Battered Women in New Jersey

January 1981

A report of the New Jersey Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the New Jersey Advisory Committee.

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Battered Women in New Jersey

—A report prepared by the New Jersey Advisory Committee to the U.S. Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the New Jersey Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendation to the President and Congress.

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LETTER OF TRANSMITTAL

New Jersey Advisory Committee to the
U.S. Commission on Civil Rights
January 1981

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Louis Nuñez, *Staff Director*

Dear Commissioners:

The New Jersey Advisory Committee submits this report, *Battered Women in New Jersey,* as part of its responsibility to advise the Commission on relevant civil rights problems within the State. It hopes that the information will be useful to the Commission's national project on battered women.

This report reviews the problems facing battered women in selected localities in New Jersey. Although data were collected throughout the State, the study focused primarily on Trenton and Ewing Township in Mercer County and Hackensack in Bergen County. In the study, the Advisory Committee examined the policies and practices of the criminal justice system, including several police departments, municipal courts, and probation departments and of selected public and private social service agencies including hospitals, welfare agencies, and shelters for battered women.

The Advisory Committee held a factfinding meeting in Trenton in December 1977 and received information from more than 30 witnesses, including several women who formerly had been battered. The Advisory Committee also requested data from county prosecutors throughout the State on the number of cases related to battering incidents and the disposition of those cases.

New Jersey has been in the forefront of the nation in the development of shelters for battered women. Nonetheless, despite the growing public awareness of the problems of battered women, most criminal justice and social service agencies do not provide the assistance that these women need. The police and court personnel do not always treat battering with the seriousness that it deserves and staff throughout the criminal justice and social service agencies need to be better trained to handle the problems of these women. Additional funding should be made available for services for battered women.

We urge the Commission's support of our recommendations.

Sincerely yours,

Clyde Allen
Chairperson

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Acknowledgements

The Advisory Committee wishes to thank the staff of the Commission's Eastern Regional Office, New York, New York, for its help in the preparation of this report.

Primary field investigation was conducted by Diane Brewer, Mark Simo, and Yvonne Griffth, members of the staff, and Paula Webster, a consultant hired for the project. Research and writing assistance was provided by Linda Dunn, research writer, and legal research was conducted by Eugene Bogan, regional attorney until 1978. Legal review was conducted by Hector Soto, who became regional attorney in September 1979. Additional staff support was provided by America Ortiz, Diane S. Diggs, Sandra Patterson, and Salvatore Martinez. The project was initiated under the direction of Jacques E. Wilmore, regional director, who left the Commission in October 1978, and completed under the supervision of Ruth J. Cubero, the new regional director.

The staff of the Publications Support Center, Office of Management, was responsible for final preparation of the document for publication.

Contents

1. Introduction

The battering of women by husbands or male companions has received increased attention from the media, governmental agencies, and other social institutions.[1] Battered women themselves have begun to speak out and a growing number of support groups have come to their assistance.[2] However, despite the increased public awareness of the problem, many persons charge that criminal justice and social service institutions of our society have failed to provide adequate resources or to change existing policies and procedures to meet the needs of these women who have been physically abused.

In January 1977, the New Jersey Advisory Committee to the U.S. Commission on Civil Rights began a study of the problems of battered women living in selected localities in New Jersey to determine if criminal justice and social service agencies provide equal protection and/or adequate services to these women. Although data and information were collected throughout the State, the study focused primarily on Trenton and Ewing Township in Mercer County and Hackensack in Bergen County.

The Advisory Committee examined both the criminal justice system and alternatives to it, including divorce proceedings and assistance provided by selected public and private social service agencies. It reviewed criminal and civil statutes, police regulations, court procedures, hospital procedures, and public assistance eligibility requirements and programs. The Advisory Committee and Commission staff interviewed police, prosecutors, judges, other court personnel, representatives of public and private social service agencies, hospital staff, individuals working in shelters and support groups, and battered women themselves.[3] Also requested from each of the county prosecutor's offices in the State were data on the number of cases of battering handled by the office and information on the disposition of those cases.

The project culminated in a 1-1/2 day factfinding meeting held on December 1 and 2, 1977, in Trenton, N.J.. The Advisory Committee heard presentations from approximately 40 persons including public officials and private citizens. Five women who themselves had been battered described their experiences. A transcript of the factfinding meeting is available to the public at the Eastern Regional Office of the U.S. Commission on Civil Rights, 26 Federal Plaza, Room 1639, New York, New York.[4]

[1] The growing public interest in battered women is reflected in increased activity by Federal agencies. The U.S. Commission on Civil Rights (USCCR) held a consultation in January 1978 and two hearings in 1980 on the issue. In 1979 the former U.S. Department of Health, Education, and Welfare established an Office of Domestic Violence and other governmental agencies have provided funds for shelters or research projects related to battering. These Federal policies and programs are reviewed in a forthcoming USCCR study which is expected to be released in early 1981.

[2] One indication of the growing number of women and women's groups interested in battering was the attendance at the USCCR national consultation on battered women. More than 600 persons attended the January 1978 consultation, at which time the National Coalition Against Domestic Violence was formed. The USCCR report on the consultation, *Battered Women: Issues of Public Policy*, issued in 1978, lists almost 300 battered women's shelters and support groups in the nation. However, even this list is not considered comprehensive.

[3] More than 60 persons were interviewed including: 19 uniformed police personnel in Newark, Trenton, Hackensack, and several smaller cities; civilians involved in police training and victims assistance centers; 14 lawyers; 3 prosecutors; 5 judges; other court personnel; hospital staff from 4 hospitals; State and county welfare officials; persons working in shelters and other support services; and 5 battered women. Information collected during these interviews is used throughout this document. Reports of the interviews are available from the USCCR Eastern Regional Office (ERO).

[4] USCCR, New Jersey Advisory Committee, "Transcript of Proceedings, Informal Public Hearing on Battered Women," Dec. 1 and 2, 1977, Trenton, N.J. (hereafter references to this transcript will be included in

The New Jersey project is one of several studies by the national Commission on Civil Rights on this subject. In August 1977, the Colorado Advisory Committee issued a report, *The Silent Victims: Denver's Battered Women,* and released an accompanying color film entitled, "A Woman, a Spaniel, and a Walnut Tree."[5] In September 1977, the Connecticut Advisory Committee held a factfinding meeting on the problems of battered women in Hartford and in April 1979, released a report based on its study. The Connecticut Advisory Committee also issued a 50-minute videotape on its study entitled "Coming Out of Violence."[6] The national office of the Commission sponsored a 2-day consultation in Washington, D.C. on January 30 and 31, 1978. A report on the consultation was issued in December 1978.[7] The Commission held a hearing on the issue in Phoenix, Arizona, in February 1980 and in Harrisburg, Pennsylvania, in June 1980. The Commission also has initiated a study which will identify and review Federal policies and programs related to battering. The report is expected to be released in early 1981.

Throughout this report, the term battering is used to describe the physical injuring of one person by another of the opposite sex within a familial situation.[8] The beating is usually one of a series of physical assaults by one person on another. Battered women may be the lawfully wedded wives of the men who abuse them, their "girl friends," regular companions, or common-law wives. Injuries suffered by these women may range from severe bruises to blows or wounds which result in permanent injury or death; in all cases the act of violence is in fact a criminal assault whether or not the specific incident was recognized or treated as such by the police, the courts, or society.[9] The terminology "physically abused" or "abused woman (wife)" is used in the report interchangeably with the term "battered woman."

parenthesis in the text with the volume in roman numerals and page in ordinal numbers).

[5] USCCR, Colorado Advisory Committee, *The Silent Victim: Denver's Battered Women* (August 1977). Film entitled, "A Woman, Spaniel, and a Walnut Tree" (August 1977). Both are available on request from USCCR, Rocky Mountain Regional Office, Executive Tower, 1405 Curtis Street, Suite 1700, Denver,Colo. 80202.

[6] USCCR, Connecticut Advisory Committee, *Battered Women in Hartford, Connecticut,* April 1979. The report and the film are available on request from the USCCR New England Regional Office, 55 Summer Street, Boston, Mass. 02110.

[7] USCCR, *Battered Women: Issues of Public Policy* (1978).

[8] A similar definition is given by Del Martin, in her book *Battered Wives* (San Francisco: Glide Publications, 1976) p. 21.

[9] Assault as defined by New Jersey statutes is discussed more fully in chapter 3 of this report. It is the contention of the New Jersey Advisory Committee that acts of battering do fall within the jurisdiction of the criminal justice system regardless of how they have been handled by that system in the past or the present.

2. The Problem

Literature on the subject establishes that wife abuse has been tolerated, condoned, and justified for centuries by many segments of society and by most of its institutions.[1] A woman's second-class status in a male-dominated world is cited frequently as an underlying factor leading to this form of physical abuse. Traditionally, women have been viewed as "inferior" to men and wives have been seen as the "property" of their husbands.[2] Under English common law, a man's right to beat his wife was legitimized by the "rule of thumb" which permitted the beating of the wife provided that the stick was no bigger in diameter than the man's thumb.[3]

The physical abuse of wives and women occurs in upper and middle income homes as well as in low income and poverty households; the victims are black, Hispanic, and white women alike. The "batterers" are professionals, factory workers, or laborers.[4] In some instances, differences of language and cultural heritage isolate the women not only from social services but also from changing norms and attitudes toward problems such as spouse abuse. For certain population groups, the cultural views of the women within the family combined with the traditional role of "machismo" in male-female relationships further intensify the problem. For these racial, ethnic, national origin, or cultural groups within our society, the hardship for abused women may be even more severe.[5] The psychological ramifications of being abused by a person with whom one has an intimate relationship are complex and in most instances psychological abuse accompanies the physical beating. These emotional problems are usually an integral part of the battering syndrome.

Presentations by Victims

Five women who had been physically abused by their male companions or husbands made presentations at the Advisory Committee's factfinding meeting held December 1 and 2, 1977, in Trenton, New Jersey.[6] Directly stated or implied in their presentations was the charge that the causes of battering are observable in basic societal attitudes and deeply ingrained in society's institutions. Ms. B. stated:

> Millions of women each year are beaten by their husbands and boyfriends. Battered women are a societal problem. I feel it is a societal problem because our society condones general violence

[1] A list of bibliographies is contained in the U.S. Commission on Civil Rights (USCCR) report, *Battered Women: Issues of Public Policy* (1978), pp. 625–26.

[2] Del Martin deals with the issue of the woman's second-class status in society in Chapter 3, "Wife-Beating and the Marriage Contract," of her book, *Battered Wives* (San Francisco: Glide Publications, 1976), pp. 25–45.

[3] 3 Va. L. Reg. (n.s.) 241 (1917).

[4] Martin, *Battered Wives,* p. 19. The Bergen County Advisory Commission on the Status of Women 1977 report, "Crimes of Violence Against Women: Rape and Battered Women," (Spring 1977) also establishes a comprehensive profile of the woman who has been abused and of the batterer. The battered women in the study were individuals of all racial and ethnic backgrounds and income levels. The women included whites, blacks, and Hispanics. They were housewives, office workers, unskilled workers, professionals, and students and represented a wide range of educational levels including college graduates and recipients of advanced degrees. The batterers also represented a wide range of occupations; one half of the batterers identified were categorized as professional or executive. (Section on Battered Women, pp. 13–15).

[5] USCCR, *Battered Women: Issues of Public Policy,* p. 8 (presentation of Del Martin at the Commission's national consultation, Jan. 30, 1978.)

[6] Women making presentations at the factfinding meeting are herein identified by the letters, Ms. A., B., C., etc., according to the order in which they made presentations at the meeting, in order to protect their identity. The information presented by them has not been verified because the Advisory Committee was interested in the pattern of experience they described and not in the specific incidents. The women presenting information were referred by recognized shelter groups in the State.

against women. That violence comes in the form of rape, muggings, pornography, verbal assaults on the streets or beatings in the home. . .Root causes lie in societal attitudes about violence against women, male role patterns which encourage violence in boys and men and law enforcement and criminal justice systems which have done little more than give the abuser a smack on the wrist and send him home to be abusive again.[7]

As a group, the five women represented differing socioeconomic, racial, and ethnic backgrounds. Ms. C. described herself as a "nice, middle-class girl" who lived a "feminist" lifestyle with her husband, a "nice, middle-class attorney." (I,20) Ms. A. was a middle-class housewife whose alcoholic husband beat her during his recurring bouts of drinking. Ms. D., whose husband also was an alcoholic, was a mother and housewife. Ms. E. was a nurse who left her husband because of batterings after 24 years of marriage, moved out of the State, and struggled for several years to obtain a separation, support payments, and finally a divorce. Four of the women were white; one was black.

In spite of socioeconomic differences, each woman related to the Advisory Committee a history of escalating physical violence. Ms. B. summarized her situation as follows:

> During the early seventies, it was not unusual for me to go to work with black eyes, bruises, cuts, scrapes and to be emotionally upset. I was slapped, kicked, punched, humiliated and raped by a man who claimed he loved me during the 5-1/2 years my ex-husband and I lived together.
>
> Sometimes my ex-husband became violent because he did not have a hot dinner awaiting him at 3:00 in the morning when he would come staggering into the house after bar-hopping with his friends. Other times the physical abuse was the result of a verbal argument or when my ex-husband played the he-man role in front of friends. There were times when the violence was for no apparent reason. Sometimes my ex-husband was drunk when he was violent; at other times he was sober.
>
> As the years moved on and the violence increased, the fear of being hit or killed also increased. There were a few occasions when I was literally driven out of my home at 3:00 or 4:00 in the morning by my ex-husband with no place to go and no way to get there except on foot. (I,11-12)

The range of violence varied. Ms. D. suffered the most severe injuries including a broken back. The injury occurred when, after escalating violence, she filed for a divorce. She stated:

> He seemed to get the idea that I had only served the divorce papers to threaten him, that I really did not have any intentions of going through with it. He became infuriated at the thought that I wanted to spend this much money on a lawyer to threaten him and on March 2, 1976, he grabbed me and flung me out of the bathroom and broke my back. (I,34)

Ms. E. also received regular beatings and suffered injuries, including broken ribs. She said:

> My situation started in 1969 when I sustained three broken ribs. I was working as a nurse and I asked my husband if I could go to Sears to get some panties—some white pantyhose because battery acid had eaten through a pair that I had. That is all I can remember saying and as I said, I sustained three broken ribs. (I,52)

Although she left the State and moved to the South to be near relatives, her husband pursued her and persuaded her to return home. She made a final attempt at a reconciliation, only to be beaten again after she had been hospitalized for non-battering related surgery. (I,53)

Ms. A. endured many injuries including bruises, a broken nose, and a concussion:

> We had many incidents, some involving the police but each time he would be very nice when they came to the door and my bruises would not be evident at that time. . . .
>
> When he had his next slip, because again (alcoholism) is a progressive disease, life was hell. . . .
>
> Early in the fall of 1975, I was hospitalized for observation for colitis. The week after I returned home, the worst battering occurred. He trapped me in the house, tore my clothing, hit me with his fist, knocked me to the floor, and tried to strangle me. . . .By late evening I went into shock and was taken to the emergency room, I was given some sedation, diagnosed as having a slight concussion and after another set of X-rays was taken, I was sent home with the poor hapless woman who had taken me in.
>
> The next day when I went to my family doctor, he told me the X-rays showed I had a broken nose. (I,24–26)

In all cases psychological abuse accompanied the physical abuse and some women found the emotional and psychological abuse even more difficult to endure. The emotional pain was intensified by a sense of shame and humiliation, alienation from friends and relatives, and disbelief that the beatings were actually occurring. Ms. C. verbalized the disbelief expressed by the women:

> I was a battered woman for about 8 months. I had never experienced violence before in my life, either as a child or in the 5-1/2 years of marriage preceding the time of battering. Incredible though it seems during the violent period, as before it, I was very active in the women's movement. I was considered, in fact, a leader by many feminists throughout the country and yet I put up with slaps and slugs and wrenched muscles and a bruised body for almost a year and told no one.
>
> . . .I had always said before that if my husband ever laid an abusing hand on me, it would be a one-time only happening. It wasn't. I believed it would never happen again after the first time. He was so repentant but he knew now that he didn't have to reason things out with me any more. He had discovered the easier solution to winning or at least ending debates, discussions, and arguments and so it went. (I,18–19)

Similar emotions were expressed by Ms. B., who said: "Part of me could not comprehend that the beatings were actually happening to me. I couldn't quite believe that two people who supposedly loved each other could live with constant fighting. I thought that one day either the violence had to stop or one of us would be killed." (I,14)

Ms. B. explained why she stayed with her husband for as long as she did and described the psychological abuse she endured:

> For me the psychological anguish became worse than the physical abuse. I grew more and more afraid of my ex-husband. I began to believe that he was conspiring against me. I thought that he was consciously trying to reduce me to being a completely submissive person by using verbal threats and repeated statements to diminish my worth as a person. (I,13)

The guilt experienced by Ms. B. is shared by many battered women. She said:

> I also felt that the failures in our marriage were my fault; that it was I who had done something wrong to have had things go so badly. I believed then it was my responsibility as a wife to try to make amends and made the rational overtures, hoping that my ex-husband and I would sit down and talk out our problems so that the marriage could be saved. . . .
>
> I also stayed with my ex-husband because our marital violence had become a way of life and I was in a state of what I see as long-term shock. (I,14)

She also talked of the shame and alienation she experienced:

> Another reason why I stayed was because I was ashamed to fully talk with anyone about what was happening to me. I thought no one could really understand what it was like to be beaten by one's husband. I thought no one would believe that my husband was capable of such violence, since he was well liked.
>
> In fact, some other women thought I was lucky to have such a nice husband. I knew other women who were battered wives; but they also never fully discussed their situation. It was as though as battered wives, we had taken a vow of silence not to talk about our experiences of marital violence.
>
> I especially tried to hide my experiences from my parents. Neither my parents nor my ex-husband's had a history of household violence. So I felt that confiding in them would be hopeless and embarrassing. I also did not want to hurt my parent's feelings, nor let them know that their son-in-law was abusive. (I,15)

Ms. E. said: "You can idealistically think and dream, well maybe if I wear pink toenail polish instead of red or maybe it's this or maybe it's that or maybe I should learn how to keep the house. I think we have a tendency to blame ourselves." (I,75–6)

The experience of battered women is one which extends far beyond the actual physical beating and one which requires remedies far beyond the medical treatment. The suffering inflicted on battered women is viewed by some as physical evidence of women's second-class status in society.

[7] USCCR, New Jersey Advisory Committee, "Transcript of Proceedings, Informal Public Hearing on Battered Women," Dec. 1 and 2, 1977, Trenton, N.J., vol. 1, pp. 16–17 (hereafter references to this transcript will be included in parenthesis in the text with the volume indicated in roman numerals and page in ordinal numbers).

Ms. C. described what she believes to be the vulnerability of all women and called on all women to support women who have been abused:

> I believe no woman is invulnerable from abuse from a spouse or a male lover. Any woman should realize that to say in any group that she would never put up with that sort of abuse for a moment is to discourage at least one and probably more women in that group from sharing and doing something about her battered situation.
>
> It is to make those women feel weaker and guiltier than they are already feeling. It is to reaffirm to them that it is their isolated problem, probably deserved and has nothing to do with the real societal oppressions of women. It is to become a part of the patriarchal oppression of yourself. (I,20)

Incidence

Nationwide

The information presented to the New Jersey Advisory Committee represents the experience of only a few women in New Jersey. Although there are no nationwide statistics, an increasing number of studies based on police reports, hospital records, and social service agency reports have documented widespread physical abuse of women by men in familial situations.

Because there are no comprehensive nationwide statistics, it is necessary to review limited studies in different communities. Further documentation of the problem is provided by the following:

- According to a 1975 report, approximately 70 percent of the assault victims at the Boston, Massachusetts, City Hospital emergency room are women who have been abused in their homes, usually by a husband or lover.[8]
- Almost one third of all female homicide victims in California during 1971 were murdered by their husbands.[9]
- In the District of Columbia, in 1975 approximately 7,500 women attempted to file criminal charges against their husbands.[10]
- Montgomery County, Maryland, a wealthy suburban community of Washington, D.C., reported 660 incidents of wife abuse in one year.[11]
- A study by the Kansas City, Missouri, Police Department indicated that 90 percent of the city's family homicides had been preceded by at least one "domestic disturbance complaint."[12]

Most experts agree that battering is more prevalent than rape and may be the most underreported crime.[13] Finally in 1975, approximately one-fourth of all murders were homicides within the family and one-half of those killings involved the husband or wife.[14]

New Jersey

There are no official statewide statistics on the incidence of battering, however a number of institutions and agencies in New Jersey have documented the battering of women.[15] The Bergen County Advisory Commission on the Status of Women was one of the first organizations in the State to recognize and collect data on the problem. Based on data on 631 battered women who were identified by surveyed physicians, the Bergen County Commission estimated that the rate of battering in New Jersey in 1976 was 138.6 per 100,000 women. This is a higher rate than that reported for all other categories of violent crimes.[16]

Persons interviewed by the New Jersey Advisory Committee confirmed the high incidence of battering. Deputy Chief Arnold Evans of the Newark Police Department estimated that 40 percent of all police calls involved domestic situations, terminology which he used to cover all incidents between persons who know each other.[17] The Mercer County Medical Center emergency room staff estimated that between 8 and 14 battered women come to the emergency room for medical treatment every week.[18] If these estimates are projected over a year, hospital staff treat between 400 and 700 battered women on an annual basis. Finally, Michael Weintraub, a Trenton municipal court judge, stated that the Trenton court processed 323 assault cases between husband and wife or boyfriend and girlfriend from January 1 through December 1, 1977. (I,249)

The Advisory Committee tried unsuccessfully to document further the incidence of battering with hard data. The Committee's efforts illustrate many of the problems of the recordkeeping now used by most institutions. Few agencies or organizations clearly identify cases of abused women, and records are usually inadequate for determining whether or not a woman has been physically abused. In the three police departments reviewed by the Advisory Committee, the departmental records did not identify consistently cases of battering. The identification of such cases in hospital records also was inadequate. The Advisory Committee and Commission staff reviewed 1-month files of the Mercer County Medical Center and found only 12 cases clearly identifiable as battered women and 7 additional cases of possible battering. The hospital records identified fewer than one third of the cases of battered women believed by the hospital staff to come to the emergency room over a similar period of time.[19]

The Advisory Committee also requested data from all New Jersey county prosecutors on the number of atrocious assault arrests and homicides involving battering.[20] Only 7 of 21 county prosecutors responded to the request. Of those seven, one was unable to supply any data at that time. Only three had data on the number of atrocious assault arrests stemming from battering incidents and several others answered that it was impossible to identify abused women among the other victims in atrocious assault cases handled by their office. Six prosecutors provided data on homicides. One prosecutor responded that, although one woman was killed in a "boy friend-girl friend fight," that incident was not considered a case of "battering" because there had been no previous history in the police records of battering by the alleged killer. The prosecutor's staff said that the office required evidence in the police records of repeated physical beating in order to consider an assault as a battering.[21] However, women often do not call the police every time physical abuse occurs. Furthermore, all calls to the police are not recorded as complaints and in most police departments many calls which are investigated, but do not culminate in arrest, are never reported in the department's complaint file. Thus it may be argued that it is not sufficient to define a battering incident as one in which there is a previous history of assault in the police records.[22]

The five other prosecutors providing information reported a total of 56 homicides, of which 5 were identified as having occurred during battering incidents. Three of the victims were women and two were men. Of the two male victims, one was identified as previously having beaten the woman who killed him.[23] Thus, despite incomplete records, evidence on atrocious assaults and homicides shows that violence between persons who know each other is a serious problem in New Jersey.

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[8] Betsy Warrior, "Battered Lives," *Houseworker's Handbook* (Spring 1975), p. 25.
[9] Martin, *Battered Wives*, p. 14.
[10] Center for Women's Policy Studies, Washington, D.C., October 1976, Vol. 1, Issue 1.
[11] Bergen County Status of Women Report, p. 4.
[12] Kansas City, Mo., Police Department, Northeast Patrol Division Task Force, "Conflict Management: Analysis/Resolution." First draft, p. 58.
[13] USCCR, Colorado Advisory Committee, *The Silent Victims: Denver's Battered Women*, p. 9.
[14] International Association of Chiefs of Police, Training Key No. 246, "Investigation of Wife Beating," Gaithersburg, Md., p. 1.
[15] New Jersey Department of Human Services, Division of Youth and Family Services, *Physically Abused Women and their Families: The Need for Community Services*, p. 5. In this study, the limited data available are reviewed.
[16] Bergen County Status of Women Report, pp. 10–11.
[17] Deputy Chief Arnold Evans, Newark Police Department, interview in Newark, N.J. Oct. 12, 1977.
[18] USCCR, Staff Report of the Eastern Regional Office (ERO), "Study of the Mercer County Medical Center Records of the Emergency Room, May 1977," available in USCCR/ERO files.
[19] Ibid.
[20] Letters from Jacques E. Wilmore, Regional Director, USCCR/ERO, to county prosecutors, Nov. 1 and 2, 1977, available in USCCR/ERO files.
[21] USCCR/ERO, staff report summarizing the information in the letters received from the county prosecutors, undated, available in USCCR/ERO files. An eighth county responded to the USCCR request; however, the information was not forwarded.
[22] There is no criminal statute defining battering as a separate crime and the information received from the other prosecutors was inadequate to determine whether there is a statewide standard or definition of battering.
[23] USCCR/ERO, staff report summarizing the information in the letters received from the county prosecutors, undated, available in USCCR/ERO files.

3. Criminal Justice System

Introduction

The criminal justice system usually is the first and often is the only public institution with which battered women seeking assistance have contact. Recognizing this fact, the Advisory Committee reviewed the relevant statutory laws and court decisions, surveyed selected police policies and procedures, and examined the relevant judicial and nonjudicial processes available to the victims of battering. The Advisory Committee also analyzed how societal attitudes influence the implementation of those laws and procedures.

The Applicable Law

At the time of the study, the New Jersey Administration of Civil and Criminal Justice Code had two statutes under which a complaint could be filed against a batterer:[1]

> Disorderly Persons—N.J. Stat. Ann. §2A: 170–26. This statute covered simple assault, and simple assault and battery; both carried a maximum sentence of 6 months in jail and/or up to $500 fine.
>
> Atrocious Assault and Battery—N.J. Stat. Ann. §2A: 90–1. Classified as a high misdemeanor, this statute covered assault and battery by maiming or wounding of another. This crime carried a maximum sentence of 7 years in prison and/or up to $2,000 fine.

Under this code, if and when a battering victim did file a complaint, the most common charge against the batterer was simple assault, a disorderly persons charge.[2] This charge was the less serious of the two alternatives and was considered to be only a quasi-criminal offense, i.e. not a crime.[3] As such, a disorderly persons offense did not require grand jury indictment nor did it entitle the accused to a trial by jury. Adjudication of disorderly persons charges is limited to the municipal courts which generally have only one prosecuting attorney assigned to them. Most of the proceedings at the municipal court level are without legal representation on either side.

The charge of atrocious assault and battery, which was criminal in nature and carried a much more severe penalty, rarely was lodged. To be sustained, this more serious charge required that there be a "maiming or wounding of another." In *State of New Jersey v. Crumedy,* [4] the New Jersey Supreme Court in its final decision on the interpretation of the atrocious assault statute before the new code became effective, stated that a "wounding" consisted of any "breaking of the skin" and that an atrocious assault charge could be sustained even if there was no serious medical injury. Moreover, the court ruled that it was a fulfillment of the wounding element of the statute considered in conjunction with the total circumstances and nature of the assault that would determine whether or not an atrocious assault charge could be sustained. Finally, the court specifically stated that included in the total circumstances and nature of the assault were the psychological factors involved.

Despite the State court ruling, most persons contacted agreed that there was no clear standard defining what constituted an atrocious assault. Cynthia Jacob, a former deputy public defender for the State of New Jersey and a member of the New Jersey Advisory Committee, made a presentation at the factfinding meeting. She said:

> There is a very fuzzy area between a simple assault and an atrocious assault and battery. If a case is not that strong, chances are it will be prosecuted at the municipal level as a simple assault and battery.[5]

On September 1, 1979, a revision in part of the criminal justice statutory code became effective in New Jersey. The new code modified the definitions and categories of certain crimes and offenses including disorderly persons, assault, assault and battery, and atrocious assault and battery. A major modification of the new code is that all crimes are classified into one or more of four degree categories with the degree reflecting the severity of the possible sentence. Crimes with the most severe sentences are classified as first degree while those carrying the least severe sentences are fourth degree.[6] As under the former code, disorderly persons offenses are not considered crimes and persons charged with these offenses continue to fall within the jurisdiction of the municipal court. Not being a crime, disorderly person offenses are not classified into one of the four degrees.

The new code recognizes two types of assault: simple assault and aggravated assault.[7] Simple assault continues to be a disorderly persons offense, noncriminal in nature. The first of the three definitions of simple assault (it being the most applicable to battering incidents) defines the crime as "attempts to cause or purposely, knowingly or recklessly causes bodily injury to another."[8] It carries a maximum sentence of 6 months in jail and/or a fine of not greater than $500. Basically this is not a change from the policy of the past.

Aggravated assault has four applicable definitions. The first, which defines the crime as "attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life" is the most applicable.[9] Aggravated assault under this subsection is a crime of the second degree and carries a sentence of 5 to 10 years imprisonment. This is the highest possible degree of an aggravated assault crime. Aggravated assault requires a grand jury indictment and persons charged with this crime have a right to trial by jury.

As concerns the determination and prosecution of charges stemming from battering incidents, the 1979 revisions of the criminal code do not reflect a change of policy. The new code does not make any specific substantive or procedural references to battering. The policies, practices, and problems inherent in the previous statutory code seem to have survived the revisions. For instance, the problem in the former statutes of determining the charge to be filed against the batterer appears to occur in the new statutes. One difference between simple assault and aggravated assault is that the latter causes "serious" bodily harm. Perhaps for good reason, there is no further clarification of what constitutes "serious" harm within the statute. The result is that the existing definition appears to be open to widely differing interpretations which can work against the interests of the victim in battering cases. However, the standards established by the New Jersey Supreme Court in *State v. Crumedy* [10] for the former crime of "atrocious assault" seem to have applicability. The New Jersey Advisory Committee recognizes that insufficient passage of time and lack of data make it difficult to draw conclusions about the impact of the new code in this area.

[1] N.J. Stat. Ann. §: 2C: 1–4. Revisions in the New Jersey criminal code effective September 1, 1979, changed the categories and definitions of offenses and crimes into disorderly persons offenses and crimes of the first, second, third, and fourth degrees. The new code classifies assault as simple assault and aggravated assault.

[2] Limited information obtained from the county prosecutors on the relatively few atrocious assault charges is supported by the views of police and court personnel and persons working with battered women's support groups.

[3] N.J. Stat. Ann. §2A:169–1 *et seq.* (1971), as amended, N.J. Stat. Ann. §2c: 1–4 (1979); also, In Re Garofone, 80 N.J. Super 259, 193 a. 2d 398 (1963), *affd.* 42 N.J. 244, 200 A. 2d 101 (1964).

[4] State v. Crumedy, 76 N.J. 319, 387 A. 2d 357 (1978).

[5] U.S., Commission on Civil Rights (USCCR), New Jersey Advisory Committee, "Transcript of Proceedings, Informal Public Hearing on Battered Women," Dec. 1 and 2, 1977, Trenton, N.J., Vol. 1, p. 238 (hereafter references to this transcript will be included in parenthesis in the text with the volume indicated in roman numerals and page in ordinal numbers).

[6] N.J. Stat. Ann. § 2C:43–1.

[7] N.J. Stat. Ann. § 2C:12–1.

[8] N.J. Stat. Ann. § 2C:12–1 (a) (1).

[9] N.J. Stat. Ann. § 2C:12–1 (b) (1).

[10] State v. Crumedy, 76 N.J. 319, 387 A. 2d 357 (1978)

The Police

Police Procedures

In most New Jersey cities, the police dispatcher screens all calls for assistance and assigns the calls to patrol cars on the basis of severity of the crime, time factors, etc. . . . Calls from women who are being abused are coded in a general category called "domestic disputes" which include all family quarrels and verbal arguments between neighbors. In some cities such as Newark, two officers ride in each car and both respond to domestic dispute calls.[11] In other localities, where only one officer rides in a car, two cars are dispatched to domestic dispute calls because of the relatively high incidence of injury to officers responding to such calls.[12]

When police arrive at the scene of an incident, they usually speak to both parties separately and then decide on the best course of action. Options include simple intervention to stop the violence, physical separation in which one party is asked to leave the house, or actual arrest of one or both parties.

New Jersey State law allows for an immediate arrest when an act classified as a crime has been committed if the police witnessed the commission of the crime, or has probable cause to believe that a crime has been committed.[13] In the latter situation, the determination as to whether or not probable cause existed is made on the basis of the police's direct information, or on the basis of information supplied by others. For acts classified as offenses, including disorderly persons assault charges, New Jersey law permits an immediate arrest by police only if they were physically present and observed the offense. However, the arrest of a disorderly person also may be effectuated by any person who witnessed the offense.[14] This makes it possible for the perpetrator of a disorderly persons assault to be arrested by his or her victim. The role of the police in this "citizen's arrest" is to assist in the processing of necessary documents and to accompany the complainant to the proper location, i.e., the police station or magistrate.[15] Thus, unless the police actually witness the battering (which is extremely rare), the victim is absolutely essential in obtaining a disorderly persons arrest.

At the time of the study, if an atrocious assault charge was appropriate, an officer could make an arrest if there was "reasonable cause to believe' the crime occurred, e.g., a physical injury was present. However, the victim still would be needed as the State's witness.

Failure to Arrest

The New Jersey Police Training Commission, the statewide agency which regulates local police training academies, issues guidelines to these academies. One such guideline recommends "Make a summary arrest, if necessary" as one of several options for the officers in handling violent family disputes.[16] In interviews prior to and during the factfinding meeting, it became clear that the police have substantial discretion when deciding whether or not to arrest. The grounds upon which the decision regarding arrest is made are varied.

Police officers interviewed agreed that, except in "serious" cases, it is policy in most police departments not to make an arrest. Lt. Dominick Limone of the Trenton Police Department said recruits were instructed to "avoid arrest" unless the injury was "serious" or a weapon was used or unless the woman insisted that an arrest be made.[17] Similarly, Hackensack police guidelines for domestic complaints state: "The best policy is to avoid arrest, if possible, and effect a peaceful settlement."[18]

Departmental "arrest policies" for domestic disputes reviewed by the Advisory Committee were vague: First, guidelines not to arrest except in "serious cases" did not specify what constitutes a "serious" case; second, guidelines did not specify what charges were to be lodged against a person if there were an arrest. Persons interviewed described differing standards for arrest. Lt. Thomas Balint of the Ewing Police Department said that the presence of a weapon necessitated some form of police action and an arrest. (I,203) Deputy Chief Arnold Evans of the Newark Police Department said: "If it doesn't require stitches, it's a disorderly persons."[19] Other persons said that if medical attention were required, the crime should have been considered an atrocious assault. However, the consensus of persons interviewed was that most cases, including those in which the victim required stitches or other medical attention, did not culminate in atrocious assault arrests.[20]

Consistent with the guidelines, most officers interviewed saw conciliation, not arrest, as the goal of police intervention in domestic dispute situations. Lt. Thomas Balint said:

> The role of the police department is to try to maintain the peace. So you go there and the object is to separate the combatants and try to get to the bottom, the cause as to what happened. . . If you can preserve the peace, protect the people and their safety, that's our objective. (I,185)

In an interview prior to the factfinding meeting Chief Anthony Iurato of the Hackensack Police Department described the police role as a "peace mission." An officer is "never sent on a domestic complaint as a police officer, but as a peace officer," he said.[21] "Adjustment" and "ventilation" were the words chosen by Deputy Chief Arnold Evans of the Newark Police Department to describe the police function in many domestic incidents.[22] He said that the police presence allowed the persons involved to express their anger without continuing the violence.

The guidelines used by the State Police Training Commission at the time of the study went one step further and advised the officer actually to discourage the complainant from seeking an arrest in situations where the injury was not serious. The guidelines read:

> When a complainant has been assaulted, but not seriously injured, and is seeking to have an arrest made only because he is upset or angry, the officers should discuss with the complainant the involved ramifications of such actions. When an arrest would be detrimental to the resolution of the problem, the officer should use tact in trying to convince the complainant to be calm and logical. She should seek other means of resolving the dispute.[23]

Some law enforcement personnel openly admitted that officers discourage women from filing charges. Chief Anthony Iurato of the Hackensack Police Department said that Hackensack officers often discouraged a woman from asking that the man be arrested because they believed that the arrest would only aggravate the domestic difficulties and further disrupt the unity of the family.[24]

An officer in the Newark Police Department who was helping write new training guidelines for the State Police Training Commission strongly supported the right of the officer to discourage a woman from filing charges. He maintained that it was the prerogative of the officer to decide whether or not there should be an arrest or a referral, and that it was the officer's job to persuade or dissuade the victim from acting as a complainant.[25]

At the same time, Chief Iurato and other officers interviewed attributed the failure of officers to make arrests primarily to what they reported as an unwillingness of the victim to ask for an arrest. All three officers participating at the factfinding meeting and other officers interviewed cited the large number of women who refuse to act as a complainant or as a witness. (I, 170-1, 174, 176)

Capt. Pustae of Trenton said:

> All the municipalities have the same problem. The officers go there and the woman is beaten, battered. The problem is (she refuses to) sign the complaint. We try to get them to sign the complaint. Usually some (women) will. When the court time comes, they don't appear. (I,174)

Several women presenting information at the factfinding meeting verified that police officers discouraged them from asking that the man be arrested. Ms. E. related how the police discouraged her from filing charges against her husband after he broke her ribs. She said:

> The police came to the house. They discouraged me from filing any kind of report against him because they felt that if I did, in fact, file a report against him it would simply antagonize

[11] Deputy Chief Arnold Evans, Newark Police Department, interview in Newark, N.J., Oct. 12, 1977 (hereafter cited as Evans Interview).
[12] Chief Anthony J. Iurato, Hackensack Police Department, interview in Hackensack, N.J., June 29, 1977 (hereafter cited as Iurato Interview).
[13] State v. Morse, 54 N.J. 32, 252 A. 2d 723 (1969).
[14] N.J. Stat. Ann. § 2A: 169-3.
[15] Evans Interviews. However, it is interesting to note that the guidelines of at least one police department prohibit officers from providing transportation for the women. The Hackensack Police Department guidelines read: "The officer must not transport the wife. He could be accused by the husband of seducing the wife. There is a possible danger of legal action by the husband. Advise the person to call a taxi" (section entitled "Practical Aspect," p. 42).
[16] International Association of Police Chiefs, Guidelines for Handling Family Disputes, "Unit 4A4 Supplement," p. 4, Gaithersburg, Md., distributed to New Jersey police training academies by the New Jersey Police Training Commission (hereafter cited as IACP Training Guidelines).
[17] Lt. Dominick Limone, Trenton Police Department, interview in Trenton, N.J., Oct. 25, 1977 (hereafter cited as Limone Interview).
[18] Iurato Interview and Hackensack Police Department guidelines, p. 41.
[19] Evans Interview.
[20] This opinion was voiced almost unanimously by all persons interviewed including police and court personnel, battered women, and representatives of organizations assisting battered women.
[21] Iurato Interview.
[22] Evans Interview.
[23] IACP Training Guidelines, p. 11. It should be noted that the guidelines are written with the masculine pronoun "he" for the victim even though the woman is the victim in the great majority of cases.
[24] Iurato Interview.
[25] Sgt. Frank Budney, temporary staff of the New Jersey Police Training Commission, interview in Newark, N.J., Oct. 19, 1977.

him further and I would have to bear the full brunt of this. (I,52)

Ms. D. said that, when the police responded to her call after her husband had broken her back, they took her to the hospital and assured her that she could file charges at a later date. (I,34) Subsequently, when she returned to file charges, the following occurred:

> The police were very upset. I don't remember the number of the charge that I was signing at this particular time. But the police were very upset that I was signing this charge and told me I shouldn't sign it; that it was an awful charge and that they would have to come to the house and take my husband out of the house in handcuffs and fingerprint him. . . .
>
> . . .I wanted it on record that he had assaulted me and I wanted him to know that it was on record. So that if he ever tried to do it again he would know that there was a much stronger charge. It was a sort of protection that I wanted.
>
> Well, when it came time for the trial I kept asking my lawyer if he had the reports that the police had made out at the time of the incident and he kept saying "Yes, I have them. Yes. I have them."
>
> Finally we got to court. The first thing I found out was that there were no reports. Neither one of the two policemen had written a report on my back being broken. Nothing was written. The second thing I found out was that a detailed report had been written on my signing the complaint. Everything I said, everything I did. Calling my lawyer, the fact that I said it was under my lawyer's advice that I was down there.
>
> They tried to make it look like there was a divorce action going which was being held off because I was giving my husband a chance to straighten up and they tried to make it look like this was some malicious thing—that I was signing a complaint against him because I wanted a divorce. (I,36–38)

Ms. D also said that her husband at a later date repeatedly threatened to kill her. She taped the threats with a tape recorder and attempted to file charges:

> I pushed the button on the tape recorder and got what he said on tape. I went down and signed a complaint against him. This was a very serious charge and when I went down this time the man on the desk and at least five policemen tried to convince me not to sign this complaint; that it was such a serious complaint. They brought a lot of pressure on me not to sign this complaint. . . .
>
> The second time, this time I signed the complaint. I didn't let them talk me out of it. (I, 43–4)

Although she subsequently dropped charges as part of the divorce agreement, she was called before a grand jury to testify and her husband was indicted. (I,45–6)

Jane Terpstra, director of the Mercer County Legal Aid Society, related the difficulties her physically abused clients had with the police:

> I have heard over and over again women coming into the office and telling me, "I called the police and the police told me that I have to show them separation papers before they can do anything to help me." This completely ignores the fact that in the State of New Jersey there is no such thing as a legal separation in terms of going into court and having a judge say you are separated and filing the papers. A legal separation in New Jersey is simply living separate and apart.
>
> Over and over again, battered women have told me, "I have called the police to ask them to remove my husband from the home, to help me because I was beaten and the police have told me that they cannot do anything because it is my husband's home as well," ignoring the fact that the woman has been severely beaten and needs assistance. (II, 10–11)

Finally, Ms. Terpstra made the more serious charge that the police had refused to take complaints from her clients:

> In Trenton, we have had the experience that the police refused to take a criminal complaint from battered women at the time that they requested assistance. They have told the women that they are supposed to go down to the municipal court and file a complaint.
>
> . . .The police have indicated to the battered women that I have spoken to that they do not have the power to arrest the husband who had beaten them because they did not see the beating take place, despite the fact that the victim is there and is very well aware who perpetrated the crime. The victims are not advised of their rights to make, in effect, a civilian arrest and have the police assist them in the arrest. (II, 11–12)

Such police action has been criticized by many persons. Del Martin, in her book, *Battered Wives,* one of the first comprehensive studies on domestic violence, points out: "Encouraging people to refrain from exercising their rights could be interpreted as denying them their rights.[26]"

Notwithstanding the policy of discouraging arrest, other problems within the criminal justice system were cited to explain the rate of arrest in battering cases.

Lt. Emil Canestrino of the Hackensack Police Department said:

> I think the law is lacking. The police can only do what the law permits them to do. The police go to a house and the woman has been beaten and if they can't convince the wife to sign a complaint. . .they try to discourage the husband from doing it again, that is about the extent of what they have to do. (I, 171–2)

Lt. Canestrino and others also criticized the court policy of releasing arrested persons immediately on low or no bail. "If you do arrest a husband, he's out in a half an hour and he's back on the street. Maybe someone should get to the judicial system and try to have a different bail policy with battered wives." (I,172) Many persons interviewed including police officers said that bail procedures made some officers less willing to make an arrest because the officers knew that the batterers would not be kept in jail.

Sexism and Racism

Representatives of shelters and women's groups stressed again and again that individual and societal attitudes affect the handling of battering incidents. Because of the important role played by the police, the attitudes of the police officers toward battering are critically important and can influence the way in which an officer reacts to a woman who has been physically abused. Persons interviewed charged that sexist attitudes, based on the assumption that violence within the family is a "family affair" or that the women that are beaten "enjoy it," are still commonplace among law enforcement personnel.[27]

In a prepared statement, James Bannon, executive deputy chief of the Detroit Police Department and one of the most outspoken law enforcement officials in the country on the issue of battering, strongly criticized the way the criminal justice system treats battered women:

> One thing is clear, the entire criminal justice system regards the female victim of abuse as a second-class victim. Perhaps that is too charitable a term. She is treated more as a "leper" than anything else. It's said she has earned this status by various means.
>
> 1. She deserves it. The beating that is.
>
> 2. She enjoys it.
>
> 3. It's the price she pays for financial and emotional security.
>
> 4. She will not follow through on prosecution.
>
> 5. She will not move out or leave the perpetrator.[28]

In a discussion of this statement, he said that sexism was "rampant" in most police departments and criticized police for failing to provide adequate protection to battered women.[29]

In his prepared statement, Deputy Chief Bannon stated:

> Police can claim they are handcuffed by the law which recognizes a man's home as having special status. Police officers and their leaders claim that these assaults conducted in the privacy of the home remain private matters. . . .The same officer, who will barge into one's home sans warrant for a narcotic bust or to apprehend a purse snatcher, will stand on the front porch awaiting an invitation from the hostile aggressor who has just beaten his wife.[30]

Other attitudinal factors identified by interviewees as influencing police behavior are racial and ethnic prejudice and insensitivity to the emotional dynam-

[26] Del Martin, *Battered Wives,* (San Francisco: Glide Publications, 1976) p. 94.
[27] N.J., Department of Human Services, Division of Youth and Family Services, "Physically Abused Women and Their Families: The Need for Community Services," Trenton, N.J., June 1, 1978, p. 12–13; also Iurato Interview.
[28] Executive Deputy Chief James Bannon, Detroit Police Department, "Presentation on Police Difficulties with Female Battering Cases" (prepared for the Connecticut Advisory Committee and the New Jersey Advisory Committee, U.S. Commission on Civil Rights, for their factfinding meetings on battered women, p.2) (hereafter cited as Bannon Statement).
[29] USCCR, Connecticut Advisory Committee, "Transcript of Proceedings, Informal Public Hearing on Domestic Violence," Hartford, Conn., Sept. 26, 1977, Vol. 1, p. 166.
[30] Bannon Statement, p. 6.

ics of a family dispute. These factors were discussed in relation to New Jersey police officers.

Ms. B., who is black, criticized the way the police provided assistance. She said that two officers who responded to her call appeared to be prejudiced.

> I called the police only once and that was in the midst of a real horrible scene and they did respond very quickly and that was here in Trenton.
>
> They were two young white police who came in and actually they tended to accelerate the feelings of violence that were taking place when they came in. Rather than approaching the situation (with) a calming effect, they made me angry because I interpreted some of what they said to me as being racist. . . .Looking back on it I don't think that was my own personal (interpretation). I think some of their statements in fact had undertones of racism.
>
> . . .When they first came in, they came in like gangbusters and my theory is violence breeds further violence. . . What happens in those situations is that the police become the enemy. (I,77–78)

Sandy Ramos, founder of a support group called Save Our Sisters (SOS), also criticized police insensitivity. She said that although the Hackensack Police Department stopped the violence in battering cases, they generally did not understand the complexity of battering and were not able to resolve the situations effectively. "When we have called them, they have come. . . .They come right away; but they don't understand the sensitive (nature) and the intricacy of this problem." (I,127–8)

Another factor influencing police handling of battering cases may be the officer's personal experiences and personal problems. Lt. Dominick Limone of the Trenton Police Department said that he believed that the high divorce rate among police officers (according to him, as high as 60 percent and higher than for any other single professional group) influenced the way officers view and perhaps treat domestic incidents including battering. The Trenton Police Department offers a training program for officers and their wives, in which the more experienced officers and their wives describe their family crises arising from police work and the solutions they have developed in order to assist the less experienced officers with similar problems.[31]

Police Training

The New Jersey Police Training Commission sets minimum requirements for and monitors the quality of training in the 15 training academies for municipal and county police. At the time of the factfinding meeting, the commission required 280 hours of training for all recruits. A minimum of 3 hours had to be spent on domestic disputes. However, there was no State requirement for a discussion of battering per se in the training.[32]

The State guidelines establish the minimum requirements for individual municipal and county academies' training programs. At least 10 academies offered more training in the area of domestic disputes than required by the State, but training commission staff said only a few, if any, departments had developed programs specifically on battering.[33] Most departments conduct inservice training. The Trenton Police Department, the only departmental training reviewed by the Committee, did not offer inservice training on battering.[34] The Advisory Committee did not attempt to review the quality of the training.

In the spring of 1977, the training commission began reviewing existing training guidelines and developing new ones. The commission called a meeting of police officers, chiefs, training officers, and community groups to review new performance objectives for police work. The new guidelines specifically identify battering as a problem requiring police intervention, and one which has not been taken "seriously in the past."[35] Furthermore, the guidelines' discussion on crisis intervention and domestic disputes makes it clear that disputes between two persons involve criminal action whenever physical violence or physical assault occurs. There is no longer a distinction based on the seriousness of the assault.[36] Despite these changes, the guidelines continue to recommend an arrest only as a "last recourse." The guidelines do not recommend that an officer inform women of their right to make a citizen's arrest.[37] Finally, in a list of possible referral agencies for persons involved in domestic disputes, there is no listing of shelters.[38]

[31] Limone Interview.
[32] N.J., Police Training Commission, "Outline: Minimum 280-Hour Curriculum for Police Basic Training," effective Jan. 1, 1973.
[33] Leo A Culloo, executive secretary, and Lee Heither, program supervisor, N.J. Police Training Commission, interview in Newark, N.J., Oct. 19, 1977.
[34] Limone Interview.
[35] N.J., Police Training Commission, New Jersey Performance Objectives, expected to be effective in the fall 1980, Section 12.3.8, "Spouse Abuse," 12.3.8–42.
[36] Ibid., 3.7.6.–20; 3.7.6.–22; and 10.15.1–4.
[37] Ibid., 3.7.6.–30.
[38] Ibid., 3.7.6.029a; 10.15.5–18c–ca.

The Prosecution

In New Jersey, prosecution of persons on charges arising from battering incidents traditionally has been conducted in municipal court, where generally neither the victim nor the defendant are represented. At the time of the factfinding meeting, only disorderly persons charges such as simple assaults were tried in municipal court. The charge may have been determined either at the time of the arrest or reduced from a more serious charge subsequent to the arrest.

The municipal court system is designed to provide a swift disposition of cases with a minimum of procedural barriers. Each party tells his or her story and the judge rules based on the testimony and other evidence. At the time of the study, in cases in which the charge was a high misdemeanor such as atrocious assault, the judge first conducted a "probable cause" hearing to determine whether or not further prosecution was warranted. If such a finding was made, these cases were then tried in superior court.

Most cities have only a small prosecutorial staff to represent the complainant in municipal court. These prosecutors generally provide representation only in cases in which the city itself is a party. At the time of the factfinding meeting, the city of Trenton had only one prosecutor for its entire municipal court system. Raymond Dempsky, who held this position, said that the problem of understaffing and overburdened court calendars made it impossible for him to prosecute battering cases:

> I work alone. Essentially I have no assistants in any way, even administrative. I have no secretary. I was loaned a desk by the Chief of Police and I do the job entirely myself. . . .
>
> With over 10,000 (cases), maybe even more, I have never really gotten the total figures. . . with a great volume of cases being processed through the municipal courts, you can't expect one man to look into the case of battered wives with any particular specificity. (I,319)

Mr. Dempsky said that he would involve himself only in cases in which police officers had a role, and actually witnessed an assault or was assaulted. (I, 321–2, 333) He emphasized that the goal of municipal court is to assure the speedy and efficient delivery of justice and said it was not possible or necessary to provide legal representation for battered women. (I, 319–20) Moreover, he stated:

> The time involved to interview potential witnesses, to prepare a case actually works against the concept of the municipal court, which is a summary court and the idea is to process cases quickly and as expeditiously as possible. (I, 319)

Mr. Dempsky defended the process as it now operates:

> I believe you are concerned with having equal justice under the law and usually the accused as well as the complainant are not represented by counsel on either side and I think this is one concept that is most important. . . . The judge sitting has a duty to see that the evidentiary rules and the courtroom procedures are properly followed and I'm sure that if he saw that there was a definite disadvantage as would be the case in Trenton, he would take measures to assure that the case is properly presented; but that doesn't happen often at all. Both sides have a fair opportunity to present their cases and the cases are almost always properly adjudicated. (I, 321)

Prior to and during the factfinding meeting, abused women and representatives of groups providing assistance to battered women articulated again and again that many women were not being adequately represented in the municipal court proceedings. The same complaint was made regarding civil proceeding representation as well. Moreover, critics stated that many women needed to be informed more fully of the legal alternatives open to them and needed legal assistance and advice. These complaints are discussed more fully in the following section on the courts and legal representation.

At the time of the factfinding meeting, the county prosecutor had the responsibility of prosecuting high misdemeanor charges including atrocious assault. The prosecutor had the authority to reduce a charge to a lesser classification and then refer it back to municipal court. The prosecutor also reviewed selected disorderly persons cases at the request of the municipal judge or the complainant to determine

whether or not a more severe charge would be appropriate. Finally, the prosecutor reviewed those atrocious assault charges which were reduced to disorderly persons at the probable cause hearing in municipal court.

The reduction of charges remains a controversial issue and spokeswomen for many women's groups criticized the frequency of this practice. They said that county prosecutors and other officials were reluctant to prosecute atrocious assault charges and too frequently reduced the charges.[39] Court officials and others responded that it was necessary to reduce high misdemeanor charges in order to provide a swift disposition of the cases.[40]

Cynthia Jacob, former deputy public defender, described how a complaint is downgraded:

> Usually, the prosecutor, the police officers, the victim herself will talk and will decide. There is some very real conversation about not sending it up to the grand jury. A lot of women, and I do think there is a degree of wisdom in this, would rather see their husband or their lover punished quickly for a short period of time than have him strung out on bail, awaiting trial at the county level. . .many people will make the decision they would rather have prompt justice, even though it is for a lesser sentence. But the ultimate decision will reside with the prosecutor as to whether it will be presented as a municipal matter or as a waiver up to the grand jury. (I, 237)

She also said that, when the charge was reduced at the probable cause hearing in municipal court, the victim was not necessarily consulted.[41] The complainant frequently is not present at the probable cause hearing on non-battering charges and usually is not involved in the decision to change the charges. However, because of the relationship between a victim and the batterer, most interviewees agreed that it was particularly important that the battered woman be consulted if a reduction in the charge was being considered. For instance,if an atrocious assault is reduced to a disorderly persons charge, the batterer, if convicted, would be less likely to receive a prison sentence.

The frequency with which charges stemming from battering incidents is reduced was one of several problems related to the prosecution of a batterer. Another was the lack of clear guidelines for the prosecution as to what constitutes an atrocious assault. Cynthia Jacob said:

> (An atrocious assault charge) is where the injuries are great. . .where the history of violence is long. . .where the complaints are indeed of an extremely serious nature. (I, 231)

Anne Thompson, Mercer County prosecutor, said that the charge was determined by "not only the extent of the injury in the sense of whether there are 3 stitches as opposed to 60 stitches; but also the nature of the attack. A violently inhuman or a barbaric-type attack, that would describe the atrocious assault and battery." (I, 312) Also considered by Ms. Thompson are the legal aspects of the case such as the credibility of the witnesses and their willingness to testify and the background and history of the assailant. She stressed the importance of the willingness of the victim to testify. (I, 313,315)

The Courts

Because the overwhelming majority of battering cases are adjudicated within the municipal court, the Advisory Committee's review focused solely thereon. A hearing on a disorderly persons charge generally takes place within several days of the incident if an arrest was made at the scene or within a week of the issuance of a warrant. A hearing lasts from 10 to 30 minutes and neither the plaintiff nor the defendant are represented.

Michael Weintraub, a Trenton municipal court judge, criticized the short length of time allowed to hear a case and the inadequate resources including psychologists, psychiatrists, and treatment programs to assist in the evaluation and sentencing of batterers. (I, 247) He concluded his remarks saying:

> I don't know how the judiciary can begin to deal with those types of problems. When we have someone before us, he is going to be a minimum of 18 years of age. The person's character and conduct, for all intents and purposes, are basically formed. If there can be an. . .influence on his life to change his lifestyle or pattern, it certainly is not going to be a municipal court judge who is sitting supposedly in a position of authority and has approximately 15 minutes to half an hour to deal with an individual. There is no way that he can understand that individual and even try to offer some suggestions that might lead him to alternative methods of resolving his differences. (I, 251–2)

Golden Johnson, a former Newark municipal court judge, maintained that battering cases should not be handled by the criminal justice system. She said:

> It is not so much what the judiciary can do to help the situation. I think (battering) is being treated as a criminal matter when, in fact, it does not fit all the classical factors for criminal cases. (I, 255)

She called for legislation creating a court to handle domestic matters with the authority to impose criminal sanctions. (I, 257)

Representatives of women's groups and persons working in the criminal justice system argue that assaults resulting from battering incidents receive different treatment by the court system than other assaults. They maintain that societal attitudes about the inferior position of women and traditional notions regarding the sanctity of the family prevent judges and prosecutors (as well as the police) from exercising their full authority and imposing penalties as severe as in other cases.

James Bannon, executive deputy chief of the Detroit Police Department, viewing the problem from a national perspective, said:

> The woman is treated as a second-class victim in the criminal justice system principally because she's been treated as a chattel historically. The chattel can be treated pretty much as an owner wishes to treat it so long as he does not disrupt or embarrass the society at large.[42]

Del Martin in her book, *Battered Wives,* writes:

> The sanctity of the family home pervades the world of law enforcement. A man's home is his castle, and police, district attorneys, and judges hesitate to interfere with what goes on behind that tightly closed door.[43]

Cynthia Jacob, former deputy public defender, alleged that in New Jersey the criminal justice system applied a special standard to battering cases and that the use of such a standard was definitely related to the prevailing societal attitudes regarding the role of the woman. She said:

> I would say that there is a heavier standard (placed on the complainant) when we are dealing with assaults of a domestic nature. I think that this does not hold true in all instances. I think that certainly there are a lot of people having their consciousness raised, so to speak, when there are battered women's centers in the area; but generally speaking, the attitude that it is domestic and it will take care of itself does. . .make it much more difficult to get an indictment when there is a domestic violence situation than when there is a non-domestic violence situation. (I, 240–1)

Most interviewees concurred that very few jail sentences are imposed on men convicted of battering their wives or female companions. The more common sentences are a small fine, a suspended sentence, or probation with no conditions.[44] Judge Weintraub presented statistics from the Trenton municipal court not consistent with these opinions. He reported that of the 323 battering complaints filed between January and December 1977 in Trenton municipal court, 189 were dismissed for failure to prosecute. The remaining 134, or 41 percent, were tried and 90 persons were convicted. A total of 42 persons or approximately 13 percent of those arrested were sentenced to jail.[45] (I, 249–50)

Judge Weintraub explained the general pattern of sentencing as follows:

> No jail sentence is imposed unless it was a severe beating. More than likely this is the second, third, fourth, fifth beating by this particular individual. The (48) cases where there was a fine imposed would, in all likelihood, be a first-time offender. (I, 250)

Some judges were criticized for ordering alternatives to jail sentences such as marriage counseling without regard to the reality and dangers of the

[39] Sandy Ramos, executive director, Shelter Our Sisters, telephone interview, Nov. 14, 1979; Linda Ershaw, president, New Jersey Coalition for Battered Women, telephone interview, Nov. 13, 1979 (hereafter cited as Ramos and Ershaw Interviews respectively).

[40] Anne Thompson, Mercer County prosecutor, interview in Trenton, N.J., May 12, 1977; Justice Michael J. Weintraub, municipal court, Trenton, N.J., interview, Oct. 20, 1977 (hereafter cited as Weintraub Interview).

[41] Cynthia Jacob, former deputy public defender, telephone interview, Nov. 13, 1979.

[42] Connecticut Transcript, pp. 165–66.

[43] Martin, *Battered Wives,* p. 87.

[44] Lt. John Purdy, court officer, and Lt. Ernest Lousi, community relations officer, Trenton Police Department, interview in Trenton, N.J., Oct. 25, 1977; also Weintraub Interview.

[45] The Connecticut Advisory Committee to the U.S. Commission on Civil Rights, as part of its project on problems of battered women in Hartford, Conn., reviewed the files of the Hartford Police Department for the month of March 1977. It found that, in contrast to the Trenton data, relatively few men arrested for battering were convicted. Furthermore, the data showed that of those convicted almost none were sent to jail. Of the 64 arrests made as a result of physical threats or violence between men and their female companions, half the charges were nollied or dismissed. A total of 13 defendants received fines, 7 received suspended sentences (some with fines), and only 3 received jail sentences. (USCCR, Connecticut Advisory Committee, *Battered Women in Hartford, Connecticut,* April 1979, p. 12)

situation. Sometimes marriage counseling was ordered even in cases in which both parties were firmly committed to separation or divorce.[46]

Gayle Eisen, of the Bergen County Community Action Program, articulated the opinion expressed by many women's groups who called for more severe sentences and greater enforcement of existing laws:

> We also feel that something has to be done in the court system. When a man comes before a judge, he has got to get more than a slap on the wrist and if he's not prepared to throw him in jail or out of the house, then that man must (receive a psychological evaluation). . . .
>
> We also feel that there are laws to protect battered women, but the judges must be pressured to enforce them. If the assault is against the law, it is against the law, whether it's your woman or somebody else's. We don't need new laws. We need to enforce the laws that we already have and that has to come from the outside and from society also. (I, 99)

Del Martin, in her book, *Battered Wives,* also calls for more severe sentences. She points out that a man in California received 90 days and $100 fine for shooting arrows at a horse and comments:

> Suppose a wife had been the victim? He would probably have gotten off with a warning. If judges would get tough and act like judges, rather than counselors or even practical jokers, perhaps battered women could obtain relief through the judicial process.[47]

Judge Weintraub agreed that the "slap on the wrist" approach was not effective. "I don't believe that any lectures from the bench are at all beneficial in terms of preventing something from happening again," he said. (I, 247) He called for speedy sentences including jail sentences. "I think the element of swift punishment is rather important for a couple of reasons. . . .You have got a close proximity of the offense and if a jail sentence is going to have any type of deterrent effect, I think it is going to happen at that point in time." (I, 248)

Judge Johnson, however, outlined some of the problems associated with imposing jail sentences in battering cases:

> The prime example is a woman who has five kids and she does not work and he works and he's maybe even a longshoreman and makes a halfway decent salary. If you lock him up for 6 months, he will not have a job when he comes out. What do the kids do? What does the mother do during that period of time? It is not a black and white situation; but it is a situation where you have to look at all kinds of factors, all areas of the problem to tailor whatever remedy you are going to come up with to fit this particular problem and to have all these different kinds of considerations. You can't just say you ought to put all the men who are convicted of wife beating in jail. That is not a solution to the problem. (I, 259)

Judge John Cannon of Ewing Township municipal court agreed with Judge Johnson. He said: "If I send him to jail, what is going to happen? She is going to end up on welfare and probably he will lose his job." (I, 265) However, he advocated more jail sentences, saying:

> Jail is not a very nice place and I assure you in cases where a defendant spends any kind of time in jail, whether it be 30 days or 60 days or a full 6 months, whatever it merits, I assure you that it will never happen again. That is the only remedy I know. (I, 265)

Judge Cannon also noted that overcrowded jails made it impossible for him to impose jail sentences:

> I sent a number of people to jail for a variety of reasons. I got a call in my office late in the afternoon. "John, what are you doing to me? I got them sleeping in the halls. Who can I let out? This guy didn't do too much. Let him out." (I, 266)

He advocated increased use of work release in sentencing in order to enable the man to continue to work and support his family and yet keep him away from his family during the nights and weekends. (I, 265)

Persons interviewed agreed that the entire criminal justice system as well as society at large needed more training on and sensitizing regarding the issue of battered women. Judge Michael Weintraub of Trenton municipal court expressed the need for increased training for court personnel:

> Each and every man (in the judiciary) is ill-equipped to cope with these types of problems. They are ill-trained in the areas necessary and also ill-equipped in the available resources. (I, 246)

Informal Hearing Program

The informal hearing program (IHP) is one of several alternatives to formal court action in New Jersey and the most common diversionary program used in battering cases. The program may be used in minor disputes provided that both parties agree to participate. Program counselors, who act as mediators, hear the argument presented by each side and try to help them reach a reasonable solution to their disagreement. After several weeks, the counselor contacts the individuals again to determine if both sides are satisfied with the agreement.

According to IHP staff, the IHP is not a trial or court procedure and is not concerned with the rightness or wrongness of the situation, but rather with attaining an equitable settlement.[48] If a "serious" incident does come before the IHP, the counselor may refer it to the court for criminal prosecution.

At the time of the Advisory Committee's factfinding meeting, Trenton had one of six pilot programs in the State. In operation since June 1976, it was funded through a Law Enforcement Assistance Administration grant. Staffing consisted of two counselors and a clerk who worked under the direction of the court administrator. According to Thomas Farrell, the Trenton program's senior counselor, in 10 months the Trenton IHP handled 526 complaints including 204 assaults. Assaults by men upon women accounted for approximately 60 percent of the assaults. (I, 269–70) Approximately six or seven cases are heard an evening. (I, 293) The IHP has been criticized as understaffed and critics call for additional time for each case and more counselors to handle the cases.

At the Advisory Committee's factfinding meeting, Mr. Farrell outlined the following IHP goals:

- reduction of the court backlog,
- rapid disposition of charges involving "nonserious criminal behavior,"
- easing of "community and interpersonal tensions,"
- provision of counseling and referral services as needed, and
- "removal of the stigma of an arrest record for minor personal disputes," (I, 268)[49]

Mr. Farrell's description indicates that the IHP is designed to resolve personal disputes between parties in which there is no "serious" criminal activity. There was, however, no clear definition of what constituted "nonserious" and "serious" criminal behavior and, as in the arrest process, there appeared to be a wide variation regarding what is considered to be "serious." Persons interviewed differed about the effectiveness of the IHP and voiced different opinions on whether battering cases should be diverted to noncriminal proceedings. Several persons charged that some women were "pressured" into participation in the IHP as opposed to seeking criminal prosecution.[50] Many women's groups argued that the very existence of a diversionary program to noncriminal proceedings simply reinforced all too prevalent attitudes that battering within the family is not within the jurisdiction of the criminal justice system and is not a criminal act.[51]

Despite the criticism, particularly because of the heavy municipal court calendars, some persons praised the IHP for providing a more effective solution to minor disputes. Mr. Dempsky, the Trenton municipal court prosecutor, said: "I believe that the informal hearing program, particularly as it operates in Trenton under Tom Farrell, is the closest thing to modernizing the procedure in bringing the parties together." (I, 328)

Other alternatives such as pretrial intervention are in use in New Jersey. However, because they are rarely used in battering cases, the Advisory Committee did not include these programs in its review.

Probation

Each county has a probation department, composed of officers who service both the county and municipal courts. Their primary functions are presentence investigations and supervision of individuals on probation. Most officers work on cases assigned by the county court, where very few battering cases are heard.

[46] Ershaw Interview.

[47] Martin, *Battered Wives,* p. 118.

[48] Sylvia A. Sullivan, senior counselor, informal hearing program, Trenton Municipal Court, memorandum on the program sent to social service agencies, undated.

[49] Also, Thomas N. Farrell, senior counselor, informal hearing program, Trenton Municipal Court, written statement submitted to the New Jersey Advisory Committee at its factfinding meeting, available in USCCR Eastern Regional Office (ERO) files.

[50] Ramos Interview.

[51] Ibid.

Most persons interviewed recommended that the probation officer supervising a man convicted of assault in a battering incident establish communication with and be available to assist the woman who was assaulted. This communication is particularly important when the individual on probation is living in the same house with the woman. In municipal court, the degree of supervision of the individual placed on probation and the nature of the contact, if any, between the probation officer and the victim vary from county to county and from officer to officer. Several persons said that, in some counties, men who are convicted of charges stemming from battering incidents receive little or no supervision.[52] There is no statewide requirement that a probation officer contact the victim, and, in many instances, there is no communication between the probation officer and the woman after the court hearing.[53]

In Trenton, municipal probation officers regularly attend municipal court. If a man who has been convicted of battering is released on probation, the officer gives the battered woman his telephone number and asks her to call if there are any problems.

Frank Middleton, a Trenton municipal court probation officer, described his work with batterers on probation:

> Very often I will have a person on probation who by mutual consent did not move out of the home situation, and he starts getting abusive again. My practice is to visit the home. Sometimes I visit the home in a crisis situation where I have taken the police with me. Sometimes I do it myself. It is strictly a judgment that I make. (I,342)

Mr. Middleton said that heavy caseloads made it impossible to devote the time necessary to any of his cases. He said that, while the National Council on Crime and Delinquency recommended a caseload of 35 cases per officer, county probation officers had approximately 100 cases at a time and city probation officers had approximately 200 active cases. (I, 354)[54] Of those 200 cases, he estimated that approximately 25 percent were convicted for charges stemming from battering, while others convicted of other offenses, sometimes beat their wives or female companions as well. (I, 344) Mr. Middleton called for additional referral programs and other resources for both the probationer convicted of battering and for the woman. (I, 345)

Summary

A wide range of reforms touching all segments of the criminal justice system are needed in order to respond more effectively to the problems of the battered woman. Changes in police procedures must be accompanied by changes in court procedures and sentencing, and additional corresponding changes throughout the criminal justice system.

Executive Deputy Chief Bannon of the Detroit Police Department, speaking from a national perspective, said:

> The so-called criminal justice system, every part of it seems to be interwined so it's difficult to separate out the police or the court, etc. For instance, the courts, in addition to being chauvinistic, are also confronted with a situation of inadequate alternatives to jail, such as work release programs, such as enforced therapy as somebody talked about this morning, such as all different kinds of alternatives. They don't have the alternatives. The court will tell you that they would be perfectly willing to find a husband guilty of assault and sentence him, but not send him to jail, because the wife and the family would lose support and make a charge against society for welfare. So prosecutors need to know that the courts, the local courts, view wife abuse as a serious problem of high priority. Once the prosecutors and the courts agree that that's a priority crime, the police department will have to view it as a priority crime, but until those things are done, and in that kind of succession, nothing much is going to be done.[55]

[52] Ershaw Interview.
[53] Frank Middleton, Mercer County probation officer, interview in Trenton, N.J., Oct. 13, 1977.
[54] National Council on Crime and Delinquency, "Caseload Size Variation and Difference in Probation/Parole Performance" (prepared for the Federal Judicial Center, February 1973), p. 37.
[55] Connecticut Transcript, Vol. I, pp. 178–79.

4. Civil Remedies

Divorce

Divorce is the primary long-term alternative available to battered women who wish to end their relationship with abusive husbands. In New Jersey, divorce may be obtained on several grounds. Among them are:

- *18-month separation.* A "no fault" divorce may be obtained provided the two parties have been living separately and apart for 18 months consecutively.
- *Extreme cruelty.* A spouse may obtain a divorce by proving the partner is guilty of actual or intended harm, which may be either mental or physical. Three acts of extreme cruelty must have taken place more than 3 months prior to the filing of the complaint.
- *Desertion.* A spouse may obtain a divorce if he or she has been deserted for 12 or more consecutive months.
- *Habitual drunkenness.* One spouse may obtain a divorce if the other has been habitually drunk.
- *Adultery.* Adultery is grounds for divorce without any waiting period.[1]

Although there is no formal legal separation in New Jersey,[2] a mother and her children can get financial support if they are living apart from the husband-father, provided the payment is court authorized.[3]

Battered women and their lawyers described the many difficulties facing women who try to obtain a divorce in the State. The civil court proceedings for divorce are not easy. Regardless of whether or not the divorce is contested, the woman must be prepared to fight over custody rights, property rights, visitation rights, and support payments. Although all women obtaining a divorce face these difficulties, the problems facing abused women in this situation are even more severe because of the psychological and emotional ramifications related to the battering.

Two women participating in the Advisory Committee's factfinding meeting described the difficulty they had in obtaining contested divorces. Ms. E., whose husband had broken her ribs, said:

> I am now on the third attorney. I filed for a divorce on the grounds of extreme cruelty 2-1/2 years ago. I have not ever been in for a full hearing. My husband counterfiled against me.[4]

Both women experienced trouble obtaining and subsequently collecting adequate temporary support payments. The need for immediate financial assistance is critical for most battered women, who in almost every instance have been forced to leave their homes and in many cases are not employed.

Ms. E. said:

[1] N.J. Stat. Ann § 2A:34–2.
[2] However, N.J. Stat. Ann § 2A:34–3 does provide for a limited divorce action known as "Divorce from Bed and Board." This action will result in the husband and wife living apart with all other relevant issues decided, and without the matrimonial bond being dissolved. The grounds for this divorce action are restricted as well as its applicability.
[3] N.J. Stat. Ann § 2A:34–23; 2A:34–24; 9:2–3.
[4] U.S., Commission on Civil Rights (USCCR), New Jersey Advisory Committee, "Transcript of Proceedings, Informal Public Hearing on Battered Women," Dec. 1 and 2, 1977, Trenton, N.J., Vol. 1, pp. 56–7 (hereafter references to this transcript will be included in parenthesis in the text with the volume indicated in roman numerals and page in ordinal numbers.)

I (had) four children and at the time I was not physically able to work. The judge awarded me a $35 a week support for myself and four children. Nothing else was discussed. Nothing else was paid.

When I, 8 to 10 weeks later, had not even received the $35-a-week support, I went back into the courthouse and I remember the judge saying that the money was to be in my hand the very next morning; but I never received the money. (I,56)

Rosemary Bellow Truland, an attorney in private practice in Clifton, summarized the problems associated with support:

Most times, when a woman is forced to leave her home, she is forced to leave with nothing. . . .She leaves, a lot of times, leaving a house, most often leaving money, leaving all the possessions. She then is confronted with the problem of finding a place to live, going on welfare, and if she wants a divorce, finding an attorney who is willing to start proceedings without any retainer. Most likely, she doesn't have any money. . . .

Temporary support, while it can be ordered, is usually not support. It doesn't give her a car. It doesn't give her transportation. It doesn't give her security and it certainly doesn't give her furniture. So certainly the biggest need is money. (II,16–18)

The history of Ms. D., whose husband had broken her back, illustrates another unusual aspect of the New Jersey divorce procedure. It is a not uncommon practice of the courts to allow both parties to live together after one person has filed charges of extreme cruelty against the other. After Ms. D. initially filed the divorce papers, she and her husband with court approval continued to reside together. Then, the lawyers incorporated shared residency into the divorce agreement without informing Ms. D. until she entered the courtroom. She described what happened:

We finally came to a divorce agreement and I heard his lawyer say he (the husband) doesn't want to leave the house. Then later on, my lawyer asked me how was I going to live when he left the house. . . .

We got into court where they read the divorce agreement and everything was the same as wh they had read out in the hallway to me excep when we got into the courtroom they said th he would stay in the house until the house w sold. . . . (I,41)

Ms. Bellow Truland opposed the practice, sayin

I have never seen in New York the situation where two people after one has filed a complaint for extreme cruelty reside in the house together. It's just something that completely boggles the mind that the court can suppo that two people can really live together after someone has made those kinds of accusations. . .to stay together under that kind of situation or circumstances. (II,41–2)

Visitation and Custody

Battered women and their lawyers also criticized practices related to visitation and custody arrangements. Ms. Bellow Truland criticized current custody practices:

The way custody is usually treated, when yo go in for a temporary order of custody, usua the person with possession at that point in time is going to get temporary custody. (II,20)

She criticized the practice of allowing a husban who has beaten his wife and children to see the children. Even if the children are not in danger, visitation rights without supervision give the man access to the woman and often put her in physical danger, she said. (II, 21)

She recommended that issues such as custody and visitation be settled by a panel of experts including doctors, lawyers, and psychiatrists rather than by the courts. She said: "I don't think that you can discuss this whole cycle of battering and child abuse and of emotions in a courtroom where you are governed by the rules of evidence." (II, 21–2)

Restraining Orders

Court orders prohibiting an individual from returning to his home, from harming his spouse, or from engaging in particular actions may be obtained through the superior court.[5] Battered women and their lawyers testified that these orders were difficult to obtain and difficult to get enforced.

[5] N.J. Const. art. 6 §3, par. 4.

Rosemary Bellow Truland said that a woman's immediate physical safety must be threatened in order to obtain a restraining order:

I also see the lingering and really the prevailing of the idea that it is better to keep the family together at all costs and the children need both parents. A lot of judges will say that in denying your application to restrain the husband from the home. Also we are talking about this as his property too and why should he be thrown out. (II, 18–9)

Judith Garrison, an attorney in private practice in Englewood, also criticized the courts for failing to issue restraining orders. She cited a 1945 case in which a judge upheld a man's right to evict persons invited by his wife into a house which they legally owned together. The court ruled that the man was the head of the family with the right to protect family members and guide their conduct. (II, 26–7) She suggested that the assumptions in this case, which was never overturned, explained why the courts today are reluctant to issue restraining orders.

The victimized women themselves also criticized the police for failing to enforce restraining orders. Ms. E. said at the factfinding meeting:

(For) 2 years the police in my area basically (ignored) the fact that number one, I had a valid restraining order, and number two, that I had a valid restraining order preventing my husband from seeing the children. . . .I think there were 23 times that he was in violation of both of the restraining orders and during those 23 times the policemen tried to pacify me.

The second week in August was the last time the restraining order was violated. I had a door slammed in my stomach. I ended up with a huge hematoma in my abdomen. I walked up the police station myself with my children and I said, "This is outrageous. I've gone to the courts. I have these restraining orders. He's always allowed to come here in contempt of the restraining orders and nothing happens."

The police. . .saw him on three other occasions behaving in a manner that was totally improper and I can happily say after all of this, from this point they apparently were impressed and finally realized that, even if they don't have an obligation to me because I just happen to be the wife in this issue, (I needed protection). (I, 60–1)

Ms. E. also described an earlier incident during which her husband tried to run her over with his car. When she asked the police to enforce the restraining order, the police advised her to leave the State. (I, 61).

Legal Assistance

Battered women testifying before the Advisory Committee called for more comprehensive and increased legal counseling concerning both civil and criminal proceedings. Many were critical of the lawyers whom they had retained and suggested that more lawyers sensitive to women's issues were needed.

Ms. D. criticized her lawyer for failing to meet her expectation of an advocate.[6] She said:

We went to court and (my husband's) lawyer made very passionate speeches for him. My lawyer just stood there half the time. He didn't look as if he was even listening to what the other lawyer was saying. He never contradicted any of his statements. (I, 40)

She reported that her lawyer then agreed with her husband's lawyer to allow her husband to stay in their house and did not inform her that this arrangement was to be incorporated into the divorce judgement. (I, 41)

Many women who have left their husbands following battering incidents have limited or no financial resources. Because of their financial situation, these women find it difficult to pay legal fees. At the factfinding meeting Ms. E. criticized lawyers for setting high retainer fees.[7] She said:

I called 7 to 15 lawyers at random to ask if they would represent me in a divorce on the grounds of extreme cruelty. . . .Each of these attorneys said if I had anywhere from $2,000 to $4,000 to give them as a retainer, yes, they would represent me. I did not have that kind of money. (I, 55–6)

Patricia Arvidson of the Women's Resource and Survival Center said:

[6] The New Jersey Advisory Committee and the U.S. Commission on Civil Rights report this statement under their responsibility to report accurately the proceedings of the factfinding meeting. It is meant to highlight the need for more sensitivity on the part of the lawyers representing battered women, and not in any way, as a critique of the legal profession's quality or ability within New Jersey.

[7] The New Jersey Advisory Committee and the U.S. Commission on Civil Rights do not report this statement in any way as a general critique of the fee practices of attorneys within the State of New Jersey.

> Another problem we have had within the legal system is attitudes of lawyers. Even when a woman could afford a lawyer, it's difficult. Some tell her that it's useless to even try to obtain a restraining order. . . .Lawyers will not take cases without large retainers. (I, 152)

Ms. Bellow Truland agreed that sexist attitudes were prevalent among most lawyers, bar associations, and other segments of society and contributed not only to sustaining current legal practices in regard to the handling of battering cases, but moreover, to society's attitudes toward battering. She said:

> They still address members of the Bar Association (of Passaic County) as gentlemen. You can't expect them to treat their clients any differently than they treat their peers. It goes to the ERA. It goes to women's rights in general. This issue is a very threatening issue. I believe that a lot of people back off from it, including judges and lawyers because they believe that they can still beat their wives. . . .
>
> We are talking about something that is just generally accepted and you can't expect the bar to react any differently. (II, 35–36)

5. Support Systems

Shelters and Support Groups

For the battered woman, who has been forced out of her home because of threats to her physical wellbeing and perhaps to her life, housing for herself and her children is one of her primary and most immediate needs. Generally, she is emotionally and psychologically as well as physically abused and needs not only physical shelter, but also emotional and psychological support. Her self-esteem is frequently low and her inner resources have been drained. The psychological needs of battered women are not always understood. Because of the emergence of a misplaced sense of guilt, these women often feel they are responsible for the battering inflicted on them. Shame is also a commonplace experience. They frequently hide the fact of the beatings from their friends and their families and become increasingly isolated from most normal social interaction. These factors contribute to a passive state of mind sometimes described as "learned helplessness" which to varying degrees is common among many abused women.[1]

Del Martin, author of *Battered Wives,* and many others working with battered women believe that shelters must be designed specifically for battered women.[2] Peer counseling and support are considered to be critical to the success of these shelters. Ms. Martin explains the importance of support from women who share the same experience:

> The strength she sees in others like herself allows the battered woman to see her own strength. She no longer feels isolated knowing that even if she decides to return home, there is a bond between herself and other women.[3]

Finally, shelters are important because they help the battered woman face and handle a great number of immediate, practical problems which require attention. The women must find new permanent housing, obtain financial assistance, acquire employment skills, and find a job. They also must determine the best course of legal action to follow in order to gain control of their own lives and the lives of their children. Many need legal counseling; many need job training. If they have job skills, many need child care for their children. Some, who left their homes without any advance planning, need clothes and furniture.

Shelters, where women and their children may take refuge from battering husbands and male companions, were first established in England in the 1960s. Many of the shelters in this country as well as in England, have grown out of grassroots organizations. They are usually staffed by battered women who provide a variety of support services in addition to food and lodging.

Shelter Our Sisters (SOS) opened in Bergen County in 1971. SOS was probably the first organization for battered women in the State, and at that time only one of a small number in the entire country. Many other shelters have opened in the State since 1971. In addition to SOS, the Advisory Committee received information from the Bergen

[1] The profile of the battered woman has been discussed by many persons including Del Martin in her book, *Battered Wives,* (San Francisco: Glide Publications, 1976) pp. 72–86.

[2] Martin, *Battered Wives,* p. 196.

[3] Ibid., p. 203.

County Community Action Program for Battered Women, Womanspace in Mercer County, the Women's Resource and Survival Center in Monmouth County, the Hudson County Coalition of Battered Women, the Elizabeth YWCA, Women Helping Women in Middlesex County, and the New Jersey Coalition of Battered Women.

At the factfinding meeting, Sandy Ramos, executive director of SOS, made a strong plea for more shelters:

> There has to be a place for every woman who is beaten. She should not be told that this (beating) wasn't hard. She was beaten and (she) is a human being and (she) doesn't have to be threatened like that. . .(She) is supposedly a free person and (she)has a right to go out and to go to one of the shelters.[4]

Shelters are intended only as a short-term aid for those women who are forced to leave their homes. According to shelter staff and other persons interviewed, such shelters are not a totally satisfactory short-term solution. Several persons testifying at the factfinding meeting expressed outrage that society forces the victimized woman to leave her home. Most persons agreed that it should be the man who is doing the battering that should be forced to vacate the residence. Ms. Arvidson said:

> The woman and her children should not be forced to leave their home. They are the victims. It is not fair that the victimizer stays in the home and the woman and the children who are the victims must leave. Something must be done in changing laws so that the police have the authority to remove the man from the house. (I, 154–5)

This view is not restricted to shelter staff. James Bannon, executive deputy chief of the Detroit Police Department, also suggests that the man, not the woman, should be required to leave the house and temporary shelters should be established for the men.[5]

Welfare

Other than fear, economic dependence may be the single most important reason why women stay in battering situations. Thus, financial assistance must be readily available if an abused woman is to have the option of leaving her husband. Problems with temporary support are discussed in the chapter on civil proceedings. This section will discuss available public assistance programs.

In New Jersey as elsewhere, two public programs provide funds for individuals in need: the general assistance program for single persons or married persons with no children and aid to families with dependent children (AFDC) for single parents or low income families with children. General assistance is administered by municipal welfare departments and AFDC by county welfare departments; all are under the supervision of the State Department of Human Services. Short-term emergency assistance is available for all parties from the municipal departments.

If a woman's husband has income or other funds, but refuses to pay, the woman may receive public assistance provided that the paternity or support payments are court authorized. The probation department is responsible for collecting reimbursement from the husband. (II,47)

Daniel O'Leary, a field services supervisor of the State Department of Human Services, explained the advantages of this program:

> This requirement can be perceived as a positive aspect of the program since the recipient will receive the full grant to which he or she is entitled each month and the spouse will pay his or her support directly to the probation department. This eliminates the harassment that can occur when a spouse withholds all or a portion of the monthly support. (II,47)

Furthermore, he stated:

> If it is established that contact between parents as the result of support action would be harmful, the applicant or recipient may be exempted from the obligation to cooperate in the action. (II, 47–8)

Mr. O'Leary noted that at the time of the factfinding meeting there was no policy specifically on battered women at the Federal, State, or local level in regard to public assistance. Data are not collected on the number of physically abused women who apply. However, he said that the State was "planning to become more involved in it." (I, 59)

Despite the State and Federal requirements, the policies of county and municipal welfare agencies vary from locality to locality. The length of time needed to obtain assistance varies in many areas and to some degree the purpose for which public assistance may be used differs from one place to another.

At the time of the factfinding meeting, the Mercer County Welfare Board provided basic financial assistance, including funds for emergency food, emergency clothing, shelter, and other expenses to assist a woman in setting up her own home. Emergency shelter, when needed, is generally provided in selected hotels in the county.

The Middlesex County Welfare Board also provides funds for emergency shelter (generally in motels), food, security and utility deposits, and in rare instances furniture. (II, 51)

Staff from these two offices criticized the low funding level of their programs and the lack of specific State guidelines in many areas.

Specific criticisms included the following:

- The emergency assistance guidelines which list a number of natural disasters establishing eligibility for assistance do not specify threats to the health and safety of the family such as battering.[6]
- Federal funding for emergency assistance is available only once within 12 months. If a woman leaves her husband, reconciles, and then is forced to leave again within a year, the emergency funds which she receives are only those funds allocated by the State, not Federal funds. The total amount is greatly reduced.[7]
- The child support and paternity program which requires the husband to reimburse the county for payments often enables the husband to obtain information about the wife's new residency. Carol Puleio, deputy director of the Middlesex County Welfare Department, said that the current non-disclosure procedures were inadequate. She suggested that the then U.S. Department of Health, Education, and Welfare write specific guidelines to protect the woman in these instances or that funds be made available without contacting the husband, at least until a divorce agreement was reached. (II, 53)

Persons interviewed also criticized the child support program. The allegation was made that if the man says his wife has left him and he is willing to support her, staff make it difficult for the woman to receive payments. The burden is placed on the woman to establish cause for leaving him. In addition, critics charge that some welfare workers, who express the views of much of the population, tend to support the reunion of the family despite the reoccurrence of battering and discourage the woman from leaving. They said, however, that these views were becoming less prevalent.[8]

Again and again, persons criticized the low level of public assistance. Ms. Puleio said:

> We find that women who come in and apply for assistance after having made the break with their spouse are confronted with very low assistance levels, and frequently this serves as a factor in their reconciliation. A strong factor. For two people receiving $235, (it is) very difficult to find housing and live on that. We would like to see something done to increase the grant levels. (II, 52)

She said a woman earning only the minimum wage would need at least three children to qualify for any further public assistance.(II, 52–3)

Interviews with the staff of county welfare offices revealed that there was a growing awareness of the problems related to battering and that their offices were considering new procedures and programs that would help these women. Both Mercer and Middlesex county offices are considering establishing a 24-hour hotline.(II, 60–2)[] Both offices are also working with other groups involved in establishing shelters. (II, 63–4)

It also was suggested that additional training was needed for welfare staff on the issue. (II, 66–7)

Other State and Local Action

State Division on Women

The New Jersey Division on Women, a unit within the New Jersey Department of Community Affairs, operates a 24-hour crisis hotline for women

[4] U.S, Commission on Civil Rights (USCCR), New Jersey Advisory Committee, "Transcript of Proceedings, Informal Public Hearing on Battered Women," Dec. 1 and 2, 1977, Trenton, N.J., Vol. I, 92–93. (Hereafter references to the transcript will be in parenthesis in the text with the volume indicated in roman numerals and the page in ordinal numbers.)

[5] Executive Deputy Chief James Bannon, Detroit Police Department, Statement to USCCR Connecticut Advisory Committee at its factfinding meeting on battered women, State House, Hartford, Conn., Sept. 26, 1977, "Transcript of Proceedings," Vol. II., p. 184.

[6] New Jersey Department of Institutions and Agencies, Division of Public Welfare, *Assistance Standards Handbook*, April 1975, Part V, Sec. 530.3. In January 1979, the standards for emergency assistance for AFDC were amended to include "victims of domestic violence" (New Jersey Department of Human Services, Division of Public Welfare, *Assistance Standards Handbook*, Part V, Sec. 530.4) and staff of the division of public welfare said that they expected that the general assistance program would be amended in a similar way. Daniel O'Leary, field services supervisor, letter to Ruth J. Cubero, Regional Director, USCCR/ERO, Jan. 23, 1979).

[7] 45 C.F.R. 233.120 (b) (3).

[8] Ramos Interview.

in trouble and has provided other assistance to battered women's groups. The division, in conjunction with the State Department of Human Services, held a conference attended by more than 700 persons on issues of battered women. The division also helped the Jersey Battered Women's Service obtain a $1-a-year lease on a State property for a shelter. (II, 73) The division also awarded a small grant to Womanspace for work on the issue. Technical assistance to other groups has been provided by the division on women.

Sylvia Johnson, director of the division, called for a network of shelters throughout the State and increased funding for battered women's groups. (II, 76)

State Department of Human Services

The New Jersey Department of Human Services and its youth and family services division also offer technical assistance to groups in the preparation of grant applications and in evaluating programs. The department is expanding its protective service program to include support programs for adults such as the elderly and battered women. (II, 101–2) The department has established an interdepartmental committee including representatives of the divisions of youth and family services, public welfare, medical assistance, and health services for battered women. (II, 102) Finally at that time, the department was helping negotiate the leasing of a state-owned building for $1 a year to a Morris County support group.

In a prepared statement, Anne Klein, director of the department, recommended increased Federal and State funding for battered women's programs; the development of community protective service teams for battered women similar to those developed for abused children; and prohibitions on exclusionary zoning which restricts the establishment of shelters. (II, 104)[9]

County Commissions

In several counties, boards of freeholders have established county commissions on the status of women, which have studied the problems of abused women. In Mercer County, the County Commission on the Status of Women helped collect data on the incidence of battering and took an active role in creating Womanspace, a private, nonprofit organization which opened the first shelter in the county in January 1978.

Barbara Sigmund, chairperson of the Mercer County Board of Freeholders, strongly supported the county as the proper level of government to establish programs for battered women. She said that the county was a sufficiently large unit of government to draw on resources such as county criminal justice planning units, welfare agencies, and other social service agencies, and yet small enough to retain flexibility. (II, 80–3) She called for increased Federal funding for battered women's programs, legislation to make it easier for women to obtain restraining orders, and greater restrictions on the disclosure of information by school boards concerning the locations of battered women and their children. (II, 86–88)

In Bergen County, the Advisory Commission on the Status of Women conducted one of the first surveys of the incidence of battering and rape in the State and issued a report, *Crimes of Violence Against Women,* in 1977. At the factfinding meeting, Evelyn Fassberg, the county commission's director of research, reported the high incidence of battering in Bergen County uncovered by the Commission study. She called for increased shelters, counseling, and other programs for battered women. (II, 92) She also called for increased training for all personnel and greater public education:

> We stress training, public education, awareness. . .We (should be able to) label this as a crime and remove the aura of privacy, the sense of uniqueness, the sense of isolation that characterize the victim in a violent family.
>
> I think it is of crucial importance that everyone understand that beating another person, even your wife, is against the public interest and is punishable and the police and doctors and everyone must get this message. (II, 95)

[9] A bill prohibiting exclusionary zoning was passed in the 1979 State legislative session.

6. Findings and Recommendations

Findings

Despite the increased attention focused on the plight of battered women, in New Jersey, as elsewhere, most women who have been physically abused by their husbands or male companions continue to face severe problems. Societal attitudes reflecting the second-class status of women continue to prevail and to influence criminal justice and social service institutions, their personnel, their policies, and their procedures.

Police and Courts

The Advisory Committee found that the New Jersey criminal justice system generally fails to provide meaningful assistance to battered women. Many persons working within the criminal justice system, primarily police officers, judges, and prosecutors, did not understand either the prevalence or the complexity of the problem. Furthermore, their personal attitudes contribute to, rather than lessen, the institutional barriers which abused women seeking help must overcome.

Under the former law, a man alleged to have beaten his wife or female companion could be charged under the assault statutes with simple assault, which was punishable by up to 6 months in jail, or atrocious assault, which carried a more severe penalty. The first charge was classified as a disorderly persons charge and technically was not a criminal offense. The second was classified as a high misdemeanor and required a grand jury indictment before the individual could be charged. Because there were no guidelines or methods for determining which charge was appropriate, the determination of the charge was generally left to the discretion of persons such as the police and judicial personnel. The women who were abused had little or no say.

The new criminal justice code, effective September 1979, does not seem on its face to have changed either the policy or problems associated with the previous code. It makes no specific reference to battering and the battered woman still is faced with filing either a simple or aggravated assault. It still appears that the determination of the charge is made by persons other than herself. All of the factors under the previous code which contributed to the batterers either not being prosecuted, or being prosecuted at the level of minimal seriousness, remain present and operative under the new code.

Both the old and new law also require that in order to arrest a person for simple assault, the police officer must witness the event. However, the person assaulted may make a citizen's arrest at the scene of the incident or file a warrant against the assailant at a later date. Victimized women often were not informed of their right to make a citizen's arrest.

Furthermore, the Advisory Committee concluded that many police officers in the departments reviewed during the study do not treat an assault by a man upon his wife or female companion as a criminal act requiring arrest. The official State training commission policy except in "serious" cases was to arrest only as a last resort and many police officers actively discouraged women from asking for an arrest. The State Police Training Commission guidelines effective at the time of the factfinding meeting recommended that in nonserious cases the officer should "seek other means (than arrest) for

resolving the dispute." Although the new State training guidelines represent an improvement in many areas, these new guidelines still recommend arrest as a "last recourse." Many women charged that officers actively discouraged women from asking for an arrest even in serious batterings.

At the time of the factfinding meeting, the New Jersey Police Training Commission did not require that training on battering be included in the 3-hour training on domestic disputes mandated for all new recruits. Only a few if any local departments trained line officers on the issue.

Police departments and the courts reviewed did not collect data indicating the number of assaults by men upon their wives or female companions and this lack of data made it difficult for shelters and support groups to document a need for additional resources and obtain funding.

At the time of the factfinding meeting, the majority of batterers who were prosecuted were tried in municipal courts on disorderly persons charges. When the initial charges were more severe, because of various factors including the length of time needed to obtain a grand jury indictment, the court or the prosecution generally obtained a reduction of charges. The victimized women were rarely represented in municipal court. This lack of representation in some instances may hurt their cases and some women may have been persuaded to bring lesser charges.

If the batterer were convicted, other circumstances including overcrowded jails and insufficient use of alternatives such as work release made it unlikely that the individual would receive anything more than a short or a suspended sentence and/or a fine. These penalties all too often created further trouble for the abused woman, who often remained in contact with the batterer and was subjected to further abuse.

Informal Hearing Program

The Advisory Committee received diverse opinions in regard to the informal hearing program (IHP), which as a pilot program, was still in its formative stages. Some women's groups opposed it on the general principle that the existence of such a diversionary program to handle battering cases in non-criminal proceedings reinforces societal notions that battering is not a crime. Some persons, however, supported the concept of an out-of-court settlement for minor disputes and stated that IHP successfully assisted those who chose not to pursue criminal prosecution. Still others said that the program was understaffed and underfunded.

Probation

Although the Advisory Committee received only limited information on probation, and only from the Mercer County (including Trenton) department, the data indicate that probation departments are greatly understaffed, particularly at the municipal level. Individual officers have exceedingly heavy caseloads which make it difficult to provide adequate supervision of the batterers and thereby assure the safety of the battered woman. There is no general requirement that a probation officer make contact with the victims in battering cases.

Civil Proceedings

Battered women charged that they experienced great difficulty in obtaining support payments, custody of their children, and a divorce. They criticized some lawyers for charging high fees, payment of which is particularly difficult for women who have left their husbands and have limited or no financial resources. Some women also charged that some lawyers exhibited the same sexist attitudes maintained by others in the criminal justice system. They strongly criticized the current practice frequently endorsed by the courts of permitting the two parties to continue living in the same residence after one has filed assault charges against the other. Several women also said that restraining orders were difficult to obtain and often were not adequately enforced.

Shelters and Support Services

Women's groups in New Jersey have been in the forefront of establishing temporary shelters and other support services for battered women. Grassroots groups of women, many of whom have been abused themselves, have provided lodging, formed counseling programs, and developed referral services for women in crisis. As a result of this experience these women and their groups have developed an expertise which in itself is a valuable resource.

Nonetheless, many problems remain. Most shelters are underfunded and there is a continuing shortage of support services.

Welfare

At the time of the factfinding meeting regulations covering public assistance presented several barriers to battered women in need of financial aid. The policies and procedures which governed eligibility and distribution of public assistance varied from locality to locality, and some communities provided funds much faster and with less red tape than others. Battered women charged that the attitude of some staff members affected the manner in which applications were processed and that some staff discouraged the women from leaving even if they have been beaten. At the time of the factfinding meeting, emergency assistance regulations did not designate persons forced to leave their homes as a result of battering as parties eligible for financial assistance.

Recommendations

General

1. The New Jersey legislature should consider further modifications of the penal and procedural codes to resolve the legal barriers providing difficulties for battered women. These problems include the requirement that an officer witness an incident in order to charge a person with simple assault; the length of time needed to obtain a grand jury indictment; and the lack of alternative charge other than simple or aggravated assault.

Police

2. The New Jersey Training Commission's new guidelines should be amended to include a discussion of the importance of informing a battered woman of her right to make a "citizen's arrest." Both recruit and inservice training on the handling of battering incidents should be developed by local police departments as well as training academies in conjunction with feminist organizations and shelter groups on a continuing basis.
3. The police chiefs throughout the State should issue guidelines related to battering requiring all officers to clearly inform a woman of her rights and options including her right to make a citizen's arrest. The decision whether or not to press charges should be left to the woman. Clearly, the woman should not be discouraged from asking for an arrest.
4. Police departments should identify and count incidents of battering by including such a category on the police report form and by computerizing the information. Such information should be provided to line officers responding to "domestic" calls to alert them to previous incidents and potential dangers.
5. Police departments throughout the State should hire additional female police officers in order to increase female representation among officers. The presence of such officers should help decrease sexism in the department.
6. The Federal Bureau of Investigation should include battering among the categories listed in the *Uniform Crime Reports for the United States* and require all police departments to provide data on the incidence of battering on a regular basis.

Courts

7. A victim's assistance center should be established, especially in the larger cities, to assist battered women and other victims with legal and nonlegal problems.
8. Until more comprehensive changes are made in the penal and procedural codes, there should be a mandatory review of all battering cases by the county prosecutor to determine whether or not the charges against the batterer are adequate.
9. For those cases tried in municipal court, the county prosecutor should require that the woman be represented by the municipal prosecutor, except in those instances in which the woman decides not to be represented.
10. Jail sentences should be imposed on batterers in more instances, except where such sentences would inflict economic hardship on the woman, as an indication that society considers the physical abuse of women to be a criminal act. In those cases where the woman is financially dependent upon the man, weekend confinement and work release programs should be considered. Alternatives to jail including probation with requirements such as attendance at alcohol or psychiatric counseling programs should be used in conjunction with sentencing when appropriate. These programs, however, should not be considered a substitute for jail sentences. It is the Advisory Committee's opinion that a strong commitment to eliminate battering as evidenced by imposing severe penalties against batterers is necessary to reduce such incidents in society.
11. Seminars on battering should be held for prosecutors, judges, and other court personnel. These seminars should be held in conjunction with feminist and battered women's groups. In addition to information on the extent of the problem and possible legal remedies, the seminars should include

a discussion of issues such as difficulties arising from the so-called "learned helplessness" of many women who have been abused.

12. Data should be compiled by the courts and prosecutors' offices to document the incidence of battering.

Informal Hearing Program (IHP)

13. The State should carefully review and evaluate the pilot IHP programs and expand the programs only if there are adequate funding and resources. The IHP should be used only for charges arising from verbal disputes and should not be a substitute for criminal prosecution in those instances where physical abuse has occurred. The stipulation that the IHP be selected voluntarily by both parties should be emphasized and in no instance should "repeaters" who have been charged with battering on previous occasions be referred.

Department of Probation

14. The State Legislature should increase funds for both county and municipal probation departments to bring the caseloads of the individual officers nearer that recommended by the National Council on Crime and Delinquency.

15. The chief probation officer of the State should issue a memorandum requiring that probation officers give top priority to the supervision of persons convicted of charges stemming from battering cases at both county and city levels. The memorandum should also require some contact between the officers and the victims in these cases.

Civil Statutes

16. The Governor should appoint a temporary commission composed of judges, lawyers, psychiatrists, representatives of feminist groups, and other interested parties to review laws and procedures related to divorce and child support in order to make recommendations for improving the system, either through changes in the existing statutes or in their application.

17. Local and State bar associations should run seminars and other educational programs on the issues of battering and sexism and take other appropriate steps to provide more and better legal representation for battered women.

Shelters

18. There should be a statewide network of publicly funded shelters for battered women. All shelters should develop an outreach program to insure that all women in need, including minorities and non-English speaking women, are aware of their existence. Staff should include former battered women and minority and non-English speaking personnel so that the staff reflect the population served, and more adequately service that population.[1]

19. The highest priority in funding shelters should be given to those grassroots feminist organizations which previously have been involved in sheltering or providing other services to battered women.

20. The State Department of Human Services should allocate State funds in addition to Federal funds for shelters and support services.

Welfare

21. The State of New Jersey should develop guidelines and monitoring procedures to assure that public assistance is uniformly administered in all localities. The State should review the adequacy of current disclosure procedures and other charges made by battered women in this report.

[1] In the 1979 State legislative session, a bill calling for a statewide network of shelters was passed. However, a proposed authorization of $850,000 was eliminated before the bill was passed and no money was authorized.

7. Conclusion

Because of the interdependence of the social service and criminal justice systems, change in one institution clearly can only be effective if there is corresponding and supportive change throughout all institutions. The New Jersey Advisory Committee believes that battering exists because society tolerates it. The attitudes which allow it to be tolerated are ingrained in our psychology and reflected in the structure and operation of our institutions. To eliminate the problem, society must respond to the issue at all levels. Woman abuse will cease to be a common occurrence only when society decides that such behavior is reprehensible and unacceptable, recognizes it as a criminal illegal act, and punishes the perpetrators accordingly.

☆ U. S. GOVERNMENT PRINTING OFFICE : 1981 723-548/666

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