

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;
- Submit reports, findings, and recommendations to the President and Congress.

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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. ^{1/} 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. ^{2/} The FBI reports that from 1966 to 1975, 157 police officers were killed while responding to domestic disturbance calls. ^{3/} In 1975, such calls accounted for 28 percent of assaults on police officers and over 21 percent of all police deaths. ^{4/}

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

^{1/} 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.

^{2/} International Association of Chiefs of Police, Inc., Training Key #246 (1976).

^{3/} Federal Bureau of Investigation, "Crime in the United States--1975, The Uniform Crime Reports," pp. 18, 19 and 22.

^{4/} 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. ^{5/}

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

^{5/} 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.^{6/} 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.^{7/}

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

^{6/} See Consultation Transcript, pp. 20-27 (testimony of Marjory Fields).

^{7/} 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. ^{8/}

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,

^{8/} Consultation Transcript, pp. 214-16.

community services and civil and criminal law presented their views and recommendations. The transcript of that consultation ^{9/} 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.

^{9/} 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. ^{10/} 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. ^{11/} 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. ^{12/}

^{10/} 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).

^{11/} Edward H. Peplow, Jr., "Phoenix," Americana, Americana, Inc., 1978, vol. 21, p. 789 (hereafter cited as "Phoenix," Americana).

^{12/} 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. ^{13/}

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. ^{14/}

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. ^{15/}

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

^{13/} "Phoenix," Americana, p. 790.

^{14/} Id.

^{15/} 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. ^{16/} 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. ^{17/} 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, ^{18/} known as Metropolitan Phoenix for statistical purposes, is the fourth fastest growing metropolitan area in the United States. ^{19/} 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. ^{20/}

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. ^{21/}

^{16/} Bruce B. Mason and Heinz R. Hink, Constitutional Government in Arizona (Arizona State University: 1975), pp. 65 and 67.

^{17/} "Arizona," Americana, p. 306.

^{18/} The Phoenix suburbs include the municipalities of Scottsdale, Glendale, Tempe, Mesa, Paradise Valley, and Chandler.

^{19/} 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).

^{20/} Id., p. 8. Total estimated population of Arizona in 1979 is 2.6 million. Arizona Statistical Review, p. 6.

^{21/} 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. ^{22/} 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. ^{23/}

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%. ^{24/} Within the actual city limits, 70% of the inhabitants are White, 20% Mexican-American, 5% Black, and 5% Indian. ^{25/} 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. ^{26/}

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. ^{27/}

^{22/} 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.)

^{23/} Inside Phoenix, p. 10.

^{24/} Arizona Department of Economic Security, "Affirmative Action Planning Information: Maricopa County" (Labor Market Information Publications: 1978), Table 1.

^{25/} LEAA Proposal, Human Resources Department, Phoenix, Arizona (1979) (in Commission files).

^{26/} Inside Phoenix, p. 16.

^{27/} 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. ^{28/}

Phoenix has repeatedly registered one of the highest crime rates in the nation. ^{29/} 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. ^{30/} In 1978, statewide figures show 17,320 dissolutions granted and 27,725 marriages. ^{31/} 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). ^{32/}

28/ "Arizona," Americana (1979), p. 300.

29/ 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).

30/ 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.

31/ Arizona Statistical Review, p. 53.

32/ 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%. ^{33/}

Maricopa County's principal industries are manufacturing, agriculture, and tourism. It is the largest producer of crops and livestock in the state. ^{34/} 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. ^{35/}

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. ^{36/}

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. ^{37/}

^{33/} Inside Phoenix, p. 3.

^{34/} Arizona Statistical Review, p. 65.

^{35/} "Phoenix," Americana, p. 789.

^{36/} Inside Phoenix, p. 25.

^{37/} 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. 38/

Physical injury is defined as "the impairment of physical condition."39/

The offense of assault falling under section 1 is a class 1 misdemeanor carrying a maximum sentence of six months imprisonment. 40/

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. 41/

Under present law, an assault may constitute a felony aggravated assault if the offender "causes serious physical injury to another," 42/ or "uses a dangerous weapon or other deadly instrument." 43/ Aggravated

38/ Ariz. Rev. Stat. § 13-1203 (1978).

39/ Ariz. Rev. Stat. § 13-105(24) (1978).

40/ 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).

41/ Ariz. Rev. Stat. § 13-707 (1978).

42/ Ariz. Rev. Stat. § 13-1204(A)(1) (1978).

43/ 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/

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.

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,^{50/} 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,^{51/} also added to the criminal code in the 1978 revision, is defined as "threatening or intimidating 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 ^{52/}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

* * * * *

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.

50/ Ariz. Rev. Stat. § 13-1201 (1978).

51/ Ariz. Rev. Stat. § 13-1202 (1978).

52/ Ariz. Rev. Stat. § 13-2904 (1978).

A violation by a spouse of a civil restraining order ^{53/}--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, ^{54/}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. ^{55/} 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." ^{56/} 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. ^{57/}

^{53/} Civil domestic relations proceedings are described below at Section III. B. 1.

^{54/} Ariz. Rev. Stat. § 13-2810(2) (1978).

^{55/} Ariz. Rev. Stat. § 13-3883(1) (1978).

^{56/} Ariz. Rev. Stat. § 13-3881(1) (1978).

^{57/} 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/

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. 63/ 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. 64/

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. 65/ 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. 66/

The Phoenix Police Department, through its operations orders, employs the following standards for the acceptance and processing of a citizen's arrest:

63/ Ariz. Rev. Stat. § 13-3884 (1978).

64/ Ariz. Rev. Stat. § 12-3889 (1978).

65/ Ariz. Rev. Stat. § 13-9000 (1978).

66/ 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/

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. ^{70/}

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. ^{71/} 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. ^{72/} 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. ^{73/}

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. ^{74/}

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. ^{75/}

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

^{70/} Ariz. Rules of Criminal Procedure, Rule 3.2(b).

^{71/} Ariz. Rules of Criminal Procedure, Rule 4.1(a).

^{72/} Ariz. Rules of Criminal Procedure, Rule 4.1(b).

^{73/} Ariz. Rules of Criminal Procedure, Rule 3.2(b).

^{74/} Ariz. Rules of Criminal Procedure, Rule 4.2.

^{75/} 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. ^{76/} 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. ^{77/}

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. ^{78/} 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. ^{79/}

^{76/} Ariz. Rev. Stat. § 13-3967(E) (1978).

^{77/} Interview with Hon. Alan Hammond, Presiding Judge, Phoenix Municipal Court, December 6, 1979.

^{78/} Ariz. Rules of Criminal Procedure, Rule 5.1.

^{79/} 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. ^{80/}

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, ^{81/} 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. ^{82/}

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. ^{83/}

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. ^{84/}

^{80/} Ariz. Rules of Criminal Procedure, Rule 13.1.

^{81/} Ariz. Rules of Criminal Procedure, Rule 4.2(b).

^{82/} Ariz. Rules of Criminal Procedure, Rule 8.2.

^{83/} Ariz. Rules of Criminal Procedure, Rule 17.

^{84/} 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. ^{85/} 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. ^{86/}

^{85/} Ariz. Rules of Criminal Procedure, Rule 26.4.

^{86/} 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. ^{87/}

The only defense available to a petition for the dissolution of a marriage is that the marriage is not irretrievably broken. ^{88/}

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. ^{89/} 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. ^{90/}

^{87/} Ariz. Rev. Stat. § 25-312 (Supp. 1979).

^{88/} Ariz. Rev. Stat. § 25-314 (Supp. 1979).

^{89/} Ariz. Rev. Stat. § 25-381.01.21 (1976).

^{90/} 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."^{91/} 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.^{92/} The court may enter temporary restraining, custody, support, and maintenance orders during the conciliation period.^{93/}

The Conciliation Court is under the supervision of the Superior Court,^{94/} 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.^{95/} 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."^{96/}

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.^{97/}

^{91/} Ariz. Rev. Stat. § 25-381.11 (1976).

^{92/} Ariz. Rev. Stat. § 25-381.18 (1976).

^{93/} Ariz. Rev. Stat. § 25-381.17 (1976).

^{94/} Ariz. Rev. Stat. § 25.381.03 (1976).

^{95/} 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.

^{96/} Ariz. Rev. Stat. § 25-381.16 (1976).

^{97/} 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. ^{98/}

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. ^{99/} This standard preliminary injunction enjoins both spouses from disposing of joint and community property ^{100/} 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. ^{101/}

^{98/} Ariz. Rev. Stat. § 25-381.18 (1976).

^{99/} Ariz. Rev. Stat. § 25-315 (Supp. 1979).

^{100/} 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).

^{101/} 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.^{102/} 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.^{103/}

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.^{104/}

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.^{105/} 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.^{106/}

^{102/} Ariz. Rev. Stat. § 25-315(A)(2) (Supp. 1979).

^{103/} Ariz. Rev. Stat. § 25-315(A)(4) (Supp. 1979).

^{104/} Ariz. Rev. Stat. § 25-315(C) (Supp. 1979).

^{105/} Id.

^{106/} 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.^{107/} 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.^{108/} 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.^{109/}

(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.^{110/} 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.^{111/}

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.^{112/}

^{107/} Ariz. Rev. Stat. § 25-315 (C) (Supp. 1979).

^{108/} Ariz. Rules of Civil Procedure, Rule 65(d).

^{109/} Id.

^{110/} Ariz. Rules of Civil Procedure, Rule 65(j)(1).

^{111/} Ariz. Rules of Civil Procedure, Rule 65(j)(2).

^{112/} 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."^{113/}

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. ^{114/}

^{113/} Ariz. Rules of Civil Procedure, Rule 65(j)(6).

^{114/} 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. ^{115/}

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. ^{116/}

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." ^{117/} 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. ^{118/}

^{115/} 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.1.b., p .

^{116/} Ariz. Rev. Stat. § 13-3811-16 (1978).

^{117/} Ariz. Rev. Stat. § 113-3811 (1978).

^{118/} 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.^{119/} The person may be jailed if he fails to post the bond.^{120/}

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.^{121/} 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.^{122/}

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.^{123/} Only one of the 18 justices of the peace in Maricopa County will issue a peace bond under any circumstances.^{124/} The procedure, although existing by statute, thus plays little role in practice in the handling of domestic violence situations in Phoenix.

^{119/} Ariz. Rev. Stat. § 13-3813 (1978).

^{120/} Ariz. Rev. Stat. § 13-3814 (1978).

^{121/} Ariz. Rev. Stat. § 13-3815 (1978).

^{122/} Id.

^{123/} Interview with Larry Cronin, Administrative Deputy, Maricopa County Attorney's Office, November 16, 1979.

^{124/} 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.^{125/} If the assault occurred while the victim was married to the assailant, she must obtain a dissolution of the marriage before filing suit.^{126/} 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.^{127/} 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;^{128/} 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.

^{125/} 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).

^{126/} 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).

^{127/} 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).

^{128/} 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.^{129/} 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.

^{129/} 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.I.

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^{130/} 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.^{131/} 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

^{130/} Ariz. Rev. Stat., Titles 36, 41, 46 (1956).

^{131/} 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.^{132/}

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.^{133/}

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.^{134/} The assets may include tools used by the applicant's family in their trade or business, and one car or truck.^{135/}

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.^{136/} 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.^{137/} The imminent threat of bodily harm to woman by the husband may be "good cause."

^{132/} 3 Income Maintenance, R6-3-406(A).

^{133/} 3 Income Maintenance, R6-3-402.

^{134/} 3 Income Maintenance, R6-3-409(A).

^{135/} Id.

^{136/} 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.

^{137/} 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.^{138/} The study established the minimum dollar amount necessary to enable a family to survive in 1971.^{139/} 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.^{140/} 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.^{141/}

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.^{142/} The regulations specify that any person who desires assistance is to be given an unrestricted opportunity to apply and a courteous interview.^{143/} 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.^{144/}

^{138/} Arizona Department of Economic Security, Family Assistance Administration, "Statement of Standard of Need and Payment Level, Ranking by Benefit Level of States," January 1980.

^{139/} Id.

^{140/} Id.

^{141/} Id., p. 3.

^{142/} 3 Income Maintenance, R6-3-201.

^{143/} Id.

^{144/} 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.^{145/} For example, a woman indicating on her application that she has two children will be required to submit their birth certificates.^{146/} 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^{147/} 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.^{148/} 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.^{149/} If a mandatory WIN

^{145/} Interview with Gloria Young, Director, Family Assistance Administration Unit, Arizona Department of Economic Security, January 1980.

^{146/} Id.

^{147/} 3 Income Maintenance, R6-3-203.

^{148/} Id., R6-3-501.

^{149/} Id., R6-3-503.

participant fails to register for the program, her AFDC assistance will be terminated.^{150/}

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.^{151/}

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.^{152/}

To be eligible for Emergency Assistance, a person must be a citizen of the United States or an alien legally admitted for permanent residence.^{153/} Emergency Assistance eligibility is considered independently of an applicant's eligibility for other assistance programs.^{154/}

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.^{155/} 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.^{156/}

^{150/} Id., R6-3-508.

^{151/} Id., R6-3-503.

^{152/} Id., R6-3-801(B).

^{153/} Id., R6-3-801(A).

^{154/} Id., R6-3-801(C).

^{155/} Id., R6-3-803(A).

^{156/} 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.^{157/}

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.^{158/} If she applies for Emergency Assistance only, she must file a separate application for each calendar month in which assistance is needed.^{159/} 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.^{160/} 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.^{161/}

Members of an assistance unit may not receive Emergency Assistance in more than three calendar months within any consecutive 12 month period.^{162/} 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.^{163/} A battered woman with two children could qualify

^{157/} Id., R6-3-201C(A).

^{158/} Id., R6-3-802(A).

^{159/} Id., R6-3-802C(A)(1).

^{160/} Id., R6-3-802(2).

^{161/} Id., R6-3-802(2)(a).

^{162/} Id., R6-3-804.

^{163/} 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.^{164/} The uniform national resource standards of eligibility apply to all households.^{165/} 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.^{166/}

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.^{167/} To become certified to receive food stamps an applicant's gross non-exempt income and citizenship must be verified.^{168/} 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.^{169/}

The certification periods for food stamps conform to the calendar months beginning with the month of application.^{170/} All households, except public assistance households, are assigned the longest

^{164/} 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.

^{165/} 3 Income Maintenance CFS, R6-3-2017A.

^{166/} Id.

^{167/} Id., R6-3-2101.

^{168/} Id., R6-3-2102(A).

^{169/} Id., R6-3-2115(A).

^{170/} Id., R6-3-2118(A).

certification period possible based on stability and predictability of household circumstances, from one to 12 months.^{171/} Public assistance households are assigned certification periods that coincide with their public assistance review dates.^{172/} 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.^{173/}

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.^{174/}

Destitute households are entitled to expedited services from DES.^{175/} 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.^{176/} Households who have zero net monthly income also are eligible for expedited services.^{177/}

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.^{178/}

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.

^{171/} Id., R6-2-2118(A-2).

^{172/} Arizona Department of Economic Security, Basis of Coupon Issuance-1977 Act, DES 3-21 (Exhibit 2).

^{173/} 3 Income Maintenance CFS, R6-3-2118(A).

^{174/} Id., R6-3-2104(A)(B).

^{175/} Id., R6-3-2125A.

^{176/} Id.

^{177/} Id., R6-2-2126(A).

^{178/} 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.^{179/} 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.^{180/} 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.^{181/}

The method for delivering the services is based upon the problem the family or individual is experiencing.^{182/} 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^{183/} for the program participant.

^{179/} 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.

^{180/} 5 Social Services, R6-5-3105(A).

^{181/} Id., R6-5-3105(B).

^{182/} Id., R6-5-3108(a).

^{183/} 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.^{184/}

The police force is over 97% male and about 89% white, as shown in the table below:^{185/}

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 |
| TOTAL | 1627 | 97.1 | 49 | 2.9 |

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

^{184/} Phoenix Police Department, 1978 Annual Report (1979), p. 1.

^{185/} 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.^{186/} 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^{187/} 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.^{188/}

All calls to the police department are connected to a communications operator, and 92% of all calls are answered within ten seconds.^{189/} Communications operators, nearly all of whom are civilians, receive special training for their positions. Their

^{186/} 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.

^{187/} Phoenix Police Department, Operations Orders (hereafter cited as Operations Orders).

^{188/} Phoenix Police Department, 1978 Annual Report (1979), p. 1.

^{189/} 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.^{190/}

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.^{191/}

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

^{190/} Id. at 6.

^{191/} 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.^{192/} 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.^{193/} In cases of extreme emergency which are designated priority 1, the communications operator can short-circuit this process and hasten

^{192/} Telephone interview with David Barker, Systems and Procedures Analyst, Office of Planning and Research, Phoenix Police Department, Jan. 22, 1980.

^{193/} 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.^{194/}

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.^{195/}

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."^{196/}

^{194/} Communications Manual, Section C/108.

^{195/} Stankus interview.

^{196/} 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.^{197/}

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.^{198/}

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.^{199/} 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

^{197/} Operations Order C-3, para. 3D (emphasis added).

^{198/} Operations Order A-2, "Referral Agencies and References."

^{199/} 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.^{200/} The Academy utilizes role-playing techniques to simulate domestic disputes, a method believed to be highly successful.^{201/}

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."^{202/} 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.

^{200/} Id.

^{201/} Id.

^{202/} 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/}

^{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.^{208/}

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

^{208/} 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.^{209/}

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,^{210/} 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.^{211/}

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.^{212/}

Intake for prosecution is handled by the deputy district attorneys in the Charging Bureau, who review all cases presented by the police

^{209/} Id.

^{210/} For a discussion of the Arizona criminal code provisions regarding assault and aggravated assault, see Section III A.1.a.

^{211/} Interview with Al Johnson, Supervisor, Charging Bureau, Maricopa County Attorney's Office, November 28, 1979 (hereafter cited as Johnson Interview).

^{212/} 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.^{213/}

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.^{214/}

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, ^{215/} the program is unavailable as a resource for domestic violence cases.

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

^{213/} Annual Report, p. 52.

^{214/} Johnson Interview.

^{215/} 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.^{216/}

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,^{217/} 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.^{218/}

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

^{216/} Id.

^{217/} For a description of procedures regarding arrest and citation in lieu of detention, see section III.2.

^{218/} 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.^{219/}

D. Superior Court

The Superior Court is the trial court of general jurisdiction in Arizona,^{220/} 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.^{221/} The Conciliation Court is

^{219/} Id.

^{220/} Constitution of the State of Arizona, Article 6, § 6.

^{221/} 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. ^{222/}

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. ^{223/}

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. ^{224/}

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. ^{225/}

E. Phoenix Municipal Court

Arizona law permits the establishment of municipal or magistrate courts, by city ordinance. ^{226/} 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

^{222/} Conciliation Court of Maricopa County, Arizona, Annual Report (1978), p.1. (in Commission files) (hereafter cited as Conciliation Court Annual Report).

^{223/} Interview with William Shiels, Director of Conciliation, Maricopa County Superior Court, December 6, 1979.

^{224/} Conciliation Court Annual Report, p. 10.

^{225/} Id., p.3.

^{226/} 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.^{227/} 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.^{228/}

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.^{229/} 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.

^{227/} Charter of the City of Phoenix, Arizona, Chapter VIII, Sections 1-8 (as amended 1971).

^{228/} Interview with Hon. Alan Hammon, Presiding Judge, Phoenix Municipal Court, December 6, 1979.

^{229/} 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. ^{230/} Created in 1972, DES consolidated seven state agencies: ^{231/}

- (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. ^{232/}

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. ^{233/} 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. ^{234/}

The legislation which established DES did not provide an organizational structure for administration or the delivery of services. ^{235/} Instead, it provided the power to the director of DES to establish, approve, organize, and reorganize DES to carry out the functions

^{230/} Chapter III, supra.

^{231/} 1972 Arizona Sess. Laws, Chapter 142, Senate Bill 1068.

^{232/} 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.

^{233/} 1972 Ariz. Sess. Laws, Chapter 142, Senate Bill 1068.

^{234/} DES Study, p. 2.

^{235/} Id., p. 2.

mandated by this legislation.^{236/} 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.^{237/} This represents six different organizational structures.^{238/}

The current director of DES is William S. Jamieson, Jr.^{239/} The DES budget for 1979-80 was \$223,232,200.^{240/}

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^{241/}

Each division is authorized to develop the policies and procedures necessary for program planning, development and evaluation in its division.^{242/} 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.^{243/} 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

^{236/} Id.

^{237/} Id.

^{238/} Id.

^{239/} Id., (Appendix IV).

^{240/} Governor's Office, "State of Arizona Budget, 1979-80," 1979.

^{241/} State of Arizona, Department of Economic Security, Organization Chart.

^{242/} 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).

^{243/} Id.

of financial assistance for battered women.^{244/} 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.^{245/}

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.^{246/}

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 Al-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

^{244/} Id.

^{245/} Young Interview.

^{246/} DES Study, p. 8, Appendix 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.^{247/}

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.^{248/}

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.^{249/} 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.^{250/} Community legal services, which serves Maricopa and other nearby counties, is funded by the Legal

^{247/} Rainbow Retreat, Inc., Monthly Service Statistics, October 1979 (in Commission files).

^{248/} Interview with Patricia McGrath, Supervisor of Crisis Unit, Sojourner Center, December 4, 1979.

^{249/} See Chapter III, supra.

^{250/} 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.^{251/} 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.^{252/}

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.^{253/}

One board of directors provides the overall management for the program which includes overseeing the financial affairs and setting agency-wide priorities^{254/} 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.^{255/} 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.^{256/}

An applicant's eligibility for assistance from Legal Services is determined by considering her gross income for the last three months.^{257/} Gross income is defined as the annual total cash receipts before

^{251/} Id.

^{252/} Id.

^{253/} Id.

^{254/} Interview with James Flenner, Managing Attorney (Main Office), Community Legal Services, Phoenix, Arizona, January 9, 1980 (hereafter cited as Flenner Interview).

^{255/} Id.

^{256/} Keenan Interview.

^{257/} 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.^{258/} Persons whose sole income is derived from welfare payments are automatically eligible.^{259/} 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.^{260/}

There are several other factors considered in determining income eligibility.^{261/} 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.^{262/} 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.^{263/}

^{258/} Id.

^{259/} Id.

^{260/} Flenner Interview.

^{261/} Eligibility Guidelines.

^{262/} Id.

^{263/} 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.^{264/} 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.^{265/} 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.^{266/} All new cases go through the staff panel review or staffing process.^{267/} Community Legal Services accepts 12 percent of the cases reviewed by the staff panels in each office.^{268/}

One attorney in each office is designated to handle each day's emergency cases, i.e., cases which require immediate legal action.^{269/} 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.^{270/} 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.^{271/} 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.^{272/}

^{264/} Flenner Interview.

^{265/} Id.

^{266/} Id.

^{267/} Eligibility Guidelines.

^{268/} Keenan Interview.

^{269/} Flenner Interview.

^{270/} Id.

^{271/} Id.

^{272/} 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. ^{273/}

^{273/} Maricopa County Bar Association, Family Law Committee, "Report on Domestic Violence in Maricopa County" (October 1979).