?

MR. FREESTONE. I think it does have a primary place, particularly when they give the direct funding to the entities of the State, whether it be State, city, or county governments. They are close to the situation and they have the checks and balances system established within it to more wisely deal with the problem and get to the best results for the money that is expended.

I resent any type of national type situation where it's handled from Washington—I'm sure you would agree with that type of situation, I'm sure you would want it that way—other than to create a situation by which the local governments can deal with the problem allocated on the population and also the statistics that is available, the main point to the type of crisis that they may or may not have.

I would say also these programs have to continue; they are interrelated. Joy mentioned alcohol abuse. You will find the major part of

your wife battering is related to that, where there is domestic violence. We're going to have to carefully look and see where these are interrelated, where they can bring forth a strong organization, separate and apart from each other but not duplicated and being able to refer one—if the battering, the husband who batters the wife, assaults her, beats her, has an alcohol problem and it is identified, this is when he cannot cope with domestic issues or problems in the home, that when this comes about—should be first referred to the alcohol center, treatment for alcoholism.

If you've got other situations that come up where the wife is having some problems that ignites the situation of the husband, the agency that deals with that can take that solely on itself; but they are all inter-related, and we have to be able to ascertain from these different agencies how we can work together without duplication and get the most effectiveness and still give them a free hand in dealing with it and keep us out of it.

MR. HARTOG. Ms. Carter?

MS. CARTER. Your original question was the role of the Federal Government, and I think that there is a major role that the Federal Government can play. However, I have some concerns funding from a variety of sources, whether point because we do receive Federal funding from a variety of sources, whether it is Health and Welfare, whether it is Department of Labor, whether it is LEAA, whichever one of the Federal agencies. And what I have found in my years working not only on the council but in my other life as a social worker, the preponderance of different rules and regulations, where you have a grant relative to alcoholism or where you have a grant from some other Federal source, their rules and regulations many times are diametrically in opposition. The amount of paperwork, the pounds and pounds of paperwork to justify your request, but then you come down to the regulations and you sometimes wonder if you're dealing with the same Federal Government, because there is interagency as well as intra-agency differences, and I am wondering where the communication might be within the Federal Government itself as it relates to social services, because that's basically what we're talking about here is the delivery of social services. And I find that as an elected official that our staff has a great deal of problems in trying to comply with the complexity and the divergence of regulations promulgated by the various agencies, all in good faith I might hasten to add, but makes it extremely difficult for our planners and our people in intragovernmental relations to try to know what they're supposed to do.

You can be in compliance with one set of regs and out with another by another agency or even within the same agency, so I would hope in some way this Commission might find a way to simplify and to coordinate.

I also feel that in government there are three Cs; communication, cooperation, and coordination, and I think many times at the higher level of government we are less apt to find those three entities.

I find in working with the county or in working with the State—possibly because we're in the capitol city and we're still a relatively small State and we all know each other—that we can work out any problems that might arise. It is far more difficult to deal with Washington or the San Francisco local level or with HUD in the Los Angeles area office, so we in this city have some logistic problems, some of the problems of the duplication and the contradictions in your regulations, but— I'm sorry I did get off on that tangent—but I do feel it is an important problem that jurisdictions are facing and, yes, we do need Federal help; we do use our community development block grants and the funds we were going to use for our family violence center.

Yes, there is a need as long as local home rule can determine where we can best utilize those fundings.

MR. HARTOG. Thank you.

I have no further questions at this point.

CHAIRMAN FLEMMING. Mr. Saltzman?

COMMISSIONER SALTZMAN. No.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. No questions.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. On your last point, Mayor Carter, concerning the need to get coordination of Federal regulations and policies, I wonder if the city and perhaps the county, Mr. Freestone, could furnish the Commission— have your staff get together, a list of those conflictive policies they have seen in this narrow area of social services as it might relate to aiding domestic violence? I think it would be useful. If there's something that obviously comes to mind here, I think we would welcome an exhibit prepared by your respective staffs and put in the record at this point.

MS. CARTER. I have a staff member who is shaking his head yes.

VICE CHAIRMAN HORN. Mr. Freestone, you have interestingly referred in part to the fact you are familiar with these domestic violence cases; you served as a constable, I believe. I wonder if you have any feeling as to the virtue and value and utility of that so-called peace bond device? We have had testimony on that. I would just like your reflections.

MR. FREESTONE. I think the peace bond is very important. Of course, this is usually brought about at a time when a divorce has taken place and harassment and other threats and intimidation, usually of the wife in all cases that I know of. I think that is very important, though there is a greater reluctance to issue such a peace bond; but I think it is very important that they understand that this amounts, in part, the lady is under the protection of the courts while the proceedings are being carried out.

VICE CHAIRMAN HORN. Why do you think there is that reluctance?

**MR. FREESTONE.** Well, I think it is the change in our society—everything from the no-fault divorce. That's only my personal opinion that we took a step into. They are looked totally equal in the eyes of the law in almost all aspects. That's my personal opinion.

I have been close to some of these situations that have taken place, and they just don't look at it as the real threat that they used to, where it used to be that a woman needed that extra protection because of the physical makeup and her lack of a violent attitude, where they thought it more prevalent in man.

It is more this, and not to take a position on equality, but there is more this equality type situation and attitude is taking place in the courts. I just have to assume now that they look upon it as not a serious problem as they used to. Now, some may have different views on that. It may just be prevailing in some courts or judges' minds, but I definitely feel that that has taken place now. Everything from the potential—you know, the draft of the women right now, the equality, I think—has gone far beyond the extent of what people had anticipated.

**VICE CHAIRMAN HORN.** One of the problems—and I don't know how you get at it—is questions to ask. Is there any relationship between domestic violence and the level of a divorce rate in a particular area or State? And I guess from what I heard in the last day or so it is hard to ever get any accurate statistics on domestic violence because I gather many of the cases are simply never reported in any sort of police data system and, if reported, they aren't pursued that far because of the battered woman's general refusal to testify for various and sundry reasons.

Just your own impression as a public official, do you feel Arizona has an extremely high level of divorce? Has anybody looked at that and compared it with other States, and do you feel there is any relationship between these two areas?

**MR. FREESTONE.** I think you're absolutely correct, and, yes, Maricopa County, as I recall, is the highest, one of the highest in the Nation. There's various reasons. People sell their \$40,000 home in the Midwest and come out and find they are faced with a \$70,000 home.

Some people may have lost their job or have some other problem with getting a new start for them, and soon you discover you don't run from your problems and you have to resolve them and it is finally settled here. If there was a way they could divide from the local residents who move into residential areas here, you will see the significant problems with the people relocating. There's also a problem in adjusting to a new atmosphere, having no other family than the family you brought with you, friends, blending into new schools, programs. And I think it is a frustration that they meet. There's many and varied reasons why this comes about, but, yes, I think they are interrelated. I think that the financial pressures, not able to cope with, the man has a tendency, at least in this situation it appears to be, to strike out physically, and it is an unfortunate and serious situation.

I think they are very interrelated. As I mentioned before, I have talked to many attorneys and some of the things they have told me that have taken place while they were getting a divorce—there was no criminal charge filed, but I was appalled at the physical abuse that the wife was taking before she finally, after years, determined it was getting to such a serious nature that she was going to resolve it in divorce.

VICE CHAIRMAN HORN. Another side of that coin, just some speculation, is, we have had always these problems in society, whether society was mobile or not, but that now that we have an easier method of getting divorce, and we've got changing attitudes towards divorce, and even changing religious feelings on the matter, the problem surfaced much more readily and gained our attention. It could be that the problem was as great if not greater 50 to 100 years ago, but women simply couldn't do anything about it.

MR. FREESTONE. You're probably correct. I think many years ago the major earner of the family income was the man. He was the dominant and still is, but not near as great. I know many women who've finally got a divorce—their reluctance was their financial dependence upon their husbands. They had children and they were fearful of how they would get along without him.

I think there's another thing that you have to look at. We have a lot of serious changes taking place in our society since the middle sixties, and the quick movement of these changes, society hasn't had a real time to adjust or to correct that which they feel is wrong. I feel that this is why we in government have to be very careful how we approach this problem, that we compound it or create a greater problem of interfering in the private lives of the home and do more damage than we hope to do good. I think that it is a serious growing problem and we cannot deny it. I don't think it ever existed in the proportions that it does today, just as our violent crimes did not.

CHAIRMAN FLEMMING. I would like to pursue one matter that has come out in the testimony this morning that relates to the application that was made for community development funds for a family violence center. We did receive testimony yesterday, and I'm not sure whether we received it from the Rainbow Retreat or from the Sojourner Center, indicating that they had made application for an expansion of their facilities. I think it was the Sojourner Center, for community development funds. Are those two linked together?

MS. CARTER. Those are different applications.

CHAIRMAN FLEMMING. Okay. Let me stay with the family violence center for a moment. When you received a turndown on that, was it on policy grounds as far as the Department of Housing and Urban Development is concerned?

MS. CARTER. I'm sorry, I may not have made myself clear. The city had approved, contingent upon receiving the LEAA funding—the city had submitted a proposal to LEAA through the Justice Department for

\$317,000 for a 24-hour crisis center to deal with family fight police calls, okay? The city CD [community development] subcommittee and our citizen participation steering group has strongly supported this and we were setting aside the matchout of CD funds. Once we did not get the funds from LEAA for the \$317,000, the city then reused the amount allocated from the CD funds to other projects. In other words, it was a package deal.

CHAIRMAN FLEMMING. Okay. So the critical turndown was in connection with Law Enforcement Assistance Administration funds.

MS. CARTER. Out of discretionary funds, if I'm not mistaken.

CHAIRMAN FLEMMING. I was going to ask about that, whether this was a turndown on the part of the State committee or commission here or turndown on the part of the Federal officials in Washington?

MS. CARTER. I'm going to have to get you the answer because I'm not sure.

CHAIRMAN FLEMMING. You can supply that. I'm just interested in trying to figure out where that decision was made and whether it was a policy decision or—fiscal decisions are often policy decisions, but I'm just trying to see whether or not there was some objection to the objectives that you had in mind in planning for this family violence center.

Then let me turn for a moment to the application on the part of the Sojourner Center for community development funds for the expansion of their facilities. As I recall it, they said that they wanted to expand so that they would have 25 additional beds, or something like that, 24 or 25 additional beds. Do you know where that stands? My recollection of the testimony is that they felt that maybe they were going to get something, but it was going to be rather sharply reduced in terms of what they applied for.

MS. CARTER. It just so happens, as I said, I serve on the council's community development block grant subcommittee. Their grant proposal was submitted with any number of other community-based organizations, and it went through the process and, if you're familiar with CD block grants, we have targeted areas.

The amount of funds—again, we had dozens that we looked at yesterday—they had asked in excess of \$100,000. I know it was a six-figure number, and the steering committee, which is composed of citizens, and they also had public hearings—it was cut remarkably. I mean, it was cut markedly and I have not had a chance—our CD subcommittee is spending an afternoon next week to go over each of the proposals.

The final determination will be made by the council as a whole. Our subcommittee will make recommendations to the council, recognizing that this process that it has gone through—the council will make some changes, I'm sure, major changes. I'm not quite sure whether they feel that they can upset the total process that this has gone through—and it has been a very successful process. So, yes, there is a recommenda-

tion for, I think, \$48,000, but their request—and I'm not sure if it was \$100,000 or \$300,000—it was a sizable amount of money they were requesting. And in terms of the priorities of the citizens participating in the steering committee, it apparently was not the number one priority.

CHAIRMAN FLEMMING. Well, in other words, this clears up a couple of things for me. It has not run into any trouble insofar as policy on the part of the Housing and Urban Development is concerned.

MS. CARTER. No, it has not.

CHAIRMAN FLEMMING. We are very much interested in that because we did hold a national consultation on this issue, and at that time the Department of Housing and Urban Development had under consideration the issuance of a policy statement which would clear the way for the use of these community development block funds for shelters, and our understanding was that they did issue such a policy statement, so consequently we're interested in how that works down at the grass roots.

Now, your explanation of what has happened up to the present time interests me very much, and I would like to link it up with some other testimony. You indicated that your screening process involves a citizens committee or group, and that they didn't give it as high a priority, at least, as those who were making application, that they would like to see. I link that up with the testimony that we received, which has been commented on this morning, to the effect that seven-eighths in one instance, six-sevenths in another instance of the operating budgets of these two shelters are coming from public funds rather than private funds.

And as two persons who are very much in touch with the views of the people in the county and in the city, does the fact that the private sector is not putting more money into these two centers and then linking that up with the fact that a citizens group didn't give it as high a priority as they might, indicate that the seriousness of this problem we've been focusing on has not broken through in terms of the thinking of the citizens of the community, of the city, citizens of the county? In other words, I think, Ms. Carter, that, in your testimony, you said that for a good many years this whole problem was kind of been kept in the closet. The problem has been with us for a good many years but we just were unwilling to get it on top of the table. Now, more recently there has been a willingness to bring it out into the open and get it on top of the table, but we still have a situation where many, many citizens are not really aware or willing to confront the seriousness of this problem.

MR. FREESTONE. Is that me? Who are you asking?

CHAIRMAN FLEMMING. Either one of you.

MR. FREESTONE. Well, I have a comment, well first of all, I don't think they understand the significance of the programs. There is very few of them. They are very small in nature. I think they are very well

aware that these problems are existing, but most of them feel that it is taken care of by law enforcement, possibly. I just don't think they equate them as that. I think they look more to the physical type situations. We need another community center or we need a handicap center, things that are very obvious that they can see in society every day. You don't see a battered wife out in the streets every day. You're not a witness to a situation like that, and I'm talking about the overwhelming majority.

Most of them, it is appalling to them because they really don't, they don't do it, and they haven't seen it, though they're aware of it; they don't think it is as acute as the handicap problem, it's as acute as the need for the service center for the youth and the elderly, things that they see, and I think that is the difference, or at least one of the great contributors to the difference as far as the community participating more.

MS. CARTER. Chairman Flemming, I think what Tom has indicated is basically true. The emergence of Rainbow Retreat and Sojourner historically are relatively new in terms of programs, and that the city, and I'm sure the county, who have supported them—and I do have the figures and I will supply them, for your records—that the city has been involved. And you have to recognize that the appeal for private dollars through your United Way, through your many organizations—and many people honestly believe that by their contribution to the United Way or the charity of their choice is taking care of the problem, and I don't think it is any intent not to be interested in it, but I think when you talk about a situation as wife abuse, it is not—maybe my choice of words is wrong—when you talk about a battered child, you're talking about a 2 or 3, or 4, or 5-year old who can't always speak for themselves, and you get more empathy. You get more sympathy toward that problem and that only has recently come to the public eye and things are being done, and I think the concept of an abused wife is very difficult for people to accept happening, and besides that, maybe they were the cause of it, where you don't have that feeling with a young child.

But I didn't want you to believe when our citizens committee, when it went through the process—and I might add here that we were just audited by the Federal Government and got a very high rating on our citizen participation aspects of it—that they did recommend an allocation for the Sojourner Center. I have not read the report, which I will have read by next week, to find out why they cut it from what was asked for, but you are probably well aware that, if every agency was granted what they requested, no matter how justifiable, complying with every Federal reg and being in target areas, etc., that a committee has a difficult job in cutting down usually twice as many requests for the dollars as there are funding available. So I didn't want to give the impression that the Sojourner request submittal was not considered favorably by the committee, but, in terms of all the rest of them, and



on the continuation aspect, we're at the third year of the third-year funding.

There is a great deal of concern that we complete some of those projects that have been in the making for 2 years, so this may be a first-time proposal for them, and they are going to look to see what happens.

CHAIRMAN FLEMMING. I certainly, by my, the questioning did not intend to be all critical of the process. In fact, I'm in complete agreement with citizen participation in that kind of a process. I think it makes a lot of sense, and I'm fully appreciative of the kind of problems that a committee of that kind confronts when they have all of these various requests in front of them. But the statement by both of you, I think, is very helpful, and I think it describes accurately the situation that exists in many communities throughout the Nation. It describes a national problem, in effect, because what you have said about this community and this county, I think I can say about the District of Columbia, where I work, and I think I can say the same thing about Alexandria, Virginia, where I live. This hasn't broken through yet to the point where people do give the serious consideration to which it is entitled, and I just think that those of us who are in particular types of positions do have a responsibility to keep highlighting it and to get it on the top of the table so that people can fully appreciate it and the seriousness of it, and I think people will respond under those circumstances.

MS. CARTER. May I ask you a question?

CHAIRMAN FLEMMING. Yes, surely.

MS. CARTER. If, in fact, as the news media indicates, this is the first such meeting, hearing, I'm wondering if, since we are the first and if there were any recommendations forthcoming, whether Phoenix might not be considered as a pilot project or a demonstration project to see what we could do if the dollars were available, and the city of Phoenix—and perhaps I can only speak for the city—could be a monitor for such a program that might make the public more aware of the problem and have the funding to perhaps serve the two established agencies with more of the dollars to provide more services to get a better handle on the problem and potential solutions, because I firmly believe that problems are for solving and that, if there is any such recommendation, I certainly would like to see Phoenix considered for such a demonstration pilot project.

CHAIRMAN FLEMMING. It seems to me that's a very relevant question and comment. Our process, as I indicated—we did hold a national consultation. We are holding hearings here. We will hold hearings in another city in another part of the country; then after that we will take the evidence that has been brought together as a result of the two hearings, as a result of the consultation and we will evaluate it; we will make findings and recommendations to the President and to the Congress, and certainly we will keep in mind the kind of suggestion that you have made.

We feel that it is a very serious problem, one that does need to be highlighted. Again, we are very grateful to both of you for coming here, spending this time with us and sharing with us your views in the way in which you have. It will be very helpful to us when we finally come to the place where we develop findings and recommendations.

Thank you very, very much.

Counsel will call the next witnesses.

Ms. STEIN. Will David Lowenberg and Paul Forgach please come forward?

[David Lowenberg and Paul Forgach were sworn.]

**TESTIMONY OF DAVID LOWENBERG, ADMINISTRATOR, VICTIM/WITNESS PROGRAM, OFFICE OF THE PIMA COUNTY ATTORNEY; AND PAUL FORGACH, MEDIATION SUPERVISOR, OFFICE OF THE PIMA COUNTY ATTORNEY**

CHAIRMAN FLEMMING. Nice to have you with us.

Ms. HUBER. Would each of you please state your name and the position you hold?

MR. LOWENBERG. My name is David Lowenberg, and I'm the administrator of the victim/witness program in the Office of the Pima County Attorney in Tucson.

MR. FORGACH. My name is Paul Forgach, and I am mediation supervisor, Pima county attorney's office, Tucson, Arizona.

Ms. HUBER. Mr. Lowenberg, would you briefly summarize your educational background and work experience prior to assuming your present position?

MR. LOWENBERG. I received a bachelor's in public administration from the University of Arizona in '73, and then again in '75 I received a master's in criminal justice administration from San Diego State University. I have worked 5 years full time in the criminal justice system.

Ms. HUBER. Mr. Forgach?

MR. FORGACH. I received a bachelor's degree from the University of Arizona in '54, master's in '62. I have experienced a lot of training with National Training Laboratories, an organization that trains people in interpersonal communications. I have worked as a teacher in the Tucson public schools for 16 years I have worked with the model cities program in Tucson as a training director and trainer of staff, and I've been in the criminal justice system since about 1972, and 2 years at victim/witness program.

Ms. HUBER. Thank you. Mr. Lowenberg, we understand that you have played a key role in the development and initiation of the victim/witness program of the Pima County Attorney's Office and have been with the program since its inception in 1975; is that correct?

MR. LOWENBERG. Yes.

Ms. HUBER. What needs led to the establishment of this program?

MR. LOWENBERG. The needs were that persons such as myself, Paul, and others in the criminal justice system in Tucson having contact with people who were victims of crime on an incidental basis as a result of trying to create treatment programs for offenders, learned that many of these victims we were in contact with were having a variety of problems, and it is a conscious raising process, realizing there were no agencies or individuals in the community addressing their particular needs.

MS. HUBER. Could you describe the crisis intervention services of the victim/witness program?

MR. LOWENBERG. All right. The victim/witness program is available 24 hours a day, 7 days a week, to primarily law enforcement and prosecuting attorneys to respond on site to any call that they refer to us, either through a pager system or now through the availability of us actually riding, "us" being civilians, in a police car provided by the Tucson Police Department to refer as "Crisis I" over the radio to any kind of stress situation. We handle about 140 calls a month, and the calls range from sexual assault, attempted suicide, death notification to the primary, as far as frequency, call we receive, which is domestic dispute violence related.

MS. HUBER. Could you describe also the support services that your program provides to victims and witnesses of crime?

MR. LOWENBERG. It really starts at the time of the crisis, when a law enforcement officer requests our onsite assistance, at which time when we respond, our responsibility at that time is to assist the victim, in this case a woman of a domestic violence, which, by the way, we average two a day, given a 365-day year in 1979, and our goal there is to be of assistance to her in the sense of safety and meeting her immediate needs, which could be, in addition to emotional support, could be transportation, alternative housing and other related assistance. After that, we then continue a relationship of providing supportive services, such as either transportation or assistance, of going through DES to get some type of public welfare. It may be that they need to find a job, which, if that's the case, we provide assistance, as well as through the court process, escorting to court, providing transportation, keeping them up to date on the status of their case, if need be, providing day care services in our office while they will be testifying in court.

MS. HUBER. In addition to the onsite crisis intervention and the ongoing support services, what other services does your program provide?

MR. LOWENBERG. In addition to what I just mentioned, the two other principal services would be training and mediation services.

MS. HUBER. How is your program staffed?

MR. LOWENBERG. The victim/witness program is staffed by 10 people and that includes Paul and myself: two are clerical, one is a paraprofessional, and seven are professional. That program is funded principally by the county and the city of Tucson, and, second, we have

the Action-VISTA grant of eight mediators. That's a separate staff that deals with that component of our program.

Ms. HUBER. Are part of your services performed by volunteers, also?

Mr. LOWENBERG. Yes. We have—a large part of our services are provided by volunteers. We have an average of 50 volunteers who, in '79, were available, 20,000 hours, at least.

Ms. HUBER. Mr. Forgach, we understand that you are responsible for the training of victim/witness program staff and volunteers; is that correct?

Mr. FORGACH. Yes.

Ms. HUBER. Could you please summarize the nature of the training that you provide for crisis intervention services?

Mr. FORGACH. We require that all volunteers go through 24 hours of training in the classroom atmosphere, and that's followed by an internship program. The classroom type training meets 1 night a week for 8 weeks, 3 hours at a time. We train volunteers in interpersonal communications, in helping styles, in such processes as safety procedures, interviewing techniques, referral resources, and how to apply those kinds of processes in the specialty areas such as family disputes, suicide attempts, and breaking the news to survivors of suicide, homicides, and death notification.

Ms. HUBER. Could you tell us a little more about the training process and the curriculum you use in those classes to impart the skills you described?

Mr. FORGACH. Yes. We use a—the training model that we use is a experiential base called a “do look alert” model. We have people do some things and then look at what they do to see how well they learn from that. We train them in giving each other feedback on how well they did, or some things that we see to correct, because we want that sort of thing implemented in the crisis situation. Once they get into a crisis and they work that crisis, then their task is to discuss what happened, and how they operated and how they could improve their operation, so the violence continued even in their real life, real work.

Ms. HUBER. Is there further training for those persons who act as mediators in the mediation services?

Mr. FORGACH. Yes, there is. We require that mediators, in addition to crisis intervention training, go through 18 hours of training in further communications skills and also in a mediation process, a structured process of handling mediation sessions, and then they also have to, at the same time, following that training—they have to observe some mediation sessions. They have to co-work with an experienced person, and then serve as a principal mediator in two mediation sessions.

Ms. HUBER. In the crisis intervention classes that you spoke of, how often do you give those classes and what is the class size ordinarily?

Mr. FORGACH. We have offered those classes about three times a year. The class sizes range from 50 to 60, but we usually get only

about 20 or 30 of that group into crisis intervention work. At least 50 percent of the people who come to the training are agency related, who want to come in and experience the training, and work those processes in their own agencies.

Ms. HUBER. Of the volunteers that you bring into your program, what is your source for volunteers? How do people come to you and get into your classes and into your program?

MR. FORGACH. The major source, I'd say, would be university and Pima College students. They are usually young and they're female and have various ethnic backgrounds. They also come from other agencies who want that experience of working a crisis. It's by word of mouth. We have an overwhelming number waiting to get into training. We have accumulated names for months in advance.

Ms. HUBER. Mr. Forgach, could you briefly describe the mediation services of the victim/witness program?

MR. FORGACH. The mediation is a process where we attempt to bring parties that are having disputes together to sit down with the mediator and talk about ways to solve their problems, and our major goals are to produce peaceful settlements, a peaceful settlement of some kind, and that could be either somehow facilitating a settlement that meets both parties' needs; it could be either reconciliation; it could be a cooling-off period, or it could be a process that leads to the breaking up of the relationship, and we want to, also in that process assure people. of safety. We're not looking to determine who is guilty or innocent.

Another goal is to keep the matter out of the court system if we can.

Ms. HUBER. Are cases arising out of domestic assault situations referred to your program for mediation services?

MR. FORGACH. Yes, they are.

Ms. HUBER. What are the sources of cases, of domestic assault cases that are referred to you for mediation?

MR. FORGACH. We have several sources. Currently, we have established mediation sites at several police substations, and so the sources come from police officers themselves from various parts of the city.

Our mediators are riding with the officers, getting acquainted with the officers, getting acquainted with the community, getting acquainted with those situations where domestic violence occurs frequently.

The officers help us to legitimize our entry into those situations. We are also getting referrals from the city prosecutor's Office and referrals from the county attorney's office when parties are requesting such things as peace bonds; they feel threatened or harassed so they are referred to us by the county attorney's office.

Ms. HUBER. Do I understand correctly that the Pima County attorney does not initiate peace bond proceedings, but if a citizen called asking for a peace bond, he or she is referred to your mediation services?

MR. FORGACH. That is correct.

MS. HUBER. And the cases referred by the city prosecutor, in what form do those come to you?

MR. FORGACH. Well, in what form they come? I'm not sure I understand.

MS. HUBER. What is the process by which the city prosecutor would refer a domestic violence case to you?

MR. FORGACH. Okay. We have a liaison attorney in the city prosecutor's office who screens cases that they think may be appropriate for us to mediate. They give us pertinent information to that case, and we make contact with parties involved and attempt to mediate the situation.

MS. HUBER. I would like to go through that with you in some detail. These are cases in which a complaint has been filed in the Tucson Municipal Court by the city prosecutor?

MR. FORGACH. Yes.

MS. HUBER. And those cases are referred to you for possible mediation?

MR. FORGACH. That's true.

MS. HUBER. All right. When the city prosecutor refers one of those cases to you, what steps do you take initially then? Could you describe that, please?

MR. FORGACH. Okay. We attempt to contact both parties by telephone first. If we can't reach them by telephone, we do it by letter, and we usually contact the victim first, identify who we are.

MS. HUBER. Who do you say you are?

MR. FORGACH. We say that we are mediators with the county attorney's office and their case has been referred to us by the city prosecutor's office. We identify who we are and that we are attempting to identify from them, that party, what it is they want happening with this case, so we're seeking to identify their wants and what it is they are willing to do.

We contact the victim first, in doing that, and then we ask them if they would be willing to mediate or sit down with the other party and discuss this problem.

MS. HUBER. In the initial contact, what do you tell the victim about what mediation is, what services you are offering?

MR. FORGACH. Okay. We tell them that we're not judges or attorneys, that we're there to try to attempt to identify what they want happening and help them to make that happen.

MS. HUBER. And what choices do you present to them? What do you ask them to decide?

MR. FORGACH. Oh, I see. We tell them of several choices they have, you know. With this case, either nothing can be done or they could pursue prosecution if they wish, or we could attempt to try to settle this matter peacefully outside the court process.

MS. HUBER. If the victim indicates an interest in mediating the case what steps do you take then?

MR. FORGACH. Okay. Then we ask them if it is okay if we contact the defendant and tell the defendant what they are saying and ask the defendant again what it is that they want, what they are willing to do and we will get back to them and relay that information, and then we would ask them to meet and say some of these things face to face to each other and come up with either an oral agreement about specific kinds of behavior that they're willing to accept.

MS. HUBER. Could you describe the face-to-face mediation session, the rules you use and how one of those sessions is conducted?

MR. FORGACH. All right. Once we get two parties into the same room, we commend them for coming in. We have two mediators present, and in—always we attempt to have a male and female mediator. We have newsprint on the wall, and we ask them—we reaffirm their commitment: “Do you want to try to work this out peacefully?” And if that's true, then we, you know, we work for a yes or no, no hemming and hawing; “Yes, I'm willing to do that.” “I will if she will.” “Yes or no, are you willing to do that?” And they're usually there for that reason. Then we ask them if we can state certain ground rules, which some are, I guess: Let's not interrupt each other; let's not have any physical violence; let's try not screaming or putting down each other.

We as mediators want to control the meeting. We have a structured process and we ask them if that's okay. We get their commitment. So then we proceed to have each party state the problem as they see it, and then have the other one clarify what they're hearing.

Then we ask each party to state what it is you want: “What do you want from this person?” And we list those wants, get them all out of them, list them on a wall, and we ask the other party listening if they have any questions about that, and then we solicit the wants from the second party.

MS. HUBER. Do you have a rule as to whether the parties can talk about events in the past or whether they must direct their attention to the present?

MR. FORGACH. We have that kind of rule, and we try to enforce it, but sometimes it is very difficult to do that.

MS. HUBER. What is the reason for that rule of not talking about the past and concentrating on the present?

MR. FORGACH. Some of the things that's happening with the individuals. They have a whole lot of war stories—what we call war stories. They want to relay one incident after another, and they do a lot of thinking about those things and it is hard for them to listen to each other. We try to interrupt them when they're doing that and say, “Hey, could you pursue talking about what you want happening,” so try to bring them back to that structure.

MS. HUBER. And what is the rule of the mediator in this session?

MR. FORGACH. The role of the mediator is to facilitate a meeting of these needs, to remain neutral, to support both parties, to pick up

strengths of each party, identify them and support both parties, to keep an equal balance of strength, not determine who is guilty or innocent, and not play judge. That kind of thing.

MS. HUBER. Assuming that the two parties are able to reach a common understanding as to their desires and their concessions, what happens next?

MR. FORGACH. Well, we review those understandings, those agreements. We make sure that we have them; we repeat them to each other. If they are very simple, simple oral agreement may suffice; if they are rather complicated, where there is a series of things and one doesn't trust the other and they prefer to have it in writing, then we have a contract form that states very specifically the behavior each party agrees to.

MS. HUBER. Assuming such a contract is executed, what happens with the case in court that has been referred?

MR. FORGACH. If we have a contract and agreement, we notify the city prosecutor's office. Well, there is also a dismissal statement signed by the victim, and if the defendant has been jailed, a release statement signed, and we notify the city prosecutor's office that we have reached an agreement, a satisfactory agreement with both parties, and that's as much as we need to do.

MS. HUBER. All right. Mr. Forgach, based on your experience with the use of these mediation services, in cases arising out of incidents of domestic assault, how would you characterize the advantages of mediation as opposed to criminal prosecution?

MR. FORGACH. Well, I think probably the best one is that, I think it gives the victim a third option, that if the victim does not want to prosecute, they have that option. If they want to prosecute, we also give them that option. And I did a little bit of research on the first hundred that we have. For example, in the first 100 cases that we mediated or attempted to mediate from the city, 27 victims declined; they wanted to pursue prosecution, and that was okay. So I think that the advantage is of offering of another option, and I think that some other kind of advantages are that there is a feeling that they have had enough air time, that they have been able to work this out by themselves with a third party, and I think there's also a face-to-face confrontation that allows both parties to see a lot of each other. For example, in the case of a victim, often the victim is fearful of that defendant, so the victim can determine for themselves whether they have reason to fear or not, and usually they say, "I have no reason to fear this person," and they walk out of that meeting feeling less fearful.

MS. HUBER. We would be interested in your comments on the benefits of successful mediation in contrast to that of a criminal prosecution.

MR. FORGACH. Would you ask me that again?

MS. HUBER. Yes. In these incidents arising out of domestic violence, we would like your thoughts on the advantages of mediation as op-



posed to criminal prosecution in resolving these kind of relationships or situations over a long-term basis.

MR. FORGACH. The advantages of mediation versus prosecution?

MS. HUBER. Yes, or in relation to prosecution.

MR. FORGACH. Well, I think our goal really is to stop the "win-lose" thing going on that, in prosecution, oftentimes one or both parties think that the prosecution or the court process is going to settle it once and for all, and it usually doesn't end up that way. I think that in mediation there's an attempt to name the game, to stop the "win-lose" process. There is an attempt to straight talk and there's also probably a contact that they have established, that both parties have established, that they can come back to when there is further difficulty rather than law enforcement being involved, or the courts being involved again, so that linkage is kind of established. There is a phone number they have. There is a person they can contact if there are further problems, further questions. Those are some of the advantages.

MS. HUBER. Thank you.

MR. Lowenberg, do the same staff and volunteers in your program act in all three roles of crisis intervention workers, victim advocates, and mediators?

MR. LOWENBERG. At times, yes.

MS. HUBER. Do you ever find a problem in conflict in roles between that of a victim advocate seeking to provide—support a victim as she prosecutes a case in court, as opposed to that of a mediator seeking to resolve the dispute without blame or a finding of guilt?

MR. LOWENBERG. Yes.

MS. HUBER. How would that conflict arise, perhaps, and how do you deal with it in your program?

MR. LOWENBERG. The conflict would arise when we respond to the scene of the crisis per law enforcement request, and we're there to provide supportive services and we develop a relationship with the victim, at which time she is unsure of really what she wants to do in regard to whether she wants to prosecute it or look at some other options. And our responsibility is not to push them to make a decision at that time, either.

But then what happens is that in some of these cases the woman decides that she really wishes not to prosecute but is looking for some other options, and the victim/witness advocate would tell them about the different options if she chooses not to prosecute, and when she then decides, if she does, for mediation, the victim/witness advocate would move out of the role and allow other people on staff to assume the mediation process, so that the victim/witness advocate would not then continue it through mediation because they have already established a relationship with one of the parties, but they would still keep in contact with that woman.

MS. HUBER. To pursue this, suppose your—that crisis intervention team was summoned by the police to a scene of a domestic assault,

finds a woman there in tears, her eyes perhaps blackened by her husband, very distraught, and she asks the crisis intervention workers, "I'm so upset, I don't know what to do." What, if any, advice would they give her about whether or not to seek an arrest of her husband, to try to resolve the situation in another way when she's asking for that kind of advice? How would they respond?

MR. LOWENBERG. I hope that they respond with two messages: one, I think it is real important to assure the person that not knowing an answer at that time is okay, that I think that we could do more damage by adding pressure that somehow they have to decide right now how the rest of their life is going to be as a result of this incident, unexpected dramatic incident; secondly, with reference to that, is we work on the one major problem at that time, which usually is safety. I mean, safety is the key factor at the time of the crisis. I think the advantage of being there is we're also able to contact, which must communities have, the pretrial release program and gives input that when this person goes in front of the judge the next morning, would you please include, if this is a desire of safety, that if he is released that he not be allowed to return home, that he have no contact with this victim, be in person or by phone, unless, you know, if there's any need to get him clothes, it would be under the supervision of an officer on site. And we are finding that judges are more willing to accept that this condition be placed on the individual if he happens to be released, so the key at that time happens to be safety.

MS. HUBER. Both, Mr. Lowenberg and Mr. Forgach, a presumption of the criminal law is that it is the State that brings the prosecution and not the individual victim as a private party. What would your comments be on a proposed policy of prosecuting domestic assault cases within the criminal system without regard to the wishes one way or another of the individual victim?

MR. LOWENBERG. Understanding the brevity of time?

MS. HUBER. We have some time. Please answer the way you wish to.

MR. LOWENBERG. I think historically the criminal justice system has offered extremes. Extremes are very clear. The extremes are that you come forth and prosecute, and that means we're going to arrest him now, and that means we're going to expect you to continue to cooperate in prosecution, because he did something that is definitely against the law or I think the system has given the message that "You shut up. You do nothing." This is the extreme. I think, as a result of that, what we have is unfortunately suppressing the problem by people feeling "I don't like either extreme," or "I'm not sure that I do," and it scares people from even surfacing the problem. Most of the cases we discuss here—and I think elsewhere—are those that end up in the criminal justice system, which is a very small number. Most people do not go to the criminal justice system, or some other public agency, seeking assistance for this problem. I think what we're trying to

promote here is that we've got to create as many options as possible because the problem is complex, the analogy being, and at least in our own State, that I found in talking with some prosecutors, we made the penalty for child abuse, for incest, much stiffer. As a result, the prosecutors are finding less cooperation from the other family members, harder to get cases to take forward. Therefore, I think that we have to continue to provide as many options; we need to be creative, so that these people can come forth and ask for assistance with the conflict. I think, if I may, the attitude of what I call the "fantasy tell syndrome," that is simple and it's comfortable to operate in, such as Red Ridinghood is the victim and the Big Bad Wolf is the mean person, and it's real black and white, and to the extremes and we approach it that way has, unfortunately, I think, caused many people not to come forth and ask for assistance. I think we find that on a day-to-day basis with self-referrals.

Ms. HUBER. Mr. Forgach, do you have any comments?

Mr. FORGACH. I think I would really favor, if I understand your question correctly, that there is somebody else signing the complaint. Is that what you're asking, rather than—

Ms. HUBER. Your comments on a policy of the State prosecuting these kind of cases without regard to whether the victim wishes to go forward or not.

Mr. FORGACH. I think I really would basically support that. I think that I really support naming the game further than, to the extent that you can, saying that what you're doing is not okay and that that requires further assessment; and assessment is made at higher levels and at the police involvement level; and I think there are more options open after that, when you have more assessment, more involvement, more naming of the game kind of thing. I think that would provide more options.

Ms. HUBER. Let me make sure I understand you correctly. Are you saying that the police should make an arrest and bring these cases into the criminal justice system so they can be dealt with appropriately?

Mr. FORGACH. That's true, so they can be further assessed and dealt with appropriately.

Ms. HUBER. Mr. Chairman, I have no further questions at this time. I would like to introduce into the record documents describing further the mediation programs supplied to us by Mr. Forgach.

CHAIRMAN FLEMMING. Without objection, that will be done.  
Commissioner Horn?

VICE CHAIRMAN HORN. What measurement of effectiveness have you set up to judge how valuable these services really are in either case, both cases? What's your standard of effectiveness?

Mr. LOWENBERG. Standard of effectiveness? Number one, with the victim/witness program, the Stanford Research Institute evaluated it as an outside entity for 3 years and conducted surveys of both clients, which happened to be the victims, surveys of referral agents, which

happened to be officers or prosecuting attorneys, and looked at the whole operation and what kind of benefits they saw. Number one, that a large majority of the clientele seemed to be satisfied with the assistance that they were receiving; that officers were making statements that, in reference to domestic violence cases, they were returning less often to houses; that the victim/witness program as an example of one agency became involved with versus no agency involved; that also there were benefits in the sense that the cases that did go to court, the people who were the victims, stating that these services did assist them in the sense of cooperation through that aggravating process.

VICE CHAIRMAN HORN. Was that a national study or just of the Tucson program?

MR. LOWENBERG. That was of the Tucson program. I would like to add that there was a study in regard to crisis done in Hayward, California, which they reported. They held a control group of domestic violence cases that no one responded other than the office; then, another group of cases, and it was supposed to be random, in which the officers responded, but, in addition, had a crisis team similar to what exists in Tucson, and they found that there was a 50 percent reduction of the need for law enforcement to return because of violent problems of disputes with those calls in which there were crisis interveners, versus the other group where there was nobody other than the officers.

VICE CHAIRMAN HORN. Could the Commission receive a copy of that study for its files and maybe take some excerpts as appropriate, put them in the record at this point? Do you have a copy of the SRI study of the Tucson program?

MR. LOWENBERG. Commissioner, I'll be glad to forward this, but I don't have it with me.

VICE CHAIRMAN HORN. I understand that, but just staff and you can pursue that afterwards, if we could get it in the record at this point.

CHAIRMAN FLEMMING. Without objection, that will be done. We would appreciate that very much.

VICE CHAIRMAN HORN. Mr. Forgach, what is the standard of effectiveness for your program? What do you see as the criterion or criteria by which you should be judged?

MR. FORGACH. We have had many surveys and called 100 of the persons that we have made contact with, and the majority seemed to have been satisfied with the services.

I think another one is we're sort of attempting to select those cases which have constant recurring contact with the law. We've been following up to see if there is further involvement. That seems to have been minimized.

VICE CHAIRMAN HORN. That to me would be the key point, the degree to which there is less recidivism, the particular cases which have gone through your program.

Now, you have examined 100 cases, have you?

MR. FORGACH. Well, we have examined 100 cases with peace bonds, asking how they felt about the services, and that was one response.

We have also examined 172, well actually 100 cases, referred to us by the city prosecutor's office.

VICE CHAIRMAN HORN. Let me go at it another way so I can try to get a feel for this. Since your program was established, how many cases have you had?

MR. FORGACH. I couldn't tell you that. I think that we've been progressing. For example, when we first began working with it, we just handled peace bond cases, and we've been working with that for about a year and a half. We didn't track those any differently than we did with crisis intervention cases. Since then the city prosecutor's office has taken an interest in our program and we began tracking those cases, and also since then the JP courts have begun to refer civil cases, and we're tracking those, and the numbers on the city prosecutor has only reached 172, and the JP cases, 60 at this point.

VICE CHAIRMAN HORN. That's 172 over what time period?

MR. FORGACH. Since March of '79.

VICE CHAIRMAN HORN. And then how many were the JPs?

MR. FORGACH. We worked with 60 since, I think, October.

VICE CHAIRMAN HORN. Of '79?

MR. FORGACH. Yes. We're mediating 40 percent of the justice cases.

VICE CHAIRMAN HORN. This is what I'm thinking of, a decision tree here. You've got a total number of cases submitted;  $X$  number of those went through mediation in a given time period. How many of those again came into the criminal justice system from allegations of domestic violence, this kind of thing?

MR. FORGACH. I can't tell you that.

VICE CHAIRMAN HORN. You don't have that? It seems to me that would be one basic test of whether mediation is really working. Did the Stanford Research study get into that at all?

MR. LOWENBERG. Very little because it was a recent development.

VICE CHAIRMAN HORN. Now with mediation, I would like to pursue a little bit the type of agreement you're talking about. As I understand the mediation program, the philosophical approach is there are no winners and losers; let's put all the problems on the table dealing with the present, see if we can't reach an agreement which will determine behaviour in a future course of action. To what degree does that session you have for mediation and reaching the agreement involve one or both of the parties taking advantage of services that relate to alcoholism, psychology, etc., etc., stress, and so forth?

MR. FORGACH. Well, all services are certainly available.

VICE CHAIRMAN HORN. But does that become part of the agreement?

MR. FORGACH. Yes, it does, where, you know, both parties agree to that. It is not imposed on them. For example, with alcoholic—a spouse may feel that the other spouse needs some alcohol treatment, but he doesn't see it that way. Then we may have to negotiate what happens as a result of that.

VICE CHAIRMAN HORN. What's been your experience on the alcoholism situation? Do parties that seem to have that problem based on the police reports recognize it's a problem and agree to do something about it, or would you say that happens more than half the time, most of the time, so forth?

MR. FORGACH. First of all, it is a big problem in domestic violence, and I did a very short check on peace bond requests. For example, on peace bond requests, out of about 25 or 30 that I looked at, 80 to 90 percent of them involved alcohol, and then whether or not the parties agreed to getting some treatment. I don't have any figures as to what percentages follow up on that.

VICE CHAIRMAN HORN. I just wondered if you had a feel for it, if people are willing to face up to the problem that something ought to be done and agree as part of the mediation agreement to take advantage of these services.

MR. FORGACH. One thing, since we have recognized that as a major problem, we have had training by alcohol consortium groups, for example, and we've been able to point out if one of the parties was denying their alcohol problem, we are pretty knowledgeable and skillful to point out, have them look at some things that really indicated they really do have a problem, and I think as a result of that training we're succeeding more and more to make appointments for those persons having that kind of problem or their spouses, and they are following through on those appointments. We've been checking that out, but I don't have any statistics on that.

VICE CHAIRMAN HORN. In other words, you're following through as to whether they do go to those services?

MR. FORGACH. That's true.

VICE CHAIRMAN HORN. It seems to me that's part of the advantage of having this part of a program working out of a prosecutor's office. You reach an agreement. It is mutually arrived at and then there needs to be some process for followup. What my question then to you would be, suppose they break the agreement—do you really get into it again unless another incident occurs? What kind of monitoring exists?

MR. FORGACH. It is usually done by that. If there's a violation of that agreement, they come to us.

VICE CHAIRMAN HORN. One of the parties?

MR. FORGACH. One of the parties would come to us, and we do get into it again, and we're either working with it ourselves—in some situations we've been involved with a couple for a year—or we have other resources that help us out and in getting into this problem.

VICE CHAIRMAN HORN. When you have reached that agreement, does that agreement go before a judge in any way?

MR. FORGACH. It does not.

VICE CHAIRMAN HORN. That is strictly an administrative agreement?

MR. FORGACH. That's right.

VICE CHAIRMAN HORN. So if it is broken, what are the sanctions?

MR. FORGACH. Well, one could be that we would advocate for the person who has been violated against; or the other one is that we do contact—if we are contacted or if we follow up and find that it has been broken—we do pursue contact of the other party to see what's happening with that, and we may ask them to come back and discuss it further, and that has happened.

VICE CHAIRMAN HORN. Okay. So this doesn't resemble probation in any way?

MR. FORGACH. No, it does not.

VICE CHAIRMAN HORN. This is sort of just goodwill counseling and trying to get the parties to see their problems and agree to do something about it?

MR. FORGACH. With a high initiative from our office. We do not wait for them to come to us for help. We pursue them. I think that's really the basic difference than what really goes on in the usual social service models.

VICE CHAIRMAN HORN. Do you feel the lasting effect of this is more than people making New Year's resolutions?

MR. FORGACH. I do.

VICE CHAIRMAN HORN. I realize there is a school of thought, and we certainly have it in our student services in the university, that feel this is a very valid approach, but I guess my concern is, is that wishful thinking or is it really measurable over time?

MR. FORGACH. Well, I think there's been a crisis and people are more amenable to change in a crisis. There's the county attorney's office involved, police involved. It's out in the open. They know their behavior is not okay. They want to try to convince us that they're good guys, so there's a lot of things working towards making that agreement a little bit more binding.

VICE CHAIRMAN HORN. If someone violated the agreement, there was another incident and an assault charge was filed, would the fact that they had had this previous situation be part of that court record at all?

MR. FORGACH. I don't really think so. Do you, David?

MR. LOWENBERG. Yes, I think—if I may, Commissioner.

VICE CHAIRMAN HORN. Yes.

MR. LOWENBERG. Number one, the charges are dismissed without prejudice for 6 months and I don't think that's been added.

VICE CHAIRMAN HORN. Okay. So after the meditation agreement is reached and you haven't heard from the parties or another complaint, those charges are dismissed?

MR. LOWENBERG. Without prejudice.

VICE CHAIRMAN HORN. In the meantime, they have been held, though, and should something happen, they could be reinstated?

MR. LOWENBERG. And we do have cases that show in fact that's exactly what happened; they were reinstated. Then also, there are a few things that I may add—

VICE CHAIRMAN HORN. Let me pursue that a minute. Suppose nothing happens for 6 months; the charges are dismissed and then something happens, a new assault charge filed? To what degree is the previous interaction with the city prosecutor a part of the consideration of the judge to determine penalty, or can that be brought into court?

MR. LOWENBERG. To date, it hasn't been brought into court other than that the prosecutor is aware that there was a mediation attempt before and the person had violated the agreement. I think what results is more aggressive prosecution with regard to having that information. As far as the content of the mediation being brought in, that's not the case.

VICE CHAIRMAN HORN. Go ahead.

MR. LOWENBERG. I was going to say an important thing that you alluded to is one, we find with men, who are the aggressors in most of these cases, the mediation is somehow much more safer than a counseling session, or that you must see a psychiatrist, etc., and are much more willing to cooperate as far as coming in for that mediation which happens many times to be the first time that they've ever been willing to openly discuss the problem with anyone else. As a result of that, it is a real linkage we would never propose at the mediation session will resolve the problems of a deep-rooted conflict, but do seem in many of these cases to start a process in regard to what Paul said, connecting with the alcohol treatment programs or other agencies to either work on building that relationship or, in fact, many of them find that it is over, that there is no reason to try to continue or threaten the other party, to try to maintain a relationship, and we tell them, you know, our job is to help keep the peace; that's our main goal.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Forgach, I wanted to pursue the mediation route with respect to that case, your ground rules as I understood them. In the case of a woman who was just beaten by her husband, and if this is a subject of mediation, the ground rules are no blame, is that correct? Then it seems to me that the mediator then is approving the behavior of the husband.

MR. FORGACH. I don't see it that way.

COMMISSIONER FREEMAN. She's beaten up. There is an assault. There's no question about that.

MR. FORGACH. That's true.

COMMISSIONER FREEMAN. What is the posture that you see that the husband is in after he's beaten up his wife?

MR. FORGACH. The mediator is helping that wife to say, "That's not okay behavior," and she's the one that's telling him that's not okay, and you wanted to really push her away from you, that's the way to do it.

COMMISSIONER FREEMAN. Well, if there is no blame, that's what I—I'm not understanding you.



MR. FORGACH. Well, there's a blame but there's not a judicial blame, or we're not judges to say; we're just trying to help this man understand that that's not okay behavior with her.

COMMISSIONER FREEMAN. I'm trying to understand the ground rules of no blame. That's what I'm trying to do.

MR. FORGACH. I think what that is really saying is that we as mediators are not there to put blame or to make judgments, to determine who is right or wrong. I don't know if that answers your question.

VICE CHAIRMAN HORN. Well, you're really talking about, I assume, basic causes as to who is right or wrong, but, as I understand this exchange, you're saying it is made clear that beating people is wrong.

COMMISSIONER FREEMAN. It isn't clear from what he says as to the ground rules.

MR. FORGACH. Then I must be saying it wrong.

VICE CHAIRMAN HORN. Am I correct in that, when you say you are trying to get them in a mediation situation of no winners or losers, that's trying to get them to face up to their problems and say, "Look, here's what I don't like about X," and "Here's what I don't like about Y," and "Here's what we can agree on working out," but your testimony is that you are there, and making clear you are there to keep the peace and you are certainly not condoning beating up people.

MR. FORGACH. I agree with that.

VICE CHAIRMAN HORN. But Commissioner Freeman's worry in that no-winner, no-loser situation, it sounds as though it is a condoning of the fact that you can beat people up in this society and yet there's no winners or losers, folks, but as I think one interpretation on it—maybe I'm giving you the better interpretation—is, look, you got here where a crime was committed, a person was beaten, but we're not going to get into who is right or who is wrong about the causes that led to that action, but we're gonna try and work something out so no other crime is committed. At least that's the way I'm hearing you.

COMMISSIONER FREEMAN. If what you are saying is what Dr. Horn is saying, that's one thing, but that is not what was your testimony.

VICE CHAIRMAN HORN. Are you saying what I've said, Mr. Forgach?

MR. FORGACH. I'm really agreeing. I'm trying to say what Dr. Horn is saying.

COMMISSIONER FREEMAN. You are trying to say that?

VICE CHAIRMAN HORN. I don't want to put words in your mouth, but the only way I can see a rationalization of this is to say that "Look, we aren't going to say who is right or wrong on the causes, but let's get at what are the causes as each of you perceive this and see if we can't reach an agreement as to how we conduct ourselves from here out, but it's the two of you that have to really be the main forces to reach that agreement. We're not going to force an agreement on you."

MR. FORGACH. That's true.

VICE CHAIRMAN HORN. But you're there to be facilitating.

COMMISSIONER FREEMAN. One of the things that all of the the testimony that I've heard so far is that it seems that there needs to be a declaration that domestic violence is contrary to public policy, that it is contrary to the policy of the State, of the government. Now I would probably feel more comfortable with this if in any such agreement that that was clearly stated—because there have been statements, “Well, that maybe she made him do it,” or “Maybe she made him throw a brick at her,”—so if we at least make it very clear that this is a crime, that this is a violation of the public policy of the State, that this is a violation of the peace and welfare of all, of everybody, then you can proceed but, in any such mediation process, but the testimony which I heard did not make it, did not stand, was not that clear.

MR. FORGACH. Let me respond to that. I think that in the mediation sessions, a lot of information is given to the defendant, a person who is abusing a wife, trying to make that clear that that this is a crime, that that's not okay with the wife and that there are possibilities that could happen to him if he pursued that further.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. No questions.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. One further question. When you want to take this mediation process, is there any kind of a judgment made that the case that you are going on to take as to the question of the severity of the case—suppose a woman is very seriously injured, would you offer that option? We are talking of a crime of assault. Some previous witnesses talked in terms of serious assault. In cases of a serious assault, would you offer this option of mediation?

MR. LOWENBERG. That's a good question, Commissioner. And the truth is that the prosecutors, given the danger and the severity and the history, may determine that there is not going to be a choice here whether the woman decides to mediate or not, but we are going in to prosecution.

I've been involved last week in two such cases, and I think that's a policy that definitely needs to be presented, that given the severity of the case, in that the State is prosecuting what has happened, that the option of mediation is not even offered, that it is going to be prosecuted.

MR. NUNEZ. Just to follow up on your previous comment concerning the two poor alternatives, prosecution or ignoring the problem, you would, however, admit that prosecution is a valid way of dealing with this problem in certain cases, and that mediation is basically—or conciliation or the crisis intervention process is just another alternative, but that the judgment as to prosecution should always remain?

MR. LOWENBERG. Absolutely.

CHAIRMAN FLEMMING. Could I ask, do you have a shelter in your city?

MR. LOWENBERG. I'm pleased to say we do.

CHAIRMAN FLEMMING. What's your evaluation of its role and the effectiveness and so on?

MR. LOWENBERG. Well, I am pleased to say we enjoy a good relationship with the shelter to the point that not only do I think they go to an extreme to accommodate our referrals in the middle of the night of a woman who has been abused and frightened, but also requesting us while we are in our crisis units, the unmarked police car, they can in turn ask us to go pick up somebody and bring her to them. We find that, as probably most places, that they are overfilled, that they are stretching their resources and trying to accommodate a problem that the present resources don't satisfy.

CHAIRMAN FLEMMING. As you see it, growing out of your experience with what is certainly a very challenging program, they have a role to play in the life of the community that typically isn't being played by any other institution of the community.

MR. LOWENBERG. Referring to a—

CHAIRMAN FLEMMING. Shelter.

MR. LOWENBERG. Definitely. I contend, Mr. Chairman, that if we don't have both primary, which is immediate supporter services offered, as well as secondary, long term, such as legal aid, such as public welfare services, then we're really not given an option. In other words, I believe we need both to continue to provide a true option to the person who is being victimized.

CHAIRMAN FLEMMING. I would like to pursue, just briefly, your use of volunteers; this fascinates me. The order of magnitude, as I recall it—you have about 15 full-time persons on your staff; is that correct?

MR. LOWENBERG. No, sir. Staff, there's 10 full time and there's 50 volunteers.

CHAIRMAN FLEMMING. Ten full time and 50 volunteers. Okay. Do you include the VISTA in your 50?

MR. LOWENBERG. No, I do not.

CHAIRMAN FLEMMING. Is that in addition to the 10 also?

MR. LOWENBERG. That's in addition.

CHAIRMAN FLEMMING. That's another group.

MR. LOWENBERG. That's a third component.

CHAIRMAN FLEMMING. And, as I understand it, you using them primarily on mediation?

MR. LOWENBERG. Yes.

CHAIRMAN FLEMMING. Let me stop there. Are they assigned to you for a year, the VISTA volunteers?

MR. LOWENBERG. That's true.

CHAIRMAN FLEMMING. And you do put the VISTA volunteers through a training period?

MR. FORGACH. That's true.

CHAIRMAN FLEMMING. And then they stay. How do you find that works?

MR. FORGACH. How do I find it works?

CHAIRMAN FLEMMING. I mean do you find that the VISTA volunteer is rendering effective service in this role?

MR. FORGACH. They certainly are. They are really good and they are interested in their work and they are well accepted right now by law enforcement.

CHAIRMAN FLEMMING. You only have had one group so far?

MR. FORGACH. That's true.

CHAIRMAN FLEMMING. Do you have a commitment to get a second group when the year is up as far as this first group is concerned?

MR. FORGACH. Well, the ACTION office here in Phoenix is so interested in our program that he has sent visitors from San Francisco down. He is publicizing what we're doing in their national news and he himself is coming down tomorrow to do a site visit. He's really interested in what we're doing and promoting what we're doing in a lot of places.

CHAIRMAN FLEMMING. Do these VISTA volunteers get some training before they come to you for training on the mediation side?

MR. FORGACH. Yes. They receive a week of training from ACTION in community change techniques, and then they also have a followup 1-week training session, and I'm sure they probably will have more.

CHAIRMAN FLEMMING. Well, as one who has been very interested in the VISTA program and its development, I'm fascinated to learn of this particular utilization of the VISTA volunteer. Now, coming to the volunteer, the 50—I gather that all of the 50 are asked to go through a training program, whether it is on the mediation or on other aspects of your program. Typically that training program is 24 hours of classroom work plus some field work?

MR. FORGACH. That's true, plus radio communications with the police department. You have to learn the 10 code.

CHAIRMAN FLEMMING. All right. Now, the overall program, aside from the mediation, the overall program has been going on for about 7 years?

MR. LOWENBERG. Has been going since January of '76.

CHAIRMAN FLEMMING. Okay. How many volunteers have been with you for 3 years?

MR. LOWENBERG. There have been six.

CHAIRMAN FLEMMING. And how many have been with you for more than a year?

MR. LOWENBERG. Oh, I would say about half of them. Actually, as Paul indicated, our problem happens to be that we have many more people in the community who would like to become volunteers than work that we have to do for volunteers at this time. So most are seemingly staying on for longer periods.

CHAIRMAN FLEMMING. What is your age group—young, middle age, old, or a pretty good distribution between those age groups?

MR. FORGACH. I'd say they are primarily young, within their twenties, with some distribution in the forties, very few elderly.

CHAIRMAN FLEMMING. Do you have any elderly?

MR. FORGACH. Do we have some elderly? I think we have about, very few, three or four in the fifties, but we're getting—we have identified—

CHAIRMAN FLEMMING. Let me just say this. I gather that in connection with this program you have had what you would characterize as a very satisfactory experience with volunteers?

MR. FORGACH. Absolutely.

MR. LOWENBERG. Correct.

CHAIRMAN FLEMMING. Okay. Counsel had one additional question, I think.

MS. STEIN. Yes. Thank you, Mr. Chairman. I have one question for Mr. Forgach. I wonder if you could give us an idea of what the typical provisions would be in one of these mediation contracts.

MR. FORGACH. The typical provisions?

MS. STEIN. Yes.

MR. FORGACH. Would be that one party—I think that both parties have identified the kind of behavior that they want, the way they want to behave, and has put in writing that for example, "I agree that when I pick up children, I'm going to come and drive up to the front and I will not go into the house." The mother agrees or the wife agrees to dress the children and send them out to the car. It must specify specifically what that behavior is going to be and for how frequently, you know, say the child visitation or something, how frequently, under what conditions, that kind of thing.

MS. STEIN. If the parties were living together, what would be the typical provisions?

MR. FORGACH. It could be that they continue some counseling together if that's what they need. It could be that he agrees not to hit her or not to—if he is going to do some drinking, it is going to be to stay away completely or not do any drinking—very specific behavior what they both agree to and they think will suffice at that point. It may be part of the agreement to review those agreements within 2 weeks with me to see how well they are going.

MS. STEIN. What would she agree to do?

MR. FORGACH. She would agree to, maybe go to counseling with him. She would agree to not push his buttons in some way. She may, if there is a charge, she may agree to withdraw that charge temporarily, to dismiss it without prejudice, such things as that.

MS. STEIN. Thank you very much.

VICE CHAIRMAN HORN. Why don't we, Mr. Chairman, just to get a feel for this, if Mr. Forgach would submit perhaps five representative mediation agreements without names for the record so we could get an idea of the type of—

MR. FORGACH. I think we have that.

MS. HUBER. Mr. Vice Chairman, we have two mediation contracts and the exhibit provided includes a blank contract. We'll see if we can get a few more to round out the sample.

VICE CHAIRMAN HORN. Is that in the record?

Ms. HUBER. The blank contract is in the exhibit; if we could have the record held open, we will submit some representative contracts.

VICE CHAIRMAN HORN. Sure.

CHAIRMAN FLEMMING. We are indebted to you for coming here and presenting this testimony. You are certainly involved in what seems to me to be a very exciting and challenging program, one that I feel sure is making a constructive contribution in the lives of the people that come in contact with it. In addition of that, I think it is one that will get attention throughout the country, and I'm delighted that the Stanford Research Group came in and took a look at it and evaluated it, because that will help spread the story. Thank you very much.

Counsel will call the next witnesses.

Ms. STEIN. Would Peter Ronstadt and Stephen Neeley come forward please?

[Peter Ronstadt and Stephen Neeley were sworn.]

**TESTIMONY OF PETER RONSTADT, COMMANDER, FIELD OPERATIONS BUREAU, TUCSON POLICE DEPARTMENT; AND STEPHEN NEELEY, PIMA COUNTY ATTORNEY.**

Ms. STEIN. Could I ask you, please, to state for the record your name, business address, and position, perhaps beginning with you, Major Ronstadt?

MAJOR RONSTADT. My name is Peter Ronstadt. I'm a major with the Tucson Police Department. I'm at present the commander of the field operations bureau, the city of Tucson.

MR. NEELEY. Stephen Neeley, Pima County attorney.

Ms. STEIN. And your business address?

MR. NEELEY. 111 West Congress, Tucson, Arizona.

Ms. STEIN. Major Ronstadt, could you summarize for us briefly your experience as a police officer and administrator?

MAJOR RONSTADT. I've had experience as a street police officer in the uniform division of the city police department. I've been a detective. I've been a sergeant in both the detective and the patrol divisions. I've been commander of patrol units and detective units as a lieutenant and also as a captain in charge of the patrol division and in charge of detective division. At present I am now commander of both of them combined.

Ms. STEIN. Thank you.

Mr. Neeley, would you summarize your experience as a prosecutor, please?

MR. NEELEY. I joined the Pima County attorney's office as a deputy county attorney in 1969. In the early 1970s I was in charge of the grand jury as well as the office manager of the county attorney's office, and then in approximately 1973 I developed and ran the sex crimes division until 1976 when I was elected Pima County attorney in November.

Ms. STEIN. Thank you.

Major Ronstadt, would you tell us what role you had in the development of the Tucson victim/witness and crisis intervention program?

MAJOR RONSTADT. Initially, the program was to provide victim and witness advocacy as its primary function. At the time they started forming the program, I was the liaison from the Tucson Police Department with the Pima County Attorney's Office. I assisted in planning the mechanics of it, and also in trying to get the concept of the program across to the officers that were going to be using it.

MS. STEIN. What needs were there that you perceived that caused you to support the institution of this program? What did you hope the benefits would be for the police department?

MAJOR RONSTADT. Well, again, I should clarify that the initial thrust of the program was primarily to aid in assisting victims and witnesses of certain crimes and, initially, the police department was interested because we believed that this would assist the officers and the prosecutors in investigating and prosecuting criminal cases. If we could make life a little less difficult for victims and for witnesses, we felt that this would implement the criminal justice process.

Very quickly into the program, however, we all recognized, and the street police officers were the first to start vocalizing this, that there were many more victims out there than just would fit in the categories of certain crimes, and very quickly street police officers began requesting victim service for people who didn't necessarily fit into some of the more narrowly defined categories that we started out with, so we changed the program to accommodate this.

From that, the crisis intervention, actual onscene crisis intervention, expanded to the present program, but the need was always there; it was always perceived by police officers, and that's the fact that very early on in a criminal incident or any other type of crisis situation there is a period in time there where the emergency response from a police officer or from whatever other emergency service has to end because a police officer has other duties to attend to or what have you, and it was always a very negative feeling as far as the police officer was concerned to have to leave a victim, regardless of what they were a victim of, and go on about their business.

There was always the feeling that somewhere along the line this person, in many cases, was not going to be okay, and yet we had nothing to do for them. So this is where the victim/witness assistance program came in and filled the need very immediately.

MS. STEIN. The crisis intervention component, as it developed, what do you see as the division of responsibilities between the police officer on the crisis scene and the crisis intervention worker?

MAJOR RONSTADT. We try to make it very clear to everyone that was involved that we see the police officer's role as more of a diagnostician; the police officer is going to be called to the scene or is going to be on the scene as a result of certain activities.

Many times the people he is dealing with are going to be in some sort of crisis situation. We wanted the police officer to be able to recognize people who are in a crisis state, to be able to deal with them on a sort of a first aid basis without making a situation worse, for example, and then to be able to ease this transition from the immediate crisis diagnosis into a place where help could then be brought in the form of the victim/witness program, and the crisis intervention unit, so it is at that point the roles start to divide. The officer—we like to think of him as a diagnostician and a first aid person; the crisis intervention people are then able to provide that intermediate and long-term support for a victim.

MS. STEIN. Mr. Neeley, could you describe for us, from your perspective as a prosecutor, the development of the victim/witness program and what role you played in the development of it?

MR. NEELEY. Yes. At the time that the victim/witness program was conceived in the Pima County Attorney's Office, I was in charge of the sex crimes unit. Because of the, I think, interrelationship between the function to be performed by the victim/witness program and the kinds of considerations that I think adhere to any sex crimes unit where the primary consideration often involves concern for the victim.

I was asked by the then county attorney, Dennis De Contini, to become a liaison officer for the project within the county attorney's office, and although the project was housed as part of the county attorney's office, there was some feeling that there might be some difficulty in getting the prosecutors to adjust to it. That was my initial role. The original conception, as Pete indicated, was that the project would involve itself primarily with providing information and service to people who were in the system as victims and witnesses. During the evolution of the project, we found that there were numerous other areas where there was just nobody doing anything, and because of that the crisis concept or crisis intervention concept developed. It was—stifled is probably not the right word to use, but its the word I'm going to use anyway—it was stifled for a couple of years because it was not in strict compliance with the terms of the original Federal grant, and then when the grant played out, we went back into other areas, the crisis intervention area, crime prevention areas that we felt were important areas.

MS. STEIN. Can you tell us what are your reasons for feeling that the program is best located in the county attorney's office?

MR. NEELEY. Yes. Are we talking now about the crisis program or mediation program or both?

MS. STEIN. Would I be correct in thinking of it as a single program with three different functions, one being victim/witness support, a second being crisis intervention, and a third being mediation, or is that an oversimplification?

MR. NEELEY. I think that's probably generally correct.



MS. STEIN. I'm referring really to the program as a whole, although you may have different reasons with respect to different components of it.

MR. NEELEY. I think the first probable argument that we would make, at least for having the program in the prosecutor's office, is acceptance in the law enforcement community. It is our belief that no program that is essentially designed to deal with victims and witnesses and people who are coming into contact with the criminal process can really be effective unless it has the sanction of one or more of the criminal justice agencies that are involved in the process.

It was our feeling that the prosecutor's office was probably the best place to have that happen because one of the primary considerations was the fact that information was not readily passed to victims and witnesses and that caused many of them to become disenchanted with the process. One of the things we did at the outset of the program was take a survey, an informal survey of people who had been witnesses or victims in the process, and the basic question we asked them was, "Would you ever do it again," nearly half of them said no. Obviously it was not in our best interest to allow that kind of reluctance to perpetuate itself so we felt that if we could provide them with some services, people might be less reluctant to become part of the process.

With respect to the crisis intervention and mediation, I think there are two additional reasons that apply to our reasoning that it belongs in the prosecutor's office. The first is that as prosecutors we have a direct pipeline to the police agencies. It is the police who must make the initial notification, particularly in the case of crisis intervention. I think it would be difficult to administer the program through a police department because once the complaint has been filed and litigation begins, the people are primarily involved with the prosecutor, so the police provide the initial input, but there may come a time when the individual is actually going to be involved in litigation of a criminal case and at the point in time the police don't have the close contact with them we do. We do have some legitimate reason, I think, to have our people in the streets with the police under appropriate circumstances.

The final reason applies perhaps more to mediation than anything else, and that is, quite frankly, if the program is administered through the county attorney's office, there is always a hammer that exists that more or less encourages people to participate in a mediation process as an alternative to prosecution.

I can address why we didn't think it should be outside, but I think it really is encompassed in there. We didn't feel it would be accepted among law enforcement people if it was a separate agency or administered by another governmental agency.

MS. STEIN. Right, I see. Major Ronstadt, we received testimony yesterday from police officers here in Phoenix about their general views of incidents of interspousal assault and the problems they create

for the police department, including increased danger to the officer in this type of call, and sometimes reluctance on the part of the victim to follow through. Could you tell if these problems are similar to ones you encounter in Tucson, or comment generally on the type of problem the police officer faces in interspousal violence cases?

MAJOR RONSTADT. I'm not sure what the Phoenix police said, but I would imagine that their experience is typical of ours or similar to ours, and basically it falls along what you just mentioned.

Primarily, officers who respond, especially to a domestic violence type of disturbance, know almost from the outset that they are not going to be able to do anything very constructive as far as their initial actions are concerned. They also, I think—and it was probably mentioned yesterday, one of the primary concerns of an officer who responds is that he's going to get hurt because it's a very good place for that. And that, right off the bat, sometimes makes it difficult to establish a conciliatory tone, so the officer has difficulty trying to solve any kinds of problems. All he can do is try to put the fire out, so to speak. In many cases he's going to have to be taking some immediate enforcement action because of a criminal violation, which again, further serves to discourage any attempts to really produce any long-term peaceful settlement, but there are things he has to do because they are part of his obligations.

So the end result, I think, the more the police officers experience this kind of call response, it tends to give them a defeatist attitude. It's a fact of life that police officers, or the police department, per se, is not really going to be very effective in producing any long-term settlement. The best we can hope for is that we can keep people from killing each other right there at the outset, but it is quite obvious to everybody that that's not the way to solve the problem, that we are only, and should only be a very small part of this thing. The primary problems that police have, I think, are basically that, that we can do a certain amount and that's it, and that seems to be where the process stops, and then we watch the problem occur again and again and again with a gradual escalation in violence until someone winds up being seriously hurt or killed.

MS. STEIN. Have you observed any effects on the response of police officers to this type of case as a result of the adoption of the crisis intervention, mediation, victim/witness program in Tucson?

MAJOR RONSTADT. I haven't personally. I know, first of all, that because of the good experience that we have had with the victim/witness program, a great deal of the skepticism that might have greeted that type of a program is not present in our police department. We don't have any problem of trying to encourage reluctant officers to use crisis intervention or mediation services. The mediation portion is still too new, I think, for me to make a definitive statement about attitude change. I think the attitude has always been favorable. I certainly don't see anything to make it less favorable.

Ms. STEIN. You mean the attitude of officers towards—you say the attitude has been favorable. What exactly is that?

MAJOR RONSTADT. The attitude toward the program, toward the mediation, the idea of mediation as a concept.

Ms. STEIN. On the part of police officers, the attitude of police officers?

MAJOR RONSTADT. Maybe I misunderstood your question, sorry. Would you repeat the question?

Ms. STEIN. I'm wondering what effect there has been on the response of police officers, police officers' attitudes toward this type of case and action in this type of case as the result of the adoption of this.

MAJOR RONSTADT. I did misunderstand your question and I'm sorry. As far as the officers' attitudes towards that type of call, you're talking about, or that type of incident?

Ms. STEIN. Yes.

MAJOR RONSTADT. There again, I don't think we can measure that attitude, but the fact that the officers now have an alternative and they know that they've got something where they just don't have to turn their backs and walk off knowing that they're going to be back next week is bound to have a favorable effect on their attitude the next time they take a domestic violence call. We haven't been able to measure any decrease in the number of confrontations or the number of arrests or what have you, because we are not capable of reflecting those kinds of statistics. It's one of the things we want to try to start doing, however.

Ms. STEIN. Thank you.

Mr. Neeley, from your perception as a prosecutor, have you noticed any difference in the quantity or numbers of arrests made or presentations for prosecution for interspousal assault cases since these programs were initiated?

MR. NEELEY. I think that there has unquestionably been a diminishment in the number of cases that have been presented largely because we have a diversionary type process now that can be used as an alternative to prosecution. I think it is unlikely that we are going to note any dramatic decrease because I think, for one thing, we saw this phenomenon several years ago in the case of rape. It is very difficult, for example, when you have many, many processes being utilized to encourage people to report types of crimes that were kept behind closed doors in the past and you all of a sudden see governmental agencies and private agencies starting to pay a lot of attention. You have an upsurge in reporting. So I don't think you are going to see any kind of a dramatic dropoff in the reports or the incident of these kinds of thing; I think we're really aiming at is a dramatic dropoff in the incidence of repeat offenses, and I think that it would be overly ambitious for us, at this point in time, to hope to gain anything other than that.

Ms. STEIN. I'm not sure I heard you. You did say you thought there had been a perceptible decrease in arrests?

MR. NEELEY. No, not arrests necessarily, I think that there has been a diminishment in terms of the number of prosecutions that we've have. I thought your question was directed toward prosecutions, but I think that is because we now have another alternative. The rest of my statement, I think, probably was appropriate to the rest of the question.

Ms. STEIN. Just to clarify, you referred to MAP as a diversionary program, but it is the type of program that precedes prosecution, isn't it, and is an alternative to prosecution rather than one that follows prosecution and precedes it or is an alternative to sentencing?

MR. NEELEY. I'm talking about diversion in a physical sense; it gives us an alternative; we can send the case somewhere besides through the criminal justice process, per se.

Ms. STEIN. I see.

Major Ronstadt, is it the policy in the Tucson Police Department for an officer to arrest when he is called to a scene and there is probable cause to believe that a man is violating a restraining order issued in a dissolution of marriage proceeding?

MAJOR RONSTADT. If the question was, is it policy for him to arrest under those circumstances—.

Ms. STEIN. Yes.

MAJOR RONSTADT. No, it is not. We don't arrest for violations of restraining orders.

Ms. STEIN. Why is that?

MAJOR RONSTADT. To begin with, according to our legal counsel we're not sure that we have the authority to do that, that that authority apparently rests in the hands of the civil division of the county sheriff's department.

Secondly, there have been numerous instances where the validity of the restraining order or the court order has been questioned, and we don't want to get ourselves involved in a situation where we find we have no authority to take anybody in custody.

What we do instead is look for an existing criminal violation, such as trespassing. If we have a reason to believe that there is a valid restraining order, for example, prohibiting a person from being on someone's premises, we may choose to arrest for trespassing rather than for trying to enforce the restraining order.

Thirdly, it appears that in a case where a restraining order is violated, the court prefers to then hold a second hearing to see whether or not the person violated the restraining order before they take any action at all, so it just doesn't appear to be a practical process.

Ms. STEIN. Do you believe it would be desirable for the police department to clearly have authority to arrest in cases like that, to bring the offender before the judge who issued the order?

MAJOR RONSTADT. If all conditions were ideal, it would be highly desirable in some circumstances to have the authority to instantly remove somebody from the premises, but I am not sure that that will ever come about.

MS. STEIN. Do you have a view as to what would be necessary for that to be? In other words, what conditions would have to exist for that to be desirable?

MAJOR RONSTADT. A clear direction from the court, from the judicial system, to define our authority in those cases, first of all; secondly, an easy means or a quick means of checking out the validity of a court order; and third, some indication that this would in fact be an effective way of solving the problem. It doesn't appear to do any good. In some cases it appears to be counterproductive to haul somebody off to jail in a domestic dispute only to have him released even more angry than he was before and, having been released 15 or 20 minutes, to go back and do it all over again. I'm not suggesting that our ability to arrest is going to solve very many problems. In some cases it may create worse ones.

MS. STEIN. Mr. Neeley, in your view, what are the practices of judges when there has been a violation of a exclusion order or a particular restraining order issued in a dissolution case and a motion for contempt is filed? What is the judges' usual reaction to that and what are their polices?

MR. NEELEY. I think Major Ronstadt covered part of that in expressing his belief that the judges ordinarily like to conduct a second hearing over and above the one that was necessary to get the restraining order in the first place prior to taking any action. I think that in many instances the problem that the police face in the field in making that kind of arrest is related to a fear that they are not going to be supported by the judiciary if they make the arrest and that there may be a subsequent civil suit. I think that when the situation is taken into the court that the tendency of the courts is to view it as an emotional disturbance and to treat it perhaps less harshly than they might treat a violation of a similar type of order on another type of case, for example, something that dealt with personal property. I think it is unfortunate that there is no clear cut way for the police to take the field with the understanding that they do attempt to enforce the judicial process, that they're going to have the support of the courts in doing that.

MS. STEIN. Do I understand that you are saying that the judges rarely impose sanctions for disobedience of their orders in cases like this?

MR. NEELEY. I don't think that I'm saying that they rarely impose sanctions; I think what I'm saying is they don't regularly impose sanctions, and I think that if the judicial process, particularly restraining orders, are to have any veracity in the community, that they have to impose those sanctions regularly. I think that to fail to do that, particularly in the case of domestic violence, encourage lawlessness in the area.

MS. STEIN. What about sentencing in the cases of domestic assault that are brought as criminal prosecutions in setting bail or in sentencing— have you had an opportunity to observe how the judges react to these cases?

MR. NEELEY. Well, I've had an opportunity over the years to observe it. We've had a recent change in our criminal code in the State of Arizona which does take some discretion away from the courts. In the past, prior to October of 1978, when aggravated assault, which is where it was usually categorized because at that time any assault by a man on a woman was considered to be aggravated—was what we call an open-end offense, that is, they could be treated as a either felony or a misdemeanor by the courts.

The tendency on the part of the courts and, quite frankly, on the part of the prosecutors, occasionally, was to treat the matters as misdemeanors because of the feeling, I suppose, that there wasn't going to be any permanent resolution of the matter as long as there was an existing emotional attachment. I think both the prosecutors and the courts tended to take the matters more seriously when the assault caused the emotional breach and the victim was prepared to follow the thing through to the end, but I think generally the sentences were lenient. I think generally that the perception of this kind of matter in the courts is probably not as serious as it should be.

MS. STEIN. What do you see as the role of the mediation services of your office in regard to incidents of interspousal assault?

MR. NEELEY. I suppose practically and primarily I see it as an alternative to prosecution. I think it is important to understand that in order to sell these kinds of programs to local funding bodies, and sometimes even to the Federal Government, it is necessary to show there is some cost-effectiveness involved in their use. The cost-effectiveness in this particular instance is that, if a case can be taken through mediations successfully, it avoids the need for prosecution. There is a tendency, I think, on the part of legislators, regardless of whether they're Federal or State legislators, to try to solve all kinds of problems, including emotional and domestic problems, by passing laws. There doesn't seem to be a whole lot of consideration for the ease with which those laws can be enforced and sometimes we have to look for alternative measures because of the overwhelming costs of trying to enforce laws where the crime process may well not be the answer; so I see it primarily in terms of its desirability as a cost-effective measure which essentially allows us to set our priorities in other areas and hopefully will provide a little more lasting benefit. Secondly, I see it, I think, in terms of overall benefit to the community and in that it may very well be something that will resolve the issue on a more permanent basis than merely going through the motions of a criminal prosecution or, in the case as it existed before mediation started, refusing to prosecute criminally because that was an option that we exercise very regularly.

Ms. STEIN. Do you think it is appropriate in cases of more serious assaults or aggravated assault?

Mr. NEELEY. Mediation?

Ms. STEIN. Yes.

Mr. NEELEY. It depends on the case. I think that we would be less inclined where there was serious bodily harm, and that's a kind of a vascillating definition, but I think it depends upon your view of individual case. I think we would be less inclined under the circumstances to submit it to the mediation process. It would depend in part on our perception of the willingness of the victim to cooperate, because, let's face it, you can't really prosecute a criminal case particularly effectively if the victim's willingness to cooperate is adversely affected by an emotional committment to the defendant; but there are some instances where we wouldn't give that victim that choice. If the injury or the threat were severe enough, we would prosecute whether she wanted us to or not. And I say "she" because 90 percent of the cases involve male and female type of abusers.

Ms. STEIN. So if I understand you correctly, you wouldn't rule it out in a case of aggravated assault, but you think the individual circumstance of the case would have to be considered in deciding it?

Mr. NEELEY. Just to confront what I think may be your question head on, we don't concider the mediation project to be a dumping ground to get rid of unpleasant cases. I think that what we consider it to be is that mediation as a viable alternative where the emotional commitment between the parties is not severed as a result of the assault and where there seems to be some chance at resolution, particularly in the mind of the victim, because the victim obviously is essential to both processes. Then we see it as an alternative, but in a situation where we figure that the defendant is going to be a continuing threat to himself, to other people, to the spouse, to the children, whoever, we are very unlikely to give the victim the option, or the defendant the option of putting it through mediation. I think it depends upon our perception of the future dangerousness of the situation.

Ms. STEIN. We have heard testimony that these programs are staffed largely by volunteers. What measures do you take to make sure that these people receive sufficient training and assistance for the difficult and sensitive tasks they are asked to carry out?

Mr. NEELEY. Largely by placing my trust in Mr. Lowenberg and Mr. Forgach, who I have found to be quite expert in that area, and leaving it to their judgement.

Ms. STEIN. Do you have any process for certifying persons as mediators or as qualified to act in this program?

Mr. NEELEY. We have a training process. At the time that the mediation program was conceived, a document was put on my desk that was called a certification. Basically, it amounted to a card issued by the Pima County Attorney's Office, and my question was, "what am I certifying and why?" to the extent that I wanted to be sure that if

we indicated that somebody was a certified mediator, that there was a well-established, well-documented training program that went along with that, not just an informal get-together among people to discuss the ins and outs of mediation.

I think that I'm certainly satisfied that that kind of an established documented training project does now exist and that the guidelines are very clear.

MS. STEIN. So as a result, you do certify a person?

MR. NEELEY. We do certify them.

MS. STEIN. We understand that it is the policy of your office not to institute proceedings under the Arizona peace bond Statute. Is that correct?

MR. NEELEY. Well, it's not 100 percent correct. There are times when we will still do it, but we don't like the process.

MS. STEIN. What are your reasons for not doing it generally?

MR. NEELEY. Well, I think our basic reason is the fact that we don't feel that it is an effective process. It has been our experience that when somebody is under enough emotional strain to the point at which they want to do physical harm to somebody, the prospect of \$500 bond or whatever the amount may be, that they've already posted and probably consider to be money already spent is not likely to deter them from doing that. I think our experience with those peace bonds has not been a particularly positive one.

I think the procedure itself is questionable in terms of its oppressiveness; it tends to be a little oppressive on the part of the individual who is paying the bond because she really has got all of the cards stacked against them. I'm uncomfortable with the oppression and I don't feel the results really warrant it.

MS. STEIN. Major Ronstadt, we understand that you have developed some initial concepts for a domestic violence program within the Tucson Police Department. Can you tell us what your ideas would be for such a program and why you think they would be valuable?

MAJOR RONSTADT. I'm not sure that they will ultimately be valuable; it's going to depend on whether or not a lot of other things happen. What we have in mind, we have what we consider to be a very effective child abuse investigative unit which works with other concerned agencies in the area of child abuse investigation, and it differs from a typical police investigative unit in one important way, and that's that it is not primarily concerned with the arrest in preparation for prosecution of a child abuser. Its primary concern is to stop the abuse and to use the threat of arrest or the actual arrest and prosecution as one of several alternatives to try to force a behavioral change on the part of an abuser.

What we're exploring the possibility of doing is expanding that concept into the area of all types of domestic violence including spousal abuse. What we found initially, and one of the things that is keeping us from doing that, is that we don't have the same kind of hammer



as police officers in spousal abuse cases as we do with child abuse cases. We do have the authority to go and remove a child, place him in temporary shelter care without the child having any real thing to say about it. Obviously, we don't have that authority, nor does anyone, to go in and remove a battered wife, even though the battered wife doesn't want to be removed, we just don't have that authority.

And we found in our experiences in investigating cases where a woman is battered, or what have you, that many times they haven't yet figured out that they're going to have to do something about it. In other words, they're reluctant to even accept any help or the problem is so complex that mere police intervention in trying to place somebody in temporary shelter isn't going to solve it, but we think that, if we can, by having somewhat specialists in the area of investigating the actual circumstances of an occurrence so that law violations, criminal law violations, and so forth and so on can be exposed and documented.

If we can also have a method of documenting chronic violence and offenses and documenting them in a way that they can be presented in court if necessary, if we have people who are specialists in assembling this type of information from a police perspective but who also work very closely with the social agencies, including an outfit like the victim/witness, for example, and who also work very closely with the prosecutor and who also then would be able to direct people ultimately into a court process that was specifically geared for this type of problem, then we think we'd have the workings of a program that would be very effective, but without all of these components I don't think that it is going to be very effective.

We have got—some of these things are already in place right now; they're just not connected together. The mediation program that we're participating in, I think, is one component. The interest of the county attorney's office is certainly another. The fact that we have learned as a police agency that we can work with certain social agencies, who—10 years ago, you know, the thought of working with an outfit like that was just abhorrent to most police officers. That attitude is starting to change; so some of the things are starting to come together.

But in my opinion, the major missing component right now is the commitment from the court end, and I'm not talking about just a domestic court; I'm talking about an arm of the court which would have power to put people in jail, which would have power to direct people's behavior, and which would be specifically designed to handle all aspects of a domestic violence situation, whether it be marital counseling or what have you. They would be plugged in and have the authority to direct people to do certain things or face sanctions. That to me is the most important element and it is also the one that is missing.

MS. STEIN. Would better data collection techniques specifically directed toward domestic violence cases be helpful?

MAJOR RONSTADT. At the present time we don't have very good ones, as I'm sure you're aware. In order to get some of these processes to occur or some of these programs to be put in place, I think we're going to need the better data collection just to establish the validity of what we're trying to accomplish. Once we have them in place, they would serve some useful function, but the techniques themselves, I don't think, are an integral part of what we are talking about. The data collection techniques themselves are not really what we're talking about. What we're talking about is trying to do something about something we all know is a problem, and I'm not sure whether just pure numbers are really that important.

MS. STEIN. What about dispatching techniques for police calls and directing police officers to the scene of domestic complaints?

MAJOR RONSTADT. Well, that's another component that we have that's almost in place right now, and, once it's up and running, it's going to be very useful to us if I read your question correctly. It will be very helpful to a police officer who is responding to a call, for example, to know a little bit about the history of the people who he's going to go to see through a process called computer-aided dispatch which we're in the process of installing. It will be possible for a police officer to have a call history of that address or of a given individual. That's also going to help us obviously when we start assembling information in order to get people into a court or to threaten people—if I use that word—with prosecution. If we can show, document that these people have got a track record, then we can also show that based on that track record you're going to see an escalation toward some ultimate disaster which will be a homicide or serious injury; and that's the sort of thing we're working toward. We don't have it in place now, but it is another one of these components that's almost there but not quite.

MS. STEIN. I have no further questions at this point.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Major Ronstadt and Mr. Neeley, as I listen to you I still am troubled by what appears to be a double or dual standard of law enforcement, and the omission of a clear declaration of policy or recognition that wife beating is a crime, and that anything else must follow. Actually, we're dealing with a criminal act and that does not seem to come through from what you've said.

MAJOR RONSTADT. From a police perspective, ma'am, what you say up to a point is true in terms of practical results of action. It's true that if a man punches another man on the street, a police officer may be more inclined to make an arrest than he would if he saw a man slap a woman on the street or slap, especially, his wife. Part of that is a fact of life; it is a social fact of life that we are doing our best to try to overcome. I'd be a liar if I said that it didn't exist, what you referred to as a double standard in that respect. However, I think that there is practical aspect which, rightly or wrongly, is still there and it

has to be addressed and that's the fact that it doesn't do any good in many cases for us to arrest. It's better for the victim herself if we first seek another alternative than just merely dragging the offender off and throwing him in jail. In many cases, the arrest of the offender, regardless of the fact that they had in fact committed a violation of law—the arrest of the offender is going to make the situation worse absent any other type of assistance for a victim. I think what the tone of some of my earlier remarks was trying to get across was that, is that the police ability to arrest is not going to solve a lot of problems in this area. It is a social problem. It is not just strictly a criminal problem. The arrest is only a Band-Aid on something that needs a lot more treatment.

COMMISSIONER FREEMAN. The thought that I'm trying to get through is that when the police officer makes this judgment he is exceeding his authority.

MAJOR RONSTADT. No, ma'am. In many cases, he's not. The police officer has, in our State at least, the authority to arrest on the spot for a misdemeanor which is committed in his presence, or a felony which he has reason to believe is committed or has been committed, provided that he's got probable cause that this person he's about to seize is the perpetrator. I'm sure I'm explaining things to you that you already know. What I'm getting at is that in many cases he can't make an arrest anyway.

COMMISSIONER FREEMAN. But in those cases when he can make an arrest, when he knows that under the rules of the criminal jurisprudence that he ought to make an arrest, where he goes on and makes—becomes a social worker or whatever, and decides that he is not going to make an arrest because he places a burden on the women, he blames the victim and he is in fact violating his oath as a police officer.

MAJOR RONSTADT. Well, first of all, you're implying that he's placing a burden on a woman. I don't think that this is always true. I don't think that the police officer is necessarily going to try blame the woman for being a victim.

What I'm saying is that in many cases when the officer responds, a typical scenario would be that he responds to a scene of a family fight and he will see a woman who shows some signs of having been physically assaulted. She may have her hair all messed up; she may have a black eye; she may even have some other visible minor injury; and she may be screaming at the top of her lungs for this person, her husband or whoever, to be taken off to jail. In those cases the man will probably be taken off to jail if we can support a charge.

The officer knows right up front that it is probably not going to do any good, but he'll do it, and, you're correct, he has no choice. That's really not discretionary on his part. It is more so now because of the change in the criminal code, but if it is a situation where the officer sees the circumstances that I just described, and the woman, the vic-

tim, is not anxious for the man to be dragged off to jail, or, a more extreme situation where he actually sees the violence occurring, he goes in there and they stop when he gets there and tells them to stop. Technically, he has the arrest authority there, but he's going to have to determine whether or not that is really a proper response. If the woman says, "Please don't arrest him," he's not going to, and you may be right he's abusing his authority or exercising his authority.

COMMISSIONER FREEMAN. But he does have assault, and a felony is a violation of the law and under a State of Arizona he has a duty to enforce the laws of the State of Arizona.

MAJOR RONSTADT. If he sees a felony, but he also doesn't necessarily—and again we're getting into the area of probable cause. And sometimes, as I'm sure you know, that's a gray area; it may be a wiser course of action for that officer to document the circumstances as he sees them, take some initial steps to see that no further violence is committed, and then refer the matter to an investigator for followup. The end result may be the same, the man may be charged with a felony, but it is going to happen sometime down the road when everybody has had a chance to cool off and think about it rationally.

COMMISSIONER FREEMAN. Again, you're describing a situation that is different. You have said that with respect to if he had seen the assault on another man that he wouldn't have been sitting deciding probable cause, he would cause the arrest.

MAJOR RONSTADT. In both of those circumstances we are talking about misdemeanor offenses.

COMMISSIONER FREEMAN. But there is a difference in the treatment, in the handling of the incident.

MAJOR RONSTADT. I'm not suggesting that that's typical. I'm suggesting that it occurs, but I'm in no way suggesting that it is typical.

MR. NEELEY. I think that the implication that there is or may be a double standard in the area of domestic violence is probably correct. I think that you will find in any system that is not elastic by nature, and the criminal justice system most assuredly is not elastic, although we tend to think of it as a system that can accept and deal effectively with everything that is thrown to it; it's not. We find ourselves—and I don't want to stay on this for very long—we find ourselves in a situation where the problems of crime, particularly in this State, are rapidly exceeding the constraints imposed upon us by budgets. We have to resort to a system of prioritization; the pure and simple fact is, that when called upon to establish priorities, whether you're a police officer or whether you are a prosecutor, you're going to establish those priorities in the areas where you feel you can do the most good.

I think if we have been confronted over the years with situations as the one you described, where a man assaults another man on a sidewalk and in a large, certainly significantly representative number of those cases, the man who was the victim had either demonstrated a reluctance or flatly refused to follow through with the prosecution, you

would see the same double standard emerging. It is not emerging on the basis of arbitrariness; it is emerging on the basis of practical experience, and the fact is that we have over the years tried many, many different devices to try to deal with this problem.

But I think anybody that denies the fact that in many instances once the individual is arrested, the perpetrator is arrested and is removed from the scene, things have a chance to cool off—it is as likely as not that the victim is going to be up in the prosecutor's office within the next week saying "I don't want to follow through with this. I need him back to support the children. I love him. I want him here," or vice versa, and we cannot ignore the practicality of that kind of situation.

And I think, quite frankly, if we were to do otherwise, that we would aggravate the problem because, if we were to take a posture, for example, that we are going to make a pronouncement to the community, to the State, to the country, whatever, that domestic violence is, by God, a crime and we're, by God, going to treat it that way and in every instance we're going to make that arrest and follow the law throughout its technical application to the n'th degree, we would, within a month or so, be demonstrated to be as ineffectual in that area as we have demonstrated to the community that we are ineffectual in a number of other areas and probably could bring about the aggravation of the problem. So there has to be some sort of prioritization and some sort of—

COMMISSIONER FREEMAN. Except that you haven't tried it so you don't have any experience.

MR. NEELEY. I think it's not fair to say we haven't tried it. I think that it certainly is fair to say that we have evolved to the point to where there is a decisionmaking process and that we consider the emotional factors and the probability of our own effectiveness rather than just the written word of the law. But 10 years ago when I started as a prosecutor, we, as a matter of course—I prosecuted all these cases and as an equal matter of course ended up dismissing 50 percent of them at the initial stages after a week had passed because we didn't have a victim or a witness that was willing to testify or for any number of other reasons, and I think that the probability of that situation having changed between then and now is very low. I think it may change in the future because there are many people who are concerning themselves with the willingness of spouses to be victimized and trying to understand what causes them to perpetuate that attitude and once they—

I've referred several times to the question of whether there has been an emotional break that accompanied the assault. Once it can be established that that has happened and that we can be an effective in prosecuting the case, we will not be the least bit reluctant to do that, but it is a little bit self-defeating to demonstrate your ineffectiveness to yourself on a day-to-day basis by taking a rigid attitude about these cases.

COMMISSIONER FREEMAN. And you do have—you're referring to cases—so, therefore, you have records that you could make available to this Commission in support of the statement that you have made about the number of cases dismissed as against the other cases that were not domestic violence cases?

MR. NEELEY. No, I think it is unlikely, in light of the fact, as I stated before, that this procedure has evolved, this decisionmaking process has evolved over the last few years, that we would be able to go back and document the number of cases that we didn't file because, basically, our refusal to file and, in some instances, even our dismissal after preliminary proceedings, is a non-event, really. You know, I can only offer you the benefit of my experience, and if that's not satisfactory without documentation, I'm afraid I can't do any better.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Commissioner Saltzman?

COMMISSIONER SALTZMAN. No questions.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. Let me ask both of you gentlemen, are there any changes in the laws as written that you'd recommend to improve your ability either as a police officer or as a prosecutor to protect women victims of domestic violence? What else needs to be done?

MAJOR RONSTADT. Just very briefly I can say that from the standpoint of ignorance, as far as legislation, and to a certain extent the court processes, if there could be some change or if it were necessary—and I believe that it is—some minor changes in the existing law, or some new legislation which would allow courts to do some of the things that I've mentioned, that's, to me, almost the only area where that would help the police. We have law. We have plenty of law. What we need is some means of making it effective.

MR. NEELEY. I'm inclined to think that the term probably—I would modify the term from allow to require. I think that our problem is in many instances the fact that the courts will not cooperate. If we have a serious enough assault, for example, and there has been a threat of imminent death, we can take the judgment out of the court's hands and cause it to be a mandatory sentence situation.

Our biggest single problem in dealing through the criminal process with interspousal abuse and domestic violence is the reluctance on the part of the victim to cooperate and to testify. We can't legislate that away; but our secondary problem is one of the things that we mentioned earlier, and that's the confusion on the part of the police officers when they are out there and there is a valid restraining order as to what exactly their role is, and that confusion, in my judgment, is based upon the reluctance of judges to support their own process.

I think they have the power to do that now. I think they can make a pronouncement to the police as a general body or in the form of a local rule to the effect that this is going to be the procedure by which they deal with the problem, and the police have the ability to arrest in the field. I think they won't for any number of reasons.

I think legislation, perhaps, that said that that's the way it should be handled, that if there is a real valid restraining order that violation of that restraining order alone is enough to precipitate an arrest, it would give the police a whole lot better tool in the field to use.

VICE CHAIRMAN HORN. That's one recurring theme that I've listened to in this panel that I must say has me bothered. I can't understand why a judge will not, for the dignity of the court, wish to carry out the violations of a restraining order that that court has issued by imposing sanctions. Could you explain to me what is the problem and the mental attitude of the judges that lead them to fail to enforce their own orders?

MR. NEELEY. I've been waiting all my life for somebody to ask me that question. As a matter of fact, I have never been able to understand that. I think that there seems to be almost a whimsical attitude that exists on the part of the judiciary that causes, for example, a lack of continuity not only among courts from one jurisdiction to the next, but among courts in the jurisdiction.

You may well find in my county, for example, that one judge will consistently enforce the constraints imposed by restraining orders with contempt citations, whereas another one will consistently dismiss them. I am not really able to do anything but speculate on the cause of that attitude.

I am familiar with enough horror stories to the point to where I believe that attitude prevails throughout the system, but what I think it stems from is, under the guise of maintaining judicial impartiality, I think the judges tend to back away from community problems, from taking a stance on community problems because they feel that if they align themselves with what they consider to be other power structures, whether it be the police, social agencies, prosecutors, to bring about the resolution of community problems through the judicial process, that they somehow have destroyed their independence and made themselves amenable to criticism for being something less than godlike and wholly objective. That's the impression that I have, and I believe that, quite frankly, they form the weak link in a number of these social problems that involve the courts.

VICE CHAIRMAN HORN. Yesterday, in talking to the Phoenix city officials, county officials, I asked the question as to the degree to which the executive arm of the criminal justice system, the law enforcement and the prosecutorial arm as well as the judicial arm ever got together to discuss common policies in the case of domestic violence, and I wonder, has that ever happened in Pima County where the judges, the prosecutors, city and county, Tucson and Pima, the police, of course, the sheriff, have ever sat down and said, "Look, why don't we talk through some of these problems and how these efforts might be coordinated," which doesn't affect any individual decision, but is just a matter of getting each other's perspective on the table?

MR. NEELEY. We have a group in Pima County that we call, for lack of a better title, the Pima County criminal justice group that meets regularly at the Tucson Police Department. It was conceived about a year and a half ago, and we meet once a month. On, I would say, probably the seventh or eighth meeting it was determined we take turns discussing each phase of the criminal justice system. On the seventh or eighth meeting it was determined that the subject for that meeting should be the superior courts, their role in the criminal process, and their role in terms of being part of the criminal justice system. The presiding judge came and the meeting lasted 3 hours and he never came to another meeting. I think that the meetings that my own chief deputy and I have with the judiciary are largely characterized by their failure to resolve any problems, and I think that stems in part from the fact that a presiding judge, at least in Pima County, really doesn't have the power to compel any behavior on the part of the other judges, and that each courtroom, from the standpoint of being a working part of the system, is not a working part of the system; it is an individual entity wherein the judge in that particular courtroom is all powerful and his dependence upon the actions of his other peers in terms of guiding his own conduct is dependent entirely upon his whim.

We have made overtures; we have made suggestions throughout the years on ways to facilitate the expedition of cases, to facilitate the solution of problems that exist in the community, to speed the calendar up, and typically these solutions are rejected, and again I believe it is because they feel if they respond to criticism or respond to suggestions that come from the prosecutor, from the police, from other arms of the criminal justice community, that they are then somehow impairing their judicial independence. And I think that that is precisely wherein the difficulty lies.

VICE CHAIRMAN HORN. Maybe the solution to the problem is to go out and organize judges' wives on this issue and see what they can do in the situation.

MR. NEELEY. It might be.

VICE CHAIRMAN HORN. Let me ask you what resources that you do not presently have available do you think would be helpful to improve your ability to respond to the need of women victims of domestic violence? Do you have any feel for that area, either police or prosecutor?

MAJOR RONSTADT. I can start with the police. Ideally, I would like, at least in my own department, two more investigators so that I could create a domestic violence unit. I also think that in getting back to what I said earlier, that if there could be a section of either—and, initially, I would like to start with the municipal court of the city court which would deal specifically with the types of cases that we just discussed. Those are two components to this thing that I was talking about that aren't present now. Those are the resources that I would like to see.



I think that several of the other components are already in place. It is just a question of tying them together. But both of the things that I just advocated translate out to money.

MR. NEELEY. I can't tell you specifically. I could take the position that we could use more mediators, I could take the position that we could use more professional staff in my victim/witness program, and those positions would definitely be, I think, an answer, but I think the overall difficulty that we have is we are constantly in the criminal justice system being pressured to set up special units and special programs for special problems.

Arson is a big thing now. Rape was a big thing in the past. Domestic violence is coming to the fore, and every time we do this and respond to this need, I think we find that when we are able to channel units into specialized attention for these kinds of problems, that we're able to make some progress. The difficulty is that it detracts from our overall ability to do our job in other areas. I can't, for example, pull two prosecutors out and say, "You're going to be a specialist in domestic violence," without being secure in the knowledge that that means I'm going to have to turn away their case loads that would have existed in other areas. The overall problem in the criminal justice system today is we have too damned many laws and too little money, and one of the things that we are now becoming aware of is that we are being subjected to the demands of special unit groups, and I think in many instances, rightly so, but in order for us to respond to all those demands, the first thing we have to look at is what are we losing in the other areas.

Next week maybe we're going to have people who are aggravated with residential burglaries who are going to be upset because we've taken prosecutors away from the area of burglary and put them in the area of rape or child molesting or domestic violence, but the problem is epidemic, particularly in the days of tax reform at the local level.

What we need is research in the form of additional bodies; we need more courts; we need fewer laws.

CHAIRMAN FLEMMING. If I can go back for a moment to the issue of the restraining order, assuming a situation where there has been a finding of a violation of the restraining order and the decision that the individual is in contempt of court. Now as I understood the testimony that has been given here, the typical situation is that at that point the person who has violated the restraining order is given the opportunity of purging himself of contempt by agreeing not to do it again, as contrasted with—

MR. NEELEY. I think from an idealistic perspective, that that's probably true, but as a practical matter, that's not the way it works.

CHAIRMAN FLEMMING. I'm not commenting on whether it gets results, but that's done as contrasted with a fine or a jail sentence?

MR. NEELEY. Well, no. I think those are other options if the individual does not purge himself or herself of the contempt. Then the jail or the sentence would be the result.

CHAIRMAN FLEMMING. That's right, but what I'm getting at here is we had testimony from a judge of the superior court, the domestic relations division, to the effect that typically that opportunity of purging one's self of contempt was given to a person who had violated a restraining order.

The statement was made that there was a hesitancy to move to a fine or a jail sentence because of a feeling that this was a civil court and that the fine and the jail sentence in effect were criminal penalties, and that the individual would not get some of the same due process protection in the civil court that the individual would get in a criminal court. Is that a part of the problem, maybe as far as Arizona is concerned, that these restraining orders are handled by judges who are in domestic relations division as contrasted with being handled by judges that are presiding over criminal divisions?

MR. NEELEY. I think that whoever made that statement to you was looking for excuses. That's about as make way in argument as I've ever heard. There is, first of all, both civil and criminal contempt and, if that were the standard attitude of the judiciary across the board, then court documents wouldn't be worth the paper they're written on; and I can assure you that in a situation where a police officer or a public employer or somebody of that nature violates a court order, there is no reluctance at all to impose sanctions under those kinds of circumstances.

I think that basically what we're talking about is guts. We're talking about a situation where a judge is confronted with an individual who he feels has reacted emotionally in the middle of an emotional situation, and he wants to forgive. The suggestion that the due processes guarantees do not obtain is absurd. Those issues have been litigated year after year after year, and there is a very definitive process that a judge uses to hold somebody in contempt whether it's civil or criminal, sanctioned by the Supreme Court of the United States and by the common law and everything else, and anybody who suggests that is the problem is just making excuses.

CHAIRMAN FLEMMING. I want to be fair. I want to indicate that the testimony was in the case of a flagrant situation, that there would be a willingness to impose a fine or a jail sentence.

MR. NEELEY. May I add something to that?

CHAIRMAN FLEMMING. But typically the person would be given the opportunity to purge himself of contempt by agreeing not to do it again, and that there was a hesitancy about imposing a jail sentence or fine because of the fact that there was a feeling that then the civil court would take on some of the characteristics of a criminal court.

MR. NEELEY. A person purges himself of contempt by explaining the contempt away, not by promising not to be contemptuous again. One of the factors that I probably should have said earlier that causes me to believe—and again, my apologies, this is not the kind of thing that I can document, because court records are virtually impossible to get

in terms of these kinds of things, but the pure and simple fact is that the standard operating procedure in Pima County for civil lawyers who have, as a result of domestic relation cases, obtained restraining orders is when that restraining order is violated to tell their client to call the county attorney's office or to call the police, not to go back into the courtroom and go through the civil process, and I would suggest that there are two possible explanations for that: The first one may be the laziness of the civil lawyer who doesn't want to go back in, but I would suggest that a more likely probability is that he knows if he does go back in there, despite a clear violation clearly that nothing is going to happen, that the individual is going to purge himself of the contempt by promising not to be contemptuous again, but that just isn't the way the law should work.

VICE CHAIRMAN HORN. To put a footnote on this question to clear it up since the two of you are sitting there that I would like to hear the response from.

MAJOR RONSTADT. The Tucson police do not arrest for violations of restraining orders. They are not sure re: their authority and feel that there are constitutional problems. Now, you are the county attorney. Do you feel there are constitutional problems?

MR. NEELEY. I feel that these are—I don't feel there are constitutional problems, no. I feel that there are very definitely problems in finding ways for police officers to arrest on the basis of violation of restraining orders because of the unwillingness of the courts to back them up when they do so, and and potential probability of false arrest lawsuits, and because of the problems in documenting that it is a valid court order.

We are currently trying to find ways not only in this area but in a couple of other areas, custodial interference, for one, to find ways where the police can make arrests on the basis of violations of restraining orders without having to rely on the judiciary to back them up.

I feel that the problems, really, as I said earlier, stem from the reluctance of the judges once that kind of arrest is made to back the police, basically, by taking some action, or by declaring it to be a contempt.

VICE CHAIRMAN HORN. But at a county level, presumably if the sheriff was reluctant to back up a restraining order, you would defend the sheriff should that question be raised on false arrest or whatever, and I assume the city attorney in Tucson would defend the police department, and I guess what I'm fishing for is so that the police—well, let me go back to the obvious. The obvious is; as we all know that have studied in criminal justice, is each segment of the system blames the other for its failures and said if they'd only do what I want, all will be well in the world.

Now, we've got two segments before us today: one is the police in Tucson; the other is the prosecutor/attorney function at the county

level. Now is there some effort then—and I gather from your last comment there is, at least in the county level—to try and give reassurance to the law enforcement authorities that they ought to be enforcing the law and that you will try to solve the problem because, otherwise, I gather the city of Tucson says it isn't worth it; you know, there's no use trying to enforce that restraining order; the judges are going to toss it out; we're just going to have a lot of suits flying in our direction and we're going to be the fall guys or gals, as the case may be. And I'm trying to get a feel for—are you people getting together and working something out at least in that geographic area of Arizona?

MR. NEELEY. We have not done that in the past and we may have been remiss in not doing so because of the continuing interest in the both domestic violence, custodial interference. We are currently trying to contrive a method by which the police can go in and make this kind of an arrest without having to worry about false arrest suits or other types of implications, and this applies not only to the sheriff's department, who is our client, but also the Tucson Police Department with whom we work closely because we prosecute all the felony cases.

The difficulty for us has been in explaining to the police legal advisors' and to the police officers themselves, "Even if you come back, Mr. County Attorney, or Mr. City Attorney, and you say that I can legitimately do this because you found a way or you find a case, what do I do when I've made the arrest and the judge in the courtroom says, 'Well, this is ridiculous, I don't even know what you're here for and you shouldn't have be brought in here.'" And, let's face it, it is not just the threat of losing a lawsuit that we have to consider; it is the threat of having to defend one because it is become, I think, quite faddish to sue the government, and those lawsuits are extremely expensive and divert our resources and our efforts away from other areas.

What we have to come up with basically is something that is not only going to be successfull in terms of defending this suit but also is going to discourage the suit as well, and what we could use is a little judicial backbone, but we don't seem to be getting that.

CHAIRMAN FLEMMING. Just one other question: On your special program, did I gather correctly from the statement that you made that some of the financial support for this program comes from Federal funds?

MR. NEELEY. Well, the VISTA funds, the program was originally—

CHAIRMAN FLEMMING. Any other part of it? In other words, are there any LEAA funds in there or—

MR. NEELEY. The program was started with a Federal grant several years ago. That grant has since run out. I'm somewhat reluctant to take Federal money.

CHAIRMAN FLEMMING. Where did the grant come from?

MR. NEELEY. LEAA.

CHAIRMAN FLEMMING. But at the moment you're not financing it with any LEAA funds?

MR. NEELEY. No.

CHAIRMAN FLEMMING. So it is being financed entirely by county funds?

MR. NEELEY. No, it is being financed—the entire project? We have a grant or what it really amounts to is an appropriation from the city council as well.

CHAIRMAN FLEMMING. City council?

MR. NEELEY. It is a joint project that is quartered in my office, and the city council, I think, probably provides somewhere in the neighborhood of 15 to 20 percent of the total funds. It is a little unique in that way, so we go to the city council every year. What they do is they pay the salaries of two of our victim advocates.

CHAIRMAN FLEMMING. As far as the police department is concerned, are you receiving any LEAA funds in connection with any aspect of this particular problem?

MAJOR RONSTADT. We're one of these people who are not reluctant to accept Federal funds. I'm going over in my mind how many grants we have operating right now. Were you talking about the broad areas of domestic violence?

CHAIRMAN FLEMMING. You did describe for us some of your work in the area of child abuse?

MAJOR RONSTADT. That was originally—

CHAIRMAN FLEMMING. Some of your hopes for expanding that and so on. Are you using any LEAA funds at the moment? Do you look forward to utilization of any LEAA funds in connection with not only what you're now doing but what you're hoping to do?

MAJOR RONSTADT. You're talking about domestic violence?

CHAIRMAN FLEMMING. Yes.

MAJOR RONSTADT. We are not at present using any LEAA funds. We don't have any definite immediate plans to apply for grant funding at this point. We want to wait until this thing gets a little bit farther developed and it may be that we can put it together without having to resort to asking, which I would prefer.

CHAIRMAN FLEMMING. We appreciate very, very much your coming here and providing us with this testimony and responding to our questions in this way. It's been very, very helpful. Thank you.

We're in recess until 2:15.

### Afternoon Session, February 13, 1980

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Ms. STEIN. Would Thomas Novak and Leslie Nixon step forward, please?

CHAIRMAN FLEMMING. May I ask you to both stand, please, and raise your right hands.

[Leslie Nixon and Thomas Novak were sworn.]

**TESTIMONY OF LESLIE NIXON, ATTORNEY; AND THOMAS NOVAK, ATTORNEY**

MS. STEIN. For the record, could I ask each of you to state your name, your business address, and your occupation, beginning with you, Mr. Novak, please.

MR. NOVAK. All right. My name is Thomas J. Novak. I am of the firm of Sullivan & Novak. Our office address is 111 West Monroe, Phoenix, Arizona 85003, and it's suite 1107. I am an attorney at law in practice, private practice.

MS. NIXON. My name is Leslie Nixon and my business address is 155 East Alameda in Tucson, Arizona. And my occupation is attorney. I am an attorney in the litigation unit for Southern Arizona Legal Aid, and I am the coordinator of our law project for battered women.

MS. STEIN. Could you briefly summarize for us your legal experience, Ms. Nixon.

MS. NIXON. Yes. I graduated from law school at Arizona State University in 1973, and I worked for the legal services project here in Phoenix, which is now called community legal services, for 2 years doing a general practice in the civil area. And I have been working for the last 5 years in Tucson for Southern Arizona Legal Aid. And recently my specialty area has been in the area of assisting battered women.

MS. STEIN. Thank you.

And, Mr. Novak, your legal experience?

MR. NOVAK. All right. I graduated from Loyola University Law School in Chicago, Illinois, and I believe it was in 1967. I was admitted to practice in the State of Arizona in April of 1968. I was with the Maricopa County Attorney's Office for approximately 5 years commencing in September—I believe it was September of 1968—until either late '72 or early '73.

After leaving the county attorney's office I became a court commissioner in Maricopa County and was a court commissioner from—I believe it was January of 1973 until October of—it was just short of 5 years.

I have been in private practice with the firm of Sullivan & Novak since. It was 2 years ago this past October I have been in private practice.

I have taught a class out at Glendale Community College in the law enforcement program, teaching the Arizona Criminal Code in the evening division for—it was either 7 or 8 years. I no longer do that. I ceased with them for approximately two semesters ago.

Our firm and myself specifically deal probably about 90 percent in domestic relations cases.

Ms. STEIN. Are you involved in any family law activities of the American Bar Association?

Mr. NOVAK. Yes. I am currently a member of the Maricopa County Family Law Committee, which I guess John Herrick is now the chairman of. The county bar family law committee is an offshoot of the State bar the State of Arizona Bar Family Law Committee which was in existence, oh, gosh, up until about a year and a half to 2 years ago. I was a member of that committee of the state bar for—it was either 3 or 4 years. Two years I was the chairman of the State bar family law committee.

Ms. STEIN. Are you also a member of that committee's subcommittee on domestic violence?

Mr. NOVAK. Yes, I am.

Ms. STEIN. Can you tell us what the most significant recent activities of the committee, the family law committee have been.

Mr. NOVAK. The most significant thing that we have done, as a matter of fact, is more or less the whole purpose of the subcommittee was to do a study of the problem of domestic violence in Maricopa County.

We, just a matter of a month or so, put forth or issued a report on domestic violence which was the result of, I guess, about 2-1/2 years of work. It was started—the work was originally started back when we were still the family law committee of the State bar of Arizona. Jim MacDougall was the chairman of the committee at that time.

Then when the State bar family law committee, as such, kind of disbanded and we started up the county bar family law committee, Jim became our first chairman of that committee and we continued on with the same project. So it has been about 2-1/2 years in the coming and it has been just within the last couple of months that the report came out.

Ms. STEIN. Thank you.

Could you tell us a little bit about how you went about doing the work that resulted in the report?

Mr. NOVAK. Sure. We started out by trying to establish exactly what was the problem, the totality of the problem, and what, if anything, was being done by whom to assist in the problem.

We figured probably the best way of doing it would be to talk to the various sources that are involved. So we had representatives from—there is a number of organizations that I would maybe classify in a general descriptive type organization as shelters. We conducted hearings on a much smaller scale but along the lines of what you are doing now. We had the subcommittee present and in many situations we had the full committee, the full county bar family law committee, present and these people from these various organizations came in and explained to us what their problems are. They related the experiences of the people that were coming into their various agencies. So we talked to those people.

We talked to representatives from, I think, just about every police department including the sheriff's department in Maricopa County. We talked to people from the city attorney's office, from the county attorney's office. We tried to get input from every possible source.

All of us had our own experience, my experience having been contact with many people not only as a court commissioner but also in practice. So we were all able to input what our experiences has been as related to us from various people, clients, and otherwise, that have been involved in domestic violence problems. So we had that input plus again, then the input from the various other agencies.

And I believe all, if not all, the great majority, of the agencies who did come in and speak before us and explain to us are set out in the report. So there was a wealth of information.

We contacted, as an example, many if not all of the JPs, the justices of the peace in Maricopa County. So we tried to get as much possible input into the report as we could.

MS. STEIN. Thank you. And that report contains your findings and recommendations, is that correct?

MR. NOVAK. Yes, it does.

MS. STEIN. At this time, Mr. Chairman, I'd like to move the reception of this report appropriately numbered as an exhibit in the hearing.

CHAIRMAN FLEMMING. Without objection that will be done.

MS. STEIN. Thank you.

Are there any other activities recently of the family law committee that relate to this area?

MR. NOVAK. Yes, there are. The family law committee has, again in the same area, has looked into what are some of the solutions that we can, you know, have part in as members of the legal community. And one of the areas that we talked about in the report was the area of legislation.

So there has been some legislation that has been drafted and has been submitted to the legislature, and at what stage it is now I'm afraid I don't know. But I think it was—it has been just recently introduced into the legislature to try to fill some of the holes and provide some of the necessities in the law to help in the areas of domestic violence.

MS. STEIN. Thank you.

Mr. Chairman, I'd like to request that a copy of the pending legislation be introduced into evidence.

MR. NOVAK. It is Senate bill 1206—is the official title.

MS. STEIN. Thank you.

CHAIRMAN FLEMMING. Without objection it will be entered in the record at this point.

MS. STEIN. Ms. Nixon, could you briefly describe the activities and nature of the law project for battered women and the reasons that led to its creation?

MS. NIXON. Yes. Some time ago, a number of the attorneys in our project in Southern Arizona Legal Aid came to a realization that an



enormous number of the women who were coming to us ostensibly for divorces were women who had been in battering situations. And we began to realize that always that the solution was not to do a divorce.

In some cases the women had not come to a point where they wanted a divorce yet. And in other cases we saw other situations which could merit the attention of a lawyer or an advocate, and so we have sort of formed a project that cuts across the divisional lines in our program. We divide up into specialty areas: family law, administrative law, areas like that.

So attorneys in family law and in the other areas also have gotten together and we all have formed the law project for battered women to advocate specifically for battered women to give them information, to give them referrals, to do whatever we can in the nature of divorce if that is what they want.

And one thing we kept coming across with the women and decided that we had to address at some point was the problem of battered women in the situation of the battering, obtaining protection, immediate protection.

Now, normally what people do when they are in a situation, a violent situation, seeking protection is to contact law enforcement agencies. That is the first response, if the woman has gotten to a point where she even wants to seek a response.

One thing that we have found is that the woman we are seeing is probably only the tip of the iceberg, because a woman has to get to a point where she is willing to sort of risk the limelight, let her neighbors, her family, and society know that she is in this predicament. But once she does that, finally, the first agency she often turns to is the police because that is who she has been socialized to believe will respond to her problems when it comes to violence or when it comes to any activity that society frowns on and makes a criminal violation.

And what we have found is almost without exception that the law enforcement agencies have not been responsive or helpful at all. We see about a minimum of—we talk to a minimum of five women a day, I would say, in either phone contacts or walk ins to our office who are in a battering situation or were recently in a battering situation. And this has been something we have been, you know, sort of keeping an eye on for over half a year now.

And in almost all the situations if the person has contacted law enforcement agencies, the sheriff, the police for assistance, the response has been, "We can't help you."

And one thing that we have stepped in to do among many other things is if the woman wants to proceed through the criminal justice system, wants to pursue a criminal complaint against her husband or boyfriend or ex-husband, whoever he is, we try to advocate for them. We try to sort of help her around the many barriers that the criminal justice system sets up for women in these situations.

MS. STEIN. Mr. Novak, based on your experience as a private attorney, a court commissioner, and a prosecutor, would you tend to agree with Ms. Nixon's perception? Is there anything you can add in discussing the response of the legal system to women who are victims of domestic assault?

MR. NOVAK. No, I think she has pretty much pinpointed what the problem is to a person who is in that type of situation. It seems that so many times no matter where they turn to try to get help they don't get it. It's kind of a very, very large scale passing-the-buck situation. A woman will turn to the police department and the police officer will say, "Well, this is a civil matter. It's a family squabble." They say, "I can't do anything because the county attorney won't file charges."

You talk to the county attorney's office and the county attorney says, "Well, we have, I understand, a 3-week waiting policy before we will file a complaint because of the fact that, generally, as a normal rule, if we file it right away the woman, victim, doesn't want to prosecute." So consequently, if the woman goes into the county attorney's office and tries to get a charge filed, she gets—I don't want to call it the run-around, but the delay. Three weeks from now, you know, filing a criminal charge isn't the answer. So she is kind of frustrated.

We try, if it's a dissolution action, we try to take recourse through contempt procedures for violating a court order, the preliminary injunction. And that generally winds up being a very, very ineffective result.

So, the result to this woman is that no matter where she turns she doesn't get any satisfactory answer. So I agree wholeheartedly.

MS. STEIN. Do you think that civil restraining orders in dissolution cases play any role in protecting the woman from further violence?

MR. NOVAK. Oh, yes, yes. We—I guess about a year and a half ago, if I can just take a moment to give you a little bit of history on it—we have a statute that now provides that at the time of filing a petition for dissolution or for legal separation that automatically a court-ordered injunction issues which enjoins either party from either bothering, molesting or harrassing or assaulting the other person, from removing any children from the jurisdiction of the court, and from disposing or transferring any community property.

That came about because of the fact that prior to the preliminary injunctions the only thing, the only procedure that a woman had was to go into court on an extraordinary situation and attempt to get a temporary restraining order. If you could convince the judge that it was necessary to get an ex parte temporary restraining order, it was signed and it was effective for 10 days. Then you had to have a court hearing to find out whether that restraining order should continue during the pendency of the action.

Our thoughts were to try to get a statute along the lines of the preliminary injunction statute that we presently have. The preliminary

injunction that we have is very, very effective, I would say, in the great majority of the cases, in the cases the man who is normally going to get upset and is going to react by possibly some harrassment, possibly some abuse.

Okay. If it's a man who has got his mind bent on causing injury, okay, on destroying his wife—and I'm using a man as opposed to a woman because that is the typical situation—that type of a man—no, a court-ordered injunction is not going to stop him. A temporary restraining order, a permanent restraining order, they are all just pieces of paper, and a piece of paper is not going to stop a man who is that hell-bent on causing someone some physical injury. But it is going to be a big help in probably the vast majority of the cases.

It would be even more helpful if it was even more strongly enforced, if the violation of it was known to be more strictly penalized. That is where I feel is one of our problems, if the mechanism is there through the injunction, but the violations don't normally wind up with the proper punishment for violating it.

Ms. STEIN. Ms. Nixon, we have heard a number of people say over the course of the last 2 days that women who are beaten by their husbands or mates will frequently be anxious for prosecution at the time but will later on decide to drop charges and not follow through with the prosecution. In your experience, have you found that to be true and, if so, what do you think are the factors that contribute to that?

Ms. NIXON. I think that women often do drop the charges at some point if indeed they are ever even allowed to initiate the charges. And, first of all, when the police officer responds to a call for help in a wife-beating situation, very often, most of the time, the officer tries to discourage her from pursuing prosecution right there. And you have a woman, you have a frightened, injured, emotionally and physically traumatized woman. And here is an officer of the law representing authority to her telling her not to do it. Very often she won't do it.

Presupposing that she goes ahead and says, "I want to do it. Fine. Yes, I will do it," which is an amazing barrier for a woman in this situation to overcome, then the next step, you know, if—the officer still, you know, has the possibility of talking her out of it—but if she is firm and goes ahead and the charge is filed, first of all, the responsibility is fully put on her: it's you, lady; you are the prosecutor.

The decision then goes to the county attorney's office. The county attorney has to decide whether to go ahead and prosecute, and they also subscribe to this belief that women do always drop, so its a difficult, and given their case loads and their priorities these things should be discouraged. So she will get a discouraging message from the county attorney also, presuming it even gets that far, which is a tiny, tiny minority of the cases that even have an the arrest, and then getting past just the arrest up to prosecution, even fewer. So considering all these barricades to prosecution, it's not unusual that women do drop.

One thing that is important to note, though, is that an arrest in and of itself, even though the woman never continues on with the prosecution—supposing every woman always dropped it, and that is not true, but supposing that were true; it still has a viable function for that woman and that woman's protection and safety and her children's protection and safety and, that is, it removes the man from the scene. It's the only mandatory way to remove the man from the violent situation. That may be the most important intrusion the criminal justice system has in these situations is to defuse the situation at the scene at the time that it takes place. And that, you know, that, in and of itself, is a very important function and it's not happening.

So even if women did always drop, that arrest would be a valuable thing, because something that cannot be emphasized too much is that we are talking about criminal conduct here. We are not talking about violation of court orders, even though that may also take place. We are talking about criminal conduct. We are talking about conduct that has been decided by the legislature of Arizona to be unacceptable conduct, to be conduct that is to be sanctioned; and there is no exception made for people who are married, people who live together, or people who were once married, even though that is the way it is treated, as if there is an exception, as if this is not criminal conduct. So the woman, you know, is given the impression this isn't criminal conduct that her husband is pursuing.

Another thing about dropping prosecution now, I think, you know, the general, conventional wisdom from law enforcement agencies and prosecutors' offices is that this is why they do not pursue these things.

I think some interesting statistics came out recently in Los Angeles in the city prosecutor's office there and in the city of Santa Barbara. Some information which was only recently published indicated that these two offices both took a special interest in domestic violence and they both decided that they were going to change the way they approached it. And they only did some very minimal changes in my opinion, but they have had tremendous results. What they did was they decided to give the women in these situations additional support, which in one case only meant giving them an hour discussion on the problem as opposed to a 15-minute interview.

They give them support. They emphasize to the woman and also to her husband that this is the State prosecuting him for unacceptable conduct. It is not the woman prosecuting him; she is the victim. She is a prosecuting witness, but it's the State that is sanctioning his conduct here.

And when they portrayed it that way to the woman and they also agreed to subpoena her testimony so that she can tell her husband, if she is still living with him, her boyfriend or whoever he is that "I have no choice. I am subpoenaed. I have to go. It's not my prosecution. It's the State's prosecution." That is what they did in these two offices, and they gave the woman support.

Also they decided to have their prosecution goals be in line with the woman's goals as much as possible. In other words, if she decided, for instance, if it was a case that was not a real serious injury case, she decided that she would prefer not to see him in jail because he either was supporting the family or other emotional, financial reasons or whatever, that she would not want to see him in jail, then the prosecutors would agree to seek a sanction, a punishment that was not involving a jail sentence. Either mandatory counseling, weekends in jail, a fine, something like that. Some kind of solution that did not require the person to be locked up.

So they made these changes in these two offices and apparently the results have been astonishing. In a short period of time the rate for women dropping these prosecutions has gone to less than 10 percent, which is quite astonishing in any area of the law.

I think any prosecutor will tell you that, and in this area, particularly with all its emotional and financial and other pressures on a woman, on a victim, that it's quite phenomenal that this has happened. And I think that all prosecutors' offices can take this as an example that all they have to do is recognize that this situation is a little bit different because of the familial connection here and treat the woman a little bit differently than just your average burglary victim, for instance, that your results will be incredible and will refute the old beliefs that women always drop no matter what, because it's just not true in these particular offices.

Ms. STEIN. I thank you very much for that explanation.

We heard some testimony earlier today about a program that exists in the Pima County Attorney's Office involving a victim-witness advocacy, crisis intervention, and mediation. I wonder if you could give your views about how this program, as it's operated in Pima County, what part it plays in handling cases involving interspousal abuse.

Ms. NIXON. Okay. The victim-witness aspect, I think, is an excellent plan. I think it's crucial in law enforcement situations to have some kind of resource like that. Unfortunately, in many of our battering situations victim-witness never gets involved because, well, one thing, often the women don't call the police and that is how they receive a lot of the referrals from victim-witness.

And the other situation is that apparently many officers still do not choose to use victim-witness as a resource in battering situations. Generally the idea of victim-witness and supporting the victim of a crime in giving her help and referral is a tremendous idea and we are in favor of that in any instance.

The part of the program that our project has had some experience with and some problems with is the mediation program. And the reason we have problems with it is because we do not think that mediation is the place to resolve a situation in which one party systematically and repeatedly subjects the other party to beatings.

The whole mediation setting by its very definition is a setting, a neutral setting. The mediator is a neutral mediator, a neutral arbitrator. Both parties are deemed to be on equal ground, equal footing, equal power. They are equal parties to an equal dispute. That is sort of the fundamental, underlying rationale for mediation. And I think that it works very well in some dispute areas—neighbor problems, barking dog situations, landlord/tenant things. I think that it has been shown to work well in those situations, plus to take those minor kinds of disputes out of the criminal justice system which is overburdened.

But we believe in our experience with battered women that this is totally unacceptable approach to solving a battering or to having even an interim kind of solution, and that the reason for that is because, well, first of all, they are not equal parties at all.

A typical battered woman is a victim. She believes herself guilty. She believes herself helpless. She portrays her husband as a superman. He has total power over everything and everybody. That is a very common approach from battered women who have been victimized systematically and repeatedly. So that you do not have equal parties here.

The mediation program, as I believe the testimony was this morning, does not blame anybody. In fact, their written instructions to their mediator states you do not blame anyone. No one is given any guilt. You just talk about future conduct. And we think that that is pretty unacceptable when you talk about one party who has committed criminal acts on another party who have injured that other person, which is a woman in 99 percent of the situations.

So the message that the battered woman gets in this mediation program is again, you know, the message she is getting from the rest of the system and society in general, and that is, "Your husband will not be punished for this activity." He may be called in to this situation and talked to and maybe have to say that he is going to shape up in the future, but society does not deem this serious enough to treat it as the criminal act that it really is under our laws. So the message to the man is, "Keep on doing it, you know, nobody is going to punish you for this. You can get away with it." And that is the message that law enforcement, the prosecutor's office, and the mediation program give to the women who are victimized and to the men who beat them.

Ms. STEIN. Do you find any misunderstandings on the part of your clients about the nature of the mediation process?

Ms. NIXON. We have run into that, because the mediation program is part of the county attorney's office and many people—I mean maybe most people when they encounter the judicial system, be it civil or criminal, are confused by the whole thing and intimidated whatever their educational or economic background.

And what happens is if the prosecutor decides to allow the person to have mediation as an option, the MAP personnel generally contact the woman, the victim, and the other person also. And he says or she says to the victim, "I am from the county attorney's office," we're

mediation, you know, they explain the process and our clients generally have come away from that thinking it was not an optional process, thinking that it's just another step in the system and finding out later that once again that this particular process is not going to punish her husband or take him to task in any way. And there has been confusion about the enforceability of the contracts that are drawn up.

The whole system of mediation, at least as done in Tucson, is based upon the idea that you have voluntary compliance, that you have voluntary acceptance of the conditions and that, you know, it's based on the good faith of the parties. And some of our clients have come away thinking they have an enforceable document in their hand, a contract that is drawn up, and it really isn't.

In theory, the man can go back and be prosecuted. But we have found that that doesn't happen for a number of reasons, you know, that I am not real sure about all of them. But, you know, the woman has seen that the system already deferred her grievance into an area that didn't seem to have any effect and she is probably not likely to come back again and give it another try.

Ms. STEIN. Thank you.

Mr. Novak, could you tell us a little bit more about the bill that is now pending in the legislature that you referred to earlier? In what particular ways would it change the law and what is it that you feel it will accomplish, and what are the needs that you feel it's directed at?

MR. NOVAK. Well, part of the problem we presently have laws, some of which could be very effective in the domestic relations area. Unfortunately, probably because of history, they leave holes. And these are the holes that we have tried to fill with the legislation.

One of the things that we have attempted to, I guess, create, if I can call your attention to 13-3602, and it's called an order of protection. Okay. This would enable a person to go in and by filing a action, a civil action, doesn't have to file a petition for dissolution.

You see, one of the problems with the injunction that I had referred to earlier—the only way that you can get one of those injunctions, in effect, is to file a petition for dissolution or for legal separation. Well, sometimes it is necessary to get an order without the person having to go through a petition for dissolution or legal separation.

The order that is provided for in 3602 would allow the person to go in, file this action, and get the necessary relief. The violation of this order would again be enforceable, would be punishable.

The balance of the section talks about what is the punishment for the violation of this order and, again, getting back to what I said earlier, I think part of the problem is in the punishment. A court order is a great thing, but if it's generally known that a man or a person who violates this court order is not going to be punished, that court order is meaningless.

We added some, I guess you'd call them, teeth to the section on the preliminary injunction statute that provides for punishment for a violation of that injunction. And I think that is the area that we really need some attention to.

We need attention to the fact that, as you mentioned, people, because of the fact they are married, that there isn't an exception carved out, that there is no inane privilege for a husband to beat a wife.

We have to specifically set out and point out that this is a crime, that if you do it you are going to be punished. And that is what we try to do by some of the legislation in Senate bill 1206.

MS. STEIN. Are there any other provisions, reforms, either in law or in practice, that you think would be useful in improving the response of the justice systems, both civil and criminal, to women victims of domestic violence?

MR. NOVAK. Well, we have talked about, and I guess we refer to it in part in the report. I have always thought that—I don't know if you are familiar, but we have a program here in Phoenix that is called a PACT program. It's an alternative to prosecution for DWI, and it's a very effective program. It's run by the city of Phoenix. And if a person gets his first DWI ticket instead of getting a DWI violation, he can go through this. It's more or less of a school or whatever the PACT program decides is important to get this person some help in the area of drinking.

MS. STEIN. Just for clarification, DWI is "driving while intoxicated"?

MR. NOVAK. Driving while intoxicated, yes.

I think, and I have talked with a number of the members of our committee, and I think we all kind of feel this way. If we could get some sort of a program like that—I kind of refer to it as a WAC program, but you know something that is the same type of principle that could be used in the area of domestic violence.

You have a problem of violence, of domestic violence, and the offender is put into this program, whatever you want to call it. He is put into that program. He gets counseling. He gets something that is going to help him. I don't know what the mechanics of what it would be, but it's geared toward getting him to realize that this is not acceptable conduct, that to try to get the person's head on straight so that when they have problems, when there is arguments, that they don't resort to violence.

Give him the one shot like we have in the PACT program. A person is allowed to go through the PACT program once. If he gets a second DWI, he cannot go through the PACT program. Let the offender go through this program and he has then his one shot and it's made known to him that, "All right, you have had your one opportunity. Hopefully you have learned from this program, because if you haven't learned and you are back in here, this program is not going to be available to you. You will then be prosecuted criminally."



And I know that it would probably cost some because you'd have to set up, you'd have to have personnel, you'd have to have a place to do it. You'd probably have to have professional people and it would probably be expensive. But when we realize what we are talking about—we are talking about, you know, the safety and possibly the lives of some people—I think whatever would be the cost within limits it would certainly be a worthwhile investment. You know, if we can save some people, some women from getting this abuse, you know, the investment is well worth it.

And I think that what we have to realize is that when we talk about domestic violence, as we are talking about it, we are not talking about a one-shot deal, you know. We are not talking about the one time that a husband and wife get into an argument and out of a frustration he slaps or something. That is not what we are talking about in domestic violence. The domestic violence that we see is generally a history of domestic violence. Okay. So we have got a person who has gotten used to it and has gotten used to the idea that he can do it and nothing is going to happen. And if we could get some sort of a program that says to him, "look now, your conduct is not acceptable. It's not healthy and you have got to change it. We are going to give you this opportunity to learn how to change it. If you go through the program and the education takes effect and you have no further problems, you are not going to have a criminal record. But if you go through this program and you come back, you are going to be facing a crime." I would just dearly love to see some sort of program like that tried not only here in Phoenix but at various places and see.

Ms. STEIN. Ms. Nixon, do you have any suggestions to add to that?

Ms. NIXON. No. The only exception I would make to that kind of a program would be the situations in which the battering, even if it's just one time, is very serious, you know. Maybe, you know, serious bodily injury to the woman. I'd like to see the full force of the law go after people like that, which it does when they do that to a stranger.

Ms. STEIN. Thank you. I have no further questions of the witnesses.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. Well, I am sympathetic to the approach you take. I guess as we listen to the testimony—Mrs. Freeman and I have been pursuing this with various witnesses—that you have here. An attitude from law enforcement through prosecution, through court clerks, through judges, and your report certainly shows that, that this is a different type of assault because of the family situation or the living together situation.

And since there have been experiences, we all admit that, you admit that, where the victim has refused to be a witness and charges have been dropped, we are in sort of a spiral of a seemingly futile exercise to solve the problem. And yet you point out, and I think correctly—Commissioner Freeman certainly feels that way—that this is a

crime against the State that has been committed. It's not simply a crime against one individual and then put the burden on that individual to go into court. But it seems to me that we do have the problem of the types of services we provide for the victim of that crime so that it does become a real option, and I take it as I look at your report you support that type of services.

So what I sort of get down to is it's not simply a legal question in the traditional criminal law sense, but it's a question that needs extensive support networks supported by the criminal justice system and other systems in society if you are really going to have a meaningful result where you can isolate the victim from the abuser so the victim knows that she has a very real choice in this case.

I wonder when you look at the recommendations you have made in this report, Mr. Novak, and you have some very interesting cases in law that you have attached. We have had testimony, for example, on domestic violence should be legally defined and classified as a separate crime. There has been some worry about that as to would that separate classification make it less of a crime than an assault. It seems to me, as I look at your recommendation, it would be one way to isolate the extent of the crime to keep statistics on that crime and see the degree to which that was appropriately dealt with. Is that your prime motive for that recommendation rather than just saying why don't you enforce the statutes already on the books?

MR. NOVAK. Well, that's one of the purposes. But the other purpose is to specifically define and specifically refer to domestic violence crimes so that there can't be the brushing off of it as a family squabble.

VICE CHAIRMAN HORN. And you feel the tools are simply not there now to do that if it was just enforcement of the law?

MR. NOVAK. Well, I think there is a lot of problem with misunderstanding as to what our, you know, what our present statutes do provide. And I think that by specifically defining domestic violence then we have made it perfectly clear that, yes, we are talking about married people, violence between married people, and, you know, and there is no exception.

VICE CHAIRMAN HORN. Certainly one point we have repeatedly brought out in this hearing, and we know anybody—well, anyone in the criminal justice system knows it's a common attitude any time you deal with criminal justice in that each fragment of the criminal justice system blames the other fragments for nonperformance, and the attitude of the policeman is, "If I were only the prosecutor, the judge, and the jury, all would be right with the world."

The attitude of the prosecutor and the judge seem to be the same way. This morning and yesterday we have had some of the policemen and prosecutors, as well as some of the judges. It seems to me there is great concern about the attitude of the judiciary in nonenforcement of its own process. And you have discussed peace bonds and we can

discuss other restraining orders, and you have mentioned in here that under the civil aspect, domestic relations statutes should be revised to provide a procedure for obtaining temporary restraining orders and injunctions by a person who is unmarried or, if married, without having to file a petition for dissolution or legal separation. And we have talked about both criminal and civil sanctions that can be imposed for a violation of that.

Do you sense in your practice and in this study as you look at the courts of Arizona, Maricopa County in particular, or Pima County in the case of Ms. Nixon, do you sense a reluctance by the judiciary to really use the tools it already has available to enforce these acts?

MR. NOVAK. Yes, I do.

VICE CHAIRMAN HORN. How do you explain that? What do you think their motive is?

MR. NOVAK. Well—

VICE CHAIRMAN HORN. Do they just want to get reelected and feel there is more battering husbands than battered wives, or what?

MR. NOVAK. No. I think what the problem is, is that the procedure that you use to enforce the violation of the injunction is through an order to show cause for contempt.

Now to me and probably to most people that sounds like a pretty, pretty serious thing. You are bringing a man into court for contempt of court and, even as an attorney if someone would say that they were going to take me into court for contempt of court, that would sound like a pretty serious thing.

The only problem is that, historically, the courts in Maricopa County deal with so many contempts. They deal with contempt for this, for that, for the other thing—that I am afraid what happens is that the judges look at a contempt as “Oh, it’s just another contempt and it’s not as serious.”

I have seen as a practicing attorney, as a court commissioner and, as a matter of fact, I even sat for a while as a pro tem judge, I would see files where a person was found in contempt of court five, six, seven times and nothing was ever done about it. He would be found in contempt; the court would say, “I am entering a finding that you are in contempt and you can purge yourself of contempt by not doing it again.” And then the second time he comes in, the court again says, “I am finding that you are in contempt and you can purge yourself of this contempt by not doing it again.”

I think that is honestly one of the problems. It’s gotten to where a order to show cause for contempt or a contempt proceeding has got basically two aspects of it: it’s got whether the man is in contempt, number one; and number two, what to do about the contempt.

And it seems that the courts, because of the fact that maybe we have so many contempts, they find it very easy to say to a man, “Yes, you are in contempt.” But the second part of it, to do something about it, they find it a little more difficult.

VICE CHAIRMAN HORN. Well, presumably they can sentence the person to jail.

MR. NOVAK. That's right.

VICE CHAIRMAN HORN. What is the maximum in Arizona for violation of contempt in terms of either a fine or jail?

MR. NOVAK. I am not sure what the fine is, but I believe it is probably—if it's as a misdemeanor, it could be up to 6 months in jail.

VICE CHAIRMAN HORN. I guess I just, you know, I listen to this testimony and I get frustrated at judges that wouldn't enforce their own process for the dignity of the court and the independence of the judiciary.

And that, you know, if I were a judge, I'd be outraged if somebody crossed a contempt order I'd issued.

MR. NOVAK. I agree with you. And as a practicing attorney it is very frustrating.

You know, it's frustrating to your client if you represent a woman and she is going to file a petition, and I go through great pain, I guess it is, to explain to her that "At the time your husband is served, he is going to be served with this injunction, and this is a court order." And I guess while I am explaining to her how serious this court order is, I have got my fingers crossed that she is not going to say, "What happens if he violates the court order?"

Now what I do do, and I keep my fingers crossed probably just as hard when I represent the husband, is I say, "Now, this court order is binding on you, and if you violate it, you are going to be in contempt of court." Because if he asks me, "What happens if I violate it?" I am going to try to convince him that he is going to be punished, but down deep I know that the chances are he probably won't be and that is frustrating.

VICE CHAIRMAN HORN. Mr. Novak, are there any women judges in Arizona that act on this type of case in your court of original jurisdiction?

MR. NOVAK. Well, we have no female domestic relations judges. Now we do have female judges in Maricopa County and I am sure that eventually one of them is going to get stuck on domestic relations.

VICE CHAIRMAN HORN. I just wondered if there is a difference based on a lack of sensitivity as to what the problems are, as to how the whole process conducts itself from officer on the beat to prosecutor to judge on up.

MS. NIXON. If I could say something. I think another thing, looking at it from the point of view of the judge as a human being, he is confronted with the situation in which the contempt hearing takes place often weeks after the violation has occurred, after the beating has been administered, after the wounds have healed. The woman is sitting there dressed nicely, looking fine and healthy maybe. Bruises don't show. You know, what is the big deal, you know? What is the big problem? The immediacy of it, the seriousness of it does not impress itself upon

them. In fact, I have heard judges say, "This is not my role. My role is as a judge. It is the police's role to intervene in these situations and protect women and make arrests. It's not my role weeks later to suddenly throw the guy in the clink."

And I can see the situation as it presents itself, the urgency of it, the seriousness of it. The dangerousness of it to the woman does not impress itself upon them. The woman is not bloody. Her legs are not broken. Her clothes is not awry as it is at the time of the incident, and I am sure that has an effect on them.

VICE CHAIRMAN HORN. That's all.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Ms. Nixon, do you have any opinion as to whether this concept of philosophy that you have described prevails because we have a male-dominated system of American jurisprudence?

MS. NIXON. I think that is probably part of it. I think the root of the problem, wife beating, woman beating, is based in sexist attitudes about relationships between men and women, about the nature of marriage, about the function of a woman within a relationship, the old concept of woman as property. I think we like to think that our attitudes are sophisticated and that we are more modern and egalitarian, but when it comes to this area I think we have a long ways to go before we root that out; and that goes for not only the man who is a laborer down in the fields, that goes for doctors that live in big, expensive houses. And the women also have a lot of rethinking to do on this particular subject before we will completely rid ourselves of this phenomenon.

COMMISSIONER FREEMAN. Mr. Novak, do you have any comment?

MR. NOVAK. Well, I don't know. I really can't say that I feel, because here we are, man and woman, and we are going to feel differently on this.

I don't really necessarily think that it's because the justice system is so male—what do I want to say?

COMMISSIONER SALTZMAN. Dominated.

MR. NOVAK. Dominated, yes. Thank you. No, I think that there is kind of an idea that problems between a man and a woman, you know, are their own problems, that they are not a part of society's problems.

You know, we get the same in the rare situations, but it happens where we have a woman who beats on the man. If we were going to say that we have got so much male domination, then, good grief, I guess the courts would just come all over that woman. But, no, it doesn't happen. The attitude is the same. And I think it's just that there is some sort of an idea that if you enjoy the marital relationship, that that gives you the privileges, I guess, to do anything that you want with your respective spouse.

You know, maybe it goes back to the cave times when they bopped their spouse on the head with the club and drug them home as accepted conduct.

Now, I think that is really more what the problem is. I think—

COMMISSIONER FREEMAN. But the decision is made by the male.

MR. NOVAK. The decision to do what? I'm sorry.

COMMISSIONER FREEMAN. Whatever you have just described. You said bopped his spouse.

MR. NOVAK. Well, maybe in cave days. But, like I say, the attitude is the same where you have a situation where it is the woman abusing the man, and there are those situations. It is not as small as one would tend to think where you do have the woman who is doing it. The attitude is exactly the same. It's just, "Well, it's a family problem."

MS. NIXON. But I'd like to give an example from my practice which sort of, I think, demonstrates that that is part of the problem, that the male domination of the law enforcement system is part of the problem. Not all of it, but part of it.

I had a client who was severely beaten by her husband, and this is a case, an unusual case where we have a tremendous amount of evidence to support what happened. In other words, we have medical reports, photographs, everything, witness statements. She was severely beaten by her husband in the middle of the night, which is when it often happens.

She was passed out. She managed to call the police after she woke up and he was gone. She called the police, told them to please come. Then he came back and, you know, talked very sweetly to her and kindly to her and said he was going to bed. And she was very injured at this point even. In fact, her doctor later said she was probably in shock.

He went to bed. She went to sleep. Later he woke up, came to her, was angry about something he had remembered and began to beat her again. In the meantime, however, she had called the police and told them to cancel her complaint, that everything was cool. Don't come. So he got up, beat her a second time, then left the premises thinking still that the police were coming after him. Six squad cars arrived and an officer came to her door. She had a broken nose, tremendously bruised spine and back, cuts, bruises all over her body, the photographs indicate.

Officers came to her door, ordered her outside, and told her that her husband had told them she had attacked him. In fact, she had defended herself during the attack by grabbing a cut piece of glass from an ornament on a table and swinging at him. She didn't even realize she had hurt him. She had cut him on the leg. He had to get something like three stitches. That was his only injury. As I stated, hers were quite clear and obvious.

She was arrested for assaulting him. I was astonished when I heard this because, you know, even though I am an advocate for battered women I didn't think it got this bad. They arrested her. They took her to jail. They did take her to the hospital first. That is where we got the doctor's report about how serious her injuries were. They took her to jail. Kept her in jail overnight. She had to stand up all night in jail

because she was so injured and in so much pain. She couldn't sit or lay down, and eventually the charges were dropped.

And we are now trying our best to get that law enforcement agency to institute charges against him, but their response was, "Even though we have photographs, witness statements, and doctors' reports on her injuries that—well that took place a few weeks ago and we are not really interested in assaults that took place that long ago."

VICE CHAIRMAN HORN. What law enforcement agency are we talking about?

Ms. NIXON. The sheriff's office of Pima County.

VICE CHAIRMAN HORN. We had the county prosecutor on this morning and the county attorney. It seemed to me that they would be sympathetic.

Ms. NIXON. We are trying very hard to get an assault charge filed.

COMMISSIONER SALTZMAN. Ms. Nixon, in addition to, as Mr. Horn pointed out, the policeman saying the prosecutor won't prosecute, the prosecutor blaming the judge etc.—all of them from the policeman to the judge, as you recognize, say that the practical barrier in the system is the wife who won't prosecute.

Now I think you were suggesting that it was the inadequacy of the system which leads the woman to refrain from prosecuting more than that she is going, the other rationale that she is gonna, rationales that were offered. I wonder whether you could sort of repeat how the system might be improved some, although I didn't hear any recommendations. What is it that can lead the woman—everyone saying the woman doesn't want to prosecute, that is the biggest—90 percent one person said to us, in 90 percent of the cases the woman refuses to prosecute. That seems to be the biggest obstacle in this whole thing. Is there a solution to that?

Ms. NIXON. I believe there is. I think that the system can stop erecting false barriers to a woman who wants to prosecute.

I think the officers, first of all, can start treating it like the criminal activity that it is and make arrests when they have probable cause, protect the women.

I think the prosecutors can act sympathetic towards the women, tell them that it is a State prosecution, that it's not on the woman's shoulders to bear the entire responsibility for prosecuting this man. That, in fact, it is a State prosecution.

But emphasize that to her. Give her the backup support she needs from victim/witness agencies, subpoena her for her testimony, to set prosecution goals in accord with her goals. If she isn't interested in jail sentence, seek a guilty plea so that she doesn't have to go through the trauma of a trial and seek sentencing or other penalties like mandatory counseling for the man, maybe weekend jail time so he doesn't have to lose his job and the support of the family goes down the drain. And those things really are not outrageous or expensive changes at all. They are changes of attitude more than anything else.

COMMISSIONER SALTZMAN. You have said this has been done.

Ms. NIXON. Yes.

COMMISSIONER SALTZMAN. Where?

Ms. NIXON. Yes, it has. I read a periodical that is addressed to the whole issue of battered women. In fact, it's funded, I believe, by LEAA and they discussed a program in Santa Barbara, California, and a program in Los Angeles, both of whom did the things that I just sort of laid out.

Those were the basic changes that they made, and they have had more than a 90 percent success rate in having the women carry the prosecution all the way through and be cooperative all the way through.

COMMISSIONER SALTZMAN. Do you have a copy of that article?

Ms. NIXON. I have one. I could make it available to the Commission.

Ms. STEIN. The staff has a copy if you'd like to have it introduced.

COMMISSIONER SALTZMAN. I think it should be entered into the record at this point. If such a success rate has taken place in one community, I think it would be very important for us to note that.

Let me clarify your attitude toward mediation. What I gather is not that you are opposed to the process of mediation under certain circumstances, but where there has been battering too, or, am I correct, where there has been battering to any extent that once there is wife beating this is a criminal process and inappropriate now to the process of mediation, which assumes neutrality, that there has to be in order to contain this problem, a judgment, a criminal judgment, in action in these instances of the ambiguous word I will use, rather serious wife beating. Am I correct?

Ms. NIXON. Yes, you are correct. Mediation, I believe, can be effective, for instance, where there is only been verbal disputes between two parties or threats made by one party. But when you get into physical violence, our experience with the hundreds of women we have encountered in the last, you know, 6 to 9 months is that it's going to be repeated and things like sitting down together in a neutral setting is not going to have any effect. In fact, it's going to reinforce it. I think it causes more violence.

COMMISSIONER SALTZMAN. Do you have any indication, proof of what you are saying? Are there any studies, any statistics that indicate the fallacy of mediation once physical abuse has taken place?

Ms. NIXON. I think there is a real dearth of statistics in this area. All I am talking from is our own experience in our office and the trends and patterns we have seen with the women that we have talked to.

COMMISSIONER SALTZMAN. There is another point that I'd like to press you on, both you and Mr. Novak, the object of social policy in domestic violence. I assume the object of social policy is to see whether the family can be saved. And from prosecutors and police officials I received the impression that once you go into a criminal process within the criminal system, that creates barriers to that and in-



tensifies the problem rather than alleviates it; that it is a thing of last resort because the family can possibly be saved as a social goal, and going into the criminal process system only really aggravates the whole situation.

Ms. NIXON. I believe that the goal of social policy where battered women are concerned should be the protection and safety of the women and children, and that it should be up to the individual women involved to make a determination as to whether they want to save the family.

I believe the first goal has to be safety and that that is what we are far, far from achieving. After that, if you don't have safety, you don't have a woman making a rational decision and we are from that right now. And so I think that, to me, anyway has to be our primary goal.

The other thing is once a woman has called the criminal justice system into the situation by calling the police or something, that is an amazing step for a woman to take in a regular battering situation. She has, as I said before, decided to put herself in the limelight. Her family is going to know. The public is going to know. Her relatives, her employer is going to know. That is a big step to take and, if a woman has gotten to the point of calling in the police, I think the situation is serious enough that the response has to be equally serious; and bringing the criminal justice system in is serious but it is a serious problem.

COMMISSIONER SALTZMAN. Well, how about the point they made that it only intensifies the seriousness, not the seriousness, the separation between the husband and wife, that we ought to try and avoid—

Ms. NIXON. Yes, I think that if the police are called into it, you know, the separation between the husband and wife is already pretty vast. It may be something you cannot breach anyway. So I think that again is a decision that has to be made by the woman once she is in a safe situation, not something for us as a society to decide in advance of giving her any help.

COMMISSIONER SALTZMAN. So you are saying the motive of preserving the family under this kinds of circumstances is incorrect for basing public policy when it comes to wife battering?

Ms. NIXON. I think it has to be the woman's decision.

MR. NOVAK. I think that is just another excuse that they are using very, very honestly, you know, to say, "We don't want to get involved in prosecuting this man, because if we prosecute him, you know, for committing a crime then that is going to ruin his marriage."

You know, if the man committed a robbery or if he committed any other crime, I don't know of any county attorney's office or any police department that would say, "I am not going to arrest him because if I arrest him, it's going to possibly cause a problem in his marriage." It's just another excuse.

You know, we have to realize that what we are talking about is a person, a man who has committed a crime. And if they are saying that

by us, the criminal justice system, interfering with that, stepping into it, that we are going to break up the relationship that they have and it's a relationship based on wife beating, then, by gosh, maybe that relationship should be broken up, because what they are saying is that we are not going to—we don't want to do anything about it. We want to let him go on beating each other or him beating her because they have got then a marital tie.

I am sorry. I just—I don't see that as any sort of a valid reason at all.

COMMISSIONER SALTZMAN. Thank you.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. Just one point, Ms. Nixon, Mr. Novak.

I think you have articulated your position regarding the problems with the mediation process, but there is a broader system. The crisis intervention system that was talked about at some length today and yesterday. And I was wondering—I get the impression you are both strict constructionists as to the role of the criminal law.

Do you see as—my impression listening to the testimony of prosecutors and police officers, that perhaps the crisis intervention system, more broadly defined than just the mediation service, can provide an alternative to the criminal process.

MS. NIXON. I don't like to think of it as an alternative so much as a backup.

I don't like to think of a situation where crisis intervention would be the substitute for police response in these situations. I think it's an important backup because usually the woman and her children in these situations need help. They need housing; they need money, whatever. But I don't think it can be a substitute because that just continues the trend of decriminalizing the conduct, of saying this is not really criminal conduct, and we are not going to respond to it that way.

MR. NOVAK. I agree. I don't think it's, you know—it should be an alternative to it. I think they should work hand-in-hand together.

CHAIRMAN FLEMMING. Could I ask both of you to comment on the role that you feel that shelters, as they exist here in Tucson or as they exist in Tucson and Phoenix, can play in dealing with this very important issue.

MS. NIXON. I think the shelters are crucial in the violent situation, but I don't think they can be looked at as the only solution. I think it's very important to sort of keep it in perspective and look at it as here we have a violent situation which is brought on by the man. It's his responsibility and it is the woman who flees her home, her neighbors, her belongings to go hide away in the shelter.

Now, the shelters are needed, but we have got to keep in perspective that it's an interim measure only. And we have got to go ahead with the other remedies we have talked about to turn the trend on this thing and allow women to have their rightful position in these situations and be back in their homes with all the things that they need.

But, of course, shelters are crucial. They are a crucial interim necessity.

MR. NOVAK. I agree. We would be lost if we didn't have them. We don't have enough and we don't have enough places, but they are a stopgap absolute emergency situation. But they sure are not the answer.

CHAIRMAN FLEMMING. Ms. Nixon, in connection with your practice in relation to the mediation service, how many of your clients have gone through the mediation process up to the present time?

My understanding of the testimony was that this process has been in effect about 9 months or 9-1/2 months, something of that kind. I was wondering how many of your clients have gone through the process during that 9-month period.

MS. NIXON. To my knowledge, only a couple. Once we sit down with them and explain to them mediation, most of them agree that it's not the kind of thing that will solve their problems.

CHAIRMAN FLEMMING. And as far as the couple that did go through, have you had any chance to evaluate the results there?

MS. NIXON. Yes.

CHAIRMAN FLEMMING. And also with this couple there, have you had a chance to evaluate any other results as far as any other persons are concerned.

MS. NIXON. One situation we had with the mediation program was very unfortunate for our client. What happened was we were already representing her in a divorce and she wanted to prosecute her husband. And the case got referred from the prosecutor's office to the mediation office.

They contacted her and, representing themselves again as the mediation department of the county attorney's office, she felt that it was another mandatory step she had to go through, so she agreed to it. And when she went to the mediation meeting, she did mention to the mediator, you know, "Look, I think I ought to talk to my attorney before I do this." And some attempt was made to reach her attorney, but when they couldn't right away reach one of us they went ahead with the mediation and had a contract written up. And she really didn't want to go through it. And if she had really understood what it was, she wouldn't have.

Now they tell us that they changed some of their procedures, specifically, to contact attorneys when there is an attorney of record in the case. But I still think the problem exists of people not really fully understanding the function of mediation as an option and not being a mandatory method.

CHAIRMAN FLEMMING. Okay. We are appreciative of the testimony that both of you have given us and we certainly recognize from your testimony that you are deeply involved in this issue, and we are grateful to you for sharing with us your experiences.

Thank you very, very much.

MS. NIXON. Thank you very much.

MR. NOVAK. Thank you.

CHAIRMAN FLEMMING. This completes the list of scheduled witnesses.

At the beginning of this hearing we announced that at the conclusion of the scheduled testimony at 3:30 on Wednesday, there would be an open session for members of the public who wish to bring information concerning the subject matter of the hearing to the Commission's attention. The time available will be filled on a first-come, first-serve basis. We suggested that persons who wished to testify at this open session should consult our staff in Boardroom A of the Adams Hotel.

In the statement we also said that there are three Commission requirements governing such open session testimony. The testimony must be limited to 5 minutes. It must not defame or degrade or incriminate any person, and it must be directed to the legal system and its response to the needs of women who are victims of domestic violence.

It is my understanding that in response to that invitation three persons have talked with the staff and have indicated their desire to testify. I will ask counsel to call the three persons to the stand. I will administer the oath to all three at the same time, and then counsel will introduce them in the order in which they signed up and counsel will be responsible for enforcing the 5-minute rule.

MS. HUBER. Yes. Could we have Ms. Jacqueline Stolls, Ms. Catherine Zandler, and Commissioner William Sherrill come forward, please.

MS. STEIN. Mr. Chairman, while the witnesses are taking their place, I'd like to request that the staff report entitled, *Hearing in Phoenix, Arizona—The Legal System and Women Victims of Domestic Violence*, be received as an exhibit with an appropriate exhibit number.

CHAIRMAN FLEMMING. Without objection that will be done.

If you will you stand and raise your right hands, please.

[Jacqueline Stolls, Catherine Zandler, and William Sherrill were sworn.]

**TESTIMONY OF JACQUELINE STOLLS, CRISIS INTERVENTION COUNSELOR, PEORIA POLICE DEPARTMENT; CATHERINE ZANDLER, DIRECTOR, HUMAN DEVELOPMENT COUNCIL, CATHOLIC DIOCESE OF PHOENIX; AND WILLIAM SHERRILL, COURT COMMISSIONER, PIMA COUNTY SUPERIOR COURT**

CHAIRMAN FLEMMING. Delighted to have you with us.

MS. HUBER. All right. Beginning with Ms. Stolls, could you begin by stating your name, address, and your organizational affiliation and you will have 5 minutes to present your testimony on these matters.

CHAIRMAN FLEMMING. May I also explain that if you have a written statement, if you are not able to read the entire statement within the 5-minute period, we will include the entire statement in the record of the hearing; and if you haven't got it in shape for inclusion at the

present time, we invite you to complete it and submit it to us and it will be made a part of the record of the hearing.

Ms. STOLLS. My name is Jacqueline Stolls. I am a crisis intervention counselor for the Peoria Police Department.

VICE CHAIRMAN HORN. Excuse me, could we get the spelling on the name? We don't have a sheet in front of us.

Ms. STOLLS. S-t-o-l-l-s, Jacqueline.

Ms. HUBER. Please go ahead.

Ms. STOLLS. What I would like to say mainly is that it has been my experience as a crisis intervention counselor for the Peoria Police Department and the fact that it has been said often in these hearings that alcoholism plays a major part in spouse abuse or wife abuse, it has not been my experience that alcoholism plays any larger part in wife abuse than it does in any other crime or in any other segment of society. It is my feeling that wife abuse is a very complex and multifaceted problem that has its origins in sociology, psychology, and the criminal justice system.

The criminal justice system practices that have been spoken of at these hearings for the past 2 days and are in fact in practice throughout Maricopa County, and in my experience with it, tacitly condone physical abuse of wives or spouses and that the position of the victim because of the tacit acceptance or condonation of the act further victimizes the victim. And so that we are in a situation where even though the intent is to alleviate the situation, we're helping to perpetuate it and to keep it going.

To this end there are a couple of things that I do think can be done. Family violence, or domestic violence, is a crime but, because it is not considered a crime, at best it's considered something that is not lawful or it's against the law; that is not the same thing as being a crime.

It is a crime and it's a very serious crime, one person against another person. I think it needs the full support of our entire criminal justice system from the legislature down to the judiciary, the prosecutor, the police response and to society, to make this a crime and so that it's perceived as a crime and it is treated as a crime.

And I think also that the victim, the wife, should be given enough support from the community and from the legal and law enforcement agencies that respond to her situation, not further victimize her by the way she is treated.

And one of the things that I think can be done, and that is not done and has never been mentioned and is done in other jurisdictions, and whether or not it really has an effective place in the society, I do think it does alleviate some of this further victimization of the victim; and this, the fact that women, when they are in a situation that is severely abusive, are forced to leave their home, disrupt the household, take their children out of the home, and flee someplace. That there is original guilt in this situation which starts with the woman.

One of the things that she has to do in order to accept the situation that she is being victimized or abused by her husband is she has to place a rationalization and a blame somewhere. The easiest place to put that is on herself. It's a highly untenable situation to accept the fact that a man that she married and loves and is supposed to love her in return will abuse her for no reason. She must have done something wrong. So she thinks that. That is further compounded by the fact that society looks at it as though she somehow has provoked her husband into doing this to her and, therefore, deserves what she gets.

When she has to take her children and herself out of her home, leave everything that she has got, and become a burden on society to find a place for her to stay with her children and satisfy her immediate needs, they are further victimizing her by increasing her guilt by making her a victim, that is, and a burden to society. So that her biggest worry at that particular time is providing the primary and most necessary needs for her family, and is left in a situation that is very difficult for her to cope with until she gets past this and sometimes that is an all-consuming effort that she cannot take care of and leaves no room for anything else.

MS. HUBER. You have 1 minute remaining.

CHAIRMAN FLEMMING. You have 1 minute.

MS. STOLLS. Basically, I guess, that is what I want to say.

CHAIRMAN FLEMMING. Okay.

MS. STOLLS. I think that can be done. It is done in other jurisdictions where the man is made to leave.

CHAIRMAN FLEMMING. All right. Thank you. Thank you very much for appearing and presenting those views.

MS. HUBER. Mrs. Zandler, could you state your name, spell your last name for the record, give us your organizational affiliation, and give us the testimony you wish on this matter.

MS. ZANDLER. Thank you. I am Catherine Zandler, Z-a-n-d-l-e-r and I am director of the Human Development Council for the Catholic Diocese of Phoenix. And my business address is 1825 West Northern, Phoenix 85021.

MS. HUBER. Thank you. Please proceed.

MS. ZANDLER. We are offering testimony today on the role of church and community in the prevention and rehabilitation of domestic violence in families. My comments are based on the United States Catholic Conference document entitled, "Violence in the Family."

We commend the Commission for its efforts to focus attention on the threat to human rights and to life itself which is involved in domestic violence. This fact has been verified by the extensive data that has been gathered by the Commission and, likewise, the cause and effects of abuse by one family member on another are well documented.

So we are offering suggestions for involving the community, the churches, the neighborhoods in reversing this trend to increasing violence hidden frequently within the walls of the home but, nonetheless, impacting the community. The responsibility of the church-community to respond to violence in the family is rooted in the concern for human dignity, human life and family life, and consistent with the Judeo-Christian principles of social justice.

Traditionally there is a close relationship between the church and the family and historically the role of church as sanctuary supports the involvement with those in crisis who need shelter and safe housing.

The actions needed are both long term and short term. They involve creating an awareness of the problem, providing services to those in need, and advocating changes in public policy to address the societal sources of abuse.

These activities should not only be directed toward immediate needs but also towards change within the society and the community. Within the congregations and communities these activities should ultimately be directed toward creating an environment that alleviates the sources of abuse, such as creating the support groups to overcome alienation, isolation, and the burden of economic and social pressures. It involves creating an atmosphere of caring, problem solving, and cultivating individual identity and self-worth. The focus should not simply be on binding the wounds of the abused but on creating an atmosphere which reduces the incidence of violence.

Some of our suggested areas are in education, where we ask that seminars for the general population to create awareness of causes and effects should be presented. Parenting skills and relational skills should also be provided as part of regular programs on premarriage preparation, adult education, and teenage education.

Workshops for teachers, counselors, clergy, and others can provide information about the problem and methods of identifying it. It can provide understanding of the moral and legal responsibilities, knowledge of available resources, and understanding of the complexities of counseling in this area.

In addition, efforts to establish programs directed to abusers or potential abusers can enable them to deal with their problems. Although service projects which provide shelter for battered women are strongly supported, services should also be focused and expanded in the area of prevention.

Open access to many mental health services for all members of the affected family is both preventative and rehabilitative.

Ms. HUBER. Ma'am, you have 1 minute.

Ms. ZANDLER: Okay. We have in our written testimony, we will have a number of public policy issues that we think should be addressed such as financial support for emergency shelters, assistance to domestic violence victims, legislation to protect the rights of family members in the context of the family, improved laws on reporting

abuse, protecting the abused, legal proceedings that protect the right of the victim, and under long-range solutions these are basically social justice issues such as securing for each person the right to employment, food, decent housing, health care, protection of life, and adequate income and resources.

Ms. HUBER. 30 seconds left.

Ms. ZANDLER: Okay. I will just stop with that and tell you that we think in all civil rights efforts the community is equally important with the law. Thank you.

CHAIRMAN FLEMMING. Thank you very much.

We will, of course, as I indicated, include in the record your complete statement and we will examine it with great care because the point of view that you are representing is very, very important in a consideration of this issue.

Ms. ZANDLER: Thank you very much.

CHAIRMAN FLEMMING. Thank you for coming.

Ms. HUBER. Commissioner William Sherrill. Could you state your name, spell it for the record, give us your position, and present your testimony?

MR. SHERRILL. Thank you. My name is William Sherrill, spelled S-h-e-r-r-i-l-l. I am a court commissioner in the Pima County Superior Court. Pima County is the county south of here and has a population of about 500,000.

A court commissioner is a judge that has the powers of a judge but with limited jurisdiction.

My order has the same effect as that of a judge. If someone doesn't like my order, they don't go to a judge. They have to appeal it to the court of appeals.

Probably half my time is spent in domestic relations cases, whether it's temporary orders for custody, hearing a case as to whether a temporary restraining order should be granted, awarding temporary support, and things of that nature.

I came up here to listen and after listening for 2 days I thought I wanted to be heard. What I hear is that everybody is passing the buck. The police are passing it to the prosecutors and the judges, prosecutors are passing it to the police and the judges, and the poor judges are just taking it on the chin. No one is here speaking for them, so I thought perhaps I ought to try and speak for the judges, in a way.

I don't want to defend them too much because I am not too happy with what the record shows. We have the laws. We have the remedies, but why aren't they being enforced? I think the question is basically attitudes. The attitudes of the police, the attitude of the prosecutors and the public defenders, the attitudes of the judges. But let me speak for a moment from the position of a judge.

If I find someone in contempt of court, my remedy is to slap him on the wrist, put him in jail, fine him, say, "You can't go near your wife anymore," or something of that nature.



Actually, I don't hear contempt cases, so I am just putting myself into the shoes of the judge that does.

Before you put someone in jail, particularly the Pima County Jail, you ought to go down and see it: it's a hell hole. It has twice the number of people in it it should have. So you think twice about putting someone in jail.

Secondly, the burden of proof that is submitted in a case for contempt of court, if you are going to put someone in jail, the minimum burden you ought to have is clear and convincing evidence.

In a typical civil case, the burden of proof is a mere preponderance of the evidence. That is, it's more likely true than not true. Clear and convincing is you are pretty damn sure that that is what happened. And it's less than the "no reasonable doubt" that is in criminal cases.

In fact, our court of appeals in a recent mental health case said despite lack of legislative direction in a mental health case you have to have clear and convincing evidence to order someone to have court-ordered mental health treatment.

So I am sure that to put someone in jail for contempt of court you have got to have clear and convincing proof.

I think that basically everyone's been passing the buck. When I took my oath of office, I promised that I would enforce the laws of the State of Arizona and the United States and the Constitutions of the United States and the State of Arizona. And I know that every police officer did, that the county attorney did, that every city magistrate has. And I think that we are all passing the buck and I think we have to remember what President Truman said and we have to follow it in our daily jobs. That is, "The buck stops here." Thank you.

CHAIRMAN FLEMMING. Thank you very, very much. We appreciate your taking the initiative in presenting this testimony to us. It is very helpful.

MR. SHERRILL. Thank you.

CHAIRMAN FLEMMING. At the opening of the hearing I said this. I have repeated it once. I want to repeat it again. I said that our opportunity to conduct this case study of the legal system's response to the needs of women who are victims of domestic violence has been greatly aided by the complete cooperation the Commission staff has received from all levels of Arizona's government, and particularly the Phoenix Police Department. The Commission deeply appreciates and gratefully acknowledges this assistance. I said this at the beginning as a result of the experiences that we have had during the past 2 days. I want to say it again and I want to underline it.

At the same time I know that I express the views of my colleagues on the Commission when I express our appreciation to our General Counsel, Eileen Stein, and all who have been associated with her, for the work that they have done in preparing for this hearing and the way in which the hearing was planned and conducted.

We have received valuable testimony and, as I have indicated at least once during the hearing, we will take this testimony, plus the testimony that we received at the national consultation, plus the testimony that we will receive at a hearing in another city in this country which has not yet been selected. We will then evaluate it and on the basis of that evaluation will make findings and recommendations to the President and to the Congress.

We are convinced that this is a major issue confronting this country at the present time and one which needs to be addressed with a sense of urgency.

Again, we thank all who have made it possible for us to have had a very helpful experience.

The hearing is adjourned.

[Whereupon, the hearing adjourned at 3:51 p.m.]

*Exhibit No. 1*

## HISTORY OF RAINBOW RETREAT, INC.

Rainbow Retreat opened its doors in 1973 as an emergency "crash-pad" shelter for wives and children in alcohol-related abusive situations. The facility was started by Joanne Rhoads with a handful of volunteers, \$50.00 and a "God Bag." Through Ms. Rhoads efforts, members of the community were made aware of the need and became interested in the cause. They incorporated in June of 1973 as a private, non-profit Membership Corporation, with a 21 member Board of Directors as the governing and policy-making body.

When Rainbow opened, November 1, 1973, it was the first such facility in the State of Arizona, and it is believed to be the first in the nation. Initially, Rainbow's capacity was 13 women and children. It started with an open published address -- the philosophy being that no matter who in a family needed help, they could contact Rainbow Retreat.

Realizing very soon that simple shelter without structured education and therapy was meeting only part of the need, a program was developed. Included were informational lectures, group sessions and Al-Anon. This was to include out patient counseling to the alcoholic.

Having become a corporation, Rainbow was able to submit proposals to solicit City, State and Federal funds, with which to expand staff and program. A fair number of these proposals have been granted, and Rainbow has grown.

The philosophy has been expanded to accept any abusive circumstances, rather than limiting Rainbow's services to the alcohol-related cases.

From Rainbow's humble beginnings in 1973, it has grown and bloomed. In the beginning there were a handful of dedicated volunteers. Today there is a paid staff of well-trained, well-educated and equally dedicated employees. From a minimal program of education and group caring, treatment has expanded to 23 beds, and includes such methods as Art and Music Therapy, Job Development, Relaxation and Exercise Therapy, Good Grooming, Legal Implications, Assertiveness Training, Human Sexuality and Out Patient Groups for all abusers.

To meet the needs of persons not in immediate crisis situations, an Out Patient and a Day-Care Program were added. Needs in the areas of parenting and childrens treatment were met by an inovative Prevention Program.

Today Rainbow is providing services that are equal to about a half a million dollars -- of which half is reimbursed by grant funds, leaving much of the cost to be met by other sources such as donations, gifts, etc.

Only the "God Bag" remains the same as in 1973. However, faith in it, and in our Creator, have grown and spread far and wide, touching, healing and rebuilding many, many lives in a few short years.

RAINBOW  
RETREAT  
INC.

WHAT IT'S  
ALL ABOUT!

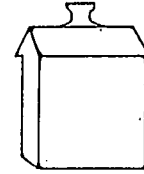
bow Retreat, Inc. is accredited by the Joint Commission on reditation of Hospitals.

## Who?

bow Retreat, Inc. is a shelter, care and treatment center for families risis situations. It offers intensive emergency, residential and re- litative services to families caught in a cycle of problem drinking, s interactions and/or domestic violence.

bow Retreat was the first of its kind in the nation when it opened dors in 1973.

## WHAT?



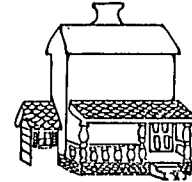
### Crisis Shelter Service provides:

1. 24-hour telephone and shelter service
2. Counseling for individuals or families involved in stressful situations
3. Referrals to appropriate agencies when necessary

### Residential Treatment program provides:

#### Women

1. Shelter in a home environment
2. Nutritionally planned meals
3. Treatment plans to meet individual needs
4. Lectures concerned with information and education on living problems and addictive behaviors.
5. A variety of therapy modalities designed to meet individual needs.



#### Children

1. Same as above excluding lectures
2. Structured play
3. Psychological evaluation

### Day Care Service provides:

1. Same services as above excluding residency to both women and children.



### Outpatient Service provides:

1. Individual and/or family counseling
2. Group therapy, including a men's group
3. Child management classes

### Crisis Intervention provides:

1. Individual and/or family counseling

# WHY?

Rainbow began as an agency providing services to families of alcoholics. The growing awareness of stressful problems in our society today disclosed a need to expand into all areas of human behavior problems such as:

1. Divorce
2. Physical and/or emotional abuse among adults and children
3. Delinquency
4. Addictions
5. Alcoholism



80% of domestic violence cases reported to police involve alcohol.

In the cases treated at Rainbow, since its opening, over 64% of the alcoholic spouses eventually sought alcoholic rehabilitative treatment for themselves.



3.



In 40% of the family cases, the reacting family members were reunited with the problem drinker, with the functioning of the family showing a marked improvement.



4.



The staff of Rainbow Retreat wishes to extend our help and services to our community. As stated on the preceding pages, we are attempting to deal with the devastating and destructive disease of Alcoholism and the problems of domestic violence, and attempting to aid the alcoholic and/or abusing spouse through the most influential factor in his life — family.

Please help us to help you — contact us for more information and answers to your questions.

OUR RESIDENCE  
4332 N. 12th St.  
263-1113

*I've walked the path of ne'r again  
Once more to feel we just might win.  
Lost interest in counting drinks,  
Just don't give a damn what he thinks.  
Will he come home or not tonight.  
Stand at the window and watch car lights,  
Fear he'll die and never be there  
Wish he were dead, I just don't care  
Only to wake up gratefully  
          hatefully find him sleeping  
The woman in me softly weeping  
          for fear he might waken and  
angry curses bring back the shaken  
          fragmentation of this life.  
Wander thru the house and view  
          half dressed babes in beds unmade.  
Voices from the night before  
"Mama, I'm hungry -"  
"Shut that door!"  
Turned off gas, cut off phone  
My God, this is me - - and I'm all alone.*

© 1978

PAT COBOS SLOAN

This need not be, support

**RAINBOW  
RETREAT**

*Exhibit No. 2*FACT SHEETBackground:

Sojourner Center has provided food, shelter and counseling to over 1700 women and children since initiating operations in May of 1978. Sixty percent of these clients claim family violence as their presenting problem and 20% claim chronic mental illness. Over 85% of all clients presenting chronic social or behavioral dysfunction claim a history of abuse.

Philosophy:

Sojourner Center is dedicated to the belief that chronic social and behavioral dysfunction, repeated crisis situations, and child abuse or neglect are less likely to occur when a woman feels competent to adequately support herself and her small children within a familiar environment. This feeling of competence can best be achieved by working with the total person within the family and community context in which she will be living -- emphasizing self-esteem, parenting skills, financial independence, adjustment to changing male and female roles and positive family and community interactions.

Goals:

1. To provide second stage housing and family strengthening counseling and services to an average of 20 clients per day.
2. To increase independent living skills of 80% of the clients completing the program.

Methods:

Sojourner Center believes that successful independent living is most likely to occur if behavior which led to past negative consequences (e.g. spousal abuse, child neglect, prison, drug abuse), is identified and short and long range plans are developed for changing these behaviors.

When a woman with children is in the program, her children participate in the planning.

Children are encouraged to work through their crisis and long range problems through structured play and individual and family counseling.

An individualized treatment plan and contract is developed with each family. The contract is evaluated and updated at least once during every two week period.

Client Ethnic Distribution

Anglo	62.7%
Black	10.0%
Chicana	15.0%
Native American	10.0%
Other	.8%

For further information contact:

Ellen Lyon, Executive Director  
 P. O. Box 2649  
 Phoenix, Arizona 85002  
 (605) 258-5344



ABSTRACTA. Problem:

Sojourner Center is presently the only residential, non-profit, non-sectarian community based program in the State serving:

- 1) Any woman and her children in a crisis situation without limitations on eligibility or admittance criteria. Examples of precipitating crises may include spousal abuse, incest, abuse or neglect of children, substance abuse, rape or mental breakdown.
- 2) The adult female ex-offender and her children in need of a community-based alternative to incarceration in order to achieve the heightened self-esteem, living skills, financial independence, parenting skills and the strengthening of her family unit needed for positive re-integration into the community.

Referrals continue to increase as the community increasingly becomes aware of Sojourner Center's capability to fill what has been a glaring gap in services to women and their children.

The Crisis component of the Sojourner Center program became operational in October of 1978 and since that time, 300 different women and 300 different children have been provided short-term shelter, crisis intervention counseling and appropriate resource development and referrals. The total population served in the ex-offender component of the Sojourner Center program which opened in May of 1978, numbers 400 women and 200 children on a long-term basis. These figures are indicative of the need for the services that Sojourner Center provides. This lack of services will continue to exist unless funds are made available.

B. Goals

## Residential Short-Term Goals:

1. To provide food, shelter and crisis intervention counseling to an average of 10 clients and their children per day.
2. To improve the immediate life situations for 85% of the clients and their children who accept services.

## Residential Long-Term Goals:

1. To provide a non-institutional, long-term (3-18 months) program of care to an average of 8 women and their children per day which provides a 24-hour therapeutic regimen for treatment of mental or social dysfunction or the effects of drug or alcohol dependency and /or the effects of spousal abuse, incest of other acts of violence.
2. To have 80% of the clients completing the program in full-time vocational placements. (Sub-Categories: employment, school, vocational training).
3. To have 90% of the women with children in family strengthening activities and/or counseling.

C. Method

A structured, individualized, problem-oriented contractual model of treatment which emphasizes family strengthening, self-esteem, parenting skills and financial stability.

D. Evaluation

The program product evaluation is based on the number of client objectives and program objectives achieved. Corrective action will be determined and implemented when discrepancies are beyond the 10% range.

E. Anticipated Results

Objectives over a one year period will be achieved with an average not below 10% of the stated goal.

F. Funding Sources

City of Phoenix (CETA); Maricopa County (META); Maricopa County Probation Department; State of Arizona Department of Corrections; Dayton-Hudson Foundation; Title XX; Arizona Association of University Women; Valley National Bank; Phoenix Friends Meeting; other individual and corporate benefactors.

PROGRAM DESCRIPTIONA. Philosophy

Sojourner Center is dedicated to the belief that sustained criminal behavior, repeated crisis situations, and child abuse or neglect are less likely to occur when a woman feels competent to adequately support herself and her small children within a familiar environment. This feeling of competence can best be achieved by working with the total person within the family and community context in which she will be living--emphasizing self-esteem, parenting skills, financial independence, adjustment to changing male and female roles and positive family and community interactions.

B. Objectives

## I. Residential Short-Term Objectives:

1. To accept 95% of the clients referred.
2. To provide food, shelter and crisis counseling to an average of 2 clients per day.
3. To develop appropriate resources (e.g. housing, employment, specialized counseling) for 90% of the clients who accept services.
4. To provide successful immediate intervention with 85% of the clients whose family relationships could result in physical or mental abuse or neglect of the children.
5. To develop appropriate resources for 85% of the children with specialized problems (e.g. learning disabilities, developmentally disabled, health problems).
6. To provide appropriate referrals to 70% of the clients suffering from the effects of drug or alcohol abuse who are in need of long-term treatment.
7. To provide successful immediate intervention to 90% of the clients who are referred as potential suicides.

8. To improve the immediate life situations for 85% of the clients who accept services (e.g. housing, food, employment, licensed day care).
9. To review and update the resource file monthly.
10. To maintain updated data on clients served (e.g. referral source, presenting problem, termination summary, personal data).

II, Residential Long-Term Objectives:

1. To accept 80% of the clients screened.
2. To provide a non-institutionalized, long-term program of care to an average of 8 clients and their children per day which provides a 24-hour therapeutic regimen for treatment of mental or social dysfunction, the effects of drug or alcohol dependency, and/or the effects of spousal abuse, incest or other acts of violence.
3. To have a treatment plan and contract with clearly defined objectives by the tenth (10th) day of residency for 90% of the clients.
4. To review and renegotiate when appropriate, treatment plans and contracts with each client every 2 weeks.
5. To have 80% of the clients completing the program in full-time vocational placements. (Sub-Categories: employment; school; vocational training).
6. To have 25% of the clients participating in the program involved in activity to upgrade vocational skills.
7. To have 90% of the clients participating in the program involved in improving social skills as specified objectively in individual contracts.
8. To have 90% of the pregnant clients and/or clients with children participating in the program involved in activity to upgrade parenting skills.
9. To have 90% of the clients participating in the program involved in Money Management (Sub-Categories: Weekly Financial Budgeting; Average Savings; Balanced Checking Account; Re-Establish Credit).
10. To have 50% of the clients participating in the program involved in Volunteer Community Services.
11. To have 60% of the clients participating in outside self-improvement activities other than vocational (e.g. therapy, parenting skills classes, communication skills groups).
12. To provide aftercare services to 50% of the clients completing the program for a period not to exceed 6 months.

### C. Methods

Sojourner Center believes that successful reintegration for both short term and long term clients is most likely to occur if behavior which led to past negative consequences (e.g. spousal abuse, child neglect, prison, drug abuse), is identified and short and long range plans are developed for changing these behaviors.

When a woman with children is in the program, her children participate in the planning.

Children are encouraged to work through their crisis and long range problems through structured play and individual and family counseling.

#### I. Short-Term Methodology:

Immediate intake is done upon entering the program for each client.

##### A. Intake Establishes:

1. Background information.
2. Presenting problem.
3. Needs assessment.
4. Explanation of Program.
5. Decision to accept services.

##### B. The initial counseling contact includes:

1. Determination of situational supports and known resources.
2. Determination of adequacy of coping skills.
3. Discussion of other potential resources.
4. Agreed upon action plan.

##### D. Successive counseling contacts include:

1. Evaluation of action plan.
2. Discussion of obstacles.
3. Renegotiation of plan when appropriate.

Throughout this process action plan, resources, referral outcomes, changes in plan and other relevant transactions are recorded.

#### II. Long-Term Methodology:

During the first ten days (orientation) of residency, behaviors are identified, a needs assessment is completed and resources are identified and an initial action contract which is agreed upon by the client and the counselor is written. This is submitted to the supervisor for approval.

When a contract is approved, the client moves into Level I. This contract contains individual goals, time frames and the responsibilities of the client and the counselor for achieving these goals. Included in the initial contract for Level I is what is necessary to move into Level II.

During Level II, the client moves toward increased self-responsibility. When a client is demonstrating responsible behavior in the Center and the community, she presents a plan to her counselor which upon approval is presented to the supervisor for final approval.

During the Level III, the client is responsible for her own time, money and mobility subject only to discussing her plans with her counselor. Included in the initial Level III contract is a determination for graduation of the client.

Upon graduation, a client may be asked to report back to her counselor for Aftercare and Follow-Up.

The program product evaluation is based on the number of client objectives and program objectives achieved.

The management system is based on a feedback system predicated on a management by objectives format and frequent staff and client narrative input.

#### D. Evaluation Reporting

Monthly, quarterly and annual report forms which are identical will be utilized. These forms include management and/or service category, goals indicated by percentage and actual performance, discrepancy between goals and performance and prior month or quarter's performance. A space for comments is included.

#### EXAMPLE:

<u>Service Category</u>	<u>Goal</u>	<u>Performance</u>	<u>Discrepancy</u>	<u>Prior Quarter</u>
# Referred/ % accepted	80%			
Vocational Placement	80%			

Counselors are directly responsible for their clients. The supervisor is directly responsible for validating the accuracy and completeness of the report.

The Assistant Director is responsible for analyzing the information and reporting to the Director when performance falls 10% below the goal. Corrective action will be determined and implemented by appropriate staff when discrepancies are beyond the 10% range.

For further information, contact Ellen Lyon, Executive Director, Sojourner Center at 258-5344.

*Exhibit No. 3*CITY OF PHOENIX, ARIZONA  
POLICE DEPARTMENT  
TRAINING BUREAU

## LESSON PLAN AND OUTLINE

(DATE PREPARED) 12/17/79	LESSON TITLE: SENSITIVITY TRAINING FOR POLICE INTERVENTION IN DOMESTIC VIOLENCE	PAGE
PREPARED BY: Priscilla Saulsgiver	DATE REVISED:	REVISED BY:
OBJECTIVES:		HOURS CASES
<p>GOAL:</p> <ol style="list-style-type: none"> <li>1. To sensitize police recruits in training to the issue of Domestic Violence.</li> <li>2. To explore alternatives for the prevention or remediation of the problem of Domestic Violence by the Criminal Justice System.</li> </ol>		
INSTRUCTOR REFERENCES:	TRAINING AIDS, EQUIPMENT, AND MATERIALS	
	<p>Reading List 2 Chairs 1 Table Easel</p>	
METHOD OF PRESENTATION: Lecture and Discussion	CLASS LEVEL:	
PLAN FOR UNIT OF INSTRUCTION:		

CITY OF PHOENIX, ARIZONA  
POLICE DEPARTMENT  
TRAINING BUREAU  
LESSON OUTLINE

LESSON TITLE: SENSITIVITY TRAINING FOR POLICE INTERVENTION IN DOMESTIC VIOLENCE CASES	PAGE
<p data-bbox="76 235 196 256">LESSON PROCEDURES:</p> <p data-bbox="382 256 458 281" style="text-align: center;"><b>HISTORY</b></p> <p data-bbox="109 298 316 315"><u>Profile of the Abuser</u></p> <ol data-bbox="131 315 731 495" style="list-style-type: none"> <li>1. Victims of abuse as children or witnessed abuse of mother by father</li> <li>2. Excessive dependency on relationship</li> <li>3. Inability to emote and cope with stress - One (1) response (anger) for a variety of emotions such as anxiety, irritation, disappointment, etc.</li> <li>4. Need assertiveness training in expressing what they feel and think</li> <li>5. Minimizing and denial of violent behavior</li> </ol> <p data-bbox="109 512 283 529"><u>Profile of Victim</u></p> <p data-bbox="109 546 327 563">Why she doesn't leave?</p> <ol data-bbox="131 563 382 623" style="list-style-type: none"> <li>1. System impingements</li> <li>2. Sex role conditioning</li> <li>3. Economic</li> </ol> <p data-bbox="109 640 327 657"><u>The Role of the Police</u></p> <p data-bbox="109 683 327 700">What the Police can do</p> <p data-bbox="131 700 764 725">under ARS Sections 13-3883, 13-3884, 13-3889, 13-3900 and 13-3903</p> <ol data-bbox="131 725 709 819" style="list-style-type: none"> <li>1. Probable cause - arrest without warrant, traffic ticket</li> <li>2. Inform victim of right to Citizens' Arrest</li> <li>3. Remove assailant to police station before releasing</li> <li>4. Inform victim of crisis shelters</li> <li>5. Wife beating is a form of assault</li> </ol>	<p data-bbox="773 235 819 256">NOTES:</p>

## CRIME PROBLEM

# Wife Abuse and the Police Response

By  
ROGER LANGLEY  
AND  
RICHARD C. LEVY\*



**T**wenty-eight million Americans are victims of a selected form of violent crime, yet most police officers, judges, politicians, and social agencies seem indifferent to their plight.

Perhaps even more startling is the lack of interest in even collecting accurate data concerning this crime and its victims, though the machinery is in place to do a comprehensive job on a national basis.

These ignored victims of our society are battered women.

At a recent meeting of the American Association for the Advancement

of Science, startling papers on family violence, based on a scientifically selected random sample of 1,200 persons, were presented. This is the first study of its kind and was conducted for the National Institute of Mental Health by the three leading experts in the field, sociologists Richard Gelles, Murray Straus, and Suzanne Steinmetz.

\*Physical violence occurs between family members more often than it

\*Authors of *Wife Beatings: The Silent Crisis*, E. P. Dutton, New York, 1977.

(Published by the Federal Bureau of Investigation, U. S. Department of Justice)  
(Reprinted from the FBI Law Enforcement Bulletin, May, 1978)



**“[W]ifebeating exists at every level of our society and . . . is the most underreported crime in America.”**

occurs between any other individuals or in any other setting except for wars and riots,” concluded these researchers.

The study shows that more than one-sixth of all American couples each year experience “a violent episode” ranging from an occasional slap to a severe beating. Over a lifetime of the marriage, one-fourth of the couples experience a violent episode.

Dr. Gelles of the University of Rhode Island notes that even though the families who participated in the survey were selected to represent as closely as possible the total U.S. population, the shocking statistics underestimate the problem. He commented, “The major bias is likely to be underreporting. Thus our statistics are probably underestimating the true level of family violence in the U.S.”

There are several reasons why Drs. Steinmetz, Gelles, and Straus doubt their own findings. One is the reluctance of both victims and assaulters to admit they engage in violent acts with their spouses; people are ashamed.

Another factor in underreporting is that researchers suspect that if there are rare couples who engage in only one violent act over the course of a marriage, this couple, when surveyed, would be likely to say they had never engaged in violent activities. All the available research data indicates that wifebeaters start early and engage in the practice often. Battered women often endure years of incredible torture and abuse before they tell anyone, and when such a woman overcomes her guilt and reluctance, her one reported case often represents hundreds of actual beatings.

After several years of doing research for our book, *Wife Beating: The Silent Crisis*, the first comprehensive book on this subject, we became convinced that wifebeating exists at every level of our society and it is the most underreported crime in America.

Over and over the analogy of the tip of the iceberg is repeated by all of the experts in the field. The most common estimate is that 50 percent of all American couples engage in some form of physical abuse.

Battered women are the missing persons of official statistics. Wifebeating is so ingrained in our society that it is often invisible. It is so pervasive that it literally does not occur to people to report it to law enforcement agencies or collect statistics on it.

A recent university study staged mock violent fights between men and women in public places. People were willing to become involved when two men or two women fought, but were noticeably reluctant when the fight involved a man and a woman. When the combatants established that they were man and wife, no one was willing to interfere, no matter how violent the action appeared to become.

The classic case of public indifference is the murder of Kitty Genovese on a public street in New York City while 34 witnesses stood by and did nothing. Followup interviews revealed that many of the people did not call police because they thought the victim and the assaulter were married.

There is an understood acceptance of wifebeating in this country that is so ingrained that it need not be articulated. In our research, when we confronted people with the above ex-

amples of the public's reluctance to become involved in wifebeating cases, the response was most often “of course” rather than surprise or shock.

Drs. Steinmetz and Gelles both estimated that up to 60 percent of the American married couples engage in spouse abuse. Both have done studies with small samples which have indicated these high figures. Dr. Steinmetz, using both interviews and questionnaires and checking the results against each other, probed the violent behavior of 57 families living in New Castle, Del. Her study showed 60 percent of the families reported that the husband and wife engaged in some form of violent physical behavior and that 10 percent admitted they regularly engaged in extreme physical abuse of their spouses.

Dr. Gelles studied 80 families, and the results of his study showed that 55 percent engaged in one or more violent acts of spouse abuse. Twenty-one percent beat their spouses regularly, with the frequency ranging from daily to six times per year.

Stewart Oneglia, a judge in Prince George's County, Md., and an attorney who specializes in domestic relations, estimates, “Fifty percent of all marriages involve some form of physical abuse of women. I don't classify a scuffling match, where a man holds a woman's arms or pushes her away as physical abuse.”

Another expert, Gladys Kessler, an attorney for the Women's Legal Defense Fund in Washington, D.C., said, “Fifty percent of all husbands beat their wives.”

A report prepared by the National League of Cities and the U.S. Conference of Mayors, noted, “The inci-

dence of wife assault is so pervasive in this society that half of all wives will experience some form of spouse inflicted violence during their marriage, regardless of race or socio-economic status."

Seven studies using small samples indicate that between 55 and 65 percent of the married population engages in spouse abuse. If one accepts these findings as representative, then there are between 26 and 30 million abused women in the United States today. Obviously, severity and frequency are important factors, but nevertheless, any activity occupying up to 30 million Americans is worthy of serious study.

Furthermore, assault is a crime in every State of the Union, but wife-beating assaults almost never go to court. In fact, even when the crime has been admitted to under oath by the assailant, it is rare that he is prosecuted. Thousands of divorces are granted every year on the grounds that the husband physically assaulted the wife. Yet our research failed to discover a single case where criminal action was subsequently taken, even though the evidence of the crime existed in court records.

The job that needs to be done is to collect adequate statistics on the problem. This will require action by the International Association of Chiefs of Police (IACP), local police agencies, and the Federal Bureau of Investigation. The IACP can create a new category—Spouse Abuse: Female/Spouse Abuse: Male—to be collected with other Uniform Crime Reporting statistics. If local agencies cooperate by recording the data, the FBI can be given the funds to compile the information; we would then have some national statistics on this crime. Of course, this would only give that part of the picture represented by reported cases.

Wife-beating can be a civil matter, a criminal matter, or both. It's been

a tradition in this country to regard it almost exclusively as a civil matter and to avoid arrests.

In New York, there was a law on the books until the 1977 session of the legislature which required wifebeating cases to be channeled out of the criminal system and into the civil process.

The Detroit Police Department's General Orders state, "Family trouble is basically a civil matter . . ."

The outline used by instructors at the Wayne County Sheriff's Academy, Wayne County, Mich., explains a typical arrest-avoidance policy:

Avoid arrest if possible.

- a. Appeal to their vanity.
- b. Explain the procedure of obtaining a warrant.
  1. Complainant must sign complaint.
  2. Must appear in court.
  3. Consider the loss of time.
  4. Cost of court.
- c. State that your only interest is to prevent a breach of the peace.
- d. Explain that attitudes usually change by court time.
- e. Recommend a postponement.
  1. Court not in session.
  2. No judge available.
- f. Don't be too harsh or critical.

The procedures used in Michigan are representative of the official police tactics used in all States. The recommended procedure is to make an arrest only as a last resort. Policemen are often officially advised, "Never create a police problem where only a family problem exists."

Typically, the battered wife is put on the defensive when she seeks help from the police, who are predominantly male. Instead of assistance, she is confronted with questions such as:

"Who will support you if he's locked up?"

"Do you realize he could lose his job?"

"Do you want to spend days in court?"

"Why don't you kiss and make up?"

"Why did you make him slug you?"

"Why do you want to make trouble? Think of what he'll do to you next time."

For years, Hartford, Conn., has instructed its police officers accordingly:

"Arrest is usually the least desirable of all available alternatives. As a consequence of arrest the police and the courts have more work to do, the offender may lose income or even his job, the offender may be angered or become even more upset and cause injury to innocent third parties such as children . . . . On balance it is probably a waste of time and effort to arrest in most domestic cases."

If police are trained not to make arrests in wifebeating cases, then it's not surprising that they do as they were trained. Most police do not consider handling such cases a part of their work. "Police have long looked on the problem as an unwanted part of their job," says Dr. Morton Bard. "If police work is crook-catching, this certainly isn't it."

Perhaps this is a fundamental error in the way we are trying to deal with this problem. Perhaps it would make more sense if the police officers concentrated on the criminal aspects of wifebeating and left the sociology and psychology to other agencies.

Currently, American society is saying to its law enforcement officers, "Go in there and shoot it out or administer therapy, whichever is required." Is this a reasonable order?

Many law enforcement experts frankly admit that the police don't know what they're doing when it comes to investigating wife-abuse cases.

Tim Crowe, a senior consultant at Westinghouse Justice Institute who conducts crisis seminars for law enforcement officers, says, "Policemen answer these calls, but they don't know quite what to do. So they de-emphasize them. Yet it is one of the most important things they do."

James Bannon, a Detroit police commander, also feels police are not qualified to do the job. "Traditionally, trained policemen are the worst possible choice to attempt to intervene in domestic violence. The real reason that police avoid domestic-violence situations to the greatest possible extent is because we do not know how to cope with them."

Dr. Morton Bard, a professor at New York University and a former police officer, adds:

"A family crisis which has deteriorated to the point of threatening violence is in critically delicate balance and requires a high level of skill on the part of the intervening authority who is expected to mollify the situation. Regrettably, the police officer, if he is unprepared for this function and left to draw upon his own often biased notions of family dynamics and upon his skill as a law enforcer, may actually behave in ways to induce tragic outcome. . . .

"There is evidence then that

police officers in today's society are realistically involved in many interpersonal service functions for which traditional police training leaves them unprepared. It is further suggested that intervention in family disturbances is one such function in which unskilled police performance may in fact endanger the policeman and may fail to prevent eventual commission of capital crimes or assault."

Perhaps the time has come to re-think and reorganize training methods dealing with spouse-abuse cases.

"The concept that the police should avoid making the arrest or actively try and discourage the victim from filing a complaint must be negated."

It would be wise to make sure that police procedures include some knowledge of the law so that police officers do not mislead victims or attackers.

It would be most helpful, for example, if the police officers would carry printed cards which listed key telephone numbers and addresses, such as battered wife shelters, crisis hot lines, social agencies, magistrates, emergency medical services, and the like, as well as where and when to go and file a formal complaint. Such are useful to give the victim her options.

The concept that the police should avoid making the arrest or actively try and discourage the victim from filing a complaint must be negated. Recently, the IACP even changed its

posture on arrest avoidance. In its Training Key No. 245 ("Wife Beatings") it recommends:

"To minimize pressure on the prosecutor, courts, and social service agencies will only delay the time when adequate remedies and programs are provided. Ignoring the problem is an improper action of the police. Even if each family processed through the legal and social service systems receives no help from them, initiating the process remains the proper action for the police until a better system exists."

If a great deal of paperwork is required to file an assault complaint, it might be productive for police agencies to examine critically their forms and existing procedures with an eye towards simplification. Is it possible to design a form that could utilize more boxes to check and diagrams to mark with less detailed passages? Could the statements be tape recorded and not transcribed unless there is a followthrough on the charge? There can be many creative solutions to the "paper problem" which police professionals could conceive and implement if enough attention is given to the problem.

Special channels can be created to deal with battered wife cases speedily if the police, district attorneys, and judges cooperate. If the spate of complaints—which many people predict—develops, then courts and the municipal jurisdictions will have to come up with the answers to handle them.

"[T]he patrolman's chief concern should not be over the amount of paperwork his actions will create nor should it be that an arrest will add to the already overcrowded court situation. His or her first duty is to protect the citizens and enforce the laws. . . ."

Most importantly, the patrolman's chief concern should not be over the amount of paperwork his actions will create nor should it be that an arrest will add to the already overcrowded court situation. His or her first duty is to protect the citizens and enforce the laws; the administrative problems belong to his superiors. It's not unheard of that a supervisor might pass down the word that he doesn't want to see so many arrests and when this happens he usually gets his wish. It's hardly fair to point the finger at the street officer if there has been an actual or implied order to "cool it." Obviously the police at every level have to work together on the problem.

When the police take it upon themselves to decide "it's a waste of time" to process an assault case "because 90 percent of them drop the charges," they leave themselves open to charges

of selective enforcement. In the eyes of the law, each victim of any crime is entitled to his full rights and protection. No one would dream of refusing to process an armed robbery complaint on the grounds that someone else who had filed the complaint earlier had dropped the charge. No case has a brother, and the citizen has the right to expect that his case will be treated on its own merits and not on a precedent set by other cases. If it results in a flood of paperwork and the tying up of immense amounts of police time, then so be it. Society will have to decide if it wants to change the laws, hire more law enforcement officers, redistribute the way police officers are utilized, surrender some of the protection it now provides, or examine other methods to balance police resources, time, and money.

Police officers who continue to refuse to file complaints for an increasingly militant public could well find themselves in court.

Many feminists argue that the reason women drop wifebeating charges is because of the redtape and indifference they encounter when trying to do so. In other words, it may be hard or time-consuming to seek justice.

The failure to prosecute may be more of an indictment of the system than the woman. Ms. Susan Jackson, a San Francisco attorney argues:

"It is simply unfair, in light of the systematic discouragement that victims receive from the police and the time-consuming and almost insuperable hurdles to prosecution erected by the district attorney's office, to blame the women for failure to follow through against their attackers and to use this failure as a primary excuse for nonenforcement of the law. . . .

"In many cases the reason a victimized woman drops charges or refuses to testify is not that she needs to be violently abused but the opposite need, to avoid a violent retaliation.

"Recently, in San Francisco, a twenty-two-year-old woman whose husband had been arrested the previous week for a vicious attack in which he had knocked out several of her front teeth and cracked her skull with the butt of a gun, called the Women's Litigation Unit to complain that her husband, out on bail, was threatening to kill her unless she refused to drop the charges against him. When she appealed to the district attorney's office to arrest her husband, she was told that nothing could be done. She was forced to go

Authors Richard Levy (seated) and Roger Langley.





into hiding until the trial. A threat, when coupled with a just reason to believe the one who threatens will follow through, is a crime . . . .

"It should be assumed that a woman whose husband is beating her wants, first of all, an imme-

"Officials should not assume that the woman is not serious, that she will later change her mind. This is a flagrant denial of her rights."

mediate end to the beatings; she wants some assurance that the beatings will not recur, and if they do, she wants an effective remedy.

"Officials should not assume that the woman is not serious,

that she will later change her mind. This is a flagrant denial of her rights."

On the other hand, police should realize that there are many complex reasons women may not wish to press charges, reasons which she is not helped to overcome by the frustration in the system. Researcher Elizabeth Truninger lists seven reasons why some women stay with battering mates: (1) Poor self-image; (2) belief their husbands will reform; (3) economic hardships; (4) the need of their children for the father's economic support; (5) doubt they can get along; (6) belief that divorces stigmatize; and (7) the fact that it is difficult for women with children to find work. The fewer resources a battered wife has—education, job skills, access to money, a car, friends—the

fewer alternatives she has to staying with the man. Or put it this way, the more entrapped she is by marriage, the more reluctant she is to end it.

"[W]ifebeating is a paramount police problem which could involve as many as 28 million victims."

In summary, wifebeating is a paramount police problem which could involve as many as 28 million victims. One of the first things that needs to be done is to begin a cooperative effort to add spouse abuse to the Uniform Crime Reporting system. Although wifebeating can be a criminal matter, a civil matter, or both, traditionally it is handled as a civil one. Most police officers are trained to avoid making arrests in such cases. The emphasis has been on "cooling down" the situation and talking the woman out of pressing charges, often with erroneous or inaccurate information. Since police work is essentially designed to deal with crime, it might make more sense for law enforcement to concentrate on the criminal aspects and leave the psychology and sociology to other agencies. The principal objection that "most women drop the charges later" and "it causes a lot of paperwork" should not be serious considerations when determining the rights of a citizen to equal protection under the law. If enforcement leads to a paper chase and clogged court dockets, these problems will have to be faced and solved. They should not be the concern of the street officer, but rather of his superiors and other government agencies.

Changing deeply held attitudes and tenets—on both sides—will not be easy, nor will it happen quickly. But because the job is difficult and long, it does not mean that it should not be done. Helping make the world a less violent place is worthy of our best efforts.

## Exhibit No. 4

CITY OF PHOENIX, ARIZONA  
POLICE DEPARTMENT  
TRAINING BUREAU

## LESSON PLAN AND OUTLINE

(DATE PREPARED) 12-12-79	LESSON TITLE: Family Fights		PAGE _____
PREPARED BY: Rhoads/Kear	DATE REVISED:	REVISED BY:	HOURS _____
OBJECTIVES:			
<ol style="list-style-type: none"> <li>1. To promote an understanding of who "violent" families are.</li> <li>2. To increase knowledge of why the woman does not take action to alleviate the violence.</li> <li>3. To increase sensitivity to common complaints battered women give about police officers.</li> <li>4. To increase knowledge of appropriate referrals for violent families.</li> </ol>			
INSTRUCTOR REFERENCES:		TRAINING AIDS, EQUIPMENT, AND MATERIALS	
<p>Joanne Rhoads: Founder and Executive Director of Rainbow Retreat, the 1st residential treatment center in the nation dealing with families caught in a cycle of substance abuse and/or domestic violence. Extensive training and experience in field. National trainer and consultant in alcoholism/violence.</p> <p>Judy Kear: Treatment Administrator of Rainbow Retreat. B.A. Sociology/Psychology. Certified secondary teacher. M.S. Counseling. Training and counseling experience in the problem areas relating to domestic violence.</p>		<p>hand-outs</p> <ol style="list-style-type: none"> <li>1. referral list</li> <li>2. literature on Rainbow Retreat</li> </ol> <p>podium</p> <p>chalkboard/chalk</p>	
METHOD OF PRESENTATION: Lecture/Discussion		CLASS LEVEL: Police Recruits	
PLAN FOR UNIT OF INSTRUCTION:			
<ol style="list-style-type: none"> <li>1. Introduction</li> <li>2. Presentation of: <ol style="list-style-type: none"> <li>a. who is the abuser?</li> <li>b. who is battered?</li> </ol> </li> <li>3. Discussion on: <ol style="list-style-type: none"> <li>a. why the woman doesn't leave?</li> <li>b. why the woman doesn't press charges and/or follow through?</li> </ol> </li> <li>4. Discussion regarding common complaints battered woman make about police response to the violence they experience.</li> <li>5. Entertain questions.</li> <li>6. Handouts.</li> </ol>			
APPROVED BY:		80-2240 REV 8-70	

CITY OF PHOENIX, ARIZONA  
POLICE DEPARTMENT  
TRAINING BUREAU  
LESSON OUTLINE

LESSON TITLE: Family Fights	PAGE
<p>LESSON PROCEDURES:</p> <ol style="list-style-type: none"> <li>1. Who is the abuser?           <ol style="list-style-type: none"> <li>a. no such thing as "typical"</li> <li>b. can be anyone               <ol style="list-style-type: none"> <li>1. all ages, socioeconomic groups, professions, races, religions.</li> </ol> </li> <li>c. he often abuses alcohol and/or drugs</li> <li>d. often an abused child</li> <li>e. often had a father who abused his mother</li> <li>f. has a need to control/ to feel powerful</li> <li>g. has trouble communicating his feelings</li> <li>h. "poor impulse control"               <ol style="list-style-type: none"> <li>1. he "reacts" instead of acts</li> </ol> </li> </ol> </li> <li>1a. The abuser has an emotional sickness           <ol style="list-style-type: none"> <li>a. needs help to change</li> </ol> </li> <li>2. Who is battered?           <ol style="list-style-type: none"> <li>a. no such thing as "typical"</li> <li>b. can be anyone               <ol style="list-style-type: none"> <li>1. both sexes, all ages, socioeconomic groups, professional women as well as housewives, all races and religions.</li> <li>2. often an abused child</li> <li>3. often had a father who abused her mother</li> <li>4. dependent</li> <li>5. low self-esteem</li> <li>6. passive or passive/aggressive</li> <li>7. not a victim but a survivor</li> </ol> </li> </ol> </li> <li>2a. The battered person who <u>continues</u> to be battered has an emotional sickness           <ol style="list-style-type: none"> <li>a. needs help to change</li> </ol> </li> <li>3. Violence is a cycle that is passed down from generation to generation           <ol style="list-style-type: none"> <li>a. children learn their behavior from parents</li> <li>b. children learn to be healthy, or they learn to follow unhealthy behavior patterns</li> </ol> </li> <li>4. Why doesn't the woman leave?           <ol style="list-style-type: none"> <li>a. he's not all bad               <ol style="list-style-type: none"> <li>1. there are good times</li> <li>2. the "after-abuse" affection is very good</li> <li>3. she loves him</li> </ol> </li> </ol> </li> </ol>	<p>NOTES:</p>

## FAMILY FIGHTS- WHO CAN HELP?

## Help for her:

Rainbow Retreat 263-1113

1. residential emergency treatment and shelter for women and children
2. day care for women and children
3. outpatient counseling including marriage and family counseling

Friends of the Family 949-8664

1. residential emergency treatment and shelter for women and children

Faith House 939-6798

1. residential emergency shelter for women and children

Salvation Army 254-7136

1. residential emergency shelter for women and children

Crisis Intervention 258-8011

1. will respond to calls from the police to counsel families at the scene. Will only stay while police are there.
2. will refer family to appropriate agencies
3. will transport the woman away from the home to available shelter

Al-Anon 249-1257

1. help for families of alcoholics

## Help for him:

Rainbow Retreat 263-1113

1. outpatient counseling including problems of violence and substance abuse
2. marriage and family counseling

Alcoholics Anonymous 264-1341 249-1257

1. help for drinking and substance abuse problems

L.A.R.C. 254-1200 262-6491

1. detox and referral

Salvation Army

1. residential emergency shelter for men

Crisis Intervention 258-8011

1. (See Help for her...)

Numerous substance abuse counseling agencies and other counseling services to provide help with residential and outpatient treatment. Call Rainbow for information.



CITY OF PHOENIX, ARIZONA  
POLICE DEPARTMENT  
TRAINING BUREAU  
LESSON OUTLINE

LESSON TITLE:	PAGE
Family Fights	
<p>LESSON PROCEDURES:</p> <ol style="list-style-type: none"> <li>4. no protection for her             <ol style="list-style-type: none"> <li>a. restraining orders and peace bonds don't work</li> </ol> </li> <li>d. she believes there's no way out- she's hopelessly trapped</li> </ol> <p>5. Complaints battered women make about police</p> <ol style="list-style-type: none"> <li>a. uninterested</li> <li>b. don't tell her her rights</li> <li>c. unsympathetic</li> <li>d. don't remove the abuser from the home             <ol style="list-style-type: none"> <li>1. when police leave she really gets beat up</li> <li>2. if he is removed he's usually back in a few hours</li> </ol> </li> <li>e. don't understand the problem             <ol style="list-style-type: none"> <li>1. minimize</li> <li>2. "kiss and make up" doesn't work</li> </ol> </li> </ol> <p>SUMMARY:</p> <ul style="list-style-type: none"> <li>* Domestic violence is a serious problem that affects all kinds of families</li> <li>* The violence will physically and/or psychologically effect every family member including the children</li> <li>* The violence cycle is passed from generation to generation</li> <li>* When violence continues every family member will become "sick" and need help to get well</li> <li>* There are many reasons why the woman doesn't leave and/or press charges</li> <li>* Because police officers are the first people on the scene it would be very beneficial if they were sensitive to the nature and ramifications of the problem</li> </ul> <ol style="list-style-type: none"> <li>6. Hand-outs of Rainbow literature and the referral list</li> <li>7. Questions and Answers</li> </ol>	<p>NOTES:</p>

CITY OF PHOENIX, ARIZONA  
POLICE DEPARTMENT  
TRAINING BUREAU  
LESSON OUTLINE

LESSON TITLE: Family Fights	PAGE
<p>LESSON PROCEDURES:</p> <ul style="list-style-type: none"> <li>b. dependent on him           <ul style="list-style-type: none"> <li>1. economically               <ul style="list-style-type: none"> <li>a. often she has no marketable job skills</li> <li>b. has no way to obtain money</li> <li>c. nearly impossible for her to set up housekeeping away from him                   <ul style="list-style-type: none"> <li>1. can't find housing</li> <li>2. welfare takes at least several weeks to process</li> </ul> </li> </ul> </li> <li>2. emotionally               <ul style="list-style-type: none"> <li>a. feels she needs his "love" and support</li> <li>b. feels she can't survive without him</li> </ul> </li> </ul> </li> <li>c. low self-esteem           <ul style="list-style-type: none"> <li>1. she doesn't have the confidence to believe she can break her dependency on him either economically or emotionally</li> </ul> </li> <li>d. fear           <ul style="list-style-type: none"> <li>1. he'll find her and hurt her even worse</li> <li>2. he'll find her and kill her</li> <li>3. he'll find her and take the children away</li> <li>4. he'll find her and hurt the children</li> </ul> </li> <li>e. no support groups           <ul style="list-style-type: none"> <li>1. she's cut herself off</li> <li>2. no one to talk to               <ul style="list-style-type: none"> <li>a. no one wants to admit their husband beats them up- that means <u>she</u> has failed.</li> </ul> </li> </ul> </li> <li>f. pressure from society           <ul style="list-style-type: none"> <li>1. religion says you don't break up the family</li> <li>2. in-laws, brothers &amp; sisters, etc say you don't break up the family</li> <li>3. the children often times don't want to leave "daddy"</li> </ul> </li> </ul> <p>41. Why doesn't she press charges and/or follow through?</p> <ul style="list-style-type: none"> <li>a. all the reasons why she doesn't leave him...plus</li> <li>b. she doesn't know she can- unaware of her rights</li> <li>c. tremendous fear           <ul style="list-style-type: none"> <li>1. he'll be back in a few hours madder than ever</li> <li>2. she'll have to testify and can't face that               <ul style="list-style-type: none"> <li>a. public humiliation</li> <li>b. more fear of reprisals from him and his family/friends</li> </ul> </li> <li>3. that may be the straw that breaks his back and he'll kill her</li> </ul> </li> </ul>	<p>NOTES:</p>

READING LIST

## SUGGESTED

Battered Wives, Del Martin, 1976  
San Francisco, Glide Publications

Report on Domestic Violence in Maricopa County  
The Family Law Committee, Maricopa County Bar Association, 1979

Domestic Violence: Issues in Designing and Implementing Programs for Male Batterers, by Anne L. Ganley, Ph.D. and Lance Harris, Ph.D.,  
American Lake Veterans Hospital, Tacoma, Washington

The Police and Interpersonal Conflict: Third-Party Intervention Approaches  
by Morton Bard and Joseph Zacher, Police Foundation, Washington, D.C.

Domestic Violence and The Police: Studies in Detroit and Kansas City  
Police Foundation, Washington, D.C.

HANDOUTS

ARS - Sections 13-3883  
13-3884  
13-3889  
13-3900  
13-3903

"Wife Abuse and The Police Response" by Roger Langley and Richard  
G. Levy, F.B.I. Law Enforcement Bulletin, May 1978

## Exhibit No. 5

45 C.F.R. § 228.60 (1979)

**Subpart F—Limitations: Individuals Served, Eligibility and Fees****§ 228.60 Persons eligible and access to services.**

(a) *Conditions for FFP.* FFP is available in expenditures for services to individuals provided that:

(1) The service is included in the State's services plan;

(2) The individual who receives the service is a member of one of the categories covered by the State's services plan; and

(3) Such individual was eligible under the provisions of this section and those of § 228.61 at the time of receipt of the service.

(b) *Categories of individuals who may receive services—*

(1) *Income maintenance status.* The following individuals are eligible on the basis of income maintenance status:

(i) Recipients of AFDC; and

(ii) Those persons whose needs were taken into account in determining the needs of AFDC recipients; and

(iii) Recipients of SSI benefits or State supplementary payments.

(2) *Income status.* Individuals other than those described in paragraph (b)(1) of this section, are eligible if the family's monthly gross income is less than 115 percent (or, at State option, a lower percentage) of the median income of a family of four in the State adjusted for size of family, subject to the limitations set forth in § 228.62. Income status individuals include those whose eligibility is determined on a group basis.

(3) *Without regard to income.* Individuals may be provided family planning services under § 228.63, information or referral services under § 228.64, or services to prevent or remedy neglect, abuse, or exploitation of children or adults under § 228.65, without regard to income at State option if the State so provides in its services plan.

(c) *Median income.* (1) On or before December 1 of each year, beginning with calendar year 1975, the Secretary will promulgate the median income for a family of four for each State and for the 50 States and the District of Columbia. This promulgation shall be used for purposes of determining eligibility and establishing fees in the following Federal or State fiscal year.

(d) *Income levels as baselines for fee imposition.*

(1) Except for individuals whose eligibility is determined on a group basis, individuals whose eligibility is based on income status shall be subject to imposition of a fee for service (in accordance with § 228.62) if their fam-

ily's monthly gross income exceeds 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and does not exceed 115 percent of the median income of a family of four in the State, adjusted for family size.

(2) The median incomes (at 80 percent and 115 percent) as calculated in paragraph (d)(1) of this section for a family of four, shall be adjusted for family size according to the following percentages:

(i) One person—52 percent.

(ii) Two person family—68 percent.

(iii) Three person family—84 percent.

(iv) Four person family—100 percent.

(v) Five person family—116 percent.

(vi) Six person family—132 percent.

(vii) For each additional family member above six persons, the State shall add 3 percentage points to the percentage for a family of six.

(3) For discretionary fees applicable to persons who are at or below the lower level median income described in paragraph (d)(1) of this section, or are eligible on the basis of income maintenance status, or who may receive services without regard to income, see § 228.62(b).

(e) *Income levels for services.* So long as the State observes the baselines for income levels for imposition of fees established pursuant to paragraph (d)(1) of this section, it may establish income levels for services:

(1) At any level lower than 115 percent of the median income of the State;

(2) At different levels for different services under the services plan;

(3) At different levels for different categories of individuals;

(4) At different levels in different geographic areas; or

(5) At different levels for different sizes of families within the limits for eligibility and fees set forth in paragraph (d)(2) of this section.

(f) *Opportunity to apply.* The State shall assure that each individual wishing to do so has an opportunity to apply for services without delay. The State shall use the following intake process for individuals seeking service:

**(1) Determination of eligibility.**

(i) When eligibility must be determined on an individual basis, the State shall require a written signed application containing the necessary information.

(A) The application shall be in a form prescribed by the State and the applicant shall certify that the information submitted is correct.

(B) The application may be filed by the applicant himself or by his authorized representative; or where the applicant is incompetent or incapacitated or in an emergency, by someone acting responsibly for him, including agency staff.

(ii) No written application is necessary for services available without regard to income.

(iii) No written application is necessary for individuals whose eligibility is determined on a group basis.

(2) **Request for services.** Except as described in paragraph (f)(2)(iv)(B) of this section, the State shall document each request for service for purposes of FFP as well as for fair hearings and as evidence of the voluntary nature of the request for service. Documentation may be accomplished through submission of a written request by an individual needing service or his representative, or by the recording of information elicited by the agency, except that a request for family planning services (whether or not it is a "universal" service) must be in writing in order to verify that it was requested voluntarily. With respect to the following:

(i) When an individual has had eligibility determined on an individual basis, the written application for eligibility determination may be deemed a request for services (unless the State has a separate process for requesting services), and may serve as initial documentation. Subsequent requests for services from such an eligible individual shall be documented as described in paragraph (f)(2) of this section.

(ii) For protective services, an acceptable alternative to a request for services is a dated agency record that documents the circumstances of actual or potential abuse, neglect, or exploitation of a child or adult.

(iii) For requests for information and referral services, the State shall establish a procedure for documenting the number and nature of the requests.

(iv) When eligibility is determined on a group basis in accordance with § 228.61, requests for services shall be handled in one of two different ways:

(A) If the State has established specific conditions (other than income) or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility, the State shall, in the intake process, elicit information necessary to determine whether an individual meets the specified conditions or has the characteristics for membership in the group (e.g.—if eligibility for homemaker services to teenage parents maintaining their own homes in public housing is determined on a group basis, the intake process shall elicit a statement regarding age, parenthood, address, and maintenance of one's own home).

(B) If the State has concluded solely on the basis of the nature of a service and/or the location where it will be provided (e.g.—recreation services in specified senior centers or day care services for migrant children), that substantially all of the individuals who would apply for the service are members of families with gross monthly incomes of 90 percent or less of the State's median income, adjusted for family size, no information need be elicited at intake or documentation made except as to the numbers served. The presence of the individual at the service site or participation in the service is deemed a request for services.

(g) **Prompt action on eligibility applications and requests for service.** (1) A decision shall be made on all applications within time standards established by the State agency pursuant to § 228.6, but not to exceed 30 calendar days from the date of application.

(2) The agency shall notify applicants about their eligibility within 15 calendar days after it makes a decision. The date of each notification shall be entered in the case record. Applicants found to be eligible shall be notified orally or in writing; those found to be ineligible shall be notified in writing unless the requested service is provided by that agency to them through another funding source.

(3) Unless a service is denied, the State shall provide the service requested with reasonable promptness. "Provide the service" means actual provision of the service or arrangement for its provision at an appropriate later date. "Reasonable promptness" is accomplished when the State provides the service:

(i) Within 15 calendar days after notification of eligibility; or

(ii) Within 30 calendar days after acceptance of a request for service.

If the service is denied, the State shall notify the applicant in writing of the denial within these same time limits.

(h) **Notification of right to a fair hearing.** At the time of application or request for services, each individual shall be given information about the right to request and obtain a fair hearing, in accordance with § 228.14.

## 45 C.F.R. § 228.46, 228.65 (1979)

## § 228.46 Emergency shelter.

(a) FFP is available for emergency shelter as a protective service to any child, including runaways, only under the following conditions:

(1) The child is in danger of abuse, neglect or exploitation;

(2) The need for emergency shelter is documented by personnel authorized by State law to place children; or by an Indian tribal council; and

(3) Emergency shelter is provided for not in excess of 30 days in any 6 month period, which may be consecutive or may accumulate over more than one stay.

(b) Emergency shelter may be provided in facilities such as foster family homes, institutions, and group homes.

\* \* \*

§ 228.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.

(a) FFP is available without regard to income for services directed at the goal of preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, only as follows:

(1) With respect to children, only when provided with respect to an individual under the age of 18 harmed or threatened with harm through non-accidental physical or mental injury, sexual abuse (as defined by State law); or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. For purposes of this section, runaways are presumed to be harmed or threatened with harm.

(2) With respect to adults, only when provided with respect to individuals 18 years of age or older unable to protect their own interests, harmed or threatened with harm through action

or inaction by another individual or through their own actions due to ignorance, incompetence or poor health; resulting in physical or mental injury, neglect or maltreatment, failure to receive adequate food, shelter, or clothing, deprivation of entitlements due them, or wasting of their resources.

(3) In each case, the State agency shall document the circumstances which lead it to believe that the individual is subject to, or at risk of, abuse, neglect or exploitation.

(4) No later than six months after the case has been opened, the State agency shall redocument and evaluate the circumstances then existing with respect to abuse, neglect or exploitation for the purpose of ascertaining if the individual still meets the conditions for services without regard to income. Such redocumentation and evaluation of the circumstances shall take place thereafter no less frequently than at six-month intervals if the case remains open.

(b) Except in the case of runaways, no individual shall be deemed to meet the conditions specified in paragraph (a)(1) or (2) of this section merely because he belongs to a particular class (e.g., mentally retarded, aged, juvenile delinquents); each person shall be individually determined to meet the specified criteria.

(c) States may include in their services plan, subject to the limitations of Subpart D, any appropriate service which they plan to provide to prevent or remedy abuse, neglect or exploitation of children or adults as set forth in this section.

*Exhibit No. 6*U.S. COMMISSION ON CIVIL RIGHTS  
INSTRUCTIONS TO INTAKE WORKERS

Thank you for your cooperation with the Civil Rights Commission's study on battered women and the administration of justice. The attached questionnaire is one aspect of the Commission's information gathering activities in connection with its project evaluating the response of the legal system to the needs of women victims of domestic violence. It is authorized by 42 U.S.C. 1975c(a)(2)-(4). The intake worker is not required to administer this questionnaire, nor is the client required to answer the questions. Your cooperation, however, is essential to make the results of this questionnaire comprehensive and helpful.

The questionnaire is intended to elicit data regarding Phoenix police officers' responses to the needs of women who have been physically assaulted by their husbands or by men with whom they are or have been intimate. This information will be used by the Commission at its February 1980 hearing in Phoenix on battered women and in a report on this subject.

The questionnaire is designed to protect the privacy of women who provide information. The client's name will not appear on the questionnaire, and no attempt will be made to match any questionnaire with an individual client.

The questionnaire is written to be administered by the intake worker. The intake worker should first explain the purpose and privacy protections of the questionnaire as set forth in the preceding three paragraphs, and assure the client that truthful, confidential responses will in no way affect her eligibility for public assistance or services provided by the shelter, nor will her answers ever become available to her mate or to the police. Explain that there are no "right answers," and that no one will criticize her actions or decisions revealed in the questionnaire.

The worker should then read the questions to the client, avoiding paraphrasing so as to ensure uniformity. If it is necessary to explain a question, neutral language should be used. (For example, question 1 might be explained, "Were you hurt in any way during the last fight with him?" rather than "Did he beat you up?")

Check the response which most closely fits the client's answer. If an explanation or caveat is needed, check the closest answer and make a short note in the margin. (For example, the worker might answer the second part of question 1 by checking the box corresponding to an injury which required a trip to a doctor's office, and then note that the injury was a laceration which should have received emergency care but that the client was prevented from going to the hospital.)

At a convenient time following completion of the form by the client, the intake worker should note the client's race, family income, and number of children in the spaces provided. The location of the residence (or the place where the trouble occurred and to which the police were summoned, if not the residence), should be designated by the nearest intersection, not the street address. This information will help us to determine whether police response varies from neighborhood to neighborhood. Again, be careful not to give any information which will identify the client. When completed, the filled out questionnaire should be kept in a separate file. Commission staff will arrange to pick them up.

Your help in gathering this data will enable the Commission to present a fuller, more accurate picture of the special needs and problems of battered women. If you have any questions, please call Jack Hartog, Project Director, in Phoenix at (602) 261-6525, or if no answer, in Washington at (202) 254-6690 (collect).

## U.S. Commission on Civil Rights

SHELTER QUESTIONNAIRE  
(To be administered by intake worker)

1. Were you physically injured in your last dispute with your mate before arriving at the shelter?

Yes  
 No

If yes, did your injuries require medical attention?

Yes, emergency care  
 Yes, visit to doctor's office  
 No

2. Were the police called in connection with your assault?

Yes (please answer questions 3-8 below)  
 No (please skip to question 9)

3. Which police agency was called?

Phoenix  
 Scottsdale  
 Glendale  
 Other

4. Who called the police?

Self  
 Mate  
 Child, relative or neighbor  
 Other

5. If you know what time the police were called, please estimate the amount of time it took them to arrive:

1-5 minutes  
 6-15 minutes  
 15-30 minutes  
 30-60 minutes  
 Longer, or never arrived

6. Overall, how would you describe the attitude of the police officers?

Helpful or concerned  
 Indifferent, or said he/she could not do anything  
 Hostile, made light of situation

This questionnaire has been approved  
by the Office of Management and Budget  
#115-S80001



7. What actions did the police officers take? (Check as many as apply):

- Arrested mate  
 Discussed the possibility of making a citizen's arrest, which I  did or  chose not to do.  
 Cited mate for assault or another violation but did not arrest him  
 Warned one or both parties not to fight anymore  
 Tried to mediate  
 Advised me to seek a peace bond, divorce, restraining order, or other civil solution

8. Did the police officers (check as many as apply, then go to question 10):

- Advise you to leave the residence?  
 Arrange transportation to help you leave?  
 Advise mate to leave the residence?  
 Arrange transportation for mate?  
 Tell you about available shelters or other service or counseling agencies?

9. If the police were not summoned to assist in connection with your dispute, why did you not call them? (Check as many as apply)

- Had no opportunity to call  
 Mate had already left  
 Obtained help from someone else  
 Didn't think police could help  
 Afraid of angering mate  
 Didn't want police to know or become involved  
 Other reasons

10. Has your mate assaulted you on other occasions?

- Yes  
 No

If yes, how many times were the police called in connection with these prior assaults?

- 1 time  
 2 to 4 times  
 5 to 10 times  
 More than 10 times

11. Has your mate ever been arrested or cited for assaulting you?

- Yes  
 No

(Question 11 continued)

If yes, what was the outcome?

- Sentenced to jail
- Fined
- Put on probation
- warned not to do it again
- Acquitted of the charges
- Prosecutor dropped the charges
- I withdrew the charges

TO BE FILLED OUT BY INTAKE WORKER FOR CLIENT

Race:

- Black, not of Hispanic origin
- Hispanic
- American Indian
- Asian of Pacific Islander
- White, not of Hispanic origin

Family Income:

- 0-\$5000
- \$5000-\$10,000
- \$10,000-\$20,000
- \$20,000-\$30,000
- Over \$30,000

Number of children: \_\_\_\_\_

Residence or location to which police were called:  
(name intersection only)

\_\_\_\_\_

PLACE IN SEPARATE FILE

*Exhibit No. 7*

ADMINISTRATION OF JUSTICE DEPARTMENT  
 REGIONAL CRIMINAL JUSTICE TRAINING CENTER  
 MODESTO JUNIOR COLLEGE WEST

No. VII-C-1



## DOMESTIC COMPLAINTS

## I. INTRODUCTION

## A. Problems common to domestic complaints:

1. Common police problem.
2. Sometimes long-standing marital difficulties.
3. Disputants generally emotionally upset.
4. Often do not understand police role.
5. Usually one party wants the other arrested.
6. Sometimes non-criminal although basic elements of criminal complaint usually present.
7. Police officer will be brought into contact with all levels of society.

## B. Some laws applicable to domestic complaints:

- |              |                |
|--------------|----------------|
| 1. 240 P.C.  | 6. 273a. P.C.  |
| 2. 242 P.C.  | 7. 273d P.C.   |
| 3. 243 P.C.  | 8. 415 P.C.    |
| 4. 269a P.C. | 9. 647f P.C.   |
| 5. 272 P.C.  | 10. 600 W.I.C. |

## C. The Police Role

1. Jurisdiction
  - a. Criminal law violations.
2. Arrests to be avoided - if possible.
  - a. Effect peaceful settlement of dispute.

## Domestic Complaints (Continued)

- b. Obtain necessary information for report.
- c. Refer parties to district attorney for complaint.

## D. The Officer's Role:

- 1. Must be neutral.
  - a. Avoid taking sides - showing partiality.
  - b. Must not threaten - show hostility.
  - c. Frequently must arbitrate dispute.
    - (1) By nature of complaint, officer serves as a "court of human relations."
    - (2) Must be a good listener.
    - (3) Must be firm, decisive.

## E. Officer must understand his role in domestic complaint calls:

- 1. Knowledge of law imperative.
- 2. Must know his position.
  - a. Within the law.
  - b. Within framework of Departmental policy/procedures.
- 3. Necessary because:
  - a. Disputants may have misconception of police role.
  - b. Parties often cannot distinguish between civil/criminal procedures.
  - c. Acting on advice of friends/attorney, etc.
  - d. Acting on misinformation - television, magazines, etc.
  - e. Frequently will attempt to utilize police officer to own advantage.

## II. BASIC TECHNIQUES FOR THE OFFICER

## A. Answering the call:

- 1. Obtain-log address, name, time.
- 2. Proceed to scene promptly.
- 3. No emergency response unless designated.
- 4. Upon arrival, go off air/wait for acknowledgement from dispatcher.

- a. Necessary safety procedure.
- b. Provides cover car with information/arrival at scene.
- c. Enables cover car to give ETA (est. time arrival) if delayed for some reason.

**B. Contacting Disputants - Residence:**

- 1. Proceed to door.
- 2. Be prepared.
  - a. Take position to one side - knock or ring bell.
  - b. Hostile spouse - armed - drunk - emotionally upset.
  - c. Mentally deranged subject.
- 3. Remain alert.
  - a. Gun hand free - no notebook/flashlight.
  - b. Be prepared to protect self.
- 4. Evaluate - Observe.
  - a. Loud noises/threats/cursing.
  - b. Broken windows/furniture, etc.

**C. Contacting Disputants - Public Place/Street:**

- 1. Confine dispute.
  - a. Prevent from spreading to bystanders.
- 2. Remove disputants from immediate scene.
  - a. In bar - outside to patrol vehicle.
- 3. Separate and calm participants.

**D. Handling the Dispute:**

- 1. Evaluate.
  - a. Physical/mental conditions of persons involved.
  - b. Scene conditions.
  - c. Attitudes of persons involved.
    - (1) Hostile - belligerent (each other, officer, society).

## Domestic Complaints (Continued)

- (2) Face saving mechanism.
  - (3) Despondency - suicidal tendency
  - d. If circumstances indicate, ascertain weapons in home - where located.
  - e. Take steps necessary to prevent any one of parties involved from securing weapon.
    - (1) Keep subjects under immediate observation.
    - (2) Position self in such manner as to block doorway to adjacent room - gun cabinet - knife drawer, etc.
2. Calm the disputants.
- a. Use soft but firm tones - voice.
  - b. Avoid shouting - otherwise fanning dispute.
  - c. Maintain self-control.
3. Allow only one person to speak at one time.
- a. Obtain one party's version first.
  - b. Consult with other person.
  - c. Evaluate statements.
4. Determine facts/proceed accordingly.
- a. Civil or criminal matter?
  - b. Officer should not attempt to give legal advice in civil matters.
    - (1) Refer if necessary to personal attorney of involved parties.
    - (2) Advise disputants to seek legal advice from competent attorney of own choosing.
  - c. Advise disputants to contact District Attorney.
  - d. Advise complainant as to citizen arrest.
  - e. If police action indicated, proceed as to violation indicated.
5. Officer must proceed with caution.
- a. Extreme emotional state usually exists.
  - b. Patrolman must keep in mind:
    - (1) Disputants will not hesitate to use officer to own advantage.
    - (2) Officer is in the middle.

## 6. DO:

- a. Attempt to settle dispute as soon as possible.
- b. Realize that presence will often tend to quiet the dispute.

## 7. DON'T:

- a. Enter into any argument.
- b. Take sides.
- c. Preach or moralize to disputants.

## III. PRACTICAL ASPECTS IN HANDLING DOMESTIC COMPLAINTS:

## A. Separate the Disputants:

- 1. Let each talk self out in turn.
- 2. Maintain control - don't allow half of dispute to interrupt or needle other half.

## B. Appeal to Pride:

- 1. If children, emphasize effect on same.
- 2. Neighbors will hear quarrel.
- 3. Department does not receive many calls of this type in this neighborhood.
- 4. Compliment individual disputants.
  - a. Nicely furnished home - good taste.
  - b. Good looking children.
  - c. Personal characteristics.
- 5. Friends/associates opinions of disputants.
- 6. Children's friends/schoolmates.
- 7. Husband's reputation.
  - a. Effect on employer/occupation.
  - b. Fraternal/lodge associations.
- 8. Family reputation.
  - a. Church.
  - b. Relatives.

## Domestic Complaints (Continued)

## C. Advise one to leave for night:

## 1. Husband or wife might go:

- a. Hotel/motel.
- b. Friend's residence.
- c. Relative's residence.

2. Officer must not transport wife.

- a. Accusation of husband and/or wife of improper conduct.
- b. Danger of legal action by husband.

## 3. Officer can call taxi.

## 4. If husband leaves, officer must leave at same time.

## D. Advise disputants to sleep in separate rooms for night.

## E. If possible, avoid arrest.

## 1. Factors involved:

- a. Expense of bail.
- b. Possibility of criminal conviction, fine, and/or jail term.
- c. Possible loss of employment.
- d. Adverse effect on family economy.
- e. Reputation (personal/family).

## F. Professional Assistance:

1. Marriage counselor.
2. Family service.
3. Medical advice.
4. Clergy.

## G. Disputants Agree to Settle Difficulties:

1. Officer must evaluate circumstances relative to possible repeat call.
2. Impress that neighbors can institute police action if disturbance erupts again.



## H. Arrest Only Solution:

1. Evaluate circumstances of offense/ascertain elements present.
2. Instruct complainant in making citizen's arrest.
3. Accept defendant.
4. Instruct complainant contact District Attorney's Office relative to signing complaint.

## I. Avoid Citizen's Arrest if Possible:

1. Whenever other means available to settle dispute.
  - a. Offending party willing to leave for night.
2. When offense elements non-existent or legally in doubt.
3. When circumstances indicate report/complaint process best solution:
  - a. Indications that complainant is using police as a temporary solution to problem.
  - b. Disputants both intoxicated.
  - c. Circumstances indicate that both disputants could be subject to criminal action.
  - d. Previous contact or existing Departmental record of citizen arrest made and no prosecution.

## J. Disputants Want Each Other Arrested:

1. Avoid if possible.
2. If children, protective custody necessary.

## IV. SPECIFIC PROBLEMS IN DOMESTIC COMPLAINTS:

## A. Assaults

1. Officer must proceed with caution.
  - a. Alert for possible attack by either disputant.
  - b. No police action unless officer witnesses a criminal act.
  - c. Complainant generally has change of heart the following day.
  - d. Police jurisdiction limited.
2. Victim can proceed under citizen's arrest/often only alternative.
3. Officer receives arrested person into custody.

## Domestic Complaints (Continued)

## B. Traumatic Injury Cases:

1. Felony - 273d P.C.
2. If necessary, officer can made felony arrest.

## C. One spouse calls police - other refuses admittance.

1. Officer can enter house if occupied by husband and wife in community or joint tenancy.
2. Officer is justified in order to answer a call for help.

## D. Cases involving one spouse locked out of house.

1. No police action to be taken.
2. Matter of eviction.
3. Civil in nature.
4. Officer must not advise/assist complainant to break in.

## E. Cases involving drunk or disorderly persons.

1. Police cannot arrest/evict person drunk or disorderly in own home.
2. Complainant can be advised to secure civil restraining order.
3. Arrest can be made if subject appears outside of residence/house - drunk on sidewalk or street.

## F. Cases involving demands for eviction by husband/wife.

1. Remind parties that house is probably community property.
  - a. Unless acquired by either prior to marriage.
  - b. Advise parties to contact District Attorney.
  - c. Officer cannot force either to leave.

## G. Cases involving the removal of personal or family property.

1. "Civil standby."
    - a. Officer generally required to stand by until one party removed his/her personal property.
    - b. Prevent either party from assaulting other.
  2. Property taken or left behind.
    - a. Not concern of officer.
    - b. Property can be removed without court order.
- c. Ownership of furniture and household appliances may be in doubt.

3. California is community property state.
  - a. Violation of community property rights is a civil wrong.
  - b. Advise disputants relative to facts of law and to contact an attorney.
  - c. Only a court can decide what property belongs to whom.
- H. Cases involving property damage by an irate spouse.
  1. Follow general procedures as outlined for removal of property.
  2. Warn parties involved relative to disturbing peace of neighbors.
  3. If circumstances warrant, obtain facts for report and refer to District Attorney.
- I. Cases involving spouse in hotel/motel with member of opposite sex.
  1. Complainant will call police - demand action.
    - a. Allege adultery being committed by his/her spouse.
    - b. Demand arrest.
  2. Officer should:
    - a. Advise complainant offense is misdemeanor.
    - b. If committed in complainant's presence, citizen's arrest can be made.
    - c. Officer cannot enter on suspicion that misdemeanor being committed.
    - d. Police cannot furnish witnesses for divorce actions.
    - e. Officer should not examine hotel/motel registers on mere suspicion that his/her spouse registered.
- J. Cases involving custody of children.
  1. Right of parent to custody of their children.
    - a. Rests with either of natural parents.
    - b. Only a court of record can take child from one or both of natural parents.
  2. When a court orders child into custody of one parent and the other seizes the child.
    - a. Violation is a contempt of civil court.
    - b. If child in no danger to health or morals officer should advise complainant to contact his/her attorney.

3. If child in danger to health or morals or threats by parent who lost custody.
  - a. Officer must take necessary action to protect child.
  - b. Request parties to come to station to discuss problem.
  - c. Contact juvenile division for assistance.
  - d. Take child into protective custody.
4. Custody of child/concealment/removal without consent, possible violation 279 P.C.
  - a. Use complaint/warrant process.
  - b. Custody order may have expired/been modified/cancelled/or reversed.

## V. REPORTS:

## A. General Rule:

1. Report should be made in any situation involving police action.
  - a. Departmental record/history of marital discord.
  - b. Record of police action taken for protection of individual officer.
  - c. Cases exist where subsequent investigations of homicide have hinged on reports of domestic trouble.

*Exhibit No. 8*

Facsimile

Operations Order C-3

## CIVIL DISPUTES

1. GENERAL: In civil disputes officers will first determine if an offense has occurred. If no offense has been committed officers will attempt to arbitrate the dispute. Officers may offer suggestions and inform the participants of the various service agencies equipped to assist them.

2. LANDLORD TENANT ACT

\* \* \*

3. FAMILY DISPUTES: When a spouse seeks police assistance in removing personal property from his home as the result of a family dispute, an officer's only responsibility will be to insure that an offense does not occur.
- A. When there is a dispute as to what property may be removed, officers will refer both parties to their private attorneys.
- B. Since a home is community property (unless it was acquired by one or the other prior to marriage) neither party can be forced to leave.
- (1) The best solution, however, is generally for one of the spouses to leave the home until the next day.
- (2) If one spouse is locked out by the other, the complainant will be advised to contact his attorney. Officers will not break into houses.
- C. If a person is drunk, disorderly, or quarrelsome in his own home, officers will not take action unless a legal arrest can be made such as for Disturbing the Peace, etc.
- D. If one spouse commits a misdemeanor assault on the other an arrest by an officer (if the offense occurs in his presence) or a Citizen's Arrest by the victim may be made in accordance with prescribed procedures for Citizen's Arrest. In cases where the elements of felony assault are obvious, officers may make the arrest.
- E. If the spouse inside the house requests assistance and the other spouse refuses to admit officers to the residence, officers may enter the home over objections in order to answer the call for help.
- F. Officers will advise complainants that an arrest by an officer for a misdemeanor cannot be made unless the offense is committed in the officer's presence. Officers will not force entry or otherwise enter a room on mere suspicion that a misdemeanor is being committed.

\* \* \*

## G. Custody of Children

\* \* \*

7. RESTRAINING ORDERS: In the event that a citizen desires to have an officer take enforcement action on a violation of a restraining order, the complainant will be advised to contact the judge who signed the document in order that a summons may be issued.
- A. Officers will not take on-view enforcement action on violations of restraining orders unless a separate criminal offense occurs. Action will then be taken on the separate offense only.
- B. Citizens inquiring into the procedure for obtaining a restraining order will be advised that:
- (1) Restraining orders concern civil matters in which no police action is required.
  - (2) A crime need not be committed before a restraining order can be issued and the complainant will be advised to contact a private attorney.

8. PIGEON PERMITS

\* \* \*

## REPORTS

1. BASIC TYPES OF REPORTS: There are three basic types of reports used by this Department.
  - A. D.R. (Departmental Report) - will be used to report any crime, any incident in which there will or may be further follow-up, or whenever there is the possibility of a delayed request for prosecution.

\* \* \*
2. PURPOSE OF D.R.: The purpose of a D.R. is to record any crime or incident in the City of Phoenix that has been reported to the Police Department. Since a D.R. will convey information and intelligence to authorized persons other than the writer, the primary consideration of reporting will be the clarity, accuracy, and completeness of the information recorded.

\* \* \*

  - B. Officers will prepare a D.R. whenever circumstances indicate the necessity; when in doubt, officers will complete a D.R.
    - (1) The victim's motive for reporting an incident will not be used as a test for deciding whether a crime has occurred or whether it should be reported, i.e., the victim is not interested in prosecution or is making the report for insurance purposes only.
    - (2) D.R.s will be made on offenses, felony or misdemeanor, involving either adults or juveniles as suspects or victims; if the elements of a crime are present but the suspect is unknown or there is no need for a follow-up investigation, a D.R. will still be completed.

\* \* \*
  - C. If an officer is in doubt as to whether a crime has occurred or the incident occurred outside the jurisdiction of the City of Phoenix, a D.R. will be made and entitled "Information Received."

\* \* \*

2. Knowingly makes, produces or offers any false physical evidence; or

3. Prevents the production of physical evidence by an act of force, intimidation or deception against any person.

B. Inadmissibility of the evidence in question is not a defense.

C. Tampering with physical evidence is a class 6 felony.

Added Laws 1977, Ch. 142, § 90, eff. Oct. 1, 1978.

#### Historical Note

##### Source:

Pen.Code 1901, §§ 127, 129, 130.

Pen.Code 1913, §§ 124, 126, 127.

Rev.Code 1928, § 4552, 4553.

Code 1939, §§ 43-3903, 43-3904.

A.R.S. former § 13-547.

#### Library References

Obstructing Justice  $\hookrightarrow$  5.

C.J.S. Obstructing Justice §§ 9, 10.

### § 13-2810. Interfering with judicial proceedings; classification

A. A person commits interfering with judicial proceedings if such person knowingly:

1. Engages in disorderly, disrespectful or insolent behavior during the session of a court which directly tends to interrupt its proceedings or impairs the respect due to its authority; or

2. Disobeys or resists the lawful order, process or other mandate of a court; or

3. Refuses to be sworn or affirmed as a witness in any court proceeding; or

4. Publishes a false or grossly inaccurate report of a court proceeding; or

5. Refuses to serve as a juror unless exempted by law; or

6. Fails inexcusably to attend a trial at which he has been chosen to serve as a juror.

B. Interfering with judicial proceedings is a class 1 misdemeanor.

Added Laws 1977, Ch. 142, § 90, eff. Oct. 1, 1978.

#### Historical Note

##### Source:

Pen.Code 1901, § 162.

Pen.Code 1913, § 156.

Rev.Code 1928, § 4572.

Code 1939, § 43-3919.

A.R.S. former § 13-341.

#### Cross References

Bawdy houses, contempt in connection with abatement, see § 12-810.

Contempt of court as a crime, see § 13-901.01.

Different punishments for same offense, effect, see § 13-110.

Failure to respond to summons as contempt, see Rules Cr.Proc. Rules 3.1, 3.2, 3.4.



PHOENIX CITY PROSECUTOR'S OFFICE  
COMPLAINT SECTION MONTHLY REPORT

JAIL COURT - PERIOD ENDING JUNE 30, 1979 - NEW CODE OFFENSES

OFFENSE	DECEMBER 1978			JANUARY 1979			FEBRUARY 1979			MARCH 1979			APRIL 1979			MAY 1979			JUNE 1979			JUNE 1978		
	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN
Endangerment	1	1	0	0	1	0	1	0	0	1	0	0	1	1	0	0	0	0	0	1	0	0	0	0
Threaten./Intim.	9	5	0	6	1	0	5	4	0	8	1	0	3	3	0	8	5	0	5	3	0	0	0	0
Assault	45	12	0	40	12	0	33	9	0	36	11	0	47	4	0	33	10	0	39	6	0	0	0	0
3rd Deg. Trespass	49	5	0	52	5	0	64	1	0	45	2	0	45	1	0	41	3	0	34	6	0	0	0	0
2nd Deg. Trespass	23	3	0	20	3	0	25	3	0	6	0	0	20	0	0	12	0	0	16	0	0	0	0	0
1st Deg. Trespass	6	3	0	7	0	0	5	0	0	3	0	0	6	0	0	5	1	0	6	0	0	0	0	0
Criminal Damage	28	3	0	15	8	0	19	5	0	17	11	0	15	3	0	17	7	0	17	2	0	0	0	0
Crim. Littering	4	0	0	2	0	0	0	0	0	0	0	0	1	0	0	2	0	0	1	0	0	0	0	0
Theft	36	14	0	47	14	0	27	7	0	37	9	0	32	7	0	35	5	0	31	7	0	0	0	0
Shoplifting	90	12	0	82	10	0	78	8	0	84	6	0	110	8	0	58	8	0	56	7	0	0	0	0
Disorderly Cond.	132	53	0	108	51	0	124	36	0	147	31	0	99	35	0	108	31	0	107	47	0	0	0	0
Loitering	32	0	0	10	0	0	4	0	0	25	0	0	4	0	0	6	1	0	20	0	0	0	0	0
Miscon. W/ Weapon	51	5	0	37	7	0	40	4	0	40	7	0	45	8	0	39	7	0	37	5	0	0	0	0
Prostitution	26	0	0	39	0	0	46	2	0	40	1	0	48	1	0	56	1	0	48	0	0	0	0	0
Prost. W/ Prior(s)	2	0	0	4	0	0	6	0	0	4	0	0	7	0	0	13	1	0	2	0	0	0	0	0
Soliciting Prost.	0	0	0	44	0	0	0	0	0	87	1	0	63	0	0	0	0	0	56	0	0	0	0	0
Pub. Sexual Activ.	23	2	0	15	3	0	10	0	0	28	0	0	28	0	0	48	2	0	30	0	0	0	0	0
Indecent Exposure	15	9	0	8	4	0	7	2	0	13	0	0	5	1	0	9	1	0	7	0	0	0	0	0
Solicit Ind. Exp.	1	1	0	6	0	0	7	0	0	14	1	0	19	0	0	11	0	0	4	0	0	0	0	0
False Information	31	7	0	31	2	0	25	3	0	27	5	0	33	5	0	25	2	0	33	4	0	0	0	0
Drk. Open Cont.	60	1	0	123	0	0	64	0	0	78	1	0	150	0	0	114	1	0	190	4	0	0	0	0
Liquor & Minors	8	0	0	6	0	0	3	1	0	5	0	0	14	2	0	9	2	0	9	2	0	0	0	0
Paint Sniffing	8	1	0	8	0	0	8	0	0	6	0	0	11	0	0	3	0	0	5	2	0	0	0	0
Other	22	34	0	17	18	0	23	13	0	43	12	0	30	6	0	21	9	0	19	5	0	0	0	0
TOTALS	702	171	0	727	139	0	624	98	0	794	99	0	836	85	0	673	97	0	772	111	0	0	0	0
TOT. CASES/MONTH		873		866			722			893			921			770			883					

Exhibit No. 9

304

PHOENIX CITY PROSECUTOR'S OFFICE  
COMPLAINT SECTION MONTHLY REPORT

CITE-IN-LIEU - PERIOD ENDING JUNE 30, 1979 - NEW CODE OFFENSES

OFFENSE	DECEMBER 1978			JANUARY 1979			FEBRUARY 1979			MARCH 1979			APRIL 1979			MAY 1979			JUNE 1979			JUNE 1978		
	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN
Endangerment	1	0	0	0	0	0	1	0	0	1	0	0	0	0	0	3	0	0	1	0	0	0	0	0
Threaten./Intim.	1	1	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	1	0	0	0	0
Assault	14	0	0	9	0	0	7	2	0	17	1	0	15	4	0	21	4	0	10	4	0	0	0	0
3rd Deg. Trespass	31	0	0	30	5	0	30	11	0	42	4	0	40	2	0	39	1	0	40	19	0	0	0	0
2nd Deg. Trespass	0	0	0	5	0	0	0	1	0	3	1	0	1	0	0	5	0	0	5	0	0	0	0	0
1st Deg. Trespass	0	0	0	1	1	0	0	0	0	0	1	0	0	0	0	6	0	0	1	0	0	0	0	0
Criminal Damage	6	1	0	11	6	0	7	0	0	8	1	0	7	7	0	5	3	0	9	5	0	0	0	0
Crim. Littering	10	1	0	13	0	0	2	3	0	2	1	0	4	1	0	4	6	0	1	6	0	0	0	0
Theft	21	9	0	21	6	0	21	8	0	19	4	0	19	8	0	15	5	0	22	1	0	0	0	0
Shoplifting	170	19	0	163	5	0	178	5	0	194	15	0	180	13	0	146	9	0	137	10	0	0	0	0
Disorderly Cond.	11	6	0	2	6	0	8	4	0	6	4	0	9	5	0	8	0	0	7	3	0	0	0	0
Loitering	1	0	0	1	0	0	1	0	0	1	3	0	0	0	0	1	0	0	0	0	0	0	0	0
Miscon. W/ Weapon	3	1	0	4	0	0	4	1	0	1	2	0	4	1	0	6	0	0	4	1	0	0	0	0
Prostitution	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	1	0	0	0	0	0
Prost. W/ Prior(s)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Soliciting Prost.	5	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Pub. Sexual Activ.	5	3	0	4	0	0	7	0	0	2	0	0	3	0	0	2	1	0	11	2	0	0	0	0
Indecent Exposure	21	1	0	36	0	0	16	2	0	11	4	0	17	2	0	8	0	0	11	2	0	0	0	0
Solicit Ind. Exp.	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
False Information	0	0	0	1	1	0	0	0	0	5	0	0	4	0	0	3	2	0	3	1	0	0	0	0
Drk. Open Cont.	21	1	0	31	2	0	20	0	0	22	3	0	22	1	0	29	5	0	31	1	0	0	0	0
Liquor & Minors	7	2	0	16	3	0	24	1	0	17	2	0	15	5	0	21	4	0	20	2	0	0	0	0
Paint Sniffing	1	0	0	1	1	0	2	0	0	1	0	0	1	0	0	1	0	0	2	0	0	0	0	0
Other	4	3	0	15	7	0	20	7	0	20	3	0	15	5	0	18	2	0	31	12	0	0	0	0
TOTALS	333	51	0	365	43	0	348	45	0	372	51	0	356	54	0	345	42	0	347	70	0	0	0	0
TOT. CASES/MONTH		384			408			393			423			410			387			417				

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PHOENIX CITY PROSECUTOR'S OFFICE  
COMPLAINT SECTION MONTHLY REPORT

REGULAR CASES - PERIOD ENDING JUNE 30, 1979 - NEW CODE OFFENSES

OFFENSE	DECEMBER 1978			JANUARY 1979			FEBRUARY 1979			MARCH 1979			APRIL 1979			MAY 1979			JUNE 1979			JUNE 1978		
	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN
Endangerment	2	0	0	3	0	1	1	3	1	5	0	2	6	0	1	6	0	0	1	2	1	0	0	0
Threaten./Intim.	7	4	0	8	3	2	6	8	1	10	4	0	3	1	1	8	5	0	4	2	0	0	0	0
Assault	54	10	1	104	20	14	74	9	11	78	13	19	44	5	5	77	15	19	74	5	9	0	0	0
3rd Deg. Trespass	4	0	0	9	0	0	13	2	1	7	0	1	6	0	1	7	1	1	4	1	0	0	0	0
2nd Deg. Trespass	3	0	0	6	0	1	12	0	0	3	1	2	5	1	0	5	1	3	7	0	3	0	0	0
1st Deg. Trespass	2	1	0	1	1	1	4	1	0	1	0	0	2	0	0	6	0	1	2	0	2	0	0	0
Criminal Damage	14	3	2	19	5	4	23	3	1	10	4	6	14	1	3	13	2	5	22	3	0	0	0	0
Crim. Littering	0	0	0	0	0	0	0	0	1	2	0	1	1	0	0	1	0	0	14	0	1	0	0	0
Theft	20	2	6	66	17	10	35	6	9	26	10	7	26	1	6	54	6	10	35	6	4	0	0	0
Shoplifting	19	1	6	26	2	4	18	1	3	20	3	3	22	3	5	17	0	0	19	3	0	0	0	0
Disorderly Cond.	5	1	0	11	10	1	12	5	0	5	4	1	4	1	1	3	4	4	6	2	1	0	0	0
Loitering	4	0	0	0	0	0	2	0	0	3	0	0	1	0	0	1	0	0	0	0	0	0	0	0
Miscon. W/ Weapon	2	1	0	5	1	0	3	0	1	2	3	2	5	1	1	3	1	0	0	2	0	0	0	0
Prostitution	0	0	0	1	0	0	2	0	0	1	0	0	1	0	0	3	1	0	0	0	1	0	0	0
Prost. W/ Prior(s)	0	0	0	0	0	0	2	0	0	1	0	0	0	0	0	0	0	0	1	1	0	0	0	0
Soliciting Prost.	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Pub. Sexual Activ.	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2	0	0	2	0	0	0	0	0
Indecent Exposure	2	0	0	1	0	0	6	0	0	1	0	0	5	1	0	8	0	0	6	1	0	0	0	0
Solicit Ind. Exp.	0	0	0	1	0	0	1	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	0
False Information	5	2	1	12	1	0	10	1	2	11	1	3	6	0	4	8	1	0	7	0	1	0	0	0
Drk. Open Cont.	1	0	0	1	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Liquor & Minors	1	0	3	6	2	1	2	0	0	5	0	0	1	0	1	4	0	0	8	0	0	0	0	0
Paint Sniffing	4	1	0	1	1	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Barking Dogs	5	1	0	10	0	0	20	0	0	11	0	0	14	0	0	10	0	1	11	0	0	0	0	0
Dogs At Large	8	0	0	55	7	0	39	2	0	50	3	0	32	0	0	87	2	0	59	1	0	0	0	0
Other	24	28	3	35	18	0	19	20	1	24	13	3	21	14	1	37	15	2	22	7	2	0	0	0
Traffic	5	1	1	35	4	3	33	0	0	12	0	1	13	1	3	22	7	2	6	0	1	0	0	0
Refiles	14	7	0	10	3	0	2	0	0	11	2	0	2	0	0	4	0	0	1	0	0	0	0	0
TOTALS	205	63	23	426	95	42	342	61	32	299	61	52	235	30	33	389	62	48	311	36	26	0	0	0
TOT. CASES/MONTH		291			563			435			412		298			499		373						

PHOENIX CITY PROSECUTOR'S OFFICE  
COMPLAINT SECTION MONTHLY REPORT

JAIL COURT - PERIOD ENDING DECEMBER 31, 1979

OFFENSE	JUNE 1979			JULY 1979			AUGUST 1979			SEPTEMBER 1979			OCTOBER 1979			NOVEMBER 1979			DECEMBER 1979			DECEMBER 1978		
	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN
Endangerment	0	1	0	0	0	0	4	1	0	0	0	2	2	0	0	0	0	2	0	0	1	1	0	
Threaten./Intim.	5	3	0	9	4	0	7	7	0	7	5	0	9	5	0	6	4	0	14	5	0	9	5	0
Assault	39	6	0	30	8	0	32	6	0	48	8	0	34	8	0	33	6	0	36	4	0	45	12	0
3rd Deg. Trespass	34	6	0	52	2	0	42	3	0	44	7	0	86	8	0	71	5	0	82	5	0	49	5	0
2nd Deg. Trespass	16	0	0	21	0	0	11	4	0	18	3	0	23	2	0	14	2	0	26	4	0	23	3	0
1st Deg. Trespass	6	0	0	9	1	0	4	3	0	10	0	0	5	4	0	1	2	0	1	2	0	6	3	0
Criminal Damage	17	2	0	20	4	0	15	9	0	18	6	0	19	7	0	16	6	0	22	5	0	28	3	0
Crim. Littering	1	0	0	1	0	0	1	0	0	2	1	0	7	0	0	2	0	0	2	0	0	4	0	0
Theft	31	7	0	24	10	0	23	5	0	39	15	0	27	19	0	31	17	0	31	6	0	36	14	0
Shoplifting	56	7	0	85	9	0	91	8	0	62	4	0	76	15	0	56	12	0	91	20	0	90	12	0
Disorderly Cond.	107	47	0	131	42	0	78	40	0	132	34	0	128	35	0	89	25	0	142	20	0	132	53	0
Loitering	20	0	0	22	0	0	9	0	0	5	1	0	5	0	0	13	1	0	1	5	0	32	0	0
Miscon. W/ Weapon	37	5	0	39	7	0	42	5	0	28	7	0	44	7	0	26	9	0	45	8	0	51	5	0
Prostitution	48	0	0	31	3	0	48	0	0	41	2	0	34	1	0	43	1	0	52	5	0	26	0	0
Prost. W/ Prior(s)	2	0	0	10	0	0	11	0	0	7	1	0	9	0	0	2	0	0	7	0	0	2	0	0
Soliciting Prost.	56	0	0	5	0	0	62	0	0	0	0	0	58	0	0	47	0	0	14	0	0	0	0	0
Pub. Sexual Indec.	30	0	0	17	0	0	28	0	0	13	0	0	19	2	0	29	1	0	46	1	0	23	2	0
P. S. I. W/ Prior	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Indecent Exposure	7	0	0	24	4	0	15	1	0	7	3	0	21	1	0	7	3	0	14	1	0	15	9	0
Ind. Exp. W/Prior	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Solicit Ind. Exp.	4	0	0	5	0	0	6	0	0	7	3	0	0	0	0	10	0	0	0	0	0	1	1	0
False Information	33	4	0	34	4	0	22	6	0	36	6	0	30	3	0	29	10	0	31	8	0	31	7	0
Drk. Open Cont.	190	4	0	128	0	0	105	11	0	82	2	0	121	9	0	87	11	0	85	2	0	60	1	0
Liquor & Minors	9	2	0	7	2	0	19	2	0	10	0	0	14	11	0	8	4	0	10	8	0	8	0	0
Paint Sniffing	5	2	0	5	0	0	16	2	0	8	0	0	11	1	0	7	3	0	9	1	0	8	1	0
Other	19	5	0	31	10	0	15	11	0	22	21	0	17	11	0	21	12	0	29	9	0	22	34	0
TOTALS	772	111	0	740	110	0	706	124	0	646	129	0	799	151	0	648	134	0	793	119	0	702	171	0
TOT. CASES/MONTH	883			850			830			775			950			782			912			873		

PHOENIX CITY PROSECUTOR'S OFFICE  
COMPLAINT SECTION MONTHLY REPORT

CITE-IN-LIEU -- PERIOD ENDING DECEMBER 31, 1979

OFFENSE	JUNE 1979			JULY 1979			AUGUST 1979			SEPTEMBER 1979			OCTOBER 1979			NOVEMBER 1979			DECEMBER 1979			DECEMBER 1978		
	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN
Endangerment	1	0	0	1	0	0	0	1	0	0	0	0	4	0	0	0	0	0	2	0	0	1	0	0
Threaten./Intim.	0	1	0	1	1	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	1	1	0
Assault	10	4	0	14	4	0	20	3	0	12	2	0	15	3	0	16	1	0	11	4	0	14	0	0
3rd Deg. Trespass	40	19	0	81	26	0	97	26	0	38	1	0	89	3	0	93	4	0	90	3	0	31	0	0
2nd Deg. Trespass	5	0	0	5	1	0	0	3	0	1	0	0	5	2	0	5	0	0	0	4	0	0	0	0
1st Deg. Trespass	1	0	0	2	0	0	2	0	0	1	0	0	2	4	0	1	0	0	3	0	0	0	0	0
Criminal Damage	9	5	0	8	1	0	8	2	0	6	2	0	10	3	0	11	2	0	7	1	0	6	1	0
Crim. Littering	1	6	0	1	3	0	8	0	0	2	0	0	4	0	0	2	1	0	3	0	0	10	1	0
Theft	22	1	0	8	7	0	28	6	0	23	7	0	18	11	0	19	2	0	17	11	0	21	9	0
Shoplifting	137	10	0	175	19	0	173	9	0	144	10	0	184	11	0	159	15	0	213	10	0	170	19	0
Disorderly Cond.	7	3	0	6	6	0	11	3	0	6	3	0	11	7	0	9	6	0	7	5	0	11	6	0
Loitering	0	0	0	0	0	0	0	0	0	0	0	0	2	1	0	0	2	0	2	4	0	1	0	0
Miscon. W/Weapon	4	1	0	2	2	0	2	2	0	3	0	0	8	1	0	4	1	0	6	0	0	3	1	0
Prostitution	1	0	0	0	0	0	0	0	0	0	0	0	4	0	0	0	0	0	0	0	0	0	0	0
Prost. W/ Prior(s)	0	0	0	0	0	0	0	1	0	0	0	0	5	0	0	0	0	0	0	0	0	0	0	0
Soliciting Prost.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	3	0
Pub. Sexual Indec.	11	2	0	2	0	0	0	0	0	2	2	0	7	2	0	2	0	0	2	0	0	5	3	0
P. S. I. W/ Prior	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0
Indecent Exposure	11	2	0	8	3	0	16	0	0	22	0	0	12	0	0	6	2	0	4	1	0	21	1	0
Ind. Exp. W/Prior	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Solicit Ind. Exp.	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
False Information	3	1	0	2	1	0	2	1	0	2	1	0	6	2	0	2	1	0	4	1	0	0	0	0
Drk. Open Cont.	31	1	0	22	0	0	21	3	0	32	2	0	89	21	0	18	0	0	20	3	0	21	1	0
Liquor & Minors	20	2	0	12	0	0	15	1	0	26	3	0	56	5	0	41	10	0	23	3	0	7	2	0
Paint Sniffing	2	0	0	1	0	0	5	4	0	4	0	0	0	0	0	3	0	1	2	0	1	0	0	0
Other	31	12	0	14	5	0	11	0	0	11	2	0	6	3	0	26	5	0	10	2	0	4	3	0
TOTALS	347	70	0	365	80	0	419	65	0	335	35	0	539	79	0	417	55	0	425	54	0	333	51	0
TOT. CASES/MONTH	417			445			484			370			618			472			476			384		

PHOENIX CITY PROSECUTOR'S OFFICE  
COMPLAINT SECTION MONTHLY REPORT

REGULAR CASES - PERIOD ENDING DECEMBER 31, 1979

OFFENSE	JUNE 1979		JULY 1979		AUGUST 1979		SEPTEMBER 1979		OCTOBER 1979		NOVEMBER 1979		DECEMBER 1979			DECEMBER 1978								
	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN	APP	DEN	PEN						
Endangerment	1	2	1	2	3	0	5	0	2	2	0	0	3	0	1	1	1	1	2	1	3	2	0	0
Threaten./Intim.	4	2	0	4	4	0	6	1	4	1	1	0	5	2	0	0	4	0	7	0	2	7	4	0
Assault	74	5	9	59	10	5	83	12	11	86	16	14	59	11	8	75	10	7	84	13	19	54	10	1
3rd Deg. Trespass	4	1	0	32	0	1	12	1	0	26	0	0	2	0	3	12	2	0	11	0	0	4	0	0
2nd Deg. Trespass	7	0	3	3	0	1	4	1	0	6	0	0	9	0	1	4	0	0	5	1	1	3	0	0
1st Deg. Trespass	2	0	2	4	0	0	9	0	5	3	0	2	7	0	1	3	1	1	2	0	2	2	1	0
Criminal Damage	22	3	0	13	2	1	12	0	2	10	2	0	10	1	2	7	0	1	14	0	5	14	3	2
Crim. Littering	14	0	1	2	1	0	2	0	0	0	0	0	0	0	0	0	1	2	1	3	0	0	0	0
Theft	35	6	4	33	7	11	29	4	9	49	7	4	44	6	3	33	2	9	52	10	15	20	2	6
Shoplifting	19	3	0	16	4	6	20	1	2	20	0	3	10	1	2	22	0	1	45	3	1	19	1	6
Disorderly Cond.	6	2	1	9	0	2	9	2	1	5	4	1	2	2	0	5	1	1	7	5	2	5	1	0
Loitering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2	0	0	4	0	0
Miscon. W/ Weapon	0	2	0	3	1	0	3	4	0	4	0	0	0	0	1	4	2	0	4	2	0	2	1	0
Prostitution	0	0	1	0	0	2	1	1	0	1	0	0	0	0	0	0	0	0	6	0	0	0	0	0
Prost. W/ Prior(s)	1	1	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Soliciting Prost.	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Pub. Sexual Indec.	2	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	3	0	1	0	0	0
P. S. I. W/ Prior	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Indecent Exposure	6	1	0	4	0	1	1	0	0	3	0	0	3	0	1	0	0	0	4	0	0	2	0	0
Ind. Exp. W/Prior	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Solicit Ind. Exp.	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
False Information	7	0	1	7	1	3	7	3	0	4	0	0	6	0	0	9	2	1	13	6	0	5	2	1
Drk. Open Cont.	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	3	1	0	2	0	0	1	0	0
Liquor & Minors	8	0	0	2	1	1	1	0	2	0	0	0	1	0	4	4	2	1	5	1	0	1	0	3
Paint Sniffing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	1	0
Barking Dogs	11	0	0	11	0	0	8	0	0	7	0	0	14	0	0	11	0	0	9	0	0	5	1	0
Dogs At Large	59	1	0	47	0	0	54	5	1	36	1	2	45	2	0	34	0	0	43	1	1	8	0	0
Other	22	7	2	33	6	5	35	25	6	26	9	7	34	7	5	13	3	4	35	4	6	24	28	3
Traffic	6	0	1	12	1	2	13	2	3	33	0	1	15	2	0	9	1	4	17	1	5	5	1	1
Refills	1	0	0	3	0	0	4	0	0	16	3	0	35	2	0	5	0	0	7	0	0	14	7	0
TOTALS	311	36	26	300	42	41	319	62	48	340	43	34	304	36	32	257	32	32	382	49	66	205	63	23
TOT. CASES/MONTH		412			298		499			373			383		429		497				291			

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# ARIZONA REVISED STATUTES

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## ANNOTATED

*Prepared Under Legislative Authority  
Laws 1956, Chapter 129*

**Volume 5**

**Title 13**

**Criminal Code**

**§§ 13-101 to 13-2000**

*(West 1978)*

ST. PAUL, MINN.  
WEST PUBLISHING CO.

DEPARTMENT OF  
LIBRARY AND ARCHIVES  
ARIZONA

## Library References

Criminal Law  $\Leftrightarrow$ 9.

C.J.S. Criminal Law §§ 19, 20.

**§ 13-104. Rule of construction**

The general rule that a penal statute is to be strictly construed does not apply to this title, but the provisions herein must be construed according to the fair meaning of their terms to promote justice and effect the objects of the law, including the purposes stated in § 13-101. Added Laws 1977, Ch. 142, § 39, eff. Oct. 1, 1978.

## Historical Note

Former § 13-104, relating to the classification of an offense as a misdemeanor where no penalty is prescribed, was repealed by Laws 1977, ch. 142, § 1, effective October 1, 1978.

For disposition of the subject matter of sections of the former Criminal Code, see Disposition Table at the front of this volume.

## Library References

Statutes  $\Leftrightarrow$ 241(1).

C.J.S. Statutes §§ 389, 390.

**§ 13-105. Definitions**

In this title, unless the context otherwise requires:

1. "Act" means a bodily movement.
2. "Benefit" means anything of value or advantage, present or prospective.
3. "Conduct" means an act or omission and its accompanying culpable mental state.
4. "Crime" means a misdemeanor or a felony.
5. "Culpable mental state" means intentionally, knowingly, recklessly or with criminal negligence as those terms are thusly defined:
  - (a) "Intentionally" or "with the intent to" means, with respect to a result or to conduct described by a statute defining an offense, that a person's objective is to cause that result or to engage in that conduct.
  - (b) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists.
  - (c) "Recklessly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is



aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.

(d) "Criminal negligence" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

6. "Dangerous drug" means dangerous drug as defined by section 32-1901.

7. "Dangerous instrument" means anything that under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury.

8. "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury.

9. "Deadly weapon" means anything designed for lethal use. The term includes a firearm.

10. "Enterprise" includes any corporation, association, labor union or other legal entity.

11. "Felony" means an offense for which a sentence to a term of imprisonment to the custody of the department of corrections is authorized by any law of this state.

12. "Firearm" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, except that it does not include a firearm in permanently inoperable condition.

13. "Government" means the state, any political subdivision thereof or any department, agency, board, commission, institution, or governmental instrumentality of or within the state or political subdivision.

14. "Government function" means any activity which a public servant is legally authorized to undertake on behalf of a government.

15. "Intoxication" means any mental or physical incapacity resulting from use of drugs, toxic vapors or intoxicating liquors.

16. "Misdemeanor" means an offense for which a sentence to a term of imprisonment other than to the custody of the department of corrections is authorized by any law of this state.

17. "Narcotic drug" means narcotic drugs as defined by § 36-1001.

18. "Offense" means conduct for which a sentence to a term of imprisonment or of a fine is provided by any law of this state or by any law, regulation or ordinance of a political subdivision of this state.

19. "Omission" means the failure to perform an act as to which a duty of performance is imposed by law.

20. "Peace officer" means any person vested by law with a duty to maintain public order and make arrests.

21. "Person" means a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government or a governmental authority.

22. "Petty offense" means an offense for which a sentence of a fine only is authorized by law.

23. "Physical force" means force used upon or directed toward the body of another person and includes confinement, but does not include deadly physical force.

24. "Physical injury" means the impairment of physical condition.

25. "Possess" means knowingly to have physical possession or otherwise to exercise dominion or control over property.

26. "Possession" means a voluntary act if the defendant knowingly exercised dominion or control over property.

27. "Property" means anything of value, tangible or intangible.

28. "Public servant" means any officer or employee of any branch of government, whether elected, appointed or otherwise employed, including a peace officer, and any person participating as advisor, consultant or otherwise in performing a governmental function. The term does not include jurors or witnesses. "Public servant" includes those who have been elected, appointed, employed or designated to become a public servant although not yet occupying that position.

29. "Serious physical injury" includes physical injury which creates a reasonable risk of death, or which causes serious and permanent disfigurement, or serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

30. "Unlawful" means contrary to law or, where the context so requires, not permitted by law.

31. "Vehicle" means a device in, upon or by which any person or property is or may be transported or drawn upon a highway, waterway or airway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

32. "Voluntary act" means a bodily movement performed consciously and as a result of effort and determination.

33. "Voluntary intoxication" means intoxication caused by the knowing use of drugs, toxic vapors or intoxicating liquors by the defendant, the tendency of which to cause intoxication the defendant knows or ought to know, unless the defendant introduces them pursuant to medical advice or under such duress as would afford a defense to an offense.

Added Laws 1977, Ch. 142, § 39, eff. Oct. 1, 1978. As amended Laws 1978, Ch. 201, § 89, eff. Oct. 1, 1978.

#### Historical Note

##### Source:

Pen. Code 1901, §§ 15, 17.  
 Pen. Code 1913, §§ 15, 17.  
 Rev. Code 1928, §§ 4483, 4484.  
 Code 1930, §§ 43-108, 43-109.  
 A.R.S. former §§ 13-101, 13-103.  
 Laws 1972, ch. 36, § 1.

Former § 13-105, derived from Pen. Code 1901, § 619; Pen. Code 1913, § 727; Rev. Code 1928, § 4839; Code 1930, § 43-6102, and relating to the effect of laws of other jurisdictions on punishments for crimes in Arizona, was repealed by Laws 1977, ch. 142, § 1, effective October 1, 1978.

The 1978 amendment inserted pars. 6, 14, and 17, renumbered the other sections accordingly, and inserted "an enterprise," in par. 21.

#### Cross References

Cities and towns, enactment of penalty clauses, see § 9-803.

Definitions, see, also, § 1-215.

Financial institutions, violations,

Civil penalties, see 6-132.

Criminal penalties, see § 6-133.

Form of charge of public offense, see Rules Cr. Proc. Rules 2.1, 2.2.

Water pollution control, violations and civil penalty, see § 36-1861.01.

#### Law Review Commentaries

Crime classification and constitutional rights. 3 *Ariz. State L.J.* 492 (1970).

Crime victims: Recovery for police inaction and underprotection. *Law & Soc. Order*, 1970, p. 279.

Indigents, alternative sentencing. 15 *Ariz. Law Rev.* 753 (1973).

Organized crime: Devices for debilitating desperados. 1 *Ariz. State L.J.* 121 (1970).

Rehabilitating the ex-felon: Impact of Arizona's pardons and civil rights restoration statutes. *Law & Soc. Order*, 1971, p. 793.

Sentencing, credit for time served. 13 *Ariz. Law Rev.* 402 (1971).

Gates (1975) 25 Ariz.App. 241, 542 P.2d 822, rehearing denied 28 Ariz.App. 75, 546 P.2d 52, approved 118 Ariz. 357, 576, P.2d 1357.

Term "public offense" in provision of § 13-081 (repealed; see, now this section) making it a crime to wear a mask or disguise with intent to disturb or for purpose of escaping detection or identification in the commission of a public offense included a misdemeanor so that the section encompassed both the commission of a misdemeanor and a felony while wearing a mask or disguise. *Id.*

## 2. Plea of guilty

Review of record disclosed that trial judge carefully followed proper procedures to insure that guilty plea was voluntary and that defendant who changed plea from not guilty to guilty knew na-

ture of charges and consequences of plea. *State v. Reynolds* (1970) 106 Ariz. 47, 470 P.2d 454.

## 3. Evidence

Permitting state's witness, in prosecution for attempted robbery and unlawful wearing of mask, to read to jury from police report that defendant had stated that "You had a right to shoot me." over hearsay objection was proper where, after witness testified to such statement on direct examination defense, by raising issue as to failure of witness to mention such statement during preliminary hearing, impeached witness by self-contradiction, and where such prior consistent statement within report was used for purpose of rehabilitation. *State v. Crank* (1971) 13 Ariz. App. 587, 480 P.2d 8.

## § 13-1203. Assault; classification

### A. A person commits assault by:

1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
3. Knowingly touching another person with the intent to injure, insult or provoke such person.

B. Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.

Added Laws 1977, Ch. 142, § 61, eff. Oct. 1, 1978. As amended Laws 1978, Ch. 201, § 129, eff. Oct. 1, 1978.

### Historical Note

#### Source:

Pen.Code 1901, §§ 207 to 212.  
 Pen.Code 1913, §§ 207 to 212.  
 Rev.Code 1928, § 4611.  
 Code 1939, § 43-601.  
 A.R.S. former §§ 13-241 to 13-244.  
 Laws 1969, ch. 133, § 3.

The 1978 amendment, in subsec. A, par. 1, inserted "intentionally, knowingly or".

Former § 13-1203, was transferred and renumbered as § 13-3803.

**§ 13-1203****CRIMINAL CODE****Title 13****Notes 16**

the imprisonment as the method of satisfying the fine under the provisions of § 13-1648 (repealed; see, now, § 13-806), and was irregular as imposing both a fine and an imprisonment. *Id.*

The judgment was also irregular under this section as imposing a term of imprisonment exceeding three months. *Id.*

**§ 13-1204. Aggravated assault; classification**

**A.** A person commits aggravated assault if such person commits assault as defined in § 13-1203 under any of the following circumstances:

1. If such person causes serious physical injury to another.
2. If such person uses a deadly weapon or dangerous instrument.
3. If such person commits the assault after entering the private home of another with the intent to commit the assault.
4. If such person is eighteen years of age or more and commits the assault upon a child the age of fifteen years or under.
5. If such person commits the assault knowing or having reason to know that the victim is a peace officer, or a person summoned and directed by such officer while engaged in the execution of any official duties.
6. If such person commits the assault knowing or having reason to know the victim is a teacher or other person employed by any school and such teacher or other employee is upon the grounds of a school or grounds adjacent to such school or is in any part of a building or vehicle used for school purposes, or any teacher or school nurse visiting a private home in the course of his professional duties.
7. If such person is imprisoned in the custody of the department of corrections or subject to the custody of personnel from such department and commits the assault knowing or having reason to know the victim is an employee of such department acting in an official capacity.
8. If such person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.

**B.** Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section is a class 3 felony. Aggravated assault pursuant to subsection A, paragraphs 3, 4, 5, 6, 7 or 8 of this section is a class 6 felony.

Added Laws 1977, Ch. 142, § 61, eff. Oct. 1, 1978.

# ARIZONA REVISED STATUTES

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## ANNOTATED

*Prepared Under Legislative Authority  
Laws 1956, Chapter 129*

**Volume 5A**

**Title 13**

**Criminal Code**

§§ 13-2001 to 13-End

**Appendix**

**Prior Criminal Code Provisions**

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## § 13-101 APPENDIX—FORMER TITLE 13

## Tables

*Tables showing the disposition of the subject matter of Criminal Code sections repealed or transferred and renumbered and the derivation of the sections constituting the Criminal Code as revised are to be found at pp. XIX to XXXIII in this volume.*

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13-102.	Definition of criminal action; designation of parties.	13-135.01. Transferred and renumbered as § 13-1624.
13-103.	Classification as felony or misdemeanor.	13-136. Repealed.
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## ARTICLE 1. DEFINITION AND CLASSIFICATION OF CRIME

## § 13-101. Crime or public offense defined

A crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, upon conviction, the punishment of death, imprisonment, fine, removal from office or disqualification to hold and enjoy any office of honor, trust or profit in this state.

## § 13-102. Definition of criminal action; designation of parties

A. The proceedings by which a person charged with a crime or public offense is accused and brought to trial and a judgment therein obtained is a criminal action.

B. The proceeding is prosecuted in the name of the state of Arizona against the person charged with the offense, designated as the defendant.

## § 13-103. Classification as felony or misdemeanor

A. A felony is a crime or public offense which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor.

B. When a crime or public offense punishable by imprisonment in the state prison is also punishable by fine or imprisonment in a county jail, in the discretion of the court, it shall be deemed a misdemeanor for all purposes

after a sentence imposing a punishment other than imprisonment in the state prison.

C. When a crime or public offense is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail and the prosecuting attorney files an information in superior court designating the offense as a misdemeanor, it shall be deemed a misdemeanor.

D. When a crime or public offense is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail and the prosecuting attorney files a complaint in justice court or magistrate court designating the offense as a misdemeanor punishable by imprisonment in the county jail for not to exceed six months or a fine of three hundred dollars or both, it shall be prosecuted in such court and shall be deemed a misdemeanor.

E. When a crime or public offense is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, and before or during the preliminary examination and with the consent of the defendant, the prosecuting attorney determines that the offense should be prosecuted as a misdemeanor, the complaint shall be amended to charge a misdemeanor punishable by imprisonment in the county jail for not to exceed six months or a fine of three hundred dollars or both and it shall be prosecuted in the justice court and shall be deemed a misdemeanor.

F. When the prosecuting attorney files an information in superior court or a complaint in justice court or magistrate court designating the offense as a misdemeanor as provided in subsections C or D of this section, and the defendant at the time of his arraignment or plea objects to the offense being filed as a misdemeanor, the information or complaint shall be amended to charge the felony and the case shall proceed on the felony complaint. As amended Laws 1972, Ch. 36, § 1.

#### § 13-104. Crime a misdemeanor when no penalty prescribed

When an act or omission is declared by statute to be a crime or public offense and no penalty for the offense is prescribed by statute, the act or omission is punishable as a misdemeanor.

#### § 13-105. Punishment unaffected by laws of other jurisdictions

An act or omission declared punishable by the laws of this state is not less so because it is also punishable under the laws of the United States or of another state or country, unless the contrary is expressly declared.

#### § 13-106. Limitations of criminal actions; tolling of time

A. There is no limitation of time within which a prosecution for murder, embezzlement of public monies and falsification of public records shall be commenced.

B. An indictment, information or complaint for a felony other than those mentioned in subsection A of this section shall be found or filed within five years after its commission. An indictment, information or complaint for any misdemeanor shall be found or filed within one year after its commission.

C. If when the crime or offense is committed defendant is without the state, the indictment, information or complaint may be found or filed within the time limited by this section after his returning to the state. The time during which defendant is not an inhabitant of, or usually resident within, the state, shall not be computed as part of the limitation.

D. An indictment is found within the meaning of this section when it is duly returned and presented by the grand jury in open court, and there received and filed. As amended Laws 1969, Ch. 133, § 1.

#### § 13-107. Time of completion of offense committed by sending letter

In instances in which the sending of a letter is made criminal by law, the offense is deemed complete from the time the letter is deposited in a post office, or postal mail box or any other place, or delivered to any person, with intent that it be forwarded.



## § 13-108

## APPENDIX—FORMER TITLE 13

## § 13-108. Attempt defined

An attempt to commit a crime is the performance of an act immediately and directly tending to the commission of the crime with the intent to commit such crime, the consummation of which fails on account of some intervening cause.

## § 13-109. Conviction for attempt although crime perpetrated

A person may be convicted of an attempt to commit a crime, although it appears upon the trial that the crime intended or attempted was perpetrated by the person in pursuance of such an attempt, unless the court, in its discretion, discharges the jury and directs the person to be tried for the crime.

## § 13-110. Punishment for attempt when not otherwise prescribed

A person who attempts to commit a crime shall be punished, where no provision is made by law for the punishment of such attempt, as follows:

1. If the offense so attempted is punishable by imprisonment in the state prison for five years or more or by imprisonment in the county jail, by imprisonment in the state prison, or in a county jail, as the case may be, for a term not exceeding one half the longest term of imprisonment prescribed upon conviction of the offense so attempted.

2. If the offense so attempted is punishable by imprisonment in the state prison for any term less than five years, by imprisonment in the county jail for not more than six months.

3. If the offense so attempted is punishable by a fine, by a fine not exceeding one half the largest fine which may be imposed upon a conviction of the offense so attempted.

4. If the offense so attempted is punishable by imprisonment and by a fine, by both imprisonment and fine not exceeding one half the longest term of imprisonment and one half the largest fine which may be imposed upon a conviction for the offense so attempted.

## § 13-111. Attempt resulting in different crime

A person who in attempting unsuccessfully to commit a crime, accomplishes the commission of another and different crime, whether greater or less in degree, shall not be exonerated by the provisions of §§ 13-108 through 13-110 from suffering the punishment prescribed by law for the crime committed.

## § 13-112. Particular persons liable to punishment

The following persons are liable to punishment under the laws of this state:

1. Those who commit, in whole or in part, any crime or public offense within this state.

2. Those who commit any offense without this state which, if committed within this state, would be theft, robbery or theft by embezzlement under the laws of this state, and bring the property stolen or embezzled or any part of it into, or are found with it or any part of it within, this state.

## § 13-113. Person out of state aiding offense within

A person who, being out of this state, causes, aids, advises or encourages any person to commit a crime or public offense within this state, and is afterwards found within this state, shall be punished in the same manner as if he had been within this state when he caused, aided, advised or encouraged the commission of such crime or public offense.

## § 13-114. Performance of act by another

A person shall not be punished for an omission to perform an act where the act has been performed by another person acting in his behalf and competent by law to perform it.

## § 13-236

## APPENDIX—FORMER TITLE 13

2. A structure, snowshed, vessel or boat, not the subject of arson.
3. A tent, not the subject of arson.
4. A stack of hay, grain or straw.
5. A stack of baled hay or straw, or potatoes, beans or vegetables.
6. Cotton, produce or fruit of any kind, whether or not sacked, boxed or crated.
7. Growing or standing grain, grass, tree, fence, railroad car, lumber, cord wood, railroad ties, telegraph or telephone poles or shales.

B. A person who violates any provision of this section shall be punished by imprisonment in the state prison for not less than one nor more than ten years.

## ARTICLE 5. ASSAULTS AND BATTERY

## § 13-241. Definition of assault and battery

A. An assault is an unlawful attempt, coupled with a present ability, to commit a physical injury on the person of another.

B. A battery is a wilful and unlawful use of force or violence upon the person of another. As amended Laws 1980, Ch. 133, § 3.

## § 13-242. Commission of assault or battery

An assault or battery may be committed by the use of any means capable of inflicting the slightest injury, including spitting in the face.

## § 13-243. Simple assault; punishment

A simple assault is punishable by a fine not exceeding three hundred dollars, or by imprisonment in the county jail not exceeding three months.

## § 13-244. Simple battery; punishment

A simple battery is punishable by a fine not exceeding three hundred dollars, or by imprisonment in the county jail not exceeding six months.

## § 13-245. Aggravated assault or battery; definition; punishment

A. An assault or battery is aggravated when committed under any of the following circumstances:

1. When the person committing the offense goes into a private home and is there guilty of assault or battery.
2. When committed by a person of robust health or strength upon one who is decrepit.
3. When committed by a person of eighteen years or more upon a child the age of fifteen years or under.
4. When the instrument or means used is such as to inflict disgrace upon the person assaulted, as an assault or battery with a whip or cowhide.
5. When a serious bodily injury is inflicted upon the person assaulted.
6. When committed with a premeditated design and by the use of means calculated to inflict great bodily injury.
7. When the person committing the offense knows or has reason to know that the victim is a peace officer, or a person summoned and directed by such officer while engaged in the execution of any official duties.
8. When the person committing the offense knows or has reason to know the victim is a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds adjacent thereto, or is in any part of a building used for school purposes.
9. When the person committing the offense knows or has reason to know the victim is an employee of the department of corrections acting in an official capacity and the person committing the assault is incarcerated in, or subject to the custody of personnel from, the state prison.

B. An aggravated assault or battery shall be punished by a fine of not less than one hundred nor more than two thousand dollars, or by imprisonment in the county jail not to exceed one year, or both, or by imprisonment in the state prison for not less than one nor more than five years.

C. An aggravated assault or battery committed by a person armed with a gun or deadly weapon is punishable by imprisonment in the state prison, for the first offense, for not less than five years, for a second offense, not less than ten years, for a third or subsequent offense, not less than twenty years nor more than life imprisonment, and in no case, except for first offense, shall the person convicted be eligible for commutation of sentence. As amended Laws 1962, Ch. 88, § 1; Laws 1967, Ch. 62, § 1; Laws 1970, Ch. 58, § 1; Laws 1972, Ch. 179, § 1; Laws 1973, Ch. 172, § 33.

**§ 13-246. Justification for use of force; limitation**

A. Violence used to the person does not amount to assault or battery in the following cases:

1. In the exercise of the right of moderate restraint or correction given by law to the parent over the child, the guardian over the ward and the teacher over the scholar.
2. For preservation of order in a meeting for religious, political or other lawful purposes.
3. For preservation of the peace, or to prevent the commission of an offense.
4. In preventing or interrupting an intrusion upon the lawful possession of property.
5. In making a lawful arrest and detaining the party arrested when authorized by law, or in obedience to the lawful order of a magistrate or court, or in overcoming resistance to such lawful order.
6. In self-defense, or defense of another against unlawful violence to his person or property.

B. Only that degree of force may be used which is necessary to accomplish the lawful purpose.

**§ 13-247. Assault or battery without necessity by officer; punishment**

A public officer who, under color of authority, without lawful necessity, assaults or beats any person, shall be punished by a fine not exceeding one thousand dollars, by imprisonment in the county jail for not to exceed six months, or both.

**§ 13-248. Assault with intent to commit murder; punishment**

A. A person who assaults another with intent to commit murder shall be punished by imprisonment in the state prison for not less than five years and the sentence may extend to life.

B. A crime as prescribed by the terms of subsection A, committed by a person armed with a gun or other deadly weapon, is punishable by imprisonment in the state prison, for the first offense, for not less than five years, for a second offense, not less than ten years, for a third or subsequent offense, not less than twenty years nor more than life imprisonment, and in no case, except for first offense committed by a person armed with a deadly weapon other than a gun, shall the person convicted be eligible for suspension or commutation of sentence, probation, pardon or parole until such person has served the minimum sentence imposed.

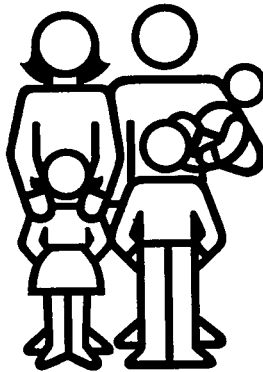
C. Any person who commits assault with intent to commit murder with a deadly weapon other than a gun who is placed on probation in accordance with the terms of this section shall upon sentencing be committed to the department of corrections for not less than thirty nor more than sixty days. As amended Laws 1967, Ch. 62, § 2; Laws 1976, Ch. 111, § 1.

**§ 13-249. Assault with deadly weapon or force; punishment**

A. A person who commits an assault upon the person of another with a deadly weapon or instrument, or by any means or force likely to produce great bodily injury, shall be punished by imprisonment in the state prison for not less than one nor more than ten years, by a fine not exceeding five thousand dollars, or both.

B. A crime as prescribed by the terms of subsection A, committed by a person armed with a gun or other deadly weapon, is punishable by imprison-

**REPORT ON DOMESTIC  
VIOLENCE IN MARICOPA  
COUNTY  
THE FAMILY LAW COMMITTEE  
MARICOPA COUNTY BAR  
ASSOCIATION  
1979**



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**PREPARED BY  
COMMISSIONER JAMES E. McDOUGALL  
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# DOMESTIC VIOLENCE IN MARICOPA COUNTY

*"For too long, Anglo-American law treated a man's physical abuse of his wife as different from any other assault, and, indeed, as an acceptable practice . . ."*  
*"Bruno v. Codd, 90 Misc. 2d 1047, 396 N.Y.S.2d 274 (Sup. Ct. N.Y. Co. 1977)."*

## STATEMENT OF THE PROBLEM

As lawyers, judges and commissioners, the members of the Family Law Committee of the Maricopa County Bar Association were aware that Domestic Violence existed but no one had ever taken a hard look at the problem and whether the legal system was successful in the prevention or remediation of the problem. When members of the committee reported that victims of Domestic Violence were uniformly frustrated in their efforts to "get someone to do something" it was decided that this committee should study these complaints. Generally victims reported that the police would not make arrests, that the County Attorney would not immediately file a complaint and that the courts would not issue a Peace Bond or punish a person clearly guilty of a violation of the law. If these complaints, or any of

them, had any substance, the members of the committee felt changes would have to be made.

"Domestic Violence" is generally defined as violence between people who live together including violence between married and unmarried adults, and violence between a parent and a child. While recognizing that child abuse and parent abuse are also significant problems in our community, this committee chose to direct its attention only to violence between adults living together.

The committee narrowed its inquiry to a determination of whether there is a lack of responsiveness to the problem of Domestic Violence between adults living together in Maricopa County by police agencies, law enforcement agencies, our court system, and private agencies.

## METHOD OF STUDY

Between November 1978 and August 1979, the committee held several meetings attended by representatives from various community organizations which were likely to be aware of the nature and scope of the problem. These people were questioned by members of the committee with respect to the scope of Domestic Violence in Maricopa County, the services provided to victims and their perceptions of the problem within the legal system in responding to Domestic Violence.

The following organizations were contacted by the committee:

- Representatives from Police Agencies: City of Glendale, City of Tempe, City of Phoenix, City of Mesa, Town of Paradise Valley, Maricopa County Sheriff's Office.
- Representatives from Prosecuting Agencies: Office of Maricopa County Attorney, Office of the Phoenix City

Prosecutor.

- Community Diversion, Intervention, Social Service Agencies and other Interested Groups: Maricopa County Attorney - Adult Diversion Program, City of Glendale - Victim Assistance Services, City of Scottsdale - Police Crisis Intervention, City of Phoenix - Human Resources, Faith House, Little Candle Communities for Adolescents, Rainbow Retreat Incorporated, Friends of the Family, Sojourner Center, Salvation Army, Behavior Evaluation Specialist Teams, Inc., Terra Firma, Community Legal Services, Arizona Women's Commission.
- Representatives from the Courts: Domestic Relations Division of Superior Court of Arizona in Maricopa County, Conciliation Court of Maricopa County.

## FINDINGS

The following findings are made based upon the information gathered during interviews with the representatives of the agencies set forth in the

Method of Study, and upon the independent study of the members of this committee.

### FINDINGS-POLICE AGENCIES

1. 16,421 family fights were reported to the City of Phoenix Police Department in 1978. For the first six months of 1979 there were 8,075 family fights reported.<sup>1</sup>
2. Responding to Domestic Violence is one of a Phoenix police officer's most dangerous duties. The second highest number of duty-related deaths among Phoenix police officers results from answering Domestic Violence calls.
3. While some police agencies, notably Glendale and Scottsdale, have attempted to respond to the problem by providing crisis intervention, police agencies in Maricopa County have no extensive program devoted to specialized training of peace officers to handle Domestic Violence.
4. Police agencies generally prefer to treat Domestic Violence situations as a civil matter rather than a criminal violation. Police officers are reluctant to make immediate arrests unless the violence occurs within their presence and generally attempt to discourage further prosecution by the victim. Citizen's arrest procedures under A.R.S. § 13-3884, § 13-3889, and § 13-3900 are seldom utilized or even suggested by the police. In most cases, it is the *victim* who is requested by the police to vacate the family home to "cool" the situation, rather than the offender.
5. The arrest procedures available under A.R.S. §13-3883 (arrest by officer without warrant) and §13-3903 (arrest by Arizona traffic ticket) provide the police with limited tools to deal with Domestic Violence, but it appears that these procedures are seldom used.
6. There is no statutory authority for police agencies to enforce Temporary Restraining Orders or Injunctions.

<sup>1</sup> Findings No. 1 and No. 2 are based upon information from the Phoenix Police Department.

### FINDINGS — PROSECUTING AGENCIES

1. Current policy of the County Attorney's Office provides that no complaint for a crime involving Domestic Violence will be filed until the conclusion of a three week waiting or cooling off period. In spite of the County Attorney's insistence that current policy provides for the filing of a complaint immediately whenever there is evidence of immediate danger of physical harm, this committee has been cited numerous examples of instances where this has not been done.
2. Peace Bonds are no longer being filed by the County Attorney, City Attorney or issued by Justice Courts<sup>2</sup> even though authorized by A.R.S. §13-3811 through §13-3816.
3. Police agencies and prosecuting authorities are frequently frustrated by the reluctance of victims to follow up on prosecution for the following reasons:
  - a. Fear of retaliation.
  - b. Financial dependence upon the offending spouse.
  - c. Lack of information concerning support organizations.
  - d. Continued emotional involvement with the offending spouse.
  - e. A false sense of causation and guilt by the victim.

### FINDINGS — THE COURTS

1. Temporary Restraining Orders, Preliminary Injunctions and Permanent Injunctions are available for use by victims of Domestic Violence pursuant to A.R.S. §25-315, Arizona Rules of Civil Procedure, Rule 65 and A.R.S. §12-1801.
  - a. The courts refused to grant these orders to an unmarried partner or to a married partner who has not filed a Petition for Dissolution or Legal Separation.

<sup>2</sup> Based upon a telephone inquiry to each Phoenix Justice Court, there was only one court willing to issue a Peace Bond.



- b. The courts rarely punish the violators of these orders by imposition of a jail sentence or fine.
2. Even when Domestic Violence is prosecuted as a crime, generally juries are reluctant to find offenders guilty and judges are reluctant to punish them.
3. Conciliation Court has no remedial or preventative program to deal with Domestic Violence.

### **FINDINGS — COMMUNITY AND PRIVATE SERVICE AGENCIES**

1. There are limited resources available for Domestic Violence victims in

Maricopa County.

2. Current diversion and intervention programs are too few in number, not sufficiently funded and are too limited in scope to have any significant effect on the problem.
3. Counseling and shelter facilities are available through private agencies, but these agencies are too few in number and insufficiently funded to handle the tremendous demand for their services.
4. There is no effective system for dissemination of information about assistance to victims of Domestic Violence.

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### **RECOMMENDATIONS**

The committee recommends that the following actions be taken to make the

legal system responsive to the problem of Domestic Violence.

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#### **RECOMMENDATIONS — POLICE AGENCIES**

1. The police should be provided with specific statutory authority for:
  - a. Detention of offender, short of arrest for a reasonable time to allow "cooling off" away from the home (Similar to the L.A.R.C. program for alcoholics.) and arbitration or mediation by trained experts.
  - b. Arrest of offender without a warrant for a crime of Domestic Violence even though the crime occurs outside the presence of the arresting officer.
  - c. Enforcement by arrest and prosecution for violation of a Temporary Restraining Order or Preliminary Injunction.<sup>3</sup>
  - d. Intervention by social service teams, regardless of arrest, immediate mediation and counseling of *both* parties.
2. In order to better define the nature and scope of the Domestic Violence problem, reporting methods should be improved to distinguish Domestic Violence from other types of crime and to record the disposition of these offenses.
3. Police should be adequately trained to handle Domestic Violence calls,

and there should be extensive instructions in crisis intervention and referral techniques. Police agencies should consider specially trained teams within their agencies to respond.

4. Police should revise their policies and attitudes to insure that Domestic Violence is not ignored on the excuse that it is a civil matter or that it is socially acceptable behavior.<sup>4</sup>
5. Police should be provided with crisis intervention assistance from social service agencies and should be instructed on how to advise victims on citizen arrest procedures, counseling and shelter alternatives, and other community services available to Domestic Violence.

#### **RECOMMENDATIONS — PROSECUTING AGENCIES**

1. The Maricopa County Attorney's office should eliminate its three-week waiting period requirement. The Charging Bureau should designate special attorneys familiar with Domestic Violence statutes. All prosecuting agencies should revise their

<sup>3</sup> See Appendix A for the California and Michigan statutes remedying this situation.

<sup>4</sup> See Appendix A for an example of how New York City changed its policies and attitudes.

- policies and attitudes to insure immediate assistance to victims of Domestic Violence.
2. The County Attorney and City Attorney should have diversion programs available to deal with anyone charged with a Domestic Violence crime regardless of bodily injury or the use of a weapon. These agencies should consider a diversion program (similar to the P.A.C.T. program for D.W.I.'s) to provide mandatory counseling for both the victim and offender.
  3. Prosecuting agencies should have a system for informing the public and other agencies of diversion programs and other assistance available to parties involved in Domestic Violence.

## RECOMMENDATIONS — THE COURTS

### Criminal

1. Domestic Violence should be legally defined and classified as a separate crime.<sup>5</sup>
2. The statute should prescribe a mandatory sentence imposed no later than the second conviction, including incarceration, and public work assignments.

### Civil

1. Domestic Relations statutes should be revised to provide a procedure for obtaining Temporary Restraining

Orders and Injunctions by a person who is unmarried or, if married, without having to file a Petition for Dissolution or Legal Separation.

2. The statutes should prescribe mandatory punishment for a finding of Contempt for a violation of a Temporary Restraining Order or injunction e.g. mandatory "jail time", public work assignments and assessment of attorney's fees and costs.
3. Conciliation Court should expand its services to include counseling and dissemination of information to victims of Domestic Violence, whether or not the parties are married.
4. The courts should revise their procedures to provide speedy access to the court system for all civil and criminal remedies.

## MISCELLANEOUS RECOMMENDATIONS

1. There should be a pamphlet for police officers and other interested persons and agencies to give out regarding services and assistance available to victims.
2. There should be a Domestic Violence hot line.
3. There should be a Domestic Violence Tape as part of the Tel-Law Service of the Maricopa County Bar Association.

## CONCLUSION

Domestic Violence has received a great deal of study in recent years.<sup>6</sup> The findings outlined in this report confirm that cities in Maricopa County, like most other cities in the United States, have a significant problem with Domestic Violence and are not responding to it. The biggest problem, however, is that no one seems willing to respond. Psychiatrists and psychologists indicate that Domestic Violence is cyclical. Children raised in a domestically violent family will usually be domestically violent themselves. By not responding, the problem does not go away.

Some states have already responded. Unfortunately response in many cases has been brought about only as a result of law suits against police agencies.<sup>7</sup> As

can be seen from this report, the responsibility for unresponsiveness does not rest with the police agencies alone, but must be shared by the prosecuting agencies and the courts. If a significant change is to be made, it has to involve all areas of the legal process.

To make a significant change, we must change the "attitude" toward this problem. It is not "just a civil matter". No one has the "right" or "privilege" to abuse another person. We are not deal-

<sup>5</sup> See Appendix A for a list of Arizona statutes used in Domestic Violence situations and for examples of statutes in other states.

<sup>6</sup> See Appendix B for Recent Studies and Partial Bibliography.

<sup>7</sup> For example see Appendix A for the New York Court Decisions.

ing with "socially acceptable behavior". These attitudes and the unresponsiveness to Domestic Violence are the part of the problem that the legal system can change. Even though the underlying cause is a psychological one which cannot be remedied by the legal system, when a violation of the law occurs the legal system should respond swiftly and with certain punishment for an offender.

The attitude that the police should avoid making an arrest and discourage a victim from filing a complaint must be changed. The beat officer's concern should be with protecting the citizens and enforcing the laws. He should not concern himself with such matters as the amount of paperwork involved, the overcrowded court system or the ineffectiveness of other branches of the legal system.

The burden of carrying through with prosecution of Domestic Violence crimes has traditionally rested with the victim. Victims of Domestic Violence are usually pressured not to prosecute by considerations irrelevant to the questions of whether a crime has been committed, and whether the public has been harmed. Realizing this, the burden of the decision to follow through with prosecution should rest with the state rather than the victim. Domestic Violence is not a personal private matter. It potentially affects each one of us either directly or

indirectly.

The courts should be concerned with providing the citizens of this state with a speedy remedy to a clearly wrongful act and sure punishment for the wrongdoer. Discretion as to punishment upon conviction should be severely limited.

Recognizing that the legal system at best can only provide a remedy for a legal wrong, the heaviest burden must fall upon the behavioral sciences and social service agencies. They are the only ones capable of providing any long lasting remedy to the participants in Domestic Violence. The cause of Domestic Violence usually does not rest with one party, but rather is contributed to by both parties. The legal system and the behavioral sciences must work together. It is the job of the behavioral sciences to find the causes of and remedies for Domestic Violence in a particular family. It is the legal profession's responsibility to make people understand that, no matter what the cause, Domestic Violence will not be tolerated.

The various branches of the legal system in Maricopa County are not responsive to the problem of Domestic Violence. A change is definitely needed. A new framework for dealing with Domestic Violence is needed carefully blending all branches of the legal system with the behavioral and social sciences.

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*"No person in his right mind can deny that wife-beating, carried over from primordial times, is a great social evil which should be scotched, and that any public official, who is charged with the duty of preventing it either initially or in repetition, or of punishing its perpetration, should be required to do his duty fully and completely." Bruno v. Codd, 64 A.D. 2d 582, 407 N.Y.S. 2d 165 (1978).*

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**APPENDIX A**  
**State of Michigan**  
**REGULAR SESSION OF 1978**  
**CRIMINAL PROCEDURE**  
**PUBLIC ACT NO. 316**  
**HOUSE BILL No. 5349**

---

An act to amend section 13 of chapter 12 of Act No. 175 of the Public Acts of 1927, entitled "An act to revise, consolidate and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts and of the judges and other officers thereof under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses; to provide for the arrest of persons charged with or suspected of criminal offenses; to provide for bail of persons arrested for or accused of criminal offenses; to provide for the examination of such persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and to provide for the procedure therein; to provide for judgments and sentences of persons convicted of criminal offenses; to provide for procedure relating to new trials, appeals, writs of error and bills of exception in criminal causes; to provide a uniform system of probation throughout the state of Michigan, the appointment of probation officers and to prescribe the powers, duties and compensation of such officers and to provide penalties for the violation of the duties of such officers; to provide for procedure governing proceedings to prevent crime- proceedings for the discovery of crime; to provide for the jurisdiction, powers, duties, and procedure of justices of the peace in criminal cases; miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," being section 772.13 of the Compiled Laws of 1970; to add section 15a to chapter 4 and section 14a

to chapter 12; and to repeal certain acts and parts of acts.

*The People of the State of Michigan enact:*

Section 1. Section 13 of chapter 12 of Act No. 175 of the Public Acts of 1927, being section 772.13 of the Compiled Laws of 1970, is amended and section 15a is added to chapter 4 and section 14a is added to chapter 12 to read as follows:

**CHAPTER 4**

**M.C.L.A §764.15a**

Sec. 15a. (1) A peace officer who has reasonable cause to believe that a violation of section 81 or 81a of Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, has taken place or is taking place and that the person who committed or is committing the violation is the spouse or former spouse of the victim, or a person of the opposite sex residing or having resided in the same household as the victim, may arrest the violator without a warrant for that violation, irrespective of whether the violation was committed in the presence of the peace officer.

(2) A peace officer, without a warrant, may arrest and take into custody a person when the peace officer has reasonable cause to believe that all the following exist:

(a) A preliminary injunctive order issued pursuant to section 14 of chapter 84 of the Revised Statutes of 1846, as amended, being section 552.14 of the Michigan Compiled Laws, exists.

(b) A certified copy of the order and proof of service on the person is filed with the law enforcement agency having jurisdiction of the area in which the moving party resides.

(c) The person named in the order is acting in violation of the order. A person

is in violation of the order if that person commits 1 or more of the following acts specifically enumerated in the order to restrain or enjoin the person from:

- (i) Entering onto premises.
- (ii) Assaulting, beating, molesting, or wounding a named person.
- (iii) Removing minor children from a spouse having legal custody of the children, in violation of custody and visitation orders as issued by the court.

(d) The order states on its face that a violation of its terms subjects the person to criminal contempt of court as provided in section 14(4) of chapter 84 of the Revised Statutes of 1846, as amended, being section 552.14 of the Michigan Compiled Laws, and, if found guilty, shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(3) A peace officer, without a warrant, may arrest and take into custody a person when the peace officer has reasonable cause to believe that an order for a peace bond issued pursuant to chapter 12 exists; a certified copy of the order is filed with the law enforcement agency having jurisdiction of the area in which the moving party resides; and the person required by the order to give security to keep the peace is acting in violation of the order.

(4) A person arrested pursuant to this section shall be brought before the circuit court having jurisdiction in the cause within 24 hours to answer to a charge of contempt for violation of the preliminary injunctive order, at which time the court shall:

(a) Set a time certain for a hearing on the alleged violation of the preliminary injunctive order within 72 hours after arrest, unless extended by the court on the motion of the arrested person.

(b) Set a reasonable bond pending a hearing on the alleged violation of the injunctive order.

(c) Notify the party who has procured the injunctive order and direct the party to show cause why a contempt order should issue.

## CHAPTER 12

### M.C.L.A. § 772.13

Sec. 13 (1) Every recognizance taken

pursuant to this chapter, shall be transmitted by the magistrate to the clerk of the circuit court for the county, within 2 days after its taking \* \* \*, and shall be filed by the clerk.

(2) The clerk shall file a certified copy of a peace bond issued under this chapter with the law enforcement agency having jurisdiction of the area in which the complainant resides.

### M.C.L.A. § 772.14A

Sec. 14a. A person who refuses or fails to comply with an order issued pursuant to this chapter in which the person is directed to keep the peace toward a spouse, former spouse, or person of the opposite sex residing or having resided in the same household is subject to the contempt powers of the court and, if found guilty, shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

### M.C.L.A. § 775.12

Section 2. Section 12 of chapter 15 of Act No. 175 of the Public Acts of 1927, being section 775.12 of the Compiled Laws of 1970, is **repealed**.

Section 3. This amendatory act shall not take effect unless House Bill No. 5352 of the 1977 regular session of the legislature is enacted into law.

Ordered to take immediate effect

Approved July 10, 1978.

## DOMESTIC VIOLENCE [NEW]

*Caption editorially supplied*  
**Expiration**

*P.A. 1978, No. 389, provides in §11 (§400.1511) that this act shall expire September 30, 1983.*

**P.A. 1978, No. 389, Eff. Oct. 1**

AN ACT to provide for the prevention and treatment of domestic violence; to develop and establish policies, procedures, and standards for providing domestic violence assistance programs and services; to create a domestic violence prevention and treatment board and prescribe its powers and duties; to establish a domestic violence prevention and treatment fund and provide for its use; and to prescribe powers and duties of the department of social services.

deletions by asterisks \* \* \*

Substantive changes in text indicated by underline \*

*The People of the State of Michigan enact:*

**400.1501 Definitions**

Sec. 1. As used in this act:

(a) "Board" means the domestic violence prevention and treatment board created in section 2.<sup>1</sup>

(b) "Department" means the department of social services.

(c) "Domestic violence" means a violent physical attack or fear of violent physical attack perpetrated by an assailant against a victim; in which the victim is a person assaulted by or threatened by assault by his or her spouse or former spouse or an adult person or emancipated minor assaulted by an adult person of the opposite sex with whom the assaulted person cohabits or formerly cohabited; and in which the victim and assailant are or were involved in a consenting, sexual relationship.

(d) "Fund" means the domestic violence prevention and treatment fund created in section 5.<sup>2</sup>

(e) "Prime sponsor" means a county, city, village, or township of this state, or a combination thereof, or a private, non-profit association or organization. P.A.1978, No. 389, § 1, Eff. Oct. 1.

**Library References**

Social Security and Public Welfare §194.30.

C.J.S. Social Security and Public Welfare §124.

**4001.1502 Domestic violence prevention and treatment board; membership; terms; chairperson; quorum; per diem and expenses**

Sec. 2. (1) The domestic violence prevention and treatment board is created in the department. The board shall consist of 5 members, all of whom shall have experience in an area related to the problems of domestic violence. The members shall be appointed by the governor with the advice and consent of the senate.

(2) The term of office of a member shall be 3 years, except that of the members first appointed, 2 shall serve for a term of 1 year, 2 shall serve for a term of 2 years, and 1 shall serve for a term of 3 years. A member appointed to fill a vacancy occurring other than by expira-

tion of a term shall be appointed for the remainder of the unexpired term.

(3) The governor shall designate 1 member of the board to serve as chairperson. A majority of the members shall constitute a quorum.

(4) The per diem compensation of the board and the schedule for reimbursement of expenses shall be established annually by the legislature.

P.A.1978, No. 389, § 2, Eff. Oct. 1.

**400.1503 Domestic violence prevention and treatment board; meetings; freedom of information**

Sec. 3. (1) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

P.A.1978, No. 389, § 3, Eff. Oct. 1.

**400.1504 Domestic violence prevention and treatment board; powers and duties**

Sec. 4. The department shall provide staff to enable the board to carry out the following powers and duties:

(a) Coordinate and monitor programs and services funded under this act for the prevention of domestic violence and the treatment of victims of domestic violence.

(b) Develop standards for the implementation and administration of services and procedures to prevent domestic violence and to provide services and programs for victims of domestic violence.

(c) Provide planning and technical assistance to prime sponsors for the development, implementation, and administration of programs and services for the prevention of domestic violence

<sup>1</sup> Section 400.1502.

<sup>2</sup> Section 400.1505.

and the treatment of victims of domestic violence.

(d) Conduct research to develop and implement effective means for preventing domestic violence and treating victims of domestic violence.

(e) Provide assistance to the department of state police in developing a system for monitoring and maintaining a uniform reporting system to provide accurate statistical data on domestic violence.

(f) Coordinate educational and public informational programs for the purpose of developing appropriate public awareness regarding the problems of domestic violence; encourage professional persons and groups to recognize and deal with problems of domestic violence; to make information about the problems of domestic violence available to the public and organizations and agencies which deal with problems of domestic violence; and encourage the development of community programs to prevent domestic violence and provide services to victims of domestic violence.

(g) Study and recommend changes in civil and criminal procedures which will enable victims of domestic violence to receive equitable and fair treatment under the law.

(h) Advise the legislature and governor on the nature, magnitude, and priorities of the problem of domestic violence and the needs of victims of domestic violence; and recommend changes in state programs, statutes, policies, budgets, and standards which will reduce the problem and improve the condition of victims.

P.A.1978, No. 389, § 4, Eff. Oct. 1.

**400.1505 Domestic violence prevention and treatment fund; criteria for awarding grants or contracts**

Sec. 5. The domestic violence prevention and treatment fund is established within the department. Subject to the approval of the board, the department shall administer the fund for the purposes described in this act and shall establish qualifying criteria for awarding grants or contracts under section 6 and may specify conditions for each grant or contract.

P.A.1978, No. 389, § 5, Eff. Oct. 1.

**400.1506 Award of grants or contracts**

Sec. 6. (1) Subject to the approval of the board, the department may award a grant or enter into a contract, using money in the fund, for the support of local programs designed to do any of the following:

(a) Establish or maintain a shelter program as provided in section 7.<sup>1</sup>

(b) Develop and establish a training program for persons engaged in areas related to the problems of domestic violence.

(c) Develop and implement effective means for the prevention and treatment of domestic violence.

(2) A prime sponsor which desires to receive a grant from, or to enter into a contract with, the department shall make application in the manner prescribed by the department.

(3) The department shall not award a grant to a prime sponsor or enter into a contract with a prime sponsor, unless the prime sponsor agrees that the state share payable for programs and services financed with state funds received under the authority of this act shall not exceed 40% of the total cost of the domestic violence prevention and treatment programs and services provided by that prime sponsor during the term of the award or contract. The total cost of programs and services may include the fair market value of in-kind contributions received by a prime sponsor. A prime sponsor shall not receive more than \$55,000.00 under this act during a fiscal year.

P.A.1978, No. 389, § 6, Eff. Oct. 1.

**400.1507 Shelter programs**

Sec. 7. (1) A prime sponsor may receive funds under this act to establish or maintain a shelter program for victims of domestic violence and their dependent children. Emergency shelter may be provided directly at a facility operated by the prime sponsor or indirectly at transient or residential facilities available in the community. A shelter program shall either provide not less than 3 of the following services or assist the victim in obtaining information and referral services to not less than 3 of the following services:

<sup>1</sup> Section 400.1507.

(a) Crisis and support counseling for victims of domestic violence and their dependent children.

(b) Emergency health care services.

(c) Legal assistance.

(d) Financial assistance.

(e) Housing assistance.

(f) Transportation assistance.

(g) Child care services.

(2) To the extent possible, a prime sponsor which establishes a shelter program under this section shall utilize services provided by county community mental health programs established under chapter 2 of Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1200 to 330.1246 of the Michigan Compiled Laws.

P.A.1978, No. 389, § 7, Eff. Oct. 1.

**400.1508 Preferences and considerations in awarding grants or contracts**

Sec. 8. (1) In awarding a grant or contract under this act, the department and board shall give preference to a prime sponsor which establishes domestic violence emergency shelter services utilizing voluntary personnel or available community resources.

(2) In awarding a grant or contract under this act, the department and board shall consider the needs of the people residing throughout the state and shall provide for the equitable, statewide funding of programs for the prevention of

domestic violence and the treatment of victims of domestic violence.

P.A.1978, No. 389, § 8, Eff. Oct. 1.

**400.1509 Evaluation of programs and services**

Sec. 9. The department annually shall evaluate the domestic violence prevention and treatment programs and services provided by a prime sponsor which is awarded a grant or contract under this act. The evaluation shall include a description of the programs and services provided, an analysis of the effectiveness of the programs and services.

P.A.1978, No. 389, § 9, Eff. Oct. 1.

**400.1510 Agreements for receipt of funds**

Sec. 10. The department may enter into agreements with the federal government or private foundations, trusts, other legal entities for the receipt of funds consistent with this act.

P.A.1978, No. 389, § 10, Eff. Oct. 1.

P.A.1978, No. 389, was ordered to take immediate effect and was approved Aug. 1, 1978.

**400.1511 Effective and expiration dates**

Sec. 11. (1) This act shall not take effect until October 1, 1978.

(2) This act shall expire September 30, 1983.

P.A.1978, No. 389, § 11, Eff. Oct. 1.



**State of Michigan**  
**CRIMINAL PROCEDURE — JUDGMENT AND SENTENCE —**  
**ASSAULT AND BATTERY OF SPOUSE**  
**PUBLIC ACT NO. 353**  
**HOUSE BILL No. 5356**

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AN ACT to amend chapter 9 of Act No. 175 of the Public Acts of 1927, entitled "An act to revise, consolidate and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts and of the judges and other officers thereof under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses; to provide for the arrest of persons charged with or suspected of criminal offenses; to provide for bail of persons arrested for or accused of criminal offenses; to provide for the examination to such persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and to provide for the procedure therein; to provide for judgments and sentences of persons convicted of criminal offenses; to provide for procedure relating to new trials, appeals, writs of error and bills of exception in criminal causes; to provide a uniform system of probation officers and to prescribe the powers, duties and compensation of such officers and to provide penalties for the violation of the duties of such officers; to provide for procedure governing proceedings to prevent crime; proceedings for the discovery of crime; to provide for the jurisdiction, powers, duties, and procedure of justices of the peace in criminal cases; to provide for fees of officers, witnesses and others in criminal cases; miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended, being sections 769.1 to 769.28 of the Compiled Laws of 1970, by adding section 4a.

*The People of the State of Michigan enact:*

Section 1. Chapter 9 of Act No. 175 of the Public Acts of 1927, as amended, being sections 769.1 to 769.28 of the Compiled Laws of 1970, is amended by adding section 4a to read as follows:

CHAPTER 9

**M.C.L.A. §769.4a**

Sec. 4a. (1) When a person, who has not been convicted previously of a violation of section 81 or 81a of Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, and the victim of the assault is the offender's spouse, pleads guilty to, or is found guilty of, a violation of section 81 or 81a of Act No. 328 of the Public Acts of 1931, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the accused on probation as provided in this section. Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided in this chapter.

(2) An order of probation entered under subsection (1) may require the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the program.

(3) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(4) There may be only 2 discharges and dismissals under this section with respect to any person. The department of state police shall retain a nonpublic record of an arrest and discharge or dis-

missal under this section. This record shall be furnished to a court or police agency upon request for the purpose of showing that a defendant in a criminal action under section 81 or 81a of Act No.

328 of the Public Acts of 1931 has already once availed himself or herself of this section.

Ordered to take immediate effect.  
Approved July 14, 1978.

**State of Michigan**  
**UNIFORM CRIME REPORTING SYSTEM — DOMESTIC ASSAULTS**  
**PUBLIC ACT NO. 319**  
**HOUSE BILL No. 5353**

AN ACT to amend Act No. 319 of the Public Acts of 1968, entitled "An act to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; and to vest the director of the department of state police with the authority to prescribe the reporting form and its content," being sections 28.251 to 28.256 of the Compiled Laws of 1970, by adding section 7.

*The People of the State of Michigan enact:*

Section 1. Act No. 319 of the Public Acts of 1968, being sections 28.251 to 28.256 of the Compiled Laws of 1970, is amended by adding section 7 to read as follows:

**M.C.L.A. § 28.257**

Sec. 7. The chief of police of each city or village, the chief of police of each township having a police department, and the sheriff of each county within this state shall report to the department of

state police, in a manner prescribed by the department, the following information related to crimes of domestic assault:

(a) The number of assaults reported which involve an adult and a minor and the disposition of those offenses.

(b) The number of assaults reported which involve 2 male adults or 2 female adults and the disposition of those offenses.

(c) The number of assaults reported which involve 1 male adult and 1 female adult and the disposition of those offenses.

(d) The number of assaults reported which involve a person and his or her spouse and the disposition of those offenses.

(e) Other statistics the director of the department of state police considers necessary to obtain accurate and reliable data on the incidence of domestic assault in this state.

Ordered to take immediate effect.  
Approved July 10, 1978.

## CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 527(b)

(b) A temporary restraining order may be granted with or without notice to restrain any person upon an affidavit which, to the satisfaction of a court shows reasonable proof of a past act or acts of actual violence resulting in physical injury for the purpose of preventing a recurrence of actual domestic violence and assuring a period of separation of the parties involved. A temporary restraining order may be granted pursuant to this subdivision to any person who, prior to or at the time such order is granted, was actually residing with the person or persons at whom such order is directed, and, in the case of a marital relationship, notwithstanding that a petition for legal separation or annulment or dissolution of marriage has not been filed.

A temporary restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed \* \* \* 90 days, unless otherwise terminated by the court.

In case a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the

and approved by the court. Each appropriate law enforcement agency may make available, through an existing system for verification, information as to the existence and current status of any temporary restraining order issued pursuant to this subdivision to any law enforcement officer responding to the scene of reported domestic violence.

court will permit, but not later than 15 days or, if good cause appears to the court 20 days from the date the temporary restraining order is granted.

Any willful disobedience of any temporary restraining order granted pursuant to this subdivision shall be a misdemeanor.

The county clerk shall transmit a copy of each temporary restraining order, or extension, modification or termination thereof, granted pursuant to this subdivision, by the close of the business day on which such order was granted, to the local law enforcement agency with jurisdiction over the residence of the party which obtained the restraining order or the residence at which the recurrence of actual domestic violence is the subject of the temporary restraining order, if requested by an attorney of record or a person who acted in propria persona

### Bruno v. Codd

Bruno v. Codd  
396 N.Y.S. 2d 974  
90 Misc.2d 1047

Carmen BRUNO et al, Plaintiffs,

v.

Michael CODD, Commissioner of the  
New York City Police Department,  
et al., Defendants.

Supreme Court, Special Term,  
Part I.

July 5, 1977.

Action was brought against employees of police department, probation department and family court on ground that defendants had failed to protect and assist wives assaulted by their husbands. The Supreme Court, Abraham J. Gellinoff, J., held that: (1) summary judgment for police department defendants was precluded by existence of factual issue as to whether there had been

failure by police to perform their duty of providing wives with proper police service; (2) probation department defendants were not entitled to summary judgment in view of evidence of callous disregard by probation officers of rights of women who were too poor or ignorant to retain legal counsel and who needed immediate protection from assaults by their husbands; (3) showing that family court defendants had not complied with their statutory duties precluded summary judgment for them, and (4) since the action was solely against governmental defendants, in their official capacities, and declaratory and injunctive relief was sought designation as a class action was unnecessary.

Motions for summary judgment and motion to certify action as class action denied.

deletions by asterisks \* \* \*

**1. Mandamus Key 66**

Court has power to compel city police department defendants to perform duty imposed upon them by law to exercise their discretion and to exercise it in reasonable nonarbitrary manner.

**2. Municipal Corporations Key 740(1)**

City police owe duty of protection to battered wives in same manner they owe it to any citizen injured by another's assault notwithstanding fact that primary jurisdiction for adjudication as to such assaults lies with family court rather than criminal court.

**3. Judgment Key 181(27)**

Summary judgment for police department defendants was precluded by existence of factual issue as to whether there had been failure by police to perform their duty of providing plaintiff wives with proper police service in connection with their complaints of being beaten by their husbands, by pursuing a discriminatory police policy.

**4. Judgment Key 181(27)**

Summary judgment for employees of city probation department was precluded by existence of factual issue as to whether there had been a callous disregard by probation officers of statutory rights of women who were too poor or too ignorant to retain legal counsel and who needed immediate protection from assaults by their husbands.

**5. Judgment Key 181(27)**

Summary judgment for employees of family court was precluded by existence of factual issues as to whether defendants had not complied with their statutory duties with respect to plaintiff wives who sought judicial relief from assaults committed by their husbands. Family Ct. Act, § 823.

**6. Declaratory Judgment Key 305**

Where action based on alleged failure of employees of city police department, probation department and family court in properly protecting and advising wives who had been assaulted by their husbands was solely against governmental defendants, in their official capacities, and declaratory and injunctive relief was sought designation as class action was not necessary, inasmuch as defendants were bound by *stare decisis* to follow ultimate determination with respect to all persons similarly situated and attempt to

provide for adequate notice to class would result in needless procedural complications.

Laurie Woods, John W. Corwin and Doris Peterson, New York City, Marjory D. Fields, Brooklyn, Nancy Biberman, John E. Kirklin, New York City, for plaintiffs.

Michael R. Juviler, New York City (Michael Colodner, New York City, and John Eiseman, Far Rockaway, of counsel), for Family Court defendants.

W. Bernard Richland, Corp. Counsel, New York City (Joseph Halpern, Gabriel Taussig and Harry Shatz, New York City, of counsel), for City defendants.

ABRAHAM J. GELLINOFF, Justice:

For too long, Anglo-American law treated a man's physical abuse of his wife as different from any other assault, and, indeed, as an acceptable practice [see, Bacon, *Baron and Feme*, p. 4 (2d Ed. 1719); 1 *Blackstone's Commentaries*, pp. 444-5 (7th Ed. 1775); *In re Cochrane*, 8 Dowl. 630, 633-4 (1840); *People v. Winters*, 2 Parker's Crim. Cases 10 (1840) *People v. Winters*, 2 Parker's Crim. Cases 10 (N.Y.1823)]. If the allegations of the instant complaint—buttressed by hundreds of pages of affidavits—are true, only the written law has changed; in reality, wife beating is still condoned, if not approved, by some of those charged with protecting its victims.

The complaint, supported by sworn statements in dozens of actual cases, alleges that police officers called to the scene of a husband's assault on his wife, uniformly refuse to take action, even if the physical evidence of the assault is unmistakable and undenied; that, instead, they inform the battered wife that they are unable to render assistance or make an arrest, solely because the victim is the wife of her assailant; and that they advise her that her only remedy is to obtain an order of protection from the Family Court.

The complaint further asserts—similarly supported by sworn statements in dozens of actual cases—that the Probation Department employees in charge

of the information desks and intake interviews at the various Family Courts fail to advise *pro se* battered wives seeking orders of protection of their right to an immediate petition for such orders. Instead, the complaint alleges, they merely assign conference dates to the petitioning wives—often weeks or months later—despite their pleas for immediate relief, without advising that such conferences are voluntary, and not a prerequisite for the obtaining of an order of protection.

The complaint finally alleges, in essence, that the Family Court petition clerks have, upon several occasions, denied petitioning wives timely access to the sitting Judge, and have abused their discretion in determining whether the wives' complaints are sufficient to warrant preparation of a petition.

Based upon these allegations, the complaint seeks various forms of declaratory and injunctive relief against the respective defendants.

In the motions now before the Court, the various defendants seek summary judgment dismissing the complaint. By separate motion, plaintiffs seek an order certifying this action a class action.

The Police Department defendants, construing the complaint as demanding that the Court require police officers to make an arrest in every case in which a woman asserts that her husband has beaten her, contend that such relief may not be granted. Citing a series of cases in which the Courts have declined to impose liability on a municipality for the failure of police to make a warranted arrest [see, *Motyka v. City of Amsterdam*, 15 N.Y.2d 134, 256 N.Y. S.2d 595, 204 N.E.2d 635 (1965); *Riss v. City of New York*, 22 N.Y.2d 579, 293 N.Y.S.2d 897, 240 N.E.2d 860 (1968)], the Police Department defendants argue that the Court must uphold the discretionary power of the police officer at the scene to judge, in each "particular situation" [Memorandum, p. 8], whether an arrest is warranted.

This argument is entirely correct, but it misses the point of the complaint. Plaintiffs do not seek to abolish the traditional discretionary powers of the police; they merely seek to compel the police to exercise their discretion in each "par-

ticular situation", and not to automatically decline to make an arrest solely because the assaulter and his victim are married to each other.

For example, in one of the affidavits submitted by plaintiffs on these motions, a woman asserts that the police arrived after her husband "grabbed me by the throat and beat me" and "brandished a straight razor and threatened me with it \* \* \* [and] tore my blouse off my body and gouged my face, neck, shoulders and hands with his nails, in full public view". The police, she avers, advised her "that since this was a 'family matter' there was nothing they could do and that I would have to go to Family Court" [Affidavits, pp. 18-19]. Another battered woman's call to the police station assertedly elicited the following advice:

"There is nothing we can do. Our hands are tied. The police can't act without an order of protection. Even if you had an order of protection, if your husband harassed you and you called the police, he would be arrested and released the next day. This would probably provoke your husband and put you in more danger" [Affidavits, p. 22].

Another woman, going to a police station after just being treated at a hospital emergency room, says she "was advised that the police would take no action and I was advised to go to Family Court on Monday morning. They said that because I was married they could do nothing. The police officer could see my bruised and swollen face" [Affidavits, p. 72]. Yet another says that when she was told by a police officer "that I would have to go to Family Court and that the police could not help me", she asked "if that meant that my husband would not be breaking the law by beating me. The police officer said that that wasn't exactly what he meant, and explained that what he meant was that I had to get an Order of Protection from Family Court before the police could help me" [Affidavits, p. 350]. Similar allegations abound of police refusal to act, not because of the merits of the particular case, but apparently as a matter of policy, in cases where the victim was married to her assailant [Affidavits, pp. 33, 35, 62, 79-80, 91, 119, 120-1, 123, 132, 135, 141-2, 151, 167, 168-9, 173-4, 180, 186, 190-1,

195-6, 198-9, 201, 219, 229, 247, 255, 259, 283, 288-9, 302, 311, 319-20, 343, 349, 361-2].

Even more disturbing are incidents alleged in the affidavits in which the responding officers are quoted as giving support to the assaulting husband. Thus, one woman, whose arm had just been sprained by her husband's attack, requested his arrest, and says she was informed by a police officer that "there is nothing wrong with a husband hitting his wife if he does not use a weapon" [Affidavits, pp. 158-9]. Another wife, who was slapped and struck with a knife by her husband, says she heard the officer who refused to arrest her husband, say to her husband, "Maybe if I beat my wife, she'd act right too" [Lalande Affidavit, p. 4, annexed to Reply Brief].

[1,2] This Court has the power to compel the Police Department defendants to perform the duty imposed upon them by law to exercise their discretion, and to exercise it in a reasonable, non-arbitrary manner [see, *Matter of State Soc. of Professional Engrs. v. Educ. Dept. State of New York*, 262 App.Div. 602, 604, 31 N.Y.S.2d 305, 307 (3rd Dept. 1941); *Matter of City of Schenectady v. New York State Off-Track Pari-Mutuel Betting Comm.*, 69 Misc.2d 929, 331 N.Y.S.2d 302 (Sup.Ct.Albany Co. 1972), *rev'd on other grounds*, 39 A.D.2d 983, 332 N.Y.S.2d 988 (3rd Dept. 1972); *Matter of 1350 6th Ave. Corp. v. Dept. of Housing*, 197 Misc. 982, 984, 96 N.Y.S.2d 404, 406 (Sup.Ct. N.Y.Co.1950) (Pecora, J.)]. And the police owe a duty of protection to battered wives, in the same manner they owe it to any citizen injured by another's assault, notwithstanding the fact that primary jurisdiction for adjudication as to such assaults lies with the Family Court rather than the Criminal Court [cf., *People v. Brady*, 54 Misc.2d 638, 283 N.Y.S.2d 175 (Sup.Ct.Suffolk Co.1967); *People v. Hebbmann*, 54 Misc.2d 666, 283 N.Y.S.2d 179 (Sup.Ct.Suffolk Co. 1967)]. Indeed, it has been held that women armed with orders of protection are owed "a special duty" of protection by the police [*Baker v. City of New York*, 25 A.D.2d 770, 771, 269 N.Y.S.2d 515, 517 (2d 1966)].

[3] The plethora of papers submitted by plaintiffs are more than adequate to create a factual issue as to whether there is a failure by the police to perform their duty of providing persons in plaintiffs' position with proper police service, by pursuing a discriminatory police policy. For this reason, the Police Department defendants' motion for summary judgment dismissing the complaint must be denied.

The Probation Department defendants also seek to dismiss the complaint, asserting that the complaint seeks "to have this Court take over and supervise the minute, day-to-day functions of an executive branch of government" [Memorandum, p. 19]. The allegations of the complaint, however, while to a minor extent quibbling over details of the Probation Department's functions, in the main address themselves to claims that the actions of the probation personnel at the Family Courts prevent proper access by battered wives to the Court, in violation of the Family Court Act.

Section 823 of the Family Court Act provides that:

"(a) Rules of court may authorize the probation service (i) to confer with any person seeking to file a petition, the potential petitioner and other interested persons concerning the advisability of filling a petition under this article, and

(ii) to attempt through conciliation and agreement informally to adjust suitable cases before a petition is filed over which the court apparently would have jurisdiction.

(b) *The probation service may not prevent any person who wishes to file a petition under this article from having access to the court for that purpose.*

(c) Efforts at adjustment pursuant to rules of court under this section may not extend for a period of more than two months without leave of a judge of the court, who may extend the period for an additional sixty days. Two successive extensions may be granted under this section.

(d) *The probation service may not be authorized under this section to compel any person to appear at any conference, produce any papers, or visit any place* [Emphasis added].

In one of the affidavits submitted by plaintiffs, a woman alleges that her husband broke into her apartment and threatened her with a knife. She says that she went to Family Court for an order of protection, only to be told by a probation officer that

"I couldn't see a judge because I had no case, and that my husband could enter and leave my apartment whenever he wanted. \* \* \* My husband had every right to break into my apartment. She also said that since there were no witnesses, there was no reason for an Order of Protection [Affidavits, p. 3].

The probation officer then allegedly spoke to a social worker who was interested in this woman's matter, and the social worker states that the probation officer said that "a man's home is his castle. He had every right to do whatever he wanted in his apartment" [Affidavits, p. 9]. Another probation officer assertedly told a woman who sought an order of protection two weeks after her husband assaulted her that such orders were obtainable only "if you were beaten by your husband today" [Affidavits, pp. 95-6]. Another woman avers that she was advised by a probation officer that "I could only see a judge if my husband was present" [Affidavits, p. 351].

Additionally, in a large number of cases, battered wives seeking immediate orders of protection aver that they were not advised that the intake conference with probation officers was voluntary, and that they had the right to an immediate hearing. Instead, they assert, probation officers told them that they could *not* obtain an order of protection that day, but had to return for a further interview. Thus, one woman says she was given a date two weeks later, and, when she protested, was informed that, "I'm sorry, you can't see a judge today" [Affidavits, p. 163]. A similar experience was reported by a large number of affiants [Affidavits, pp. 21, 56, 84, 93, 99, 108, 112, 123, 133, 144-5, 177, 183, 213, 234, 257, 266, 284-5, 287-8, 310, 312, 317, 328, 354]. On one reported occasion, a battered wife [Affidavits, p. 23], was dismissed by a probation officer with a curt, "don't hassle me", when she

attempted to insist upon her right to an immediate hearing.

The Probation Department defendants assert, however, that the allegations of the complaint have been rendered "moot" [Memorandum, p. 26], since, effective January 1, 1977, the Department has a rule requiring probation officers to advise prospective petitioners of their right to by-pass the intake conference and seek an immediate petition. However, the existence of a written rule does not render moot allegations based upon actual conduct in violation of the rule. Moreover, in a number of instances documented in plaintiffs' affidavits, the conduct of probation officers since January 1 has not been noticeably different. [Affidavits, pp. 2, 13, 77-8, 85, 89, 104-5, 154, 224, 239-40, 250, 280, 293-4, 325, 343-6, 351-3].

[4] If proven at a trial, the allegations of the complaint, and the affidavits submitted on these motions, are sufficient to show a callous disregard by probation officers of the statutory rights of women too poor or ignorant to retain legal counsel, who need immediate protection from assaults by their husbands. And this Court has the power to compel defendants to comply with their statutory duties and responsibilities. The Probation Department defendants' motion to dismiss the complaint must therefore be denied.

The allegations of the complaint and the accompanying affidavits do not, with respect to the Family Court clerk defendants, parade the same tales of horror as they do with regard to the other defendants. They do, however, present allegations of instances in which petition clerks refused to prepare petitions because there were no visible signs of injury [Acosta Affidavit, pp. 4, 5, annexed to Reply Memorandum], or because of a mistaken view of the law [Lalande Affidavit, p. 6, annexed to Reply Memorandum]. And, in one alleged incident, a woman in fear of her husband's attacks was informed by a petition clerk that seeing a Judge would not "help" unless she was prepared to herself serve a summons upon her husband. [Affidavits, p. 261].

[5] It may be, as the Family Court defendants urge, that these are but "iso-

lated instances" [Memorandum, p. 32], and it may also be that these charges are more reasonably subject to administrative discipline than judicial decree. Nevertheless, sufficient evidence has been shown with respect to the claim that the Family Court defendants have not complied with their statutory duties, to preclude dismissal of the complaint as a matter of law.

The Family Court defendants' motion for summary judgment must therefore be denied, except with respect to the Eighth and Ninth Causes of Action as against such defendants, since these causes of action relate solely to activities of personnel under the supervision of the Probation Department, and do not allege a cause of action against the Family Court defendants.

The complaint seeks a number of varying forms of relief. It may well be that many of them are not properly obtainable in this action. But, at this early stage of the litigation, and before the exploration of the facts at a trial, the Court ought not restrict the nature of the remedy, if any, that a trial court — in doing equity — may, within the limitations of its power, choose to fashion. Therefore, except as above-indicated, the motion by all defendants to dismiss the complaint is denied.

[6] Plaintiffs' motion to certify this action a class action is also denied. As the action is solely against governmental defendants, in their official capacities, and seeks declaratory and injunctive relief, the designation as a class action is unnecessary. The defendants are bound by *stare decisis* to follow whatever ultimate determination may be made, with respect to any and all persons similarly situated to plaintiffs [*Matter of Martin v. Lavine*, 39 N.Y.2d 72, 382 N.Y.S.2d 956, 346 N.E.2d 794 (1976)]. Moreover, attempts to provide for adequate notice to the class would result in needless procedural complications.

The denial of class action status, of course, shall in no way limit plaintiffs' right to fully present their evidence, whether from party or non-party witnesses.

**CARMEN BRUNO, et al.,  
Plaintiffs,  
- against -  
ROBERT McGUIRE, et al.,  
Defendants.  
INDEX # 21946/76  
June 28, 1978**

Plaintiffs having commenced the above-entitled action in December, 1976, challenging, *inter alia*, New York City Police Department policies, practices and procedures with respect to married women whose husbands commit crimes and violations against them, and

Defendants McGuire, Schryber, Ravens, Corridan, James T. Sullivan, Devitt, and Peters, having filed their answer to the complaint as against them, and

The above-named parties agreeing that this consent decree is entered into by them for purposes of settlement only and that nothing contained herein shall constitute an admission or concession of the truth of any of the allegations made in the complaint, Plaintiffs and the above-named defendants hereby stipulate and agree as follows:

(1) As used in this consent decree

(a) "crimes and/or violations" refers to conduct proscribed by the New York Penal Law, as these terms are defined in Penal Law Sect. 10.00 (3,6), without regard to whether the conduct alleged has been, is, or will be adjudicated in Family Court or in Criminal Court; and

(b) "officer arrest" means an arrest by a police officer pursuant to either Criminal Procedure Law Sec. 140.10 and/or Family Court Act. Sec. 168.

(2) The Police Department and its employees have a duty to and shall respond to every request for assistance or protection from or on behalf of a woman based on an allegation that a violation or crime, or a violation of an Order of Protection or Temporary Order of Protection, has been committed against her by a person alleged to be her husband, whether the request be in person or by telephone to "911" or to a precinct, by sending one or more police officers as soon as possible to the scene.

(3) When reasonable cause exists for a police officer to believe that husband



has committed a misdemeanor against his wife or has committed a violation against his wife in the officer's presence, the officer shall not refrain from making an officer arrest of the husband without justification. A police officer shall not consider or rely on, in whole or in part, any of the following in either (a) failing to find that there exists such reasonable cause to arrest, or in (b) finding that there exists justification to refrain from making an arrest: (1) the woman is married to the accused; (2) the woman has not sought or obtained an Order of Protection or Temporary Order of Protection; (3) the woman has chosen or may choose a particular court; (4) the officer believes that it is preferable to reconcile the parties or mediate, or has attempted or undertaken to reconcile the parties or mediate, where the woman states her wish to have her husband arrested.

(4) Where there is reasonable cause to believe that a husband has committed a felony against his wife and/or has violated an Order of Protection or Temporary Order of Protection, the officer shall not attempt to reconcile the parties or mediate and the officer shall arrest the husband.

(5) When making an officer arrest of the husband pursuant to an allegation by or on behalf of a wife that the husband has committed a crime or violation against her, it is the responsibility of the arresting officer to, and the officer shall, notify the wife of her rights as provided in Chapter 449 of the Laws of 1977 as it amends Article 8 of the Family Court Act.

(6) In any instance where a wife or someone on her behalf charges, within the meaning of Family Court Act Section 168, that a husband has violated an Order of Protection or Temporary Order of Protection, it is the responsibility of a police officer to, and the officer shall, arrest the husband provided that the officer finds that reasonable cause exists for the officer to believe that the conduct charged is within the scope of such Order, and that the husband has committed the alleged act.

(7) A police officer who arrives at the scene of an alleged crime or violation, or violation of an Order of Protection or Temporary Order of Protection, by a husband against his wife, has the re-

sponsibility to, and the officer shall, remain at the scene temporarily in order to terminate or prevent the commission of any crime or violation, or violation of an Order of Protection or Temporary Order of Protection, against the woman.

(8) A police officer who arrives at the scene of an alleged crime or violation by a husband against his wife has the responsibility to, and the officer shall, assist the wife in obtaining medical assistance if the wife requests or is otherwise in apparent need of such assistance.

(9) It is the responsibility of a police officer who arrives at the scene of an alleged crime or violation by a husband against his wife to, and the officer shall, give the wife notice mandated by Chapter 449 of the laws of 1977 as it amends Article 8 of the Family Court Act.

(10) Section 110-38 of the New York City Police Department Manual shall be amended (a) by adding to the definition of "Family Offense" the words "attempted assault, menacing, reckless endangerment, and Harrassment" following the words "disorderly conduct" and (b) by deleting the words "initially attempt to mediate the dispute or refer to Family Court for appropriate handling. When an arrest is necessary, follow the normal arrest procedure" and substituting therefor language which reflects and implements paragraphs 3 and 4 of this consent decree.

(11) In any case in which a wife alleges that a husband has committed a crime or violation against her and in which the husband is not present when the police arrive, and the woman wants her husband arrested or wants to make a civilian arrest of her husband, and reasonable cause exists to make an arrest, the officer shall follow the same procedure for locating the husband as would be followed in cases other than those covered by this consent decree.

(12) Whenever a woman covered by any provision of this consent decree contacts a police precinct to register a complaint against an officer for conduct which is alleged to be in violation of any provision of this consent decree, a supervising officer shall as soon as possible investigate the complaint and determine whether or not it is valid, and if the complaint is determined to be valid,

the supervising officer shall as soon as possible cause the relevant provisions of this decree to be immediately complied with.

(13) The Police Department shall amend or rescind, as necessary, all Police Department regulations, memoranda, training materials, guides and other Police Department documents which in any way refer to its policies, practices, and procedures so as to conform them in all respects to all provisions of this consent decree.

(14) This order shall bind the defendants, their successors in office, their agents, their employees, and those persons in active concert or participation with them who receive actual notice of this judgment by personal service or otherwise.

(15) The Defendant Police Commissioner and his successors in office shall take all steps necessary to fully apprise all employees of the New York City Police Department of the terms and obligations of the within consent decree.

(16) All provisions of this consent decree shall become effective sixty days subsequent to the date hereof.

(17) The Court shall retain jurisdiction of this action until further order, for the purpose of enabling any party to apply at any time for such further relief as may be necessary or appropriate.

**BRUNO v. CODD**

Cite as 407 N.Y.S.2d 165

64 A.D.2d 582

**Carmen BRUNO et al., etc.,  
Plaintiffs-Respondents,  
v.**

**Michael CODD, etc., et al.,  
Defendants-Appellants.**

Supreme Court, Appellate Division,  
First Department.

July 20, 1978.

Twelve allegedly "battered wives" brought an action for declaratory and injunctive relief against officials and employees of the New York City Police Department, Department of Probation and Family Court alleging a pattern and practice of discrimination and misconduct against them by reason of defendants' failure to enforce and comply with controlling statutes and regulations with reference to complaints by battered wives. The Supreme Court, New York County, 90 Misc.2d 1047, 396 N.Y.S.2d 974, Abraham J. Gellinoff, J., refused to dismiss the complaint, and defendants appealed. The Supreme Court, Appellate Division, First Department, held that the record did not present a properly justiciable cause.

Reversed.

Murphy, P. J., dissented and filed memorandum.

**1. Civil Rights Key 13.7**

Officials of city police department, department of probation and family court could not be held liable for violation of civil rights of allegedly "battered wives," on theory that their subordinates engaged in pattern and practice of discrimination by failing to enforce and comply with controlling statutes and regulations when presented with complaints by such wives against their husbands, in absence of showing that such actions by subordinates were by superior direction, or some theory of respondeat superior.

**2. Constitutional Law Key 72**

Court could not, at behest of "battered wives" who claimed that public officials engaged in pattern and practice of discrimination and misconduct against them by failing to enforce and comply

with controlling statutes and regulations when presented with complaints by wives against their husbands, grant broad declaratory and injunctive relief without involving itself in such broad invasion of executive authority as to risk danger of unconstitutional encroachment; likewise, relief prayed was inappropriate where declaration sought, i.e., to have officials enforce statutes, would add nothing that statutes themselves did not say.

### 3. Declaratory Judgment Key 319

Justiciable cause was not stated by allegations of "battered wives" to effect that personnel of police department, department of probation and family court were guilty of discrimination and misconduct against them by failing to enforce and comply with controlling statutes and regulations when presented with complaints by wives that their husbands had assaulted them, where record did not establish that any defendant did anything affecting particular plaintiffs or that there was any conspiracy or agreement among defendants as to handling of such complaints. CPLR 902, 3211 (a), par. 7, 3212(b).

Nancy E. Biberman, New York City, for plaintiffs-respondents.

J. Eiseman, C. E. Demarest, New York City, for defendants-appellants.

Before MURPHY, P.J., and BIRNS, SILVERMAN, EVANS and MARKEWICH, JJ.

#### MEMORANDUM DECISION.

To the extent appealed from, and to the extent not mooted as hereinafter set forth, order, Supreme Court, New York County, entered August 25, 1977, reversed, on the law, and the cross-motions of defendants-appellants made severally to dismiss the complaint, whether based on CPLR 3211(a)(7) or 3212(b), granted, without costs and without disbursements. No appeal was taken by plaintiffs-respondents from denial of their motion for class action status (CPLR 902). As to the so-called "Police defendants" (McGuire [as successor to Codd], Schryber, Ravens,

Corridan, James T. Sullivan, Devitt and Peters), the parties have, in a written stipulation dated June 26, 1978 placed on file together with its covering letter from counsel for plaintiffs-respondents, consented to a decree settling the issues as to those defendants and the plaintiffs; therefore, as to the Police defendants, represented by the Corporation Counsel, the appeal is dismissed, without costs, as moot. This action is brought by a group of women, who have been characterized by the various news media as "battered wives," against several groups of defendants, the administrative heads and various superior officials of the New York City Police Department, and the probation officers and clerks of the Family Court. It is claimed that, "with knowledge, authorization and approval" of the named defendants in each category, i.e. the Police Commissioner and overall police commanders in Manhattan and Brooklyn, "the named supervisory Probation defendants" and "the named supervisory Clerk defendants" in the Family Court, "as a matter of regular policy, practice and procedure, and on a massive widespread scale," plaintiffs and others similarly situated have been, to state it succinctly, completely deprived of the protection of these agencies from their criminally assaultive husbands. Various forms of relief are sought, setting forth in specific detail the orders which should be given to all of these officials to assure prompt and effective redress to plaintiffs and others similarly victimized, as well as to provide preventive measures against recurrence. In short, that defendants should enforce applicable statutes.

[1] No person in his right mind can deny that wife-beating, carried over from primordial times, is a great social evil which should be scotched, and that any public official, who is charged with the duty of preventing it either initially or in repetition, or of punishing its perpetration, should be required to do his duty fully and completely. However, the difficulty with the papers before us is that they speak in generalities, and, when specific instances are recited, they are not attributable to any of the named defendants but only to those officials,

mostly unidentified, with whom contact has been had. There is nothing found in the record to establish that any of the defendants, whether identified by name or by office, has done anything affecting plaintiffs' or any of them directly or indirectly. No case is established in the complaint or supporting papers against any defendant. There is nothing whatever to indicate the existence of a conspiracy, or agreement, or even joint or complementary action between or amongst the defendants or any of them. There are no issues framed by the pleadings requiring a trial because, even accepting plaintiffs' allegations at face value, they do not make out a case. Nor can they be held responsible in the premises for the action of subordinates which may deprive plaintiffs of their civil rights, in the absence of a showing that those actions were by superior direction, on some theory of respondeat superior. Cf. *Morell v. Department of Social Service of the City of New York*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611, 1978.

[2] Further, to grant the broad relief here sought would be to involve the Supreme Court in such a broad invasion of executive authority as to risk the danger of unconstitutional encroachment. Cf. *Perazzo v. Lindsay*, 30 A.D.2d 179, 290 N.Y.S.2d 971, affd. 23 N.Y.2d 764, 296 N.Y.S.2d 957, 244 N.E.2d 471. And the declaration sought, i.e. to have these officials enforce the statutes would add nothing that the statutes themselves do not say.

[3] Plaintiffs have misapprehended their remedy. This is not by any means to say that plaintiffs are without a remedy. There is one at the administrative level by complaint directly to the supervisory administrative head of each agency in a specific case. Then, were the complaint not attended to or were it arbitrarily dismissed, the Supreme Court would be available to grant appropriate relief in an appropriate proceeding. But, at this juncture, on the record before us, we conclude in the exercise of discretion that the complaint does not present a properly justiciable cause, either factually or in law.

All concur except MURPHY, P. J., who dissents in a memorandum as

follows:

MURPHY, Presiding Justice (dissenting):

The plaintiffs, twelve "battered wives", brought this action for declaratory and injunctive relief against officials and employees in the Police Department, the Department of Probation and the Family Court. Plaintiffs allege a pattern and practice of discrimination and misconduct against them by reason of defendants' failure to enforce and comply with controlling statutes and regulations. They submit approximately seventy affidavits from wives who claim discriminatory or abusive treatment at the hands of the defendants.

The plaintiffs allege that the police, as a matter of policy, do not arrest the husband when called to a residence on the complaint of a battered wife. They maintain, *inter alia*, that the penal statute for assault should be enforced by the police.\* With regard to the Department of Probation, plaintiffs assert that its personnel normally discourage protective orders and make it difficult to obtain access to a Family Court Judge. They aver that Family Court clerks, as a matter of regular course, refuse to prepare petitions for protective orders unless the wives show they are seriously injured. The examples, delineated above, are typical of the diverse complaints found in the seventy affidavits submitted by the plaintiffs.

Upon its face, the complaint states a basis for relief founded upon the discriminatory enforcement of the law by public servants (cf. *Santiago v. City of Philadelphia*, D.C., 435 F.Supp. 136, 144). The more critical question presented is whether this action can withstand defendants' request for summary judgment.

While the intentional or purposeful discrimination in the administration of an otherwise nondiscriminatory law violates the equal protection clauses in the Federal and State Constitutions, one who alleges discriminatory enforcement must meet the heavy burden of showing conscious, intentional discrimination. The conscious exercise of some selec-

\* Since argument of the appeal, a stipulation of settlement has been entered into between plaintiffs and the New York City Police Department.

tivity in the enforcement of the law is not in itself a constitutional violation. (*People v. Goodman*, 31 N.Y.2d 262, 268, 338 N.Y.S.2d 97, 102, 290 N.E.2d 139, 143; *Matter of Di Maggio v. Brown*, 19 N.Y.2d 283, 291, 279 N.Y.S.3d 161, 167, 225 N.E.2d 871, 875.)

In this proceeding, the plaintiffs have come forward with countless affidavits suggesting that, under varied circumstances, "battered wives" have been denied equal protection of the laws. The defendants, in their affidavits, maintain that their personnel are properly instructed to follow correct procedures in handling "battered wives" cases. However, the defendants do not deny that, in actuality and practice, there may be a latent policy of discrimination against "battered wives". The facts, as developed at trial, may demonstrate that these three agencies consciously condone a latent policy of discrimination by their failure to take any corrective measures against this allegedly pervasive abuse. Parenthetically, I note that, only recent-

ly, the United States Supreme Court has held the City of New York accountable for another discriminatory practice against women (*Monell v. Dept. of Social Services*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611). In that background, the plaintiffs' present charge of discrimination should not be summarily disregarded by the majority without further inquiry.

Upon this record, I feel that plaintiffs have made a *prima facie* showing that warrants a plenary trial (*cf. Matter of Sontag v. Bronstein*, 33 N.Y.2d 197, 351 N.Y.S.3d 389, 306 N.E.2d 405). At that trial, a determination can properly be made as to whether there is substance to plaintiffs' charges, and if so, whether the violations represent isolated instances of abuse or a conscious policy condoning maltreatment and discrimination. For these reasons, I would deny defendants' motions for summary judgment and I would vote to affirm in all respects.

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## ARIZONA STATUTES COMMONLY USED IN DOMESTIC VIOLENCE SITUATIONS

A.R.S. Number	Type of Offense
13-1201	Endangerment
13-1202	Threatening or Intimidating
13-1203	Assault
13-1408	Adultery
13-1409	Open and Notorious Cohabitation or Adultery
13-1502	Criminal Trespass
13-1602	Criminal Damage
13-2402	Obstructing Governmental Operations
13-2403	Refusing to Aid Police Officer
13-2904	Disorderly Conduct
13-2916	Use of Telephone to terrify, intimidate, threaten, harass, annoy, or offend
13-3001	Sending threatening or anonymous letters
13-3981	Compromise of Misdemeanors
13-3613	Contributing to delinquency and dependency
13-3619	Permitting life, health or morals of minor to be imperiled by neglect, abuse or immoral association
13-3620	Duty to report non-accidental injuries and physical neglect of minors

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## APPENDIX B

### RECENT STUDIES AND PARTIAL BIBLIOGRAPHY

"Report on the Attorney General's Conference on Domestic Violence" by Carole Riitts Kornblum, *Crime Prevention Review*, vol. 6 number 1 October 1978

"Treatment of Domestic Violence: A New Procedure" by Murry Bloom, *Crime Prevention Review*, vol. 6 number 1 October 1978

"Wife Abuse and the Police Response" by Roger Langley and Richard Levy, *FBI Law Enforcement Bulletin*, pages 4-9 May 1978

"The Police and Interpersonal Conflict — Third Party Intervention Approaches" by Morton Bard and Joseph Zacker, *Police Foundation* 1976 (Library of Congress catalog card no. LC76-29104)

"Domestic Violence and the Police — Studies in Detroit and Kansas" G.M. Wilt, J.D. Bannon, R.K. Breedlove, J.W. Kennish, D.M. Sandker, R.K. Sawtell, S. Michaelson, P.B. Fox, *Police Foundation* 1977 (Library of Congress catalog card no. 77-77278)

For an excellent recent bibliography see:

"Spouse Abuse — A Selected Bibliography" by Carolyn Johnson, John Ferry and Marjorie Karvitz, *National Criminal Justice Reference Service*, November 1978, prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice.

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*Exhibit No. 12*RESEARCH METHODOLOGY USED TO SAMPLE CASES  
IN THE CRIMINAL JUSTICE SYSTEM1. Review of Departmental Reports (DR's)

Under a user agreement with the Phoenix Police Department dated January 10, 1980, Commission staff reviewed every DR filed by Phoenix police officers during the month of April 1979. For each DR which appeared to involve an incident of domestic violence, whether or not that incident was the principal crime reported on the DR, staff noted the DR number and suspect's name on a list. This list was left in the custody of Mr. Pete Lopez, Information Bureau, when staff members were not reviewing the records.

In order to secure a control group, staff members also listed DR numbers and suspects' names in cases based upon ordinary assaults. Ordinary assaults were defined as assaults in which victim and suspect were unrelated adults, and in which there was no indication of robbery motive, gang or organized crime activity, or narcotics transactions. Cases in which the only assault committed was a sexual assault were not listed.

When all 10,980 DR's filed in April had been reviewed, staff returned to the cases on the domestic violence list and the assault list. These cases were studied carefully, and a data sheet (see Attachment 1) was prepared on each. When the disposition of the case was not clear, the DR number and suspect's name were entered on a list so that the matter could be pursued with the City or County Prosecutor.

Cases entered on the County Prosecutor's list were those involving apparent felony assaults which may have been filed by that office. If the DR file contained a notice of turn-down from the County Prosecutor, the case was not pursued further since staff did not have direct access to files in the County Prosecutor's office.

Felony cases which had been turned down by the County Prosecutor, and misdemeanor cases which may have been referred for prosecution to the City Prosecutor, were entered on a separate list. Cases which had been exceptionally cleared by the police department were not pursued since these would never have been referred for prosecution.

2. County Prosecutor's Actions

The list of cases for the County Prosecutor's office was given to County Attorney Charles Hyder. Dean Wolcott of the Charging Bureau checked the names on this list against his files, and retrieved any case files and file cards which matched a name and DR number on the list. Commission staff members were not permitted to review these materials directly, but Mr. Wolcott read from the materials information on action taken by his office, charges filed, dispositions and sentencing. A County Prosecutor data sheet (see Attachment 2) was prepared on each case, and attached to the corresponding DR data sheet.

### 3. City Prosecutor's Actions

The list of cases for the City Prosecutor was given to Joseph A. Tvedt, Jr., Special Assistant to the City Prosecutor. Mr. Tvedt informed Commission staff that files in his office were not retrievable without the full name and birth date of the suspect. Staff extracted this information from the DR's where possible. Each name on the list was then entered into the computer in a program designed to list completed cases against that person. When a list of completed cases was obtained, staff noted the complaint number corresponding to the incident date of the DR. If no completed case against the suspect was shown, staff entered the same name in a program designed to list pending cases, and the relevant complaint number was noted.

For some suspects on the list, the computer could find no corresponding complaints, either completed or pending. According to Mr. Tvedt, this indicates that the City Prosecutor has not filed a complaint against those suspects.

Staff requested the City Prosecutor's files for each complaint number obtained. These files were reviewed under a user agreement dated February 4, 1980 and a City Prosecutor data sheet (see Attachment 3) was completed on each and attached to the corresponding DR data sheet.





CITY  
OF  
PHOENIX

LAW DEPARTMENT

CRIMINAL DIVISION

February 12, 1980

Linda Huber  
Attorney Advisor  
United States Commission on Civil Rights

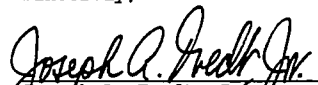
Dear Linda:

After reading the description you provided of the methodology used by the Commission staff to review police and prosecutor records in connection with the Commission's current inquiry, I have only one brief comment.

I find your statement of methodology to be essentially accurate in all major aspects. One minor source of possible error needs to be pointed out. On page 2 of your statement, you indicate that where no computer record of an incidence date could be located, that this is interpreted to mean that this office declined to prosecute. This is probably accurate except for a very small percentage of cases filed, but entered in the computer under a slight variance in spelling or date of birth.

I would estimate that less than 1% of the cases you were unable to locate would fall into this category.

Sincerely,

  
Joseph A. Tvedt, Jr.  
Special Assistant to the City Prosecutor

JAT/lmp

Conciliation Court of  
Maricopa County, Arizona

Domestic Violence Survey

RESULTS

Prepared by:

Domestic Violence Committee  
Maricopa County Conciliation Court

Anita Gutkin, Chairman  
Ken Roush  
Phil Bushard

PURPOSE OF SURVEY:

The primary service of the Conciliation Court is to provide marriage counseling to residents of Maricopa County. The purpose of the Domestic Violence Survey was to determine the incidence of domestic violence within the Conciliation Court clientele and to gather preliminary data as a basis for the implementation of a domestic violence program.

## Target population:

The target population included clients who requested marriage counseling in the Conciliation Court and spouses who were seen within the seven week period from December 17, 1979 to February 1, 1980. The responses herein reported are tabulated from a sample of 75 matched couples out of the target population.

## Methodology:

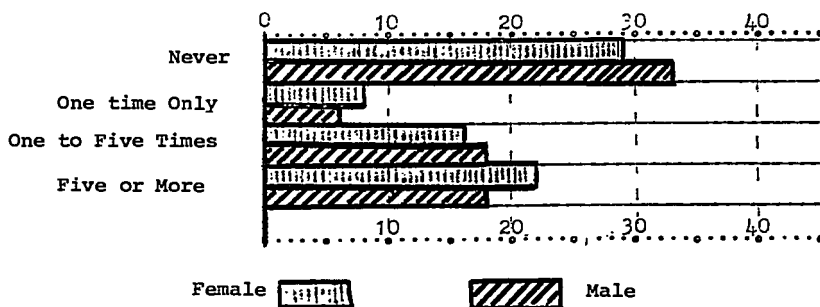
A 12 question survey was prepared by the Domestic Violence Committee. Individual clients, whether or not a dissolution was pending, were asked by staff counselors to respond to the survey. The individual responses were later matched to their spouse's, and anonymity was guaranteed by removing identifying information.

## Limits to data:

As the survey progressed, several errors in sampling procedures became evident. The surveys were administered by individual counselors under varying conditions. Problems in definition of "domestic violence" and other language errors appear evident. The incomplete matching of total Conciliation Court clients through the survey period results in an inability to generalize the data to any population at large. However, the results for the 75 matched couples are presented as indicators of general trends.

MATCHED COUPLES N = 75  
DOMESTIC VIOLENCE QUESTIONNAIRE

Q 2: How many times in your present relationship have you and your partner had a violent conflict?



Q 4: Has this type of conflict occurred in the past 6 months?

Men - Yes 33  
Women - Yes 34

Q 6: Have the police agencies ever been involved in a conflict of this type?

Men - Yes 16      No 59  
Women - Yes 19      No 56

Q 10: Have either you or your partner received counseling or psychological services as the result of conflict of this type?

Men - Yes 8  
Women - Yes 10

Q 11: Have either you or your partner received a physical injury requiring medical treatment as the result of this type conflict?

Men - Yes 5  
Women - Yes 10

## DOMESTIC VIOLENCE SURVEY: RESULTS

(Continued)

- Q 6: Have the police agencies ever been involved in a conflict of this type?
- Q 7: Have either you or your partner ever been arrested as the result of a conflict of this type?
- Q 8: Have either you or your partner ever been prosecuted as the result of an arrest for domestic violence?
- Q 9: What was the result of the prosecution?
- Q 11: Have either you or your partner ever received a physical injury requiring medical treatment... ?

Male Responses

Have the police been involved	Number of Spouses	(Projected Total Police Contacts)	Reported Arrest/Prosecution
No	59 * *	(0 )	
One time	7	(7 )	1: Charges dropped
Two times	6 * *	(12)	1: No prosecution
Three times	2	(6 )	
Four or More times	1 *	(4 )	1: No prosecution
	75	29	3

Female Responses

Have the police been involved	Number of Spouses	(Projected Total Police Contact\$)	Reported Arrest/Prosecution
No	56 * *	(0 )	
One time	7 * *	(7 )	
Two times	3 * *	(6 )	
Three times	3 *	(9 )	
Four or More times	6 * * *	(24)	1: No prosecution
	75	46	I

## (Q 11) Distribution of physical injury:

Each asterisk (\*) represents one incident of physical injury requiring medical treatment.

=====

Description of Population Couples:

Age Range: 19 years - 79 years

Range of time in present relationship: 7 weeks - 36 years

Divorce filed: Yes 34 No 41

GENERAL IMPRESSION OF DATA:

It appears that unless couples agree that violence has never occurred, there are discrepancies between male and female responses in respect to several factors related to their experiences with domestic violence.

In regard to a) frequency of violent incidents, b) frequency of police involvement, c) incidents of physical injury, and d) consequences of police intervention, male and female reporting seem to be at variance.

1. 38% of sample couples agree that they have NEVER experienced domestic violence in their present relationship.

An additional 8% report only one incident of domestic violence.

2. The remaining 54% of sample couples report two or more incidents of domestic violence in their present relationship.

3. For incidents of domestic violence that have occurred within the past six months, spouses within the sample agree in the report of their perceptions.

4. 75% of sample couples agree that the police agencies have never been involved in their domestic disputes. Conversely, only 25% of sample couples report that the police have ever been involved in their domestic disputes. Therefore, approximately 25% report incidents of domestic violence and do not report any police involvement.

5. In cases of domestic violence defined as serious by reported frequency of police agency involvement, greater discrepancies between spousal report occurs.

a) Women report greater incidence of physical injury; men report fewer physical injuries.

b) Women report greater total number of times police were involved, and fewer arrests (1 arrest in 46 police interventions reported by women as compared to 3 arrests in 29 police interventions reported by men.)

6. It is the female spouse who is experiencing the physical injury of domestic violence. Of the 5 men who report injury 4 were injuries to their partner and 1 was the man being injured. Of 10 women reporting injury, all 10 were injuries to themselves which required medical attention.

7. There appears to be a greater cluster of reported injuries in those cases where there is greater frequency of police involvement as reported by women, possibly implying that domestic violence increases in severity, as defined by occurrence of physical injury, as frequency of incidents increases.

CONFIDENTIAL DOMESTIC VIOLENCE QUESTIONNAIRE  
 \* For Statistical Use ONLY \*

Definition: Domestic Violence/Spouse Abuse refers to any incidence of physical contact like hitting or pushing during an argument or dispute.

Please Circle: Male \_\_\_\_\_ Age \_\_\_\_\_  
 Female \_\_\_\_\_ Length of time in present  
 relationship \_\_\_\_\_  
 Divorce filed: Yes No

1. Have you ever been the victim of domestic violence in your present relationship?  
 Yes  
 No
2. How many times in your present relationship have you and your partner had a violent conflict?  
 Never  
 One time only  
 One to five times  
 Five or more times
3. Do you feel Domestic Violence is or has been a problem in your present relationship?  
 Yes  
 No
4. Has this type of conflict occurred in the past six months?  
 Yes  
 No
5. Have you and your partner ever separated for more than a day following a violent fight?  
 Yes  
 No
6. Have the police agencies ever been involved in a conflict of this type?  
 No  
 Yes .... How many times? \_\_\_\_\_
7. Have either you or your partner ever been arrested as the result of a conflict of this type?  
 No Yes-my partner  
 Yes-myself Yes-both of us
8. Have either you or your partner ever been prosecuted as the result of an arrest for domestic violence?  
 No Yes-my partner  
 Yes-myself Yes-both of us
9. What was the result of the prosecution?  
 Charges dropped Fine  
 Probation Counseling  
 Jail Other \_\_\_\_\_
10. Have either you or your partner received counseling or psychological services as the result of conflict of this type?  
 No Yes-my partner  
 Yes-myself Yes-both of us
11. Have either you or your partner received a physical injury requiring medical treatment as the result of this type conflict?  
 No Yes-my partner  
 Yes-myself Yes-both of us
12. Do you feel alcohol use is connected to domestic violence in your present relationship?  
 No Yes-my partner  
 Yes-myself Yes-both of us



*Exhibit No. 14*

CITY OF PHOENIX, ARIZONA

MUNICIPAL COURT

PERFORMANCE REPORT TO THE CITY MANAGER

MONTH December YEAR 1979

Work Program Statistics	This Month	Last Month	Same Month Last Year	This Year To Date	Last Year To Date
<u>MOVING TRAFFIC VIOLATIONS</u>					
New Citations Received	13723	7751	11015	72479	69834
Pending	78907	77676	91453	73819	76568
Total Caseload	92630	85427	102468	146298	146402
Dispositions	12245	6520	9446	65913	53380
Pending at Month End	80385	78907	93022	80385	93022
<u>NON-MOVING TRAFFIC VIOLATIONS</u>					
New Citations Received	8912	5133	5376	47147	40408
Pending	43067	41853	61722	38902	52641
Total Caseload	51979	46986	67098	86049	93049
Dispositions	8492	3919	5040	42562	30991
Pending at Month End	43487	43067	62058	43487	62058
<u>CRIMINAL CASES</u>					
New Citations Received	1864	1085	1145	9483	8766
Pending	22260	21761	16189	19421	13216
Total Caseload	24124	22846	17334	28904	21982
Dispositions	1235	586	754	6015	5402
Pending at Month End	22889	22260	16580	22889	16580
<u>FAILURE TO APPEAR COMPLAINTS</u>					
New Cases Received	4964	2801	2699	23791	19186
Pending	39665	38577	33150	35541	28828
Total Caseload	44629	41378	35849	59332	48014
Dispositions	4821	1713	2272	19524	14437
Pending at Month End	39808	39665	33577	39808	33577
<u>CRIMINAL CONTEMPT COMPLAINTS</u>					
New Cases Received	61	41	6	1824	1805
Pending (Note: on reverse pg. 2)	5020	5062	(12) 3180	4591	2908
Total Caseload	5081	5103	3174	6415	4713
Dispositions	244	83	149	1578	1688
Pending at Month End	4837	5020	3025	4837	3025

December 1979

	This Month	Last Month	Same Month Last Year	This Year To Date	Last Year To Date
<u>UNDETERMINED COMPLAINTS</u>					
New Cases Received	102	74	100	640	536
Pending	1576	1560	7533	1563	7529
Total Caseload	1678	1634	7633	2203	8055
Dispositions	105	58	91	630	523
Pending at Month End	1573	1576	7542	1573	7542
<u>TOTAL COURT CASELOAD</u>					
New Cases Received	29626	16885	20341	155364	140535
Pending (Note: Reverse pg. 2)	190495	186489	213227 (12)	173837	181690
Total Caseload	220121	203374	233556	329201	322225
Dispositions	27142	12879	17752	136222	106421
Pending at Month End	192979	190495	215804	192979	215804
<u>PARKING VIOLATIONS</u>					
New Cases Received	31467	16224	14268	138756	111309
Pending	110528	103851	80420	102462	63943
Total Caseload	141995	120075	94688	241218	175252
Dispositions	16527	9547	11184	115750	91748
Pending at Month End	125468	110528	83504	125468	83504

## PERSONNEL DISTRIBUTION

	Judiciary	Administration	Operations	Prob./Rehab.
Authorized	37	3	69	8 / 20.5
Now Employed	33	3	66	8 / 27.5

Additional Information below or on reverse side:

See Note: re Pending

These statistics are all from the statistical printout generated monthly by the MIS Department. They are not yet accurate, however steps are being taken to reconcile the difference between these MIS figures and the actual caseload of the Court.

  
 Executive Administrator  
 Michael R. Havemann

CITY OF INDIANAPOLIS  
MUNICIPAL COURT  
PENDING CASELOAD ANALYSIS

FOR MONTH OF December 19 79

<u>DESCRIPTION</u>	<u>THIS MONTH</u>	<u>SAME MONTH LAST YEAR</u>	<u>% INCREASE (DECREASE)</u>
TOTAL PENDING CASELOAD	190495	213227	(10.0%)
1. Cases Due for Arraignment	41287	83735	(50.0%)
2. Complaints on Warrant	62450	59761	4.0%
a. Actual Warrants	57489	N/A	N/A
3. Cases on Appeal	420	360	16.8%
4. Probation Cases:			
A. With Fine Imposed	2999	1791	67.0%
B. Without Fine	5010	4811	3.9%
C. Revocation Arraignment	168	45	273.3%
D. Revocation Hearing	336	155	116.7%
E. Revocation Sentencing	67	28	139.2%
5. Cases Continued for Payment	28882	23127	24.8%
6. Under Advisement	115	91	26.3%
7. No Witnesses	296	292	1.3%
8. Sentencing (Other than Probation)	1147	1008	13.7%
9. Pre-Trial Conferences (PTC-PCS)	23916	17478	36.8%
10. PACT Dispositions	12904	10402	24.0%
SUBTOTAL	179997	203084	(11.3%)
CASES PENDING TRIAL	12982	13628	(4.7%)
Analysis of Pending Trial Cases:			
A. Non Jury Trials (Traffic)	9946	10622	(6.3%)
B. Jury Trials	2865	2641	8.4%
C. Jury Waivers	171	365	(53.1%)
DISPOSITION RATIO :			
1. New Cases Received:	29626	20341	45.6%
2. Cases Closed :	27142	17752	52.8%
3. Ratio :	91.6%	87.2%	

MAJOR TRAFFIC	PRIOR PENDING	NEW THIS MONTH	TOTAL	DISPOSED THIS MONTH	END OF MONTH CASELOAD
DWI	16051	1324	17075	941	17034
RECKLESS DRIVING	575	41	616	31	585
LEAVING SCENE	2242	171	2413	132	2281
REVOKED LICENSE	487	33	520	28	492
DRAG RACING	271	13	284	27	257
TOTAL MAJOR TRAFFIC	20226	1582	21808	1154	20654
OTHER TRAFFIC					
SPEEDING	21385	4627	21012	4264	21748
SCHOOL ZONE	757	195	952	179	773
STOP SIGN	6712	1579	7291	1401	6390
YIELD RIGHT WAY	3749	1016	4765	933	3832
TRAFFIC SIGNAL	6343	1362	7710	1315	6395
TURNING	3712	788	4000	673	3327
OTHER TRAF. DEV.	179	19	198	93	105
VIOL. RED. XING	322	52	374	65	309
CUT PRIV. PROP.	434	117	551	91	460
LANES B PASSING	8099	1531	10530	1371	9159
FOLLOW TOO CLOSE	2774	29	2777	112	2863
MAJOR LICENSE	1368	196	2044	179	1865
MISC. MOVING	2442	458	2900	415	2485
TOTAL OTHER TRAFFIC	58681	12141	70822	11091	59731
NON-MOVING					
LOADS	344	35	379	55	324
OVERWEIGHT	212	31	243	43	200
MINOR LIC/REG	35685	7741	43433	7145	36288
EQUIPMENT	5632	963	6595	1097	5498
MISC. NON-MOVING	1194	135	1329	152	1177
TOTAL NON-MOVING	43067	8912	51979	8492	43487
FTA	39465	4964	44629	4821	39808
CUNTEMPT	5020	61	5081	744	4837
UNDETERMINED	1576	102	1678	105	1573
TOTAL TRAFFIC	163235	27762	195997	25907	170090
CRIMINAL					
PETTY THEFT	1907	109	2016	45	1971
PROSTITUTION	1509	90	1599	61	1538
SHOPLIFTING	4379	346	4725	244	4481
ALCOHOL	1379	166	1545	185	1360
IND. EXPOSURE	540	93	633	40	593
DISTURBING PEACE	2848	218	3066	199	2867
WEAPONS	747	69	816	38	778
ZONING	791	20	311	2	309
TRESPASSING	656	44	700	32	668
DRUGS	158	12	170	8	162
OTHER CRIMINAL	6054	538	6612	296	6316
TOTAL CRIMINAL	22260	1864	24124	1235	22889
COURT TOTAL	190495	29626	220121	-27142	192979

CITY OF PHOENIX, ARIZONA

CFC-106

BREAKDOWN OF PENDING CASES

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MAJOR TRAFFIC	110	115	116	117	118	119	210	215	216	217	218	219	710	714
DUI	23	143	117	179		2	1	1363	788	368	12	50	717	57
RECKLESS DRIVING		14	50	25				73	89	58	4	11	64	7
LEAVING SCENE	3	10	9	79		2	2	219	138	302		15	209	10
REVOKED LICENSE		3	2	17		2		48	19	28	2	2	81	2
DRAG RACING			1	30			1	6	9	42	1	3	13	1
TOTAL MAJOR TRAF.	26	170	179	330		6	4	1659	1047	798	19	81	1084	77
OTHER TRAFFIC														
SPEEDING	50	4	10	3096		329	33	23	42	2348	39	628	6748	2
SCHOOL ZONE		9	7	85		15	2	2	1	28	3	10	232	
STOP SIGN	3	1		379		448	8			149	9	141	1852	
YIELD RIGHT WAY	9		1	86		203	15	4	2	136	5	216	992	
TRAFFIC SIGNAL	11	1	1	517	1	299	1	1	3	313	7	163	1863	
TURNING	3	1		143		148	3	3	2	100	4	99	733	
OTHER TRAF. DEV.				4		15				2		7	16	
VIOL. PED. XING	1			27		13	2		3	15	2	10	66	
CIT PRIV. PROP.	1			9		51	2			4		24	130	
LANES & PASSING	15	2	2	346		777	12	21	23	448	8	202	1429	3
FOLLOW TOO CLOSE	32	2	9	35		19	3	44	10	33	2	12	2225	2
MAJRN LICENSE	3	8	8	367		90		40	46	169	2	46	777	3
MISC. MOVING	1			35		184	4	9	3	44	5	102	794	
TOTAL OTHER TRAF.	129	23	38	5130	1	2085	85	148	143	3789	86	1720	17365	10
NON-MOVING														
LOADS				10		8		1	1	17		3	59	
OVERWEIGHT	1			9		3				25		4	37	
MINOR LIC/REG	55	4	11	1357		4328	3	37	71	330	11	927	10441	9
EQUIPMENT	8			87		621	6	3		52	4	214	1627	1
MISC. NON-MOVING		2		14		63		5	4	5	1	23	261	2
TOTAL NON-MOVING	64	6	11	1477		5028	9	46	76	429	16	1171	12425	12
FTA	21	81	31	459		1522	5	555	172	163	1	285	1986	18
CURTEMPT	6			42		177	3			3		27	159	
UNDETERMINED	1	2	1	26		58	2	8	8	8	1	53	169	
TOTAL TRAFFIC	247	287	260	7464	1	8976	108	2416	1462	5190	123	3337	33188	117
CRIMINAL														
PEITY THEFT	2	19	13	55			2	117	61	69		5	835	6
PROSTITUTION	3	46	11	36			3	248	54	17		4	183	5
SHOPLIFTING	3	100	40	213		3	3	353	156	306	1	36	1339	8
ALCOHOL		43	6	54		15		56	13	64		16	460	2
IND. EXPOSURE	5	14	3	7				53	15	5			180	5
DISTURBING PEACE	1	54	119	253		6		276	491	164		20	280	1
WEAPONS	4	14	2	51		1	1	77	32	64		4	119	3
TUNING		5	6	1				20	16	3			185	4
TRESPASSING	1	6	4	35		2	1	44	17	25		9	196	2
DRUGS	1	7	3	4				57	2	3			26	2
OTHER CRIMINAL	29	97	18	114	1	15	2	335	121	150	2	42	3871	8
TOTAL CRIMINAL	52	441	246	859	2	42	13	1737	1051	933	3	142	8099	51
GRAND TOTAL	299	728	506	8322	3	8918	121	4153	2493	6123	126	3479	41287	168

- \*\*\*\*\*
- \* LFGENB
  - \* 110-PLD GLTY/ON APPEAL
  - \* 115-PLD GLTY/OMO PROB
  - \* 116-PLD GLTY/OMO PROB
  - \* 117-PLD GLTY/INSTALL
  - \* 118-PLD GLTY/PROB (OLD)
  - \* 119-PLD GLTY/TIME PAY
  - \* 210-ADJ GLTY/ON APPEAL
  - \* 215-ADJ GLTY/OMO PROB
  - \* 216-ADJ GLTY/OMO PROB
  - \* 217-ADJ GLTY/INSTALL
  - \* 218-ADJ GLTY/PROB (OLD)
  - \* 219-ADJ GLTY/TIME PAY
  - \* 710-ARRAIGNMENT
  - \* 714-PROB REVOC ARRAIGN
  - \* 720-PDC OR PCS
  - \* 725-PACT DISPOSITION
  - \* 730-NON JURY TRIAL
  - \* 734-PROB REVOC HEARING
  - \* 740-JURY TRIAL
  - \* 745-JURY WAIVER
  - \* 760-UNDER ADVISMENT
  - \* 770-NO WITNESSES
  - \* 780-FAILED TO APPEAR
  - \* 790-SENTENCING
  - \* 791-PAYMENT
  - \* 794-PROB REVOC SENT
- \*\*\*\*\*

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MAJOR TRAFFIC	101	102	111	112	113	114	11A	11B	120	201	202	211	212	213	214	21A	21B	220
DUI	5	16	31	10	5	7	1	3	5			50	44	16		100	21	9
RECKLESS DRIVING				2		2		2				11			1	2	1	
LEAVING SCENE	2	4		1						17		35	7	4		8	2	2
REVOKED LICENSE	1									1		1	7		1	2		
DRAG RACING	1		1							2		2	1					
TOTAL MAJOR TRAF.	9	21	31	13	5	9	3	3	27			104	59	20	2	112	24	11
OTHER TRAFFIC																		
SPEEDING	55	299	12	75					1529	282		692	19	38		1	1	46
SCHOOL ZONE	3	12		1					108	7		5						1
STOP SIGN	21	93	5	32					809	54		52	2	12		1	1	16
YIELD RIGHT WAY	11	26	3	10					521	100		62	4					10
TRAFFIC SIGNAL	16	90	14	35					634	123		65	3	11			1	32
TURNING	15	32	3	8					332	59		39	2	8	1			12
OTHER TRAF. DEV.	4	3							63	2		3						
VIOL. PRO. XING	1	3	1	2					38	7		3						1
CHI. PRIV. PROP.	4	8		3					54	11		2						2
LAPES & PASSING	40	52	13	20					376	269		119	1	7	3			14
FOLLOW TOO CLOSE		4		2					11	16		7	1			2		
HAZAR. LICENSE	31	32	2	11			2		1	31		14	3	4		3	1	2
VEH. MOVING	10	29	1	11					147	31		10	1	4				6
TOTAL OTHER TRAF.	211	685	54	219			2		4643	992		1093	35	86	4	7	4	144
NON-MOVING																		
LOADS	1	4							39	6		2						
OVERWEIGHT	1	3							27	1		7						1
RIIION LIC/REG	1109	514	95	255					2900	671		145	69	83		5	4	101
EQUIPMENT	164	68	16	40					398	133		44	12	15		1		8
MISC. NON-MOVING	13	9	13	13					25	12		2	14	3		1		16
TOTAL NON-MOVING	1295	598	124	303					3292	823		200	86	101		7	4	126
ITA	286	249	147	197			1	589	184			88	138	27		45	5	94
CURTEMPT	20	29	28	42				15	14			6	30	2				6
UNDETERMINED	7	5	4	6				38	8			4						4
TOTAL TRAFFIC	1821	1587	388	776	5	11	4	8580	2048			1495	348	236	6	171	37	
CRIMINAL																		
PROPERTY THEFT			1	10	1		3	1		2		9	1					1
PROSTITUTION			7	7			2	1				9				12		
SHOPLIFTING	7	36	40	6			6			1		55	17		36	5		
ALCOHOL	10	16	95	2			3			11		23	14		5			
IND. EXPOSURE			9	4						1		1			5	1		
DISTURBING PEACE	3	1	9	65	11		1	5	3	4		15	23		18	29		
WEAPONS	1		1	12	3					1		4	4		7			
IGNITION																		
TRESPASSING	1		1	11	1					1		2	5		3	1	1	
DRUGS			1	2			1						1		2	1		
OTHER CRIMINAL	12	29	94	7			1	1	3	24		30	25	4	33	5	2	
TOTAL CRIMINAL	36	1	97	351	42		19	8	6	53	1	146	114	4	147	50	5	
GRAND TOTAL	1857	1	1684	739	818	5	30	12	8586	2101	1	1641	462	240	6	318	87	390

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CITY OF PHOENIX, ARIZONA	CTC-106											BREAKDOWN OF PENDING CASES											DATE PRINTED 01/07/80	PAGE 2-2
MAJOR TRAFFIC	720	725	730	734	740	745	760	770	780	790	791	794	TOTAL											
OWI	6712	4632	2	142	744	25	12	73	450	225	104	34	17034											
WICKLESS DRIVING	85	22	2	7	77	2		4	64	15	17		585											
LEAVING SCENE	718	141	20	7	112	8	5	11	151	19	45	1	2881											
REVOKED LICENSE	166	3	4	2	14	3	1	12	36	20	10		492											
OHAG RACING	52	10	2	1	24	1		1	48	6	10		242											
TOTAL MAJOR TRAF.	7727	4894	30	166	941	39	13	103	749	285	186	36	20654											
OTHER TRAFFIC																								
SPEEDING	1975	1544	2470	2	211	11	13	47	1449	161	454	2	21748											
SCHOOL ZONE	1	1	62					1	300	3	11		773											
STOP SIGN	251	200	574		16	1	5	6	2251	16	80		6390											
YIELD RIGHT WAY	363	214	550		43	2	2	8	868	32	40		3832											
TRAFFIC SIGNAL	578	444	720		34	3	4	5	1250	41	95		6395											
TURNING	459	336	354		40	2	10	9	339	17	25		3327											
UTIL. TRAF. DEV.	5	5	24		1				26		3		105											
UTIL. PED. XING	4	6	49		3			1	99	5	5		307											
UT. PRIV. PROP.	24	11	75		3				116	2	81		460											
LANES P. PASSING	2404	1955	571	7	246	3	2	24	802	82	7		9759											
FOLLOW TOO CLOSE	189	47	45	2	51	7		5	47	11	7		2863											
MAJOR LICENSE	216	101	247	2	40	1	4	4	52	23	58	1	1845											
MISC. MOVING	347	256	244		40	3	2	2	300	18	21		2485											
TOTAL OTHER TRAF.	7090	5215	6023	13	710	33	44	111	8396	411	885	3	59731											
NON-MOVING																								
LOADS	53	2	23		15	1			128	1	2		324											
OVERWEIGHT	47		4		11			1	44		14		209											
MINOR LIC/REG	2893	1812	2198	12	195	7	6	30	10217	134	426	4	36288											
EQUIPMENT	615	402	556		37	1	3	6	1174	23	58		5498											
MISC. NON-MOVING	30	7	70	1	2	2	1		665	3	11		1177											
TOTAL NON-MOVING	3635	2293	2851	13	260	11	10	37	12928	161	511	4	43497											
FIA	1702	418	883	61	269	21	11	14	30784	100	234	12	39803											
CONTEMPT	9	4	74		2	1	12		4284	1	33		4837											
UNDETERMINED	81	45	53	1	10	4	1		1077	9	5		1571											
TOTAL TRAFFIC	20247	12893	9914	254	2212	109	96	265	58168	967	1854	55	170090											
CRIMINAL																								
PEITTY THEFT	310			6	44	3	2	3	392	11	11		1971											
PROSTITUTION	404		1	18	73	3	4	5	392	21	6	3	1514											
SHOPLIFTING	737		1	10	120	5	1	4	1200	34	31	1	4441											
ALCOHOL	204		1	3	27	2	2		366	6	20		1846											
INJ. EXPOSURE	172			1	29		2	3	87	10	3	1	593											
DISTURRING PEACE	459	7	5	15	80	9	2	5	607	14	46	1	2867											
WEAPONS	177	1	1	3	48		3	1	155	13	11		778											
JUWING	22			4	6				21	6			309											
INSPASSING	119		1	2	27	3	4	1	158	3	8		658											
DRUGS	29			6	1				19	5	1	1	162											
OTHER CRIMINAL	682	2	18	14	115	23	1	7	578	29	43	3	6314											
TOTAL CRIMINAL	3669	11	32	82	653	62	19	31	4282	180	186	12	22889											
GRAND TOTAL	23916	12904	9946	336	2865	171	115	296	62450	1147	2040	67	192979											

## CITY OF PHOENIX, ARIZONA

CIC-106

## BREAKDOWN OF DISPOSED CASES

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MAJOR TRAFFIC	300	451	432	433	434	435	436	437	438	439	631	990	TOTAL
DWI	10	19	1			2	7		563		16		941
RECKLESS DRIVING	2	1					4				1		11
LEAVING SCENE	5	7			1		19		5		13		132
DUNKED LICENSE		6					1				6		28
DWAG RACING	7	1					3				4		27
TOTAL MAJOR TRAF.	19	32	1		1	2	34		568		40		1154
OTHER TRAFFIC													
IMPLEADING	47	119	8		1	471	179		39		357		4264
SCHOOL ZONE	2	1				34	2				1		179
STOP SIGN	10	17				123	28		8		116	1	1401
YIELD RIGHT WAY	21	33	3			21	34		10		58		933
TRAFFIC SIGNAL	14	24	2			71	41		21		118		1315
TURNING	4	14	3			34	46		15		46		673
OTHER TRAF. DEV.						15	1		1		7		93
VIOL. PED. XING		5				1	1		1		7		65
CUT PRIV. PROP.	1	1				1	1		1		3		91
LAKES & PASSING	19	26	5			28	163		124		61	1	1371
FOLLOW TOO CLOSE		4				2	3		4		10		112
MAJOR LICENSE	4	7	1				19		2		7		179
MISC. MOVING	9	9				4	21		25		77		415
TOTAL OTHER TRAF.	132	317	22		1	805	534		250		853	2	11091
NON-MOVING													
LOADS						1			1		1		55
OVERWEIGHT						3							43
MINOR LIC/REG	15	322	3			1	185		47		629	1	7145
EQUIPMENT	6	9					46		22		212		1977
MISC. NON-MOVING	2	1					3		1		24		157
TOTAL NON-MOVING	23	332	3			1	238		71		866	1	8497
FTA	23	313	1			3	156		5			2270	4821
EGNTEMPT	2	15	1				4					26	244
UNDETERMINED	2	1					4		8		10		105
TOTAL TRAFFIC	201	1010	28		2	811	987		902		1769	2299	25907
CRIMINAL													
CITY THEFT							3						45
PROSTITUTION							22						61
SHOPLIFTING	2	2					25						246
ALCOHOL							5						183
IND. EXPOSURE							17						40
DISTURBING PEACE	1	7					7		1		2	1	199
WEAPONS	2	7					1						38
ZONING							2						2
TRSPASSING							5						32
DRUGS													8
OTHER CRIMINAL	3	9					14						296
TOTAL CRIMINAL	13	71					116		1		2	2	1235
GRAND TOTAL	214	1031	28		2	811	1103		903		1771	2301	27142

\*\*\*\*\*  
 \* LEGEND  
 \*  
 \* 101-PLD GLTY/SENT SUSPD  
 \* 102-PLD GLTY/NO SENT  
 \* 111-PLD GLTY/FINE PAID  
 \* 112-PLD GLTY/DEF IMPUSD  
 \* 113-PLD GLTY/FINE & IMP  
 \* 114-PLD GLTY/ISS ASSIGN  
 \* 118-PLD GLTY/POOD IND  
 \* 119-PLD GLTY/PIH+PAY IND  
 \* 120-MAIL POST & FORFED  
 \* 201-ADJ GLTY/SENT SUSPD  
 \* 202-ADJ GLTY/NO SENT  
 \* 211-ADJ GLTY/FINE PAID  
 \* 212-ADJ GLTY/DEF IMPUSD  
 \* 213-ADJ GLTY/FINE & IMP  
 \* 214-ADJ GLTY/ISS ASSIGN  
 \* 218-ADJ GLTY/PPOR IND  
 \* 219-ADJ GLTY/PIH+PAY IND  
 \* 220-ADJ GLTY/BAIL FORF  
 \* 300-ADJ/NO GUILTY  
 \* 431-DISM/INVALID COMPL  
 \* 432-DISM/COURT ORDER  
 \* 433-DISM/3RD FIRM PEND  
 \* 434-DISM/DEF-ATT REJ  
 \* 435-DISM/COUNTY REV  
 \* 436-DISM/CITY PHOS REQ  
 \* 437-DISM/POLICE HIT  
 \* 438-DISM/PDC-PACT  
 \* 439-DISM/AMENDED CIT  
 \* 631-REL/REMAND JUV CRT  
 \* 990-VOID  
 \*  
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TYPE OF VIOLATION	NEW THIS MONTH	PAST PENDING	TOTAL CASELOAD	DISPOSED THIS MONTH	MONTH-END PENDING
MFD METER	15149	56114	71263	7965	63298
OVERTIME	156	1072	1208	92	1116
ALLEY	743	4353	5096	339	4754
LOADING ZONE	474	1345	1859	258	1601
STATE	425	3404	4033	225	3808
NO MARKING	4438	20443	24921	253	22368
CONTINUOUS	1351	3399	4750	586	4164
OTHERS	8751	20114	28865	4510	24355
TOTAL CITATIONS	31467	110528	141995	16527	125468
TYPE OF DISPOSITION	TOTAL THIS MONTH	FISCAL YTD TOTALS			
PAID IMMEDIATELY	16525	286388			
PAID AFTER LETTER		2957			
PAID AFTER SUMMONS		16195			
PAID AFTER WARRANT		1			
CHALLENGE TO LOCAL		32853			
OUT OF JURISDICTION		409			
GOVERNMENT VEHICLE					
RENTAL VEHICLE					
IMPROPER CITATION		214			
METER OUT OF ORDER		55			
OTHERS	2	5790			
TOTAL DISPOSITIONS	16527	344851			
ACTION TAKEN	TOTAL THIS MONTH	FISCAL YTD TOTALS			
ADDRESS INQUIRY	7984	293733			
WARNING LETTERS		22243			
SUMMONS	6571	148839			
MAIL POSTED					
VOIDED CITATIONS					

*Exhibit No. 15*

## METHODOLOGY FOR OBTAINING CIVIL REMEDIES DATA

Arizona domestic relations law provides a remedy for spouses who are actual or potential victims of domestic violence and are seeking divorces or legal separations. In 1977, the domestic relations code was amended to establish a procedure for a preliminary injunction to be issued automatically when an action for dissolution of marriage or legal separation is filed. <sup>1/</sup> This standard preliminary injunction enjoins both spouses from, among other things, "molesting, harassing, disturbing the peace of or committing an assault or battery on the person of the other party or any natural or adopted child." <sup>2/</sup> In addition, the Arizona domestic relations code specifically provides that a party to an action for dissolution of marriage may request the court to issue a temporary restraining order or preliminary injunction "~~T~~e/xcluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm may otherwise result." <sup>3/</sup>

Violations of both the standard preliminary injunction and the exclusion order may be punished, like violations of any civil injunction, by contempt of court. <sup>4/</sup> To enforce the remedy, the party in whose favor the injunction was entered may file an affidavit with the court, stating the circumstances that constitute a violation of the injunction. The court then may enter an order to show cause requiring the other party to appear in court and answer why he should not be held in contempt. <sup>5/</sup>

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<sup>1/</sup> Ariz. Rev. Stat. § 25-315 (Supp. 1979).

<sup>2/</sup> *Id.*, at § 25-315(A)(1)(b).

<sup>3/</sup> *Id.*, at § 25-315(C).

<sup>4/</sup> Ariz. Rules of Civil Procedure, Rule 65(j)(1).

<sup>5/</sup> *Id.*, at Rule 65(j)(2).

The court is empowered to provide appropriate sanctions, including incarceration, upon a finding of contempt.

In order to evaluate the role of restraining orders and injunctions issued in domestic relations cases in spousal abuse situations, the staff of the U.S. Commission on Civil Rights examined a sample of dissolution of marriage case files in the Maricopa County Superior Court. The cases selected were those in which an order to show cause for violation of a previously entered order of the court had been issued and set for hearing in April 1979, <sup>6/</sup> as indicated in the docket sheets of the Maricopa County Court Administrator. The sample included all cases in which enforcement or modification was sought of any type of order, including child support, property settlement, child custody, and visitation rights, as well as orders forbidding abusive conduct or excluding an abusive spouse from the home.

The sample was selected following staff discussions with Vivian Kringle, Deputy Clerk of the Maricopa County Superior Court, and Mark Berkshire, Assistant Court Administrator for Domestic Relations. Mr. Berkshire provided staff with docket sheets for April 1979. Michael Goodman, Supervisor of the Record Section of the Clerk of the Maricopa County Superior Court, provided staff with access to the case files.

Staff examined 254 case files to determine the extent to which enforcement or preliminary injunctions and exclusion orders was sought and what disposition was made in such cases.

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<sup>6/</sup> The month of April 1979, was randomly selected.

## PRELIMINARY ANALYSIS OF CIVIL REMEDIES DATA

U.S. Civil Rights Commission staff examined 254 cases in which hearings on orders to show cause for violation of a previously entered order of the court had been set for the month of April 1979. In eight of the 254 cases, the April show cause hearing was for contempt of a preliminary injunction or temporary restraining order prohibiting spousal abuse or excluding the abusive spouse from the family home. <sup>1/</sup>

Six of these hearings were resolved without findings of contempt, <sup>2/</sup> while two resulted in findings of contempt against the abusive spouse. Neither of these cases resulted in a sanction of incarceration, although it was prayed for in both. <sup>3/</sup> In the first case where a finding of contempt was made, the husband was ordered to return items he had stolen from his wife and to refrain from threats and violence towards her. The court held that the husband could purge himself of contempt by returning the stolen items. In the second case, <sup>4/</sup> an order was issued excluding the husband from the family home and requiring him to pay attorney's fees of \$150. The court held that he could purge himself of contempt by behaving in a

---

<sup>1/</sup> The court was requested to provide sanctions in all eight cases, and incarceration was specifically requested in three of them.

<sup>2/</sup> In four of these cases, the requests for findings of contempt were withdrawn by stipulation of the parties, and one resulted in an order to modify certain conduct, but no finding of contempt was made. In the remaining case, no indication was made as to the disposition of the request for a finding of contempt.

<sup>3/</sup> Incarceration was also prayed for in one of the cases where the request was later withdrawn by stipulation of the parties.

<sup>4/</sup> Pleadings alleged that two weeks after having been served with the automatic preliminary injunction, the husband had struck the wife, kicked her in the groin, slapped her face, and damaged household furnishings. The day after the first contempt hearing was held, the husband returned to the wife's home and destroyed personal items belonging to her.

"law-abiding manner." It should be noted that in the latter case, a second finding of contempt for violation of the same order was made against the husband less than two weeks later. This time the court again held that he could purge himself of contempt by conducting himself as a "law-abiding citizen."

## Exhibit No. 16



## ARIZONA DEPARTMENT OF ECONOMIC SECURITY

1717 WEST JEFFERSON • PHOENIX, ARIZONA • P.O. BOX 6123 85005

Bruce Sabitt  
GOVERNORBill Jamieson, Jr.  
DIRECTOR

April 2, 1979.

Mr. Jack Harris  
Assistant Regional Commissioner  
Department of Health, Education,  
& Welfare  
100 Van Ness Avenue  
San Francisco, CA 94102

Dear Mr. Harris:

We are again reconsidering the feasibility of implementing Emergency Assistance to Needy Families with Children (AFDC-EA) as provided for under 45 CFR 233.120.

To reach a decision we would appreciate guidance in the following policy questions:

1. 45 CFR 233.120 (a) (1) states that the "eligibility conditions ... may be more liberal than those applicable to other parts of the plan." Do we understand correctly if we say that:
  - (a) AFDC-EA eligibility criteria, such as the absence of a parent, or the dollar-value limitations on property, may be less restrictive than those conditions already imposed in our present AFDC state plan, provided such more liberal provisions do not exceed the restrictions in 45 CFR 233.10 through 45 CFR 233.90. (E.g., we now limit the value of property and assets over and above the one vehicle and homestead allowed by 45 CFR 233.20 (a) (3) to \$1600, but may raise the limit to the \$2,000 maximum permitted by that regulation? Or
  - (b) Is it rather correct to say that we may raise restrictions beyond those imposed by 45 CFR 233.10 through 45 CFR 233.90 as long as we meet conditions set forth in 45 CFR 233.120? (E.g., we may raise other property value limitation for AFDC-EA to \$2,000, but we may not totally disregard such property.) Also
  - (c) Is it required for our Agency and for AFDC-EA applicants or recipients — who would be receiving assistance under the EA program for only one month out of a year — to comply with all those AFDC requirements which seem logically to pertain only to requests for continuing, on-going assistance? (E.g., we find it difficult to believe that an AFDC-EA applicant would have to comply with any of the Child Support Enforcement requirements under 45 CFR 232, or with WIN requirements under 45 CFR 224.20, or even with residence requirements under 45 CFR 233.40, solely for the purpose of receiving one month of AFDC-EA assistance.) Also,

Mr. Jack Harris

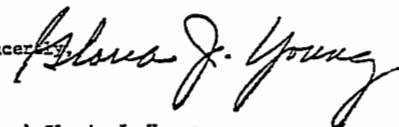
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April 2, 1979

2. What impact could implementation of AFDC-EA have on our State's Quality Control error rate? Specifically, would there be Quality Control review of both negative eligibility determinations (denial of AFDC-EA) and positive actions (approval of AFDC-EA, the amount of EA assistance, considering both underpayment and overpayment errors as well as total ineligible errors?

We thank you for your attention to our concerns and will be awaiting your comments.

Sincerely,



/s/

(Mrs.) Gloria J. Young  
Program Administrator  
Family Assistance Administration

GJY:MRS:hl

cc

Ms. Young

✓ Mr. Schwartz

Mr. Cregar

File



## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

REGIONAL OFFICE  
100 VAN NESS AVENUE  
SAN FRANCISCO, CALIFORNIA 94102

SOCIAL SECURITY  
ADMINISTRATION

Our Reference: SD9A

APR 27 1979

RES'D. DIRECTOR

MAY 1 1979

Mr. Bill Jamieson, Jr.  
Director, Arizona Department  
of Economic Security  
P.O. Box 6123  
Phoenix, Arizona 85005

Dear Mr. Jamieson:

This is in response to Ms. Gloria Young's letter of April 2, 1979, about your reconsideration of the feasibility of implementing Emergency Assistance to Needy Families with Children, (AFDC-EA) as provided for under 45 CFR 233.120. It also represents confirmation of a discussion about the contents of Ms. Young's letter between Messrs. Pat Cregar, Wally Earle, Marshall Schwartz, and Dick Lippke, April 5, 1979.

You may raise or lower resource and income restrictions beyond or below those applicable to other parts of your Title IV-A State Plan, as long as you meet conditions set forth in 45 CFR 233.120.

The eligibility conditions may be more liberal or more restrictive than those in your existing State Plan. The Child Support Enforcement and the WIN Programs are not applicable. Enumeration and quality control procedures do not apply. The applicant need not be a resident or a citizen.

The discussion covered questions not raised in Ms. Young's letter. One of the questions related to the reasons why more states did not implement AFDC-EA. The major reason was that the flexibility of the program led to litigation. The U.S. Supreme Court's decision of June 6, 1978, in Quern v. Mandley, lessened the possibility of litigation as the Court held that states could limit eligibility for AFDC-EA more narrowly than section 406(e) of the Act, which defines the permissible scope for which funding is available. This decision supports the possibility of allowing flexibility in the development of AFDC-EA programs. Please refer to enclosed Action Transmittal, SSA-AT-78-44, dated December 27, 1978.

Current policy does not allow the exclusion of Indians living on reservations even though they may receive the more generous BIA assistance. We recognize that BIA assistance, which is considered a "residual" resource

*Wally Earle*  
*ll: 5/23*

*Wally Earle*



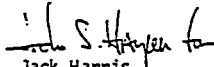
Mr. Bill Jamieson, Jr.  
Page 2

may be withdrawn to some extent by BIA officials if AFDC-EA is implemented, resulting in possible additional State expenditures. This possibility, however, is offset by the fact that the Federal government must also pay, in addition to the 50 percent, for the total amount expended for AFDC-EA as authorized under section 403(a)(5) of the Social Security Act, an amount equal to 80 percent of the State share of assistance expenditures with respect to Navajo and Hopi Indians.

Although quality control procedures do not apply to the AFDC-EA program, OFA staff are required to monitor the program, if implemented, using Section 3, pages 1 and 2, and Attachment 3-A of the State Plan preprint and other applicable policy material as a guide.

If you have any further questions regarding this letter, please contact Dick Lippke at 415-556-8678.

Sincerely yours



Jack Harris  
Assistant Regional Commissioner  
Family Assistance

Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
 SOCIAL SECURITY ADMINISTRATION  
 WASHINGTON, D.C. 20201

INTERPRETATION

ACTION TRANSMITTAL  
SSA-AT-78-44 (OFA)

December 27, 1978

TO: STATE AGENCIES ADMINISTERING APPROVED  
 PUBLIC ASSISTANCE PROGRAMS

SUBJECT: Emergency Assistance to Needy Families  
 with Children (EA)

REGULATORY AND STATUTORY REFERENCE: 45 CFR 233.120  
 406(e) of Title IV-A

PURPOSE: This AT has three purposes:

1. To inform you of the Supreme Court's  
 Decision of June 6, 1978 in  
Quern v. Mandley;
2. To inform you that the injunction  
 prohibiting HEW from approving  
 State Plans for EA has been lifted;  
 and,
3. To provide guidelines for approval  
 of State EA plans.

Supreme Court Decision

On June 6, 1978, the Supreme Court ruled for the State and Federal Governments in the case of Quern v. Mandley, 436 U.S. 725, 98 SCt 2068 (1978). The Court held that States could limit eligibility for emergency assistance more narrowly than section 406(e) of the Act, which defines the permissible scope of programs for which Federal funding is available.

This decision supports the Department's policy of allowing States flexibility in the development of Emergency Assistance programs. It permits a State to define the types of emergencies it will cover and to limit the categories of needy families with children that can participate.

#### Lifting of Injunction

On December 11, 1978, the District Court lifted its injunction of November 29, 1976 issued in the Mandley case under which HEW was prohibited from approving any State Plans for Emergency Assistance that limited eligibility more narrowly than section 406(e) of the Act. The Department may now act upon pending and newly submitted Emergency Assistance amendments.

#### Guidelines for Plan Approvals

State plan requirements and conditions for federal financial participation as specified in 45 CFR 233.120, stand as written.

States remain free, under Federal policy to develop their own definition of the kind of emergencies they will meet under this program. The report of the House Ways and Means Committee of the 1967 Social Security Amendments, however, makes it clear that the intent of the Emergency Assistance program is to deal with crisis situations threatening an AFDC or other needy family. The Committee describes crisis situations such as "in evictions, or when utilities are turned off, or when an alcoholic parent leaves children without food."

- The State plan must clearly list the kinds of emergencies covered, and the kinds of assistance and services provided to meet the emergency needs.
- Eligibility must be based on an application. A determination must be made that the individual meets the conditions of eligibility for EA under the State Plan.
- A State Plan must clearly specify that AFDC recipients are included in its EA program. Other categories of needy families with children may be included at State option; these categories must be specified in the plan.

Monitoring

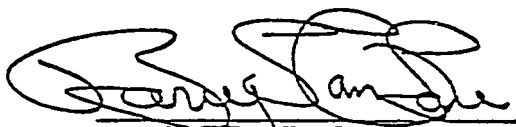
The Department will monitor State programs with periodic administrative reviews.

EFFECTIVE:

Immediately

INQUIRIES:

Regional Commissioners



Barry L. Van Lare  
Associate Commissioner  
for Family Assistance



## ARIZONA DEPARTMENT OF ECONOMIC SECURITY

1717 WEST JEFFERSON • PHOENIX, ARIZONA • P.O. BOX 5123 85005

Bruce Babbitt  
GOVERNOR

Bill Jamieson, Jr.  
DIRECTOR

April 2, 1979

Mr. Jack Harris  
Assistant Regional Commissioner  
Department of Health, Education,  
& Welfare  
100 Van Ness Avenue  
San Francisco, CA 94102

Dear Mr. Harris:

We are again reconsidering the feasibility of implementing Emergency Assistance to Needy Families with Children (AFDC-EA) as provided for under 45 CFR 233.120.

To reach a decision we would appreciate guidance in the following policy questions:

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Mr. Jack Harris

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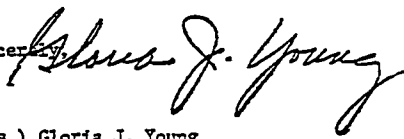
April 2, 1979

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We thank you for your attention to our concerns and will be awaiting your comments.

Sincerely,

/s/

  
(Mrs.) Gloria J. Young  
Program Administrator  
Family Assistance Administration

GJY:MRS:hl

cc

Ms. Young

✓ Mr. Schwartz

Mr. Cregar

File

*Exhibit No. 17*

**COMMUNITY LEGAL SERVICES**  
**SERVICIOS LEGALES DE LA COMUNIDAD**  
903 NORTH SECOND ST. PHOENIX, ARIZONA 85004  
TELEPHONE: (602) 258-3434

## M E M O

TO: U.S. Commission of Civil Rights  
FROM: James E. Keenan, Executive Director  
DATE: February 13, 1980

Lois Kermott and myself are grateful for the opportunity to appear before the Commission to explain the role of Community Legal Services in working with victims of domestic violence in our role as legal advocates for the poor within Maricopa County. Lois can provide this Commission with valuable information from the standpoint of a legal service practitioner who on a daily basis must deal with a multitude of domestic related problems and who must also experience the continuous frustration of inadequate resources and inadequate legal tools to effectively deal with many of the problems her clients encounter. My perspective is that of a legal services administrator who must weigh conflicting demands for legal services within an environment where the demand for legal services is always in excess of the resources needed to effectively respond.

In establishing the Legal Services Corporation in 1974, the Congress articulated several very noble purposes as the basis for its legislation. In Section 1001 of the Legal Services Corporation Act, the Congress speaks of a "need to provide equal access to the system of justice in our nation



for individuals who seek redress or grievances", of a "need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel", and of the fact that the "availability of legal services has reaffirmed faith in our government of laws" for many of our citizens. And, indeed, the actions of the Congress since the formation of the Legal Services Corporation have demonstrated a strong reaffirmation of these principles. From an original funding level of 71.5 million dollars in fiscal 1975, the funding for Legal Services Corporation has increased fourfold to an even 300 million for fiscal 1980. The expanded funding base will, by the end of 1980, make a reality of the goal of achieving at least the minimal presence of legal services within every county within the United States.

However, certain realities concerning the level of demand for legal services by the low income and the cost of providing quality legal services must inevitably temper the optimism that was created by the formation of the Legal Services Corporation. This factor can best be demonstrated by specific illustrations of the level of demand within Maricopa County and the ability of Community Legal Services to respond to that demand. Several years ago, the American Bar Association and the American Bar Foundation did a joint study of the incidence rate of legal service demand for the poverty population. Using the ABA-ABF data, the Legal Action Support Project of the Bureau of Social Science Research



projected that 23% of the poverty population would have one or more legal problems in a calendar year. Relying on the ABA-ABF incidence data and Department of Economic Security of Arizona statistics, which would project not less than 180,000 eligible clients within Maricopa County, Community Legal Services estimates that it would cost approximately 7.5 million dollars to provide legal services to the 41,000 plus clients per year who would have need of legal assistance. This estimate assumes that an attorney-unit can realistically handle 300 cases a year, at the cost of an attorney-unit of \$55,000. These costs include salaries for attorney, paralegal, support staff, supervision and management, and other operating expenses, such as rent, consumables, library, telephone, insurance, travel, and litigation costs.

Set against this example is a reality of Legal Services Corporation funding of \$882,060 to serve low income poor within Maricopa County during 1980. The funding base results from a per capita formula of \$7.76 per poor person counted by the 1970 census. The original minimum access projection was to provide two lawyers per 10,000 poor persons throughout the United States. However, with the population growth experienced in states such as Arizona, and the cruel effects of inflation on the ability to deliver social services, indeed, Community Legal Services at present falls even below the admittedly inadequate minimum access level in its ability to meet the many demands of its clients

for legal services.

In fact, Community Legal Services can serve approximately 5,000 individual clients per year with direct services, or about 12% of the total need. It is interesting to note that the project advisory group of Legal Services programs recently did a national study which likewise projected that the average legal services program was meeting about 12% of the total client needs. Thus, Legal Services programs find themselves in the situation of a lone individual standing under a waterfall with one tin cup able to catch only a minute fraction of the very real human problems requiring immediate legal attention.

In such a context, Legal Services programs must inevitably prioritize their work, which in blunt terms means that some clients must be told at the entry level that their cases cannot be serviced because of the fact that other issues are deemed to be more important to the client community. As such, Legal Services must focus on institutional problems and possible litigative, administrative and legislative solutions that will impact on the greatest number of potential clients. While to those of us within the Legal Services community, such an approach is the only logical answer to inadequate resources, to many of our clients, it is yet another example of a promise of the system being unfulfilled.

In the context of your inquiry into domestic violence and the role legal services can play in defining effective

strategies for its clients, I would propose the four following needs:

A. Local legal service programs need to be more assertive in seeking aggressive solutions to the problems of domestic violence. Family Law has traditionally been an unfavored forum within legal services and deemed not as exciting or as challenging as other areas, such as housing, consumer, or government benefits practice. All of us within the legal services community need to reexamine the allocation of our resources and our own internal priorities to in fact determine if we are being sensitive to the demand for services in the area of domestic violence.

B. It is important that strong public support be generated with the Congress and the executive branch of government for increased legal services appropriations. For fiscal 1981, the Legal Services Corporation has requested \$353,000,000, which would be barely adequate to stay even with the current level of service delivery. The administration in its budget request to Congress has proposed 321.3 million for fiscal 1981. It is important that those of the public and private sector who strongly support legal services for the poor communicate their strong support for increased federal funding for legal services and that the Legal Services Corporation's budget request be enacted in full.

C. At the national level, it is imperative that the Legal Services Corporation increase its national support and

training efforts in those areas deemed to require national strategies and national attention. Significantly, in October of 1979, the Legal Services Corporation funded a national Center on Women and the Family Law to deal with, among other issues, the problems of domestic violence. However, the funding for this support unit is still a pittance and needs to be dramatically increased along with training efforts, so that local program staff are aware of all of the available tactics and innovative ideas being pursued by programs in the area of domestic violence.

D. Finally, there must be an increased public understanding of the limits of legal services programs, and with it, a more positive commitment for private bar participation in seeking legal solutions for the legal problems of the low income.

In conclusion, both Lois Kermott and myself want to express our strong support for the work of the Commission. In past years, this Commission has been a catalyst for identification of major social issues that require a national response. The recognition by this Commission of the problems of domestic violence is an encouraging sign that some of the heartbreaking scenes of battered spouses and battered children which Lois and her other staff encounter on an almost daily basis will receive the national focus so necessary if we are to ever achieve an effective response.

Thank you very much for the opportunity to appear before this Commission.

*Exhibit No. 18*

## ANNUAL BUDGET

ORDINANCE NO. S-11146

AN ORDINANCE ADOPTING THE TENTATIVE ESTIMATES OF THE AMOUNTS REQUIRED FOR THE PUBLIC EXPENSE FOR THE CITY OF PHOENIX FOR THE FISCAL YEAR 1979-80; ADOPTING A TENTATIVE BUDGET; SETTING FORTH THE RECEIPTS AND EXPENDITURES; THE AMOUNTS ACTUALLY LEVIED AND THE AMOUNTS ESTIMATED AS COLLECTIBLE FOR SAID FISCAL YEAR; THE AMOUNT PROPOSED TO BE RAISED BY DIRECT PROPERTY TAXATION FOR THE VARIOUS PURPOSES; GIVING NOTICE OF THE TIME AND PLACE FOR HEARING TAXPAYERS, FOR ADOPTION OF THE BUDGET AND FIXING THE TAX LEVELS; AND DECLARING AN EMERGENCY.

WHEREAS, by the provisions of the City Charter an ordinance adopting the tentative budget for the fiscal year 1979-80 is required to be adopted on or before the last day of June, which date complies with State law requirements,

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. That the statements and schedules hereinafter set forth are hereby adopted for the purposes as hereinafter set forth as the tentative budget for the City of Phoenix for the fiscal year 1979-80.

SECTION 2. That the City Clerk be, and she is hereby authorized and directed to publish in the manner prescribed by law the estimates of expenditures, as hereinafter set forth, together with a notice that the City Council will meet for the purpose of final hearing by taxpayers and for adoption of the 1979-80 Annual Budget for the City of Phoenix on the 17th day of July, 1979, at the hour of 10:00 a.m., in the Council Chambers of the City of Phoenix, and will further meet for the purpose of making tax levies on the 24th day of July, 1979, at the hour of 10:00 a.m., in the Council Chambers of the City of Phoenix.

SECTION 3. Upon the recommendation by the City Manager and with the

ANNUAL BUDGET

approval of the City Council, expenditures may be made from the appropriation for Contingencies.

SECTION 4. Money from any fund may be used for any of these purposes set forth in Section 5, except money specifically restricted by State law or by City Charter or City ordinances and resolutions.

General Fund appropriations in this budget for criminal justice programs may be used to provide matching funds for programs and projects for criminal justice, as required by the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Omnibus Crime Control Act of 1970.

SECTION 5. That the purposes of expenditures as set forth in this section, are necessary for the conduct of the business of the government of the City of Phoenix and such amounts are hereby adopted as tentative appropriations for the 1979-80 fiscal year.

CITY OF PHOENIX, ARIZONA

PURPOSES OF PROPOSED PUBLIC EXPENSE

PURPOSE	AMOUNT OF APPROPRIATION 1979-80
<b>OPERATING FUNDS</b>	
<u>GENERAL FUNDS</u>	
General Government	\$ 22,124,587
Criminal Justice	51,220,742
Public Safety	23,446,777
Transportation	5,499,520
Sanitation	17,825,946
Community Enrichment	524,809
Housing and Urban Redevelopment	672,612

CITY OF PHOENIX, ARIZONA

## ANNUAL BUDGET

CITY OF PHOENIX, ARIZONA  
PURPOSES OF PROPOSED PUBLIC EXPENSE

PURPOSE	AMOUNT OF APPROPRIATION 1979-80
Human Resources	1,869,778
Contingencies	4,322,000
Debt Service	20,058,012
Total General Funds	<u>147,564,783</u>
<u>PUBLIC WORKS RESERVE FUND</u>	
Public Improvements, Land Acquisition and Acquisition and Maintenance of Vehicles	<u>\$ 19,157,663</u>
<u>PARKS AND PLAYGROUNDS FUND</u>	
Parks and Recreation	<u>\$ 12,279,504</u>
<u>LIBRARY FUND</u>	
Library	<u>\$ 4,879,644</u>
<u>SEWERAGE SYSTEM FUNDS</u>	
Sanitary Sewers	<u>\$ 6,327,722</u>
<u>TRANSIT FUND</u>	
Transit	<u>\$ 4,433,150</u>
<u>FEDERAL REVENUE SHARING FUNDS</u>	
Police	\$ 6,800,000
Fire	1,870,000
Street Lighting	800,000
Traffic Engineering	800,000
Parks and Recreation	400,000
Library	265,000
Human Resources	400,000
TOTAL FEDERAL REVENUE SHARING	<u>\$ 11,335,000</u>
<u>CITY IMPROVEMENT FUND</u>	
Public Parking Facility	\$ 591,078
Plaza Municipal Building	140,185
Aviation Facility	<u>2,388,595</u>
TOTAL CITY IMPROVEMENT FUND	<u>3,119,858</u>

CITY OF PHOENIX, ARIZONA

ANNUAL BUDGET  
CITY OF PHOENIX, ARIZONA  
PURPOSES OF PROPOSED PUBLIC EXPENSE

PURPOSE	AMOUNT OF APPROPRIATION 1979-80
<u>HUMAN RESOURCES FEDERAL TRUST FUNDS</u>	
Parks and Recreation	\$ 65,930
Human Resources	<u>4,922,324</u>
TOTAL HUMAN RESOURCES FEDERAL TRUST FUNDS	<u>\$ 4,988,254</u>
<u>FEDERAL COMMUNITY DEVELOPMENT FUNDS</u>	
Community Development	<u>\$ 14,311,142</u>
<u>FEDERAL EMPLOYMENT AND TRAINING FUND</u>	
Employment and Training	<u>\$ 16,456,998</u>
<u>FEDERAL OPERATING TRUST FUND</u>	
Intergovernmental Programs	<u>\$ 6,586,602</u>
<u>ECONOMIC DEVELOPMENT ASSISTANCE</u>	
Parks Improvement	<u>\$ 1,273,000</u>
<u>HIGHWAY USER REVENUE FUND</u>	
Street Maintenance, Street Lighting and Street Improvements	<u>\$ 17,177,950</u>
<u>WATER FUNDS</u>	
Water System	<u>\$ 38,673,960</u>
<u>AIRPORT FUNDS</u>	
Aviation	<u>\$ 22,652,029</u>
<u>CIVIC PLAZA FUNDS</u>	
Phoenix Civic Plaza	<u>\$ 5,430,094</u>
<u>PUBLIC HOUSING FUNDS</u>	
Public Housing	<u>\$ 16,277,547</u>
TOTAL APPROPRIATIONS 1979-80	<u>\$352,924,900</u>



## ANNUAL BUDGET

SECTION 6. That these certain schedules entitled "City of Phoenix Tentative Budget Schedules" hereto attached are by reference made a part hereof.

SECTION 7. WHEREAS, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health, and safety, an EMERGENCY is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council as required by the City Charter, and is hereby exempted from the referendum clause of said Charter.

PASSED by the Council of the City of Phoenix this 26th day of June, 1979.

/s/ Margaret T. Hance  
M A Y O R

ATTEST:

/s/ Donna Culbertson City Clerk

APPROVED AS TO FORM:

/s/ L. Verde Rhue Acting  
City Attorney

REVIEWED BY:

/s/ Marvin A. Andrews City Manager

OPERATING BUDGET			
SUMMARY BY SUB-PROGRAM			
MAJOR PROGRAM	PROGRAM	ACCOUNT NO.	
Criminal Justice	Police	60000	
DIVISION AND ACTIVITY	1978-79	1979-80	
	ESTIMATED EXPENDITURES	CITY MANAGERS RECOMMENDATION	COUNCIL ALLOWANCE
60100 - Police Chief's Office	62,928	67,283	67,257
60200 - Management Services Division			
Administration	594,078	641,946	647,821
Internal Inspections Bureau	125,600	134,339	134,050
Internal Affairs Bureau	124,875	128,184	127,777
Planning and Research Bureau	754,877	850,235	829,327
Fiscal Management Bureau	281,852	323,880	319,987
Duty Majors	175,603	175,497	175,514
Law Specialists	73,412	77,351	77,202
Subtotal	2,130,297	2,331,432	2,311,678
60300 - Technical Services Division			
Information Bureau	2,208,575	2,411,780	2,384,975
Communications Bureau	2,959,370	3,282,134	3,261,630
Detention	302,888	360,259	360,259
Laboratory Bureau	316,443	355,096	351,205
Training Bureau	696,349		
Computer Services Bureau	1,180,172	1,454,910	1,454,905
Police Employment Services Bureau	283,054		
Subtotal	7,946,851	7,864,179	7,812,974
60400 - Patrol Division			
Administration	82,552	769,488	775,553
Patrol Bureau - District 4	4,948,545	5,914,832	5,810,567
Patrol Bureau - District 5	6,430,463	7,531,917	7,548,891
Patrol Bureau - District 6	5,213,173	5,954,292	6,137,001
Patrol Bureau - District 7	4,948,545	5,807,409	5,821,890
Patrol Bureau - District 8	4,922,083	5,773,109	5,783,841
Selective Enforcement Bureau	2,995,430	842,999	997,013
Air Patrol Unit	690,360	790,664	774,221
Aircraft Maintenance	229,828	313,122	320,023
Storm Disaster		10,000	10,000
Subtotal	30,460,979	33,707,832	33,979,000
60500 - Community Services Division			
Community Relations Bureau	705,668	813,845	811,638
Youth Services Bureau	600,645	530,176	528,624
Training Bureau		701,002	699,561
Police Implementation Services Bureau		302,258	300,578
Subtotal	1,306,313	2,347,281	2,340,401

CITY OF PHOENIX, ARIZONA

OPERATING BUDGET			
SUMMARY BY SUB-PROGRAM			
MAJOR PROGRAM	PROGRAM	ACCOUNT NO.	
Criminal Justice	City Courts	61100	
DIVISION AND ACTIVITY	1978-79	1979-80	
	ESTIMATED EXPENDITURES	CITY MANAGER'S RECOMMENDATION	COUNCIL ALLOWANCE
61100 - Judiciary	1,253,729	1,647,511	1,630,714
61120 - Administration	142,967	154,890	153,192
61130 - Operations	1,564,372	1,901,888	1,885,393
61158 - Court Reporting Study	2,700	25,208	25,208
61161 - PACT DWI - Rehabilitation	360,647	459,211	456,127
61162 - Probation Services	140,505	246,389	172,972
61164 - Coordinated Rehabilitation Center	3,406		
61169 - Restitution - Alternative	16,812		
<b>Total</b>	<u>3,485,138</u>	<u>4,435,097</u>	<u>4,323,606</u>

OPERATING BUDGET			
SUMMARY BY SUB-PROGRAM			
MAJOR PROGRAM	PROGRAM	ACCOUNT NO.	
Criminal Justice	City Prosecutor	61200	
DIVISION AND ACTIVITY	1978-79	1979-80	
	ESTIMATED EXPENDITURES	CITY MANAGER'S RECOMMENDATION	COUNCIL ALLOWANCE
61220 - City Prosecutor	1,272,755	1,542,271	1,572,833
61236 - Prosecution Alternatives to Court Trial	5,136		
61239 - Word Processing Project	16,245		
61240 - Paralegal Utilization	4,067		
61242 - Police Training Program	32,241	9,076	7,355
61243 - Paralegal Utilization	11,051	6,241	5,184
61244 - Prosecutor Coverage Misdemeanor Arrest	56,276		
61247 - Word Processing Equipment	8,880		
<b>Total</b>	<u>1,406,651</u>	<u>1,557,588</u>	<u>1,585,372</u>

CITY OF PHOENIX, ARIZONA

OPERATING BUDGET			
SUMMARY BY SUB-PROGRAM			
MAJOR PROGRAM	PROGRAM	ACCOUNT NO.	
Community Enrichment	Community Services	77000	
DIVISION AND ACTIVITY	1978-79	1979-80	
	ESTIMATED EXPENDITURES	CITY MANAGER'S RECOMMENDATION	COUNCIL ALLOWANCE
77200 - Arts			
Arizona Ballet Theatre	4,600		
Bach and Madrigal	4,600		3,082
Black Theatre	4,000		2,680
Subtotal	13,200		5,762
77300 - Human Services		167,500*	
Rainbow Retreat	20,000		20,000
OK Community	31,500		31,500
Seventh Step	25,000		16,900
Community Leadership for Community Development	3,000		3,000
CODAMA	60,000		
Vocational Youth Training	-1,208		
Youth Services Bureau	50,000		35,000
Maryvale Youth Center	30,000		35,000
Tumbleweed	10,000		10,000
Information and Referral	13,000		13,000
Center Against Sexual Assault - Facilities	7,508		9,300
Center Against Sexual Assault IV		5,080	5,080
Boys' Club			30,000
Sunnyslope Action			5,500
Subtotal	248,800	172,580	214,280
Total	262,000	172,580	220,042
* Represents initial target allowance approved by City Council allowance prior to final requests for proposals being submitted.			

CITY OF PHOENIX, ARIZONA

City of Phoenix

FAMILY VIOLENCE PROGRAM

Submitted to LEAA

March 2, 1979

SUBMISSION OF A FAMILY VIOLENCE  
PROGRAM PROPOSAL TO LEAA - F-2873

65 - Ordinance S-10913 authorizing the City Manager to submit a federal grant proposal for a Family Violence Program to the Law Enforcement Assistance Administration; setting forth the terms and conditions of said proposal; further authorizing the City Manager to execute an agreement with the Arizona State Justice Planning Agency to implement the proposal upon acceptance; authorizing the City Controller to receive and disburse the necessary funds; and declaring an emergency.

This authorizes the City Manager to submit a proposal to LEAA for a Family Violence Program in the amount of \$317,800 for an 18-month project starting July 1, 1979.

This program would establish a new procedure for handling family fight calls to the Police Department. An intervention center operating 24 hours a day would be established. Police could refer a family directly to the intervention center. In those cases which are forwarded to the Prosecutor's Office an alternative to prosecution of treatment at the intervention center could be offered. Two additional positions would be established in the City Prosecutor's Office and 1/4 of a probation officer's salary funded to handle an increased case load of family fight prosecutions which became the City's responsibility in October 1978 when the new Criminal Code became effective.

This also authorizes the City Controller to receive and disburse all funds under this contract.

Financial Impact

The Family Violence Program proposal requires no City general funds during the initial 18 months of operation. The required 10% match has been recommended in the Community Development Block Grant. If the program is continued after the initial 18 months, it would be eligible for Title XX funding which requires a 25% cash match. Annualized program expenses are \$230,000. The required match would be \$57,500.

Several private nonprofit agencies have expressed interest in assuming the responsibility for funding and operation of the intervention center after the 18-month initial period. Agencies contacted were Salvation Army, Phoenix South Community Mental Health Center and CBS (Community Behavioral Services).

Adopted

Rejected

Continued

Remarks:

## CITY COUNCIL REPORT

ITEM



date: February 15, 1979  
 to: Glenwood Wilson, Community Services Manager  
 from: Travis Williams, Human Resources Director *Travis*  
 subject: FAMILY VIOLENCE CENTER PROGRAM PROPOSAL

AGENDA

PURPOSE AND RECOMMENDATION

The purpose of this report is to inform the Council that the responsibility for prosecution of most forms of intra-family violence was transferred to the municipal level when the new Arizona Criminal Code became effective in October 1978. The implication of this added responsibility is that the City will need to develop procedures to handle an increased number of intra-family violence complaints. It is recommended by staff that a proposal be submitted to the Law Enforcement Assistance Agency (LEAA) in the amount of \$317,800 for an 18-month Family Violence Center Program.

BACKGROUND

The police receive approximately 15,000 family fight calls each year. The procedure prior to October 1978 was to make arrests in only the most severe cases and to forward a report to the County Attorney for investigation and prosecution. This procedure resulted in few prosecutions and many repeat calls to the police from the same families with escalating levels of violence with each episode. Although many community based organizations can provide treatment and assistance to both the victims and the assailant, no systematic procedures were established to inform individuals of the options or encourage the assailant to enter treatment. Intra-family violence in the form of spousal abuse, child abuse, child sexual abuse and parent abuse (abuse or neglect of elderly parents by their adult children) has not traditionally been addressed by the criminal justice system until the offense was so severe that treatment and restoration of the healthy family unit was nearly impossible.

DISCUSSION

This program proposes a new procedure for handling family violence calls. A 24-hour Family Violence Intervention Center would be established. Police officers would have four options when responding to these calls: (1) in the most severe cases, they would continue to make an arrest; (2) in less severe circumstances, they would submit a departmental report to the Prosecutor's Office, (3) refer the whole family to the Intervention Center or (4) issue a citation similar to a traffic ticket requiring the assailant to appear in court. The City Prosecutor's Office would offer treatment through the Intervention Center as an alternative to prosecution based on criteria developed in that office. The Intervention Center will provide initial crisis counseling and arrange for continued treatment through existing community agencies as well as provide the centralized interdepartmental recordkeeping to track individual's progress through the system. If the assailant does not abide by the conditions of the alternative to prosecution, the Center will notify the Prosecutor's Office so that appropriate proceedings can be reinstated. The Intervention Center will be operated by the Human Resources Department and staffed by a program administrator, five counselors and three clerical positions. The City Prosecutor's Office would add an assistant prosecutor and secretary. The courts would receive funding for 1/4 of a probation officer. Phoenix South Community Mental Health Center and CASA would receive contracts for one counselor each. All HRD positions would be filled by contract employees to facilitate transfer of the program.



BY COUNCIL REFERRAL  
February 15, 1979  
page Two

The Intervention Center will be a leased facility in the Community Development (CD) Target Area "B." A proposal was submitted to the CD Steering Committee in the amount of \$47,800 for renovation of the facility.

If this proposal is funded, it will allow the City to test a new procedure for handling an increased caseload generated by the change in the Criminal Code. The procedure would provide for early intervention in violent domestic situations. Research in Kansas City showed that the police had responded to at least one prior family fight call in 90% of the fights that resulted in the death of a family member. Thus, the program is expected to reduce the number of severe injuries and deaths as a result of family violence, reduce the number of repeat family fight calls to the Police Department as well as provide funding for the projected increase in complaints filed through the Prosecutor's Office without requiring City general funds.

#### FINANCIAL IMPACT

The Family Violence Program proposal requires no City general funds during the initial 18 months of operation. The required 10% match has been recommended in the Community Development Block Grant. If the program is continued after the initial 18 months, it would be eligible for Title XX funding which requires a 25% cash match. Annualized program expenses are \$230,000. The required match would be \$57,500.

Several private non-profit agencies have expressed interest in assuming the responsibility for funding and operation of the Intervention Center after the 18-month initial period. Agencies contacted were Salvation Army, Phoenix South Community Mental Health Center and CBS (Community Behavioral Services).

#### RECOMMENDATION

It is recommended that the City Council authorize submission of a proposal to LEAA in the amount of \$317,800 for a Family Violence Program. LEAA requires that the application amount include the local match which is represented by the \$47,800 applied for under the City Community Development Block Grant.

#### CONCURRENCES

This proposal was presented at the February 14, 1979 City staff Criminal Justice Planning Committee meeting. During the discussion of the proposal, concern was expressed concerning duplication of services provided by existing community based organizations, ability of the program to get assailants and victims to voluntarily accept treatment from the Center and the ability of agencies to take over the operation. The Committee concurred that family violence problems exist and are increasing, but based upon the above concerns, did not express enthusiastic support for the program. It was agreed that the police, Courts and Prosecutor's Office would cooperate with the program if approved by the Council and it successfully competes for LEAA funding.

Submission of the proposal is supported by the Citizens Criminal Justice Advisory Committee, the LEAP Commission, CASA, Phoenix South Community Mental Health Center, Salvation Army, Rainbow Retreat, CBS and Sojourner Center.

#### REQUIRED COUNCIL ACTION

Approve the above recommendation.

PREPARED BY:

Attachment: Grant Requirements  
and budget

Shannon Garvin  
Shannon Garvin, Administrative Assistant II

## GRANT REQUIREMENTS

The grant must contain the following elements:

1. An administrative component.
2. Data collection on the extent and nature of family violence.
3. An advisory committee composed of policy makers from each participating agency and the community.
4. Written statements describing participation from Judiciary, Police, Prosecutor, Corrections, Hospital Emergency Services, Community Mental Health Centers, Public and Private Social Services, Welfare and Community groups.
5. A public information/media component.
6. A training component responsible for improving knowledge and skills of personnel of participating agencies.
7. All participating agencies must keep accurate records of pertinent case data, project activities, costs, time, and outcomes.

18-MONTH BUDGET

Personnel		
Administrator	Aug. 79 - Dec. 80	\$ 22,576
Incest Counselor	Aug. 79 - Dec. 80	20,466
Lead Counselor	Aug. 79 - Dec. 80	20,466
Secretary	Aug. 79 - Dec. 80	13,191
Secretary	Sept. 79 - Dec. 80	12,402
Prosecutor	Sept. 79 - Dec. 80	30,134
1/2 Probation Officer	Sept. 79 - Dec. 80	4,567
2 Clerk II's	Sept. 79 - Dec. 80	10,490 @
5 Crisis Counselors	Jan. 80 - Dec. 80	10,128 @
Fringe Benefits		<u>59,907</u>
Total Personnel		\$255,329
Equipment		2,600
Commodities		6,500
Contractual		5,571
C D Proposal (Renovation)		<u>47,800</u>
TOTAL		\$317,800

City of Phoenix, Arizona

## REQUEST FOR COUNCIL ACTION

COMPLETE THIS FORM PER A.R. 4.11

INSTRUCTIONS: REQUESTS FOR ORDINANCES, RESOLUTIONS AND FORMAL COUNCIL ACTION MUST BE IN THE CITY MANAGER'S OFFICE BY 4 P.M. ON THE FRIDAY, ELEVEN DAYS BEFORE THE FORMAL CITY COUNCIL MEETING WITH ALL REQUIRED SIGNATURES.

1. To The City Manager: DATE February 14, 1979THE FOLLOWING COUNCIL ACTION IS HEREBY REQUESTED:  ORDINANCE  RESOLUTION  FORMAL ACTION.  
(GIVE NECESSARY INFORMATION FOR PREPARATION OF DOCUMENT OR ACTION REQUESTED, AND OUTLINE REASONS.)SUBMISSION OF A FAMILY VIOLENCE PROGRAM PROPOSAL TO LEAA

Request authorization for the City Manager to submit a proposal to LEAA for a Family Violence Program in the amount of \$317,800 for an 18-month project starting July 1, 1979.

This program would establish a new procedure for handling family fight calls to the Police Department. An intervention center operating 24 hours a day would be established. Police could refer a family directly to the intervention center. In those cases which are forwarded to the Prosecutor's Office an alternative to prosecution of treatment at the intervention center could be offered. Two additional positions would be established in the City Prosecutor's Office and  $\frac{1}{2}$  of a probation officer's salary funded to handle an increased case load of family fight prosecutions which became the City's responsibility in October 1978 when the new Criminal Code became effective.

Authorization is also requested for the City Controller to receive and disburse all funds under this contract.

Financial Impact

The Family Violence Program proposal requires no City general funds during the initial 18-months of operation. The required 10% match has been recommended in the Community Development (tumble)

2. Bid Bond Required?  YES  NO 3. Bond Submitted by Low Bidder?  YES  NO 4. Performance Bond Required?  YES  NO

5. If Funds Are Required, Please Complete The Following:

AMOUNT:	SOURCE OF FUNDS:	ACCOUNT NOS. TO RECORD TRANSACTION			
		FUND	ACTIVITY	OBJECT	PROJECT
317,800	Federal Grant				
	<input type="checkbox"/> BUDGETED <input checked="" type="checkbox"/> SUPPLEMENTAL <input type="checkbox"/> CONTINGENCIES	- To Be Assigned -			

6. Emergency Clause?  YES  NO 7. Prepared By: Nancy McLeod

10. Requested By: Administrative Services

DIVISION: Administrative Services

SIGNATURE: *Tom DeLeon*

11. Recommended By: Human Resources

DEPARTMENT: Human Resources

SIGNATURE: *Leann Williams*9. Formal Contract Required?  YES  NO

12. To The City Attorney:

A. PREPARE THE NECESSARY DOCUMENTS AND SUBMIT THEM TO THE CITY MANAGER'S OFFICE NOT LATER THAN 3 P.M. FRIDAY, FOUR DAYS PRECEDING THE FORMAL COUNCIL MEETING.

B. UPON RECEIPT OF COPY INDICATING COUNCIL APPROVAL, PREPARE FORMAL CONTRACT.

13. Approved As To Availability Of Funds:

MANAGEMENT &amp; RESEARCH DIRECTOR

14. Approved:

CITY MANAGER

15. Council Action Taken: RESOLUTION NO. \_\_\_\_\_ ORDINANCE NO. \_\_\_\_\_ DATE \_\_\_\_\_ 19\_\_

Formal Action:

CITY CLERK'S FILE NO.

107 REV. 1-78

Grant. If the program continued after the initial 18-month period, it would be eligible for Title XX funding which requires a 25% cash match. Annualized program expenses are \$30,000. The required match would be \$7,500.

Several private non-profit agencies have expressed interest in assuming the responsibility for funding and operation of the intervention center after the 18-month initial period. Agencies contacted were Salvation Army, Phoenix South Community Mental Health Center and CBS (Community Behavioral Services).

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Re:

LEAA Control No. 9-0521-0-AZ-DF

FEDERAL ASSISTANCE		2. APPLICANT'S APPLICATION	a. NUMBER 79-5	3. STATE APPLICATION IDENTIFIER	a. NUMBER AZ 79-10-1014
1. TYPE OF ACTION <input type="checkbox"/> PREAPPLICATION <input checked="" type="checkbox"/> APPLICATION (Mark appropriate boxes) <input type="checkbox"/> NOTIFICATION OF INTENT (Opt) <input type="checkbox"/> REPORT OF FEDERAL ACTION		b. DATE Year month day 19 79 2 1		b. DATE Year month day ASSIGNED 19 79 2 1	
4. LEGAL APPLICANT/RECIPIENT		a. Applicant Name : City of Phoenix		5. FEDERAL EMPLOYER IDENTIFICATION NO. 86-6000256	
b. Organization Unit : Human Resources Department		c. Street/P.O. Box : 302 W. Washington		6. PRO. GRAM a. NUMBER 1 6 5 0 7 b. TITLE Law Enforcement Research and Development Grants	
d. City : Phoenix		e. County : Maricopa		7. TYPE OF APPLICANT/RECIPIENT A-State H-Community Action Agency B-Intermediate I-Higher Educational Institution C-Substate J-Indian Tribe D-District K-Other (Specify): E-City F-School District G-Special Purpose District	
f. State : Arizona		g. ZIP Code: 85003		8. TYPE OF ASSISTANCE A-Basic Grant D-Increase B-Supplemental Grant E-Other Enter appropriate letter(s) A	
h. Contact Person (Name & telephone No.) : Shannon Garvin 262-6296		7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT Family Violence Program Coordinate approach of Criminal Justice Agencies and Community Service Agencies to diversion and treatment of perpetrator and victims in all areas of family violence, child, spousal, and parent abuse and child sexual abuse.		9. TYPE OF APPLICATION A-New C-Revision E-Annatation B-Renewal D-Continuation Enter appropriate letter A	
10. AREA OF PROJECT IMPACT (Name of cities, counties, States, etc.) Maricopa Arizona		11. ESTIMATED NUMBER OF PERSONS BENEFITING		12. TYPE OF CHANGE (For 1a or 1b) A-Increase Dollars F-Other (Specify): B-Decrease Dollars C-Increase Duration D-Decrease Duration E-Cancellation	
13. PROPOSED FUNDING		14. CONGRESSIONAL DISTRICTS OF:		15. TYPE OF CHANGE (For 1a or 1b)	
a. FEDERAL \$ 270,000.00		a. APPLICANT 01		b. PROJECT 01, 03, 04	
b. APPLICANT 47,880.00		16. PROJECT START DATE Year month day 19 79 07 01		17. PROJECT DURATION 18 Months	
c. STATE .00		18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY Year month day 19 79 03 02		19. EXISTING FEDERAL IDENTIFICATION NUMBER	
d. LOCAL .00		20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code) LEAA Washington, D.C. 20531		21. REMARKS ADDED <input type="checkbox"/> Yes <input type="checkbox"/> No	
e. OTHER .00		f. TOTAL \$ 317,880.00		22. THE APPLICANT CERTIFIES THAT: a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached provisions if the award is approved. (1) <input type="checkbox"/> (2) <input type="checkbox"/>	
22. CERTIFYING REPRESENTATIVE Travis Williams Director, Human Resources Dept		b. SIGNATURE <i>Travis Williams</i>		c. DATE SIGNED Year month day 19	
24. AGENCY NAME		26. ORGANIZATIONAL UNIT		25. APPLICATION RECEIVED 19	
27. ADDRESS		27. ADMINISTRATIVE OFFICE		28. FEDERAL APPLICATION IDENTIFICATION	
31. ACTION TAKEN <input type="checkbox"/> a. AWARDED <input type="checkbox"/> b. REJECTED <input type="checkbox"/> c. RETURNED FOR AMENDMENT <input type="checkbox"/> d. DEFERRED <input type="checkbox"/> e. WITHDRAWN		32. FUNDING a. FEDERAL \$ .00 b. APPLICANT .00 c. STATE .00 d. LOCAL .00 e. OTHER .00 f. TOTAL \$ .00		33. ACTION DATE Year month day 19	
34. FEDERAL AGENCY A-95 ACTION		35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)		34. STARTING DATE Year month day 19	
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been so being made.		b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)		36. ENDING DATE Year month day 19	
				37. REMARKS ADDED <input type="checkbox"/> Yes <input type="checkbox"/> No	

SECTION I - APPLICANT/RECIPIENT DATA

SECTION II - CERTIFICATION

SECTION III - FEDERAL AGENCY ACTION

## SECTION IV-REMARKS (Please reference the proper item number from Sections I, II or III, if applicable)

Proposed Budget  
July 1979 - December 1980

Personnel Costs	\$249,962
Equipment	2,600
Supplies	9,000
*Construction	47,880
Other	<u>8,438</u>
Total	<u>\$317,880</u>

\* Renovation of building applied for under Community Development Block Grant.

The Human Resources Department of the City of Phoenix will coordinate a program of diversion and treatment for all members of a family which is experiencing some form of Family Violence. The program will teach the perpetrator and victims through the criminal justice system as well as the treatment system. Existing community resources will be used whenever possible however, a special crisis shelter in South Phoenix and an incest counseling program will be initiated with this grant. Training and educational activities for service providers, criminal justice system personnel and the general public will be developed. Data collection on the extent of the problem and evaluation of the effectiveness of diversion and treatment will be a major focus. The program will address child abuse, child sexual abuse, spousal abuse and parent abuse within a household. Entry into the diversion program will be coordinated with the City of Phoenix Police, City Prosecutor's Office, City Municipal Courts and County Attorney's Offices.

## PART II

FORM APPROVED  
OMB NO. 43-RO528

## PROJECT APPROVAL INFORMATION

**Item 1.**

Does this assistance request require State, local, regional, or other priority rating? \_\_\_\_\_ Yes  No

Name of Governing Body \_\_\_\_\_  
Priority Rating \_\_\_\_\_

**Item 2.**

Does this assistance request require State, or local advisory, educational or health clearances? \_\_\_\_\_ Yes  No (Attach Documentation)

Name of Agency or Board \_\_\_\_\_

**Item 3.**

Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? \_\_\_\_\_ Yes  No (Attach Comments)

**Item 4.**

Does this assistance request require State, local, regional or other planning approval? \_\_\_\_\_ Yes  No

Name of Approving Agency \_\_\_\_\_  
Date \_\_\_\_\_

**Item 5.**

Is the proposed project covered by an approved comprehensive plan? \_\_\_\_\_ Yes  No

Check one: State   
Local   
Regional   
Location of Plan \_\_\_\_\_

**Item 6.**

Will the assistance requested serve a Federal installation? \_\_\_\_\_ Yes  No

Name of Federal Installation \_\_\_\_\_  
Federal Population benefiting from Project \_\_\_\_\_

**Item 7.**

Will the assistance requested be on Federal land or installation? \_\_\_\_\_ Yes  No

Name of Federal Installation \_\_\_\_\_  
Location of Federal Land \_\_\_\_\_  
Percent of Project \_\_\_\_\_

**Item 8.**

Will the assistance requested have an impact or effect on the environment? \_\_\_\_\_ Yes  No

See instructions for additional information to be provided.

**Item 9.**

Will the assistance requested cause the displacement of individuals, families, businesses, or farms? \_\_\_\_\_ Yes  No

Number of:  
Individuals \_\_\_\_\_  
Families \_\_\_\_\_  
Businesses \_\_\_\_\_  
Farms \_\_\_\_\_

**Item 10.**

Is there other related assistance on this project previous, pending, or anticipated? \_\_\_\_\_ Yes  No

See instructions for additional information to be provided. Community Development Block Grant Application 1-22-79 Approved 2/26/79



PART III - BUDGET INFORMATION						
SECTION A - BUDGET SUMMARY						
Grant Program, Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. DF Part C	16,501	\$	\$	\$ 270,000	\$ 47,800	\$ 317,800
2.						
3.						
4.						
5. TOTALS		\$	\$	\$ 270,000	\$ 47,800	\$ 317,800
SECTION B - BUDGET CATEGORIES						
6. Object Class Categories	- Grant Program, Function or Activity				Total (5)	
	(1)	(2)	(3)	(4)		
a. Personnel	\$ 206,654	\$	\$	\$	\$ 209,102	
b. Fringe Benefits	44,137				46,227	
c. Travel						
d. Equipment	4,610					
e. Supplies	5,750					
f. Contractual	41,200				41,200	
g. Construction						
h. Other	15,449					
i. Total Direct Charges	317,800				317,800	
* f. Indirect Charges	39,725				39,725	
k. TOTALS	\$ 357,525	\$	\$	\$	\$ 357,525	
7. Program Income	\$	\$	\$	\$	\$	

\* Negotiated indirect cost rate see attachment next page.



CITY OF PHOENIX

TO Mr. Dudrear, Administrative Services Officer

DATE January 18, 1979

FROM Mr. Valdivia, City Auditor

SUBJECT HRD Indirect Cost Rate

We have been informed by David S. Low, HEW negotiator, that the approved indirect cost rate for Human Resources (LEAP) is 12.5%. This rate is based on total indirect costs of \$699,772. Our indirect cost proposal included total indirect costs of \$825,083.

The approved rate of 12.5% is fixed for all grants for Fiscal Year 1978-79 and is provisional for Fiscal Year 1979-80. Please adjust your records accordingly.

*D. Williams*

AJM:pc

cc: Mr. Williams



SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8. Family Violence Program	\$	\$	\$ 47,800	\$ 47,800
9.				
10.				
11.				
12. TOTALS	\$	\$	\$ 47,800	\$ 47,800

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$ 170,000	\$ 20,000	\$ 35,000	\$ 55,000	\$ 60,000
14. Non-Federal	47,800	6,600	41,200	-0-	-0-
15. TOTAL	\$ 217,800	\$ 36,600	\$ 76,200	\$ 55,000	\$ 60,000

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16. Family Violence Program	\$ 217,800	\$ 100,000	\$ -0-	\$ -0-
17.				
18.				
19.				
20. TOTALS	\$ 217,800	\$ 100,000	\$ -0-	\$ -0-

SECTION F - OTHER BUDGET INFORMATION	
(Attach additional Sheets If Necessary)	
21. Direct Charges:	
22. Indirect Charges:	
23. Remarks: Substantial resource will be contributed by all participating agencies and departments in the form of staff support, space, and support services mandated under other funding sources. However the match for this grant is primarily the funds for the Intervention Center itself under the Community Block Development Grant. Funding after the initial 18 month grant will be through State Behavioral Health Subvention funds and Title XX locally planned monies.	

IMPORTANT: RETAIN NUMBER FOR FUTURE REFERENCE

Project: CITY OF PHOENIX - HUMAN RESOURCES DEPT.

Family Violence Program

Received by State Clearinghouse and sent for review.

S.A.I. No. Assigned: AZ 79-10-1014

The review is now underway. You will receive notice of the results of the review within the time allowed by the Office of Management and Budget Circular A-95.

*J. Harrison*

Arizona State Clearinghouse

Phone: ~~204~~-5004

## BUDGET NARRATIVE

## A. Personnel (all positions currently vacant)

% Time	Annual Rate			
100	16,487	Administrator	(17 months)	\$24,157
100	14,984	Incest Counselor	(16 months)	20,655
100	14,984	Lead Counselor	(16 months)	20,655
100	23,420	Assistant City Attorney II	(16 months)	32,243
25	14,201	Probation Officer I	(16 months)	4,887
100	9,656	Secretary II	(17 months)	14,114
100	9,656	Secretary II	(16 months)	13,270
100	8,410	Clerk II	(16 months)	11,224
100	8,410	Clerk II	(16 months)	11,224
100	10,593	Crisis Counselor II	(12 months)	10,837
100	10,593	Crisis Counselor II	(12 months)	10,837
100	10,593	Crisis Counselor II	(12 months)	10,837
100	10,593	Crisis Counselor II	(12 months)	10,837
100	10,593	Crisis Counselor II	(12 months)	10,837
	Total			\$206,654

## B. Fringe Benefits

\$44,137

Social Security 6.13%	\$12,668
Unemployment Insurance .22%	455
Workmens Compensation 2.02%	4,174
Retirement 8.07%	16,677
Disability Insurance .04%	83
Health Insurance \$630 per year	10,080
Life Insurance \$.54 per month per 1,000 annual salary	1,588

## C. Equipment

\$4,610

2 Locking file cabinets @ \$130 each	\$260
1 Typewriter	850
1 Stove	470
1 Refrigerator	540
1 Calculator	125
2 Baby cribs @ \$130 each	260
1 Bunk beds	355
7 Desks @ \$150 each	1,050
7 Chairs @ \$100 each	700

Although the Intervention Center is not a crisis residential facility in the traditional sense, families will be coming for services 24 hours a day. This may require a space to put small children down for a nap or prepare food for infants or toddlers. In addition, families with children may be coming for Intervention service late at night so that young children need a place to sleep while the adults are receiving crisis services.

## Budget Narrative (cont'd)

D. Supplies		\$5,750
Office supplies	\$1,500	
Janitorial supplies	1,500	
Postage	1,000	
Forms	1,500	
Emergency personal care items (disposable diapers etc.)	250	
E. Contractual		\$41,200
This is the renovation to be done under the Community Development Block Grant. It will be advertised and bid in accordance with established city procedures and in compliance with Federal Grant Administration requirements.		
F. Other		\$15,449
Telephone	\$1,080	
Utilities	3,500	
Public Liability Insurance:	400	
Reproduction (Xerox)	1,000	
Real Estate work order charge (for negotiating lease) C.D. grant	500	
Engineering Department work order charge (specifications, advertisement, contract renovation) C.D. grant	6,100	
Mileage \$.15 per mile x 100 miles per month per employee	2,869	

PROGRAM NARRATIVE

## Introduction

Phoenix, Arizona is a metropolitan area with a population of 1.2 million located in the desert south central part of the state. The central city's population is approximately 700,000. There are three major minority groups. Chicanos represent 20% of the population. Blacks and Indian each are about 5%. The City operates under a non-partisan Council-Manager Municipal Charter which provides for administrative stability as well as responsiveness to community interests. It is the third fastest growing area in the country. The population is 7 times what it was in 1950. Most of the population increase is due to in-migration from colder climates in the United States.

## 1. Statement of Problem

The rapid population increase has led to a breakdown in social support systems. Few families have extended families, childhood friends or family advisors such as ministers or doctors who have known them since childhood available for support when faced with a family or personal crisis. The number of divorces each month virtually equals the number of marriages. Responding to the need, the community has established four crisis shelters for adults and accompanying children, two crisis centers for abused children, a sexual assault center, a runaway program for children and conciliation court to facilitate resolution of marital problems instead of resorting to divorce. There are two special programs for women who abuse alcohol or prescription drugs. Two community mental health centers provide a full range of mental health treatment programs. Literally dozens of social service agencies provide counseling and casework services. In spite of all these services the police receive 15,000 family fight calls a year, one hundred twenty cases of reported incest and 6,000 reports of child abuse. Although the police are frequently the first agency to contact a family with problems, they are ill-equipped to identify the underlying problems and make appropriate referrals. While they may make an arrest in the most severe cases, the usual procedure is to suggest that the assailant take a walk to calm down or that the wife go visit friends. This procedure results in few prosecutions and many repeat calls to the police from the same family with escalating levels of violence with each episode until someone is injured so severely that an arrest is made.

The Police Department records the number of family fight calls they receive. Child Protective Services knows how many cases they investigate and Adult Protective Services can identify how many elderly clients were referred to them. There is no central source of information or incidence, no record of interrelated cases except in the notes of a caseworker. Although individual workers may have good informal working relationships with workers in other agencies, the only formal requirement is C. P. S. and the Police Department must notify each other of all cases of child abuse or child sexual abuse. Consequently data is fragmented, incomplete and, since different agencies use different classification systems, not comparable. Services to families with problems are fragmented and follow-up on results non-existent. If a police officer refers a family to a service he does not know if they went or if they received services when they did go. The agency does not know the family was referred or why.

Without adequate data on the nature and extent of the problem, solutions attempted, and results of those attempts it is impossible to identify gaps in the system and devise procedures or services to fill them.

## Program Narrative (cont'd)

## 2. Statement of Results Sought

This program would provide centralized record keeping, data base, client tracking, referral and follow-up on all cases of family violence reported by the police, child protective services and adult protective services in the City of Phoenix. It would serve as a centralized intake point for voluntary treatment and treatment as an alternative to prosecution or condition of probation. The program would result in:

1. Reduction in community acceptance of intra-family violence by coordinating media presentations and community speakers to inform and educate people about the alternatives available. Initiating a police procedure to issue a citation which requires an appearance in court in intra-family violence situations this will increase awareness that it is a violation of the law.
2. The centralized record keeping function with reporting from police, C. P. S. and A. P. S., as well as the follow-up on treatment, will allow documentation on the nature, extent, interrelationship and recidivism rates in intra-family violence.
3. The Intervention Center will provide a focus for effective coordination among all the participating agencies. The centralized intake and record maintenance will provide a contact point at which each agency can report treatment and progress, or the lack thereof and appropriate follow-up measures can be instituted. The advisory committee composed of representatives from each agency will meet periodically to resolve problems or issues relating to effective coordination.
4. The Intervention Center by providing centralized intake will determine the needs of the whole family and arrange for those needs to be met by existing community agencies. Documentation of the needs would be part of the central data base. This data would be fed into the planning process for the Health Systems Agency and Title XX, the two major sources of funds for behavioral health and social services. In addition agencies have some discretion in reallocating resources in response to demand. Thus the data will provide a management tool for those agencies represented on the advisory committee.
5. Agency cross training will be facilitated and coordinated by the Intervention Center. Each agency will provide resources for in-staff training for the other agencies. This will increase the knowledge of criminal justice procedures and terminology for the Human Service agencies and vice versa.
6. By providing immediate access to services and treatment the Intervention Center will facilitate resolution of family stresses. The treatment alternative to prosecution will serve notice that failure to change behavior will result in prosecution. Thus the number of repeat calls to the police from the same family will be reduced.
7. The record keeping system will allow identification of those assailants who repeatedly exhibit violent behavior within the family. The treatment alternative can only be used once. The condition for participation is the understanding that a second offense will be vigorously prosecuted.



## Program Narrative (cont'd)

8. This program will establish a pre-trial diversion policy. The coordination and record keeping necessary to successfully follow-up the cases are a major component of the Intervention Center.

9. It is anticipated that early identification of the problem combined with services for the family and treatment for the assailant and family, will reduce the number of intra-family homicides and serious assaults.

Performance Goals

1. Establish a record keeping system which documents the number and kind of incidents of family violence, the disposition of the case, results of treatment, and recidivism rates within this jurisdiction by the third month.

2. Establish procedure within the police department which requires officers to report all cases to either the prosecutor's office or the Intervention Center by the third month.

3. Establish procedure in City Prosecutor's Office which offers treatment alternative to prosecution to 450 cases per year.

4. Provide Municipal Court Judges with sentencing option of probation conditional on entering treatment program.

5. Establish 24-hour Intervention Center which will provide crisis counseling for assailant and family by the seventh month.

6. Develop referral and follow-up plan for treatment services in community based organizations for at least 750 families identified by police, prosecutor or court.

7. Cooperate with the county attorney's victim, witness and diversion programs for felony cases.

8. Coordinate community education and media program among cooperating agencies resulting in 50 presentations by the 12th month.

Impact Goals

1. Increase the number of intra-family child sexual abuse reports by 50% to 180 cases per year as a result of the community education program and availability of treatment services.

2. Increase funding by \$250,000 per year for behavioral health programs in the areas of intra-family violence by providing reports based on data collected in this program to the local Health Systems Agency, Title XX planners and Area Agency on Aging.

3. Reduce the number of family fight calls to the police by 15% through referral to Intervention Center and increasing the use of citation in domestic violence cases from zero to 1,000 per year.

## Program Narrative (cont'd)

## 3. How the Project will Work

This project will provide a core of services and interface between the social services and criminal justice systems. There are seven areas of activity. These are the Intervention Center, Incest, Pre-trial Diversion, Probation, Data Collection, Training and Education and Media.

While many behavioral health and social service agencies provide services which address the whole range of problems encountered by dysfunctional families, there is no system or procedure to allow criminal justice system personnel who are frequently the first to become aware of the problem a mechanism to enter the family into the appropriate treatment program. The Intervention Center will provide the focus and interface. It will operate 24 hours a day providing crisis counseling and serving as the primary contact point for the family and assailant. The ongoing treatment will be arranged through the existing service providers. In addition the center will provide space for community programs to provide preventive and supportive activities. These services will be groups such as parent effectiveness training, special parent-child recreational programs, parents anonymous, children anonymous, and alcoholics anonymous. Entry into the program can be self referral, agency referral, police referral, pre-trial diversion through the prosecutor's office or court ordered condition of probation.

The intervention center will employ five (5) crisis counselors and one (1) lead counselor. These positions will be augmented by interns from Arizona State University Graduate School. Three programs provide interns, the Criminal Justice Program, the Graduate School of Social Work and the Masters of Counseling Program.

Additional aides will be obtained through the various Employment Training Programs under CETA. The facility itself has been authorized in the FY 79-80 Community Development Block Grant Program. Extensive use of volunteers in the self help group community programs will augment daytime and early evening activities. Transportation to the Center and to other services will be provided by the City's CSA funded transportation section. This service is currently available 21 hours a day.

A family who comes to the center will immediately see a crisis counselor. This person will be the primary contact for all follow-up with both the community agencies providing services and the criminal justice system personnel. The crisis counselor will assess the immediate problems of the entire family and develop a plan for social services if needed as well as treatment. This counselor will arrange appointments with appropriate agencies and follow-up to see that treatment or services are received. If reports are required as in the diversion or probation placements, this person will be responsible for providing those reports.

The program will contract with the Center Against Sexual Assault (CASA) for one incest counselor. This is a service which is not currently available and requires specialized training to provide. While only 120 cases were reported last year it is anticipated that the problem is much more wide spread and will surface more frequently with the advent of a special service as well as a community education campaign. This is a felony under Arizona Revised Statutes and will be handled through the County Attorney's Office. While public sentiment may not allow diversion in these cases, (County Attorney is an elected office) treatment as part of the correctional plan can be ordered.

## Program Narrative (cont'd)

The Sexual Abuse Unit will be established and operated by a Masters' level counselor with assistance by other staff from the Center Against Sexual Assault. The purpose of this Unit will be to provide therapeutic intervention to families with a sexual abuse problem. It is anticipated that the majority of these cases will be incest-related, although any family member that is sexually victimized will be eligible. A family-oriented treatment approach will be utilized. Counseling will be done in the Intervention Center facility. Additionally, an attempt will be made to secure additional counseling offices in various outlying areas of Maricopa County. It is hoped that making treatment readily available to families in their own locales will facilitate entry into counseling.

Initial intake and screening for the Sexual Abuse Unit will be accomplished by the Masters' level counselor through an interview with an adult family member. Pertinent client identifying data will be gathered, and a presenting problem or complaint elicited. During the intake procedure, the counselor will identify the scope and severity of the sexual abuse problem.

All persons coming in contact with suspected child abuse (including sexual assault) are bound by Arizona law to report it to either the local Child Protective Services or the police department within whose jurisdiction the abuse occurred. This required report will be made immediately, if applicable, and the family will be told the report is being made. Treatment will continue regardless of the disposition of the case. Referrals for legal counsel would be maintained by CASA in varying price ranges and locations including free services from the Legal Aid Society.

It is necessary that a forensic examination be performed in a hospital emergency room within 48 hours of a sexual assault if charges are to be pressed. This will be arranged by one of CASA existing staff. A copy of the Physician's Report will be submitted to the counselor implementing treatment in the Sexual Assault Unit.

All therapy administered in the Sexual Assault Unit will be by or under the supervision of a professional Masters' level counselor who will cooperate with the data collection requirements of the Intervention Center.

Treatment of additional domestic violence or family dysfunction will be through the Intervention Center. Sharing of inter-agency client information will occur only when necessary in order to treat the entire family unit for multiple problems and to meet the requirements of the data collection portion of the program. Client privacy will be maintained in separate clinical files.

The therapeutic orientation will be supportive and non-judgmental. Each individual in the family will learn to accept his/her responsibility for the sexual abuse situation.

The therapeutic approach will vary according to what the therapist considers appropriate for each situation. Play therapy, utilizing learning theory techniques, will be used extensively with younger members of the family to facilitate catharsis and growth.

## Program Narrative (cont'd)

A. Individual Phase. Each concerned or affected family member will initially be worked with on an individual basis. The goal of this phase will be to develop trust between the counselor and each family member. Projected time spent in this phase: 1-2 months or 4-16 individual sessions for each family member.

B. Family-Pair Phase. 1) The first goal of this phase will be to unite in a therapeutic situation the mother and sexually abused child. This pair will continue until trust and understanding is re-established. 2) Operating concurrently with the mother-child counseling will be marital or husband-wife (spousal) counseling. The marital counseling will be as long-term as needed and may continue indefinitely after completion of the Sexual Assault Unit program through Parents Anonymous or other appropriate agencies. 3) Other family-pair treatment may be administered as dictated by the family need and structure following the basic intervention methods mentioned above. Such treatment may include grandparents or other siblings in whatever pair relationships seem crucial. 4) The final crucial family pair is the sexually abused child and the abusing parent. This final treatment will not begin until both the child victim-mother and marital pair counseling has advanced sufficiently to insure family stability and support for both members through this difficult phase.

Projected time for Family Pair Phase: Mother-child victim - 1 to 3 months or 4-24 sessions; Marital - ongoing; and child victim-parent perpetrator - 1 to 4 months or 4-32 sessions.

C. Family Unit Phase. In this phase, all family members will be reunited in a therapeutic group. Mother, father and child victim will be the first and possibly only alliance, if applicable. Additional family members will be added as the treatment progresses, if appropriate. All feelings, motivations and insights will be shared in this phase and new communication skills learned and practiced. The parent and child roles will be defined and clarified and healthier ways of interacting within these roles adopted.

At the conclusion of this phase, the family will "graduate" from the Sexual Abuse Unit although they will be encouraged to continue indefinitely in the community self-help groups. All major dysfunction will have been recognized and treated. Time for Family Unit Phase: 1-4 months or 4-32 sessions.

The pre-trial diversion portion of the program is the essential component which will allow the Intervention Center to be most useful. Currently the victims may seek services or a parent may request services for a child, but it is difficult to persuade the assailant of the need for services. The Police will bring some families directly to the Center or call the Transportation Service to take them there. In those cases where the assailant denies the problem and refuses services the police will issue a citation requiring appearance in court or will forward a report to the prosecutor's office which in turn will request a summons. All defendants eligible for diversion will be summoned into court, and at arraignment will be given the choice of reporting to the Intervention Center or facing prosecution. Those choosing to cooperate will be monitored by the Intervention Center, and if unsuccessful in their diversion participation, would be prosecuted by being re-summoned into court.

To implement the pre-trial diversion program the Prosecutor's office will have one assistant City Prosecutor and one secretary.

## Program Narrative (cont'd)

In those cases that result in a trial either because diversion is not recommended or is not recommended or is not accepted, the Judge will have the option in addition to the fine and a few days in jail of probation conditional upon entering the treatment program through the intervention center for those who are found guilty. The Courts have requested one additional probation officer however only  $\frac{1}{2}$  of the salary will be supplied by this grant since it is assumed that few cases will progress to this stage.

Administration and data collection will be located at the Intervention Center. Staff will consist of an administrator and 3 clerical positions. The Administrator will be responsible for coordinating all aspects of the project. All data will be collected and compiled in this unit. Each agency and City Department cooperating in the program has agreed to comply with the data collection requirements. This office will track all clients through the system starting with the police call or walk-in. Information will include family composition, nature of complaint, social services, needed and received treatment plan, attendance records and outcome of treatment. The data will document the extent, nature and interrelationships of all forms of domestic violence as well as evaluate the effectiveness of voluntary entry versus involuntary entry into treatment. Other administrative responsibilities such as recruitment, selection, payroll and accounting will be handled by the Department's existing Administrative Services Division.

Training currently is an independent activity within each agency or Department. Training provided is in response to stated needs and there is no evidence that social services or behavioral health agencies with the exception of Child Protective Services and CASA have provided staff with any training in the area of legal requirements for the collection and transmission of evidence. These two programs would provide in service training to the staff of the other programs cooperating in the project. In addition training for the Judges would be scheduled to acquaint them with the goals and advantages of this project. Police would receive a similar package in periodic briefings to help them recognize the need for rigorous reporting if the project is to succeed.

The Community Education and Media component will also be implemented with existing resources. The Department has a Public Information Office which is responsible for developing all brochures, handouts, Public Service announcements and generating newspaper articles and talk show appearances on both Radio and T.V. In addition each of the social service agencies receives State funds for Community Education. They produce posters, brochures and provide speakers for churches, schools and community groups. All of these resources will be tapped for announcing this new program and repeated periodically during the course of the grant.

#### 4. Steps Involved in Setting Up and Operating the Project

##### A) Start Up

1. Staff hiring as soon as notification of grant award is received recruitment for the Program Administration, Assistant Prosecutor, Secretaries and Clerks, Probation Officer and lead Counselor will be initiated. These positions will be filled in 6 to 8 weeks. This is the standard time line required by the City's Merit Selection Procedure. The Contract for the incest counselor will be signed within 4 weeks of notification and that the position will be filled in 4 additional weeks. Recruitment for the crisis counselors will begin November 1 for a January 1 start date

## Program Narrative (cont'd)

This delay in hiring is due to the fact that the Intervention Center will not be ready nor the forms developed or procedures worked out for implementing the full project until that time.

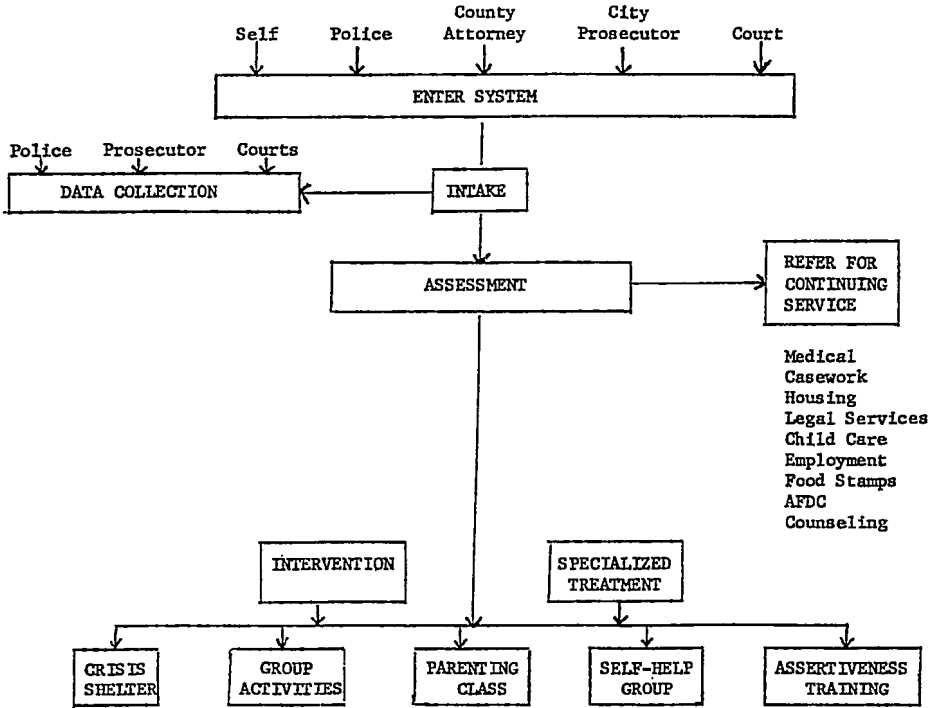
2. Space, Major Equipment and Services. The lease on the facility will be negotiated in July 1979. Renovation under the Block Grant is anticipated to be completed by January 1, 1980. Temporary office space for the administrative staff will be provided at a site a few blocks from the Center. This will allow development of forms, procedures, training packages, and media presentation before the project actually begins 24-hour operation. The lead counselor will be able to do assessments and referral on diversion and probation clients starting 12 weeks after notification of grant award. This will allow testing the forms and procedures before developing a full client load.

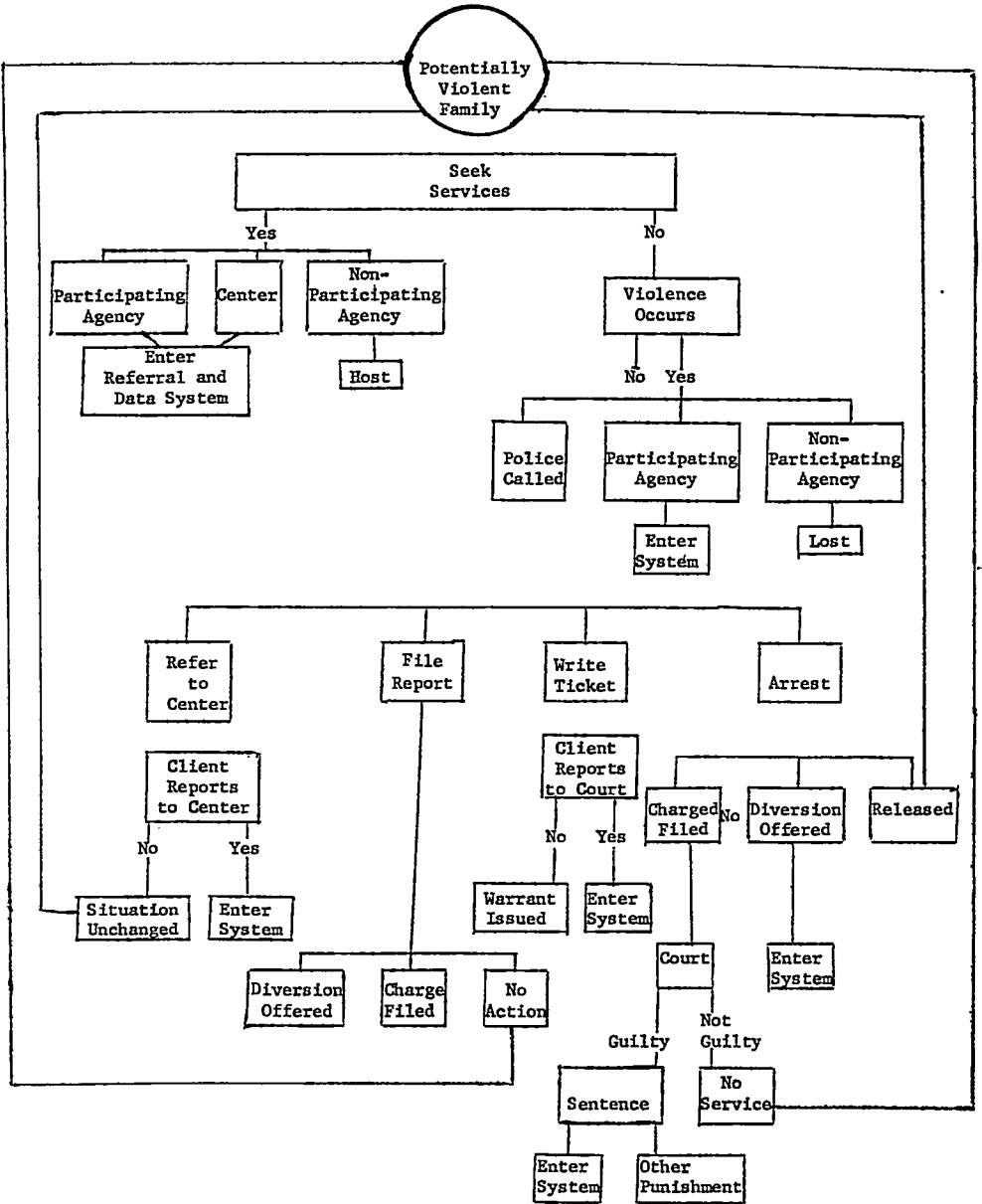
3. Preparatory Program Steps. Forms must be developed for recording and transmitting data. This will be accomplished during the third month. Procedures and guidelines for identifying appropriate clients for the program must be developed by the Prosecutor's Office during the third month. Training and briefing packages for Judges, Police, CPS workers and APS workers will be developed during the fourth month and presentations will start the fifth month.

The first diversion clients will be referred during the fourth month. The fourth and fifth months will test the procedures and forms. Any modification necessary will be completed by the end of the fifth month. The sixth month intervention center staff will be hired, trained and develop internal procedures. The seventh month the 24-hour operation of the Intervention Center will begin. Extensive media coverage of the new services will be scheduled for the eighth month and speakers will start addressing churches, schools and community groups. The ninth through twelfth month will build cliental and refine procedures. Full capacity operation is anticipated one year from notification of grant award. The remaining six months will concentrate on data collection and analysis and efforts to obtain alternate funding in addition to program operation.

4. Establishment of Administrative Controls. The City's fiscal controls are approved by the MFOA (Municipal Finance Officers Association) which dictates that a city's financial system provide full disclosure of substantial financial information in accordance with all laws and ordinances and in a manner consistent with generally accepted accounting principals. Full segregation of all expenditures under each contract or grant are available as well as mandatory and subject to internal review as well as review by the granting agency. The City also requires goals and objectives with concrete measures and monthly reports which document progress in meeting these. At six month intervals a progress review report must be presented to the Citizen Advisory Boards and City Council. Personnel policies require quarterly review of all new employees and their progress in meeting program goals. In addition to the existing advisory committees, boards and commissions which monitor this Department's programs, an advisory committee formed from policy level representatives of each participating Department or Agency will meet at least monthly to review program progress and resolve difficulties in coordination and cooperation.

5. Anticipated Start-Up Delay. A short delay is expected from the notification of grant award until staff can be hired due to merit system recruitment requirements. It is expected that 6 to 8 weeks will be necessary to hire the initial staff. In addition the facility itself must be leased and renovated. Funds for this have been approved in the FY 79-80 Community Development Block Grant. This has an implementation date of July 1, 1979. The building should be ready by January 1, 1980.







## Program Narrative (cont'd)

## B) Program Operation Plan

<u>Start Date</u>	<u>Completion Date</u>	<u>Activity</u>
July 1	Aug 1	Recruit Staff
Aug 1	Sept 1	Hire Staff
July 16		1st Meeting of Advisory Committee
July 1	July 15	Identify Site
July 16	Aug 10	Negotiate Lease
Aug 11	Sept 10	Develop Specifications for Renovation
Sept 11	Oct 1	Advertise for Bids
Oct 2	Oct 15	Award Contracts
Oct 15	Dec 15	Renovation of Building
Dec 31		Building Ready for Occupancy
Sept 1	Sept 30	Develop Forms and Procedures
Oct 1	Oct 31	Start Diversion Referrals 10 First Month
Oct 1	Oct 30	Arrange for student placements starting Jan 1
Oct 1	Nov 30	Develop Training Packages
Nov 1	Dec 30	Begin Agency Cross Training
Nov 1	Dec 30	Serve 30 Diversion Clients
Nov 1	Dec 31	Recruit and Hire Crisis Counselors
Dec 1	Jan 30	Develop Media Presentations
Jan 15		Start 24 Hour Operation
Feb 1	March 31	20 Media Events

## Program Narrative (cont'd)

<u>Start Date</u>	<u>Completion Date</u>	<u>Activity</u>
Jan 1	Feb 1	Achieve operating level of 30 diversions per month
Feb 1	March 1	Serve 30 families in Intervention Center
Feb 1	March 1	Start 2 Community Programs at Center
March 1	April 1	Serve 45 families in Intervention Center
March 1	April 1	Add two more Community Program at Intervention Center
April 1	May 1	Achieve operating level of 60 families per month at Intervention Center
April 1		Apply for State Subvention Funds
July 1		Issue 1st report on six month evaluation of diversion program
July 1		Apply for Title XX funds
Sept 1		Issue 1st report of 6 month evaluation of use of citation by police
Dec 1		Issue 1st report of one years experience in data on family violence.
Dec 31		Transition funding to Title XX and State Subvention

## Program Narrative (cont'd)

## 5. Plans for Review of Project Progress

In addition to the administrative controls previously described the project will submit the required quarterly reports to LEAA. Responsibility for Form 4587/1 will be in the job description for the Program Administrator. The financial report will be the responsibility of an accountant under the direction of the Departments Administrative Services Coordinator.

## 6. Other Requirements

The program will cooperate with the national contractor and participate in the program evaluation. Self assessment will be the result of monthly project progress review in meeting the performance goals, impact goals and project milestones.

## 7. Appendix

- A. Job descriptions
- B. Letters of cooperation and support
- C. Block grant application face sheet

CRISIS INTERVENTION PROGRAM SUPERVISOR

GENERAL STATEMENT OF DUTIES: Coordinates and supervises counseling and referral services of a crisis intervention program; does related work as required.

DISTINGUISHING FEATURES OF THE CLASS: This is a paraprofessional supervisory class and is responsible for evaluating existing programs in order to ensure that effective methods are utilized in counseling clients with emergency programs. The incumbent works with a variety of agencies and organizations to guarantee that the client will obtain the available services. In addition to supervising the activities of the clerical and counseling staff, the Crisis Intervention Program Supervisor also participates in counseling the more complex client problems. Work requires the application of initiative and independent judgment within the framework of established policies. Work is reviewed by the Human Services Coordinator through conferences, reports and review of results obtained.

EXAMPLES OF WORK: (Illustrative only)

Identifies agencies and organizations that can provide services to clients;  
 Initiates and evaluates record keeping procedures used by Crisis Counselors;  
 Supervises and coordinates work schedules of counseling and clerical staff;  
 Prepares yearly budgets, staffing patterns and proposals for program funding;  
 Conducts and participates in alcoholism and drug workshops;  
 Supervises and implements in-service training of program staff;  
 Prepares program activity reports;  
 Provides consultation on complex client problems;  
 Establishes and maintains effective working relationships with other social service agencies;  
 Provides program presentations to civic and community groups, schools and other social service programs.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Thorough knowledge of the principles and methods of counseling persons with drug and/or alcoholism problems; thorough knowledge of the principles of counseling under stress situations; considerable knowledge of the various social agencies and organizations; ability to relate to persons in crisis situations; considerable knowledge of the principles of supervision; ability to coordinate the activities of a staff involved in a 24-hour operation; ability to relate to individuals faced with crisis situations; ability to communicate effectively with members of minority and poverty groups; must be able to handle all physical requirements of the class and be able to pass a City of Phoenix physical examination at a level appropriate for the class.

ACCEPTABLE EXPERIENCE AND TRAINING: Education and experience equal to a combination of three years counseling experience in public or private agencies working with minority groups or persons with drug or alcoholism problems, including one year in a supervisory capacity and a Bachelor's degree in Psychology, Sociology, Social Work, Counseling or a related field.

ADDITIONAL REQUIREMENT: Must have or be able to obtain an Arizona Driver's License prior to employment.

## JOB DESCRIPTION

INCEST COUNSELOR

REQUIREMENTS: Masters Degree in Social Work or Counseling or related field. Extensive counseling experience with a strong emphasis of child and family skills required. Prior experience in the criminal justice field and sexual dysfunction counseling preferred.

JOB DUTIES: Intensive long-term counseling with all members of families with an incest problem. Such counseling will include individual, marital, family and group. Counseling will be provided in various locales throughout the Phoenix area, including one day in South Phoenix.

Establishment of adult self-help support groups (i.e. Parents Anonymous).

Utilization and, when necessary, development of appropriate community referrals for auxiliary services for the use of affected families.

Fulfillment of all legal requirements in regard to mandatory child sexual abuse reporting.

Referral to and, if desired, accompaniment to an appointment with a cooperating pediatrician or gynecologist. This examination of the child is required for entry into the counseling program.

Maintenance of contact via written report with any legal representative responsible for monitoring the progress in treatment of the offender.

Maintenance of comprehensive case records.

ASSISTANT CITY ATTORNEY II'  
(Unclassified)

GENERAL STATEMENT OF DUTIES: Provides difficult civil or criminal professional legal work involving extensive legal research, precedent problems solution of enforcement problems, jury and court trials, appeals and strongly contested cases; does related work as required.

DISTINGUISHING FEATURES OF THE CLASS: This is a professional class and may be assigned to work independently on all but the most complex cases and legal work in the department, although assignments are usually specialized as to type such as criminal prosecution, tax work, building code violations or condemnation work. Trial work includes jury trial cases, strongly contested cases, cases appealed to the superior court and occasionally cases appealed to the Court of Appeals of the Supreme Court. The employee may be assigned to work with an Assistant City Attorney III on the most complex cases or legal work such as the development or revision of major codes and ordinances or test cases involving major sums of money (\$500,000 or more). Work is reviewed by the City Attorney or Assistant City Attorney III through the review of plans of procedure and by the evaluation of completed assignments or trial results. Independent performance of the more difficult duties described above distinguishes this class from the Assistant City Attorney I.

EXAMPLES OF WORK: (Illustrative only)

Prepares and tries cases in the City courts involving jury trials, test actions or strongly contested actions;  
 Evaluated appeal cases and recommends whether or not the City should appeal;  
 Prepares and tries code violation cases in which precedents must be established or in which the parties to the cases present public relations problems;  
 Prepares and tries condemnation cases;  
 Attends meetings of departmental officials and employees to advise on legal questions and impact of planning decision, code enforcement policies and proposed action and the procedures which should be followed and evidence which must be obtained if actions are to stand up in court;  
 Prepares legal opinions on proposal submitted to the City Attorney's office by City departments;  
 Occasionally represents the City at public hearings;  
 Counsels City officials on the legal aspects of opposing proposals;  
 Reviews City real estate transactions for completeness and legality;  
 Approves legal forms for bids, contracts and bonds for City work and supplies;  
 Prepares proposed changes to ordinances and administrative procedures to resolve impact or enforcement problems encountered.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Considerable knowledge of judicial procedures and rules of evidence; considerable knowledge of City ordinances and State, Federal and general municipal laws including accepted legal or court interpretations; ability to learn the organization, functions and legal limitations on the authority of the various City departments; considerable knowledge of the principles of civil law; considerable knowledge of the principles of criminal law; considerable knowledge of what can be accomplished by legal approaches, what must be done by administrative approaches and how the two must be balanced to achieve the intent of City departments and to protect the public interest; ability to analyze, appraise and organize facts, evidence and precedents and to present such materials effectively, orally and in writing; ability to determine the limits of action available to opponents and the probable course of action of opponents in court cases; ability to present and argue cases in court; ability to work smoothly with unanticipated situations when these arise; ability to establish and maintain effective working relationships; ability to negotiate settlements; ability

ASSISTANT CITY ATTORNEY II  
(Unclassified)  
(Con't)

to observe and train new attorneys; good judgment; must be able to handle all physical requirements of the class and be able to pass a City of Phoenix physical examination at a level appropriate for the class.

ACCEPTABLE EXPERIENCE AND TRAINING: Education and experience equal to a combination of two years of experience as an attorney comparable to that of an Assistant Attorney I, including experience in legal research and the independent handling of trial work up to the jury trial, contested case or appeal level, and graduation from an accredited school of law.

ADDITIONAL REQUIREMENT: Admission to the bar of the State of Arizona.

PROBATION OFFICER I

GENERAL STATEMENT OF DUTIES: Identifies, evaluates and recommends rehabilitation and/or community service agencies which may be used in the treatment or other assignment of probationers; may interview or otherwise work directly with probationers; does other work as required.

DISTINGUISHING FEATURES OF THE CLASS: An employee in this para-professional class is responsible for establishing and maintaining contacts with rehabilitation and/or community service agencies whose services may be used in the treatment of certain probationers, or to which probationers may be assigned for volunteer work under the terms of their probation. Duties include identification of potential treatment resources and/or agencies willing to accept assigned volunteer (probationer) workers; inspection of such resources/agencies; evaluation of their usefulness to the City Court Probation Program; and maintenance of contact with such organizations. The Probation Officer I is further responsible for keeping other staff members of the Rehabilitation-Probation Center informed of available agencies, making referrals when indicated, and monitoring the progress of probationers. Work is performed under the general supervision of the Probation Services Supervisor, who evaluates the Probation Officer I by the results obtained.

EXAMPLES OF WORK (ILLUSTRATIVE ONLY):

Establishes and maintains contact with rehabilitation and community service agencies;  
 Identifies, visits and subsequently evaluates mental health agencies, employment services, counseling programs and other social service type programs to determine their value as a resource to the City Court Probation Program;  
 Meets with volunteer probation officers and provides them with information on possible resources;  
 Coordinates and maintains records of referrals to community agencies;  
 Acts as liaison between staff of the coordinated Rehabilitation Center and referral agencies;  
 Works with evaluation specialists in monitoring success of all referral agencies working with probation;  
 Assists in placement of probationers with volunteer probation officers;  
 Appears as witness at Revocation hearing.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Working knowledge of community and rehabilitative agencies whose services can be used in the treatment of probationers; some knowledge of the techniques used in the research and evaluation of social service agencies; some knowledge of modern methods of criminal rehabilitation; ability to coordinate volunteer probation services with various community agencies; ability to evaluate results of rehabilitative counseling; ability to establish and maintain effective working relationships with City employees, community agencies, probationers and the general public; ability to express ideas clearly and concisely; good physical condition.

ACCEPTABLE EXPERIENCE AND TRAINING: Any combination of experience and training equivalent to two years of community agency referral work preferably including college level courses in social work, sociology or criminal justice.



SECRETARY IIGENERAL STATEMENT OF DUTIES:

Performs skilled secretarial and general clerical work and relieves supervisors of routine detail; does related work as required.

DISTINGUISHING FEATURES OF THE CLASS:

This is skilled secretarial work which requires typing, filing and related activities. Independent judgment in the disposition of routine matters for one or more supervisors is normally an important element of these positions. Positions in this class may require the ability to transcribe taped material at a skilled rate of speed or take stenographic dictation. A Secretary II may work alone in a small office which handles one major program or administrative function or as part of a team in a centralized secretarial operation which handles many administrative functions or programs or in a moderate-sized office which handles a more limited set of programs or administrative functions. This class is distinguished from Secretary I by the greater variety and difficulty of assignments, the independence with which work is done and the review exercised over assignments performed by a few employees assisting with clerical and secretarial details. It is distinguished from Secretary III primarily by fewer duties requiring decisions affecting programs or administrative operations as representative of a supervisor or supervisors, a less complex series of secretarial and clerical tasks and the absence of regular supervision exercised over clerical and secretarial assistants.

EXAMPLES OF DUTIES: (Illustrative only)

Takes and transcribes dictation from stenographic notes or tapes;  
Types various documents from clear copy or rough draft requiring independent judgment in handling problems of format, procedure and context;  
Prepares agenda for, attends and takes minutes of meetings of policy groups or administrative groups;  
Opens and distributes mail and handles some routine items personally;  
Composes correspondence and may sign supervisor's name to correspondence following well established precedents;  
Meets the public and answers telephone, giving information requiring some knowledge of departmental policies and procedures;  
Serves as a representative of the supervisor, as delegated, in contacts with other employees, officials and the general public and in scheduling appointments;  
Creates and maintains filing systems in which complexity is attained, primarily through a variety of subject matter;  
Occasionally performs office management details designated by a supervisor;  
Assembles and reviews files or records, updates material, prepares material for action and makes final distribution of information, files or records;  
Compiles information for and types routine or special reports;  
Operates a variety of office equipment, including remote computer terminal, incidental to clerical and typing assignments.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES:

## KNOWLEDGE OF:

- .....Business English, spelling and arithmetic;
- .....Modern office equipment, practices and procedures.

SECRETARY II

(Con't)

**ABILITY TO:**

- .....Type at a skilled rate of speed;
- .....Make arithmetical calculations with speed and accuracy;
- .....Keep complex clerical records and to prepare accurate reports from such records;
- .....Prepare effective correspondence on routine matters and to perform routine office management details without referral to a supervisor;
- .....Establish and maintain effective working relationships with other employees and the general public;
- .....Clerical aptitude;
- .....Transcribe dictation at a good rate of speed from taped source or own stenographic notes;
- .....Good physical condition.

**ACCEPTABLE EXPERIENCE AND TRAINING:**

Experience or training equivalent to one year of experience at the level of Secretary I, including training in typing and office equipment use; stenography may be required for some positions.

CLERK II

GENERAL STATEMENT OF DUTIES: Performs varied clerical tasks of average difficulty; does related work as required.

DISTINGUISHING FEATURES OF THE CLASS: This is intermediate level office clerical work. Employees of this class participate in varied clerical operations which require the application of judgment based upon knowledge of office procedures and on-the-job experience. Work is performed in accordance with established procedures. Where work is repetitive, there is an added responsibility for finality of action. Where work is more difficult, it is performed under close supervision. Advice is given a Clerk II on unusually difficult or important matters. Employees in this class may check the work of other employees assisting with routine details, and assist in training of new employees but do not exercise regular supervision over others. The greater variety and difficulty of assignments and the greater independence with which assignments are performed distinguish positions in this class from the class of Clerk I.

EXAMPLES OF WORK: (Illustrative only)

Waits on counter, gives information and answers complaints;  
 Issues supplies, forms, files and other office materials as requested;  
 Collates materials on a production basis;  
 Reviews documents for completeness and accuracy, processes this material and distributes;  
 Balances checks with stubs, receipts or other records;  
 Answers telephone, directs caller to proper person or takes messages and answers questions when possible;  
 Opens, sorts and routes mail;  
 Compiles information and submits periodic reports;  
 Completes forms and posts information to records;  
 Gathers information, reports and other materials and assembles file folders for use by others;  
 Separates, codes, alphabetizes and files materials and searches files for information as required;  
 Assists in purging files and preparing material for permanent storage;  
 Operates a variety of office equipment, including elementary use of typewriter and remote computer terminal, incidental to clerical assignments.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Working knowledge of business arithmetic, spelling and English; working knowledge of modern office practices, procedures and equipment; ability to maintain clerical records and prepare reports from such records; ability to understand and follow moderately complex oral and written instructions; ability to make simple arithmetical computations with speed and accuracy; ability to write legibly; ability to establish and maintain effective working relationships with other employees and the general public; clerical aptitude; good physical condition.

ACCEPTABLE EXPERIENCE AND TRAINING: Experience or training equivalent to one year of clerical experience at the level of Clerk I.

CRISIS COUNSELOR II

GENERAL STATEMENT OF DUTIES: Supervises and participates in counseling persons faced with emergency or crisis situations, either by telephone or in person; does related work as required.

DISTINGUISHING FEATURES OF THE CLASS: This is a paraprofessional class and is the leader of a crisis intervention team on an assigned shift. The Crisis Counselor II supervises the Crisis Counselor I, participates in the counseling services rendered to clients and is responsible for ensuring that accurate records are kept by the team of all ongoing activities. In addition, the employee in this class is required to intervene in highly critical client situations and make the final decision on any questionable situations. Because of the hours of operation of the Crisis Intervention Program (6 p.m. to 5 a.m., 7 days a week) and the critical nature of the service performed, a great deal of initiative and independent judgment is exercised by the Crisis Counselor II. This class reports to the Crisis Intervention Program Supervisor,

EXAMPLES OF WORK: (Illustrative only)

Makes final decision with regard to rendering an emergency service under questionable circumstances;  
 Provides counseling over the telephone or in person to clients facing difficult crisis situations;  
 Keeps Crisis Intervention Supervisor apprised of program developments;  
 Insures that the Crisis Counselor I maintains proper records;  
 Counsels clients facing crises and recommends community services and resources;  
 Provides support to Police by following through on problems outside their jurisdiction;  
 Trains new team members in proper procedures.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Considerable knowledge of effective interview techniques; considerable knowledge of available community social services; considerable knowledge of the principles of counseling under stress situations; ability to plan and supervise the work of others; ability to work effectively with members of minority and poverty groups; ability to work effectively with alcoholics; must be able to handle all physical requirements of the class and be able to pass a City of Phoenix physical examination at a level appropriate for the class.

ACCEPTABLE EXPERIENCE AND TRAINING: Education and experience equal to a combination of one year experience at the level of Crisis Counselor I; graduation from High School or its equivalency with courses in Psychology, Counseling or related subjects.

ADDITIONAL REQUIREMENTS: Must have or be able to obtain prior to employment an Arizona driver's license and be free of any history of drug abuse or alcoholism for at least two years prior to application for this position.

EXEMPT JOB DESCRIPTION

GENERIC TITLE: Therapist, Masters Level JOB GRADE/ CODE:  
WORKING TITLE: Psychologist, Counselor, Social Worker ISSUE OF: 1-1-77  
REPORTS TO (TITLE): Clinic Director SUPERSEDES:

PRIMARY FUNCTION

Provides individual and group guidance and counseling services to assist individuals in achieving more effective personal, social, educational and vocational development and adjustment. Diagnoses mental and emotional disorders of children and adults and administers programs of treatment. Develops and implements new programs. Provides community consultation to agencies and related groups.

KNOWLEDGE AND ABILITY REQUIRED

Thorough academic and working knowledge of programs, clinical methods and procedures and applications of same. Must be able to communicate well in writing and orally to both community groups and social service agencies. Must know and understand utilization of community resources, police and courts as applied to case situations.

EDUCATION AND EXPERIENCE

Effective performance of the position duties requires job related courses and seminars in the Masters degree program in social/behavioral sciences plus a minimum of two years directly related experience; or equivalency.

SUPERVISION RECEIVED

Works independently, except in the most complex and critical situations, to achieve the position objectives and work assignments.

DUTIES AND RESPONSIBILITIES

May perform any significant combination of the following duties: Provides therapy and clinical case management for a full caseload of children or adult clients. Provides community consultation to agencies and other groups. Performs intakes and psychological evaluations on children or adult clients. Conducts ongoing therapy with individuals, couples and families. Delivers psychological services through psychotherapy. Psychotherapy is realized within the framework of intake evaluation, scheduled interviews, home visits and case consultations with other cognizant staff members. Conducts individual and group therapy. Supervises graduate studies for practical training and psychological residency program. Works with persons from the community to solve personal and/or emotional concerns, especially those disturbing the client and those about him. Includes vocational, marital, children and some social work activities. Consults with clinical staff and other community psychologists and psychiatrists. May supervise a small group of community mental health workers in establishing goals and objectives for carrying out a program. Functions as a backup service to community workers and/or community agencies for consultation, crisis intervention, evaluation and/or follow-up direct services. Continually works with other social work professionals to plan and implement new programs.



CITY OF PHOENIX

TO Shannon Garvin  
Human Resources

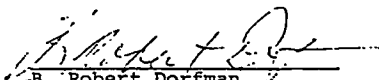
DATE Feb. 20, 1979

FROM B. Robert Dorfman  
Assistant City Prosecutor

SUBJECT PROSECUTOR'S STATEMENT OF PARTICIPATION  
IN FAMILY VIOLENCE PROGRAM

The City Prosecutor's Office would screen all assault-related cases submitted by the Police Department and determine whether or not the defendant fits the criteria established for diversion eligibility.

All defendants eligible for diversion would be summoned to Court, and at arraignment would be given the choice of reporting to the Intervention Center or facing prosecution. Those choosing to cooperate would be monitored by the Intervention Center, and if unsuccessful in their diversion participation, would be prosecuted by being re-summoned into Court.

  
B. Robert Dorfman  
Assistant City Prosecutor

BRD:pmo

cc: M. Louis Levin  
City Prosecutor





# Community Behavioral Services

*Helping You Find Alternatives*

February 27, 1979

Margaret Hance, Mayor of Phoenix  
Members of the Phoenix City Council  
City Hall  
Phoenix, Arizona

Dear Mayor Hance and Members of the Council:

As you requested, I discussed with the Community Behavioral Services Board of Directors the concept of a Family Violence Center in Phoenix. The Board met this morning and has authorized me to write this letter to you outlining their viewpoints.

We believe that the approach taken in the proposal for a Family Violence Center is a viable one for Phoenix. Many agencies deliver relevant services for family violence situations, but the activities of these agencies are not coordinated to ensure continuity of care to these individuals. We also believe that the proposal recognizes the responsibility of the City of Phoenix for family violence services in relation to local law enforcement agencies.

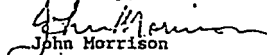
Community Behavioral Services shares the City's concern about family violence and will be glad to participate with the City to develop this proposal. We will submit the proposal ourselves, join with you in submitting the proposal, or participate in the proposal process in any other manner you wish.

Community Behavioral Services would be pleased, over the next 18 months, to work with the City of Phoenix to research and identify alternative funding sources by participating in a task force, meeting with community leaders and agencies, or discussing possibilities with state and federal officials. We support the idea of a Family Violence Center and will make every effort to ensure that the services are available to the community.

It is only through a partnership between the City of Phoenix and community agencies that the Family Violence Center will be started and maintained. We would expect the Mayor and City Council, both individually and collectively, as well as the City staff, to actively participate with local community agencies in identifying resources and methods of continuing the Family Violence Center.

On behalf of the Board of Directors of Community Behavioral Services, I want to thank the Mayor and City Council for their willingness to look at creative resolutions to problems facing the City.

Sincerely,

  
John Morrison  
Executive Director

700 W Camelback, Suite 8 • Phoenix, Arizona 85013

1620 264.2341



CITY OF PHOENIX

TO Travis Williams, Director      DATE March 1, 1979  
Human Resources Department

FROM Lawrence M. Wetzel, Police Chief

SUBJECT FAMILY VIOLENCE PROGRAM

The Phoenix Police Department recognizes the problem of intra-family violence and will cooperate with the program for family violence as submitted to LEAA.

Specifically, the department will assist in data collection, help develop television presentations for police briefing sessions, allow presentations during academy training of police recruits, refer families to the Intervention Center, submit appropriate reports of intra-family violence to the City Prosecutor's Office, and cooperate in developing a procedure for issuing citations for family violence.

  
LAWRENCE M. WETZEL, Police Chief

LMW:arj



OFFICE OF THE MARICOPA COUNTY ATTORNEY  
CHARLES F. HYDER COUNTY ATTORNEY

400 SUPERIOR COURT BUILDING, 101 W. JEFFERSON, PHOENIX, ARIZONA



March 1, 1979

Ms. Shannon Garvin  
Administrative Assistant II  
City of Phoenix  
302 West Washington  
Phoenix, Arizona 85003

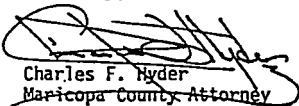
Dear Ms. Garvin:

The Maricopa County Attorney's Office recognizes the need for an integrated approach to family violence. Although jurisdiction for most offenses associated with family violence remains at the municipal court level, information on those cases filed in Superior Court by this office will be forwarded to your data collection system.

The Maricopa County Attorney's Office also recognizes the need for special attention to those cases associated with family violence which fall within its jurisdiction. Therefore, I am requesting funding from the Board of Supervisors to establish a specialized prosecuting unit to deal with cases filed on the Superior Court level.

This office supports the establishment of resources designed to assist victims of family violence and believes that criminal justice agencies will benefit from an effective twenty-four hour referral system.

Sincerely,



Charles F. Hyder  
Maricopa County Attorney


CFH:DYJ:lvc



CITY OF PHOENIX

Shannon Garvin, Administrative Assist. .c II  
TO Human Resources Department

DATE 2/28/79

FROM   
Alan Hammond, Chief Presiding Judge  
Municipal Court

SUBJECT Family Violence Program

Recognizing the need for an integrated approach to the problem of intra-family violence, the Municipal Court will cooperate with the Family Violence Program as proposed to LEAA. Specifically, the Court will hire a probation officer to be paid in part (25%) by this grant. Briefing sessions for the Judges will be scheduled to permit explanation of the procedure for conditional supervised probation under this program. Information will be forwarded to the Intervention Center on all cases which fall within the guidelines of this grant.

tm



# RAINBOW RETREAT, INC.

Accredited by Joint Commission on Accreditation of Hospitals  
A Treatment Center for Abusive Situations, i.e., Alcohol, Drug, and Family Violence  
4332 North 12th Street Phoenix, Arizona 85014 Telephone: 263-1113

February 28, 1979

Shannon Garvin  
Human Resources Department  
302 West Washington  
Phoenix, Arizona 85003

Dear Shannon:

As a crisis shelter, Rainbow Retreat has long recognized the problem of family violence and has experienced the frustration of piecemeal approaches and fragmental services.

We support the City's LEAA proposal for a family violence program and will cooperate with the program by accepting referrals for shelter and counseling.

We will cooperate with the data collection portion of the project by supplying all necessary information on The Family Violence Program Clients as the Rainbow Retreat system allows.

Sincerely,

Joanne Rhoads,  
Executive Director

JR:mr

# SOJOURNER CENTER

**OFFICERS**

Roxanna Maxwell, President  
Shari Capra, Vice-President

Executive Director  
Ellen Lyon, M.S.W.

Phone (602) 258-5344

February 28, 1979

Mayor Margaret Hance  
251 W. Washington, Room 900  
Phoenix, AZ 85003

Dear Mayor Hance,

This letter is to strongly encourage you and the council members to take whatever leadership is necessary for the city to establish and maintain a Family Violence Intervention Center.

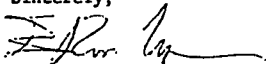
Sojourner Center's experience in working with women and small children in crisis clearly demonstrates the overwhelming need for such a Center. The existing programs are almost always filled to capacity and we frequently have to turn away people who are desperately in need of Intervention Services.

A Center which would coordinate services, work with court referrals and fill gaps would receive full cooperation and support from Sojourner Center.

I certainly hope that the City will not overlook this opportunity.

Thank you for your time and concern.

Sincerely,



Ellen Lyon M.S.W.  
Executive Director

cc: Council Members:

Vice-Mayor Ken O'Dell  
Howard Adams  
Joy Carter

Calvan Goode  
Barry Starr  
Jim White

EL/cb  
Sojourner Center • P.O. Box 2649 • Phoenix, Arizona 85002

# CASA

## CENTER AGAINST SEXUAL ASSAULT

February 28, 1979

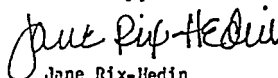
Ms. Shannon Garvin  
Administrative Assistant II  
City of Phoenix  
302 West Washington Street  
Phoenix, Arizona 85003

Dear Shannon:

The Center Against Sexual Assault (CASA) supports your proposal to LEAA for a Family Violence Program and will cooperate with the project by contracting for one incest counselor who will provide services to all appropriate referrals from the Intervention Center in cases of sexual abuse. CASA will report services and all necessary demographic data on clients to the data collection unit at the Intervention Center but will protect client confidentiality in the clinical records.

CASA will, as part of the treatment plan, assist in the satisfaction of any legal requirements for a forensic examination at a hospital emergency room in appropriate cases.

Sincerely,



Jane Rix-Hedin  
Acting Director

JRII:smb

*Act 1-2*

**BUSINESS (602) 257-8076**  
**SUPPORT (602) 257-8095**  
**POST OFFICE BOX 3786**  
**PHOENIX - ARIZONA 85030**



## ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Bruce Babbitt  
GOVERNOR

Social Services Bureau  
3003 North 35th Avenue  
Phoenix, Arizona 85017

Bill Jamieson, Jr.  
DIRECTOR

February 27, 1979

Shannon Garvin,  
Administrative Assistant to  
City of Phoenix  
302 W. Washington  
Phoenix, Arizona 85003

Dear Ms. Garvin,

The Department of Economic Security, Children's Protective Services has been involved with all aspects of family casework over the past several years. We as an agency are well aware of the problem of family violence and the effects it has on the community.

The Department of Economic Security, Children's Protective Services supports your efforts to come to grips with this problem through the establishment of an Intervention Center.

The Department of Economic Security, Children's Protective Services is willing to cooperate with the efforts of the Intervention Center in it's attempts to assist families in need of services to prevent further family deterioration.

Sincerely yours,

Betty Baskin,  
Program Supervisor

BB:aw



## ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Social Services Bureau  
3003 North 35th Avenue  
Phoenix, Arizona 85017

Bruce Babbitt  
GOVERNOR

Bill Jamieson, Jr.  
DIRECTOR

March 1, 1979

Shannon Garvin  
Administrative Assistant to  
City of Phoenix  
302 West Washington Street  
Phoenix, Arizona 85003

Dear Ms. Garvin:

Adult Protective Services of the Department of Economic Security is very aware of the problem of family violence as it effects not only the family but the community. The elderly, handicapped and mentally ill are very vulnerable and often unable to protect themselves or seek, on their own, services that might be available in the community.

The Department of Economic Security, Adult Protective Services supports the concept you have proposed as one way of approaching the problem of family violence and is willing to make appropriate referrals to the Intervention Center and cooperate with the efforts of the Intervention Center in it's attempts to assist families who are experiencing violence within the family system.

Sincerely yours,

Patricia S. Miller, MSW  
Supervisor Adult Protective Services

PSM:rr



**ARCA** *Arizona Recovery Centers Association*

February 28, 1979

Ms. Shannon Garvin  
729 West Culver  
Phoenix, Arizona 85007

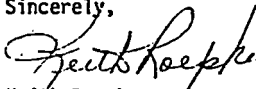
Dear Ms. Garvin:

I am writing to indicate ARCA's encouragement and support of the City of Phoenix in their proposal for a program to address the problem of domestic violence.

The incidence of battered children and spouses appears frequently as a precipitating factor leading to the treatment of alcoholism. We are happy to enter an affiliation agreement to make ARCA's treatment centers available as referral resources to such a program.

We also commend the city for its attempt to creatively address this serious and painful problem of family violence.

Sincerely,



Keith Roepke  
Executive Director

KR:sw



ELLIS C. MacDOUGALL  
DIRECTOR

STATE OF ARIZONA  
DEPARTMENT OF CORRECTIONS

BRUCE BABBITT  
GOVERNOR



1601 WEST JEFFERSON  
PHOENIX, ARIZONA 85007  
TELEPHONE (602) 271-5536

February 28, 1979

Ms. Shannon Garvin  
Human Resources Department  
City of Phoenix  
302 West Washington  
Phoenix, Arizona 85003

Dear Ms. Garvin:

I am aware that the Human Resources Department of the City of Phoenix is submitting a proposal to fund an Intervention Center, which, upon court referral, will provide counseling and other services to those involved in family violence.

This sounds like an excellent diversion program which will provide an alternative to further violence and possible felony convictions by persons who have reached a crises stage within their families. It is this kind of crime prevention that will stabilize a situation to hopefully preclude one's entrance into the penal system.

Best wishes on obtaining funds for this program.

Sincerely,

John R. McFarland, Deputy Director  
Community Services

JRM:CR:lrk



# THE SALVATION ARMY

SOUTHWEST DIVISIONAL HEADQUARTERS

628 NORTH THIRD AVENUE — P. O. BOX 13307  
PHOENIX, ARIZONA, 85002 — PHONE (602) 258-6085

February 27, 1979

Mayor Margaret Hance  
& City of Phoenix  
Council Members

Re: Family Violence Center Program Proposal

Dear Mayor Hance & Council:

Our organization wishes to formally express interest in the establishment and operation of the above program. We currently deal with a slice of this problem, and unfortunately see the problem of family violence escalating.

As mentioned at yesterday's meeting, assurances that our agency could pick up funding and operation of this program after 18 months cannot be secured in the time available. Our review process takes six to eight weeks.

Informal discussion with administration is favorable toward consideration of future funding and operation, providing a facility is available, and alternate sources of funding have materialized. If we can play a role in the further planning, development or implementation of this project, please let us know.

Sincerely,

Raymond L. Peacock, ACSW  
Captain  
DIVISIONAL YOUTH SECRETARY &  
SOCIAL SERVICES CONSULTANT

RLP:clh

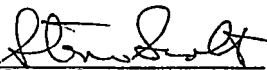


February 28, 1979

Shannon Garvin  
Human Resources Department  
302 W. Washington  
Phoenix, AZ 85007

Phoenix South Community Mental Health Center wishes to express its strong support for the development of a Family Violence Project, which is currently being proposed by your agency. The development of a coordinated service mechanism for intervention in family crises is a highly apparent need in south Phoenix. In our work with the Police Department and courts, requests for such services are quite frequent.

As a comprehensive community mental health center, Phoenix South wishes to offer its counseling, psychological and psychiatric resources to the support of this project. We will be happy to make these clinical services available as they are needed to back up the social services provided by the project. We are also willing to work out a method of providing the data needed in order to account for such service delivery.

  
\_\_\_\_\_  
Steve Scott, Ph.D.  
Executive Director

SS:pd

PHOENIX SOUTH COMMUNITY  
Mental Health Center

.1424 South 7th Ave./Phoenix, Arizona 85007/(602) 257-9339

COMMUNITY DEVELOPMENT PROGRAM  
Project Proposal  
July 1, 1979 - June 30, 1980

I Sponsoring Agency

Date: January 22, 1979

Name HUMAN RESOURCES DEPARTMENT

PLEASE DO NOT USE THIS SPACE. As submitted this proposal is:

CITY OF PHOENIX Ineligible  EligibleAddress 302 West Washington Priority Goals  
 OtherPhoenix, Arizona 85003Telephone 262-6296

Eligible Project Disposition:

Contact Person Shannon Garvin  
Admin. Ass't II TitleSteering Committee Recommendation Subcontractors Not identified work  
(if any)C.D. Subcommittee Recommendations would be contracted as  
result of bids.City Council Action II Project DescriptionProvide physical facility for administration, counseling and crisis shelter foradult and elderly victims of intra-family violence to be located in Area B. Thephysical facility would contain 2100 sq. ft. of usable space, one functionalkitchen and ideally three usable restrooms. This would be accomplished byarranging a long term lease at nominal cost with the owner of the property(could be FHA) in exchange for the rehabilitation of the property. (See supplemental  
(If a capital construction project, attach a scope of work with as much detail as sheet)  
possible, e.g., square feet of building, etc. If you need more space than is provided,  
please attach an additional sheet describing the project.)III Project Impact: Benefits of Funding and Consequences of Not FundingBenefits of FundingThe cost of acquiring and renovating the property would be the required 10% matchfor a \$300,000 LEAA funded Family Violence program. The area south of the rivercurrently has no crisis residential facility. According to police statistics percapita interpersonal violence rates for that area are as high or higher than anyother area of the city. The LEAA program would provide a program of Therapeutic(See supplemental sheet)

## II. Project Description (cont'd)

Several sites have been identified as possibilities. However, recent flooding has made travel to and from South Phoenix time consuming and limited opportunities to make final site selection.

## III. Project Impact: Benefits of Funding (cont'd)

Intervention for the offender and a temporary shelter for the victim as well as special service such as parenting class, child sexual assault program and increase staff in the probation division and City prosecutors office to initiate diversion programs for the offenders. In addition to the portion of the program funded by LEAA additional resources within the community will be focused on the problems of South Phoenix. Such agencies as the Center Against Sexual Assault will provide services at the South Phoenix site. While specialized services available in mid or north Phoenix are theoretically available to all citizens both cultural and physical barriers limit the accessibility for residents south of the river. Providing the services in a familiar environment will increase the number of people who receive the needed service.

### Consequences of Not Funding

The City's projected revenues for next year do not allow funding new projects. The match for this project must be identified from some other source. Although it is anticipated that the City will contract for most of the services, it will not hire permanent positions to implement this project and will transfer direct operation of the project to a community based organization at the end of the LEAA funding, the complex requirement of the grant to coordinate efforts in four different areas of city administration (Courts, Prosecutor, Police, and Human Resources) make it difficult for a private non-profit agency to initiate the program. It is anticipated that the cooperative arrangements necessary in the beginning can be more adequately addressed if the city retains administrative control of the project during its initial phases.

Thus the consequences of not funding this CD proposal are that the City is unlikely to match the LEAA proposal with general revenue funds and a private agency could not bring the necessary Departments together so this program would not be started. South Phoenix residents would not have a crisis shelter accessible during times when the river is running and there will not be a program of systematic diversion to treatment of people who exhibit violent behavior toward other members of their family.

PART V  
ASSURANCES

The Applicant hereby assures and certifies that he will comply with the regulations, policies, guidelines, and requirements, including OMB Circular No. A-95 and FMC's 74-4 and 74-7, as they relate to the application, acceptance and use of Federal funds for this federally assisted project. Also the Applicant assures and certifies with respect to the grant, that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.
- 3a. It will comply with the provisions of 28 C.F.R. 42.101 et seq. prohibiting discrimination based on race, color or national origin by or through its contractual arrangements. If the grantee is an institution or a governmental agency, office or unit then this assurance of nondiscrimination by race, color or national origin extends to discrimination anywhere in the institution or governmental agency, office, or unit.
- 3b. If the grantee is a unit of state or local government, state planning agency or law enforcement agency, it will comply with Title VII of the Civil Rights Act of 1964, as amended, and 28 C.F.R. 42.201 et seq. prohibiting discrimination in employment practices based on race, color, creed, sex or national origin. Additionally, it will obtain assurances from all sub-grantees, contractors and subcontractors that they will not discriminate in employment practices based on race, color, creed, sex or national origin.
- 3c. It will comply with and will insure compliance by its subgrantees and contractors with Title I of the Crime Control Act of 1973, Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to regulations of the Department of Justice (28 C.F.R. Part 42) such that no person, on the basis of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by LEAA.
4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.
5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
6. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
7. It will give the grantor agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.
8. It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with FMC 74-7.
9. It will comply with the provision of 28 CFR Part 20 regulating the privacy and security of criminal history information systems.
10. All published material and written reports submitted under this grant or in conjunction with the third party agreements under this grant will be originally developed material unless otherwise specifically provided for in the grant document. Material not originally developed included in reports will have the source identified either in the body of the report or in a footnote, whether the material is in a verbatim or extensive paraphrase format. All published material and written reports shall give notice that funds were provided under an LEAA grant.
11. Requests for proposal or invitations for bid issued by the grantee or a subgrantee to implement the grant or subgrant project will provide notice to prospective bidders that the LEAA organizational conflict of interest provision is applicable in that contractors that develop or draft specifications, requirements, statements of work and/or RFP's for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

*Exhibit No. 20*

THE PROBLEM OF DOMESTIC VIOLENCE IN OUR SOCIETY IS ONE OF MAJOR IMPORTANCE. ALTHOUGH THERE IS A STRONG TENDENCY ON THE PART OF GOVERNMENT LEADERS TO PROMOTE FURTHER GOVERNMENT INTERVENTION AS A SOLUTION TO PROBLEMS, I BELIEVE SUCH ACTION WILL DO LITTLE TO FOSTER A LONG-TERM SOLUTION TO DOMESTIC VIOLENCE. BATTERED WIVES AND CHILDREN ARE SYMPTOMATIC OF DEEP PROBLEMS IN OUR SOCIAL FABRIC: THE FRAGMENTATION OF THE AMERICAN FAMILY AND THE DECLINE OF MORAL AND RELIGIOUS VALUES. THESE ARE PROBLEMS GOVERNMENT ALONE CANNOT RESOLVE. THE SOLUTION TO DOMESTIC VIOLENCE INVOLVES A WIDESPREAD REVIVAL OF TRADITIONAL VALUES, OF FAMILY UNITY, AND OF RESPECT FOR THE RIGHTS OF EACH FAMILY MEMBER. IN THIS WAY, THE ROOT CAUSES OF DOMESTIC VIOLENCE CAN BE ELIMINATED, RATHER THAN JUST TREATING THE EFFECTS.

YET, THE EFFECTS OF SPOUSE AND CHILD ABUSE ARE SEVERE; AND ELIMINATION OF THE CAUSES WILL BE A LONG-TERM UNDERTAKING. IN THE INTERIM, A GREAT NEED EXISTS FOR AGENCIES WHICH SERVE THE VICTIMS OF DOMESTIC VIOLENCE. ONE SUCH LOCAL GROUP IS THE SOJOURNER CENTER, A PRIVATE NON-PROFIT ORGANIZATION PROVIDING EMERGENCY RESIDENTIAL SUPPORT AND OTHER SERVICES TO WOMEN AND THEIR CHILDREN FOR PERIODS OF UP TO SEVEN DAYS. SERVICES PROVIDED INCLUDE 24-HOUR COUNSELING, PARENT EFFECTIVENESS TRAINING, AND LINKAGES WITH OTHER SOCIAL SERVICE AGENCIES. MARICOPA COUNTY PROVIDES FINANCIAL ASSISTANCE TO THE SOJOURNER CENTER THROUGH OUR CETA PROGRAM. IN ADDITION, THE CENTER RECENTLY RECEIVED HUD BLOCK GRANT FUNDING TO INCREASE BED CAPACITY AND IMPROVE OUTREACH EFFORTS FOR THIS CRISIS INTERVENTION PROGRAM.

THE ACTIVITIES OF THE SOJOURNER CENTER AND SIMILAR ORGANIZATIONS PROVIDE A VALUABLE SERVICE TO OUR COMMUNITY AND SHOULD BE FURTHER ASSISTED AS FUNDS PERMIT. WHEN AVAILABLE, FEDERAL FUNDING SHOULD BE USED TO AUGMENT MONIES RAISED LOCALLY. APPROPRIATION OF FUNDS SHOULD BE MADE CAREFULLY TO AVOID UNNECESSARY DUPLICATION OF EFFORT. ABOVE ALL, LEADERSHIP IN THE DELIVERY OF CRISIS INTERVENTION AND OTHER SERVICES RELATED TO THE DOMESTIC VIOLENCE PROBLEM SHOULD BE PROVIDED BY THE PRIVATE AND NON-PROFIT SECTORS. GOVERNMENT CAN AND SHOULD SERVE A VITAL ROLE AS A CATALYST, BUT RELIANCE UPON GOVERNMENT FOR SERVICES MUST BE AVOIDED. ONLY BY A VARIETY OF ORGANIZATIONS WORKING IN CONCERT CAN WE BEGIN TO SOLVE THIS MAJOR PROBLEM. THE INFUSION OF MASSIVE AMOUNTS OF GOVERNMENT FUNDING, HOWEVER TEMPTING, IS NOT A VIABLE SOLUTION.



*Exhibit No. 21*

**CITY OF PHOENIX**  
OFFICE OF THE CITY COUNCIL

JOY W. CARTER  
VICE MAYOR

March 6, 1980

Mr. Arthur Fleming, Chairman  
U.S. Commission on Civil Rights  
1121 Vermont Avenue, N.W.  
Washington, D.C. 20425

Dear Mr. Fleming:

I would like to take this opportunity to thank you and the other members of the U.S. Commission on Civil Rights for allowing me to address the Commission on the problem of domestic violence which was recently held here in Phoenix.

Reflecting on the hearings, I can certainly appreciate the most difficult task that the Commission has in addressing this serious problem not only in terms of the involvement of the Criminal Justice System as a whole, but also public attention to the ever-growing problem of victims of domestic violence.

In response to your request for additional information City staff has collected the following:

1. The City of Phoenix Discretionary Grant application for a Family Dispute Center, which was denied funding by LEAA, is footnoted in your initial report as being on file with the Commission.
2. As you recall, several other presenters and I had stressed the confusing and conflicting problem of Federal regulations for grant projects. Within the catalogue of Federal Domestic Assistance there are several hundred programs that provide federal funds through LEAA, HEW, Title XX, HUD, Mental Health, National Institute on Drug Abuse, and other related social service programs that could address

Handwritten (23)

Mr. Arthur Fleming  
March 6, 1980  
Page Two

the problem of domestic violence. In many instances, the regulations that are published not only by these Federal agencies, but also regulations by State agencies, are conflicting in describing the requirements for compliance as well as specific objections to be achieved by the grant recipient. Specifically, a problem in the past has been that many Federal agencies require local governments to sponsor and/or sign off on community based agency grant applications. This creates an undue hardship not only on the community based program but also the local government entity in terms of not only providing matching grant funds, but also the allocation of local funds to address other related social problem areas. A possible solution to this problem could be a coordinated effort of the State Justice Planning Agencies throughout the country in agreement with the Federal Government, on reducing the red tape and streamlining the guidelines from all various funding programs that address domestic violence. This would encourage not only local governments but also community based programs in expediting their search for resources to provide services.

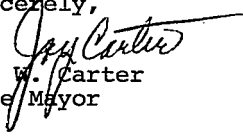
- [27] 3. The City's current involvement in response to the problem of domestic violence is expressed in many ways. During my presentation to the Commission, a copy of the recent City budget was given to your staff. Within the budget document the various programs that are included with domestic violence are highlighted and are earmarked for contract services. Traditionally, the City of Phoenix has served as a "catalyst" and principal source for providing not only general purpose funds from the City, but also federal grant funds to community based programs for a variety of social and recreational services. Presently, the City Criminal Justice Planning Committee is reviewing the

Mr. Arthur Fleming  
March 6, 1980  
Page Three

various Criminal Justice Problem Statements that are being developed for the State Justice Planning Agency's annual action plan. It is my understanding that domestic violence has received a high priority not only within our region but also at the State level. This will mean that when 1981 LEAA and State funds are available, local jurisdictions and community based programs will have an additional resource in obtaining funding for the development and expansion of services for women victims of domestic violence. The identification of domestic violence as a problem statement within the regional and state plan was the direct result of input from City staff and community based program representatives.

In closing, I would like to once again welcome any assistance that your Commission may have in an attempt to provide additional Federal funds to local jurisdictions in assisting and alleviating the problem of domestic violence and improving the legal system's response to the victims. Additionally, I would appreciate receiving any final reports that are developed on this issue so that I can pass on the information not only to the Mayor and other members of the Council but also City staff and representatives from the community based agencies.

Sincerely,



Joy W. Carter  
Vice Mayor

pj

*Exhibit No. 22*MEDIATION IS:

A process where both parties come together, sit down with a "Mediator" and talk about ways to solve their problems.

RATIONALE

"Charging someone with a criminal offense and hoping to successfully prosecute it, as well as attempting to meet the expectations of persons involved, are often times impossible. The efforts of the Police Department, Prosecutors, and Courts, are misdirected. The parties themselves are not interested in prosecution. They want safety, assurance, and help for the offender."

MEDIATION GOALS

1. To produce a peaceful settlement.
2. To be assured of safety.
3. To not determine who is guilty or innocent.
4. To keep matter out of Court and Criminal Record Book.
5. To avoid grim experience of an arrest, a Court room experience, a stigma of guilt.
6. To prevent re-occurring contact with law enforcement.
7. Not a counseling session.
8. Identify:
  1. Commitment,
  2. Each party's wants,
  3. Each party's concessions,
9. Get agreements on paper.

PROCESS FOR MEDIATION

1. Commitment of solving dispute.
2. Briefly present problem (Facts).
3. Ask for clarification or additional information.
4. What do you want to end conflict.
5. What are you willing to do to end conflict (Give).
6. Formulate specific conditions to assure solution.
7. Commitment to comply with conditions (Follow-through).

TYPES OF CASES

1. Domestic
2. Neighborhood Dispute
3. Property Disputes
4. Landlord - Tenant
5. Restitution / Contract
6. Civil Case - Small Claims

REFERRAL SOURCES

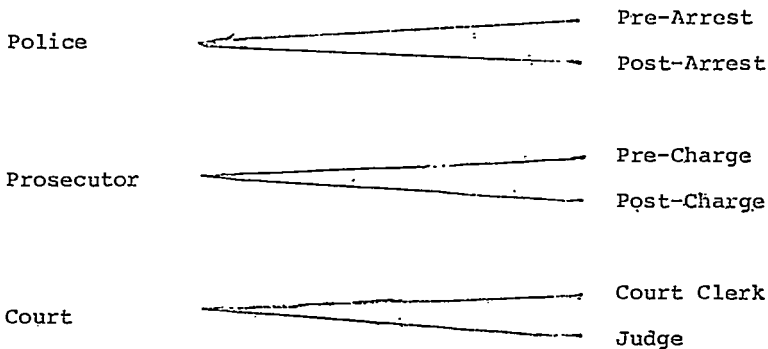
1. Direct Police
2. City / County Attorney
3. Arraignment Court
4. Community Agencies

Community Mediation Service  
Pima County Attorney's Office

REFERRALS

Community

Social Agency



Cost Factor Increases As We Move From  
Community to Court Room.

Community Mediation Service  
Pima County Attorney's Office

GROUND RULES FOR EVERYONE

1. No physical violence.
2. No screaming.
3. No one puts down another person (No Name Calling).
4. One person speaks at a time (No interruptions).
5. Talk in present tense (What is happening now).
6. Everyone stays in room until meeting ends.
7. No burden of proof (Not an investigation).
8. Mediator's are not Judge's (Not a Court hearing).
9. Mediator will be neutral (Not take sides).
10. Mediators direct flow of meeting.

MEDIATION'S ARE NOT:

1. Court hearings.
2. For determination of guilt.
3. For witnesses / attorneys.
4. Counseling session.

CONCEPTS:

1. Prior to coming, identify wants and concessions.
2. Sessions are designed to find solutions.
3. Agreements -- Result either continued prosecution or dismissal.
4. Agreements Monitored  
3 Days - 2 Weeks - 3 to 6 Months
5. Violations reported by either party.
6. Program determines if violation occurs.

LAW ENFORCEMENT PROBLEMS

## Types:

1. Domestic Disputes
2. Neighborhood Feuds
3. Landlord - Tenant Quarrels
4. Juvenile Gangs
5. Child Custody Issues
6. Civil Disputes

PROSECUTOR PROBLEMS

1. Neighborhood Disputes
2. Battered Wife
3. Local Gangs
  1. No independent witness creates difficulty in proving guilt beyond reasonable doubt.
  2. Court procedures involve long delays - works against resolution - Speed is priority.
  3. Interest in working with these type cases is minimal.
  4. Prosecutors tend to use a "discrediting" system.
  5. Reputation of Prosecutor's Office criticized for not resolving conflict.
  6. Encourages Plea-Bargaining which cheapens local community opinion of Criminal Justice System.

Community Mediation Service  
Pima County Attorney's Office



SYSTEM PROBLEMS

1. No independent witnesses to substantiate/discredit.
2. Time consuming/potentially explosive.
3. Recidivism syndrome.
4. Social work is a four letter word.
5. Reputation! Critized for not resolving - conflict.

COMMUNITY MEDIATION SERVICENeeds:

1. Official location  
i.e., Police Stations
2. Advertise location:  
walk-in service  
Officer referrals  
City/County referrals
3. For mediators and Adam I officers to build trust with one another.
  - A. Sharing Information
  - B. Ride Alongs.
  - C. Have officers legitimize our entry in current disputes (on-going)
4. Get to know area and agencies
5. Not mediate disputes between police and neighborhood.
6. Availability of site to us:
  - A. All mediators screened - records check and fingerprints
  - B. Will need site in afternoons and evenings
7. Advertise on site: Sign, Radio, T.V., and paper
8. To be an integral and useful part of Adam I Team.

Community Mediation Service  
Pima County Attorney's Office

STRUCTURE

1. Site with two staff mediators.
2. Trained volunteers from: local community  
University Volunteers  
(Law Students at 10)
3. Police Liaison - Sgt. Leverenz
4. Local Community - Advisory Council
5. Mediators on site 30 regular hours/week. Scheduled volunteers to be on site.
6. All staff mediators will participate in training and planning - 10 hours/week.

SITE #1 - ADAM IGoals:

1. Develop rapport with: Adam I Officers, Neighborhood, Agencies.
2. Set regular hours for mediators to be on Adam I site.  
Proposal: 30 hours on site - Afternoons and evenings.
3. Identify and recruit local community people to train.
4. Utilize these mediators to continue mediation service  
(and training)
5. Institutionalize the process - Funding.

Community Mediation Service  
Pima County Attorney's Office

COMMUNITY MEDIATION SERVICE  
Pima County Attorney's Office

<u>Cooperating Agencies</u>	<u>Administrator</u>	<u>Advisory Council Liaison</u>
1. Pima County Attorney's Office	Steve Neely	David Lowenberg Paul Forgach
2. Justice Courts	Jim Martin	Oneida Singleton
3. City Prosecutor's Office	Bill Call	Kathy Roberts
4. Tucson Police Department	Chief Gilkinson	Captain Dietsch Sgt. Leverentz
5. South Tucson Police Department	Chief Kalak	Lt. Malm
6. Pima County Sheriff's Office	Sheriff Boykin	Chief Deputy Cla Dupnik Lt. Williams Lt. Gett
7. Community Agencies:		
a. City Public Housing	Joe Quintana	
b. Nosotros	Ronaldo Cruz	
c. Women's Center	Sunni Wood	
d. State Attorney's Office	John Evans	
e. Human Services Study Commission - Tucson	Peter Logan Chairman	
f. Tucson Barrio Association	Elena Andrews	
g. Tucson Public Schools	Herman Warrior	
h. Tucson Indian Council		

PIMA COUNTY ATTORNEY'S  
COMMUNITY MEDIATION SERVICE

## Logistics - Site #2

Location: South Tucson Police Department  
511 East 29th Street 85713  
Telephone: 622-3305

Staff Mediators: Barbara Isaacs Youngwolf and Cheryl Cornelius

Volunteer Mediators: Sunni Wood and Sally Evans

Police Liaison: Lt. Malm 622-3305

On-Site Schedule

Monday - 3:30-9:30 p.m.

Tuesday - 5:30-9:30 p.m.

wednesday - 3:30-9:30 p.m.

Thursday - 3:30-9:30 p.m.

Friday - 1:00-9:30 p.m.

Saturday - 9:00 a.m. - 1:00p.m.

PIMA COUNTY ATTORNEY'S  
COMMUNITY MEDIATION SERVICE

## Logistics - Site #2

Location: South Tucson Police Department  
511 East 29th Street 85713  
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Thursday - 3:30-9:30 p.m.

Friday - 1:00-9:30 p.m.

Saturday - 9:00 a.m. - 1:00p.m.

PIMA COUNTY ATTORNEY'S  
COMMUNITY MEDIATION SERVICE

Site #3 - Pima County Attorney's Office

Location - Four sites

- a. Catalina Station - Northside - 742-4166
- b. Rincon Station - Eastside - 296-4166
- c. Ajo Station - Ajo, ARIZONA - 792-8845
- d. Green Valley Station - Green Vallez, Arizona - 624-6061

Staff Mediators: Carol Schaedler and Ruth Longus

Volunteer Mediators: Kathy Heitzmann, Chris Scholi, and  
Juanita Cortez (Ajo)

Sheriff Liaison:

- a. Catalina - Lt. Williams - 742-4166
- b. Rincon - Lt. Jeff - 296-8596
- c. Ajo - Lt. Garshaw - 792-8845
- d. Santa Rita - Lt. Curtis - 792-8719
- e. San Xavier - Lt. Ranger - 792-8715

On-Site Schedule

Monday - Rincon Station  
Tuesday - Catalina Station  
Wednesday - Ajo Station  
Thursday - Green Valley  
Friday - Justice Courts

PIMA COUNTY ATTORNEY'S  
COMMUNITY MEDIATION SERVICE

Site #4

Location: Pima County Court House  
Pima County Attorney's Office

Staff Mediators: Susan Sobel and Margaret K. Forgach

Volunteer Mediators: Bill Young and Barbara Ross

On-Site Schedule

Monday - 2:30 - 9:30 p.m.

Tuesday - 2:30 - 9:30 p.m.

Wednesday - 2:30 - 9:30 p.m.

Thursday - 2:30 - 9:30 p.m.

Friday - 2:30 - 9:30 p.m.

Plus 5 hours a week TBA for office work

MUTUAL AGREEMENT PROCESS  
CITY PROSECUTOR REFERRALS

- I. Contact Victim/Complainant first and Respondent/Defendant Second
- a. I would like to talk to you about a City Prosecutor's case in which you are listed as the victim (defendant). Is this O.K? Do you have the time now?
  - b. I am here to be helpful to you. My role will be:
    1. Person in the middle who tries to encourage both parties to find solutions to their problems in a peaceful manner,
    2. Person in the middle who does not take sides,
    3. Person in the middle who does not place blame on either party,
    4. Person in the middle who obtains facts, who identifies feelings and motives, and who provides support, and
    5. Person in the middle who establishes the process to resolve conflict.
  - c. My knowledge of the case is as follows:
    1. Review problem
    2. Review status of case
      - a. case report
      - b. charge pending
      - c. trial date
  - d. Permit me to explain the options that are available to you in regard to this case. Options:
    1. Possibility of prosecution after reviewing yellow CCI
    2. Mediation as an attempt to resolve conflict
      - a. Remember to say that mediation is NOT mandatory
      - b. Both parties must agree to mediation
  - e. Tell complainant and respondent you will support whatever decision they choose (keeping in touch with them about the case and escorting them to court if necessary)
  - f. Inform complainants and respondents that they can approach their private legal representatives for advice before determining which option to pursue.



- II. Proceed with MAP only when both complainant and respondent agree. Obtain a commitment of YES or NO.
- a. Ask complainant to state wants from respondent,
  - b. Ask respondent to state wants from complainant,
  - c. List wants on yellow CCI as they say them and repeat them back to check out understanding and to allow for additions.
  - d. Let them know your responsibility is to promote peace and safety,
  - e. Set up Face-to-Face session,
  - f. If agreement is reached, a contract can be used to monitor the case (have parties sign it),
  - g. Ascertain if both parties must sign dismissal and release forms (trial date set means they must sign forms), and
  - h. If there is case agreement through mediation then, charge will be dismissed without prejudice.

III. Mediator Concepts

- a. Success means that both parties have a good understanding of the options available,
- b. Success does not necessarily mean that you brought parties together, and
- c. Insist both parties meet (or at least talk to you independently) if victim indicates on telephone that no further action is required.

P I M A C O U N T Y ' S A T T O R N E Y ' S O F F I C E  
V I C T I M W I T N E S S P R O G R A M  
Mediation Agreement

On \_\_\_\_\_, \_\_\_\_\_  
Date Mediator(s)

of the Victim Witness Program managed a mediation session between  
\_\_\_\_\_ and \_\_\_\_\_  
First Party Second Party

to talk about finding solutions to their problems. Both parties have dis-  
cussed what they want from each other and what they are willing to give to  
each other in return.

Contract

Therefore, the intent of this contract is to state what the First  
Party and the Second Party have agreed to do to solve the conflict so that  
PEACE can be assured. The period of agreement shall be from  
\_\_\_\_\_ to \_\_\_\_\_.

Commitment of First Party:

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Signature(s) of First Party

Commitment of Second Party:

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Signature(s) of Second Party

\_\_\_\_\_  
Signature(s) of Witness(es)

P I M A C O U N T Y ' : A T T O R N E Y ' S O F F I C E .  
V I C T I M W I T N E S S P R O G R A M  
M e d i a t i o n A g r e e m e n t

On March 8, 1979 , Celeste Brosenne & David Lowenberg  
Date Mediator(s)

of the Victim Witness Program managed a mediation session between  
[redacted] and [redacted]  
First Party Second Party

to talk about finding solutions to their problems. Both parties have dis-  
cussed what they want from each other and what they are willing to give to  
each other in return.

Contract

Therefore, the intent of this contract is to state what the First  
Party and the Second Party have agreed to do to solve the conflict so that  
PEACE can be assured. The period of agreement shall be from

March 8, 1979 to April 30, 1979

Commitment of First Party:

I promise to withdraw my criminal complaint in the case of the  
State of Arizona vs. [redacted], in which [redacted] has been charged  
with Use of the Telephone to Harass. I understand that if [redacted] does not  
meet the conditions agreed upon that I may demand that the City Attorney's  
Office refile charges against [redacted]. I agree not to contact [redacted]  
[redacted] by phone or letter (except under the legal terms set forth in the  
Court ordered Divorce Decree). At no time will I communicate with [redacted]  
[redacted] in person.

[redacted signature]

Signature(s) of First Party

Commitment of Second Party:

I agree not to contact [redacted] by phone, letter, or in  
person (except under the legal terms set forth in the Court ordered Divorce  
Decree). At no time will I communicate with [redacted] in person. I  
agree to start counseling with Palo Verde Mental Health Center on March 22  
and will continue receiving counseling at least to April 30.

[redacted signature]

Signature(s) of Second Party

Signature(s) of Witness(es)

Signature of Witness

P I N A C O U N T Y ' S A T T O R N E Y ' S O F F I C E  
VICTIM WITNESS PROGRAM  
Mediator Agreement

On June 6, 1979, Celeste Brosenne & David Lowenberg  
Date Mediator(s)

of the Victim Witness Program managed a mediation session between  
[redacted] and [redacted]  
First Party Second Party

to talk about finding solutions to their problems. Both parties have discussed what they want from each other and what they are willing to give to each other in return.

Contract

Therefore, the intent of this contract is to state what the First Party and the Second Party have agreed to do to solve the conflict so that PEACE can be assured. The period of agreement shall be from

June 6, 1979 to December 6, 1979.  
Commitment of First Party:

On the termination date of the Contract, I voluntarily agree to withdraw the criminal complaint of April 3 in which [redacted] was charged with committing Aggravated Assault.  
If [redacted] violates any conditions of the Contract, I will report the incident to the Victim Witness mediators immediately. In addition, I promise to keep the Victim Witness mediators up-to-date about my welfare by contacting them by telephone once a week for the the first month and thereafter once every other week for as long as the mediators deem necessary.  
Furthermore, I will cooperate, within reason, in allowing [redacted] to visit the children under the procedures set forth in the Contract.  
Lastly, I will not contact the mother of [redacted] except to arrange visitation of the children or in case of an emergency.

[redacted]  
Signature(s) of First Party

Commitment of Second Party:

I will not contact [redacted] by telephone or in person. I will not visit the residence of [redacted] under any circumstances. I will not threaten or harass [redacted] or her friends. In addition, I will not inquire into the personal life of [redacted]. Moreover, I will ask my sister or mother to contact [redacted] about visitation arrangements with the children. Also, I will make arrangements to have a third party remove my possessions from the residence of [redacted]. Lastly, I promise to keep the Victim Witness mediators up-to-date about my welfare by contacting them by telephone once a week for the first month and thereafter once every other week fo as long as the mediators deem necessary.

[redacted]  
Second Party

[Handwritten Signature]  
Signature(s) of Witness(es)

MEDIATION PROGRAM EVALUATION  
DOMESTIC VIOLENCE CASES

I. The Victim Witness Mediation Program was established in mid 1977 to provide a viable alternative to the criminal court process to help victims who wanted to resolve family and neighborhood disputes. In many domestic situations involving boyfriends and girlfriends, husbands and wives, and other family members, the criminal justice options of criminal prosecution or threaten intervention have not been desirable or effective. Generally speaking, the victims are not interested in punishing the offender. Instead, the victims are interested in personal safety and in treatment for the offender.

II. An evaluation of the Mediation Program was conducted during March 1980. This evaluation was conducted to determine the effectiveness of the mediation process and of the mediators assigned to various cases. Primary areas evaluated were:

- a. Client perception of the mediation process,
- b. Client perception of mediators assigned to their cases, and
- c. Client level of satisfaction with the mediation process.

Those cases reviewed and selected for this survey were required to have a telephone point of contact and to have a willingness to respond to a set of questions. Approximately seventy-five (75) Domestic Violence case files were pulled and selected for the survey. Attempts to contact all seventy-five (75) cases were made, but because of numerous reasons (new and/or unlisted numbers, clients moving and not leaving forwarding information, or non-responses), only twenty-four

(24) clients were successfully contacted. The median number of months passed since the mediation session and this survey contact is eight (8) months. The mediation sessions occurred between January 1978 to December 1979.

In ten (10) of the twenty-four incidents surveyed the victim indicated alcohol was a prevalent problem. All twenty-four (24) clients contacted were female with ethnicity breakdown of; eighteen (18) White; two (2) Black; and four (4) Mexican-American. Their ages ranged from 17 to 62 years of age with an average age of 33. Relationship status at the time of the incident was: Nine (9) married (living together); Four (4) separated; Four (4) divorced; Three (3) conjugal (living together); Three (3) ex-boyfriend; and one (1) boyfriend. Mediation Session type was: Twelve (12) face-to-face, Two (2) over the phone, and ten (10) face-to-face and over the phone combined.

Upon initial contact the victims were advised of the purpose of the survey and the role of the surveyor. They were advised that their responses were completely voluntary and would be treated as CONFIDENTIAL.

III. The survey investigated seven areas of the Mediation Program. The results of the Survey with respect to the seven areas are presented as follows:

1. What was your perception as to what the Mediators were trying to accomplish?

"Keep the matter out of court",  
 "Trying to establish communication between two people that were unable to talk to each other", and  
 "Making me aware of alternatives".

2. Did the Victim Witness Mediator explain or not explain that you could have pursued prosecution or some other option besides mediation?

Twenty-one (21), Explained,  
Two (2), Not Explained, and  
One (1), Does Not Remember.

3. Was the Victim Witness Mediator concerned or not concerned about your health, safety, and general welfare?

Six (6), Very Concerned,  
Eighteen (18), Concerned, and  
Zero (0), Not Concerned.

4. Did the Victim Witness Mediator say or not say to the respondent that it was not okay (illegal) to harass, threaten, or abuse you?

Twenty (20), Did Say,  
One (1), Did Not Say, and  
Three (3), Do Not Know.

5. Has the agreement made between you and the defendant been kept or broken?

Twenty-one (21), Kept,  
Two (2), Broken, and  
One (1), Not Applicable.

Those either broken or not applicable were stated as such because the defendant had left the area.

6. Were you satisfied or dissatisfied with the service offered by the Victim Witness Mediator?

Five (5), Very Satisfied,  
Eighteen (18), Satisfied,  
One (1), Somewhere in Between, and  
Zero (0), Dissatisfied.

- 7a. What is your overall feelings about the mediation process?

"So grateful that it is available. I've continued to use them",  
"Simple and good. It kept his butt out of jail",  
"Just great. We are presently happy and together", and  
"I feel secure knowing help is available."

- 7b. What is your overall feelings about the performance of the assigned mediators?

"Made us feel very comfortable. Pointed out various alternatives",

"Very nice. I could open up and talk to them",  
 "Good to have a man present for my husband", and  
 "Excellent, Super, and Very Positive."

IV. The results of this evaluation reflect that the Mediation Program has amply attained the objectives of the program. These objectives are:

1. Keep the Peace,
2. Settle the problem without repeated police and court intervention,
3. Present the options available to the disputants,
4. Foster compromise through give and take,
5. Formulate the specific behavioral conditions that will lead to a long term solution.

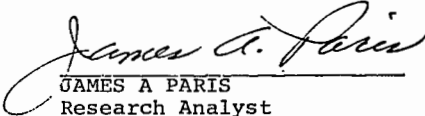
It is clear from the survey findings that these objectives were well defined by the Mediators and understood by their clients. Furthermore, the role of the mediators was made very apparent to the clientele. Therefore, the mediators satisfied the ensuing professional responsibilities:

1. Person in the middle who encourages both parties to find solutions to their problems in a peaceful manner.
2. Person in the middle who does not take sides.
3. Person in the middle who does not place blame on either party.
4. Person in the middle who obtains facts, who identifies feelings and motives, and who provides support.
5. Person in the middle who establishes the process to resolve conflict.

The evaluation indicates the Victim Witness Mediation Program is a workable and desirable process. Client acceptance of the process has been phenomenal. By providing options to the clients and indicating alternatives to their situations, the Victim Witness Mediators are providing a greatly needed service to the community.



V. Recommendations: None of the clients, when asked, had any specific recommendations to make about the Mediation Program. It is the interviewer's opinion that one area of potential improvement or increased importance would be the area of follow-up to the initial mediation session. The Mediation Teams should initiate periodic checks with the victims to make sure the agreement has not been violated. Additionally, the Mediation Teams should insist upon future contacts, initiated by the victims, to monitor the progress of the case.

  
\_\_\_\_\_  
JAMES A PARIS  
Research Analyst

Attached  
One copy sample Questionnaire

*Exhibit No. 23*

EVALUATION OF THE PIMA COUNTY VICTIM  
WITNESS PROGRAM  
THIRD YEAR EVALUATION

*Final Report*

*April 1979*

*Prepared by:* Dwight K. Hunter

*Prepared for:* THE VICTIM WITNESS PROGRAM  
OFFICE OF THE PIMA COUNTY ATTORNEY  
900 Pima County Courts Building  
111 West Congress Street  
Tucson, Arizona 85701

SRI PROJECT 7875



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## I INTRODUCTION

The Victim Witness Advocate Program (VWP) of Pima County began operation in January of 1976. It has evolved from that date into a city-county program, no longer funded by Federal grants. It offers a number of services for the benefit of victims and witnesses of crime, as well as other persons in need of assistance. SRI International (formerly Stanford Research Institute) evaluated the program in 1976 and again in 1977. The 1976 evaluation focused on the project's conformance to its eight objectives. The emphasis of the 1977 study was on determining the cost-benefit ratios of the program.

In SRI's judgment in 1976, the program was meeting two of its objectives in an excellent manner and two others with a very good rating. The program was rated as fair in two objectives and between good and very good for one. Of the eight, one was not rated, since it was impossible for the evaluator to determine, within the evaluation budget, whether or not the objective was being met.

The results of the 1977 cost-benefit study, although some of both aspects were difficult to quantify, determined that the program was cost beneficial. The direct services performed by the program cost more than they returned (in tangible costs values) but the witness notification function of the program provided approximately \$39,132 annual net savings to law enforcement agencies and individual witnesses.

On July 1, 1978, Pima County and the City of Tucson officially assumed total support and responsibility for the program on the basis of its self-sustaining nature and because it is a popular program that appears to be meeting needs not being met by other programs.

SRI's involvement in the third year was originally to determine the pros and cons of county assumption of VWP, but that need has been met by the county and city action of July 1978.

The revised thrust of this assessment then is to document the history of the project, review again the original eight objectives and present some observations and issues regarding victim and witness services in Pima County.



## II CHRONOLOGY OF THE VICTIM WITNESS PROGRAM

The purpose of this chronology is to preserve a record of the key events that transpired in the development of what is essentially a new component of criminal justice in Pima County, to show the order of the evolution and to provide the reader with the background necessary to better understand and assess the impacts of the program. It may also present some insights for persons contemplating development of similar programs in their area.

1975

- January Staff from the Adult Diversion Project (ADP) of the County Attorney's office discussed the need for victim services with the Tucson Police Department. The need was agreed to with the provision that to be effective the services had to be available on a 24-hour basis.
- February The Pretrial Release Program of the County Attorneys office held a training program for 25 volunteers. While the training did not materially enhance their ability to assist persons in crisis, it did help the volunteers maintain an interest in assisting victims in some way. Volunteers and staff of the Pretrial Release Program began assisting the Tucson police on an ad hoc basis for approximately one call every two to three weeks.
- April ADP staff developed and submitted a concept paper to LEAA to establish a victim-witness program in the County Attorney's office. Their concept paper was favorably reviewed, and they were asked to submit an application.
- July The ADP submitted an application in July which proposed the establishment of the office within the ADP in the County Attorney's office.
- October LEAA signed and approved the grant. The Director of the ADP was placed in charge of the new project.
- November A program coordinator was transferred from duties as an evaluation-researcher for the ADP to the program to direct staff, maintain working relationships with other community service agencies and perform other duties.
- December A bilingual secretary was hired to answer victim-witness requests for court information and to perform clerical duties.

1976

- January Two victim-witness advocates were hired to coordinate and provide crisis counseling, social service referrals and follow-up services. They were also responsible for training and supervising volunteers and maintaining good working relationships with local law enforcement agencies. Both had served as volunteers before the program had officially begun.
- A retired police sergeant from the Tucson Police Department worked with the program to coordinate the training of police officers in crisis identification and management.
- February A witness-service advocate joined the staff to keep prosecution witnesses informed of case progress and to maintain liaison with the County Attorney's office.
- A senior-citizen advocate was hired on a half-time basis to provide crisis counseling and to secure follow-up services for senior citizens that were also victims or witnesses.
- A research analyst was hired to collect and analyze program data and to identify collateral services that the program could or should perform.
- July-August Approach Associates from Oakland, California were retained to provide training to 82 officers of the Tucson Police Department and 8 deputies of the Pima County Sheriff's office. The contractors emphasized general interpersonal skill development while the program had wanted more emphasis on identifying and dealing with persons in crisis and how to use social service agencies to help them.
- August WVP co-sponsored a seminar entitled "Crime Prevention through Environmental Design," which was attended by approximately 200 people and was held at a local department store.
- A series of newspaper articles appeared weekly for two months. Also ten half-hour radio programs focusing on victim-witness and related criminal justice topics were created by the program and aired.
- Staff changes--Witness service advocate position was vacant for two months, then a new person was hired.
- A senior citizen advocate position was vacated and not refilled and the trainer position was terminated.
- An individual was hired 50/50 with CETA and Pima Council on Aging funds to assist with senior citizens and other duties.
- December A Deputy County Attorney was assigned to be a liaison with the WVP and to provide legal advice as needed on a 24-hour basis.

1977

- January      The WWP staff presented three papers at an evaluation conference sponsored by the National Institute of Law Enforcement and Criminal Justice of LEAA.
- Victim-Defendant: Relationships in an Adult Diversion Program
  - Pre-Trial Release When the Victim and Witness Live Together
  - The One Man Band.
- SRI's evaluation rated the progress performance vis-a-vis its 8 objectives and made 9 recommendations.
- February     The WWP applied to LEAA for exemplary status. LEAA suggested that consideration for such status be postponed until after the SRI cost-benefit analysis was completed.
- March        Pima County Adult Probation Department announced that it would provide information to the WWP on all cases which involve victims, so that WWP services may be used when appropriate.
- The WWP sponsored a conference in Tucson on "Victim Perspective of Crime," which was attended by 300 people, including representatives of LEAA, Police Foundation, criminal justice professionals, and the public.
- Program staff were asked by University Research Corporation on behalf of NILECJ-LEAA to help prepare training materials for presentation in 10 regional workshops.
- April         The National Conference of Christians and Jews sponsored a statewide conference on victim services in Phoenix. WWP personnel took part in the planning and participated in it.
- May          The court specialist of the LEAA regional office notified Stephen D. Neely, the County Attorney for Pima County that he felt the WWP may not be "doing everything possible to insure maximum witness cooperation with the County Attorney's office." The project's further funding was to be conditioned upon the program either (1) improving witness cooperation, or (2) determining that it is not needed, or (3) determining that it is impossible to do.
- The County Attorney notified the LEAA regional court specialist that in his opinion the new efforts on the part of the staff had already made visible impact in promoting witness cooperation, stating that the prime thrust of the program was to address the needs of the victims and witnesses and that a bi-product will be better witness cooperation with the prosecutor.

1977 (Continued)

- July           The Office of Technology Transfer of the NILECJ notified the VWP that it will defer its consideration of exemplary program status because of its concern about certain operational aspects of the program and the evaluation methodology and findings. Insufficient data had been generated to accurately reflect the program's value as a national model in their opinion.
- The Judicial Specialist of the Arizona State Planning Agency requested that the Court Specialist of LEAA Region IX retire 12 special conditions placed on the VWP grant, citing that they have been complied with or are not feasible to implement.
- A judge asked that the VWP be very clear in their counseling of victims on the rights and services available to them. He indicated that some persons (victims) were coming to court expecting that the judge will rule that restitution or victim compensation will be made. When they do not, in cases where the judges deemed it inappropriate, some witnesses have been disappointed.
- The VWP experimented with a county patrol vehicle (unmarked, radio equipped) on Friday and Saturday nights, when the preponderance of family fights occur in the county jurisdiction. The VWP patrol operated from 1900 to 0300 on those evenings.
- August         Staff change--An experienced victim-witness advocate resigned to return to private practice as a family counselor in Tucson a replacement was hired.
- September     The Crisis I (the VWP patrol car) began operation in Pima County on Friday and Saturday nights from 1800 to 0200. Crisis I, (a VWP patrol car for Tucson Police Department) began patrol on Saturday and Sunday for the same hours as justified by the research on family fights. Each car usually had two VWP staff and an observer from government, business, or the general public.
- October        The VWP submitted third and last grant application to LEAA for discretionary funds of \$76,000 matched by \$12,000 local revenue.
- The VWP administrator participated in a "Help for Victims" program in Grand Rapids, Michigan as a keynote speaker. The Citizen's Committee for Criminal Justice was interested in helping establish a victim program there.
- Leaders of business, government, and academic institutions in Pima County were sent a letter describing the Crisis I patrol program. They were invited to ride along and observe.

1977 (Concluded)

November The VWP requested a no-cost time extension by LEAA to extend their second year grant to December 31, 1977.

Several letters were exchanged between the VWP and LEAA, Special Programs Division in Washington explaining what the program has done to comply with special condition Number 15 (witness services) on the second year grant.

1978

February Staff changes--The Program Director of VWP and the witness services coordinator assumed new positions at the Phoenix Victim-Witness Program as the Director and Assistant Director, respectively.

SRI's second year cost-benefit assessment of VWP concluded that the project provided a net benefit of \$5,600 with witness notification activities showing a net benefit of \$39,132 to the community.

March The National Conference of Christians and Jews held a second, statewide conference on victim-witness programs in Phoenix. VWP personnel attended and participated.

March-May The VWP developed and sent out a victimology survey to a stratified sample of 3,000 households of Pima County, and slightly more than 2,000 households responded.

The VWP Director participated in a conference on victim assistance programs, sponsored by the National Association of Counties.

July Pima County and the City of Tucson picked up the total costs of the VWP program for FY 1979 for \$162,000 and \$34,000, respectively. L (, 74)

July-August Victimology surveys were sent out to an additional 1,000 households with 71% households responding.

Staff changes--Two additional persons (former volunteers) were added to the staff.

The Crisis I (VWP County Patrol) and Crisis II (VWP City Patrol) were combined to patrol Friday, Saturday, and Sunday from 1800 to 0300 hours.

The VWP program provided crisis training to the security force of Pima College.

August The VWP began a Mediation Arbitration Program (MAP) in which disputants were encouraged to participate in mediation with VWP staff to look for peaceful, satisfactory solutions to their conflict.

1978 (Concluded)

- August**            The Circle K Corporation (a convenience store chain with many outlets in Pima County) approved a VWP request for free telephone calls in emergency situations.
- Staff changes--A victim-witness advocate resigned to become an outreach worker in east Los Angeles in a Chicano Community Health Program (a replacement was hired immediately).
- The Assistant Director of the Pima County Diversion Program joined the VWP as a trainer and coordinator of the volunteers and a mediator/counselor.
- The City of South Tucson notified VWP that they would like to avail themselves of the VWP services. VWP agreed to provide the services.
- September**        The City of Tucson concurred with the desire of the VWP to hire an additional clerk.
- The Crisis I and IA patrol was consolidated and went to 7-days per week during the 1800 to 0300 hours. The VWP personnel alternate quarterly between the city and county unmarked cars.
- October**            The County Attorney notified the VWP program that he desired the VWP to assume a greater role in the processing of subpoenas.
- Monthly crisis calls exceeded 100 for the first time since the project began and began a period of significant increased calls for crisis services in excess of 100 calls for the next 5 months.

III ASSESSMENT OF PROGRAM'S CONFORMANCE  
TO ITS STATED OBJECTIVES

The program established seven objectives in its original grant application. These were modified slightly as grant conditions specified by the LEAA prior to grant award.\* In addition an eighth objective was added by project personnel early in the project.

Some of the objectives are "input" objectives in that they specify the achievement of some degree of effort by VWP in getting the program going. Others are "output" objectives, specifying certain outcomes to occur in the community as a result of the program's activities. This section discusses the achievements of the VWP with respect to the eight objectives, and whether or not the objective itself was worthwhile and of value to the community.

The amount of resources available for this analysis precluded an in-depth analysis of program achievements, since the original scope had been to determine the feasibility of the county assuming the program. However, the county made that decision in July of 1978, thus obviating the need for such analysis. Therefore the scope of this project was modified to summarize the project and its impacts and achievements to date.

A. Objective 1: To Determine and Classify the Number of Needs of All Victims and Witnesses Who Come to the Attention of Program Personnel

1. Introduction

VWP maintains confidential client information (CCI) record on all persons that are determined eligible for the program's services.

---

\*In general, the LEAA wanted "quantification" or specificity in the objectives. This meant that in 1976, numbers, percentages, or things that are measurable were to be included in the objective statements.

The CCI form allows the intake worker to identify the need(s) of their clients in approximately 12 categories. Among the needs checked, the staff indicate the relative priority of each.

In terms of frequency of need, counseling is by far the most important need identified for the clients served by the program, followed by "other" (an assortment of non-homogenous needs), case information and housing. The rank ordering according to frequency is shown below in Table 1.

Table 1  
VICTIM AND WITNESS NEEDS DIAGNOSED BY VWP

Type of Need Identified	Percentage
1. Counseling	29%
2. Other	15
3. Case Information	14
4. Transportation	11
5. Protection from harm	7
6. Housing	7
7. Medical Care	5
8. Financial Assistance	4
9. Employment	2
10. Food	2
11. Property Return	2
12. Day Care	1
Total	99%*

\*Error due to rounding

The needs identified for all persons served in the program for the first two and one-half years are shown in Table 2. As can be seen by the comparison of the percentage of the different needs for each year, the ratio among the needs is very stable, not varying more than a few percentage points from year to year.

A more important indicator of relative importance of need than frequency may be the priority affixed to each client's needs by the VWP staff or volunteer responding to the client. Priority is indicated on the CCI form at the initial interaction. The criteria for the rating of first, second, and third priority, etc., are not known, but an analysis



TABLE 2  
CLIENT NEEDS 1976-1978

Classified Needs	1976 Total	Percent	1977 Total	Percent	1978 6 Mo.	Percent	Total 2 1/2 Yrs.	Percent 2 1/2 Yrs.
1. Housing	102	8%	117	6%	55	6%	274	7%
2. Financial	64	5	70	4	18	2	152	4
3. Protection	82	7	122	7	89	10	293	7
4. Counseling	325	26	526	29	296	34	1147	29
5. Transportation	126	10	178	10	108	13	412	11
6. Case Information	219	18	267	14	84	10	570	14
7. Property Return	37	3	22	1	7	1	66	2
8. Medical Care	68	6	89	5	55	6	212	5
9. Day Care	7	1	25	1	7	1	39	1
10. Employment	25	2	31	2	14	2	70	2
11. Food	17	1	58	3	22	3	97	2
12. Other	156	13	340	18	105	12	588	15
Total	1228	100%	1845	100%	860	100%	3933	99%*

\*Error due to rounding

of Table 3 and 4 shows that whenever counseling is checked as a need, approximately 7.1% of the time it is rated as the first priority. Protection from further or threatened harm is rated number one priority in 64% of the cases where protection is listed as the need. Case information appears as the first priority need in only 29% of the instances in which it is identified.

## 2. Number of Needs Identified Per Client

The CIC forms allow the staff to identify approximately 11-13 specific needs of the victims, witnesses or PINA (persons in need of

Table 3

RANKING OF FIRST PRIORITY NEEDS

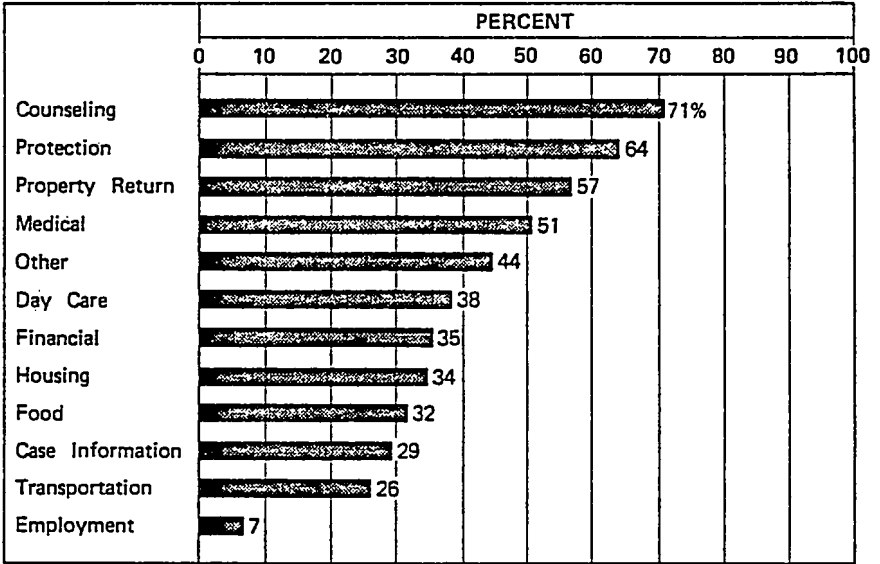
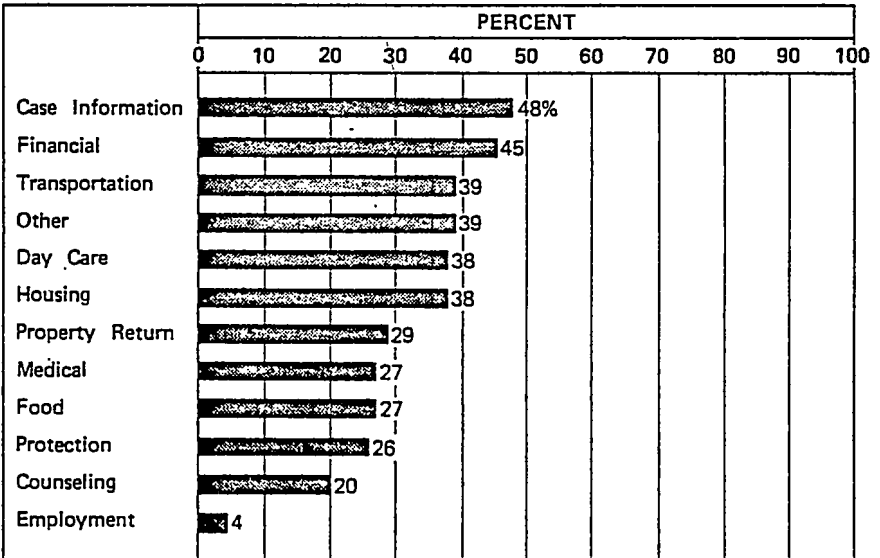


Table 4

RANKING OF SECOND PRIORITY NEEDS



assistance) plus an "other" category.\* The average number of needs per client has held fairly steady over the two and one-half year period, being 1.8 in 1976, 1.64 in 1977, and 1.6 needs per client in the first half of 1978. Some persons may have three or four needs, and occasionally an intake worker will have identified as many as eight needs for a particular client.

### 3. Accuracy of the VWP Needs Assessment

During the first year's evaluation,<sup>1</sup> SRI interviewed a stratified sample of clients to determine among other things how well their perceptions of their need agree with those of the VWP workers. Twenty percent of all persons served between July 1 and October 31, 1977 were queried in a follow-up survey in November 1977. Their responses indicated a high degree of agreement between their perceptions and those of the VWP program workers. Only 9% indicated that their needs were significantly different from those perceived by the program personnel. In view of the expected different perspectives of clients and program personnel as they approach one another, it appears that VWP workers are fairly skilled in either diagnosing the needs or understanding the clients' perceptions of their needs.

### 4. The Nature of Crimes or Other Events Precipitating the Referral to VWP

A review of the case records reveals that clients were discovered by the VWP or referred to them for a wide variety of incidents, many of which are crimes, most of which are serious and for which assistance is needed. Actual counts and a long list of categories for the first six month period from January through June 30, 1978 are shown in

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\*From time to time as new needs began to cluster in the "other" category the VWP has established new categories and discontinued older ones which seemed to have limited activity in them.

<sup>1</sup>Lois P. Kraft et al., "An Evaluation of the Victim Witness Advocate Program of Pima County," SRI International, Menlo Park, California, 1977.

Table 5. As can be seen, family fights dominate the types of cases in which VWP is involved (approximately 36%). Family and non-family fights account for 53% of the cases dealt with by VWP during the first half of 1978.

Approximately 177 cases (41%) are not technically crimes\* and are interesting from a policy perspective, because they point out the degree to which, prior to the availability of VWP, law enforcement personnel in Pima County may have been dealing with persons having serious problems, but ones which the police are not equipped to address from either a role, training, or resource standpoint. As indicated in the needs section cited previously, the VWP also is not the primary provider of many social services† needed by the client. They have assumed a role, for the most part, as a broker: identifying and securing services from other social service agencies. Presumably, their role allows them to take more time than the police can afford to (1) determine the client's needs, (2) refer to social service agencies, (3) act as an advocate for the client in interactions with the social service agencies, and (4) follow up to see if those agencies have met the client's needs.

##### 5. Numbers and Types of Persons Being Served as Clients

Table 6 shows that of the 2,341 persons (not cases) being served by the program during its first 2-1/2 year period, 53% were viewed as being in a crisis situation. However, that ratio of crisis to non-crisis clients has increased from 1976; when crisis cases for victims and non-victims accounted for 38% of the clients. This increased the second year to 50% and for the first six months of 1978 crisis clients account for 74%, which is nearly double the first year ratio, meaning that either a higher proportion of crisis cases are being referred to the VWP or their policies now dictate increased emphasis on crisis cases.

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\* Family disputes, attempted or successful suicide, child abandonment-neglect, mental problems, neighborhood disputes, and death notification.

† Namely housing, medical, financial, food, and employment.

Table 5  
SIX MONTH SUMMARY OF VWP CRISIS CASES (January-June, 1978)

Crime or Incident	January	February	March	April	May	June	Total	Percent
1. Family Assault	14	9	8	5	9	8	53	12%
2. Family Dispute	16	14	18	23	16	17	104	24
3. Non-Family Assault	11	8	7	13	16	17	72	17
4. Rape	8	4	5	4	8	2	31	7
5. Sodomy, Molestation, Exposure	1	4	2	3	4	5	19	4
6. Murder, Attempt, Actual	1	5	1	---	---	1	8	2
7. Robbery	1	5	1	---	4	1	12	3
8. Burglary	3	1	5	5	3	2	19	4
9. Suicide, Attempts, Actual	2	1	4	4	5	3	19	4
10. Larceny	1	1	---	2	---	---	4	.9
11. Vandalism	3	---	2	---	---	3	8	2
12. Hit and Run	1	---	---	---	---	---	1	.2
13. Child Abandonment, Neglect	3	1	1	---	---	---	5	1
14. Mental Problems	1	4	1	4	6	3	19	4
15. Fraud	---	---	2	---	---	---	2	.5
16. Arson	---	---	---	3	1	1	5	1
17. Neighborhood Disputes	---	1	---	---	4	4	9	2
18. Drunkenness	---	1	---	1	---	---	2	.5
19. Homeless, Vagrancy	1	1	1	1	2	1	7	2
20. Kidnap	---	1	---	2	---	---	3	.7
21. Runaway, Missing Person	---	1	---	1	---	---	2	.5
22. Drugs	1	---	---	---	---	---	1	.2
23. Injury Accident	---	2	---	---	---	---	2	.5
24. Death Notification	5	1	2	6	3	3	20	5
25. DWI	1	---	---	---	1	---	2	.5
<b>Total</b>	<b>74</b>	<b>65</b>	<b>60</b>	<b>77</b>	<b>82</b>	<b>71</b>	<b>429</b>	<b>98.5%</b>

Table 6

## CRISIS VERSUS NON-CRISIS CLIENTS

Type of Clients	1976	Percent	1977	Percent	1978*	Percent	Total	Percent
Crisis Victims	159	23%	450	40%	340	62%	949	41%
Crisis Non-Victims	101	15	118	10	62	12	281	12
Non-Crisis-Victims	278	41	473	42	120	23	872	37
Non-Crisis, Non-Victims	142	21	87	8	10	2	239	10
<b>Total Clients</b>	<b>681</b>	<b>100%</b>	<b>1128</b>	<b>100%</b>	<b>532</b>	<b>99%**</b>	<b>2341</b>	<b>100%</b>

\* January through June only

\*\* Error due to rounding

Likewise, Table 7 shows that the percentage of persons in need of assistance (PINA) being served by the program has been cut nearly in half since the first year. In 1976 PINA cases accounted for 26% of the clientele, which decreased to 15% in 1977 and 14% in 1978 for the first six months. Likewise, the program has de-emphasized its services to non-victim witness in favor of direct services of a social service nature. The services provided non-victim witnesses are almost exclusively case and appearance information.

Table 7

## VICTIMS, WITNESSES AND PINA CLIENTS

Type of Clients	1976	Percent	1977	Percent	1978*	Percent	Total	Percent
Crime Victims	438	64%	853	84%	460	86%	1851	79%
Crime Witnesses	65	10	8	1	—	—	73	3
PINA	178	26	167	15	72	14	417	18
<b>Total</b>	<b>681</b>	<b>100%</b>	<b>1128</b>	<b>100%</b>	<b>532</b>	<b>100%</b>	<b>2341</b>	<b>100%</b>

\*The first 6 months only.

In addition the project has provided case information such as (1) case status or outcomes and (2) cancellation of need to appear as a witness to a large number of witnesses and victims as follows:

<u>Year</u>	<u>Total (Persons)</u>	<u>Monthly Average (Persons)</u>
1976	746	62
1977	9,792	816
1978 (First 6 months)	<u>6,841</u>	<u>1,140</u>
Total	17,378	579

6. Is the VWP Achieving This Objective?

This objective is basically an input objective in that it defines the type of records the program should keep and suggests the initial step in dealing with clients, namely to determine their needs. The program has met this objective from the beginning and continues to do so at this time. A review of the CCI's indicates, for the most part, that the individuals completing the forms were very thorough in describing the incidents and circumstances surrounding the clients and in determining in priority order the specific needs. They further detail what steps the VWP worker took and what he/she intends to do to follow up in the future.

B. Objective 2: To Provide the Services Necessary to Meet the Needs of the Victims and Witnesses Who Desire Assistance from the Program

1. Understanding the Context in Which VWP Interacts with Clients

It is important to realize the environment and context in which clients come in contact with the VWP, in order to understand client perceptions. This discussion is not documented in terms of longitudinal studies of the clients before and after their contact with VWP, but is theorized from the (1) socio-economic profiles of clients, (2) case records of the project, and (3) interviews of a sample of clients in the follow up survey referenced above.

When clients are discovered by or referred to the VWP staff or volunteers, they have recently come through some upsetting, sometimes disorienting, and usually negative experiences, that have occurred in rapid succession. It is assumed that these unusual events will tend to color their expectations and satisfaction with the services they receive from VWP. This is illustrated in Figure 1, where it is shown that prior to the occurrence of a crime (or at least the reporting of it) a person's world is the composite of a number of physical, social and other environments and circumstances, and that a full spectrum of attitudes of the individual may be the result of their reactions to the quality of their lives. The major impact of a criminal event (viewed as the first major intervention) may be a number of essentially negative attitudes identified under B. in the figure.\*

The second major intervention that may impact the victim's attitude is their interaction with the law enforcement personnel responding to the problem. Attitudes ranging from relief to fear may result from that interaction. The majority<sup>†</sup> of VWP's clients are referred to the program by the police. Thus, the first agency summoned by the victim, witness or PINA intercedes, but does not provide the service or relief desired. Instead it refers the victim to the VWP.

The third rapid intervention then is the contact and interaction of the VWP program personnel. Regardless of the quality of this interaction, it is the author's view that the clients by this time are carrying along a lot of psychological baggage, gathered as a result of their (1) pre-crime attitudes, (2) their attitudes toward the criminal and the criminal event, and (3) their reactions to their interaction with the police department. These unusual experiences would seem to affect their expectations and perceptions of the VWP representatives.

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\* VWP personnel report that people are often angry, embarrassed, or in shock.

† Sixty-two percent for the first 2-1/2 years.



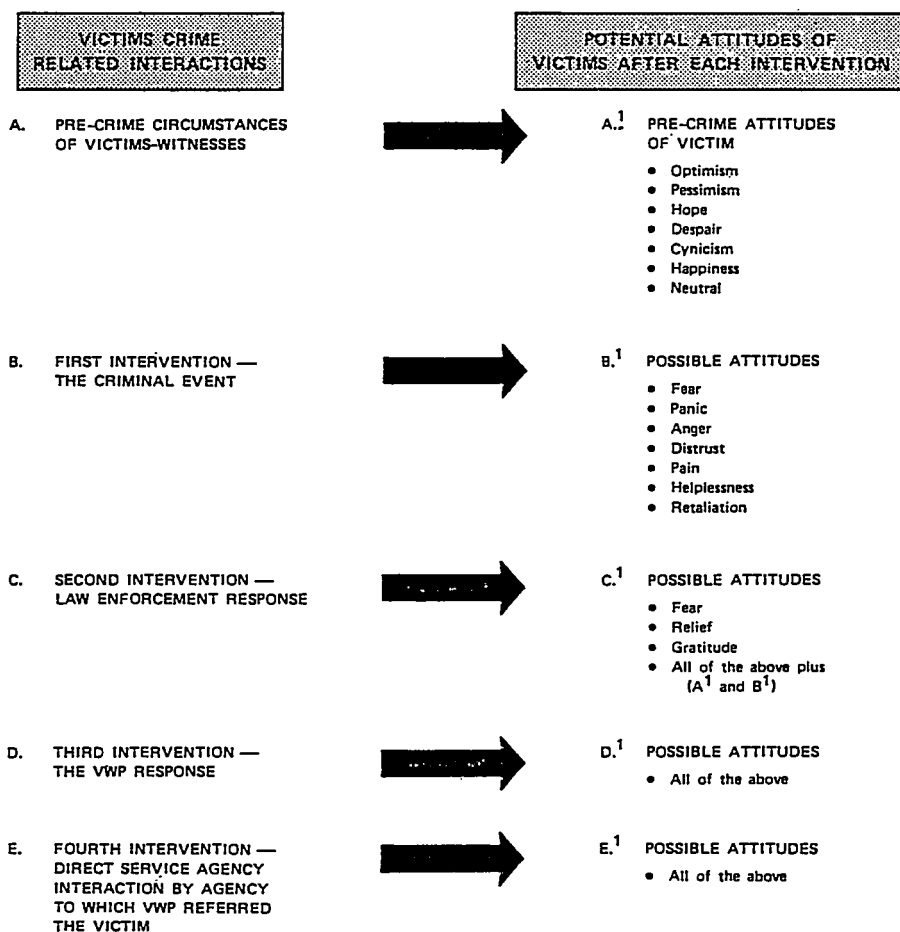


FIGURE 1 DIAGRAM OF FACTORS IMPACTING VICTIM PERCEPTIONS OF VWP

A fourth intervention takes place when the VWP refers the client on to another organization for housing, health care, or other direct assistance.

## 2. Victim-Witness Assessment of VWP Services

There are at least two sources of opinion on whether or not clients needs are being met by the program. They are the clients themselves and the agencies that refer people to the program. With regard to the first group, 115 persons were selected in a stratified sample from the total universe of persons served during the preceding three month period.\* Seventy-eight of those persons (45 crime victims and 33 non-victims) responded in writing or by telephone to SRI's survey questionnaire. Fifty-three percent rated the services of the VWP program as they received them during July, August, and September of 1976 as good (10%), very good (21%), and excellent (22%). Nearly one-quarter (22%) of the respondents had no opinion or couldn't remember, and one-quarter (25%) rated the services as fair (10%) or poor (15%). These responses are shown in Figure 2.

POOR	FAIR	GOOD	VERY GOOD	EXCELLENT	NO OPINION CAN'T REMEMBER
15%	10%	10%	21%	22%	22%

FIGURE 2 CLIENT EVALUATION OF VWP SERVICES

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\* See Lois P. Kraft et al., *ibid*, Appendix B for methodology.

In view of the high probability of the negative environment in which VWP personnel interact, \* a 2 to 1 positive to negative client assessment of the program should be considered a high score. Of the 45 crime victims surveyed, 10 (22%) said they were less likely to report crime again because they were dissatisfied with police handling of their cases. Consequently, it was the second intervention (the police), not the third (VWP that influenced these persons negatively).

### 3. Referring Agency Assessment of VWP Services

In 1976 SRI conducted a survey of a sample of 77 Tucson police officers of various rank to determine their assessment of the VWP program (see Figure 3). This was conducted in October after it had operated for 10 months. Two nearly matched samples of trained and untrained officers† were asked their opinion about whether VWP "is doing a good job of filling those (victim services) needs." Seventy-eight percent of the trained sample and 59% of the untrained stated that VWP was doing a good job (69% overall). Thirteen percent of the trained and 22% of the untrained (17% overall) felt VWP was "not filling those needs."

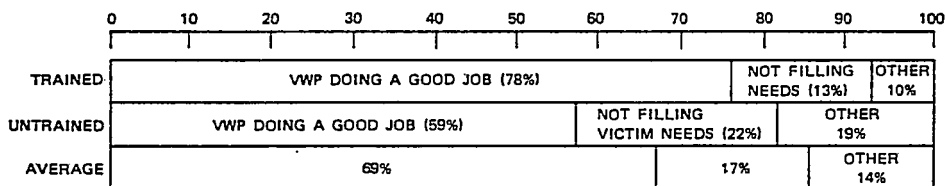


FIGURE 3 POLICE OFFICERS ASSESSMENT OF VWP SERVICES

\* Approximately 53% of the total clients in the first 2-1/2 years were classed as crisis cases, and 79% of the persons were crime victims or witnesses.

† The trained group contained sergeants and lieutenants, while the untrained did not, hence, the untrained were lower in age, seniority, and rank.

The Chi square test reveals no statistically significant\* difference between the trained and untrained groups in terms of their opinion. Thus for all 77 officers the rating of 69% "good job" (the average of both groups) is a valid indicator of the whole group's judgment.

Another indicator of the assessment of the WVP by law enforcement agencies may be the referral rate to the program from law enforcement agencies, being primarily the Tucson Police Department and the Pima County Sheriff's Office. (South Tucson Police Department began participating in September 1978.) Over the 2-1/2 year period, the TPD has referred an average of 37% of the referred cases after accounting for 56% of all referrals from 16% in 1976 to 29% in 1978 with an average of 25% of all referrals for the entire period. Victims or associates and other calls have held fairly steady as a proportion of all referrals (see Table 8 below). No judgments can be made or substantiated that increased or decreased confidence in the program has accounted for these changes.

Table 8  
SOURCE OF WVP REFERRALS

Referring Entity	1976	Percent	1977	Percent	1978	Percent	Total	2 1/2 Year Average Percent
Tucson P.D.	253	56%	330	30%	204	38%	787	37%
Pima County S.D.	72	16	307	28	154	29	533	25
Other CJS	97	21	333	30	131	24	561	27
Victims or Associates	19	5	75	7	18	3	112	5
Other	12	3	62	6	32	6	106	5
Total	453	100%	1107	101%*	539	100%	2099	99%**

\*1 degree of freedom at a 95% confidence level requires a Chi square of 3.84. The Chi square value obtained is 1.688.

\*\*Error due to rounding.

\* One degree of freedom at a 95% confidence level requires a Chi square of 3.84. The Chi square value obtained is 1.688.

The referral rate for both law enforcement agencies over the life of the project are presented in Table 9, where only the number of patrol force and motorcycle officers for each department for 1976-1978 were used to determine the rate of referrals by the police personnel, most likely to refer cases to VWP. The TPD rate increased 45% between 1976 and 1978. The PCSO referral rate jumped 334% during the same period. Whether or not these changes are a result of the satisfaction or dissatisfaction of these agencies with VWP is not discernable, without a more thorough interview of the referring and non-referring officers, which was prohibitively expensive at this time.

Table 9  
LAW ENFORCEMENT REFERRAL RATE

Year	Tucson Police	Pima County Sheriff	Total
1976			
VWP Referrals	253	72	325
Patrol Force	287	227	514
Referral Rate	(.88)*	(.32)	(.63)
1977			
VWP Referrals	330	307	637
Patrol Force	303	227	530
Referral Rate	(1.09)	(1.35)	(1.20)
1978 (1/2 year)			
VWP Referrals	204	154	358
Patrol Force	318	222	540
Referral Rate (Annualized)	(1.28)	(1.39)	(1.33)
Average Referral Rate	(1.08)	(1.02)	(1.05)

\* Referrals per Patrol Officer per Year

C. Objective 3: To Increase the Ability of 80 Officers of the Tucson Police Department and 10 Deputies from the Pima County Sheriff's Office to Identify Victims and Witnesses Who Need Crisis Assistance

1. Discussion

At the beginning of the program, the VWP retained Approach Associates from Oakland, California, to provide training for 82 police officers of all ranks from the Tucson Police Department and 8 deputies from the Pima County Sheriff's Office. As was indicated in the first evaluation, there were some differences of expectations between the VWP staff and the contractors as to what the focus of the training should be. Most of the training emphasized the development of effective interpersonal skills, while the VWP program had expected the training to be more narrowly focused to train officers to recognize persons in need of crisis assistance, to use the services of the VWP program and to be aware of social service agencies in the community that are resources for referring persons to. While the training was never re-oriented to completely fit the programs' expectations, the VWP staff were able to participate in the last week of the training and sensitize the trainees to victim-witness needs and services.

Whether or not the training increased the ability of the trainees to identify persons in crisis is not known, since neither the trainers nor the evaluators determined the basepoint of officer ability before the training was given. Nearly one-half of the trainees were asked by SRI to assess the value of the training, in terms of its contributions to their understanding of (1) victimology theory, (2) crisis identification, (3) crisis management, and (4) cultural differences. On a scale of 1 to 5, with 5 being a "most valuable" rating, the 40 trainees' averaged judgment for the overall training was a rating of 3.79. The training aspect that was most responsive to this objective, that is, the ability to identify a person in crisis was rated at 4.08 out of 5.

Another indicator of officer's interest in helping persons in crisis is the degree to which they increased their referrals to VWP subsequent to their receiving the training. As a basepoint for the 38

trainee respondents, 16 (42%) of the respondents had not used the VWP program prior to the training. However, 17 (45%) had used the program to a limited extent and 5 (13%) had been heavy users of the program prior to the training. Of the 16 non-users, 10% had started using the services, after they received the training. Of the 17, who were limited users prior to training, all indicated that they had increased their use of the program. Five officers stated they were heavy users of the program before and after the training. Thus 27 of the officers or 71% increased their use of the program after training.

Of course, increased use of the program does not necessarily mean that they have increased their skill at identifying persons in crisis.

## 2. Did the Project Achieve This Objective?

There is no empirical evidence that the project has or has not achieved this objective in a literal sense. The pre-program abilities of the officers to "identify victims and witnesses who need crisis assistance" is not known and would have been very difficult and expensive to determine. The best indicators might have been subjective observations of the trainees in a pre- and post-training simulation of different kinds of crises. The observed gain or change in their abilities could then be documented, at least for the short run.

The objective was probably not as useful as it could have been. If the intent was for the program to increase the awareness of the law enforcement agencies and to obtain their cooperation in the VWP programs, the objective should have been restructured to reflect that. Again the basepoint of how many of the types of cases now appropriate to the VWP charter were being handled by the police, prior to creation of the program in 1976 is not known. However, the referral rates from law enforcement agencies between 1976 and 1978 have increased by 105%, with the largest increase coming from the Sheriff's Department (111%).\*

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\* Computed by dividing number of cases referred by number of available patrol officers, including the motorcycle force for 1976 and 1978.

Whether or not the skills of 90 officers have been increased as a result of the project's efforts is not known, but the tendency of the patrol officers to refer to the program has increased dramatically since 1976, after the program had been in operation for one year. The increase from the base year (pre-project) of 1975 is probably higher, since a number of the officers were made aware of the program during 1976, the first complete year of the program.

D. Objective 4: To Increase the Number of Referrals by Law Enforcement Officers and Deputy County Attorneys of Victims and Witnesses to Crisis Intervention

1. Discussion

As was described in the previous section, the referral rate of law enforcement officers to the program has increased significantly since the end of 1976, the first full year that the VWP existed. While the objective indicates the number should increase, the referrals rate of officers is probably a better indicator of the use of the program, and both the number and rate of referrals from law enforcement have increased significantly from the first year experience.

Regarding the referrals from county attorneys, the first year evaluation revealed that the county attorneys were only referring cases to the VWP at a rate of approximately 2.68 cases per attorney per year. An examination of the month-to-month referrals during 1976 showed that the attorneys were very slow in determining to use the program. Their referral rate began to climb late in 1976, and while their referrals are not separated out in the normal reporting systems of the project, a special study performed by the project staff was done in 1977. This analysis revealed that the attorney referral rate was approximately 10.45 referrals per attorney per year, which is an increase in the referral rate of 290%, since 1976.

2. Is This Objective Being Achieved?

The number and rate of law enforcement referrals to the program have increased significantly during the 2-1/2 year period of the project.



Though not included in the time frame of this analysis, it appears from early reports for the months of July through December of 1978, that the referral rates, especially for crisis cases are continuing to rise, but, at an even higher rate than that of the first 2-1/2 years.

The number and rate of county attorney referrals were also rising for the first 21 months of the project, but lack of records for the 9 months from September 1977 through June 30, 1978, make it impossible to determine if these increased referral rates have held up during the last nine months.

E. Objective 5: To Train at Least 75 Volunteers to Provide Victim-Witness Assistance

1. Discussion

The program has conducted approximately one volunteer training session per quarter since the start of the project. The training sessions consist of one night per week for three hours, lasting approximately 8 weeks. The training utilizes the ABC\* method predominantly.

The program has experimented with different training methods. It seeks specific trainees that are already known to program personnel. These persons may be personal acquaintances or professional associates from the agencies providing referrals to VWP or receiving clients from them. In 1977 the trainers experimented with an intensive, one day crash course and then placed the trainees with VWP staff for on-the-job training. Because of a few incidents and the concern of law enforcement agencies that untrained persons were participating in case situations that might involve high risks of personal or emotional injury, the trainers have returned to the original training design.

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\*A method developed by Sidney Wolfe, which seeks to place the responsibility of dealing with a crisis on the victim, after the counselor has administered psychological first aid. The ABC is derived from the three generalized steps of (a) achieve contact, (b) boil down problem, and (c) cope through inventory of what things the victim can do.

It is estimated\* that as many as 30 volunteers per quarter or 300 volunteers have taken the training program since January of 1976. Approximately 70% of the persons finishing the training usually express an interest in working for the project as volunteers, and applications and background checks are secured by the project staff for them.

The individual involvement of the volunteers in the program depends upon their interest, flexibility of hours, and their compatibility with the staff and other volunteers. There is a core of dedicated volunteers (estimated to be about 12) that started with the program and have continued to be active. There is a constant turnover rate of approximately 25% due to the tiring or burnout experience undergone by volunteers involved in what amounts to a part-time, uncompensated† job, that conflicts with other activities that one might want to pursue in their spare time.

The volunteers tend to be young people, students, and/or persons that are seeking employment and wishing to gain some experience. Since the program began, 8 of the staff positions have been filled by persons that had previously been volunteers.

## 2. Has This Objective Been Met?

The project has far exceeded the input objective of training 75 volunteers. A more complete objective might have dealt with the roles of volunteers and the contributions expected from them. But the volunteer aspect of this project has accomplished several interesting things for the program. The first, mentioned above, is that it has provided a recruiting pool of persons that are aware of the program, are trained, and whose capabilities are known, before they are considered as full-time staff. In this way, the volunteerism is similar to the reserve law enforcement programs maintained by many law enforcement departments.

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\* By VWP staff, since records have not been kept on this aspect of the program.

† In terms of salary or wages.

Another impact of the volunteer component is the significant contribution of manpower and public service provided by the volunteers. Program records reveal that volunteers contributed 702 hours split equally between clerical and crisis/non-crisis work in 1976. They contributed 5,983\* hours in 1977 and 2,630 hours for the first six months of 1978. If one uses an annual figure of 1,920† available work hours for a full-time staff, the volunteers have contributed the equivalent of approximately three full-time staff‡ per year for 1977 and 1978.

The program uses a unique approach to obtaining institutional awareness and non-financial support of other agencies by recruiting volunteers from some of the social service agencies to whom the VWP refers clients. The intended impact of this is that: (1) persons in those agencies will be knowledgeable of the VWP program from first hand experiences, (2) strong professional and organizational linkages may develop between the staffs and their organizations, (3) improved coordination and focus upon the victim as a single person with multiple needs may result, and (4) referring or referee social service agencies of the VWP may alter their programs to more nearly fit the needs of the victims and persons in need of assistance.

F. Objective 6: To Increase by 10% With a Three-Year Period the Apparent Willingness of the Public to Report Crime in Pima County

1. Discussion

This was an ambitious objective both in terms of the responsibility it places upon a single, relatively small project and the

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\* Only a small portion of which are clerical.

† Multiply 52 weeks by 40 hours minus 80 hours of vacation and 80 hours of sick leave.

‡ If one makes the assumption that the quality of service provided by the trained volunteers is very close to that of the full time staff. It could be stated that the VWP is receiving the benefit of approximately \$45,000 per year in free professional services (\$7.60/hour x 5,983 hours in 1977 and \$8.44/hour in 1978). Volunteers have the impact of nearly three full-time staff in terms of hours contributed.

measurement problems of determining changes in public attitudes and their causal connection with the VWP. During the first evaluation, a stratified sample of victims were contacted in October 1976 to determine their willingness to report crime, after their experience with the VWP program and the criminal justice system in Pima County. Table 10 shows that their "willingness" to report crime in the future regressed from their experience. Respondents of this very small sample of ex-victims indicated that 2% were "much more likely" and 7% were "somewhat more likely" to report, but that 22% were "less willing" or "would not" report crime in the future. The net change in "apparent willingness" by those having gone through the experience is a -13%.

Table 10  
WILLINGNESS OF EX-VICTIMS TO REPORT CRIME-1976

Category of Attitude	Number	Percent	Change in "Willingness"
1. Persons who would report again	30	68	No change
2. Much more likely to report	1	2	Increase
3. Somewhat more likely to report	3	7	Increase
4. Less likely to report	9	20	Decrease
5. Wouldn't report	1	2	Decrease
Total	44	99	

Blame or credit for these changes in attitude cannot be attributed to the VWP program, since those that increased or maintained their willingness to report cited "appropriate role of the police" and "the right" thing to do" as the reasons they would report again. Those that indicated a reduced desire to report in the future did not cite the VWP victim-witness program, the courts, the prosecutor, defense or other aspects of the criminal justice system. Instead the major reason they would report again is that they didn't like the outcome of their case and laid the blame for those results upon the police.

## 2. Pima County Victimology and Attitude Study

In early 1978, the VWP designed a stratified survey of 3,000 households in Pima County to determine the degree of unreported crime and household attitudes regarding crime and criminal justice in Pima County. Approximately 2,102 households responded and their responses are summarized herein.\*

### a. Actual Amount of Crime (According to Respondents)

Figure 4 shows the amount of unreported crime when figures for the six month survey period are annualized and compared with the Uniform Crime Reports for Pima County for 1977. The time periods of course do not match,<sup>†</sup> but provide an approximate time frame for comparison. This figure suggests some of the more serious, fear inducing crimes, such as assault, robbery, and rape are severely under reported.

### b. Percentage of Persons Reporting the "Last Crime"

A question in the survey asked if the police had been notified the "last time" a crime had been committed against a member of the household. Fifty-one percent stated that they had not reported the last crime, while 49% had.

The 129 nonreporters were asked why they had not reported the last crime that occurred to a member of their household. They were given 11 choices for reasons and were asked to select their first choice, second choice, and so on. They marked 197 responses. Table 11 shows the results. "Nothing would be done" and "not important enough to report" were the most frequently marked reasons for not reporting the last crime.

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\*The VWP obtained an additional 1,000 responses from another sample in July-August of 1978, which have not yet been analyzed.

<sup>†</sup>The period of time reported on by the survey respondents was the last 4 months of 1977 and the first two months of 1978. The six months were doubled and then compared with the 12 month reported crimes of the UCR for calendar year 1977.

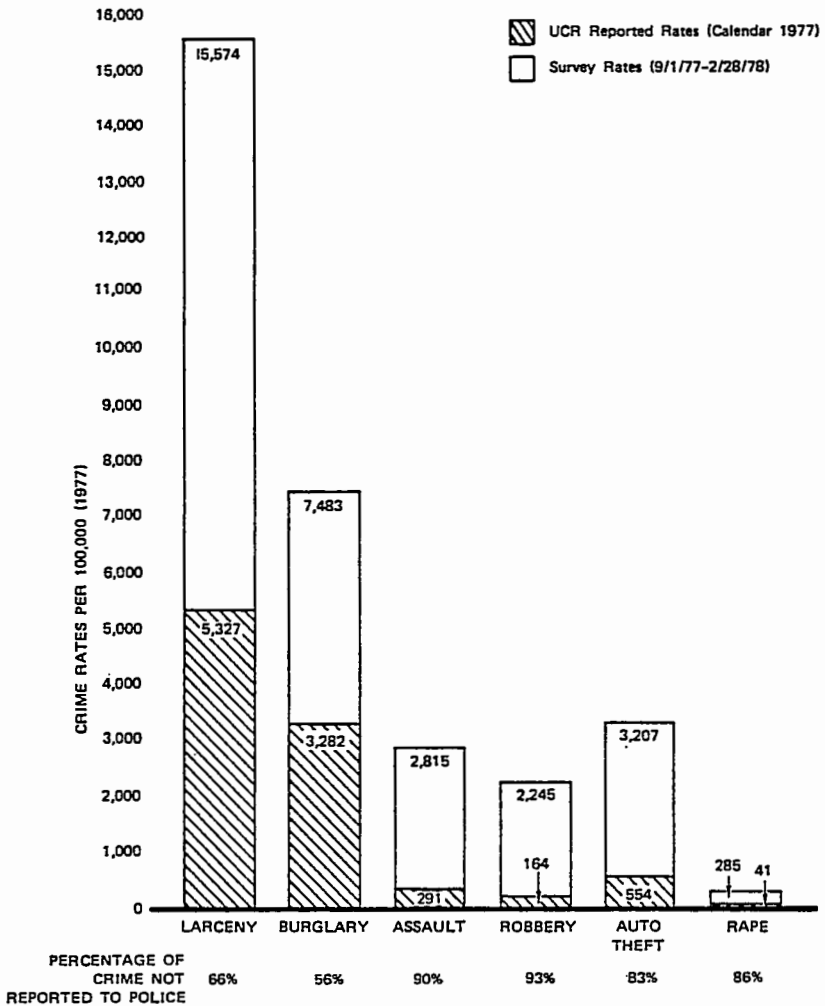


FIGURE 4 PIMA COUNTY SURVEY CRIME RATES VERSUS FBI REPORTED CRIME—1977

Table 11  
 REASONS FOR NOT REPORTING THE MOST RECENT CRIMES  
 OCCURRING TO A FAMILY MEMBER

Possible Reasons	Reasons Given in Order by Respondents				Total Reasons	Percent of All Responses
	1st Choice	2nd Choice	3rd Choice	4th Choice		
1. Nothing would be done	51*	7			58	29
2. Not important enough to report	34	23	1		58	29
3. Handled it myself	24				24	12
4. Other	10	6	6		22	11
5. Not a police matter	5	3	4	1	13	7
6. Would take too much time	2	4	2	1	9	5
7. Don't know how or where to report crime	2	2			4	2
8. Fear of retaliation	1	2	1		4	2
9. Too busy		1		2	3	2
10. Afraid of police investigation	1				1	1
11. Afraid of prosecutor's questions			1		1	1
<b>Total Responses</b>	<b>130</b>	<b>48</b>	<b>15</b>	<b>4</b>	<b>197</b>	<b>101**</b>

\* Number of respondents that checked this as first reason.

\*\* Error due to rounding

c. Citizen Perceptions of Why Crime is Not Fully Reported

Selecting from a forced choice list of 10 reasons, plus an "other" category, 1,943 respondents were asked why they think people don't report many of the crimes that occur. Of the 5,419 responses given, 19% said nothing would be done about the crime, 17% cited fear of retaliation, 15% stated it would take too much of their time and 12% stated crime must not be important enough if people didn't report it. The rest of the results are displayed in Table 12.

d. Citizen Confidence in Criminal Justice Agencies

As was shown earlier 22% of the ex-victims who were assisted by the VWP program in 1976 indicated they were less likely to or would not report a crime again, and the reason given was that they were dissatisfied with the police handling of their case.

In the VWP survey, 2,102 households were asked to rate the 13 state and local agencies providing criminal justice services in the county. Their responses for all but corrections agencies are shown in Table 13. It is interesting that the law enforcement agencies receive a much higher rating than do the other components of the system especially the courts. Also a much higher percentage of the public appear to have an opinion regarding law enforcement than they do of the other components. The average between the two police agencies is approximately 17% that had no opinion on their performance, while the no opinion percentages for prosecution, courts, and defense range from 31% to 42%.

4. Has the Project Achieved This Objective?

The three year period has not yet expired, but there is no evidence that the willingness of the public to report crimes has changed as a result of the project activities. Since no victimology studies were accomplished before the project commenced, there is no basepoint with which to compare. The survey performed by the project in 1977-1978 is very informative for determining how much crime is reported and why crimes are not reported, but without a basepoint, the amount of change,



**Table 12**  
**REASONS WHY RESPONDENTS FEEL MANY CRIMES ARE NOT REPORTED**

Possible Reasons	Reasons Given in Order by Respondents					Total Reasons	Percent of all Responses
	1st Choice	2nd Choice	3rd Choice	4th Choice			
1. Nothing would be done	942	77		2		1,021	19%
2. Afraid of retaliation	449	442	28	2		921	17%
3. Would take too much time	72	304	339	99		814	15
4. Not important enough	101	332	176	30		639	12
5. Afraid of prosecutor's questions	31	118	263	167		579	11
6. Don't know where or how	47	56	109	234		446	8
7. Afraid of police investigation	69	179	85	5		338	6
8. Too busy	4	33	113	102		252	5
9. Handle problem themselves	224					224	4
10. Not a police matter	4	15	43	54		116	2
11. Other		14	25	30		69	1
<b>Total Responses</b>	<b>1,943</b>	<b>1,570</b>	<b>1,181</b>	<b>725</b>		<b>5,419</b>	<b>100%</b>

Table 13  
PUBLIC RATING OF PIMA AREA CRIMINAL JUSTICE AGENCIES

Criminal Justice Agency	Very Good	Above Average	Average	Below Average	Very Poor	No Opinion	Number of Households Rating
1. Tucson Police Department	18%	19%	45%	5%	2%	12%	1,954
2. Pima County Sheriff	12	14	42	10	2	21	1,916
3. County attorney	9	14	34	6	2	35	1,918
4. City attorney	6	9	37	7	2	40	1,895
5. Public defender	6	9	33	7	3	42	1,890
6. City court	3	5	38	12	7	35	1,907
7. Justice courts	3	5	34	11	7	40	1,883
8. Juvenile court	5	8	25	18	13	31	1,891
9. Superior court	5	9	34	11	6	36	1,882
<b>Average</b>	<b>7.4%</b>	<b>10.2%</b>	<b>35.8%</b>	<b>9.7%</b>	<b>5.0%</b>	<b>32.4%</b>	

if any, that has occurred is not discernable, let alone attributable to the VWP.

What is fairly clear is that this objective is probably not achievable for the program for a number of reasons. The first is that as 22% ex-victims expressed, they are less willing to report crime in the future, not because of anything the VWP did or didn't do, but because of their displeasure with the outcome of their cases. Admittedly this is a small sample, but these are persons that are probably more aware now of how the system works than the general public, and the net difference in gainers and losers (in terms of willingness to report) is a 13% loss in willingness from that sample.

The VWP survey demonstrates how complicated are the perceptions of the general public on reporting or not reporting crime. Of the 131 households that indicated that they did not report the last crime that occurred to someone in the household, 29% said the reason was that it was useless to report since nothing would be done about it. A same percentage of households said that the crime was not important enough to report, and 12% said that they handled the matter themselves. These three responses account for 70% of the nonreporters responses.

What can or should the VW program do to offset these public attitudes? How can VWP assure the public that if they report a crime something will be done about it? They are not responsible for investigating crimes, charging or trying suspects or rehabilitating offenders. The survey was not conducted in such a way that household reasons for not reporting could be correlated with the type of crime that occurred. Some larcenies or small loss burglaries may account for the high percentage of "not important enough to report" responses. If close to one-third of the crime victims feel the event is not important enough to report, can or should the VW program attempt to convince them that it should be reported?

Exactly how the crime victims "handled it myself" is not revealed in the survey. If the assumption can be made that these crimes were not handled in an illegal manner, then should persons who have

taken care of their own affairs be encouraged to request aid from the public agencies?

This objective was inappropriate for the VWP because it is substantially beyond the ability or responsibility of the program to accomplish by itself. Some of the reasons cited by the non-reporters are ones that the project can and does deal with, such as lack of knowledge of how and where to report a crime and fear of retaliation, but the percentage of the nonreporting attributable to these two reasons is only 25% of the total.

G. Objective 7: To Increase by 20% Within Three Years the Willingness of the Public to Assist in the Prosecution Function of the Criminal Justice System

1. Discussion

The monthly reports of the county attorneys office were scrutinized to determine reasons for disposition for 1975 (pre-project), 1976-1977 and 1978. Of particular interest was the dismissal rate of cases where persons refused to cooperate in criminal cases. The results are shown in Table 14.

The overall dismissal rate of all cases per year has dropped slightly from 40% of all cases disposed of in 1975 to 35% in 1978 and has averaged 37% for the 4 year period.

The percentage of cases disposed of through pre-trial restitution\* each year is very small, but has increased from 3% to 9% since 1975 for a yearly average of 4% of all dismissed cases.

The percentage of victims or witnesses not available<sup>+</sup> to testify increased slightly from 2% to 5% from 1975, averaging 3% per year.

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\*Suspects have paid \$18,890, \$51,274, \$36,355, and \$63,701 in a pre-trial restitution to victims for 1975, 1976, 1977, and 1978, respectively, for a total of \$170,220.

<sup>+</sup>Moved away, deceased, in the service, and so forth.

Table 14

## VICTIM-WITNESS RELATED DISMISSALS -- 1975-1978

A. Case Outcome	1975	1976	1977	1978	Total
1. Cases disposed of	2,291	2,367	2,413	2,278	9,349
2. Cases dismissed	927	825	889	788	3,429
3. Percentage dismissed	40%	35%	37%	35%	37%
<b>B. Reasons for dismissed cases</b>					
a. Diversion Percentage of dismissed cases	228 (25%)	148 (18%)	117 (13%)	154 (20%)	647 (19%)
b. Plea bargaining Percentage	99 (11%)	162 (20%)	127 (14%)	96 (12%)	484 (14%)
c. Victim-witness refusal Percentage	23 (2%)	21 (3%)	43 (5%)	39 (5%)	126 (4%)
d. Victim-witness unavailable Percentage	21 (2%)	25 (3%)	35 (4%)	40 (5%)	121 (4%)
e. Restitution made Percentage	32 (3%)	23 (3%)	20 (2%)	68 (9%)	143 (4%)
f. Other* Percentage	524 (57%)	446 (54%)	547 (62%)	391 (50%)	1,908 (56%)
g. Total dismissed cases	927	825	889	788	3,429

\*Not affected by victims or witnesses.

It was surprising to find that in 1975 (pre-project), only 2% of all case dismissals were because a witness refused to testify. The refusal rate more than doubled by 1977, but it was still a very low percentage at 5%. In the four year period studied, only 126 cases out of 3,429 or 4% were dismissed, because of witness refusal to cooperative.

The objective refers to the "public's" willingness to cooperate in the prosecution function of the criminal justice system. The meaning of this term, when the objective was framed at the beginning of the project

was that the public were specific individuals, that had either been victims or witnesses of crime, not the general public. In other words, those persons that the prosecutors felt were needed to document and strengthen the state's cases were the target group referenced in the objective.

2. Was This Objective Achieved?

The answer to this question is no, since the refusal rate of witnesses doubled from 2% to 4% of all dismissals. However, the rate for cases dismissed because the witness(es) were unavailable also doubled during the 2-1/2 year period.

While the project did not achieve this objective, the failure to do so is not very significant from a practical standpoint, because the number of cases dismissed for noncooperation is so low. For instance, as is shown in Table 12, 23 of 927 cases (2.48%) were dismissed because of witness refusal in 1975. A 20% increase in cooperation would have meant a 1.98% refusal rate by 1978. If the 20% increase had been achieved for each year it would have meant only 5 more cases in 1976, 25 in 1977, and 22 in 1978, in which witnesses would have cooperated.

It is not at all clear that WWP can materially increase the willingness of witnesses to cooperate. No research has been done in Pima County to document the reasons why some witnesses won't cooperate. It can be speculated that some of the reasons may be the same as for why some Pima County residents in the victim survey didn't report crime, namely, (1) fear of retribution, (2) fear of prosecutor's questions, or (3) would take too much time, among others.

H. Objective 8: To Educate the Public and Criminal Justice Personnel in Pima County About the Problems Faced by Victims and Witnesses and to Increase the Knowledge of the Public About the Criminal Justice System

1. Discussion

Certainly the VW program has undertaken a number of activities aimed at educating the public and criminal justice personnel in Pima County to the problems faced by victims and witnesses and the workings of the criminal justice system. The specific accomplishments in terms of papers developed, radio and television presentations, conferences, seminars, and pamphlets were documented in the first evaluation, and while the program has de-emphasized this aspect of the program during 1977 and 1978, their accomplishments to date are impressive. On an on-going basis pamphlets on understanding the criminal justice system and what services are available for victims and witnesses are sent to persons that are subpoenaed to appear as witnesses.

The above activities are inputs of resources and direction aimed at achieving the objective, but it is difficult to determine to what degree the public and criminal justice personnel are educated or more educated because of the project's activities. However, the citizen survey referenced earlier does shed some light on the general public's attitude about the needs of victims and witnesses of crime. One question in the survey asked, "Should the victims of crimes be provided with any special services to help them recover?" The 1,919 respondents were given a choice of four responses, the results of which are shown as follows:

263	14%	Yes, even if more personnel and funds are required.
1,091	57%	Yes, but only if no additional money is spent.
473	25%	No, but they should be allowed to get all the social services already available.
92	5%	No, since giving victims any special services results in their being more willing to cooperate with the police and the prosecutor.

The question is clear, but the response statements are unclear and heavily biased to costs of service as the criteria for helping the victims of crime, but not withstanding this the responses could be interpreted as saying that 71% of the respondents favor special services to victims, even though the majority don't wish to spend additional tax moneys in doing that.

On related questions the majority (55%) of the respondents stated that witnesses should be reimbursed at their existing wages for the time they spend in court. Another 24% felt that only parking and lunch money should be provided.

## 2. Has This Objective Been Achieved?

It is impossible to tell whether or not the public and criminal justice personnel are becoming educated on the problems and needs of the victims/witnesses. Certainly the project has succeeded in raising the subject in the popular media as well as in specialized printed or verbal presentations, but the receptivity of the intended audiences and the degree to which the imparted information is inculcated into their attitudes and knowledge base is unknown at this time, particularly since baseline data was not established before the project began operation.



## IV ASSESSMENT OF VWP BY SOME COMMUNITY LEADERS

In an effort to determine how the project and the victim witness movement it represents are being received by the criminal justice infrastructure of the Tucson area, SRI contacted (by telephone) a cross section of public and private agency leaders. A series of purposely general questions were developed and administered in an effort to determine the project's acceptance by the public and private agencies with whom they interact.

SRI chose three classifications of respondents, (1) local government leaders, (2) social service agency administrators (groups to which VWP refers or from which their referred clients come) and (3) others, including business and media representatives. The specific agencies or offices are as follows:

- (1) Government Leaders
  - (a) Sheriff's Office Pima County
  - (b) County Attorney's Office
  - (c) Pima County Board of Supervisors (2 persons)
  - (d) Tucson City Council
  - (e) Tucson Police Department
  - (f) Public Defender's Office
  - (g) Pima County Adult Probation
- (2) Social Service Agency Heads
  - (a) Tucson Center for Women and Children
  - (b) Salvation Army Family Services
  - (c) Pima Council on Aging
  - (d) Child Protective Services
  - (e) Legal Aid
  - (f) Information Referral Service
  - (g) Casa de Los Ninos
  - (h) Food Bank

- (3) Others
- (a) First National Bank of Arizona
  - (b) Radio Station KHYT
  - (c) Arizona Daily Star

A. Summary of Responses

The summary of responses by the three groups are presented below with cumulative responses totaled and percentages calculated. In almost every instance, the chief executive responded for the agency.

1. How long have you known about the VW program?
  - Government leaders (8 responses)
    - 2.8 years average
  - Social service agency heads (8 responses)
    - 2.2 years average
  - Others (3 responses)
    - 3.0 years average
  
2. How much do you know about the services of the VW program?
  - Government leaders
    - 7 - a great deal
    - 1 - some
  - Social service agency heads
    - 3 - a great deal
    - 5 - some
  - Others
    - 2 - a great deal
    - 1 - some
  - Cumulative
    - 12 - a great deal (63%)
    - 2 - some (37%)
  
3. How well do they perform their functions?
  - Government leaders
    - 3 - excellent
    - 4 - good
    - 1 - less than average
  - Social service agency heads
    - 5 - excellent
    - 3 - don't know

- Others
  - 2 - excellent
  - 1 - don't know
- Cumulative
  - 10 - excellent (53%)
  - 4 - good (21%)
  - 1 - less than average (5%)
  - 0 - poor (0%)
  - 4 - don't know (21%)

4. How much of an impact have they had on criminal justice?

- Government leaders
  - 2 - a great deal
  - 1 - significant
  - 1 - some
  - 4 - don't know
- Social service agency heads
  - 2 - significant
  - 1 - some
  - 5 - don't know
- Others
  - 1 - a great deal
  - 2 - don't know
- Cumulative
  - 3 - a great deal (16%)
  - 3 - significant (16%)
  - 2 - some (11%)
  - 11 - don't know (58%)

5. How much of an impact have they had upon community life in Pima County?

- Government leaders
  - 4 - significant
  - 2 - some
  - 2 - don't know
- Social service agency heads
  - 2 - significant
  - 2 - some
  - 4 - don't know
- Others
  - 1 - significant
  - 12 - some
  - 1 - don't know

- Cumulative
  - 0 - a great deal (0%)
  - 7 - significant (37%)
  - 5 - some (26%)
  - 7 - don't know (37%)

6. What additional functions should VWP perform?

- Government leaders
  - Achieve more visibility
  - Take more on-scene calls
  - Implement ideas on crime prevention
  - Expand victim services
  - Act as a source of information for callers
  - Expand their base of services
  - Expand mediation services
  - Can't do more without more resources
  - More services in the area of child and spouse abuse
  - Do more public relations
  - Provide monetary compensation to the victim
- Social service agency heads
  - Rewrite laws regarding domestic violence
  - Publicize the needs and inequities of criminal justice
  - Expand rape counseling services
  - Extend mediation to home and neighborhoods
- Others
  - Babysitting
  - Transportation to court for witnesses
  - More community education in preventing victimization
  - Telephone follow-up on victims
  - Provide for restitution

B. Conclusion

Even though the number of persons interviewed was relatively small, the respondents represent the majority of public and private agencies in the Tucson metropolitan area that interact with the project and maintain linkage relationships with it.

Earlier SRI evaluations noted that the project, even though small in terms of numbers of full-time staff, participated in a number of public relations and community education activities, such as newspaper and radio features talk shows, conferences, workshops and brochures development. These activities coupled with the fact that the local governments structure in the area is uncomplicated may contribute to the high degree of awareness of the project and its role and performance in that 63% of the persons polled stated that they knew "a great deal" about the program and its activities.

Approximately 74% of the respondents rated the Program's performance as good or excellent. Only 21% stated they did not know the quality of the services provided.

In terms of the two "impact" questions, the respondents were more willing to judge the impact of the project on the community than on the criminal justice system, with the "don't know" responses being 37% and 58%, respectively.

In response to the question regarding additional functions that the project might undertake, a number of new functions were mentioned, but also a strong sentiment was exhibited that the program should be given additional resources, so that it could expand its present services. The opposite question was asked also with respect to which current functions the program should discontinue, but only one suggestion was given in response.

The early intent of the LEAA grant program and one that has persisted in subsequent re-authorizations since 1968 is that the federal funds were to be used as seed money, that if the funds could be used to start innovative programs and perhaps demonstrate their value, then state and local general purpose budgets might pick them up and operate them as part of the criminal justice and related systems. In the case of the VWP this has happened, with the City and the County picking up the total funding for the current budget year.

In the beginning, the program was conceived by persons from the diversion side of the county attorneys office, which conceptually might have confused criminal justice professionals as to the motivations and purposes of the program. For instance, law enforcement officers interviewed by SRI in 1976 expressed some fears that the VWP staff and volunteers were social workers who didn't understand law enforcement work and were likely to get in the way or hinder the officers. The program worked hard at overcoming this perception and gaining acceptance by taking many time consuming and difficult cases over from the police and resolving them satisfactorily.

An indicator of the respect gained from law enforcement is that radio equipped cars from both the city and the county have been provided to the program, so that they can patrol for opportunities to assist victims and other persons in need. Both departments have granted permission for program personnel to have portable radios and use their frequencies for transmission.

The rate of referrals from law enforcement is also increasing dramatically, indicating that the officers are relying upon the program more and more to take care of difficult and sometimes delicate duties.

The interaction of VWP with law enforcement presents an interesting study of the role of law enforcement. In the late 60's and early 70's, there was considerable sentiment that police officers should perform more social service functions, since (1) they are the prime "finders" of persons with social, mental, and emotional problems, and (2) the police find these persons in hours when nearly all social services agencies are closed. This idea was not palatable to many police officers who were adamantly opposed to being classed as social workers. The family crisis programs introduced in that period were not sold to police, on the basis of providing social services to troubled families. Instead, the selling point for police was that trained officers dealing with family disturbances were less likely to be injured than were the untrained.

The Pima County program has emerged as a new agency performing a social service role on behalf of the police, and (1) the police are still the chief finders, (2) the police have not changed their role, nor have they become social workers, (3) the police now spend less time with domestic disturbances and other difficult social cases, because they refer them to the VWP.

The VWP then have assumed two roles. Not only are they a new criminal justice component (emerging in a similar way that indigent defense programs emerged in the early 1970's), but they are also a new social service agency. In many ways they function as early diagnostic, screening or intake workers for public and private social services agencies in Pima County, since the VWP refers many of their clients on to these agencies.

The increasing referrals from law enforcement, prosecution and even corrections are one indicator that the program has found an acceptable place within the criminal justice community, as are the positive statements from public agency leaders in the previous section. The same is true in the social service field as evidenced by similar supportive comments in that section. A possible exception is in the mental health area, where the VWP has not yet experienced great success with commitments and treatments, although discussions with mental health leaders are now taking place.

## V ISSUES AND OBSERVATIONS

A. Introduction

The WVP is part of a national phenomenon of the emergence of a new component of criminal justice, one that addresses the problems of the victims and witnesses of crime. A number of authors have traced the history of compensation, retribution and punishment in criminal cases as they have operated in Europe and in the early American experience. Schafer<sup>2</sup> traces the common past of restitution and punishment and the decline of restitution by the perpetrator to the victim. The intercession of the state on behalf of the victim was an intermediate step that later evolved to where the state became the victim, and crimes were referred to as "crimes against the state." It is only recently that the victim is regaining his/her former standing in a criminal case. Increasingly, many states and communities in the nation are providing for the victims needs and compensating for his/her losses.

The exact number and types of victim related programs that currently exist in the United States are not known, but many have emerged as a result of the availability of LEAA funds during recent years. ABT Associates, Inc. performed an analysis of 71 programs in 1978.<sup>3</sup> Pima County's Victim Witness Program is among four programs selected for closer analysis, because in ABT's opinion, they "do provide more services than 81% of the programs identified ... ."

SRI has been involved in evaluating the project during the past three years. The previous sections have presented our assessment of

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<sup>2</sup>Stephen Schafer, Compensation and Restitution to Victims of Crime (2nd ed., enl.), Montclair, New Jersey, Patterson Smith, 1970.

<sup>3</sup>Unpublished paper, Four Victim-Witness Programs, submitted to the Law Enforcement Assistance Administration, March 1978.



the Program's achievements with respect to its objectives. In this section are presented a number of observations and issues regarding the program and the victim-witness movement.

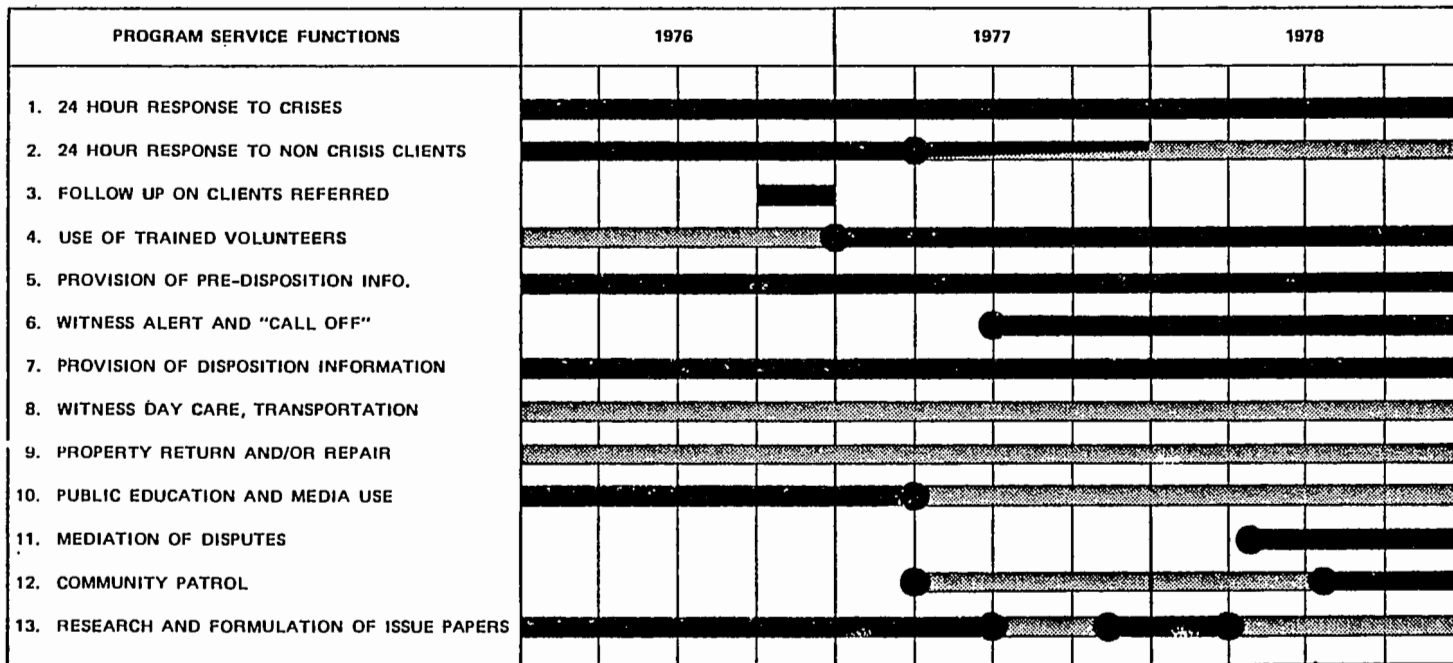
B. The VWP has been a Dynamic Program

The program was organized and staffed in the beginning by young, committed and aggressive people, fully committed to finding victims, filling their needs and generally getting the program off the ground and recognized by the community. The director, the administrator, the research analyst, and some of the secretarial-clerical staff performed their administrative and program building duties on a full time basis, yet went out on calls during off-duty hours to provide services and learn first hand the requirements of victims/witnesses in an "action research" approach. The research analyst and the administrators, both having a research background, were constantly taking readings from the program and from the other criminal justice agencies in the county and determining what service gaps were apparent. Based upon their findings new program components were formed, and new services would commence.

The provision of assistance to victims and witnesses is a new service and not much is yet available in the literature on the needs, motivations, and characteristics of crime victims and witnesses. Consequently the program staff and volunteers have performed essential field research, although informally done, and changed their program according to their findings.

Figure 5 shows how the VW program evolved and added services and functions. Occasionally service components were de-emphasized or transferred to other agencies. For instance, the 24 hour response to non-crisis clients was de-emphasized after the 1st year. Likewise the Program staff was involved in fewer media and public relations activities after the first quarter of 1977. On the other hand, the use of trained volunteers started slowly in 1976, but increased significantly in 1977.

Four new services were instituted as the project evolved. The project did a follow-up on their referrals of clients to other agencies. In addition, a "witness alert and call off" service was instituted in



 Heavy  
 Light


 - PROGRAM CHANGE, START, STOP OR CHANGE IN EMPHASIS OF A PROGRAM SERVICE

FIGURE 5 LEVEL OF PROGRAM EMPHASIS SINCE JANUARY 1976

1977 and proved to be very cost effective, especially for law enforcement agencies. The mediation service was begun in 1978, and the community patrol began experimentally in 1977 and expended fully in 1978. Thus the program started with 9 service components and currently provides 12.

Incomplete information exists on most of the other victim programs in the country making a careful comparison of program elements and services rendered in them. The ABT report discusses four programs, including Pima County, Multnomah County, Oregon, Milwaukee, Wisconsin, and Brooklyn, New York. But lack of standardized workload reporting among programs constrains a meaningful comparison of their performance.

### C. Replication in Other Communities

There is a growing body of literature on replication, technology transfer, and institution building, mostly observations gained from United States programs conducted overseas, such as in the Agency for International Development, the Peace Corp and our recent experiences in Vietnam.<sup>4,5</sup> The literature defines some of the common elements that were present, when American technology "took" or became institutionalized in the foreign environment. While not exactly analogous to the subject at hand, there are some commonalities that might be considered when determining if the VWP of Pima County is transferrable to other sites. Certainly the LEAA sponsored "Exemplary Projects" program is based upon the hope that a project deemed to be successful in one setting is transferrable to many other environments in the United States, and that if the host agency obtains resources, and staff and begins to operate, they should have similar success to the original.

There are a number of possibly unique factors contributing to the accomplishments of VWP, that should be accounted for in replication efforts elsewhere. They are as follows.

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<sup>4</sup> Joseph W. Eaton, Editor, Institution Building and Development: From Concepts to Application, Sage Publications, Beverly Hills, California, 1972.

<sup>5</sup> Melvin G. Blase, Institution Building: A Source Book, Lithocrafters, Inc., Ann Arbor, Michigan, 1973.

1. Commitment of Extra Hours by Project Staff

As was mentioned above, the director, administrator and research analyst expended many hours of administrative and operational service to the project, much in excess of the normal 40 hour work week. They took turns responding to calls for assistance late at night and early in the morning and were on call much of the time in the early months of the project. This accomplished at least two important things. First, it acquainted the project leaders with the needs of the clients and the required responses for the project. Second, it allowed a small cadre of staff and volunteers to provide service to more clients than they might ordinarily have without obtaining additional personnel.

2. Emphasis on Linkages and Public Awareness

The leadership of the program, especially in the early months devoted a great deal of time and attention to selling the program to criminal justice agencies, the business community and the public. Many speeches and papers were presented, as well as radio and television shows, and a friendly press provided series of articles on the program and its operations, that were all positive. Businesses were invited to co-host workshops or to provide meeting rooms or pick up costs of printing pamphlets and brochures. Symptomatic of this was a letter sent to most of the prominent businessmen in Pima County, inviting them to ride along as an observer in the VWP patrol cars, and a number of them accepted the invitation.

Likewise, the VWP volunteer coordinator systematically invites persons from agencies that provide clients to the VWP, as well as those to whom the program refers, to participate in the 8 week training course. Many of them do go through the training and a number of them have become volunteers. Certainly this will help forge understanding among the input and output agencies and maybe a close working relationship and linkage with VWP.

### 3. Relatively Non-Complex Political Structure in Pima County

Another unique feature of Pima County is that there are few municipalities, police departments and court systems for a metropolitan area of its population. Thus, political consensus is easier to achieve, since the program has required policy decisions from county institutions and the City of Tucson only. While the VWP as described above has done an excellent job in forging strong linkages with the city, county, and private agencies, their task is significantly easier than if many additional municipalities with their own law enforcement and court systems were involved, as is often the case in other metropolitan areas.

#### C. Comments on Cost-Benefit Analysis

The second year study of the program performed by SRI emphasized the costs and benefits of the program in tangible and intangible terms. As is true in many social programs, this was not an easy task because values for some activities are difficult to assess. The LEAA evaluation team in critiquing the study found a number of valid shortcomings, but in addition they recommended that cost-benefit analysis of a program like VWP should also include on the cost side of the equation, "the costs incurred by Pima County, the SPA, and the LEAA in administering the project." In the author's opinion that would be a mistake in that it would greatly overstate the costs for the following reasons:

- (1) The administrative costs of the County are apportioned over all services and programs provided in the county, and the proportion of that cost attributable to a program as small as VWP is, especially in comparison to the sheriff's office, public works, etc., is not significant.
- (2) The purpose of the cost benefit assessment was to find out what the programs inherent costs and benefits as a result of its operations. The costs incurred by the SPA and the LEAA in administering the grant are external to that. Further, if the programs were replicated in other sites, without federal funds those costs would not be incurred.
- (3) It should be noted that the intervention of the LEAA grant monitors in terms of special conditions on

grants can be extremely costly. For instance 9 of the 18 special conditions placed on the second year grant, by the court specialist from the LEAA Region IX office in Burlingame, California carried with them some potentially heavy cost implications and could have redirected the program's activities away from the original intent. That is, the program could have been forced to perform additional functions, above these originally costed with no increase in the amount of resources. Some of the special conditions having this impact in 1977 were:

"The program shall: \*

- (a) Act as a clearinghouse for the public on victim witness information needs.
- (b) Contact all witnesses' employers and explain the need for their employee's appearance in court.
- (c) Handle crisis situations where transportation, child care or other assistance is required on the day of court appearance.
- (d) Contact all witnesses the day before each court appearance.
- (e) Experiment with the "on call" or "alert" system.
- (f) Establish a statistical system to document witness cooperation."

While one might not quarrel with the value of these new activities, it is apparent that they cannot be done for free, and that without new resources they place a burden upon the program to accomplish them plus all of the program activities upon which the original grant budget was predicated.

#### E. What Can be Done About Family Violence?

As SRI staff went through the case files classifying the types of cases and the intake worker's diagnosis of victim needs, several strong impressions began to form, which if acted upon could have important implications for the VWP and some of the other social service and government agencies in the community.

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\* LEAA grant award, special conditions, 1977.

1. A High Percentage of the Victims were Involved in Family Violence or Conflict

Using a sample of all cases documented during the first six months of 1978 (see Table 5 referenced earlier). Family\* disputes, in which assault and battery were involved, accounted for 12% of all cases. Family disputes not involving assault and battery accounted for another 24% of the cases.

Most of the cases involved husbands and wives or persons previously living together, who were separating or already living apart. In many cases children were involved, and the point of conflict, at least on the surface, were the children or new boyfriends and girlfriends or spouses. A great deal of anger, frustration, emotion, and resentment, often heightened by alcohol were described in the case reports.

2. A Number of Persons, Especially Women Have Been and Will Likely Continue to be Victimized Frequently

In a significant number of cases (the exact number was not documented) the victim was a woman who had been battered by her mate. In most instances the incident in question was the latest of a long series of similar events occurring in the home. The researchers were struck by some commonalities that appeared among the cases, namely that:

- The victim was emotionally dependent upon the suspect.
- The victim was financially dependent upon the suspect, who was usually employed.
- The timing of the assaults were often correlated with paydays and the abuse of alcohol.
- The victims were unprepared to break out of the cycle, because of their attachment emotionally and financially to the suspect, and because they appeared to be too timid to consider other alternative living conditions.

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\* Family here refers to persons married or unmarried who are presently or have previously lived together.

- The victims appeared to be resigned to the abuse as a part of their living condition, and unprepared in terms of awareness and skills to cope on their own.

Whether or not VWP is the appropriate program to assist the victim and suspect out of the repetitive cycle is a policy issue, but it seems clear that there is a need for counseling and assistance to reduce the number or at least the frequency of these destructive encounters.

#### F. Victim Compensation and Restitution

The program while currently very active in addressing the immediate and short term needs of victims and non-victims might consider more active involvement in restitution\* and compensation. While the impact and effectiveness of the different approaches currently used to ameliorate the damage done to legitimate victims is not known, a number of distinct methods are emerging in the literature and in practice, such as:

- Civil alternatives
  - Levying of fines with the revenue being used to compensate the victims.
  - Civil attachment of offenders earnings.
  - The institution of a crime insurance system, with premiums based upon a pre-determined actuarial basis.
  - Post conviction determination of loss and required compensation determined by administrative body, rather than the courts.

- Compensation and restitution as crime deterrents

Under this approach a heavy reliance is laid upon publicity and public relations to educate existing or potential criminals that crime does not pay, but that criminals may have to, if caught and convicted.

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\*In approximately 143 cases during the past 4 years, pre-trial restitution has been accomplished in Pima County. The amount of restitution accomplished post-trial is not known.



- Understanding the determinants of victimization

The program might spend some time researching and documenting how their clients come to be victims in particular cases and

- How frequently have they been victims of the same crime in the past?
- How frequently have they been victims of other crimes in the past?
- What have been the relationships between offenders and the recidivist victims?
- What was the victim's role in the offense?
- What measures did the victim take to avoid being the victim?
- What skills does the victim have to avoid becoming victimized again?

- Understanding the impact of compensation and restitution programs on victims, offenders and criminal justice agencies

The VWP might spend some time investigating the research of others, or they might establish an experiment within their own program to determine the following:

- What is the impact of compensation-restitution (C-R) on offenders?
- Does voluntary or mandatory C-R make a difference to the offender in rehabilitation or crime prevention?
- How does offender-victim interaction during the C-R process effect the success or failure of the outcome?
- Do victims feel satisfied with the results of the C-R process?
- Does the availability of C-R programs affect the incentives of victims to avoid or remain in situations of potential victimization?
- What program costs are likely for criminal justice or other agencies if the C-R functions are implemented?
- Does the existence of C-R influence victims to report more crime?

G. What Should the VWP Become in the Next 5-10 Years?

The respondents in the survey of government and social service agency leaders in Pima County recommended some new or expanded functions

*Exhibit No. 24*

## CRIMINAL CODE

## § 13-3601

## CHAPTER 36. FAMILY OFFENSES

Sec.  
13-3601. Domestic violence; classification; sentencing option; arrest and procedure for violation; notice; report; diversion.

Sec.  
13-3602. Order of protection; procedure; contents; arrest for violation; penalty.  
13-3623. Child abuse; definitions; classification.

§ 13-3601. Domestic violence; classification; sentencing option; arrest and procedure for violation; notice; report; diversion

A. "Domestic violence" means any act which is an offense defined in §§ 13-1201 through 13-1204, 13-1302 through 13-1304, 13-1502 through 13-1504, 13-1602 and 13-2904, subsection A, paragraphs 1, 2, 3 and 6, if the relationship between the victim and the defendant is one of marriage or former marriage.

B. A peace officer may, with or without a warrant, arrest a person if he has probable cause to believe that domestic violence has been committed and he has probable cause to believe that the person to be arrested has committed the offense, whether such offense is a felony or a misdemeanor and whether such offense was committed within or without the presence of the peace officer. The release procedures available under § 13-3883, paragraph 4 and § 13-3903 are not applicable to arrests made pursuant to this subsection.

C. A person arrested pursuant to subsection B of this section may be released from custody in accordance with the rules of criminal procedure or other applicable statute. Any order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions which the court deems appropriate, including participation in any counseling programs available to the defendant.

D. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall inform any alleged or potential victim of the procedures and resources available for the protection of such victim including:

1. An order of protection pursuant to § 13-3602 and an injunction pursuant to § 25-315.
2. Emergency telephone number for the local police agency.
3. Telephone numbers for emergency services in the local community.

E. A peace officer is not civilly liable for noncompliance with subsection D.

F. An offense included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified.

G. If the defendant is found guilty or an offense included in domestic violence and if probation is otherwise available for such offense, the court may, without entering a judgment of guilt and with the concurrence of the prosecutor and consent of the defendant, defer further proceedings and place the defendant on probation as provided in this subsection. The terms and conditions of probation shall include those necessary to provide for the protection of the alleged victim and other specifically designated persons and additional conditions and requirements which the court deems appropriate, including any counseling or diversionary programs available to the defendant. On violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided for revocation of probation. On fulfillment of the terms and conditions of probation, the court shall discharge the defendant and dismiss the proceedings against the defend-

## § 13-3601

## CRIMINAL CODE

ant. This subsection does not apply in any case in which the defendant has previously been found guilty under this section, or in which charges under this section have previously been dismissed in accordance with this subsection. Added Laws 1980, Ch. 113, § 1.

**Library References**

Husband and Wife  $\S$  3(2).  
C.J.S. Husband and Wife § 13.

**§ 13-3602. Order of protection; procedure; contents; arrest for violation; penalty**

**A.** A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing an act included in domestic violence.

**B.** The petition shall state the:

1. Name and address of the plaintiff for purposes of service.
2. Name and address, if known, of the defendant.
3. Specific statement, including dates, of the domestic violence alleged.
4. Relationship between the parties pursuant to § 13-3601, subsection A.
5. Name of the court in which any prior or impending proceeding or order concerning the conduct is sought to be restrained.
6. Desired relief.

The amount and payment of filing fees for a petition filed under this section is the same as in other civil actions. Filing fees and fees for service of process may be deferred or waived under any rule, statute or other law applicable to civil actions. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel.

**C.** The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff to determine whether the orders requested should issue without further hearing. If the court determines that there is reasonable cause to believe that the defendant may commit an act of domestic violence or that the defendant has committed an act of domestic violence, the court shall issue an order as provided for in subsection D of this section. If the court denies the requested relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

**D.** An order of protection issued by a court may include any of the following:

1. Either or both parties may be enjoined from committing a violation of one or more of the offenses included in domestic violence.
2. One party may be granted the use and exclusive possession of the parties' residence.
3. Either or both parties may be restrained from coming near the residence, place of employment or school of the other party or other specifically designated locations or persons on a showing that physical harm may otherwise result.
4. Relief necessary for the protection of the alleged victim and other specifically designated persons proper under the circumstances.

**E.** An ex parte order issued under this section shall state on its face that upon request the defendant is entitled to a hearing within ten days and shall include the name and address of the judicial office where such request may be made. Upon such request, the court shall provide the hearing, and upon request of either party, the action shall be removed to the superior court. No additional fees will be charged for removal of the case. After hearing, the order may be modified, revoked or continued by the court.

**F.** The order shall include the following statement:

## "WARNING"

This is an official court order. If you disobey this order the court may find you in contempt of court. You may also be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order."

G. An order shall be served on the defendant. An order is effective immediately on the plaintiff. An order is effective on the defendant on service of a copy of the order. An order expires, unless renewed, six months after service on the defendant.

H. The court from which the order is issued shall register, within twenty-four hours, a certified copy and any changes or modifications of the order and return of service on the defendant with the law enforcement agency having jurisdiction of the area in which the plaintiff resides. For enforcement pursuant to § 13-2810, a certified copy of an order of the court, whether or not registered with such agency, is presumed to be a valid existing order of the court for a period of six months from the date of service of the order on the defendant.

I. A peace officer may, with or without a warrant, arrest a person if the peace officer has probable cause to believe that the person has violated § 13-2810 by disobeying or resisting an order issued pursuant to this section, whether or not such violation occurred in the presence of the officer. The provisions for release under § 13-3883, paragraph 4 and § 13-3903 do not apply to an arrest made pursuant to this section.

J. A person arrested pursuant to subsection I of this section may be released from custody in accordance with the rules of criminal procedure or other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions which the court deems appropriate, including participation in any counseling programs available to the defendant.

K. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The magistrate court and the justice of the peace court may hear and decide all matters arising pursuant to this section. After hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any.

L. A peace officer making an arrest pursuant to this section or § 13-3601 is not civilly or criminally liable for such arrest if the officer acts upon probable cause and without malice. Added Laws 1980, Ch. 113, § 1.

**Cross References**

Domestic violence,  
Informing victim of protection procedures and resources, see § 13-3601.

**Library References**

Breach of the Peace § 15 et seq.  
C.J.S. Breach of the Peace § 17 et seq.

**§ 13-3603. Definition; 1 punishment**

<sup>1</sup> Abortion.

**Cross References**

Abortions, limitation on use of public funds, see § 35-196.02.

**United States Supreme Court**

Abortion, validity of penal statute requiring exercise of care to preserve fetus' life and health, see *Colautti v. Franklin*, 1979, 99 S.Ct. 675.

**§ 13-3604. Soliciting abortion; punishment; exception****Cross References**

Abortions, limitation on use of public funds, see § 35-196.02.

# response

to violence in the family

Volume 3, Number 4

December 1979

## Prosecutors Discourage Battered Women From Dropping Charges

**T**he problem with prosecuting wife beaters is that battered women always drop charges. This is a typical response by district attorneys to questions about why they prosecute so few family violence cases.

Although spouse abuse violates criminal assault laws in every state, many prosecutors are reluctant to accept complaints from battered women or to file criminal charges against batterers. Because most abused women withdraw charges before their cases are completed, prosecutors believe that it is a waste of time to file them in the first place. In part, this is an excuse for avoiding time-consuming and difficult cases; also, most prosecutors have such heavy workloads that their efforts must be concentrated on cases likely to result in guilty pleas or convictions.

A few prosecutors have become more aggressive in prosecuting spouse abuse cases, and have reduced the high incidence of victim withdrawal. Urging that domestic violence is a crime against the community, and that the state as well as the individual victim have an interest in stopping the abuse, these programs have instituted procedures to encourage victim cooperation.

One such program in the district attorney's office in Santa Barbara, California, reports that over 90 percent of their family violence complainants are fully cooperative. In another program in the Los Angeles City Attorney's Office, the percentage of cases that are dismissed because the victim will not participate is even lower.

These programs have examined reasons why battered women frequently drop charges, and have adopted procedures to reduce the pressures on the complainant. They have also looked at the reasons why battered women file charges—what they are looking for in criminal court—and have set goals for

prosecution that correspond to those of the complainant.

### A Crime Against the State

Many battered women are ambivalent about bringing criminal charges even when the beatings are chronic, and even if they are determined to stop the abuse. Most complainants do not understand the criminal justice system. They are often ill-equipped to decide whether the law should be enforced or what penalties should be imposed. Recognizing this ambivalence and confusion, district attorneys in Santa Barbara and Los Angeles have instituted procedures that relieve a complainant of responsibility for the decision to prosecute.

It is common to ask victims to sign complaints in domestic violence cases. This practice makes the victims feel that they, rather than the state, are prosecuting the batterers. Debbie Talmadge, an assistant district attorney in the Santa Barbara Family Violence Program, states that she signs domestic violence complaints herself rather than asking the victim to sign them.

Also, victims often imagine high-stress courtroom scenes and interminable jail sentences. Talmadge tries to dispel these unfounded fears. She explains that in most cases, the batterer pleads guilty. This means that it is unlikely that a trial will be held or that the woman will have to testify. She tells victims that abusers are rarely sent to jail, as the goal of prosecution is only to stop the abuse.

The Santa Barbara Domestic Violence Program makes every effort to ease the burden on the victim. Their policy does not forbid the withdrawal of charges, nor do prosecutors file charges if victims are opposed.

In the Los Angeles City Attorney's Office, domestic abuse is regarded as a crime against the state, and the prosecu-

tor, not the victim, makes the decision to prosecute. Their policy is to forbid the withdrawal of charges, and to go forward with a case even when the victim would prefer to withdraw. Susan Kaplan, Coordinator of the Domestic Violence Unit explains this policy to all complainants. Many reluctant victims are persuaded to cooperate and are relieved not to be in control of the decision. A few, however are angered by this policy and refuse to assist the prosecution.

### Supporting the Victim

Battered women are under immense pressure not to pursue criminal remedies. This pressure comes not only from the physical threats of the abusers, but also from social stigma that discourages women from filing charges against their husbands. Many victims who file charges of domestic violence still live with or see their abusers.

Nancy Sieh, an assistant district attorney in Santa Barbara, writes in an unpublished paper entitled, "Family Violence: The Prosecutor's Challenge," that half of the abuse victims who came to her office to drop charges were accompanied by their abusers who threatened them into requesting dismissal.

(Continued on page 2.)

## Issue Highlights

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Talmadge recognizes this pressure on battered women and provides emotional support to give her clients the courage to continue with their cases even if the defendants are waiting outside the office. She explains that if the abuser thinks the victim will tell the truth in court, he will plead guilty so that he can reduce the penalty that will be imposed. If the woman refuses to lie for her husband, then it is very likely that there will not be a trial and she will not have to testify. Talmadge has succeeded in obtaining a high rate of guilty pleas. She has prosecuted 30 cases a month for a year and only three of those cases have been brought to trial.

Another technique used in Los Angeles and Santa Barbara to protect victims from duress when a case goes to trial is to send a subpoena to the woman complainant. If the abuser tries to dissuade her from testifying by threats of further beatings, she can show him that she has no choice, and that she is required by law to go to court.

Many victims need protection while criminal charges are pending. One problem is that protection orders are available in most places only from a civil or family court. They are not handled by criminal lawyers. In many places either civil or criminal remedies are available to battered women, but not both. In the Domestic Violence Prosecution Unit in White Plains, New York, protection orders are routinely made available to battered women filing criminal charges.

### Selecting the Appropriate Penalty

Many domestic violence complainants withdraw charges because they believe that criminal conviction necessarily means a jail sentence, and they do not want to send their husbands or boyfriends to jail. Prosecutors have succeeded in persuading victims to cooperate by requesting penalties that correspond to the needs of battered women.

In Santa Barbara, most women who file criminal charges want assistance from the court in stopping the abuse, but want to continue relationships with their spouses. Therefore, the prosecutor generally requests court-ordered counseling. In some cases in which charges have been filed, prosecution is suspended pending completion of a counseling program. If the program is not completed, prosecution is resumed.

Talmadge prefers to obtain a guilty plea from the batterer, and to make counseling a condition of probation. If the terms of probation are violated, then the abuser may be sentenced to jail without further court proceedings.

Talmadge states that when victims have been seriously injured, "it would be unconscionable" not to ask for a jail sen-

tence. When negotiating with a public defender for a guilty plea in such cases, she reduces the requested penalty from a jail sentence to a term of probation only if the victim will not otherwise cooperate with the prosecution.

The Los Angeles City Attorney's program similarly aims for results which correspond to the complainant's desires. Attorneys do not request incarceration for a first offender unless the victim has been severely injured. However, a jail sentence is always sought if the abuser has a prior conviction on a domestic violence charge.

### Keeping in Contact

Providing effective services to victims of spouse abuse may require that staff members spend more time with the complainant than would be necessary with the victim of a crime committed by a stranger.

Prosecutors in the Los Angeles and Santa Barbara programs are encouraged to spend additional time with each domestic violence complainant, and to keep in close contact with her while charges are pending. Bob Smith, an investigator in Santa Barbara, states that most intake interviews in the district attorney's office take fifteen minutes, but that at least an hour is required for domestic violence cases. This process is expensive, and may strain an already overloaded system. Next year, the Santa Barbara office will assign non-lawyer victim advocates the task of maintaining contact with battered women. This will reduce the cost of prosecuting cases of wife battery.

### Sensitive Interviewing

Battered women sometimes drop charges because skeptical prosecutors test their commitment to criminal action by asking such questions as "Are you sure you want to lock him up?" or "How will you support yourself while he is in jail?" Prosecutors generally know little about domestic violence and often suspect that the victims provoke their abusers or masochistically enjoy the beatings. These biases discourage many victims from pursuing criminal remedies.

Prosecutors can be trained to be more sensitive to the victim's ignorance of the criminal justice system and doubts about whether it will assist her. In Los Angeles, although all the attorneys in the criminal division of the City Attorney's Office are trained to handle domestic violence cases, cases are not assigned to prosecutors who are insensitive to the needs of battered women.

These programs have demonstrated that the high attrition rate in criminal assault cases against batterers can be reduced, and the criminal justice system made more responsive to domestic violence.

**In order to reduce the number of battered women who drop criminal charges in domestic violence cases a prosecutor should:**

- Decide whether charges should be filed based on the adequacy of the evidence. The victim should not be asked to make this decision.
- Sign the complaint instead of asking the victim to sign.
- Spend extra time with the victim in the initial interview to establish trust; keep in close contact while charges are pending.
- Find out what a reluctant victim is afraid will happen if she pursues the case.
- Provide emotional support to the victim against pressure from the abuser to drop charges.
- Obtain a protection order for a victim in physical danger while criminal charges are pending.
- Send a subpoena to the complaining witness if her testimony is needed.
- Find out what the victim would like to get from the criminal court. Request a penalty which corresponds to her goals.
- Request probation and mandatory counseling for the abuser if the victim doesn't want him jailed.
- Seek a guilty plea from the abuser to avoid the trauma of trial and testimony for the victim.
- Encourage the victim to tell the abuser that she will not lie for him. This will increase the likelihood of a guilty plea.
- Set up training in the office to sensitize attorneys to the needs of battered women.
- Avoid assigning domestic violence cases to attorneys who exhibit biases against battered women.

**Using these techniques, some prosecutors have reduced the percentage of battered women who drop charges to below ten percent.**

## Research

### Kentucky Survey Documents Incidence of Spouse Abuse

**T**he Kentucky Commission on Women has completed a statewide survey of spousal violence against women funded through a grant from the Law Enforcement Assistance Administration. The Commission contracted with Louis Harris and Associates, Inc. to conduct a telephone survey of a representative sample of 1,793 Kentucky women last March and April. Dr. Richard Gelles of the University of Rhode Island served as a project consultant to Louis Harris and Associates.

Survey results indicate that ten percent of the surveyed women had been abused by their husbands or men they lived with in the 12 months prior to the survey. According to the survey report entitled, *A Survey of Spousal Violence Against Women in Kentucky*, "This [finding] translates into more than 80,000 Kentucky women being victimized by their spouses in the past 12 months. The problem appears even more widespread if one considers the findings when women are asked if they have ever experienced physical violence from their spouses: 21 [percent] or over 169,000 married Kentucky women report having experienced at least one incident of spousal violence at some time."

#### Methods

In querying respondents about violence, the interviewers utilized the Conflict Tactics Scale developed by Dr. Murray Straus of the University of New Hampshire and Dr. Gelles. As used in the study, the scale consists of a list of violent and nonviolent actions that a family member might use in a conflict with another family member. The continuum begins with actions such as throwing ob-

jects, pushing, grabbing, or shoving, and continues to include abusive actions such as hitting or attempted hits with an object and battery. The most violent abusive items included in the scale are threats or use of a knife or gun. Women who have experienced any of the actions labelled abusive are considered "battered wives."

In administering the questionnaire, especially the Conflict Tactics Scale, interviewers reassured respondents that family disagreements are common and that different families resolve their conflicts in a variety of ways. In addition, the questions involving the scale began with those nonviolent actions that are considered socially acceptable and gradually eased into those behaviors that are coercive and violent.

Training the interviewers sensitized them to respondents' reluctance to speak. During the initial contact, if a respondent gave any cues that she was not free to speak, the interviewer offered to make an appointment to call her back. Recontact accounted for 18 percent of all completed interviews.

#### Survey Findings

The survey findings included the discovery that violence poses a greater threat inside the home than outside.

Of female partners surveyed, 4.1 percent had experienced violence in its most extreme form in the past 12 months, and 8.7 percent had experienced such violence at some prior time. When asked if they were victimized outside their homes in the past year by an assault or an attempted assault, only two percent replied affirmatively.

The interviews uncovered significant levels of violence at every societal level (see chart below). More women living in urban and suburban areas reported at least one episode of violence, than women living in rural areas. Also, the

survey found that as family incomes increased, the incidence of reported violence slightly decreased. In addition, 23 percent of nonwhite women reported one or more episodes of violence, as compared with nine percent of white women. The survey reports a weak correlation between the spouse's educational level and the occurrence of violence.

Young women reported more incidents of violence than older women. "Among women aged 18-29, 12 [percent reported] some incidence of violence in the past 12 months, compared to 9 [percent] aged 30-49, and 3 [percent] aged 50 and over."

According to the survey report, "[T]he highest levels of spousal violence are found among nonwhite, urban families, and younger families." However, the report emphasizes that what is striking is not the differences in domestic violence between various groups so much as the commonality of high violence levels found in all groups.

#### Services

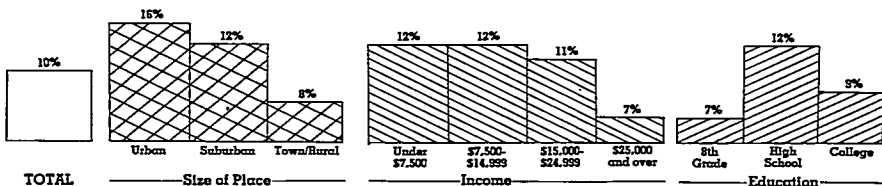
The survey also documents the existence of a wide disparity between the services available to victims of domestic violence and the services they would like to receive. Of those women who were victimized by violence, five percent received counseling, but 34 percent of the victims would have liked to receive it. Similarly, 27 percent of the victims desired to receive legal aid, but it was forthcoming in only two percent of the cases. Shelter was available to only two percent of the victims, but would have been welcomed by 25 percent of them.

The Commission will use the results of the survey to promote statewide activity to combat domestic violence. Further information may be obtained by writing the Kentucky Commission on Women, 105 Bridge Street, Frankfort, Kentucky 40601.

### Incidence of Violence by Husband or Partner in the Last Twelve Months\*

Survey Question: And what about your husband/partner? Tell me how many times he took a violent action against you in the past 12 months?

(Percentages reflect one or more violent incidents in the past 12 months)



\*Adapted from *A Survey of Spousal Violence Against Women*, Table 3, p. 19

## HEW Office on Domestic Violence

### Monthly Update

**T**he Office on Domestic Violence (ODV) was established in the Department of Health, Education, and Welfare (HEW) in May 1979. It is located in the Administration for Children, Youth and Families within the Office of Human Development Services.

ODV is to serve as a central resource for persons and organizations both in and outside the federal government. Since the office has no legislative authority, it cannot fund services directly. What it can do is provide information and technical assistance, and support public education and demonstration projects. The office is also expected to help HEW agencies and other federal agencies improve and coordinate services to victims of domestic violence.

The director of the Office on Domestic Violence is June Zeitlin. The professional staff members are Ann Langley and Carolyn Dean; Ellen Barnett serves as a consultant. Administrative support is provided by Daniel Brown and Hazel Boyd.

In fiscal year (FY) 1979, ODV funded the following projects:

- **The National Clearinghouse on Domestic Violence** collects and dis-

tributes information on the incidence and causes of domestic violence, service programs, funding sources, and related activities. It serves as a resource to federal, state, and local officials, community organizations, researchers, and the general public. It will also support the development of new materials.

- ODV has joined LEAA in funding the domestic violence project of the **Center for Women Policy Studies (CWPS)** in Washington, D.C. This enables CWPS to develop expertise in health and social service aspects of domestic violence, in addition to criminal justice and police training. **RESPONSE** has been expanded to include additional material on health and social service programs and to cover activities of ODV. The newsletter will announce grant awards, publications from the clearinghouse, upcoming conferences, and other activities.

- A grant has been awarded to the **National Coalition Against Domestic Violence** to look at the **Title XX** program and the obstacles to receiving funds under that program. The Coalition will hold workshops on Title XX funding at its

national conference and will develop a manual on how to use Title XX funds.

- In conjunction with HEW's National Center for Child Abuse and Neglect, ODV is sponsoring three demonstration projects to provide **services to children** in shelters and other family services organizations.

ODV's program funds for FY 1980 are \$1.2 million dollars. Funds will be allocated primarily to four types of programs: technical assistance projects, public awareness projects, research and demonstration projects that coordinate community services, and model training programs that develop resource materials.

For more information on the Office on Domestic Violence, contact ODV, HEW, P.O. Box 1182, Washington, D.C. 20013, 202/472-4205.

## Funding

### Using Title I Funds for Domestic Violence Projects

**O**ne possible source of funding for domestic violence projects is provided by the Department of Health, Education, and Welfare (HEW) through Title I-A of the 1965 Higher Education Act. Title I funds are federal monies disbursed by states to institutions of higher education. Their basic purpose is to provide services and continuing education to communities by using the expertise of colleges and universities. The University of Arkansas in Fayetteville has initiated two domestic violence projects with Title I funds.

Guidelines for using Title I funds include the following:

- Title I projects must be consis-

tent with the college's or university's overall education program, using the special resources, facilities, and expertise of the institution. Courses funded through Title I must be university extension or continuing education classes.

- Institutions that apply for Title I grants must guarantee funds to cover at least one-third of total project costs. In addition, state guidelines may require a greater percentage of matching funds.

● The project funds must be used to provide services for adults who are not enrolled in school. Although projects cannot provide direct services to children and youth, the funds may be used to train or educate adults to serve children and youth.

- Project services and activities must be otherwise unavailable to community members. However, projects are not excluded from Title I monies if they receive funding from other federal programs.

In June of 1979, the University of Arkansas received two grants totalling over \$50,000 to support a "resource sharing" project and a "preventive model" project. According to Julie Gram, project coordinator of the resource sharing grant, "Our two [projects] received over 50 percent of the total Title I-A monies allocated to Arkansas in 1979."

The resource sharing project is establishing formal channels of communication among various domestic violence programs in Arkansas, portions of Mississippi, Kansas, Oklahoma, and Texas. The project seeks to enable shelter personnel in one area to draw on the experiences and strengths of other shelters. To this end, grant monies are used to provide travel stipends for project staff and persons from the Fayetteville Battered Women's Shelter to meet with other domestic violence workers in the region.

(Continued on page 5.)



## LEAA Family Violence Program

### LEAA Studies Prosecutor's Role in Family Violence Cases

**T**he Institute of Social Analysis (ISA) has initiated a study under a grant from LEAA on how prosecutors and criminal courts treat violent crimes between friends, neighbors, and family members. The project will also examine the impact of the criminal justice process on the ultimate outcome of these cases after their disposition by the courts. The results of this study will aid LEAA's Family Violence Program in its efforts to improve the justice system's response to family violence.

Victimization studies and other research have pointed to the extent and seriousness of non-stranger violence. Much of it can be classified as domestic violence. Approximately one-third of all assaults involve people who know each other, according to LEAA-sponsored victimization surveys. In addition, about one-fourth of all homicides are committed by family members of the victim. The large numbers of cases between family members or individuals who know each other present unique problems for criminal courts.

The ISA project will study five major issues:

- the extent to which cases of non-stranger violence presented to the court system by the police are accepted for prosecution
- the attrition rate of non-stranger violence cases compared with stranger-to-stranger cases, after charges are filed
- reasons for dismissing non-stranger violence cases

- the inadequacy of the criminal court's response to non-stranger violence cases, and

- the impact of state laws on the disposition of non-stranger violence cases.

ISA will explore these issues at four study sites. Court and prosecutor files or computerized data bases derived from them, will be reviewed at each site to determine the numbers of stranger and non-stranger violence cases rejected by prosecutors. The proportion of stranger and non-stranger cases in overall caseloads will be calculated, along with the numbers of both types of cases brought to trial and dismissed by the court, as well as the reasons for dismissal. Sentences for persons convicted of non-stranger and stranger-to-stranger violent crimes will also be compared.

A sample of at least 150 cases of both types will be observed and tracked at each of the four sites. In addition to court room observation by project staff on the day of final disposal; the complainant, defendant, prosecutor, judge and defense attorney will be contacted for interviews. Ten to 12 weeks after the final disposition interviews, at least two-thirds of the non-stranger complainants and defendants will be interviewed by telephone. This telephone interview will determine whether the disputants maintained contact with one another, whether or not new incidents of hostility occurred, and whether either party called the police or initiated new criminal proceedings.

A criminal court in Brooklyn, New York, has been selected as one study site. ISA will collaborate with the New York City Victim Services Agency on the Brooklyn portion of the project. The Victim Services Agency has conducted several studies of non-stranger cases in Brooklyn. Findings from these earlier studies have shown that victims who know the defendants personally are more concerned with receiving adequate protection from their assailants than with punishing them. The Brooklyn studies also suggest that prosecutors perceive non-stranger cases as private disputes in which victims' wishes regarding case outcomes are adhered to more closely than in cases involving strangers. Brooklyn data also show that once disputants leave the courtroom, they are unlikely to see each other again. Regardless of the actions taken by the courts, the victim and the defendant often solve their dispute by avoiding one another.

The ISA project will build upon the Brooklyn studies and their extensive data bases. Of the three remaining sites, it is expected that one location will operate a mediation program for at least some of the cases that would otherwise be sent to criminal court. ISA will compare the outcomes of both the mediation and criminal prosecution approaches to reduce non-stranger violent crimes.

Additional information on the ISA project can be obtained from project director Dr. Barbara Smith at the Institute for Social Analysis, 11800 Sunrise Valley Drive, Reston, Virginia 22091.

(Continued from page 4.)

The bimonthly *Title I Resource Sharing Grant Newsletter* reports on area programs, resources, and program developments. In addition, the university will hold a resource sharing conference next spring for regional shelters, social service representatives, and groups interested in starting new projects.

The project will establish a data bank for domestic violence information, which will be available throughout the region.

The other project has designed a "preventive model" to break the recurring cycle of family violence. To that end, community service providers are offered educational training programs in which they learn how to respond to the needs of victims of domestic violence. The pro-

grams include film presentations, factual information on wife abuse, and problem-solving discussion groups tailored to the needs of workshop participants.

The project staff also trains Fayetteville shelter workers, social service providers, and graduate students to provide counseling and therapy for women and children who come from violent and abusive homes. Therapy includes teaching adults to improve their parenting skills and teaching children to cope with anger without resorting to physical aggression. The latter component is aimed at reducing the recurrence of learned violent behavior in future generations. The project cooperates with the Fayetteville shelter to establish liaisons with schools, juvenile courts, and other community in-

stitutions to create a supportive environment for children from violent homes. Two pamphlets and a training booklet describing the goals, activities, and outcomes of the project will be published next year.

Every state has either a designated university or a state agency that administers Title I funds. To find the address of the appropriate state agency or institution, contact the Bureau of Higher and Continuing Education, Department of Education, Washington, D.C. 20202, 202/245-9858. Persons interested in learning more about the University of Arkansas' two Title I projects should contact Julie Gram or Judy Jones, Title I Domestic Violence Project, 502 West Maple, Fayetteville, Arkansas 72701, 501/442-8041.

## Conferences

### Boston Conference Stresses Role of Minority Women

by Pilar Saavedra-Vela, former RESPONSE editor

Participants at the first conference on minority women in the shelter movement called on their white colleagues to expand the role that minority volunteers and staffers play in the administration of shelters. Conferees stated that white women must study ways to transfer information and power to minority women in order that they may develop leadership within shelters and other service groups.

The conference, entitled "Developing Minority Women's Leadership," was sponsored by Boston's Casa Myrna Vazquez in late September. Casa Myrna Vazquez operated one of ten Regional Domestic Violence Technical Assistance Centers funded by ACTION to promote the use of volunteers in shelters.

Springfield, Massachusetts, provided a central meeting place for women from various urban and rural organizations throughout the northeast. While black and white women were represented in approximately equal numbers, Hispanic women formed a smaller group.

Presentations by panelists working with black, Hispanic, and native American women complemented workshops on shelter administration, volunteer training, violence in Third World communities and fund raising. Although most participants work in urban areas, a large group of women from the rural northeast discussed the special needs and problems of rural shelters.

The conference's most poignant discussions centered on the problem of racism and its effect on minority women's leadership and participation in such activities as the women's movement, shelters, and coalitions. Participants also expressed their views regarding the racist content of literature and films currently distributed for purposes of educating the public about domestic violence.

Doris Peterson, a counselor from Chicago and one of several panelists, called attention to the ways in which various cultures view the world and accordingly set goals and priorities for their lives.

Lillie Piñero, a Puerto Rican community worker from Boston, went further in affirming that the Third World's struggle

against racism is linked to that community's fight for political freedom. In Piñero's opinion, those struggles are carried into every facet of Third World community life, including sheltering victims of family violence.

The strain in relations between white and minority women was most apparent during a workshop on violence in minority communities. After hearing from panelist Peterson, Piñero, and others, participants were divided into their respective ethnic groups for more specific exchanges. When the groups were reunited to share the result of those discussions, it became apparent that the three groups had addressed varying concerns: Hispanic women outlined the possible causes of violence in Hispanic homes, particularly referring to the northeast area's Puerto Rican and Cuban families. The discussions pointed out that although Puerto Ricans are American citizens, persons who emigrate to the mainland often suffer difficulties similar to those of other Latin immigrants.

Language, it was agreed, is one of the main sources of anguish for those families. Parents who left the island find that their inability to speak English not only keeps them unskilled and unemployed, but also creates a gap between them and their children. When the wives obtain welfare aid, the husbands find themselves dependent on their wives, a condition that is not socially acceptable in their culture. The men's frustration and anger may often find expression in violence, alcoholism, and drug use.

Outreach to Hispanic families is difficult, not only because of the lack of bilingual shelter personnel, but also because of the dishonor that Hispanics feel would befall them should their intimate problems become known. Furthermore, Hispanic women often play a passive role in their families. Many professionals and volunteers who work with Hispanic victims of abuse stated that they find themselves trying to convince those women to break the patterns that make men expect special treatment from their wives.

For their part, black conferees reported that their group had focused on typical patterns of behavior among black and white women in shelter staffs. One of their conclusions was that tokenism is undermining minority participation in shelter management. For example, while a shelter may have a black woman on its staff, often that person is given little or no opportunity to participate in the organization's decision-making process. At the same time, she is expected to take on all tasks that involve any contact with the black community. One black partici-

pant expressed frustration at having to "carry the burden of educating white women to the special needs of minority women."

The white women's group reported that they had been overwhelmed by the perceived racial tension in earlier sessions, and that their group discussion had centered on how white women might be avoiding the issue of their own racism. Describing their session as "chaotic," the white discussants expressed confusion with the apparent conflict between trying to respond personally, sensitively, and effectively to minority women's needs, and receiving criticism from that sector for not having a bicultural counselor to help minority clients.

The majority group acknowledged, however, that white women were often ignorant of the priorities that discourage minority women from working as volunteers. In fact, the lack of minority volunteers was cited as one of the most common sources of misunderstanding between the groups. While economic needs and fear of isolation and tokenism may not allow many minority women to work as volunteers, white women perceive that unresponsiveness as a lack of interest and commitment to the problem of domestic violence.

Several well-known films were shown and discussed during the two-day conference. Reactions from the audience focused on each film's ability or inability to convey the fact that domestic violence occurs at every racial and socioeconomic level, and the film's portrayal of minorities.

Viewers found the film, "Battered Spouses: Violence Behind Closed Doors" (produced by J. Gary Mitchell), particularly objectionable in its portrayal of the abusers, two of whom were a Latin and a black. While these two men were presented as former batterers, the only white abuser in the film was played by an actor in a dramatization of a domestic disturbance call from a middle-class home.

Every session of the conference was recorded and video-taped for possible future distribution. As part of its technical assistance work, Casa Myrna Vazquez produced a booklet on "Strategies for Community Outreach," which is designed to help shelters and other service groups undergo self-evaluations to determine why minority women do or do not volunteer or work at their facilities.

More information on the conference and products resulting from it can be obtained by contacting the National Technical Assistance Center on Family Violence, Domestic Violence Project, Inc., 1317 Washtenaw Avenue, Ann Arbor, Michigan 47104.

## Resources

## Calendar

## January 18-19

The National Technical Assistance Center on Family Violence will hold its Region VI (AK, LA, NM, OK, TX) Conference at the University of Texas' School of Public Health in Houston. The conference will include workshops on shelter management, grant writing, funding shelters, police programs, and counseling programs for batterers. For further information, contact Susan Eggert, Houston Area Women's Center, Council for Abused Women, P.O. Box 20186, Room E401, Houston, TX 77025, 713/792-4403.

## January 27-30

The National District Attorneys Association (NDA) and the District Attorney for El Paso County are cosponsoring a conference on "The Problems of Family Violence" at the Broadmoor Hotel in Colorado Springs, Colorado. The conference agenda includes lectures and workshops on battered wives, child abuse, incest, crisis intervention, and abuse of elder and disabled persons. For further information, contact National Institute Director, NDA, 6666 North Lake Shore Drive, Suite 1432, Chicago, IL 60611, 312/944-4610.

## February 23-24

The National Technical Assistance Center on Family Violence will hold its Region IX (AZ, CA, HI, NV, GM) Conference entitled "Visions, Prevention, and Intervention" at the University of Southern California's Davidson Conference Center in Los Angeles. A series of symposiums will discuss topics such as rural shelters, counseling batterers and children from violent homes, and using volunteer advocates for shelters. The program will also sponsor 45 workshops on the various components of shelter management including fund raising, writing grant proposals, and coordinating community services. For more information, contact Kerry Lobel, Southern California Coalition on Battered Women, P.O. Box 5036, Santa Monica, CA 90405, 213/396-7744.

## February 27-March 1

The National Coalition Against Domestic Violence (NCADV) will hold its first national meeting at the National 4-H Center in Washington, D.C. The program will focus on developing skills in five areas: coalition-building, media and community education, HEW Title XX funds, HUD Community Development Block Grant funds, and legislation. For additional information, contact Morgan Plant, NCADV, P.O. Box 32423, Washington, DC 20007, 202/337-2815.

## New Books

**The Broken Taboo: Sex in the Family**, by Blair and Rita Justice, New York: Human Sciences Press, 1979, \$10.95. Based on a survey of 112 families in which incest has occurred and extensive research into the field of incest, this book clarifies a subject that is often treated as "so abominable that it must not even be thought about or discussed." The increased identification of incest shows that it affects many more families than has ever before been imagined. The purpose of the five-part book is to inform its readers of the evidence available on incest and what can be done to help both the victim and the abuser.

Part I examines how the various definitions, laws, and taboos surrounding incest originated and how they have changed. Originally, say the authors, the laws and taboos against incest served a useful purpose in protecting the survival of societies. They encouraged members of the family to seek outside relationships and, thereby, build alliances to ensure security. Today the survival of society is no longer the issue. The issue is the child's right to healthy development—psychologically, socially, and physically. Incest is a violation of that right. The authors suggest that the incest taboo may be obstructing public recognition of the problem and action to treat and prevent it.

Part II describes the characteristics of those who commit incest. The authors focus primarily on fathers and daughters involved in incest and, to a lesser extent, on victims' mothers and siblings.

Part III examines the factors that may precipitate the occurrence of incest. Those include not only the characteristics of the individuals involved but the characteristics of their lifestyles and familial environments.

When incestuous activity occurs, there may be a number of cues or signs given by the participants. Part IV identifies behavior patterns that may reveal an incestuous relationship in the family. Part IV also enumerates some of the possible long and short-term consequences of incest. While indicating that there are those who do not experience negative consequences from involvement in incest, the authors believe that most participants suffer any number of negative effects. These may include intense guilt, sexual adjustment problems, or low self-esteem. In addition, discovery and the public response to disclosure of incest may have traumatic effects on the entire family.

Part V concludes with a discussion of steps that can be taken by both the in-

dividual and the public to aid in the prevention of incest and in the treatment of those who are involved in it. A step-by-step discussion of therapy illustrates the method of treatment the authors believe is most effective. Several other approaches to treating the family are also presented.

On the public level, the justices emphasize the need to recognize the rights of the child. They assert that a child is entitled to be raised in a healthy environment free from the problems that arise from sexual misuse.

Both Blair and Rita Justice have extensive backgrounds in the behavioral sciences. They currently conduct therapy groups for parents of abused children at the Texas Institute of Mental Sciences. *The Broken Taboo* is a follow-up to their previous work, *The Abusing Family*.

*This review was written by Caroline Pettit.*

**Betrayal of Innocence: Incest and Its Devastation**, by Susan Forward, MSW, and Craig Buck, New York: Penguin Books, 1978, \$3.95. *Betrayal of Innocence* examines the causes, consequences, and treatment of incest. The pervasiveness of incest in our society is illustrated through a series of case histories narrated by victims and abusers, and analyses of those accounts. The narrations demonstrate the authors' theories regarding the underlying motivations and interactions which lead to incest, and the similarities among the various forms it takes. Case histories present such relations as father-daughter, mother-son, siblings, grandfather-granddaughter, mother-daughter, and father-son. The personal quality of the case histories also enables the reader to perceive incest participants as real persons. Forward and Buck believe this is a necessary step toward understanding incest and reducing its occurrence. In addition, the book states that incest participants are not alone in their problems and that help is available.

The book begins with an examination of the incest taboo, similar to that of the justices' in *Broken Taboo*. Forward and Buck believe that, historically, the most critical function of the taboo has been to ensure the proper development of the child; it aids in preventing confusion over familial roles, forces the child to seek and

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(Continued from page 7.)

develop outside ties, and encourages the child to become psychologically independent of the family. Whatever benefits may be derived from the taboo, Forward and Buck have found it to be often damaging because it prevents recognition and disclosure of the problem of incest.

Incest affects the entire family in which it occurs. A full chapter is devoted to each member of the typical incest triad: the victim, the aggressor, and the silent partner. The various characteristics and motivations of those individuals, as well as the subsequent effects of incestuous involvement, are described. In the book's final chapter, Forward describes group therapy and role playing as two treatment methods she has found particularly effective.

The book concludes with a review of other treatment methods and resources available to anyone seeking help.

Susan Forward is a licensed clinical social worker on the staff of Van Nuys Psychiatric Hospital and Ross-Loos Medical Center in Los Angeles, California. She specializes in intensive group psychotherapy and in training mental health professionals to treat incest cases.

Craig Buck is a free-lance writer and journalist. His work has appeared in newspapers and national magazines.

This review was written by *Caroline Patti*.

**Stopping Wife Abuse**, by Jennifer Baker Fleming, New York: Anchor Press/Doubleday Publishers, 1979, \$8.95. Before 1975, the issue of domestic violence was characterized by a scarcity of knowledge and literature as well as a general reluctance to admit that wife beating was a serious social problem. Over the last five years, family violence has been increasingly brought to the public consciousness. Since 1976, 34 states have enacted new domestic violence legislation, and more than 500 shelters and supportive services for battered women have been established. Grassroots organizers and professionals in a

wide variety of disciplines, including law, medicine, psychology, social work, and religion, have begun to take steps toward stopping wife abuse.

Fleming's book is a synthesis of the various programs, research, and activities that have been developed to alleviate the problem of spouse abuse in the past five years. Although the book summarizes existing research and presents an overview of the problem, its causation, and appropriate interventions, it is not a theoretical work. *Stopping Wife Abuse* is a manual that offers professionals, paraprofessionals, and battered women a practical guide for responding to violence in the family. "This book is not designed to convince you that wife beating is a problem," explains Fleming. "We assume that if you are reading this book, you are already aware of the problem and are ready to move on to the next step."

The author begins by discussing the battered woman's psychological state and the immediate courses of action open to her. Fleming then outlines the varied approaches and techniques that counselors working with victims have employed, such as peer support groups, crisis intervention, and assertiveness training.

A major portion of the book is devoted to the legal system's response to domestic violence. In addition to a basic description of the court system and legal remedies available to battered women, Fleming describes several projects that have attempted to reform the criminal justice system. For example, the use of peace bonds, special police training manuals, community mediation, and advocates for battered women are discussed. Fleming also examines state legislation on domestic violence and its impact on court procedures, police authority, and shelters for battered women.

A second major area of the book focuses on the establishment of shelters and support services. Practical advice on starting a shelter, locating funding and community resources, and instituting self-evaluation guidelines is offered and supported by descriptions of experiences of shelter programs and women's groups. Training for professionals in existing agencies is also discussed.

The book includes sections on children of spouse abusers and counseling for abusers. Since very little attention has been focused on these issues to date, this information is very important.

Fleming concludes with a section that outlines a method for building a statewide or regional coalition against domestic violence to share resources, coordinate services to victims of violence, locate government funds, and draft new legislation.

Fleming's book has a wide scope. Because it is so comprehensive, and because the family violence field is developing rapidly, the book is not intended to be the final or most recent word on any of the subject areas presented. However, *Stopping Wife Abuse* is a useful tool for amassing background materials and identifying resources in the field.

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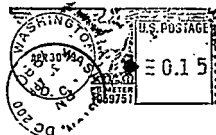
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STAFF REPORT

HEARING IN PHOENIX, ARIZONA

THE LEGAL SYSTEM AND WOMEN VICTIMS  
OF DOMESTIC VIOLENCE

U.S. Commission on Civil Rights  
February 1980

## U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;
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HEARING IN PHOENIX, ARIZONA

THE LEGAL SYSTEM AND WOMEN VICTIMS  
OF DOMESTIC VIOLENCE

U.S. Commission on Civil Rights  
February 1980

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## I. Overview and Context

### A. Introduction

Violence within families is a complex and serious problem occurring within every social, economic, and occupational group. Due to inadequacy of official record-keeping procedures and the number of cases that appear to go unreported, it is impossible to know with precision how many women are physically abused by their husbands or mates. Available data, however, shows a problem of great magnitude.

It is estimated that well over one million women are physically abused in their homes each year. <sup>1/</sup> Domestic violence is also reflected in homicide statistics. In 1975, approximately one-fourth of all homicides took place within the family, and about one-half of these involved spouse killing spouse. <sup>2/</sup> The FBI reports that from 1966 to 1975, 157 police officers were killed while responding to domestic disturbance calls. <sup>3/</sup> In 1975, such calls accounted for 28 percent of assaults on police officers and over 21 percent of all police deaths. <sup>4/</sup>

Far from being a private matter affecting only individual families, physical abuse of women by their spouses or mates continually comes to the attention of the criminal and civil justice systems and the various

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<sup>1/</sup> In an attempt to determine the extent of domestic violence in America, 2,147 families were interviewed in a study conducted by Dr. Murray Straus, Richard Gelles and Suzanne Steinmetz. Of the couples interviewed, 3.8 percent of the women reported one or more physical attacks by their husbands in the twelve months prior to the interviews. This figure, applied to the estimated 47 million couples in the United States, produced an estimate of 1.8 million women being abused in their homes each year. See U.S. Commission on Civil Rights, Battered Women: Issues of Public Policy, Transcript of Consultation, January 1978, p. 153--Statement of Murray Straus.

<sup>2/</sup> International Association of Chiefs of Police, Inc., Training Key #246 (1976).

<sup>3/</sup> Federal Bureau of Investigation, "Crime in the United States--1975, The Uniform Crime Reports," pp. 18, 19 and 22.

<sup>4/</sup> Id., p. 224.

social service agencies. Apart from the number of lives lost and injuries sustained, there are major social implications that stem from the problem. Statistical data on deaths and bodily harm do not reflect the psychological damage to the victims and their children, and the reaffirmation of the legitimacy of physical violence as a means of resolving conflict.

Many factors significantly impair the ability of women to defend themselves from physical abuse at the hands of their husbands or mates or to escape from an abusive situation. Women are on the average somewhat smaller than adult men, making it difficult for them to defend themselves physically from an attack by a male assailant. As a group, women are more likely than men to be economically dependent upon their mates and to bear primary responsibility for caring for minor children. This lack of economic independence tends to make it more difficult for a woman to escape an abusive relationship. As a result, women turn to the legal system for protection and assistance.

In every state, to attack, beat, slap, hit, or kick another person constitutes the criminal offense of assault. Physical punishment of a wife by her husband, frequently recognized and noted in 19th century law, is no longer statutorily condoned anywhere in the United States. For a variety of reasons, however, of that portion of incidents of spousal abuse that are reported to the police, few appear to result in arrest, and even fewer eventually lead to prosecution and conviction of the assailant.<sup>5/</sup>

Wife battering is unlike other assaults because the victim usually is legally, financially, and emotionally bound to her assailant. Yet the underlying philosophy of the criminal law is that the forbidden conduct is an offense against society, and not only against the

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<sup>5/</sup> U.S. Commission on Civil Rights, Battered Women: Issues of Public Policy, Transcript of Consultation, January 1978, pp. 228-49 (statement of Marjory D. Fields) (hereafter cited as Consultation Transcript).

individual victim. Issues of public policy emerge: are special law enforcement provisions and procedures necessary or desirable when assaultive conduct occurs between spouses or mates?

The increased public attention devoted to problems of battered women in the last several years has not yielded consensus among experts on what part the law ought to play in the handling of incidents of domestic violence. For example, some emphasize that wife battering is a crime and that arrest and prosecution should always follow a violation of society's laws.<sup>6/</sup> Others believe that intervention of the criminal justice system is not always the best or most effective method of dealing with the problem, particularly where no serious injury has resulted, and that police officers should be trained to bring dispute resolution skills to bear on these situations. These experts prefer solutions involving arbitration, mediation, counseling, and diversion to social service agencies.<sup>7/</sup>

In addition to criminal remedies, every state provides various civil remedies for women victims of domestic violence: divorces, orders for support, and orders restraining the abusive spouse from further abusive conduct or excluding him from the family home. But even if she has the means to retain a lawyer and engage in frequently lengthy legal proceedings, civil law and procedures can present obstacles to the battered wife. Court orders directing the assailant to cease his abusive behavior may be difficult to obtain or to enforce. In the case of unmarried couples, such orders may simply be unavailable. Provisions for financial support pending divorce may be so inadequate as to encourage the economically dependent wife to return home as a matter of survival for herself and her children.

A woman who must flee her home to escape assault, however, is often without her own resources, and without access to those shared

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<sup>6/</sup> See Consultation Transcript, pp. 20-27 (testimony of Marjory Fields).

<sup>7/</sup> See Consultation Transcript, pp. 49-54 (testimony of Morton Bard).

with her husband. As a result, she may need to avail herself of public assistance programs in order to avoid being forced by economic circumstances to return to the home of her abusive spouse. Social services and low-cost legal assistance, however, may be unavailable or difficult to obtain due to procedural barriers or delays. <sup>8/</sup>

In short, the various components of the civil and criminal justice systems and the social service delivery systems are interrelated. They must all be analyzed individually and in their interaction with each other in order to determine what factors affect the ability of a battered woman to use the law and the legal system to protect her from assaultive conduct.

Understanding of these issues is significantly hindered by the lack of accurate data on the handling of domestic violence cases in the civil and criminal justice systems. Record-keeping normally fails to distinguish between incidents of domestic violence and other types of assaultive conduct. In addition, victims are understandably reluctant to come forward to relate their experiences with the legal system.

B. The Battered Women Project of the U.S. Commission on Civil Rights

The U.S. Commission on Civil Rights has undertaken a major project to study the response of the legal system to the distinct needs of women who are physically abused by their husbands or mates.

The Commission's involvement in the analysis of domestic violence began with the Colorado Advisory Committee's report, The Silent Victims: Denver's Battered Women, published in 1977. The Connecticut Advisory Committee issued a report, Battered Women in Hartford, Connecticut, in April 1979. Two other state advisory committees (New Jersey and New Hampshire) are conducting studies.

The Commission sought a national perspective in its January 1978 consultation, in which experts in law enforcement, social services,

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<sup>8/</sup> Consultation Transcript, pp. 214-16.

community services and civil and criminal law presented their views and recommendations. The transcript of that consultation <sup>9/</sup> has had an extraordinarily wide distribution, an indication in itself of the growing interest nationwide in problems of domestic violence.

To further its analysis of the issues of policy raised at the consultation, the Commission plans to conduct hearings in two cities to elicit testimony and data regarding the handling of incidents of domestic violence by the civil and criminal justice systems. The first hearing will be in Phoenix, Arizona in February 1980. The second hearing site, which has yet to be selected, will be in a city whose approach can be compared and contrasted to that of Phoenix.

Following the hearings, the Commission intends to prepare and issue a report that will evaluate the treatment of women victims of domestic violence by the justice systems, both criminal and civil, and by the various social service agencies (shelters, welfare agencies and legal services programs) to the extent that they affect a victim's access to and interaction with the legal system. The analysis will address the problems battered women may face in seeking and obtaining help from the legal system, the processes by which incidents of domestic violence are handled by the legal system, and alternatives for improving the effectiveness of the legal system in this area. It is hoped that the Commission's final report will be a useful resource for advocates, public officials, and legislators.

### C. The Phoenix Hearing

The Commission's hearing in Phoenix, Arizona offers the opportunity to study the legal system of a sizeable metropolitan area with a diverse population. The governing criminal and civil laws and procedures, as well as the problems faced in the handling of domestic violence cases, appear to be similar to those found in many states. An inquiry into and analysis of the handling of domestic violence incidents in Phoenix should yield lessons that will be of national utility.

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<sup>9/</sup> See note 5, supra.

This report is written to provide background information on the City of Phoenix, its governmental structure and entities, and Arizona law and procedure, and all the institutions whose policies and practices may have a bearing on domestic violence cases.

## II. The City of Phoenix--A Description

### A. History, Economics, and Demographics of Phoenix

#### 1. Geographical Setting and Climate

Phoenix, Arizona, the State Capitol, is the most populous city in Arizona and the thirteenth largest city in the United States. <sup>10/</sup> It is located in the desert south central part of the state, on the north bank of the Salt River, at an altitude of 1,080 feet. <sup>11/</sup> Surrounded by a curtain of scenic mountains, Phoenix's climate is characteristically mild of a high desert, except during the summer when daily temperatures may exceed 100°. The City of Phoenix is the seat of Maricopa County and contains over half the county's population. The county, named after the Indian tribe which resides on the Gila River Reservation, is topographically diversified. There are low mountain ranges, desert valleys, and man-made lakes. Over 1,300 miles of canals cover the county's rich agricultural district. Though occupying only about one-twelfth of Arizona's acreage, Maricopa County contains over half of the state's population. <sup>12/</sup>

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<sup>10/</sup> Valley National Bank of Arizona, Economic Research Department, Arizona Statistical Review, 35th ed., September 1979, pp. 6 and 58 (hereafter cited as Arizona Statistical Review).

<sup>11/</sup> Edward H. Peplow, Jr., "Phoenix," Americana, Americana, Inc., 1978, vol. 21, p. 789 (hereafter cited as "Phoenix," Americana).

<sup>12/</sup> Arizona Statistical Review, pp. 58 and 65.

## 2. History

Phoenix was built on a site first occupied by the ancient Hohokam Indians, who built a system of canals diverting water from the Salt and Gila Rivers and cultivated the fertile river valley. During the 16th and 17th centuries, the area was occupied by Spanish colonists as part of the Territory of New Mexico. Following the Mexican-American War of 1846, it came under the control of the United States as the Territory of New Mexico and later as the Territory of Arizona, which was established in 1863. The City of Phoenix was founded in 1867, and named after the mythical bird which consumed itself in fire and then rose from the ashes, a symbol of immortality. <sup>13/</sup>

The small frontier community soon developed into a trading center for farmers, prospectors, healthseekers, and cattlemen. Incorporated in 1881, Phoenix saw the arrival of its first train six years later, and in 1889, it became the territorial capital of Arizona. <sup>14/</sup>

Arizona joined the Union in 1912. Heavily influenced by the anti-politician and populist sentiments of the Progressive Era, its constitutional convention produced a state constitution in which the governor and state legislators were initially given only short two year terms; elective public officials were always subject to recall; and constitutional amendments were allowed by the initiative of just 15% of the voters. The state's liberal constitution was notable for being one of the first to provide women suffrage, workmen's compensation, and controls barring trusts and monopolies. <sup>15/</sup>

From the time of statehood in 1912 through the early 1950's, Arizona state government was heavily dominated by the Democratic Party. Beginning in 1952, a marked shift in politics began, and by the late

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<sup>13/</sup> "Phoenix," Americana, p. 790.

<sup>14/</sup> Id.

<sup>15/</sup> Paul Hubbard, "Arizona," Americana, Americana, Inc., 1978, vol. 2, p. 305 (hereafter cited as "Arizona," Americana).



1960's the Republican Party had come to dominate the State Legislature. <sup>16/</sup> A contributing factor to the shift may have been the 1966 reapportionment of state legislative districts under the "one-man/one-vote" doctrine, which increased the representation of populous, and predominantly Republican, Maricopa County. <sup>17/</sup> Perhaps indicative of the present conservatism of Arizona's state government, Arizona remains one of the 15 states that has not ratified the Equal Rights Amendment.

### 3. Population Characteristics

The City of Phoenix and its surrounding suburban area, <sup>18/</sup> known as Metropolitan Phoenix for statistical purposes, is the fourth fastest growing metropolitan area in the United States. <sup>19/</sup> The population of Metro Phoenix has surged from 186,193 in 1940 to an estimated 1.5 million in 1979. The City of Phoenix has grown from 65,414 persons in 1940 to an estimated 748,000 persons in 1979. <sup>20/</sup>

A large percentage, 34%, of Metro Phoenix's population is transient, having lived in Phoenix five years or less. Most of the newcomers arrive from colder eastern and midwestern states, but California accounted for 15% of the newcomers, more than any other state. Almost one-fourth of the latest newcomers claimed they moved to Phoenix for retirement reasons. During the last decade, the number of retired households in Metro Phoenix has more than doubled, currently comprising one-fourth of all households. <sup>21/</sup>

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<sup>16/</sup> Bruce B. Mason and Heinz R. Hink, Constitutional Government in Arizona (Arizona State University: 1975), pp. 65 and 67.

<sup>17/</sup> "Arizona," Americana, p. 306.

<sup>18/</sup> The Phoenix suburbs include the municipalities of Scottsdale, Glendale, Tempe, Mesa, Paradise Valley, and Chandler.

<sup>19/</sup> Jackie Pettycrew and Pat Poulson, Inside Phoenix 1979, The Arizona Republic and Phoenix Gazette, Community and Corporate Services Department, April 1979, p. 2 (hereafter cited as Inside Phoenix).

<sup>20/</sup> Id., p. 8. Total estimated population of Arizona in 1979 is 2.6 million. Arizona Statistical Review, p. 6.

<sup>21/</sup> Inside Phoenix, pp. 10, 12 and 17.

Phoenix, however, is not a retirement community. Metro Phoenix is predominantly younger than most large American urban areas. While the median age has increased from 27.8 to 28.2 over the last year, Phoenix still remains below the national median age figures. <sup>22/</sup> In Metro Phoenix, only 11.3% of the population is 65 years and over, and 45% of the residents are 24 years and under. Two-thirds of all metropolitan area residents are under forty years of age. <sup>23/</sup>

The minority composition of the metropolitan area shows Mexican-Americans accounting for 14.5% of the total population, Blacks 3.4%, Indians 1.2%, and Asian-Americans .4%. <sup>24/</sup> Within the actual city limits, 70% of the inhabitants are White, 20% Mexican-American, 5% Black, and 5% Indian. <sup>25/</sup> Certain areas of the city, however, are predominantly minority: In south Phoenix, a formerly separate municipality now incorporated into Phoenix, 28% of the households are Black and 17% Mexican-American; between South Phoenix and downtown, the neighborhood is 36% Mexican-American and 17% Black. Minorities are conspicuously absent from the municipalities of Scottsdale and Paradise Valley, northeast of downtown Phoenix, where 98% and 99% of the households are White, respectively. <sup>26/</sup>

Income levels of Metro Phoenix residents, although comfortable at a \$15,344 median income, also show wide variations: the area between South Phoenix and downtown Phoenix has a median income of \$7,333, while households in Paradise Valley have a median yearly income of \$28,125. <sup>27/</sup>

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<sup>22/</sup> .The national median age for 1978 was 29.7. (U.S. Department of Commerce, Bureau of the Census, Current Population Reports: Population Characteristics, Series p. 20 # 336, issued April 1979.)

<sup>23/</sup> Inside Phoenix, p. 10.

<sup>24/</sup> Arizona Department of Economic Security, "Affirmative Action Planning Information: Maricopa County" (Labor Market Information Publications: 1978), Table 1.

<sup>25/</sup> LEAA Proposal, Human Resources Department, Phoenix, Arizona (1979) (in Commission files).

<sup>26/</sup> Inside Phoenix, p. 16.

<sup>27/</sup> Id., p. 28. The national median household income for 1978 was \$15,064. (U.S. Department of Commerce, Bureau of the Census, Current Population Reports: Consumer Income, Series p. 60, # 120, issued November 1979.)

The rapid increase in population has contributed to Phoenix's problems, such as ever-worsening smog pollution and the growth of residential subdivisions which continue to push life away from the downtown area. In 1950, Phoenix had a downtown business district appropriate to its size; today, virtually no retail businesses remain there. Instead, the metropolitan area is dotted with large shopping centers. <sup>28/</sup>

Phoenix has repeatedly registered one of the highest crime rates in the nation. <sup>29/</sup> Likewise, Phoenix suffers from a high divorce rate, contributing to an overall high divorce rate in Arizona. From January 1979 through November 1979, Maricopa County recorded 10,627 dissolutions of marriage. During this same period, total marriage licenses issued were 15,596. <sup>30/</sup> In 1978, statewide figures show 17,320 dissolutions granted and 27,725 marriages. <sup>31/</sup> According to the Arizona State Justice Planning Center, the high crime and divorce rates may be due to several factors, including the lack of family social support systems in Arizona, and the absence of a large private tax base to fund social service programs (only 18% of Arizona's 113,900 square miles is privately-owned). <sup>32/</sup>

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<sup>28/</sup> "Arizona," Americana (1979), p. 300.

<sup>29/</sup> William Braybrock and Sarah Weissmyer, Update on Crime in Arizona: A Report from the Statistical Analysis Center, July 1978, Arizona State Justice Planning Center, 1978, p. 8 (hereafter cited as Update on Crime in Arizona).

<sup>30/</sup> Superior Court of Arizona, Maricopa County, Department of the Administrator, memorandum from P. Mark Berkshire, judicial administrator, to Laurie Campbell, staff, U.S. Commission on Civil Rights, Jan. 14, 1980. Mr. Berkshire noted that the marriage figure did not represent actual marriages. In a telephone conversation with him on Jan. 14, he said that statistics of actual marriages are not kept by the Superior Court, but that the number of marriage licenses issued represents a "ballpark figure" of actual marriages.

<sup>31/</sup> Arizona Statistical Review, p. 53.

<sup>32/</sup> Update on Crime in Arizona, p. 4.

In Phoenix, the youth and transience of the population may also be contributing factors.

#### 4. Economic Characteristics

Economically, Phoenix is more fortunate than most American cities. In 1978, 56,200 new jobs were added in Metro Phoenix, amounting to a 10.7% increase in employment. The unemployment rate in December 1978 was 4.5% compared to the national average of 5.9%. <sup>33/</sup>

Maricopa County's principal industries are manufacturing, agriculture, and tourism. It is the largest producer of crops and livestock in the state. <sup>34/</sup> Cotton, vegetables, melons, alfalfa, grains, citrus fruits, dates, grapes, and cattle and other livestock thrive from water impounded by six nearby dams, the largest of which is Roosevelt Dam. Besides agricultural use, impounded water is also needed for domestic, hydro-electric power, and industrial purposes. <sup>35/</sup>

The rapidly expanding manufacturing industry in Phoenix, especially in the field of electronic components, accounts for most of the metropolitan area's revenues and jobs. Figures for 1978 show that manufacturing brought in \$2.8 billion; tourism, the second largest industry, generated \$1.7 billion; and agriculture and farming netted \$450 million. <sup>36/</sup>

While other parts of the country's leading economic indicators point downward, Metro Phoenix continues to prosper. In 1979, projected manufacturing output was valued at \$3.1 billion, a 15% gain over the previous year. Tourism achieved a 16.5% increase at \$1.9 billion in 1979, while the marketing of crops and livestock brought in \$28 million more over 1978 figures, a 6.7% increase. <sup>37/</sup>

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<sup>33/</sup> Inside Phoenix, p. 3.

<sup>34/</sup> Arizona Statistical Review, p. 65.

<sup>35/</sup> "Phoenix," Americana, p. 789.

<sup>36/</sup> Inside Phoenix, p. 25.

<sup>37/</sup> Id.

## B. Structure of Government

### 1. Phoenix Municipal Government

Phoenix has a manager-council form of government, with a mayor and six councilmembers who are elected for two-year terms. Ms. Margaret J. Hance was recently elected to her third term as mayor. Appointed by the mayor and city council, the city manager oversees the day-to-day operations of the city government. The city manager is the only city employee that serves at the discretion of the elected officials; all other city officials and employees are protected by the state's civil service safeguards.

Phoenix has enjoyed continuity at the top of its municipal administration. For the past three years, Marvin Andrews has been city manager of Phoenix, and his predecessor served for 10 years. Branching out of the pivotal city manager's office are the City Court, City Auditor, City Attorney, Police, Transit, Fire Department, Personnel, Public Information, and Intergovernmental Offices. Four urban service managers, or assistant city managers run other departments: Office of Community Services, Office of Development Services, Office of Administrative Services, and Office of General Services.

### 2. Maricopa County Government

Organizationally, the form of government found in Maricopa County differs little from the City of Phoenix. There is no counterpart to the city mayor, but the county does have a manager-council structure: five county supervisors elected to four-year terms appoint the County Manager. Seven other elected officials head autonomous departments within the county government, although their budgets come through the County Manager's office. Elected to four-year terms are the County Attorney, County Sheriff, the Tax Assessor, the Clerk of the Superior Court, the Recorder, the Treasurer and the Superintendent of Schools.

Overall, twenty departments report to five Assistant County Managers who are not elected but are appointed by the County Manager. These Assistant County Managers operate with significantly less autonomy than

the elected officials since they are answerable to the County Manager. The Assistant County Managers include a Director of Financial Services, a Director of Judicial and Administrative Services, a Director of Public Works, a Director of General Services and a Director of Health and Welfare Services.

In addition to Phoenix, Maricopa County contains a number of other incorporated cities. The Maricopa Association of Governments (MAG), (a coordinating governmental body) was created in 1970 to assist in and act as a forum for the county's regional planning activities. MAG is governed by a Regional Council, one of six in the state, comprised of local elected officials representing 19 incorporated cities and towns and the Maricopa County government. The Regional Council meets monthly and is the policy-making body of MAG.

MAG has established a Criminal Justice Coordinating Committee, which is responsible for setting priorities for disbursement of monies made available to the County through the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice. The Committee consists of seven city councilmen, representing Chandler, Glendale, Mesa, Phoenix, Tempe, Scottsdale, and Tolleson; one Maricopa County Supervisor, an Acting Director of Arizona State University's Center for Criminal Justice, and two private citizens.

### III. Arizona Laws Relating to Domestic Violence

#### A. Criminal Law and Procedure

##### 1. Offenses

##### a. Assault and aggravated assault

The Arizona criminal code defines the offenses of assault as follows:

##### A. A person commits assault by:

1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
3. Knowingly touching another person with the intent to injure, insult or provoke such person. <sup>38/</sup>

Physical injury is defined as "the impairment of physical condition." <sup>39/</sup>

The offense of assault falling under section 1 is a class 1 <sup>40/</sup> misdemeanor carrying a maximum sentence of six months imprisonment.

An offense under section 2 is a class 2 misdemeanor carrying a maximum sentence of four months, and under section 3 a class 3 misdemeanor carrying a maximum sentence of 30 days. <sup>41/</sup>

Under present law, an assault may constitute a felony aggravated assault if the offender "causes serious physical injury to another," <sup>42/</sup> or "uses a dangerous weapon or other deadly instrument." <sup>43/</sup> Aggravated

<sup>38/</sup> Ariz. Rev. Stat. § 13-1203 (1978).

<sup>39/</sup> Ariz. Rev. Stat. § 13-105(24) (1978).

<sup>40/</sup> Under the 1978 revision of the Arizona criminal code, the various criminal offenses are classified according to seriousness for the purpose of sentencing. The Code establishes a prescribed sentence for each class of offense, but the court may impose a greater or lesser sentence if the court finds that aggravating or mitigating circumstances are present. Ariz. Rev. Stat. § 13-702 (1978).

<sup>41/</sup> Ariz. Rev. Stat. § 13-707 (1978).

<sup>42/</sup> Ariz. Rev. Stat. § 13-1204(A)(1) (1978).

<sup>43/</sup> Ariz. Rev. Stat. § 13-1204(A)(2) (1978). Other types of assaults constituting the felony of aggravated assault include assaults on police officers, teachers, or correctional officers; assault after entering a private home with the intent to commit the assault, assault by an adult upon a child, and assault upon a victim who is bound or physically restrained. Ariz. Rev. Stat. § 13-1204(A)(1-8) (1978).

assault is classified as a class 3 felony, punishable by a sentence of 5 years' imprisonment. 44/

The Arizona criminal code, in its 1978 revision, defines "serious physical injury" as:

Physical injury which creates a reasonable risk of death, or which causes serious and permanent disfigurement, or serious impairment of health or loss or protracted impairment of the bodily function of any bodily organ or limb. 45/

This statutory definition was a codification of the definition of "serious physical injury" by Arizona appellate courts in case law, to the effect that a severe degree of injury must be proven in order to render an assault a felony within the terms of the aggravated assault statute. In one case, the Arizona Court of Appeals approved this definition of "serious bodily injury:"

The rule is well settled that to constitute serious bodily injury the injury must be grave, not trivial - such an injury as gives rise to apprehension of danger to life, health or limb. It is not, however, required that the injuries be such as may result in death. 46/

In this case, which demonstrates the stringent requirements of Arizona law in regard to felony assault, the evidence indicated that the offender beat the victim with his fist on the face and head, threw him on the ground, and kicked him, and that the victim sustained two black eyes and facial bruises and was bleeding and groggy. Nevertheless, the court held that the evidence was insufficient "to support an inference that the victim's injuries were such as would give rise to apprehension of danger to life, health or limb," and reversed a conviction of aggravated assault. 47/

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44/ Ariz. Rev. Stat. § 13-701 (1978).

45/ A.R.S. § 13-105(29) (1978).

46/ State v. Mendibles, 25 Ariz. App. Rep. 392, 394, 543 P.2d 1149 (1975).

47/ Id. at 395.



Under a previous version of the Arizona criminal code, most domestic violence cases could be prosecuted as felonies, through a now repealed section of the aggravated assault statute which provided:

An assault or battery is aggravated when committed ... by a male of eighteen years or more upon a female. 48/

In 1973, this provision was eliminated by the Arizona State Legislature as part of an Act entitled "Relating to Equal Rights: Providing for Equal Rights for Males and Females," 49/ which amended a number of statutory provisions to make the language sex-neutral. The effect was to decrease the offense of wife battering from a felony to a misdemeanor in most cases.

Almost no legislative history exists surrounding the 1973 statute. Minutes of the public hearing of the Arizona House of Representatives Judiciary Subcommittee on the bill contain no specific reference to the amendment of the aggravated assault statute. It does not appear however, that the State Legislature intended to make more difficult the prosecution of offenses of physical abuse by men upon women or to lessen the severity of potential punishment, although that was the effect. Rather, it seems that the effect of the revision was not contemplated or realized.

The 1978 revision of the Arizona Criminal Code did not address specifically offenses of domestic violence. The effect of the extremely high standard of physical injury required to bring an offense to the level of felony aggravated assault means that the vast majority of incidents of domestic violence that reach the courts are prosecuted as misdemeanor simple assaults.

b. Other offenses

In addition to assault and aggravated assault, the Arizona Criminal Code contains several other offenses potentially applicable to incidents of domestic violence.

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48/ Ariz. Rev. Stat. § 13-245(A)(3) (1956), as amended by Laws 1967, Ch. 62, § 1.

49/ 31st Ariz. Sess. Laws, Ch. 172. H.B. 2280.

The offense of endangerment,<sup>50/</sup> added to the criminal code in the 1978 revision, is defined as "recklessly endangering another person with a substantial risk of imminent death or physical injury." It is a class 1 misdemeanor, with a maximum sentence of six months imprisonment, except in an offense involving a substantial risk of imminent death which is a class 6 felony with a sentence of one and one-half years imprisonment.

The offense of threatening or intimidating,<sup>51/</sup> also added to the criminal code in the 1978 revision, is defined as "threaten~~/ing~~ or intimidat~~/ing~~ by word or conduct with the intent ... to cause physical injury to another person or serious damage to property of another." It is a class 1 misdemeanor, with a maximum sentence of six months' imprisonment.

The offense of disorderly conduct <sup>52/</sup> is defined as follows, in pertinent part:

A person commits disorderly conduct, if, with intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, such person:

1. Engages in fighting, violent or seriously disruptive behavior; or
2. Makes unreasonable noise; or
3. Uses abusive or offensive language or gestures to any person present in a manner likely to provoke immediate physical retaliation by such person; or

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6. Recklessly handles, displays or discharges a deadly weapon or dangerous instrument.

Disorderly conduct is a class 1 misdemeanor, with a maximum sentence of six months imprisonment.

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<sup>50/</sup> Ariz. Rev. Stat. § 13-1201 (1978).

<sup>51/</sup> Ariz. Rev. Stat. § 13-1202 (1978).

<sup>52/</sup> Ariz. Rev. Stat. § 13-2904 (1978).

A violation by a spouse of a civil restraining order <sup>53/</sup>--for example, barring him from the home or enjoining him from abusive conduct--may constitute a criminal offense. The offense of interfering with judicial proceedings, <sup>54/</sup> a class 1 misdemeanor carrying a maximum sentence of six months imprisonment, is defined as follows, in pertinent part:

A person commits the offense interfering with judicial proceedings if such person knowingly . . . disobeys or resists the lawful order, process, or other mandate of a court.

## 2. Criminal Procedure

If an incident of domestic violence results in the commission of a criminal offense, and the assistance of the police is sought, the circumstances present determine the procedures available for bringing the matter into the criminal justice system.

### a. Arrest without a warrant--felony

A law enforcement officer may arrest a suspect without a warrant, when the officer has probable cause to believe that a felony has been committed and probable cause to believe the person to be arrested has committed the felony. <sup>55/</sup> If probable cause exists, an officer may arrest a suspect for a felony without a warrant whether or not the officer observed the commission of the offense. Arizona law provides that an arrest is made "by an actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest." <sup>56/</sup> The arresting officer is required to inform the person to be arrested of his authority and the cause of the arrest, except where the person to be arrested is then engaged in the commission of the offense, flees or resists arrest, or where the giving of such information would imperil the arrest. <sup>57/</sup>

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<sup>53/</sup> Civil domestic relations proceedings are described below at Section III. B. 1.

<sup>54/</sup> Ariz. Rev. Stat. § 13-2810(2) (1978).

<sup>55/</sup> Ariz. Rev. Stat. § 13-3883(1) (1978).

<sup>56/</sup> Ariz. Rev. Stat. § 13-3881(1) (1978).

<sup>57/</sup> Ariz. Rev. Stat. § 13-3888 (1978).

## b. Arrest without a warrant--misdemeanor

An officer is permitted to arrest a person without a warrant for a misdemeanor offense, if he has probable cause to believe that a misdemeanor has been committed and that the person to be arrested has committed the offense, whether or not the offense was committed in the officer's presence. 58/

In arrests for misdemeanor offenses committed outside the officer's presence, the officer must use the "citation in lieu of detention" procedure of the Arizona criminal code. 59/ Citation in lieu of detention means that the officer will release the arrested person from custody, upon his execution of a written promise to appear in court when required.

Under this procedure, the officer will fill out the standard Arizona traffic ticket and complaint form, which will briefly describe the alleged offense and set a date for an initial court appearance. 60/ The form contains a space for the suspect's signature indicating his written promise to appear in court.

In arrests for misdemeanor offenses committed within the officer's presence, the arresting officer has two options. The officer may release the arrested person through the citation in lieu procedure. 61/ Or the officer may detain the arrested person for presentation to a magistrate, who will determine conditions of release. 62/

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58/ Ariz. Rev. Stat. § 13-3883 (1978).

59/ Ariz. Rev. Stat. § 13-3883(4), § 13-3903 (1978).

60/ Ariz. Rev. Stat. § 13-3903(C) (1978).

61/ Ariz. Rev. Stat. § 13-3903 (1978).

62/ Ariz. Rev. Stat. § 13-3883(4) (1978).

## c. Citizen's arrest

Arizona law permits an arrest by a private person for a misdemeanor committed in his/her presence or for a felony when he/she has reason to believe that the person to be arrested has committed it. <sup>63/</sup> The procedure prescribed by statute requires the private person making a citizen's arrest to inform the person to be arrested of the intention to arrest him and the cause of the arrest. The requirement of giving notice to the person to be arrested is excused when:

he is then engaged in the commission of the offense, or is pursued immediately after its commission or after an escape, or flees or forcibly resists before the person making the arrest has opportunity so to inform him, or when the giving of such information will imperil the arrest. <sup>64/</sup>

A private person making an arrest is required without delay to take the person arrested before a magistrate, or to deliver him to a peace officer who must take him before a magistrate. <sup>65/</sup> Either the private person or the officer must make a complaint before the magistrate, setting forth the facts of the offense for which the person was arrested. A misdemeanor complaint need not be sworn, however, and an officer is permitted to certify a complaint upon reasonable belief. <sup>66/</sup>

The Phoenix Police Department, through its operations orders, employs the following standards for the acceptance and processing of a citizen's arrest:

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<sup>63/</sup> Ariz. Rev. Stat. § 13-3884 (1978).

<sup>64/</sup> Ariz. Rev. Stat. § 12-3889 (1978).

<sup>65/</sup> Ariz. Rev. Stat. § 13-9000 (1978).

<sup>66/</sup> Ariz. Rev. Stat. § 13-3889 (1978).

Before accepting a prisoner arrested by a private citizen, the officer will insure that the elements outlined in paragraph 6A are present.

A. Citizen's arrests will have the following elements before officers accept the prisoner:

1. The prisoner is in custody of the citizen (either by actual physical restraint or the prisoner's voluntary submission to the arrest).
2. The citizen making the arrest intends to sign the complaint.
3. The prisoner has been told by the citizen that he has been arrested and for what offense he has been arrested.
4. The citizen's arrest is apparently lawful, i.e., Breach of the Peace committed in the citizen's presence, etc. 67/

d. Complaint and summons or warrant

In some incidents of domestic violence, police may feel they lack sufficient basis to take immediate action or the victim may be unable or unwilling to make a citizen's arrest and yet still desire prosecution. In such cases, the police will fill out a Departmental Report (D.R.) describing the incident and submit it to the city or county prosecutor for a prosecutorial determination. 68/ If the complaint is approved for prosecution a summons will be issued to bring the defendant into court or, in the more serious cases, a warrant for his arrest will be issued by a magistrate, upon a showing of reasonable cause by the prosecutor. 69/

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67/ Phoenix Police Department, Operations Orders B-1, para. 6A.

68/ Phoenix Police Department, Operations Orders N-1, Para. 6E.

69/ Ariz. Rules of Criminal Procedure, Rule 3.2(a). A magistrate is a judge of a court of no record, either a Justice of the Peace or a municipal court judge. For a description of the court system see Section IV. D-F.

A summons issued by the prosecutor will contain the defendant's name, the offense charged, and a directive to appear before a magistrate at a stated time and place, within seven days after service of process. If the prosecutor wishes, the summons may direct the defendant to appear at a designated place to be photographed and fingerprinted prior to the initial appearance. <sup>70/</sup>

e. Initial appearance and setting of pre-trial conditions of release

A person arrested must be taken before a magistrate for an initial appearance within 24 hours of his arrest. <sup>71/</sup> For a person arrested without a warrant, a complaint must be filed within 48 hours after the initial appearance or the defendant must be released from custody. <sup>72/</sup> A defendant to be brought before the court on a summons rather than by arrest will be directed to come to court for an initial appearance within 7 days after service of the summons. <sup>73/</sup>

At the initial appearance, the magistrate must inform the defendant of the complaint and of his constitutional rights, appoint counsel if necessary, and determine pre-trial conditions of release. <sup>74/</sup>

Arizona statutes and rules of court provide that a defendant shall be released pending trial on his own recognizance, without requiring a money bond, unless the court determines that such a release would not ensure the defendant's presence in court when required. <sup>75/</sup>

The court is specifically authorized to impose additional conditions of pre-trial release, including placing restrictions on the defendant's place of residence and requiring the defendant to report

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<sup>70/</sup> Ariz. Rules of Criminal Procedure, Rule 3.2(b).

<sup>71/</sup> Ariz. Rules of Criminal Procedure, Rule 4.1(a).

<sup>72/</sup> Ariz. Rules of Criminal Procedure, Rule 4.1(b).

<sup>73/</sup> Ariz. Rules of Criminal Procedure, Rule 3.2(b).

<sup>74/</sup> Ariz. Rules of Criminal Procedure, Rule 4.2.

<sup>75/</sup> Ariz. Rev. Stat. § 13-3967 (1978); Ariz. Rules of Criminal Procedure, Rule 7.2(a).

regularly to and be supervised by an officer of the court or a designated organization. <sup>76/</sup> Thus, in a charge arising out of an incident of domestic violence, the court has authority to require as a pre-trial condition of release that the defendant reside away from the family home and submit to supervision of his conduct.

In cases initiated through a summons or citation in lieu of detention, the defendant will not be in custody at the time he comes before the magistrate at the initial appearance, but instead will have appeared voluntarily in court at the time set in the summons or citation. Nothing in the statutes or rules deprives the magistrate at the initial appearance in such a case of the authority to set conditions for continued pre-trial release until the final disposition of the case. However, in the practice of the Phoenix Municipal Court, pre-trial conditions of release are considered and set only in the cases of defendants in custody at the time of the initial appearance and not in the cases of defendants coming into court in response to a summons or citation. <sup>77/</sup>

f. Disposition of criminal charges

A defendant charged with a felony by complaint is entitled to a preliminary hearing before a magistrate within 10 days after the initial appearance if he is in custody or within 20 days if he is not in custody. <sup>78/</sup> At the preliminary hearing, the magistrate will hear testimony and make a finding as to whether probable cause exists to hold the defendant for the Superior Court on the charges against him. <sup>79/</sup>

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<sup>76/</sup> Ariz. Rev. Stat. § 13-3967(E) (1978).

<sup>77/</sup> Interview with Hon. Alan Hammond, Presiding Judge, Phoenix Municipal Court, December 6, 1979.

<sup>78/</sup> Ariz. Rules of Criminal Procedure, Rule 5.1.

<sup>79/</sup> Ariz. Rules of Criminal Procedure, Rule 5.2.



A defendant may be formally brought before the Superior Court on a felony charge either through an indictment by a grand jury or on an information filed by the prosecutor. <sup>80/</sup>

There is no right to a preliminary hearing for a misdemeanor charge. The defendant will be asked to enter a plea of guilty or not guilty at the initial appearance, <sup>81/</sup> and a date will be set for a pre-trial conference.

Arizona law regarding speedy trial rights requires that, except under certain extraordinary circumstances, a defendant must be brought to trial within 150 days after arrest or service of summons. Defendants in custody or released from custody must be tried within 120 days from the date of initial appearance before a magistrate or within 90 days of arraignment before the trial court on an indictment or information, whichever is lesser. <sup>82/</sup>

A defendant may dispose of the charges against him by a plea of guilty or no contest at any time before trial. Before accepting a plea of guilty or no contest the court must inquire personally of the defendant to ascertain that he understands the nature of the charges against him and the possible sentence he could receive, the constitutional rights he foregoes by entering a plea and the nature of the plea bargain he is entering into. As well, the court must make sure that the defendant's plea is voluntary and that there is a factual basis for the plea. <sup>83/</sup>

If the case is not disposed of by dismissal of the charges or a plea of guilty or no contest the defendant is entitled to a determination of his guilt or innocence at a trial by jury. <sup>84/</sup>

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<sup>80/</sup> Ariz. Rules of Criminal Procedure, Rule 13.1.

<sup>81/</sup> Ariz. Rules of Criminal Procedure, Rule 4.2(b).

<sup>82/</sup> Ariz. Rules of Criminal Procedure, Rule 8.2.

<sup>83/</sup> Ariz. Rules of Criminal Procedure, Rule 17.

<sup>84/</sup> Ariz. Rules of Criminal Procedure, Rules 18-23.

## g. Sentencing

Upon a determination of guilt, either by plea of guilty or a verdict of guilty following a trial, the court must impose sentence upon the defendant. The court must order a pre-sentence investigation in all cases in which it has discretion over the penalty to be imposed, except that requiring a pre-sentence investigation is discretionary in cases in which the defendant can only be sentenced to imprisonment for less than one year or in which the defendant waives a pre-sentence investigation. <sup>85/</sup> The court may also hold a pre-sentence hearing to hear evidence from any party regarding aggravating or mitigating circumstances relevant to the sentence to be imposed. <sup>86/</sup>

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<sup>85/</sup> Ariz. Rules of Criminal Procedure, Rule 26.4.

<sup>86/</sup> Ariz. Rules of Criminal Procedure, Rule 26.7.

## B. Civil Law

### 1. Dissolution of marriage

#### a. Procedure and grounds

Arizona amended its domestic relations code in 1973 to provide for a no-fault dissolution of marriage in place of termination of marriage by adversary divorce proceedings.

Upon petition by one or both parties to a marriage to a branch of the Arizona Superior Court, the court must grant a decree of dissolution of the marriage if it finds (1) that one of the parties has been domiciled in the state for 90 days; (2) that the marriage is "irretrievably broken"; and (3) that adequate arrangements have been made for maintenance of the spouses and for child custody and support. <sup>87/</sup>

The only defense available to a petition for the dissolution of a marriage is that the marriage is not irretrievably broken. <sup>88/</sup>

#### b. Conciliation Court

The Arizona domestic relations code contains a provision for marriage counseling and reconciliation efforts under the supervision and jurisdiction of the Superior Court. <sup>89/</sup> The Superior Court of any Arizona county may establish a Conciliation Court pursuant to the terms of the statute, and this has been done in Maricopa County. The statutory purposes are:

to promote the public welfare by preserving and protecting family life and the institution of matrimony, to protect the rights of children, and to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies. <sup>90/</sup>

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<sup>87/</sup> Ariz. Rev. Stat. § 25-312 (Supp. 1979).

<sup>88/</sup> Ariz. Rev. Stat. § 25-314 (Supp. 1979).

<sup>89/</sup> Ariz. Rev. Stat. § 25-381.01.21 (1976).

<sup>90/</sup> Ariz. Rev. Stat. § 25-381.01 (1976).

The jurisdiction of the Conciliation Court is invoked by a petition from either or both spouses, alleging that "a controversy exists between the spouses and request(ing) the aid of the Conciliation Court to effect a reconciliation or an amicable settlement of the controversy."<sup>91/</sup> Unmarried couples may also seek counseling from the Conciliation Court. Once a petition for conciliation is filed, a petition for dissolution or legal separation may not be filed for 60 days, and pending proceedings for dissolution or legal separation will be stayed for 60 days.<sup>92/</sup> The court may enter temporary restraining, custody, support, and maintenance orders during the conciliation period.<sup>93/</sup>

The Conciliation Court is under the supervision of the Superior Court,<sup>94/</sup> but the day-to-day work is handled by an appointed Director of Conciliation and his/her staff, who in Maricopa County are highly trained and experienced professional marriage counselors.<sup>95/</sup> Conciliation Court staff hold joint and separate conferences with the spouses, "to effect a reconciliation of the spouses or amicable adjustment or settlement of the issues."<sup>96/</sup>

When jurisdiction of the Conciliation Court is invoked by the filing of a petition for conciliation, the other spouse may be required to appear for conferences. If necessary, a Superior Court judge may issue a citation compelling his or her appearance.<sup>97/</sup>

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<sup>91/</sup> Ariz. Rev. Stat. § 25-381.11 (1976).

<sup>92/</sup> Ariz. Rev. Stat. § 25-381.18 (1976).

<sup>93/</sup> Ariz. Rev. Stat. § 25-381.17 (1976).

<sup>94/</sup> Ariz. Rev. Stat. § 25.381.03 (1976).

<sup>95/</sup> Ariz. Rev. Stat. § 25-381.07 (1976). A description of the operation of the Conciliation Court of Maricopa County is found in Section IV.D.

<sup>96/</sup> Ariz. Rev. Stat. § 25-381.16 (1976).

<sup>97/</sup> Ariz. Rev. Stat. § 25-381.14 (1976).

If, after the expiration of the 60 day conciliation period, the spouses have not reconciled, either spouse may petition for dissolution of the marriage or proceed with an action previously stayed. <sup>98/</sup>

c. Preliminary injunctions, preliminary restraining orders, and temporary restraining orders

(1) Issuance

Amendments to the Arizona domestic relations code in 1977 established a procedure for automatic issuance, by the clerk of the court without hearing, of a preliminary injunction binding upon both spouses in all actions for dissolution or legal separation. <sup>99/</sup> This standard preliminary injunction enjoins both spouses from disposing of joint and community property <sup>100/</sup> and from removing any children of the marriage from the jurisdiction of the court, without the consent of both parties or the permission of the court. Of potential significance in the handling of incidents of domestic violence is a provision in the standard order stating that

both parties are enjoined from molesting, harassing, disturbing the peace of or committing an assault or battery on the person of the other party or any natural or adopted child. <sup>101/</sup>

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<sup>98/</sup> Ariz. Rev. Stat. § 25-381.18 (1976).

<sup>99/</sup> Ariz. Rev. Stat. § 25-315 (Supp. 1979).

<sup>100/</sup> Arizona is a community property state. All property acquired by the husband or wife during marriage, except through gift, descent or devise to one of the spouses, is the community property of both husband and wife. Ariz. Rev. Stat. § 25-211 (1976). Property acquired by a spouse before marriage, or through gift, descent, or devise, is the separate property of that spouse. Ariz. Rev. Stat. § 25-213 (1976). Separate property is under the control of the spouse who owns it, while community property is under the control of both husband and wife. Ariz. Rev. Stat. § 25-214 (1986).

<sup>101/</sup> Ariz. Rev. Stat. § 25-315 (A)(1)(b) (Supp. 1979).

The standard preliminary restraining order is binding upon the petitioning spouse upon the filing of the petition for dissolution, and upon the respondent spouse at the time of service of a copy of the order.<sup>102/</sup> The standard order has the same effect as an order of the Superior Court signed by a judge, and can be enforced by all legal remedies, including contempt of court.<sup>103/</sup>

The Arizona domestic relations code specifically provides that a party to an action for dissolution of marriage may request the court to issue a temporary restraining order or preliminary injunction /ē/xcluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm may otherwise result.<sup>104/</sup>

This request may be made as a part of a motion for temporary maintenance or by independent motion accompanied by an affidavit setting forth the facts supporting the request.<sup>105/</sup> The court may issue an immediate temporary restraining order without notice to the other party if the court finds that the time required for notice and a hearing will result in irreparable injury.<sup>106/</sup>

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<sup>102/</sup> Ariz. Rev. Stat. § 25-315(A)(2) (Supp. 1979).

<sup>103/</sup> Ariz. Rev. Stat. § 25-315(A)(4) (Supp. 1979).

<sup>104/</sup> Ariz. Rev. Stat. § 25-315(C) (Supp. 1979).

<sup>105/</sup> Id.

<sup>106/</sup> Ariz. Rev. Stat. § 25-315(B) (Supp. 1979).

A temporary restraining order issued without notice in a domestic relations proceeding is subject to the same procedural requirements applied in other civil proceedings.<sup>107/</sup> Such an order will expire within 10 days after its issuance, unless the court extends it for an additional 10 days upon a showing of good cause or the party enjoined agrees to an extension.<sup>108/</sup> In a case in which a temporary restraining order is issued without notice, the court must hold a hearing on the motion for preliminary injunction, with notice to the party enjoined and opportunity to be heard, within 10 days and such hearings take precedence over all other matters on the court's calendar.<sup>109/</sup>

(2) Enforcement

The remedies available in the event of a spouse's violation of an injunction in a domestic relations proceedings are the same as for violation of any civil injunction, as set forth in Rule 65 of the Rules of Civil Procedure.

Disobedience of an injunction--for example, excluding a battering husband from the family home--may be punished as contempt of court.<sup>110/</sup> The party in whose favor the injunction was entered may file an affidavit with the court stating the circumstances constituting violation of the injunction. The court then may enter an order to show cause requiring the person complained of to appear in court and answer why he should not be held in contempt.<sup>111/</sup>

The order to show cause, with the affidavit, must be served on the person charged and sufficient time allowed him to prepare his defense to the allegations against him.<sup>112/</sup>

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<sup>107/</sup> Ariz. Rev. Stat. § 25-315 (C) (Supp. 1979).

<sup>108/</sup> Ariz. Rules of Civil Procedure, Rule 65(d).

<sup>109/</sup> *Id.*

<sup>110/</sup> Ariz. Rules of Civil Procedure, Rule 65(j)(1).

<sup>111/</sup> Ariz. Rules of Civil Procedure, Rule 65(j)(2).

<sup>112/</sup> Ariz. Rules of Civil Procedure, Rule 65(j)(3).

At the hearing on the order to show cause, the court will hear evidence from both parties on the allegations of violation of the injunction. If the court finds that the person enjoined has violated the injunction, he "may be committed to jail until he purges himself of the contempt as may be directed by the court or until he is discharged by law." <sup>113/</sup>

Preliminary and temporary restraining orders and preliminary injunctions are not self enforcing. A woman victim of domestic violence, who has previously obtained an order barring her husband from physically abusing her or excluding him from the family home, must ordinarily obtain the assistance of an attorney to prepare the necessary papers for an order to show cause and contempt hearings.

Regulations of the Phoenix Police Department specify that patrol officers must inform complainants seeking enforcement of a restraining order that they must contact the judge who issued the order. The regulations state:

Officers will not take on-view action on violations of a restraining order unless a separate criminal offense occurs. Action will then be taken on the separate offense only. <sup>114/</sup>

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<sup>113/</sup> Ariz. Rules of Civil Procedure, Rule 65(j)(6).

<sup>114/</sup> Phoenix Police Department, Operations Orders C-3(7) (6/1/75).



The result of this policy is that a woman who has obtained a restraining order barring her assailant from the family home cannot look to the police for enforcement. If police officers do not arrest the violator or remove him from the premises, the woman's only alternative is to contact her attorney or the judge who issued the order and begin the enforcement procedures already discussed. The lack of immediate police assistance to the party in whose favor the order was issued is perhaps most detrimental when a violation occurs at night or on the weekend when the courts are closed.<sup>115/</sup>

## 2. Peace Bonds

The Arizona code has long contained a provision, neither wholly civil nor wholly criminal, for bonds to keep the peace. Although the issuance of "peace bonds" has become extremely rare, the procedure was retained in the 1978 revision of the Arizona criminal code.<sup>116/</sup>

A proceeding to obtain a peace bond is commenced by the filing of a complaint with a magistrate, alleging that "a person has threatened to commit an offense against the person or property of another."<sup>117/</sup> Upon receipt of a complaint, the magistrate, ordinarily a Justice of the Peace, will examine under oath the complainant and any witnesses he/she may produce, and "if there is just reason to believe that the commission of the offense is imminent," the magistrate is directed to issue a summons or a warrant of arrest for the person complained of.<sup>118/</sup>

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<sup>115/</sup> Police regulations do not appear to take into account the provisions of Ariz. Rev. Stat. § 13-2811(2), which proscribes as a misdemeanor offense the knowing disobedience or resistance of an order of a court. See Section III A.l.b., p

<sup>116/</sup> Ariz. Rev. Stat. § 13-3811-16 (1978).

<sup>117/</sup> Ariz. Rev. Stat. § 113-3811 (1978).

<sup>118/</sup> Ariz. Rev. Stat. § 13-3812 (1978).

When the person is brought before the magistrate, he will be permitted to present any defense he may have to the complaint against him. If the magistrate finds that there is "just reason to believe the commission of the offense is imminent," he may require the person complained of to post a money bond, in an amount not exceeding five thousand dollars, to keep the peace toward the state and the complainant.<sup>119/</sup> The person may be jailed if he fails to post the bond.<sup>120/</sup>

In order to obtain enforcement for violation of the peace bond, the person complained of must be charged with and convicted of an offense amounting to a breach of the peace.<sup>121/</sup> The record of the conviction is deemed conclusive evidence of breach of the bond, and the county attorney is directed to commence action in the name of the state for recovery of the bond.<sup>122/</sup>

The peace bond is thus not self-enforcing, and a criminal conviction is required before action can be taken on the bond. The Maricopa County Attorney does not initiate actions under the peace bond statute.<sup>123/</sup> Only one of the 18 justices of the peace in Maricopa County will issue a peace bond under any circumstances.<sup>124/</sup> The procedure, although existing by statute, thus plays little role in practice in the handling of domestic violence situations in Phoenix.

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<sup>119/</sup> Ariz. Rev. Stat. § 13-3813 (1978).

<sup>120/</sup> Ariz. Rev. Stat. § 13-3814 (1978).

<sup>121/</sup> Ariz. Rev. Stat. § 13-3815 (1978).

<sup>122/</sup> Id.

<sup>123/</sup> Interview with Larry Cronin, Administrative Deputy, Maricopa County Attorney's Office, November 16, 1979.

<sup>124/</sup> Interview with Hon. Ronald Johnson, Justice of the Peace, Phoenix South Justice Court, January 10, 1979.

### 3. Civil Tort Actions

Another option available to a woman who has been assaulted and injured by her mate is to bring suit against him in the Justice Court or Superior Court.<sup>125/</sup> If the assault occurred while the victim was married to the assailant, she must obtain a dissolution of the marriage before filing suit.<sup>126/</sup> The plaintiff may ask the court to award her compensatory damages to defray medical and other expenses incurred as a result of the assault, as well as punitive damages to penalize the assailant for his wrongful conduct.<sup>127/</sup> In appropriate cases, the plaintiff may also seek injunctive relief forbidding the defendant from continuing to harass, threaten, or assault her. A civil suit may be brought in addition to a criminal prosecution based upon the same assault.

Either party to a civil suit may request a jury trial;<sup>128/</sup> if a jury trial is waived, the suit will be decided by the justice of the peace or by the judge. The litigation proceeds like any other civil suit, from the filing of a complaint and service of process upon the defendant, through pleadings, motions, discovery, trial and judgment.

In addition to the case law discussed above which makes this option unavailable to married women, there are a number of other factors which may reduce the utility of civil suits in cases of domestic violence.

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<sup>125/</sup> The Justice Courts have exclusive jurisdiction in civil cases involving amounts up to \$500. Cases involving amounts between \$500 and \$1000 may be heard by either the Justice Court or the Superior Court. Ariz. Rev. Stat. § 22-301 (Supp. 1979).

<sup>126/</sup> The Arizona Supreme Court has held that the victim of an intentional tort such as assault has no cause of action for damages while married to the assailant, but that she may recover against him once a divorce is final. *Windauer v. O'Connor*, 485 P.2d 1157, 107 Ariz. 267 (Ariz. 1971). A victim may never recover, even after divorce, for injuries negligently inflicted by her spouse. *Burns v. Burns*, 526 P.2d 717, 111 Ariz. 178 (Ariz. 1974).

<sup>127/</sup> Punitive damages may be awarded only in cases involving aggravated, wanton, reckless, or maliciously intentional wrongdoing. See, e.g., *Acheson v. Shafter*, 490 P.2d 832, 107 Ariz. 576 (Ariz. 1971).

<sup>128/</sup> Ariz. Rev. Stat. § 22-220; Rule 38, Ariz. R. Civ. Procedure (1979).

Although legal counsel is not technically required, the complex nature of civil procedure and presentation of evidence makes it extremely difficult to bring a civil suit to trial without legal representation. Community Legal Services may provide free legal counsel to such cases to a client otherwise eligible by income only after the case has been referred to and rejected by two private attorneys, or where certain other requirements are met.<sup>129/</sup> Even if a woman succeeds in hiring an attorney and obtaining a favorable verdict, the result may be inadequate. The actual amount of money recovered by the defendant may not offset the expense of hiring an attorney or the time and effort involved in litigating a case to completion.

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<sup>129/</sup> 45 C.F.R. Part 1609, "Fee-Generating Cases." Other exceptions are made for cases which attorneys in the area do not ordinarily accept, or in which a preliminary consultation fee is required, or in which the recovery of money damages is not the principal purpose of the suit. 45 C.F.R. § 1609.4 (1978). For a description of the Community Legal Services Program, see Section IV:1.

### C. Public Assistance

Victims of domestic violence are often financially dependent upon the men who abuse them. Separation from the abuser and/or resort to the criminal justice system means that a woman must find independent means of financial support and housing for herself and her children. Women in this position commonly have no job training or skills, and are unemployed. Public assistance programs for subsistence and housing often are the only way to avoid being forced by economic circumstances to return to the home of the abuser.

In the State of Arizona, the Department of Economic Security (DES) is authorized to administer all public assistance programs. The Social Security Act, as amended, and Arizona law<sup>130/</sup> authorize the operation of assistance payments programs by the Arizona Department of Economic Security for the benefit of needy persons who meet specific eligibility requirements. DES programs which may be available to battered women include: Aid for Families with Dependent Children (AFDC), Emergency Assistance (EA), Food Stamps, and Crisis Counseling and Intervention Services.

#### 1. Aid for Families with Dependent Children

The Aid to Families with Dependent Children (AFDC) program provides financial assistance and referral for rehabilitation, training and job placement for members of eligible needy families.<sup>131/</sup> The eligibility criteria for AFDC require that need and deprivation exist in each case. According to DES regulations, a needy child must be deprived of support or care by one or more of the following occurrences: death of one or both of the natural or adoptive parents; incapacity of one or both of the natural or adoptive parents; and/or

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<sup>130/</sup> Ariz. Rev. Stat., Titles 36, 41, 46 (1956).

<sup>131/</sup> Arizona Department of Economic Security, Volume 3, Income Maintenance, Aid to Families with Dependent Children, R6-3-401 (1977). Volume 3, Income Maintenance is Arizona Department of Economic Security's regulations and procedures for application and receipt of the financial assistance programs administered by the Department. These regulations will hereinafter be cited as 3 Income Maintenance.

continued absence from the home of one or both of the natural or adoptive parents.<sup>132/</sup>

Assistance will be provided for otherwise eligible persons who are:

- (1) Dependent under 18 years of age
- (2) Dependent children between 18 and 21 if attending school or college
- (3) Parents of eligible AFDC children
- (4) Non-parent relatives if the eligible AFDC children are residing with them.<sup>133/</sup>

Assets of an applicant for AFDC benefits are limited to household furnishings, wearing apparel and the home where she lives with a gross market value not exceeding \$30,000.<sup>134/</sup> The assets may include tools used by the applicant's family in their trade or business, and one car or truck.<sup>135/</sup>

An applicant for AFDC is required to cooperate with the state in identifying, establishing paternity and locating the parent of the child for whom assistance is claimed.<sup>136/</sup> DES then pursues the husband for support payments. Once contacted, the husband has a legitimate basis for inquiring about the name and address of the woman who provided his name. Because some battered women do not want their husbands to know their whereabouts, this provision may be particularly troublesome for them. AFDC regulations, however, provide that an applicant is not required to give the name of the father of a child if "good cause" can be established for non-compliance.<sup>137/</sup> The imminent threat of bodily harm to woman by the husband may be "good cause."

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<sup>132/</sup> 3 Income Maintenance, R6-3-406(A).

<sup>133/</sup> 3 Income Maintenance, R6-3-402.

<sup>134/</sup> 3 Income Maintenance, R6-3-409(A).

<sup>135/</sup> Id.

<sup>136/</sup> 3 Income Maintenance, R6-3-412(C)(3)(A). In addition, each recipient of AFDC is required to assign to the state any rights to child support she may have from another person.

<sup>137/</sup> 3 Income Maintenance, R6-3-412(C)(3).

The benefit levels for Arizona AFDC benefit payments were established in 1971 by a Department of Public Welfare study prior to the formation of DES.<sup>138/</sup> The study established the minimum dollar amount necessary to enable a family to survive in 1971.<sup>139/</sup> Federal regulations required Arizona to do the study and to create a minimum standard of need for recipients in the state, but did not prevent the state from paying less than 100% of the computed need. The AFDC payment level is 85% of need for fiscal year 1980.<sup>140/</sup> Arizona thus awards \$153 to an AFDC family of two with a budgeted need of \$180 per month. Arizona ranks 39th among the 50 states in the average payment per recipients of Aid to Families with Dependent Children benefits.<sup>141/</sup>

An application may be made for AFDC benefits by submitting a signed written application, verified by the applicant under oath upon forms prescribed by DES.<sup>142/</sup> The regulations specify that any person who desires assistance is to be given an unrestricted opportunity to apply and a courteous interview.<sup>143/</sup> DES' regulations require that an AFDC application be processed and decided upon within 45 days of receipt of the application except in unusual circumstances. If an application is pending beyond the prescribed time limit, the department is required to inform the applicant in writing of the reason for the delay.<sup>144/</sup>

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<sup>138/</sup> Arizona Department of Economic Security, Family Assistance Administration, "Statement of Standard of Need and Payment Level, Ranking by Benefit Level of States," January 1980.

<sup>139/</sup> Id.

<sup>140/</sup> Id.

<sup>141/</sup> Id., p. 3.

<sup>142/</sup> 3 Income Maintenance, R6-3-201.

<sup>143/</sup> Id.

<sup>144/</sup> 3 Income Maintenance, R6-3-202(A).

The Department of Economic Security Regulations do not specify what documents an applicant must submit in connection with an application for AFDC. The DES request for documents is dependent upon the information provided by the applicant on her application.<sup>145/</sup> For example, a woman indicating on her application that she has two children will be required to submit their birth certificates.<sup>146/</sup> A battered woman leaving home might have considerable difficulty obtaining documents such as birth certificates and marriage license due to the circumstances of her leaving. In addition, the tremendous growth of Phoenix in recent years means that many battered women may be from out of state and may find that required documents are not locally available.

A mandatory component of the AFDC application procedure is a visit to the home of an applicant by a Department of Economic Security Worker<sup>147/</sup> to insure that the child(ren) assisted live at the residence indicated on the application. The worker may also obtain information from the home visit on the applicant not submitted on the application.

The WIN Program (Work Incentive Program) is designed to provide opportunities for eligible AFDC recipients to be placed in jobs, trained, and provided necessary services to enable them to become self supporting.<sup>148/</sup> Every applicant who is 16 or older and lives in a WIN project area is classified as a mandatory WIN registrant and required to register for the WIN program to obtain assistance through the AFDC program.<sup>149/</sup> If a mandatory WIN

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<sup>145/</sup> Interview with Gloria Young, Director, Family Assistance Administration Unit, Arizona Department of Economic Security, January 1980.

<sup>146/</sup> Id.

<sup>147/</sup> 3 Income Maintenance, R6-3-203.

<sup>148/</sup> Id., R6-3-501.

<sup>149/</sup> Id., R6-3-503.



participant fails to register for the program, her AFDC assistance will be terminated. <sup>150/</sup>

An AFDC applicant will be exempted from WIN participation if:

- (1) Applicant is physically or mentally ill.
- (2) 16-21 and attending school.
- (3) She is 65 years old or older.
- (4) She has a child under 6 years old. <sup>151/</sup>

## 2. Emergency Assistance

The purpose of Emergency Assistance is to provide immediate assistance to persons with emergency needs that cannot be met by their own income or resources or by any other source. <sup>152/</sup>

To be eligible for Emergency Assistance, a person must be a citizen of the United States or an alien legally admitted for permanent residence. <sup>153/</sup> Emergency Assistance eligibility is considered independently of an applicant's eligibility for other assistance programs. <sup>154/</sup>

As a condition of eligibility, an Emergency Assistance applicant must have at least one legally dependent minor child presently in his/her care and custody. <sup>155/</sup> Exceptions are made in circumstances where otherwise eligible persons, with or without dependent children, request Emergency Assistance against a pending application for other forms of assistance from DES or when a licensed physician or psychiatrist certifies in writing that the person is medically unemployable for a period of 60 days or less. <sup>156/</sup>

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<sup>150/</sup> Id., R6-3-508.

<sup>151/</sup> Id., R6-3-503.

<sup>152/</sup> Id., R6-3-801(B).

<sup>153/</sup> Id., R6-3-801(A).

<sup>154/</sup> Id., R6-3-801(C).

<sup>155/</sup> Id., R6-3-803(A).

<sup>156/</sup> Id., R6-3-801(C).

The Arizona Department of Economic Security regulations do not prescribe special procedures for applying for Emergency Assistance or set a time limit by which an application must be decided upon. For any type of assistance, a person can apply by submission of a signed written application, verified by the applicant, under oath, upon forms prescribed by DES' regulations.<sup>157/</sup>

A battered woman may make an application for Emergency Assistance only, or may request Emergency Assistance against a pending application for Aid For Families With Dependent Children.<sup>158/</sup> If she applies for Emergency Assistance only, she must file a separate application for each calendar month in which assistance is needed.<sup>159/</sup> However, emergency assistance may be requested by the woman or her family while her application for another assistance program is pending without filing a separate emergency assistance application.<sup>160/</sup> If the application for the other program assistance is approved, the total Emergency Assistance issued in any given month will be subtracted from the assistance grant for that month.<sup>161/</sup>

Members of an assistance unit may not receive Emergency Assistance in more than three calendar months within any consecutive 12 month period.<sup>162/</sup> The amount of any Emergency Assistance issued will be limited to the minimum dollar amount which the local office verifies as required to meet the emergency need of the assistance unit in any given month, but may not exceed \$100 per month for one adult and \$25 per month for each additional person, adult or child.<sup>163/</sup> A battered woman with two children could qualify

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<sup>157/</sup> Id., R6-3-201C(A).

<sup>158/</sup> Id., R6-3-802(A).

<sup>159/</sup> Id., R6-3-802C(A)(1).

<sup>160/</sup> Id., R6-3-802(2).

<sup>161/</sup> Id., R6-3-802(2)(a).

<sup>162/</sup> Id., R6-3-804.

<sup>163/</sup> Id., R6-3-805(B).

for a maximum Emergency Assistance award of \$150 per month which could theoretically be issued for three months in one year only.

### 3. Food Stamps

The Food Stamp Program is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households.<sup>164/</sup> The uniform national resource standards of eligibility apply to all households.<sup>165/</sup> Assets of the households cannot exceed \$1,750 for the entire household, except for households of two or more which include at least one member over 60 years of age, the assets cannot exceed \$3,000.<sup>166/</sup>

Admission to the Food Stamp Program, eligibility for the program, and determination of benefits to be received are based on a signed, written application, filed with a certification office of the department.<sup>167/</sup> To become certified to receive food stamps an applicant's gross non-exempt income and citizenship must be verified.<sup>168/</sup> The department in making a determination of an applicant's qualification to receive food stamps calculates the net income as the total of 80% of the earned income, plus all of the unearned income, minus any allowable deduction.<sup>169/</sup>

The certification periods for food stamps conform to the calendar months beginning with the month of application.<sup>170/</sup> All households, except public assistance households, are assigned the longest

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<sup>164/</sup> Arizona Department of Economic Security, Volume 3, Income Maintenance CFS, General Information and Provisions--R6-3-1901 (1979). This document is Arizona Department of Economic Security's regulation governing the procedure for application and certification for food stamps through the Department. These regulations hereafter will be cited as 3 Income Maintenance CFS.

<sup>165/</sup> 3 Income Maintenance CFS, R6-3-2017A.

<sup>166/</sup> Id.

<sup>167/</sup> Id., R6-3-2101.

<sup>168/</sup> Id., R6-3-2102(A).

<sup>169/</sup> Id., R6-3-2115(A).

<sup>170/</sup> Id., R6-3-2118(A).

certification period possible based on stability and predictability of household circumstances, from one to 12 months. <sup>171/</sup> Public assistance households are assigned certification periods that coincide with their public assistance review dates. <sup>172/</sup> The amount of food stamp coupons allotted to each household is determined by the income and number of persons in the household. For example, a household of three persons with an income of \$4 to \$6 will receive a coupon allotment of \$160. <sup>173/</sup>

If DES fails to complete the application process within thirty (30) days after the date of application, the household will be notified, and if subsequently found eligible, benefits will be issued retroactively to the date of the application. <sup>174/</sup>

Destitute households are entitled to expedited services from DES. <sup>175/</sup> Destitute households are households whose only source of income has been terminated or households whose only income for the month of application is from a new source of which not more than \$25 will be received by the 10th day after the date of application. <sup>176/</sup> Households who have zero net monthly income also are eligible for expedited services. <sup>177/</sup>

When the Department authorizes expedited services food stamp coupons will be mailed to the applicant within two working days or made available for pickup by the third working day following the application. <sup>178/</sup>

A battered woman who has left home to escape her abusive spouse could thus qualify for expedited issuance of food stamps as a head of a destitute household with zero income.

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<sup>171/</sup> Id., R6-2-2118(A-2).

<sup>172/</sup> Arizona Department of Economic Security, Basis of Coupon Issuance-  
<sup>1977</sup> Act, DES 3-21 (Exhibit 2).

<sup>173/</sup> 3 Income Maintenance CFS, R6-3-2118(A).

<sup>174/</sup> Id., R6-3-2104(A)(B).

<sup>175/</sup> Id., R6-3-2125A.

<sup>176/</sup> Id.

<sup>177/</sup> Id., R6-2-2126(A).

<sup>178/</sup> Id.

#### 4. Crisis Counseling and Intervention

The Department of Economic Security has a Crisis Counseling and Intervention Program which provides short-term counseling intervention, up to seven consecutive days, to assist children and adults in the resolution or alleviation of crisis situations that threaten family relationships or could result in individuals experiencing physical and/or mental abuse or neglect. <sup>179/</sup> A woman that has been physically abused by her husband or male companion may seek assistance from the Department through this program.

The services provided by this program consist of individual and family counseling for up to seven consecutive days and not more than fifteen days in a six month period to effect a better understanding of the conditions that have caused the crisis situation and how to deal with those conditions. <sup>180/</sup> Room and board, may be provided up to a maximum of seven days for a single placement and no more than fifteen days in a six month period. <sup>181/</sup>

The method for delivering the services is based upon the problem the family or individual is experiencing. <sup>182/</sup> If it is determined that an individual crisis will require services beyond the seven day limit, alternate resources shall be located to provide a continuation of services <sup>183/</sup> for the program participant.

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<sup>179/</sup> Arizona Department of Economic Security, Volume 5, Social Services, Crisis Counseling and Intervention, R6-5-3102 (1978). This document is Arizona Department of Economic Security's regulation governing Crisis Counseling and Intervention. It will hereafter be cited as 5 Social Services.

<sup>180/</sup> 5 Social Services, R6-5-3105(A).

<sup>181/</sup> Id., R6-5-3105(B).

<sup>182/</sup> Id., R6-5-3108(a).

<sup>183/</sup> Id., R6-5-3108(A)(9).

IV. Governmental Bodies and Institutions in Phoenix Involved in the Handling of Domestic Violence

A. Phoenix Police Department

1. Structure

The Phoenix Police Department is a modern law enforcement agency of moderate size. Its approximately 1,600 officers are divided among the five patrol districts and various headquarters offices which handle communications, training, investigations and community relations. The department's jurisdiction is coterminous with the Phoenix city limits, surrounding an area of approximately 302 square miles. <sup>184/</sup>

The police force is over 97% male and about 89% white, as shown in the table below: <sup>185/</sup>

**Phoenix Police Officers - Race and Gender**

	Male	% Male	Female	%Female
Caucasian	1448	86.4	41	2.5
Oriental	6	0.4	0	-
American Indian	4	0.2	1	-
Negro	49	2.9	1	-
Spanish-Surnamed	120	7.2	6	0.4
<b>TOTAL</b>	<b>1627</b>	<b>97.1</b>	<b>49</b>	<b>2.9</b>

The chief of police is appointed by the mayor and serves at the mayor's pleasure. Several recent resignations have resulted in personnel changes at the highest levels. The outgoing chief, Lawrence

<sup>184/</sup> Phoenix Police Department, 1978 Annual Report (1979), p. 1.

<sup>185/</sup> Data provided in telephone interview with Patricia Martinez, Employment Services, Phoenix Police Department, January 15, 1980. Categories are those used by the Police Department. Statistics shown are for sworn police officers only and do not include civilians employed by the Department.

M. Wetzel, enters retirement on January 31, 1980, after 31 years on the police force and 11 years as chief of police. Charles Kornegay, former Assistant Chief for Technical Services, will serve as acting chief until a permanent appointment is announced.

Like most police agencies, the Phoenix Police Department is highly centralized, although experiments in decentralizing certain functions are underway.<sup>186/</sup> Responsibility for such critical matters as investigating crimes against persons, training officers, and formulating patrol policy is retained in police headquarters. The chief promulgates policy in the form of Operations Orders<sup>187/</sup> to govern police officers in the performance of their duties.

## 2. Communications Bureau

In 1945, the Phoenix Police Department employed one police dispatcher who handled the switchboard and communicated with the city's few patrol cars on a one-way radio. That system has been replaced by a technologically sophisticated Computer Aided Dispatch (CAD) system which enables the Police Department to receive and respond to the vastly increased volume of calls for police assistance. The use of computers also greatly increased the department's data collection and recall capacity.<sup>188/</sup>

All calls to the police department are connected to a communications operator, and 92% of all calls are answered within ten seconds.<sup>189/</sup> Communications operators, nearly all of whom are civilians, receive special training for their positions. Their

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<sup>186/</sup> Team policing, whereby one group of officers is given permanent responsibility for all ordinary police services in an area, was put into effect in the 8th District. Based upon its success in that district, team policing will probably be extended to other areas of the city in the future. Phoenix Police Department, 1978 Annual Report (1979), p. 1.

<sup>187/</sup> Phoenix Police Department, Operations Orders (hereafter cited as Operations Orders).

<sup>188/</sup> Phoenix Police Department, 1978 Annual Report (1979), p. 1.

<sup>189/</sup> Id. at 15.

first responsibility upon answering a call is to determine what priority it demands, by reference to the department communications manual. Section R/117 of the Manual, "Dispatch Priorities," provides operators with examples of calls which are priority 1 ("emergency traffic"), priority 2 ("urgent calls") and priority 3 ("routine calls"). According to the 1978 Annual Report, the average departmental response time for emergency calls was 4 minutes, while for non-emergency calls it was 20 minutes. <sup>190/</sup>

Section R/117 of the communications manual lists "family fights" among those calls which should presumptively be assigned priority 2. (Other priority 2 calls include serious accidents, crimes that have just occurred, missing children, silent alarms, injured persons and prowlers.) However, the section clearly states that "the tentative grouping of a type of call does not preclude Complaint personnel from assigning a higher priority to the call based on his/her perception of the problem."

Calls which presumptively receive a priority 1 include lifesaving calls such as drownings, crimes in progress, officer needing urgent assistance, and violent crimes which have just occurred when the suspect is being held, chased, or is in the area. According to Communications Bureau personnel, any call in which a person has been assaulted and remains in danger, or in which a person is under threat of bodily harm from a weapon or otherwise, is accorded priority 1 status. <sup>191/</sup>

When a communications operator answers the call, he or she will first ask the location of the trouble. The address is then typed into the computer and displayed on the operator's cathode ray tube screen. When the address is entered into the computer, a search

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<sup>190/</sup> Id. at 6.

<sup>191/</sup> Interview with Sgt. Stankus, Communications Bureau, Phoenix Police Department, Nov. 30, 1979 (hereafter cited as Stankus interview).



is automatically made for any calls for police assistance at that address in the last 31 days. Descriptions of these calls are read out on the screen. This information helps that operator to determine the type of trouble the officers may expect. For example, if the operator notes that officers were dispatched to a family fight at that address a few hours earlier, that information will be relayed to the officers receiving the later call.

Other information is taken from the caller, and the operator assigns a code identifying the type of trouble. The call code which signifies "family disturbance" will be assigned to most calls concerning fights between mates. In 1979, the police department dispatched 8,077 "family disturbance" calls.<sup>192/</sup> It is probable, however, that some interspousal fights are dispatched under other codes such as "fight," "subject with a gun," or "unknown trouble." An additional complication is that "family disturbances" are not limited to interspousal fights but may describe violent or nonviolent arguments between siblings or between parents and children. The raw number of "family disturbance" calls dispatched by the police department is therefore only roughly indicative of the number of women battering incidents reported.

When the communications operator has obtained the necessary information from the caller and assigned a priority level and code, the operator transfers the information to a dispatcher. The dispatcher handling calls for the district in which the trouble is located assigns the call to a patrol car. In cases of family disturbances, the dispatcher will also assign a back-up unit.<sup>193/</sup> In cases of extreme emergency which are designated priority 1, the communications operator can short-circuit this process and hasten

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<sup>192/</sup> Telephone interview with David Barker, Systems and Procedures Analyst, Office of Planning and Research, Phoenix Police Department, Jan. 22, 1980.

<sup>193/</sup> Phoenix Police Department Communications Manual, Section R/117 (hereafter cited as Communications Manual).

the response. By pressing the "hot tone" button on the console, the operator can patch the dispatcher directly into the call, so that the dispatcher hears all of the information as the caller gives it. When such a call is "hot toned," an alert goes out to all patrol cars in the city and the nearest officers immediately proceed to the scene of the trouble, even if it is outside their own patrol district boundaries. The types of calls which are designated "hot" include shootings, stabbings, and fights with weapons where someone has been or is likely to be injured. <sup>194/</sup>

When a call is dispatched, the computer automatically prints out the time, the call code, and the address. When the patrol car arrives at the scene, the officer notifies the dispatcher and the time is again noted. This allows the department to determine the response time. Every two weeks the computer determines the average response times for all calls and for emergency calls in each district. The department does not keep track of response times for specific types of calls. <sup>195/</sup>

### 3. Patrol Procedures

The procedures that patrol officers are required to follow in responding to family dispute calls are set forth in Operations Order C-3, "Civil Disputes." This order also covers such matters as landlord-tenant disputes, damage to property caused by children or dogs, and permits to shoot pigeons. Order C-3 advises officers that the "best solution (in domestic dispute cases) is generally for one of the spouses to leave the home until the next day," although since a married couple's home is community property, "neither party can be forced to leave." <sup>196/</sup>

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<sup>194/</sup> Communications Manual, Section C/108.

<sup>195/</sup> Stankus interview.

<sup>196/</sup> Operations Order C-3, para. 3B(1).

On the question of whether an arrest is to be made, Order C-3 gives the following direction:

If one spouse commits a misdemeanor assault on the other an arrest by an officer (if the offense occurs in his presence) or a Citizen's Arrest by the victim may be made in accordance with prescribed procedures for Citizen's Arrest. In cases where the elements of a felony assault are obvious, officers may make the arrest.<sup>197/</sup>

The order's use of the word "may" seems to imply that officers are to use their own discretion in deciding when an arrest must be made. The order does not indicate whether the victim's wishes are to be taken into account or how much weight they are to be given in reaching that decision.

Elsewhere in the Operations Orders, a number of social service agencies are listed to enable officers to make referrals in appropriate cases. The list does not contain any shelters or other sources for help specifically for victims of domestic violence.<sup>198/</sup>

#### 4. Training Bureau

The Training Bureau, headed by Captain Glen Sparks, provides academy training for all new police recruits. The academy course involves a total of 600 hours of instruction, substantially more than the 400 hours mandated by the state of Arizona. The Phoenix Police Academy also contracts to train recruits for other Arizona jurisdictions.<sup>199/</sup> A total of 24 hours is devoted to subjects related to domestic violence. The Training Bureau's staff of about 18 sworn officers is supplemented by experts from nearby Arizona State University and the Center Against Sexual Assault (CASA), a rape crisis center in Phoenix. Personnel from two shelters for battered women, Rainbow Retreat and the Sojourner Center, are

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<sup>197/</sup> Operations Order C-3, para. 3D (emphasis added).

<sup>198/</sup> Operations Order A-2, "Referral Agencies and References."

<sup>199/</sup> Interview with Capt. Glen Sparks, Training Bureau, December 5, 1979 (hereafter cited as Sparks Interview).

currently devising the curriculum for a course on battered women to be offered to the new recruits. <sup>200/</sup> The Academy utilizes role-playing techniques to simulate domestic disputes, a method believed to be highly successful. <sup>201/</sup>

5. Police Record Keeping and Reports

The Operations Orders provide for the filing of a variety of reports designed to preserve information, account for officers' time and locations, and initiate action by other portions of the criminal justice system.

Officers' daily logs, or worksheets, recount each officer's activities throughout each shift. The officer notes details performed, calls received and answered, and police actions taken.

A departmental report or D.R. is the basic form used by the police department to record crimes and begin investigation. The Operations Orders of the Phoenix Police Department provide that a D.R. will be used "to report any crime, and incident in which there will or may be further follow-up, or whenever there is the possibility of a delayed request for prosecution." <sup>202/</sup> The department's policy as expressed in the Operations Orders strongly favors completion of a D.R. in most cases:

- B. Officers will prepare a D.R. whenever circumstances indicate the necessity; when in doubt, officers will complete a D.R.
1. The victim's motive for reporting an incident will not be used as a test for deciding whether a crime has occurred or whether it should be reported, i.e., the victim is not interested in prosecution or is making the report for insurance purposes only.

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<sup>200/</sup> Id.

<sup>201/</sup> Id.

<sup>202/</sup> Operations Order C-4, para. 6(E)(7).

2. D.R.s will be made on offenses, felony or misdemeanor, involving either adults or juveniles as suspects or victims; if the elements of a crime are present but the suspect is unknown or there is no need for a follow-up investigation, a D.R. will still be completed. 203/

Even when an officer is uncertain about whether a crime actually occurred, the Operations Orders will call for completion of a D.R.:

- C. If an officer is in doubt as to whether a crime has occurred or the incident occurred outside the jurisdiction of the City of Phoenix, a D.R. will be made and entitled "Information Received." 204/

Most D.R.s are filed by the officer at the end of his/her shift. If an arrest is made, the D.R. is completed immediately and taken to the Communications Bureau for distribution. 205/

#### 6. Investigation and referral for prosecution

D.R.s find their way to the General Investigations Bureau in the central headquarters of the Phoenix Police Department, where they are reviewed and assigned to a detective for investigation. D.R.s involving incidents of assault or homicide are assigned to detectives in the Crimes Against Persons Section.

The detective begins the investigation by contacting the victim. If the victim indicates an unwillingness to cooperate in the investigation, the case will usually be closed with the notation "exceptionally cleared." 206/ Police estimate that more than half of all domestic assault cases are "exceptionally cleared." 207/

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203/ Operations Order E-2, para. 1(A).

204/ Operations Order E-2, para. 2(b).

205/ Operations Order E-2, para. 2(c).

206/ Operations Order E-2, para. 5(A).

207/ Interview with Lt. Ed Schnautz, Crimes Against Persons Section General Investigations Bureau, Phoenix Police Department, Nov. 28, 1979.

If the victim indicates a desire to proceed with prosecution and cooperate with the investigation, the detective proceeds to gather evidence. He or she may take additional statements from witnesses, secure medical reports, or have photographs of the victim's injuries taken for evidence. During this process, the detective may change the charge to comport with new evidence obtained or add other charges. The case remains pending until the detective has obtained sufficient information to clear it. A case may be cleared by being declared "unfounded," indicating that the detective has concluded that no crime was in fact committed. If there is sufficient evidence that a crime was committed, and that a particular suspect committed it, the detective forwards the D.R. and all accompanying documents to the Court Liaison Detail for review and presentation to the county or city prosecutor.

The Court Liaison Detail reviews each case to be sure that all the necessary forms have been completed, and that the recommended charge is consistent with any applicable charging standards issued by the county prosecutor for bringing charges. If the report is complete and appears to meet the standard for bringing the charges recommended by the detective, the case is hand-carried to the appropriate prosecuting authority, either the county attorney or the city prosecutor, for consideration. <sup>208/</sup>

The prosecutor may decline to approve a case on a number of grounds. If the detective who prepared the case disagrees with the charging attorney's decision to decline prosecution, he or she may take the matter up with a supervising sergeant. The sergeant contacts the charging attorney and seeks an explanation. If no agreement is reached, the sergeant takes the matter to a lieutenant, who in turn contacts the charging attorney's supervisor. The appeal thereafter

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<sup>208/</sup> Interview with Sgt. Ed Malumphy, Court Liaison Detail, Phoenix Police Department, Nov. 28, 1979.

is to the captain in charge of investigations, who may contact the county attorney's chief deputy.<sup>209/</sup>

B. Maricopa County Attorney

The Maricopa County Attorney has prosecutorial jurisdiction over all criminal felonies arising in Maricopa County and over misdemeanors that arise in unincorporated areas of Maricopa County. Since the 1973 amendment to the Arizona criminal code eliminating the provision making it a felony offense for a man to assault a woman,<sup>210/</sup> the County Attorney's Office has received few domestic violence cases. Such cases are now overwhelmingly handled as misdemeanor assaults by the City Prosecutor's Office.<sup>211/</sup>

The County Attorney's Office, one of the largest in county government, includes 266 employees, 112 of whom are attorneys. The County Attorney is elected to a four-year term; the position is currently held by Charles Hyder, a Democrat, who was elected in 1976. Under the County Attorney's supervision, the office includes a Chief Deputy, an Administrative Deputy, the Charging Bureau, the Juvenile Bureau, the Criminal Trial Bureau, the Major Felony Bureau, and the Special Operations Bureau. The office also operates a Victim/Witness Program and an Adult Diversion Program.<sup>212/</sup>

Intake for prosecution is handled by the deputy district attorneys in the Charging Bureau, who review all cases presented by the police

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<sup>209/</sup> Id.

<sup>210/</sup> For a discussion of the Arizona criminal code provisions regarding assault and aggravated assault, see Section III A.1.a.

<sup>211/</sup> Interview with Al Johnson, Supervisor, Charging Bureau, Maricopa County Attorney's Office, November 28, 1979 (hereafter cited as Johnson Interview).

<sup>212/</sup> Maricopa County Attorney, Annual Report (1978) (in Commission Files) (hereafter cited as Annual Report).

for prosecution. Options include accepting the case for prosecution, referring the case to the city prosecutor for misdemeanor prosecution, declining the case for prosecution (known as "turn-down"), or referring the case to the police for further investigation (known as a "further"). The County Attorney's written charging standards include a special provision for a three-week delay in the filing of charges arising out of domestic violence situations:

Use a three week cooling off period in filing on domestic violence situations unless there is an indication of immediate danger of physical harm. In those cases, file the charge and arrange for the defendant's immediate arrest.<sup>213/</sup>

The purpose of the three-week waiting period is to assure that the victim is firm in her resolve to cooperate with the prosecution of charges against her husband or mate.<sup>214/</sup>

The County Attorney's office administers an Adult Diversion Program, which allows certain persons charged with crimes to participate in rehabilitative programs in lieu of prosecution. As currently operated, however, participation in the program includes first-time offenders charged with non-violent, non-drug-related felonies. Assault cases are specifically excluded; thus, the program is unavailable as a resource for domestic violence cases.<sup>215/</sup>

The County Attorney's Office also operates a Victim/Witness Program, which provides support and counseling to victims of crime as the cases in which they are involved go through the courts. With the exception of victimless cases, the Victim/Witness Program receives

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<sup>213/</sup> Annual Report, p. 52.

<sup>214/</sup> Johnson Interview.

<sup>215/</sup> Interview with Debby Jacquin, Director, Victim/Witness and Adult Diversion Programs, Maricopa County Attorney's Office, November 29, 1979.



every case that is filed by the Charging Bureau of the County Attorney's Office. A letter is sent to each victim explaining the criminal justice process and the services of the program. Victims of violent crimes, such as rape and aggravated assault, are personally contacted and worked with intensively. Counselors accompany them to court appearances and provide them support throughout their participation in the criminal justice system.<sup>216/</sup>

### C. Phoenix City Prosecutor

The Phoenix City Prosecutor, appointed by the City Manager, handles the prosecution of misdemeanors and violations of city ordinances committed within the city limits of Phoenix. The office is currently filled by Lewis Levine, who heads a staff of 34 Assistant City Prosecutors.

Intake for prosecution is handled by the Complaint Section, analogous to the County Attorney's Charging Bureau. In requests for prosecution in assault cases, where the alleged perpetrator has not been arrested or cited in lieu of detention,<sup>217/</sup> the City Prosecutor has a policy of sending the victim a form letter requesting him/her to appear at the City Prosecutor's Office to sign the complaint before the case is filed with the court for prosecution. The purpose of the procedure is to ascertain whether the victim continues to desire prosecution.<sup>218/</sup>

The City Prosecutor administers a pre-trial diversion program for persons charged with the offense of driving while intoxicated, called P.A.C.T. (Prosecutor's Alternative to Courtroom Trial). There is no diversion program for other types of offenses, nor is there a support

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<sup>216/</sup> Id.

<sup>217/</sup> For a description of procedures regarding arrest and citation in lieu of detention, see section III.2.

<sup>218/</sup> Interview, Joe Tvedt, Assistant City Prosecutor, Phoenix, Dec. 6, 1979.

program for victims of crime along the lines of the County Attorney's Victim/Witness Program.<sup>219/</sup>

#### D. Superior Court

The Superior Court is the trial court of general jurisdiction in Arizona,<sup>220/</sup> having original jurisdiction over all criminal felony and misdemeanor cases punishable by a jail sentence of more than 6 months or a fine of more than \$300, concurrent jurisdiction with the justice and municipal courts in civil cases greater than \$500 but less than \$1,000, and exclusive jurisdiction in civil cases greater than \$1,000. The Superior Court also has exclusive jurisdiction over domestic relations and juvenile cases, and appellate jurisdiction over the Justice and Municipal Courts.

The Superior Court sits in all 14 Arizona counties with a minimum of one judge in each county. Commissioners may be appointed by Superior Court judges to hear probate, civil, and domestic relations cases. Superior Court judges are elected to four year terms.

In Maricopa County, the largest Arizona county, 37 judges and 7 commissioners at present sit on the Superior Court. The Maricopa County Superior Court is headed by a presiding judge, and is divided into specialized divisions.

The divisions having contact with incidents of domestic violence include the Criminal Division, which hears prosecutions of felony offenses including aggravated assault, and the Domestic Relations Division, which hears actions for dissolution of marriage and contempt proceedings for violation of restraining orders.

Under the supervision of the Maricopa Superior Court is the Maricopa County Conciliation Court, a marriage counseling service provided pursuant to Arizona law.<sup>221/</sup> The Conciliation Court is

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<sup>219/</sup> Id.

<sup>220/</sup> Constitution of the State of Arizona, Article 6, § 6.

<sup>221/</sup> Arizona law establishing and governing the Conciliation Court is discussed in Section III.B.1.b.

staffed by ten full-time and four part-time counselors, all of whom are highly trained professional marriage counselors having a master's degree and prior family counseling experience. <sup>222/</sup>

When the jurisdiction of the Conciliation Court is invoked by petition, the usual process is a period of short-term counseling through individual sessions with each spouse and joint sessions with both spouses. <sup>223/</sup>

The Maricopa County Conciliation Court claims considerable success in its efforts to reconcile spouses in troubled marriages. In 1978, 2383 petitions for assistance of the Conciliation Court were filed. Of the couples involved, 1583 completed the counseling process. Of that group, 56.4% achieved a reconciliation in that both spouses mutually agreed to continue in their marriage. <sup>224/</sup>

In yearly follow-up studies, the staff contacted couples who had achieved reconciliation after Conciliation Court counseling a year earlier, and 94.1% of these couples were found to be still together. <sup>225/</sup>

#### E. Phoenix Municipal Court

Arizona law permits the establishment of municipal or magistrate courts, by city ordinance. <sup>226/</sup> Municipal courts which are of limited jurisdiction, have original jurisdiction, concurrent with the justice courts, over misdemeanor and traffic offenses occurring within the incorporated area punishable by no more than six months imprisonment and/or a fine not exceeding \$300, which arise under state law. Municipal

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<sup>222/</sup> Conciliation Court of Maricopa County, Arizona, Annual Report (1978), p.1. (in Commission files) (hereafter cited as Conciliation Court Annual Report).

<sup>223/</sup> Interview with William Shields, Director of Conciliation, Maricopa County Superior Court, December 6, 1979.

<sup>224/</sup> Conciliation Court Annual Report, p. 10.

<sup>225/</sup> *Id.*, p.3.

<sup>226/</sup> Arizona Rev. Stat. § 22-402-3

courts have exclusive jurisdiction over offenses arising under city ordinance. Appeals are to the Superior Court.

The City of Phoenix has a municipal court established by city ordinance. <sup>227/</sup> Judges are appointed by the city council for a term of four years. At present, the Phoenix Municipal Court has 12 full-time judges, and an additional 12 pro-tem judges who serve as required. The court has five probation officers. <sup>228/</sup>

#### F. Justice Courts

Justice Courts in Arizona are courts of limited jurisdiction, having original jurisdiction over misdemeanor and criminal offenses punishable by a jail sentence not exceeding six months or a fine not exceeding \$300. <sup>229/</sup> Justice courts also have original and exclusive civil jurisdiction in actions involving less than \$500 and concurrent jurisdiction with the Superior Court in actions exceeding \$500 but less than \$1000. Preliminary hearings in felony cases are conducted in the Justice Courts. Appeals are to the Superior Court.

Each Justice Court is administered by a justice of the peace and a constable who are elected for four-year terms. Justices of the Peace are not required to be attorneys. Eighteen Justice Court precincts operate within Maricopa County.

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<sup>227/</sup> Charter of the City of Phoenix, Arizona, Chapter VIII, Sections 1-8 (as amended 1971).

<sup>228/</sup> Interview with Hon. Alan Hammon, Presiding Judge, Phoenix Municipal Court, December 6, 1979.

<sup>229/</sup> Ariz. Const., Art. VI, Sec. 32.

G. The Department of Economic Security (DES)

The Department of Economic Security (DES) is the state agency which administers the public assistance programs discussed previously in this report. <sup>230/</sup> Created in 1972, DES consolidated seven state agencies: <sup>231/</sup>

- (1) Employment Security Commission
- (2) Department of Public Welfare
- (3) Vocational Rehabilitation
- (4) Veterans Services Commission
- (5) State Office of Equal Opportunity
- (6) Apprenticeship Council and
- (7) The Office of Manpower Planning

The Department of Mental Retardation was transferred to DES in May 1973. <sup>232/</sup>

The purpose of the consolidation was to integrate the public services available to the people of Arizona in a pattern that would reduce duplication of administrative efforts, services, and expenditures. <sup>233/</sup> The enabling legislation charged DES with providing the means by which people with multiple problems might find the solution to such problems in a single department's coordinated services. <sup>234/</sup>

The legislation which established DES did not provide an organizational structure for administration or the delivery of services. <sup>235/</sup> Instead, it provided the power to the director of DES to establish, approve, organize, and reorganize DES to carry out the functions

<sup>230/</sup> Chapter III, supra.

<sup>231/</sup> 1972 Arizona Sess. Laws, Chapter 142, Senate Bill 1068.

<sup>232/</sup> Arizona Department of Economic Security, "A Study in the Delivery of Human Services," p. 1 (undated). This report is a study of DES' establishment, organization, and services. The study will hereafter be cited as DES Study.

<sup>233/</sup> 1972 Ariz. Sess. Laws, Chapter 142, Senate Bill 1068.

<sup>234/</sup> DES Study, p. 2.

<sup>235/</sup> Id., p. 2.

mandated by this legislation.<sup>236/</sup> This authority provided the director is significant in that the director is appointed by the Governor and the changes of the Governor over the last seven years have given DES six directors since 1973.<sup>237/</sup> This represents six different organizational structures.<sup>238/</sup>

The current director of DES is William S. Jamieson, Jr.<sup>239/</sup> The DES budget for 1979-80 was \$223,232,200.<sup>240/</sup>

DES is divided into six divisions:

- (1) Business and Finance
- (2) Aging, Family, and Children Services
- (3) Employment and Rehabilitation Services
- (4) Developmental Disabilities and Mental Retardation Services
- (5) Planning and Policy Development and
- (6) Management Review<sup>241/</sup>

Each division is authorized to develop the policies and procedures necessary for program planning, development and evaluation in its division.<sup>242/</sup> The division of Planning and Policy Development, a recently created division, is responsible for the establishment of the process by which each division promulgates its programs' policy.<sup>243/</sup> The Aging, Family and Children Services Division administers the Aid to Families with Dependent Children, Emergency Assistance and Food Stamps programs discussed previously in this report as possible sources

<sup>236/</sup> Id.

<sup>237/</sup> Id.

<sup>238/</sup> Id.

<sup>239/</sup> Id., (Appendix IV).

<sup>240/</sup> Governor's Office, "State of Arizona Budget, 1979-80," 1979.

<sup>241/</sup> State of Arizona, Department of Economic Security, Organization Chart.

<sup>242/</sup> Interview with Bette DeGraw, Director, Division of Planning and Policy Development, Department of Economic Security, Phoenix, Arizona, January 17, 1980 (hereafter referred to as McGraw Interview).

<sup>243/</sup> Id.

of financial assistance for battered women.<sup>244/</sup> Planning and Policy Development administers the Title XX funds used in funding of Crisis Counseling and Intervention services that may be available to battered women through DES.<sup>245/</sup>

The State of Arizona is divided geographically for DES purposes into six districts: Maricopa County where Phoenix is located is in district one; district two is Pima County; district three is made up of Coconino, Navajo, Apache and Yavapai Counties; district four is Mohave and Yuma Counties; district five is Pima and Gila Counties; and district six is Graham and Cochise Counties. Each district has a manager. The district manager has responsibility for direct service operations, e.g., intake procedures, daily case management, and the development of an integrated approach to service delivery in his district.<sup>246/</sup>

#### H. Shelters

Phoenix has two shelter facilities which offer temporary shelter and protection to women who must leave their homes to escape an abusive mate. Both shelters also admit the dependent children of women who seek help.

The Rainbow Retreat is one of the first shelters formed to aid abused women. The retreat was opened in 1972 by Joanne Rhoads, a Phoenix woman who had recognized the vital need for such a shelter while counseling families of alcoholics through the AI-Anon program. She and a few other volunteers opened the shelter in a condemned house rented and furnished by donations and affording room for about a dozen residents. Since that time Rainbow Retreat has grown from a

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<sup>244/</sup> Id.

<sup>245/</sup> Young Interview.

<sup>246/</sup> DES Study, p. 8, Appenidx III.

struggling volunteer effort into an organization with over 30 paid staff members, comprehensive residential and out-patient counseling program for abused women, their children, and their abusive mates, and room for about 50 women and children.<sup>247/</sup>

The Sojourner Center was formed in early 1978 by its current executive director, Ellen Lyon, and others primarily as a halfway house for female ex-offenders in Phoenix. The staff soon saw the need to expand the Center's operations to serve abused women as well, and in October 1978 the Sojourner Center began to offer short-term shelter and crisis counseling to battered women. The Sojourner Center can house up to 35 women and children, but most of the residents are in the ex-offender program. The staff counsel residents and help them to obtain public assistance and job training for which they may be eligible.<sup>248/</sup>

#### I. Legal Services

After leaving a battering spouse a battered woman may need legal advice and assistance to help her make decisions on how to protect herself and her children from further physical abuse.<sup>249/</sup> Frequently this woman is financially dependent upon the batterer with no means of financing any legal action against him after leaving the home. In such cases, the battered woman is forced to seek free legal assistance.

In Phoenix, Arizona Community Legal Services provides such assistance to persons with civil legal problems qualified under the income guidelines of the program.<sup>250/</sup> Community legal services, which serves Maricopa and other nearby counties, is funded by the Legal

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<sup>247/</sup> Rainbow Retreat, Inc., Monthly Service Statistics, October 1979 (in Commission files).

<sup>248/</sup> Interview with Patricia McGrath, Supervisor of Crisis Unit, Sojourner Center, December 4, 1979.

<sup>249/</sup> See Chapter III, supra.

<sup>250/</sup> Interview with Jim Keenan, Director, Community Legal Services, Phoenix, Arizona, Dec. 5, 1979 (hereafter cited as Keenan Interview).



Services Corporation in Washington, D.C., with a budget in 1979 of \$1.56 million dollars.<sup>251/</sup> The program has three offices in Phoenix: the main office downtown serving northern Phoenix, and office in south Phoenix serving the people of that area, and the Urban Indian Law Center within the Phoenix Indian Center serving the unique needs of the Native Americans living in Phoenix.<sup>252/</sup>

The 1970 census indicated that Maricopa County has 116,080 people who could qualify for legal services. However, it is believed that the census undercounted Arizona's population and estimates have been made that 180,000 to 200,000 people in Phoenix are eligible for assistance from Legal Services.<sup>253/</sup>

One board of directors provides the overall management for the program which includes overseeing the financial affairs and setting agency-wide priorities<sup>254/</sup> and listing the problems or issues common to the community served by the program for which the staff is authorized to expend its time, energy and resources to litigate. In addition, each office has a clients' council made up of people from the client community to help determine the community's needs.<sup>255/</sup> The offices work closely with their clients' councils in allocating their resources within the program-wide priorities to accommodate the legal needs of their clients.<sup>256/</sup>

An applicant's eligibility for assistance from Legal Services is determined by considering her gross income for the last three months.<sup>257/</sup> Gross income is defined as the annual total cash receipts before

<sup>251/</sup> Id.

<sup>252/</sup> Id.

<sup>253/</sup> Id.

<sup>254/</sup> Interview with James Flenner, Managing Attorney (Main Office), Community Legal Services, Phoenix, Arizona, January 9, 1980 (hereafter cited as Flenner Interview).

<sup>255/</sup> Id.

<sup>256/</sup> Keenan Interview.

<sup>257/</sup> Community Legal Services, Phoenix, Arizona, Memorandum-Proposed Eligibility Guidelines, April 5, 1979. (Hereafter cited as Eligibility Guidelines.) These guidelines were subsequently adopted Flenner interview.

taxes.<sup>258/</sup> Persons whose sole income is derived from welfare payments are automatically eligible.<sup>259/</sup> Computation of the gross income of a battered woman who has left the family home does not include her spouse's income, unless her spouse has income or property which could be attached by a private attorney to pay for her attorney's fees.<sup>260/</sup>

There are several other factors considered in determining income eligibility.<sup>261/</sup> These factors include:

1. Client's current income prospects;
2. liquid net assets;
3. fixed debts and obligations, including taxes and medical expenses;
4. child care, transportation and other employment related expenses;
5. age or physical infirmity of resident family members;
6. the cost of obtaining private legal representation in the client's case;
7. the consequences for the client if legal assistance is not rendered;
8. other factors related to financial inability to legal assistance.

If the liquid assets (e.g., bank and credit union accounts) of an otherwise eligible applicant exceed \$1,000.00, the client does not qualify for legal services.<sup>262/</sup> The value of a home and of automobiles are not included in determining assets unless, in the case of automobiles, the number of automobiles exceeds the number of licensed drivers in the household.<sup>263/</sup>

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<sup>258/</sup> Id.

<sup>259/</sup> Id.

<sup>260/</sup> Flenner Interview.

<sup>261/</sup> Eligibility Guidelines.

<sup>262/</sup> Id.

<sup>263/</sup> Id.

An application for assistance from Legal Services is made by calling one of its offices to schedule an appointment or by just walking into the office off of the street.<sup>264/</sup> An intake sheet is completed on the applicant to determine her eligibility for program services, and a paralegal obtains the facts of the case and the type of legal advice or assistance requested by the applicant.<sup>265/</sup> Each case is then reviewed by a staff panel comprised of members of the legal and support staffs to decide whether within the office priorities and resources the case should be taken.<sup>266/</sup> All new cases go through the staff panel review or staffing process.<sup>267/</sup> Community Legal Services accepts 12 percent of the cases reviewed by the staff panels in each office.<sup>268/</sup>

One attorney in each office is designated to handle each day's emergency cases, i.e., cases which require immediate legal action.<sup>269/</sup> An emergency case may be an instance where a person is scheduled for a court hearing the following day or a person has received an eviction notice.<sup>270/</sup> The case of a woman who has been physically abused and is seeking legal protection from the abusive spouse is also handled as an emergency.<sup>271/</sup> In an emergency case, the client would be told that Legal Services will act as necessary to meet the emergency, but the final decision whether to accept the case will be made at the next staff panel meeting.<sup>272/</sup>

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<sup>264/</sup> Flenner Interview.

<sup>265/</sup> Id.

<sup>266/</sup> Id.

<sup>267/</sup> Eligibility Guidelines.

<sup>268/</sup> Keenan Interview.

<sup>269/</sup> Flenner Interview.

<sup>270/</sup> Id.

<sup>271/</sup> Id.

<sup>272/</sup> Community Legal Services, Phoenix, Arizona, Attorney Procedures Manual and Operations Manual, p. 1 (in Commission files).

#### J. Maricopa County Bar Association

The Maricopa County Bar Association, membership in which is open to attorneys practicing in Maricopa County, is headed by officers and a board of directors elected by the membership. The Association's activities are carried on in large part by committees focusing on various areas of the law.

The membership of the Family Law Committee consists of judges, court commissioners, and private attorneys specializing in or having a particular interest in domestic relations law. Within the Family Law Committee, six members sit on a Subcommittee on Domestic Violence.

Between November 1978 and August 1979, the Subcommittee on Domestic Violence conducted a study of the handling of incidents of domestic violence in Maricopa County, through interviews with police officials, prosecutors, judges and court officials, and private and public social service agencies. The Subcommittee's study culminated in a report issued in October 1979 by the Family Law Committee, concluding that the various parts of the civil and criminal justice system in Maricopa County were not effective in meeting the needs of victims of domestic violence.<sup>273/</sup>

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<sup>273/</sup> Maricopa County Bar Association, Family Law Committee, "Report on Domestic Violence in Maricopa County" (October 1979).

*Exhibit No. 27*

HUMAN DEVELOPMENT COMMITTEE  
CHURCH OF PHOENIX

1825 WEST NORTHERN AVENUE, PHOENIX, ARIZONA 85021  
TELEPHONE 997-6105

TESTIMONY TO U.S. CIVIL RIGHTS COMMISSION, FEBRUARY 13, 1980, PHOENIX, ARIZONA

I am Catherine Zandler, director of the Diocesan Human Development Council, the social justice agency for the Catholic Diocese of Phoenix. We offer testimony today on the role of church and community in the prevention and rehabilitation of domestic violence in families. My comments are based on the United States Catholic Conference document entitled, "Violence in the Family."

We commend the Commission for its efforts to focus attention on the threat to human rights, and to life itself, involved in domestic violence, a fact verified by the extensive data gathered by the Commission. Likewise, the causes and effects of abuse by one family member of another are well documented. Rather, we offer suggestions for involving the community, the churches, and the neighborhoods in reversing this trend to increasing violence, hidden frequently within the walls of the home but nonetheless impacting the community as well as family members.

The responsibility of the church community to respond to violence in the family is rooted in the concern for human dignity, human life and family life and consistent with Judeo-Christian principles of social justice. Traditionally, there is a close relationship between the church and the family and historically, the role of church as sanctuary supports the involvement with those in crises who need shelter and safe abode.

"The actions needed are both long-term and short-term. They involve creating an awareness of the problem, providing services to those in need, and advocating changes in public policy to address the societal sources of abuse. These activities should be not only directed toward immediate needs, but also toward change within the society and community as well as within individuals." \*

Within the congregations and communities, these activities should ultimately be directed toward creating an environment that alleviates the sources of abuse, such as creating support groups to overcome alienation, isolation, and the burden of economic and social pressures. It involves creating an atmosphere of caring, problem-sharing, and cultivating individual identity and self worth.

For God's Sake . . . "break the hellish circle of poverty." - Pope Paul VI

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The focus should not simply be on 'binding the wounds' of the abused, but on creating an atmosphere which reduces the incidence of violence.

In the area of education, seminars for the general population to create awareness of causes and effects should be presented. Parenting skills and relational skills should also be provided as part of regular programs on pre-marriage preparation, adult education and teenage education.

Workshops for teachers, counselors, clergy and others can provide information about the problem and methods of identifying it, understanding of moral and legal responsibilities, knowledge of available resources, and understanding of the complexities of counseling in this area. In addition, efforts to establish programs directed to abusers or potential abusers, enabling them to deal with their problem, are encouraged.

Although service projects which provide shelters for battered women are strongly supported, services should also be focused and expanded in the area of prevention. Open access to mental health services for all members of the affected family is both preventive and rehabilitative. An innovative type of service is Parents Anonymous which currently has 800 chapters affiliated with a national headquarters in California. The growth of this system was made possible through a federal grant.

Church and civic groups should be encouraged to mobilize the community and to undertake joint efforts reflecting the broader responsibility of advocacy for necessary services and preventive activities, confronting factors, such as unemployment, monitoring violence in the community, development of resources for parents with 'problem children' and assistance to the elderly, and establishing training programs to assist law enforcement and court personnel to better respond to cases of domestic violence.

Just as with all civil rights issues, an effective response to domestic violence involves societal change, as well as changes within individuals and within families. Short range measures include:

- financial support for emergency shelters,
- assistance to domestic violence victims in compensation statutes,
- legislation to protect the rights of family members in the context of family,
- improved laws on reporting abuse, protecting the abused, confidentiality of those reporting, and the families from unwarranted interventions,

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- legal proceedings that protect the rights of victims as well as offenders, and
- reconsideration of the rationale behind laws which allow consideration of offenses by family members as less serious than those committed by strangers.

Long range efforts involve basic social justice issues and should focus on securing for each person the right to:

- employment
- food
- decent housing
- health care
- protection of human life
- adequate income and resources

In addition, the special needs of persons, particularly children, should be addressed by legislation. Finally, socially and legally sanctioned punishment which reflects an acceptance of violence should be considered as relational to domestic violence and efforts made to support non-violent corrective measures for all social problems.

We ask the Civil Rights Commission to continue its efforts to prevent and to alleviate the threat to human rights embodied in domestic violence. Further, we urge you to utilize the resources available in the church and voluntary sectors and to enlist the participation of all people of good will in winning the battle against violence in the family.

\* Violence in the Family, a National Concern, a Church Concern, United States Catholic Conference, 1312 Massachusetts Avenue, N.W., Washington, D. C. 20005, 1979.

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