

ALTERNATIVES.
A RESOURCE GUIDE FOR
BATTERED SPOUSES

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NEBRASKA COMMISSION
ON THE
STATUS OF WOMEN

**ALTERNATIVES:
A RESOURCE GUIDE
FOR BATTERED SPOUSES**

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Prepared by:

**Anne Nation, Research Analyst
Barbara Burkey, Legal Researcher**

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Since this work can only be valuable if the information it contains reaches those in need, pass this booklet on to someone you think can use it. In order to better share this information the Nebraska Department of Public Welfare, regional and county welfare offices have additional copies available upon request. Write or call:

**Nebraska Department of Public Welfare
P.O. Box 95026
301 Centennial Mall South
Lincoln, Nebraska 68509
(402) 471-3121**

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NEBRASKA COMMISSION on the STATUS OF WOMEN

NOTES ON LANGUAGE

They. Used in the singular, to replace the grammatically conventional impersonal he, as in the sentence "Each local director prepared their own plan." This common usage is simpler than "he or she", less disruptive than inventing a new word, and easily understood.

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FORWARD

Purpose

If you have been assaulted by a member of your household what can you do? Who can you look to for help? Who is likely to be concerned; who will not want to be bothered? Where can you go if you want to get away for a short time; if you want to get away forever?

These are just some of the questions asked by victims of domestic violence. This guide will deal with possible answers to these and other questions. Some of the solutions suggested may be obvious; some may be a surprise.

It is the purpose of this guide to provide alternatives. It does not and cannot offer one final step-by-step solution to victims. Because each case is different, each solution is different.

Use this book as a guide only.

If you have been assaulted, whether it has been one time, ten times or so many times that you have lost count, there are basically two things you can do-- leave or stay.

It seems surprising that most victims stay with their abuser. However, upon tracing the steps that a victim must take toward separation and/or self-protection, difficulties involved in accomplishing either goal become apparent. Because most victims stay or ultimately return to the home, the first section of this guide will deal with living and coping in an abusive situation.

What is Domestic Violence?

Domestic violence is violence committed against one person by another member of the same household.

The abuse can be physical or mental, and usually is both. Attacks often begin as verbal abuse or threats, and turn into battery, rape, and even murder.

Who are the Victims?

Anyone can be a victim. Victims and assailants are usually related by law or by blood, but they may simply be living in the same house. The attack may also occur between individuals who once shared the same household.

Usually the severely battered are women, and usually these women are married to their assailants. This is why domestic violence is commonly referred to as spouse assault or wife beating.

Studies have shown that abuse is common to all ages, classes, races, creeds, and educational levels. The chances are that you, someone in your family, or someone on your block is a victim of domestic violence.

Who are the Assailants?

As with the victims, there is no one description of the assailant. Studies have shown some common character traits, however. Often the abuser was a victim of

or witness to domestic violence during childhood. They tend to lack self-confidence and find the assault an outlet for their frustrations and inner fears. Assailants have also been found to be socially isolated. They do not have close friends, and they try to prevent other family members from developing such ties. These persons use aggression and violence to resolve problems or vent feelings. Usually, the victim has not done anything to "start" the beating.

The Reasons for Staying

It is difficult, at first, to imagine why victims remain at home. The reasons are many and varied. Sometimes it is one reason; sometimes it is a combination of factors. It is not for us to judge the victim, but to examine the reasons and understand.

The most common fallacy is that the victims provoke the violence and even enjoy it. No one enjoys having their eyes blackened or being hospitalized for broken bones, first degree burns, knife wounds, or internal bleeding.

Women list economic reasons as a major consideration for staying. Many do not work or lack necessary job skills. It is also very frightening to try to make it on your own for the first time in your life, especially if you have to provide for children. Victims often stay rather than jeopardize their children's material comforts.

Another common reason for staying is because of love for the person and a desire to make the marriage or relationship work. A deep commitment to the marriage and sincere desire to hold the family together can motivate some victims to continue a relationship.

There is often a great amount of guilt and humiliation attached to the abuse. A beating seriously lowers a person's self-esteem. The idea that maybe you did something wrong can lead to the feeling that you deserved the beating. Repeated beatings can cause a severe lack of self worth. Victims can become so demoralized they are not certain they deserve help.

If you have come from a home that was not violent, it can be especially hard for you to discuss the problem. If you come from a violent household you may assume that this is just the way families are.

Even when the victim does decide to leave, it is not that easy. Police are sometimes reluctant to arrest the abuser. Some county attorneys are reluctant to prosecute because courts may not take this crime seriously. (This is because the victim often drops the charges.) Victims who would press charges and follow through are thus discouraged because of this reluctance and lack of understanding by the authorities.

By now, some of the basic problems faced by a victim who attempts to leave have been stated. On paper, the reasons for staying may seem simplistic; but thought and examination will show their true complexity. It is not surprising that most victims opt to stay. If you are a victim or know of someone who is staying with an assailant, the next section is for you.

IF YOU STAY

IF YOU STAY

If you have been abused and stay with your abuser, remember--it will happen again. It may be tomorrow night or it may be next year, but without help, it will come.

When it does, what can you do; what will you do?

The Attack

What starts an attack? Anything. An unpaid bill, an overcooked egg, an undercooked egg, refusal to iron socks--these are a few things that have triggered attacks.

What do you do when the blows start? As with so many things, there is no one answer. Remember, whatever you do, may only make it worse. You can cry, you cannot cry, you can plead, you can strike back, you can lift a hand in self-defense, you can scream, you can phone for help, you can run next door or drive around all night, you can take the children or leave them--no matter what you do or do not do, say or do not say, it does not mean the beating will stop, but it might mean it will get worse. Realize that you have become a scapegoat for your assailant's frustrations and that your words and actions are falling on deaf ears and blind eyes. The violence will not cease until the energy and anger are expended.

Do what you can to protect your body, particularly the most vulnerable parts. If possible, run to a neighbor or other place of safety. It is wise to plan beforehand where you would go in an emergency. (See Planning, p.13.)

The Aftermath

Once the attack is over, there are certain things to consider. Check yourself physically for any severe injuries--broken bones, cuts that will not stop bleeding, deep cuts which will require stitches in order to heal properly. If you have such injuries, or if you are aware that you have been unconscious, see a doctor or go to a hospital emergency room at once. (See Doctor, p.11, or Hospital, p.12.) Do not be ashamed or afraid to say what has happened.

If, in your judgement, the injuries do not require immediate attention, you may still want to report the incident. Remember not all injuries are immediately visible. Bruises can take one or two days to develop. Blows to the abdomen and head can cause internal bleeding or other injuries which can be extremely serious.

Reporting

Even though you may not want to press charges, it is wise to report the incident to the police. This would be helpful if you decide to file charges later. (See Police, p.37.) Many times, police intervention and filing charges can help stop future attacks. This demonstrates your intent to prevent future beatings. Because you have resolved to do something about the situation, your abuser

may stop the beatings or seek help to stop. It is possible, even if you do not call the police, that they may come to you for a report simply because someone else has complained about the disturbance.

Whether or not you report the assault, you may want to leave the home for a period of time. Possible places to go and persons with whom to speak are discussed next.

THE DOCTOR

Following an attack you will need medical attention. Some severe injuries may be obvious, but some may not. Blows to the head and abdomen can be especially serious and should always be checked.

If you have a family doctor, and the attack occurs at a time when you can see your doctor, try to go there first. If the doctor is not available, or if it is after office hours, go to the emergency room of the hospital. (See Hospital, p. 12.) You should not go to a doctor in the next town simply to try to hide what has happened. Your regular doctor will maintain your confidentiality even though they may know your family and/or friends.

It is important to describe the attack to your doctor, since this information on your medical records could someday be vital in diagnosing or treating other illnesses or injuries. This is especially important during pregnancy. Direct blows to the abdomen should always be reported to your gynecologist, obstetrician, or family doctor.

You may want to return to the doctor a couple of days after the attack for a follow-up exam. Some injuries, such as bruises, may take that long to show up. Other injuries, may persist or become worse indicating they are more serious than you first supposed.

See that the doctor makes a complete report of all injuries, including the cause. This is for your own protection. Your medical records and your conversation with your doctor are confidential until you decide otherwise.

If your present doctor seems disinterested, unconcerned, or unwilling to help you, do not use this as a reason for avoiding medical attention. Hospital emergency rooms could be one answer, or you might consider changing physicians. If these are not possible options, insist that the doctor see you and that the attack be recorded.

Your doctor can also act as a counselor, or refer you to a professional. Remember, you are not at fault. Do not let anyone convince you that it is just your nerves and that you should go home and somehow avoid another attack.

If your doctor prescribes medication, ask for the name of the drug and why it is being prescribed. Be cautious of drugs given for your "nerves", or to help you sleep. Such drugs can have "addictive" effects. They can make you passive or euphoric without solving your problem. If you receive prescriptions for such drugs, you may want to get a second opinion from another doctor or pharmacist.

The important thing to remember is that you have the right to the best possible treatment.

THE HOSPITAL

If you do not have a family doctor, or if the doctor is not as responsive as you need for your immediate treatment after an attack, you may need to go to the hospital. Most hospitals have some type of emergency room where a doctor or nurse will treat you anytime of day. They can provide the same basic services as a private physician. Here, too, all information is kept confidential.

Remember to:

- 1) Tell the person examining you who your assailant was, and describe, as best you can, the attack. See that this is recorded.
- 2) If the hospital has a camera available, have pictures taken for the record. You may want to return in a couple of days for additional photographs as the bruises develop.
- 3) Tell the person treating you of any special medical conditions, especially pregnancy. This information will be important in determining treatment and prescriptions.
- 4) Follow-up the emergency treatment by visiting a doctor within a week. By then, the full extent of the injuries will be apparent.
- 5) See that any records on file at the hospital are made accessible to the family physician, obstetrician (in cases of pregnancy), or any doctor who may later see you. Often the effects of a severe beating can last a long time, with the full impact of the injury not showing up until much later.

Some hospitals will have a social worker who can give you additional support and advice. If your questions cannot be answered by the social worker, you will be put in contact with someone who can help you.

In hospitals where there are no social workers, ask the nurse or doctor in the emergency room if there is a community group working with domestic violence or some other agency or person who can answer your questions. They should be able to give you appropriate referrals.

IF A DOCTOR IS NOT AVAILABLE

It is sad but true that there are some places in Nebraska where it is difficult to get emergency medical attention. Some smaller towns lack doctors and hospitals altogether. Doctors in some areas may be carrying such an overload that they may be elsewhere when you call. Some rural towns that do have hospitals have been forced to close the emergency rooms due to lack of funding and/or lack of trained staff.

First Aid

If you are in this situation, there are still alternatives. It is a good idea to take a first aid course and have a first aid kit on hand. While this is no substitute for medical care, it could be useful in emergencies. Such a course would also help you realize the extent of your injuries and help you better explain them to a professional.

Police or Fire Departments

You will find that law enforcement officers and firefighters have had courses in first aid. Because of the nature of their work, they often need to administer this type of assistance. Some areas may even have rescue units with paramedics. These people can see that you receive some type of emergency attention, and can refer you to additional help. Again, they do not substitute for a doctor's care. You will still need to arrange a visit with a physician as soon as possible.

PLANNING

If you think that you will have to leave your home during a beating, there are some things that you can do to get ready ahead of time. Steps 2 and 3 below will be important if you wish to obtain temporary support such as food stamps or A.D.C. The legal papers listed below will also help if you wish to pursue certain legal remedies.

- 1) Pack an extra set of clothing and shoes for yourself and children. Include diapers, toilet articles, and a bit of spare change. Store these with a nearby neighbor, friend, or church. You could also rent a locker at a bus or train station or an airport.
- 2) Take necessary legal papers, e.g., any form of identification for yourself and your children, birth certificates and social security cards for same, wills, marriage license, children's school records, insurance cards, car title and registration. If possible, obtain copies of these papers and store them with your extra clothes (see above). If you cannot get copies and are afraid your abuser will notice if you take the originals, gather the papers together and place them in a file or envelope. Keep them near the door so you can easily get them if you need to flee the house.
- 3) Take necessary financial records, e.g., rent, mortgage, and utility receipts, checking and/or savings account books, account numbers, and cancelled checks showing such things as extreme liquor purchases. Keep these with the legal papers.
- 4) Hide an extra set of car keys outside the house or at a neighbor's.
- 5) Know where you can go and how you will get there in case you have to leave suddenly. (See Emergency Housing, p. 14, and Emergency Transportation, p.14.)

EMERGENCY TRANSPORTATION

If you are not a driver or cannot drive because of your injuries or live in an area without public transportation, there are forms of emergency transportation. Most small towns have an ambulance or rescue unit that can take you to a hospital. Also, most police departments or sheriff departments are able to provide emergency shelter. Certain social service agencies and churches will also provide transportation. If these options are not available, call a relative, friend, or neighbor. It may be an inconvenience to them, but it could mean your life.

If you think you will need emergency transportation, plan in advance what means you will use.

EMERGENCY HOUSING

When the abuse becomes severe, you and other family members may want to leave the house until things "calm down." Currently, Nebraska has no long term shelter network specifically for abused spouses. Some local volunteer community groups dealing with domestic violence may have emergency beds available, but these are limited. Because of recent legislation, Nebraska may soon develop a network of shelters. Since this program will be developed by the Nebraska Department of Public Welfare, your local Welfare Service should have up to date information on services available in your area. Contact them for information.

Places to contact for shelter would include:

1. A relative, friend, or neighbor
2. Your church or any church in the community
3. YWCA or YMCA
4. Salvation Army
5. Local Welfare Offices
6. Local Mental Health Clinics
7. Any other local organization or unit which would be sympathetic to your problem.

When fleeing your home, be careful that your contact person does not lead your violent and unpredictable abuser to you. You may want to initially meet your contact person at a public place or get in touch by phone. Make sure that all involved understand the importance of not telling your assailant where you are unless you are willing and prepared to meet with the abuser.

If you know you will eventually need this type of shelter, it would be wise to plan in advance where you will go.

If you have children, you must safeguard their welfare and protect your parental rights when you leave home. See the section on Abandonment (p. 24) for further discussion.

LEGAL ALTERNATIVES

There are a limited number of legal options available to the person who decides to stay with the assailant. Some are mentioned below and are discussed in greater detail in the section entitled Legal Remedies (p. 28). The best thing to do, if you are considering these or other legal steps, is to contact a lawyer. (See Obtaining Legal Services, p. 34.)

Criminal

In serious cases, you can have your assailant arrested and removed. However, do not use the police to scare your assailant. Remember that if you do not follow through and press charges, the police may become increasingly reluctant to come to your assistance in the future. (See Police, p.37, and Arrest and the Victim's Role, p. 38.) If arrested, your assailant will probably be back at the house within several hours. It is also possible that your attacker will be even more violent because of the arrest.

However, if you are sincere about pressing charges and following through in court, the arrest can be a way to stop the beating. Often the publicity and embarrassment that comes with police intervention can make the assailant realize that using violence is not accepted. This realization could help stop the attacks or encourage the abuser to seek outside help to control the violence.

Under the Protection from Domestic Abuse Act whenever anyone is convicted of assault and battery, and the victim is the offender's spouse, the court may place the offender on probation and require that the abuser receive counseling.

Civil Remedies

Criminal convictions often cause loss of job or limit employment opportunities. If you are dependent upon the abuser for support this could cause you, as well as your children, serious economic consequences. For this reason, if you plan to stay in the same household as the abuser it may be wise for you to pursue civil remedies, rather than file a criminal complaint.

Under the Protection for Domestic Abuse Act, it is possible to obtain certain restraining orders which would prohibit your abuser from beating you. Violation of these orders may be punishable as civil contempt of court. You may ask for these orders without posting any bond. For more detailed information see Injunctions and Restraining Orders p.29.

Another civil option you should be aware of is the Peace Bond. See p. 30, for more details.

Remember, when prosecuting a civil action, you must hire your own attorney or qualify for legal aid. The county attorney's office will usually not assist you in pursuing a civil action.

SERVICE RESOURCES

There are a variety of agencies and programs across the state which can assist you with such things as child care, food, clothing, housing, medical expenses and transportation. Each location has services which will vary, but there are certain services that are available across the state. These are provided by the Department of Public Welfare (DPW) and Community Action Agencies (CAA's or CAP'S). (Note: Some programs set income guidelines to determine eligibility. Income is usually figured as the combined income of you and your spouse. This may make it difficult for you to receive assistance even though you may have no money of your own. Stress to the community agency your financial status if you are no longer receiving support from your spouse or will no longer receive it if you leave after a beating.

Department of Public Welfare (DPW)

Spouse Abuse Activities

Recent legislation has given money to DPW to carry out a program aimed at reducing violence in the home. Because the program is just starting, it is difficult to predict when services will be available. Proposed programs include information and referral, advocacy, shelter, legal referrals, job placement and counseling. Services will be available to the abuser as well as the victim and children, and will either be free of charge or based on your ability to pay. For current information on programs, contact your Regional Office. (See map in Appendix D.).

Income Maintenance Program - This division of the Department of Public Welfare runs five programs of potential use:

1) Aid to Dependent Children (ADC):

Provides financial and medical assistance to deprived families with children under age 18 (or 21 if still in school).

2) Food Stamps:

Available to persons receiving public assistance or certain forms of general assistance or who meet income resource standards. Persons 18-65 must register for work.

3) Child Support:

This program is aimed at identifying and locating absent parents and obtaining support assistance from them. The program may be used only after child support has been ordered by the court as a result of a divorce or obtaining support assistance from them.

4) Emergency Assistance:

Money and/or services to or on behalf of a needy child or children and other household members.

5) Aid to Aged, Blind and Disabled:

Assistance to persons over 65 and children and adults under 65 who are blind or disabled.

Medical Services Program -Title XIX:

One possible use of this funding would be to provide for medical services. Victims who qualified would be able to have Medicaid cover the daily cost of a bed in a hospital or nursing home. In addition, it could also be possible to have other services provided, including physician services, X-ray, and home health care.

Social Services Program -Title XX

1) Aged or Disabled:

- alternate care services
- chore services
- day services for adults
- home delivered or congregate meals
- homemaker services for adults
- information and referral
- protective services for adults
- services for mentally retarded
- transportation

2) Family, Children, and Youth:

- adoption services
- daycare services for children
- foster care services for children
- homemaker services for families
- information and referral
- protective services for children
- transportation

These above programs are administered by DPW. If you wish to apply for any of the services, check with your local welfare office or a DPW multi-county social service unit. They will give you detailed information on the program as well as income or other eligibility requirements.

Welfare offices can often be threatening places. Do not hesitate to take a friend, relative or other advocate with you. If there is any question in your mind, ask the person to repeat or explain the program in more detail. You have a right to use available programs. Remember that things will go faster if you take your records with you, e.g., birth certificates, social security cards, rent and utility receipts. You may want to call ahead to make certain which records you will need.

For more information on welfare programs and eligibility requirements contact:

Nebraska Department of Public Welfare
P.O. Box 95026
301 Centennial Mall South, 5th Floor
Lincoln, NE 68509
402-471-3121

Local County Welfare Office
or Multi County Service Unit.
Look in your telephone book
under County Government
for the phone number and
address.

Community Action Agencies (CAA'S)

CAA's are private non-profit social service agencies that presently work together to offer services to persons across the state. There are presently nine agencies in Nebraska that fall into this category. (See map in appendix D.)

While CAA's do not duplicate welfare services they often provide similiar or expanded programs. Also local CAA staff are often willing to go with you to welfare and otherwise act as an advocate to gain assistance for you.

As with welfare, persons applying for assistance from CAA's may need to meet certain income or other eligibility requirements. These will vary with each program and can change from year to year. Be certain to check with the local agency.

Services offered by CAA's include:

weatherization (insulation of homes to reduce utility costs)

headstart

family planning

WIC (Women, Infants, and Children) nutrition program

well-child clinic (for well children of low-income families)

handi-bus and other transportaion services

rural housing rehabilitation program

neighborhood centers (including emergency food pantry, clothing)

alcoholism centers

CETA outreach

summer youth recreation program

child family resource program

talent search

legal aid

Because each agency is independent, not all services are available in all locations. Be certain to check with the local CAA.

DPW and CAA's have been specifically mentioned only because they provide services state-wide. Be certain to check with any local social service or human service agency to insure receiving the best possible assistance.

COUNSELING

Despite the fear and shame associated with abuse, it is important that you talk with someone about the problem. Try to get your spouse to go with you to a counselor. If your spouse will not go with you, talk to a counselor yourself. You can possibly find ways to deal with the situation.

If you find a counselor who tries to blame you for the beating, find another counselor. Their role is to offer you support and encouragement, not to affix blame or point a finger. Realize that often the violence stems from a problem within the abuser and you are a victim. Success with a counselor depends upon developing a relationship with a person you can trust and who suits

your personality. Do not be discouraged. Everyone has a different approach. Find the one that you feel most comfortable with and that can best deal with your particular situation. If you have a local community volunteer group on spouse abuse, contact them for assistance in locating a counselor who is knowledgeable and sympathetic concerning this problem. If you cannot meet with your counselor at their office, some counselors may consent to meet with you at a mutual setting.

Clergy

A counselor available to most people is their minister, priest or rabbi. In rural areas, these people may be your only counseling choices.

Some people are hesitant to go to the clergy, particularly if they are not affiliated with a particular religion. Other people are concerned that some clergy may convey the impression that once the couple are reunited, everything will work itself out. Remember violence is not part of a healthy marriage. Even with outside help, beatings will not always stop. Ask the minister, priest or rabbi for alternative helping agencies in the area. Many clergy will be willing to counsel you in a mutually-selected setting to protect your identity.

Mental Health Clinics

Another counseling option is to contact your local mental health clinic. The State of Nebraska is divided into twelve sections called catchment areas with a mental health program in each section. (See map in Appendix D.) You will need to contact your regional office of mental health or check the phone book for a local clinic. They can put you in touch with a counselor or make an appointment for you to come to a clinic. When you call, make them realize the seriousness of your situation and how important it is for you to talk to someone. Do not be put off for two weeks because of the heavy caseload of the counselor. If necessary, insist you talk to someone immediately. You may also want to specify other towns you would be willing to go to in order to see a counselor.

Once you do get in to see the counselor, do not be ashamed to talk about your experience. If you feel awkward or have a hard time relaxing, tell the counselor. You may find you need more time with the counselor than you expected and/or the counselor may want to talk with you again.

If the counselor has been helpful, you may want to have a follow-up session. If the counselor is not meeting your needs, keep looking.

Fees at mental health clinics are usually based on a sliding scale, which means you will be charged only what you can realistically afford to pay. If you have no money of your own or fear further violence if your attacker were to find out where the money was going, make this clear to the clinic. They should be able to work something out to your satisfaction.

Generally, any information you give to a counselor and the feelings you express are confidential. The only exception is that counselors may be called

into court during a divorce or other legal proceedings and be forced to testify. You may want to ask your counselor about confidentiality.

Private Counselors

Some communities have private counselors that you might wish to use. As with any counselor, be firm in the conviction that the assault was not your fault or your sole responsibility. If going to a private counselor, you may want to check on credentials. Feel free to ask what certificates or diplomas the counselor holds. You may also want to ask if the counselor has had previous experience with domestic violence cases.

Para-Professionals

While para-professionals do not have a degree or certification, sometimes they will be your most accessible listeners. They will have received approximately 20 hours of training from professionals. This training will have been aimed at helping them develop necessary listening skills. Through this sort of empathy training, para professionals learn to place themselves in your position, and will try to understand the problem from your point of view. With this understanding, they can help you by presenting a variety of options and alternatives which might help you with your situation.

If your area has a local community volunteer group dealing with domestic violence, they can put you in touch with such para-professionals. Your local mental health agency might also have para-professional assistants.

One advantage of para-professionals is that they are sometimes more accessible than the professionals. Para-professionals usually have a lower profile in a community, and the neighbors will not associate the two of you being together as a "counseling" session. This could be one way to discuss your situation with a "friend" and still keep it a "secret". As with professionals, para-professionals believe strongly in confidentiality.

Family and Friends

Often times victims will turn to the immediate family or close friends. If you can find a person from one of these groups who will offer you support, then this could be the best person for you to talk to.

A word of warning, most victims have not found this to be a good long term solution.

Sometimes you may not want to involve your family and friends for personal reasons. More importantly, they may not want to be involved. Some people hesitate to "stick their nose in their neighbor's business".

Still, if you choose, you may want to turn to a relative or friend.

Hotline

If you do not want anyone to know who you are or what you are experiencing, there may well be a hotline or crisis line in your area. This

service will allow you the necessary and important outlet of talking with someone. Your anonymity will also be preserved.

The person on the line will be a professional or a trained para-professional who believes in your right to privacy and confidentiality. They may ask you for your name or address, or even more statistical questions such as age, income, or race. If you do not want to answer these questions say so. Do not hang up. You will not be pushed to give out any information.

A partial listing of hotlines with hours and the areas they serve is included in Appendix B. If there is not a hotline in your area, but one is close by, consider calling them. Some will accept a collect call.

Peer Counseling

Another form of counseling that can be found in some areas is peer counseling. This could be either a support group or a one-on-one session with another victim of domestic violence.

Although these persons would not necessarily be professionals, they would be persons who are or had been victims. You are not the only person who has been assaulted by a household member, and talking with someone else who has been victimized may be exactly what you want.

Most victims have found support groups to be a very effective method of finding someone with whom to talk and share what they are feeling. It is important to allow yourself an outlet for your emotions.

As stated at the beginning of this section, despite the shame and fear associated with abuse, it is important that you talk with someone about the problem. As you can see, there are several ways of doing this. It is up to you to select the one you prefer.

If you try one form of counseling and it does not work, you can try another counselor, or even another approach to release your frustration and concerns. Many victims have found that without this release they may try other more violent forms of releasing their tension. True, it sounds as if it could take a long time to find someone you trust to talk with, but take the time. You are worth it.

RAPE

One common form of abuse is rape. There are programs and advocates in Nebraska to deal with this special problem. Indeed, it is so special and intricate a problem that this booklet will not attempt to deal with it as a whole. You should be aware that in the state of Nebraska, a spouse can prosecute the other spouse for sexual assault. To do this it is necessary to maintain evidence and report the crime immediately to a rape crisis center or law enforcement agency. Maintaining evidence includes not taking a shower, douching, changing clothes or tampering with the evidence at the scene of the sexual assault.

If you wish to report a rape, specific procedures need to be followed. (See Resource List, p. 59.) You should contact a rape crisis center for counseling, advocacy, referrals, and information. If there are no such centers in your area, one of the centers listed in Appendix C may be able to assist you.

ALCOHOLISM

A great number of victims report that the assailant had been drinking prior to the attack. Indeed, it is of little doubt to most that alcohol and abuse are connected. We need to look closely at the association of drinking and the occurrence of abuse.

Some abusers may be alcoholics. It is important to carefully observe your spouse's and/or your drinking habits in relation to the occurrence of abuse. Alcohol acts as an irritant on the brain, and the condition of alcoholism sometimes acts to stimulate uncontrolled behaviors, for example, aggression leading to abuse. An alcoholic is affected by the condition of the illness whether the person is drinking or not. Abuse can occur when the alcoholic spouse is not drinking, but the abuser is still suffering primarily from their condition of alcoholism.

You cannot "handle" an alcoholic's behavior, nor are you responsible for the alcoholic's drinking. You cannot be the cause of alcoholism because it is a disease. If you suspect your abuser is alcoholic, it is imperative to your life, and the life of the abusive alcoholic that you receive outside help.

If you observe that your frequent use of alcohol is accompanied by abuse from your spouse (whether your spouse is drinking with you or not), there is a serious need for you to receive care and attention for yourself. This may be a first step toward getting the abuser to do something about their problem.

It is essential to acknowledge that even though the abuser drinks, the person may be suffering primarily from serious emotional and mental disturbance, and not alcoholism. While alcoholism or mental illness may result in abuse, they do not excuse the abuser's behavior. If your assailant is an alcoholic, there are steps you can take.

You can be referred to Al-Anon (a support group for families of alcoholics). Even if your abuser does not go into an alcohol treatment program, you should still go to Al-Anon. They can provide needed support. If you feel you and/or your abuser is an alcoholic, discuss this with a counselor. The counselor or the local mental health clinic will be able to put you and /or your abuser in touch with professional alcoholism services to arrange for crisis intervention.

Mental Commitment

One final civil remedy that you might want to consider is commitment. For detailed procedures and information, see Mental Commitment, p. 32.

THE CHILDREN

So far, domestic violence has concentrated on the roles of victim and assailant. There is one other prime role to be examined--the children.

Whether or not the couple is married, children are often involved. In fact, one of the factors that triggers abuse is pregnancy. This may be due to the fear on the part of the father of assuming the responsibilities related to having a family.

The Cause

In some families, the husband carries the main burden of financial support for the family. If the children are not properly fed, clothed, or housed, if they do not go out for football or belong to a pep club, if they cannot attend the "right" college or university, some men carry the burden of guilt for not being able to give their children everything they want. Even when these "if's" are not viable and the husband is truly doing his best, some men feel guilty that they cannot do more.

The pressures of a family begin early in marriage. If the couple is having enough difficulty paying bills, the idea of a third mouth to feed can cause panic. The sight of a pregnant wife can be a constant reminder that when the baby comes, finances will be even tighter and the husband may think he is a failure. Eventually, he may lash out at his pregnant wife.

The Effect

Many victims have reported that the first attack occurred during pregnancy. There have been instances that once the child was born the beatings stopped. If, however, the woman became pregnant again, the beatings resumed and continued until after birth. It is interesting to note that during the beatings, blows are usually centered on the abdomen and breasts, the physical swelling of both being a tangible reminder of the impending birth.

It is not difficult for the mother to conclude from the beatings that the husband has hostility toward the child. She may even come to feel hostile toward the child, a feeling which can affect the way she treats the child from then on. Even if neither parent were to strike the child, emotional damage could result because either parent may connect the child with the beating which occurred during pregnancy.

Often, however, a hand is eventually raised against the child. In the fury of an attack, children may become targets. They are "safe" targets because they cannot fight back by using physical strength or by "turning in" the attacker.

Sometimes children are additional victims of the primary abuser, sometimes they are attacked for trying to help the primary victim, and sometimes the victim will turn on the children to vent anger and frustration for having to suffer abuse. No matter how the children become involved, it is

important to remember they are usually affected emotionally and/or physically by the abuse, making them victims too.

The Result

The physical abuse of children can result in permanent damage. This damage can be in the form of scars from cuts, crippling from broken bones that did not heal properly, paralysis from a broken spine, or brain damage from blows to the head. In fact, any damage you as a victim may suffer, your children may some day suffer as well.

Often more severe than the physical abuse can be the mental and emotional abuse. Children who are beaten or see a parent beaten show this in many ways. Otherwise friendly children may become withdrawn and reserved and demonstrate fright at a loud voice or a raised hand. Some will exhibit violent tendencies toward objects or persons. (Children have been know to hit their abused mother to get her attention.) Some may exhibit hyperactive tendencies. They may become "homebodies", rarely wanting to leave the home; or they may flee the home so they do not have to witness the abuse. Yet while all of the above have a serious impact on the maturing child, they are small when compared to the generational cycle of abuse.

The Cycle

Perhaps the most frightening aspect of domestic violence is the generational cycle of the violence. Children who are abused may grow up to be child abusers. Children who go through the emotional trauma of seeing the parents they "love" physically batter each other may grow up either to be abusers or to marry abusers.

The model observed in childhood can become accepted as "normal". It becomes easy for the child to accept as a way of life that parents beat each other as well as their children. After all, if Mom and Dad did it, it is ok; it is more than ok; it is normal.

It is easy to see that unless and until this cycle is broken, the family home will increasingly become the most violent place in this country.

Legal Responsibilities

Under Nebraska law, anyone who is aware of, or even suspects, that a child is being abused or neglected is legally mandated to report such facts or beliefs to the local law enforcement agency. Privileged communications between husband and wife do not apply in judicial proceedings involving charges of abuse or neglect.

If you are aware that your children are being abused or neglected by your spouse and fail to report such information to the appropriate authorities, not only could you be guilty of a misdemeanor for failure to report, but you may be charged as an accomplice to any injury or consequent fatality resulting from the abuse or neglect.

Abandonment

If you decide to leave your home and for any reason you do not or cannot take the children with you, you may need to be concerned with continued or redirected abuse of the children or possible charges of abandonment.

When any person abandons and neglects or refuses to provide for a child under 16 years of age for three consecutive months or more, it is considered evidence of intent to violate the provisions of the law. Usually there must be an intention to wholly abandon the child, sever your parental relation, and throw off all obligations as a parent for supporting and caring for your child.

You may need to check with a lawyer, but if it was your intent to keep the children and you make or attempt to make contact with them, it is probably not considered abandonment. If you are considering leaving your home and will be unable to take your children with you, consult with an attorney before you leave in order to determine how the courts in your county interpret the concept of child abandonment.

Safety of Children

If for any reason you do not or cannot take the children with you and you suspect that their safety or health may be in danger after you leave, report your suspicions to the local law enforcement agency. The local law enforcement agency will be able to investigate to assure the children are safe and, if necessary, take appropriate action to assure their safety.

IF YOU LEAVE

IF YOU LEAVE

Many victims eventually reach a point where they resolve to leave their abuser. All of the reasons for staying cannot compare with the need to escape. Often times it is the involvement of the children in the abuse that is the determining factor. Sometimes, it is the realization that the violence has become so extreme that one day soon your assailant may kill you.

Once you decide to leave, the battle really begins. As hard as it was to stay and endure the abuse, it will probably be harder to escape the situation. Remember, there may be volunteer community advocates in your area who will help you and give you support. Alternatives for escape are discussed on the following pages. Consider each on its own merits and as it relates to your situation.

LEGAL REMEDIES

You must understand that spouse abuse is a crime. It is punishable under the law. You are the victim, and it is your legal right to sign out a complaint against the attacker. This is only one step in ultimately putting an end to the abuse. The options are admittedly too few in these circumstances, but, you do have options. It is very important that you be aware of what the options are, what they entail, and what the eventual outcome of each option could be. Only if you are informed and understand what options are open can you make a rational decision about which option best fits your particular circumstances. You may decide to prosecute the attacker under the criminal laws of the state, or you may decide to sue for civil damages for assault and battery. Another option may be to file for separate maintenance or divorce.

The legal system, though by no means perfect or totally adequate, does provide means by which a victim may obtain help, and perhaps put an end to the abuse through legal means.

In the following sections, two categories of legal remedies are discussed, civil actions (or remedies), and criminal actions.

In a civil action, the victim hires an attorney who will represent them in court. The victim may ask for money to compensate for damages or possibly a court order/e.g., divorce, separate maintenance, restraining order, or an order expelling the abusing spouse from the party's residence. If any court order is not obeyed, it may be considered contempt of court and may result in a jail term or fine.

In a criminal action, the county attorney brings the action for the state. The victim may file the complaint and act as a witness at the trial. If convicted, the penalties can be a prison term or a fine.

Although this guide explains the main provisions of the law and how it is implemented, **IT IS NO SUBSTITUTE FOR INDIVIDUAL LEGAL ADVICE**. It will help you understand the advice, the options open, and the ramifications of each.

CIVIL ACTIONS AND REMEDIES

In a civil action, you are asking the court to grant relief of some sort. This relief may be in the form of a court order, e.g., divorce, restraining order, or money to reimburse you for expenses resulting from the beating. You must hire your own attorney. One is not provided for you by the state, as in a criminal action. If you cannot afford an attorney, you may qualify for Legal Aid. (See Obtaining Legal Services, p.#34 .)

There are several different civil options that may be pursued. The ones discussed here include:

- 1) Injunctions and Restraining Orders
- 2) Peace Bond
- 3) Torts
- 4) Mental Commitment
- 5) Conciliation Court and Counseling
- 6) Legal Separation
- 7) Divorce

(Note: In explaining the following sections, legal terms are used. This is to help you become familiar with the language and terms that will be used by police, lawyers, county attorneys, and courts. Words and phrases which might be difficult to understand without a legal background are italicized and explained in the Glossary in the back of the book. If at any time during a conversation with law enforcement officers, attorneys, or court personnel, something is not clear to you, insist it be repeated or explained. If necessary, ask the person to use different terms.)

How are these actions begun? What is the procedure? It must be mentioned first that **RETAINING THE SERVICES OF A GOOD LAWYER IS OF THE UTMOST IMPORTANCE.** (See Obtaining Legal Services, p.34.)

Injunctions and Restraining Orders

Section 24 of the Prevention from Domestic Abuse Act authorizes any victim of domestic abuse to apply for a temporary *restraining order* which would *enjoin* the abuser from:

- (1) imposing any restraint upon the person or liberty of the applicant;
- (2) threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the applicant; or
- (3) entering the family dwelling or the dwelling of the applicant upon a showing that physical or emotional harm would otherwise result.

An application for a *restraining order* must be made with the district court or the conciliation court. A judge or court may issue a temporary *restraining order* without requiring you to post a bond.

Any order issued under Section 24 of the Act may be issued *ex parte*, if the circumstances of the case demand it, or the court may require that notice be

given to the opposing party so they may have an opportunity to show why such an order should not be issued. The court will require that you show that irreparable harm or loss will result before it will issue an order without giving the other side an opportunity to be heard.

Upon the issuance of any temporary *restraining order* under Section 25 of the Protection from Domestic Violence Act, the Court Clerk must provide you, without charge, two certified copies of the order.

If a proper injunction is disobeyed by the abuser it may be punishable as *contempt of court*. Should you be harmed after the *restraining order* has been issued, contact your attorney at once. You and your attorney will probably have to go back to court. The judge will decide if the abuser has violated the order and/or is in *contempt of court* and will set the punishment. For violating an order, the abuser may be fined, ordered to pay a bond to make sure they will obey the order in the future or be required to do time in jail.

Peace Bonds

The process of obtaining a peace bond seems to vary from county to county in Nebraska. In some counties it is considered a civil action while in others it is considered a quasi-criminal action which must involve the county attorney. It is best to consult an attorney in your area concerning the use and effectiveness of a peace bond.

If someone has made serious threats to you or members of your family, and you fear bodily harm may result you may be interested in obtaining a peace bond. The person whom you are afraid of, or who is threatening you, must have given you a substantial reason to believe that the threats will be carried out. Many people make threats in a moment of anger that they never intend to carry out. However, if the person who is frightening, harassing, or threatening you has a past history of such conduct, or has attempted to carry out these threats, then the court will be more likely to believe there is good reason for issuing a peace bond.

After the complaint to keep the peace is filed with the court, a *warrant* for the person's arrest will be given to the sheriff. The sheriff will be directed to arrest this person and to bring them before the court. *Even* though the person has not yet physically hurt you, your property, or family, they can still be arrested.

Once arrested, the person is brought before the court and given an opportunity to contest the peace bond. (Contest means to fight it or argue it.) If the bond is to be contested, the person will have to post an appearance bond. This is an amount of money, set by the court, to make sure that the person will return to court for the hearing on the peace bond. At this time, a date will be set for the hearing.

At the hearing, the judge will determine if there is *just cause* to issue a peace bond against the person. If the judge believes there is good reason to do

so, the person will have to post a certain amount of money set by the court, and agree to be of good behavior for whatever period of time the court specifies, not to exceed one year. This is the peace bond. If the peace bond is violated, the money will be forfeited to the court.

Peace bonds are more suited to some circumstances than others. In the event that you may not wish a divorce or you may not be married, a peace bond would be one recourse other than criminal prosecution. There are, however, problems you should be aware of. If the person is intent on harming you, it is possible that the punishment of losing money by violating a peace bond will not be enough of a deterrent. If your spouse is the person threatening you, and your family has a limited income, the money required to institute the peace bond could seriously deplete family resources. Should you be beaten, the family's money would go to the court. Even so, there have been cases across Nebraska where peace bonds have been effective.

If you are in the process of a divorce, it might be better to obtain a *restraining order* in conjunction with the divorce proceedings. (See Injunctions and Restraining Orders, p.#29.) A *restraining order* is a court order and therefore, if violated, is punishable as contempt of court. This is punishable by a fine, a jail term, or both.

BASICALLY, IT IS THE PERSON AND THEIR RESPECT FOR THE LAW THAT DETERMINES WHETHER OR NOT A PEACE BOND IS OBEYED. Sometimes, just the idea of being arrested and knowing the threats are being made public and are no longer going unheeded is enough to stop abusers.

Peace bonds have been mentioned here because they have sometimes been effective. They may be able to help you. You and/or your lawyer will best be able to determine which course to take.

Torts

A tort is a wrongful action which one person has committed against another. Assault and battery, and false imprisonment are examples of torts. If you incur expenses such as medical or psychiatric bills as a result of an injury inflicted on you by another you may sue that person.

In Nebraska you must be able to prove your *damages* so keep doctor bills, costs to repair or replace eye glasses or clothing, or any other expenses which you incurred as a result of the tort. You may want to hire a lawyer (or go to Legal Aid if you qualify) to prosecute your claim. If the amount you claim is under \$500 you can pursue the claim yourself in Small Claims Court.

If you are married to the person who committed the tort against you, you will probably not be allowed to prosecute your civil claim under tort law because of the rule that one spouse may not sue another spouse for a tort. However, your husband may be liable to pay the bills for your expenses since a husband is usually responsible for the necessities of the wife.

Mental Commitment

Another civil remedy that you might want to consider is commitment. Under the Nebraska Mental Health Commitment Act, a mentally ill dangerous person is defined as one who presents:

- 1) A substantial risk of serious harm to another person or persons within the near future, as manifested by evidence of recent violent acts or threats of violence or by placing others in reasonable fear of such harm; or
- 2) A substantial risk of serious harm to themselves within the near future, as manifested by evidence of recent attempts at, or threats of suicide or serious bodily harm or evidence of inability to provide for their basic human needs, including food, clothing, shelter, essential medical care, or personal safety.

An alcoholic person, as defined by this section in the statute, is one who is addicted to the use of alcohol. An alcoholic dangerous person may be committed by a Mental Health Board Treatment disposition. However in practical application, alcoholics are only committed when considered mentally ill and dangerous.

In a critical emergency, where you believe the abuser to be mentally ill, or the abuser has a history of mental illness, the police can intervene. The peace officer can employ Emergency Protective Custody, taking the mentally ill abuser to a Mental Health facility or if there is none in their county, a jail facility. Emergency Protective Custody is used in very critical situations, usually where there is a history of mental illness, or if there is a strong fear that the person may cause immediate injury to them or others.

If the situation is not terribly critical and the abuser does not believe they are sick, you will need to contact the county attorney. The county attorney will take down the facts available regarding the person's behavior, to determine why you believe the assaulter to be mentally ill and dangerous. The county attorney then, makes the decision as to whether or not to file a petition with the Mental Health Board for a hearing. If the county attorney does not believe there is sufficient evidence of mental illness or alcoholism, the case will be dropped. If the county attorney decides to file the petition, you will have to sign it. This information will then be given to the abuser so they know who raised the complaint. If the county attorney refuses to act, you may in rare instances be able to obtain a court order requiring the county attorney to act. Check with a lawyer to be certain.

If, however, the county attorney concurs with your belief that the abuser is, or may be mentally ill, they will send a petition to the Mental Health Board. The petition states the facts, and verifies the belief that the person (abuser) is, or may be, mentally ill and dangerous and in need of hospitalization and treatment. The county attorney can approve a warrant to take the assailant into custody.

There is then a preliminary hearing on the matter with the Mental Health Board. Your lawyer will be present at this hearing but a psychologist, doctor, psychaitrist, psychiatric nurse, social service worker and/or person in the community interested in mental health issues may or may not be present at the preliminary hearing. The abuser has the right to an attorney and an independent medical examination. Basically, the hearing is to determine if this person is mentally ill, that is, dangerous to themselves or others, and perhaps needs to be committed. If so, the second hearing is very much like a court trial. At this hearing, each side gives evidence and a final decision is rendered. In order to make a treatment disposition, the board must find that no alternative less restrictive of the abuser's liberty is available or would be sufficient to prevent the abuser from doing harm to theselves or others.

If you believe that the person who is physically abusing you is mentally ill and your abuser will not voluntarily go for treatment, mental commitment may be a process to use. Remember a person who really is mentally ill may seriously need treatment. Since their state of mind is altered, they may not see a need for hospitalization or treatment. Care must be taken to see that the abuser/mentally ill person's rights are protected also.

Conciliation Court and Counseling

The conciliation court provides free and confidential counseling services to couples with problems which may result in divorce or disruption of their household or harm to a minor child. It is not necessary to file for a divorce in order to qualify for the services of the conciliation court.

After a divorce petition has been filed in district court, the court, on its own initiative, may order you and your spouse to conciliation court or counseling. If you have recently had marital counseling, conciliation court counseling may be waived by the district court. If the court does not order counseling either you or your spouse may request it even after the divorce petition has been filed.

In counties where there is no conciliation court, you and your spouse may be referred to qualified marriage counselors or family service agencies. Whether this is done depends upon each individual judge. Another factor taken into consideration by the judge is if there appears to be some reasonable possibility of reconciliation. Counseling provided by the conciliation court is free of charge. Usually, only two or three meetings are necessary with the conciliation counselor. The conciliation court simply tries to determine if the couple can or wants to work out their problems and attempt reconciliation. If the couple desires or needs additional counseling, the conciliation court can refer the couple to a counseling service where they can go for as long as they may want or need.

The conciliation court does not judge who is right or wrong. The conciliation court counselor will give a determination to the district court as to whether a possibility of reconciliation exists or whether the marriage is irretrievably broken.

Legal Separation

Legal Separation is a method where a husband and wife live separate and apart. It provides for the division of marital property, arrangements for support and maintenance and custody and support of minor children. In these respects it is similar to a divorce, but unlike divorce it does not dissolve the marriage.

Legal separation is used most often by those who:

- 1) Have religious objections to a divorce
- 2) Are not sure they want a divorce, but the home situation is too volatile for the person to continue living with the abuser.
- 3) Have not met the one-year state residency requirement for divorce.

Once the residency requirement is met, the legal separation can be changed to a divorce proceeding.

Divorce

Divorce is the dissolution of marriage. Nebraska has a "no-fault" divorce statute which means that it is not necessary to prove that one party caused the marital breakdown or was at fault.

In order to be granted a divorce either you or your spouse must demonstrate by testimony that the marriage is "irretrievably broken". Repeated physical abuse would be a factor which would probably lead a judge to believe that a marriage is irretrievably broken. Under the no-fault system, if you want a divorce, there is little your spouse can do to prevent you from getting one.

Divorce proceedings are lawsuits which are begun by filing a petition in district court. The spouse who files the petition is the "petitioner" and the other spouse is the "respondent." A petition is simply a sworn statement to the court stating that the marriage is irretrievably broken and certain rights as to property and children must be determined.

You must wait 60 days after your spouse has been given notice of the proceedings before the court can hold a final hearing (or trial) on the divorce. If at the trial, the judge determines that your marriage is in fact irretrievably broken, they will sign a decree so stating. This decree is not final until 6 months after its issued date.

For more detailed information on divorce, write the Nebraska Commission on the Status of Women, 301 Centennial Mall South, P.O. Box 94985, Lincoln, Nebraska 68509 for their publication entitled "Cutting the Knot: How to Survive A Divorce".

Obtaining Legal Services

The selection of an attorney often determines the outcome of a case. It is

important to retain an attorney who has had experience in family law, and who is familiar with recent court opinions.

How to select a Lawyer

Not all lawyers have extensive experience in the field of family law. Since the emotional involvement required in these cases is sometimes as hard on the lawyer as it is on the parties, it is not always a popular area of practice. Attorneys complain that clients often treat them as they would their best friend. They make endless calls about inconsequential matters, heap their personal problems on the office staff, and call the attorney's home late at night. A good understanding lawyer knows that divorce is a stressful time and will refer the client to a counselor if it seems necessary or helpful.

Reputation. There may be a group of attorneys in your community who specialize in family law. Find out who they are and go see one or two of them to discuss your problems. (Ask beforehand how much, if anything, will be charged for this initial consultation.)

Attorney Referral. Other lawyers may have a less public but nonetheless impressive reputation in the legal community. Very often your family lawyer or a lawyer working in another field can recommend such an attorney to you. An attorney recommending another is often placing themselves in a position of endorsing the other, so the recommendation will not be made lightly.

Friend/Advocate Referral. Another way to locate and rate a lawyer is to ask a community volunteer or friend who their lawyer was and if they were satisfied with that lawyer's services. In listening to your friend's recommendation, remember that no one is entirely satisfied with the outcome of their case, and many people tend to place the blame on the lawyer. However, some criticism may be well-founded. Sometimes the client in the office of a lawyer feels as if their case is not receiving the personal attention they feel it deserves.

Bar Associations and Legal Services. Local bar associations or Legal Services Corporations usually maintain referral services. If they do not, they can tell you who does. Legal Services referrals, when available, are open to anyone, not just those with low incomes. A listing of Legal Services is included in Appendix D. Since these agencies are in the process of expanding, additional counties may now be covered. Check with the nearest Legal Aid Office for the most up-to-date information on the areas they serve and the types of cases they handle.

Yellow Pages. If all else fails, use the Yellow Pages of your telephone directory just as you would shop for any other service.

Meeting With Your Lawyer

You will have an initial interview with a lawyer prior to their taking your case. There is generally no fee for this interview, but you should check this out when you make the appointment.

At this time, the lawyer will ask you for factual information about the case. The attorney will need to know dates of past attacks and whether or not you can document this information. This is where police and medical reports will be of assistance. If you have any witnesses to the attack, be prepared to give their names.

Remember that all information will be held confidential

You will probably discuss options that you can use legally to restrain your abuser and protect yourself. If you have an option in mind, do not be afraid to mention it. Remember that the attorney has had more experience with the courts and may be able to recommend a better legal remedy.

Although you must be prepared to answer questions, be prepared to ask them as well. **WRITE DOWN A LIST OF EVERYTHING YOU WANT TO KNOW.** Take your questions with you, and plan on staying until they are answered to your satisfaction. If they are not satisfactorily answered or if your lawyer does not please you, this is the time to switch lawyers or keep looking.

The initial interview is also the time to discuss fees. You are entitled to know exactly how you will be billed, such as, by the hour, or at a flat rate, and what court fees you will have to pay. If you feel the amount is too high, check with other lawyers or the local bar association to get other estimates on the service.

It is possible that the lawyer may not think you have a case or may not want to handle your case. If you still feel you have a valid case, do not give up. Contact other lawyers until you find one you like.

CRIMINAL ACTIONS

Filing criminal charges is a severe and drastic step, but it is often an appropriate option for a victim of domestic violence. At one time, the most the law could do to prevent further violence being inflicted on the victims of domestic violence was to send the abuser to prison. Now, if the offender is your spouse, the courts can mandate counseling as a provision of probation. Successfully prosecuting your spouse could guarantee that they would receive needed counseling. Still, to many victims, this option may be infeasible. You may not want to acknowledge to the outside world that you are battered. You may be economically dependent on your abuser and concerned that the court would decide on imprisonment, not probation. You may be emotionally broken as a result of the beatings, and may not feel you can handle the emotional strain of a trial.

For many victims, however, criminal prosecution is a viable option. By

criminally prosecuting the assailant, you are acknowledging that a crime has been committed against you, and that you do not intend to let it continue.

Also if you choose not to seek a divorce, or if you are not legally married, criminal prosecution may be the best avenue for you to take.

You must be firm in your resolve to follow the case through to the end. It is up to you to pursue a solution to the problem. Barriers will sometimes seem to be put in your way by the court system, lawyers, and police. Be firm and keep your goal in mind. The more frequently these cases are brought before the court and the public, the better the possibility of the courts and public realizing that domestic violence is a widespread problem, requiring legal and societal changes.

You have been the victim of a crime, and it is your legal right to sign a complaint against your assailant. Remember signing a complaint is only the first step in a process that may take many months. Those steps which are likely to involve you directly and which you will need to know more about are discussed in greater detail on the following pages.

The Police

The police are usually the first to arrive at the scene after a crime has been committed. Although you have just been through a physically and emotionally painful ordeal, it is important that you cooperate with the police. Stay as calm and rational as you can. Give the police a clear account of the assault. Keep to the facts, it will not help to tell them anything that is not pertinent to the assault. If the officers seem reluctant to intervene or to arrest, you should:

- 1) Be firm with them, indicating that you want to file a complaint and your assailant arrested.
- 2) Write down the officers' badge numbers.
- 3) Write down the number of the police report in case you should need to get in touch with the police department again concerning the assault.
- 4) Have the police take pictures of any injuries you have received.
- 5) Read the police report before you sign it. Police reports may be used for future proceedings. Remember that the police might not have been witnesses and therefore must report both sides of the story. They will also note other relevant evidence. If you feel they have misreported something, calmly bring it to their attention. The officers may change the report. If not, do not be discouraged. You will have a chance to state your case in court.

Remember that domestic violence calls are the most dangerous call an officer can answer. More policemen are killed or injured when answering this type of call than in answering calls of any other single category. They are also frustrated because most victims do not press charges and follow through.

Arrest and the Victim's Role

If the police witness the assault in progress, they can make an immediate arrest if you want to press charges. According to Nebraska State Law (Sect. 29-404.02), the police may arrest without a warrant if they have reasonable grounds to believe that a person has committed:

- 1) A felony, or
- 2) A misdemeanor, and the officers have reasonable cause to believe that the person either;
 - (a) will not be apprehended unless immediately arrested;
 - (b) may cause injury to them or others or damage to property unless immediately arrested;
 - (c) has committed a misdemeanor in the presence of the police.

(See Appendix A for description of charges and punishments.)

Your firmness and desire to have your assailant arrested play an important role here. If you are unsure of yourself and do not know if you want your assailant arrested, the police will be unlikely to arrest. The police can see that you are serious about prosecuting or taking some action, they will be less reluctant to either arrest or have a warrant issued for you assailant.

The Warrant

After the police investigation, and after you have signed a complaint, the complaint will be given to the county attorney. The county attorney will decide whether criminal charges can be brought against your assailant. The county attorney will need to interview you to be sure of the facts. You should bring any hospital or medical reports, including photos, with you to show the county attorney. The county attorney will recommend a *warrant* if:

- 1) The facts show that a crime has been committed under Nebraska law and;
- 2) There is enough proof to show *probable cause* to believe that the person who has been complained of committed the crime.

The county attorney decides which criminal law has been broken, and signs a form to be given to a judge for a warrant. The judge ultimately has the authority to decide to issue the warrant. If he signs the warrant, the police will then begin to look for the assailant.

Remember some county attorneys are very pessimistic regarding spouse abuse cases. It is their experience that most victims who begin this process, drop the charges eventually. On the whole, they feel it is a waste of their time. Keep this in mind when talking to the county attorney. Do not let them talk you out of prosecuting if you intend to. Your firmness will go a long way in convincing the county attorney of your intentions. As a last piece of advice if you think you may be nervous or intimidated when talking to the county attorney, take along a local community advocate, supportive friend or relative.

The Arraignment

An arraignment is the formal process whereby a person charged with a crime is read the charges and asked to plead guilty or not guilty.

Misdemeanor. If the crime is a *misdemeanor*, the lawyer of the defendant (assailant), will sometimes waive the reading of the charges and enter a plea.

Felony. If the assailant is charged with a *felony* the arraignment is held as soon after the arrest as possible. The defendant is arraigned by:

- 1) Reading the *indictment* or information to the defendant.
- 2) Asking whether the defendant is guilty or not guilty of the offense(s) charged.

The judge will advise the defendant of their legal rights. If the defendant cannot afford an attorney, the court will appoint an attorney for the defendant. You need not be present at the arraignment but for your own information, you may want to attend.

The Preliminary Hearing

A preliminary hearing is held to determine *probable cause*. The prosecutor (county attorney) must show that a crime has been committed and that there is *probable cause* to believe that the defendant (assailant) committed it. The state will not offer all of its evidence at this time, only enough to show that reasonable or *probable cause* exists to carry the case forward. If the court is convinced that there is probable cause it will order the defendant to go to trial.

The defendant has the right to waive a preliminary hearing. However, unless you have been told that the defendant has waived the preliminary hearing--you must be present. All witnesses must be present for the preliminary hearing because the defendant has the right to know the evidence and witnesses against them. If you and any other witnesses are not present, the case could be dismissed and the defendant could be released.

You and/or the witnesses may be asked to take the stand, stating your name(s) and what you know about the assault. You will probably be cross-examined by the defense attorney. Testifying can be an emotionally trying experience. Your attorney, or community advocate should prepare you for this experience.

When testifying:

- 1) Do not lie or exaggerate--honesty is the best policy. If the court catches you in a falsehood, your case could be seriously hurt.
- 2) Wait a moment before answering the defense attorney. This gives the prosecuting attorney the opportunity to object if they so wish.
- 3) If you are unsure of an answer say, "I don't know", rather than giving confusing testimony.
- 4) Answers should not sound too rehearsed or unemotional.

These suggestions also apply to testifying at the trial.

Plea Bargaining

Plea bargaining may take place at any time during the criminal process. The defense attorney may approach the county attorney to discuss the possibility of a plea bargain. The objective of plea bargaining is for the defendant to plead guilty to a lesser charge to avoid standing trial for a more serious one. County attorneys will use plea bargaining for many reasons. Plea bargaining can relieve the county attorney and the court of an ever increasing caseload. Also, the county attorney may feel that actually convicting the defendant of the higher charge will be improbable. The county attorney would rather make sure the defendant gets convicted of a lesser charge than risk the possibility that the defendant be found not guilty of the original charge. This can relieve you from testifying at an emotional trial, but it may also mean a lighter punishment for your abuser.

Since the county attorney is prosecuting your case for the state, you may not necessarily be consulted during the plea bargaining process.

The final plea will be accepted by the judge. If the judge determines that the defendant is guilty, a date for sentencing will then be set.

The Trial

You will be notified by the court of the date the trial is to take place. You must attend the trial. If the trial gets postponed try not to be discouraged, this may happen many times before the trial finally takes place. The County Attorney prosecuting the case may not be the same person who presented the case at the Preliminary Hearing. You will be examined (questioned) by the prosecution and cross-examined by the defense. It would be a good idea to attend one or two trials beforehand to become accustomed with courtroom procedure. The more familiar it is, the less nervous you will be at the trial. If it has been a jury trial, after both attorneys' closing arguments, the jury will be excused to make their decision. The jury must decide beyond a reasonable doubt the guilt of the defendant (assailant). If the jury decides the defendant is guilty, the judge will set a date for sentencing. At this time, the defendant may appeal. If the verdict is not guilty, the defendant is acquitted and set free.

The legal system, though it may seem complicated, drawn out, or insufficient at times, is there for you to use. It is hoped that by giving you summaries of some of the legal options available to you, you will be familiarized with them. The knowledge of these options should enable you to choose which, if any, you would like to pursue. Your own circumstances, and your own objectives will ultimately decide which of the legal remedies would be best for you. Whatever you do decide to do **STICK WITH IT** and good luck!

RELOCATION

Some victims have found that the only way to escape their assailants is to move to another town. Some have been forced to leave the state to escape future abuse. It is not easy to relocate and is all but impossible without assistance.

Besides the physical move, it may become necessary to find employment, arrange for transferring school records (if children are involved), and possibly even change your name. It may be wise to contact a lawyer before taking such a drastic step as relocation. Local advocate groups and social service agencies may also be able to assist you.

SUMMARY

It is important to remember that domestic violence is only now beginning to be recognized as a major problem. Therefore, it is to be expected that specifics listed in this guide will change. The general philosophy will more than likely remain the same; and it is with this understanding that this booklet is called a guide.

Remember that it is important to explore all the alternatives. Do not let anyone push you into a decision. If you feel this is happening, or if you feel no one believes you, you need an advocate who can be a friend to you. For location of advocacy programs, contact your local welfare office.

Nebraska Department of Public Welfare

The Department of Public Welfare is in charge of establishing comprehensive services for the abused, abuser and children. Eldin J. Ehrlich, Director, Department of Public Welfare, has initiated the implementation of Nebraska's Domestic Violence Act through a special communication to community leaders. Letters were sent to 1,500 persons whose position in the community could directly influence the availability of services for individuals and families involved in domestic violence. Every community and county was encouraged to begin a planning effort to identify and develop those services which the community needs.

Many communities have already made specific plans to assist persons involved in domestic violence. These communities were assisted by the Nebraska Commission on the Status of Women who developed community awareness programs and encouraged the development of local Task Forces on Domestic Violence.

Future activities in the Department of Public Welfare will include adding special staff for domestic violence and conducting statewide seminars through which a state plan will evolve. Also, special attention will be directed to those communities who need additional resources to provide emergency and basic services. Finally, special seminars will be developed for specific segments of the service spectrum. These will include law enforcement, hospital emergency rooms, ministerial associations, interested volunteers, judges, and school administrators.

Nebraska will have a statewide program for individuals and families affected by domestic violence, using existing community resources and supplemented by the Department of Public Welfare.

To receive additional copies of this guide contact:

Nebraska Department of Public Welfare
301 Centennial Mall South, 5th Floor,
P.O. Box 95026
Lincoln, Nebraska 68509 402/471-3121

APPENDIX A

CRIMINAL CHARGES & PENALTIES

CRIMINAL CHARGES AND PENALTIES
ASSAULT

First Degree

A person commits the offense of assault in the first degree if they intentionally or knowingly cause serious bodily injury to another person.

This is a Class III felony and is punishable by a maximum of 20 years imprisonment, or twenty-five thousand dollar fine, or both. Minimum sentence is one year imprisonment.

Second Degree

A person commits the offense of assault in the 2nd degree if they:

- a) Intentionally or knowingly cause bodily injury to another person with a dangerous instrument; or
- b) Recklessly cause serious bodily injury to another person with a dangerous instrument.

This is a Class IV felony, which is punishable by a maximum of five years imprisonment, or ten thousand dollar fine, or both. There is no minimum penalty.

Third Degree

A person commits assault in the third degree if they:

- a) Intentionally, knowingly or recklessly cause bodily injury to another person; or
- b) Threaten another in a menacing manner.

This is a Class I misdemeanor and is punishable by a maximum of not more than one year imprisonment, or one thousand dollars fine, or both. There is no minimum penalty.

The assault shall be a Class II misdemeanor if it is committed in a fight or scuffle entered into by mutual consent. The maximum sentence shall then be six months imprisonment, or one thousand dollar fine, or both. There is no minimum penalty.

NE Rev Stat 28-308, 28-309, and 28-310

DISTURBING THE PEACE

Someone is guilty of disturbing the peace if they intentionally disturb the peace and quiet of any person, family, or neighborhood.

This is a Class III misdemeanor, the maximum penalty of which is three months imprisonment or a five hundred dollar fine, or both.

INTOXICATION

UNTIL JANUARY 1, 1979 any person who is intoxicated or under the influence of alcohol may be arrested by a police officer and charged with a misdemeanor of intoxication.

AFTER JANUARY 1, 1979 it will no longer be a criminal offense to be intoxicated in Nebraska. However, the fact that a person is intoxicated by alcohol will not prevent that person from being arrested or prosecuted for the commission of any criminal act. For example, a person may still be arrested if they are driving while intoxicated, drinking in a prohibited place (e.g., a public park), disturbing the peace, assaulting someone, or committing any other unlawful act. A peace officer may take an intoxicated person who is not breaking any law to a place of safety which may include an alcoholism treatment center or health clinic.

APPENDIX B

CRISIS LINES

CRISIS LINES, OPERATED BY
NEBRASKA COMMUNITY MENTAL HEALTH CENTERS
DECEMBER 1977

<u>Agency</u>	<u>Crisis Line Number</u>	<u>Area Served (Counties)</u>
Panhandle Mental Health Clinic 24 Hour emergency number	(308) 635-3171	Catchment Area 1: Sioux, Dawes, Box Butte, Sheridan, Scottsbluff, Banner, Garden, Kimball, Morrill, Cheyenne, Deuel
Great Plains Mental Health Center Crisis Line	(800) 662-2908	Catchment Area 2: Grant, Hooker, Thomas, Arthur, McPherson, Logan Keith, Perkins, Lincoln, Dawson, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow
South Central Community Mental Health Center, Kearney Crisis Line Domestic Violence	(308) 234-1867 (308) 237-5951	Part of Catchment Area 4: Buffalo, Phelps, Kearney, Furnas, Harlan, Franklin
South Central Community Mental Health Center-Hastings Crisis Line	(402) 462-6800	Part of Catchment Area 4: Adams, Clay, Webster, Nuckolls
South Central Community Mental Health Center, Holdrege Crisis Line	(308) 995-4483	Part of Catchment Area 4: Phelps
Northern Nebraska Comprehensive Mental Health Center Toll-Free number	(800) 672-8323	Catchment area 5: Cherry, Keya Paha, Brown, Rock, Boyd, Holt, Knox, Cedar, Dixon, Dakota, Antelope, Pierce, Wayne, Thurston, Madison, Stanton, Cuming, Burt, Boone, Nance, Platte, Colfax
Community Mental Health Center of Lancaster County 24 Hour Emergency number	(402) 475-9561	Catchment Area 5: Lancaster County
Blue Valley Mental Health Center Beatrice 24 hour Emergency number	(402) 228-3411	Catchment Area 7: Thayer, Jefferson, Gage, Otoe, Johnson, Nemaha, Pawnee, Richardson
Immanuel Community Mental Health Center Crisis Line	(402) 572-2377	Catchment Area 8: Dodge, Washington, North Omaha, and rural Douglas County
Douglas County Hospital Community Mental Health Center 24 Hour Emergency number	(402) 444-7000	Catchment Area 9: Central Omaha

APPENDIX C

RAPE LINES/CENTERS

RAPE LINES/CENTERS

Women Against Violence
1819 Farman, Rm. 501
Omaha, Ne 68102
402 345-RAPE (7273)

Rape Crisis Center
2545 "R" Street
Lincoln, NE 68503
402-475-RAPE (7273)

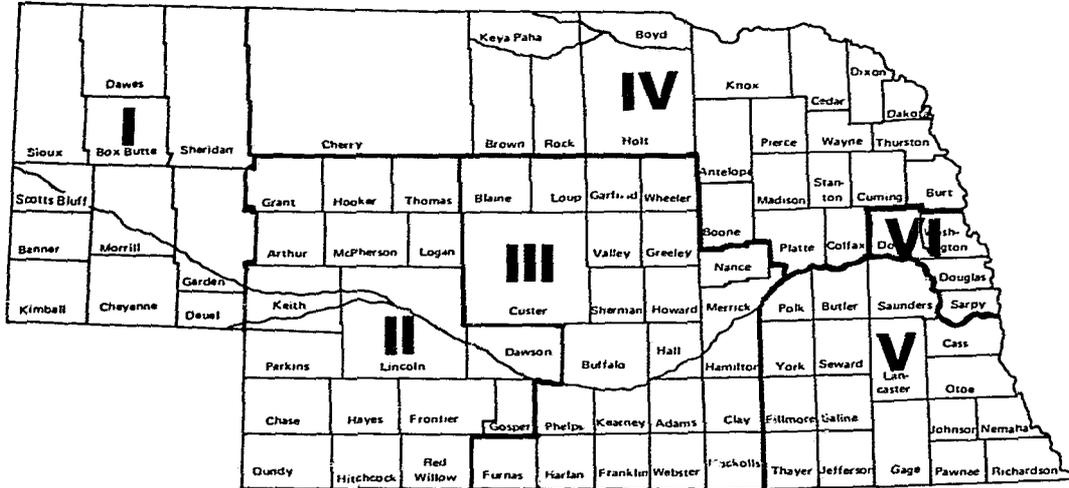
South Central Community Mental Health Center
West Highway 30 and 19th Street
Kearney, NE 68847
308-237-5951 (6 a.m.-6p.m.)
Personal Crisis
308-234-1867 (6 p.m.-6 a.m.)

APPENDIX D

MAPS

- I. Nebraska Department of Public Welfare--Regional Offices
- II. Nebraska Community Action Agencies
- III. Legal Services
- IV. Mental Health Catchment Areas
- V. Mental Health Facilities, Services, and Programs

NEBRASKA DEPARTMENT OF PUBLIC WELFARE
REGIONAL OFFICES



S1

I. Regional Office No. I
1501 Broadway
Scottsbluff, NE 69361
(308) 635-1933

II. Regional Office No. II
State Office Bldg.
200 So. Silber
North Platte, NE 69101
(308) 534-6780

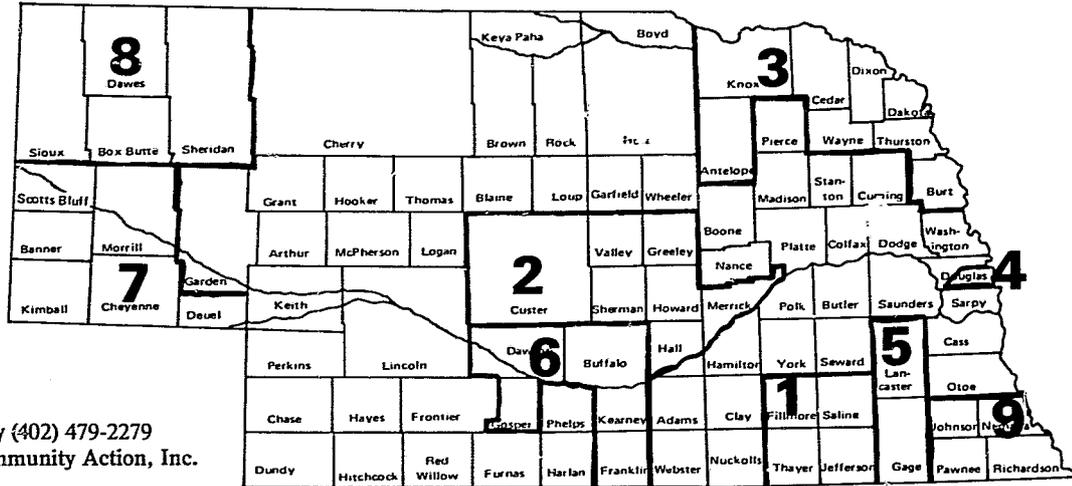
III. Regional Office No. III
3235 South Locust
Grand Island, NE 68801
(308) 382-0376

IV. Regional Office No. IV
Bldg. #11, Norfolk Regional
Center
Norfolk, NE 68701
(402) 371-6506

V. Regional Office No. V
124 No. 11th, 4th Floor
Lincoln, NE 68508
(402) 471-2741

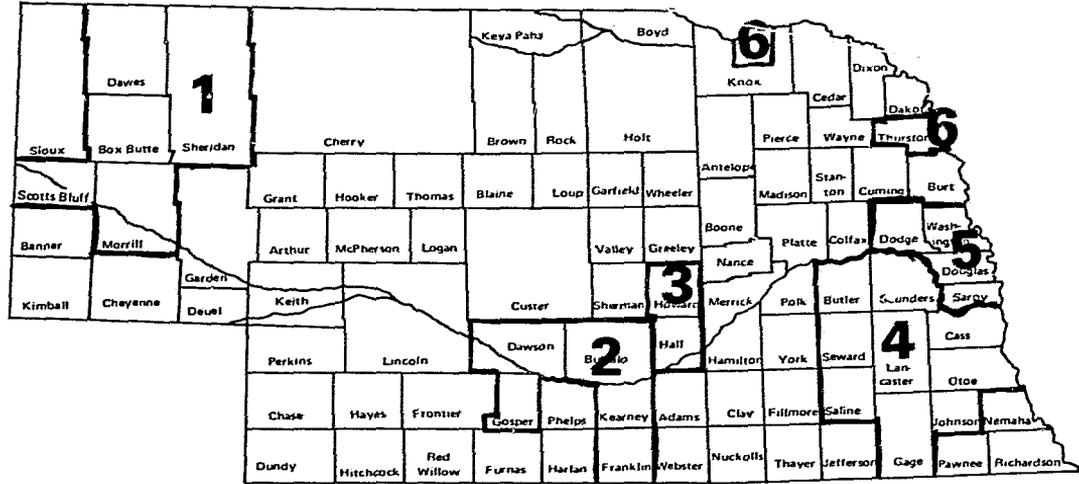
VI. Regional Office No. VI
405 South 16th
City National Bank, Room 1120
Omaha, NE 68102
(402) 554-2021

NEBRASKA COMMUNITY ACTION AGENCIES
 As officially recognized by Community Services Administration



- | | |
|---|---|
| <p>1. BVCA--Fairbury (402) 479-2279
Blue Valley Community Action, Inc.</p> <p>2. CNCS--Loup City (308) 745-0780
Central Nebraska Community Services, Inc.</p> <p>3. GRHCAC--Walthill (402) 846-5493
Goldenrod Hills Community Action Council, Inc.</p> <p>4. GOCA--Omaha (402) 341-8060
Greater Omaha Community Action, Inc.</p> <p>5. LAP--Lincoln (402) 475-4961
Lincoln Action Program, Inc.</p> | <p>6. MNCAP--Kearney (308) 234-2591
Mid-Nebraska Community Action Program, Inc.</p> <p>7. NPCAA--Gering (308) 436-5076
Nebraska Panhandle Community Action Agency, Inc.</p> <p>8. NWNAC--Chadron (308) 432-3393
Northwest Nebraska Community Action Council, Inc.</p> <p>9. SENCAC--Humboldt (402) 862-2411
Southeast Nebraska Community Action Council, Inc.</p> |
|---|---|

LEGAL SERVICES OF NEBRASKA



53

1. Panhandle Legal Services, Inc.

1724 2nd Ave.
 Scottsbluff, Ne 69361
 (308) 632-4734

2. Legal Aid

Box 1040
 Kearney, NE 68847
 (308) 234-2591

3. Grand Island Legal Aid

Box 1968
 Grand Island, NE 68801
 (308) 381-0517

4. Legal Services of SE Nebraska

800 Anderson Bldg.
 116 No. 12th
 Lincoln, NE 68508
 (402) 435-2161

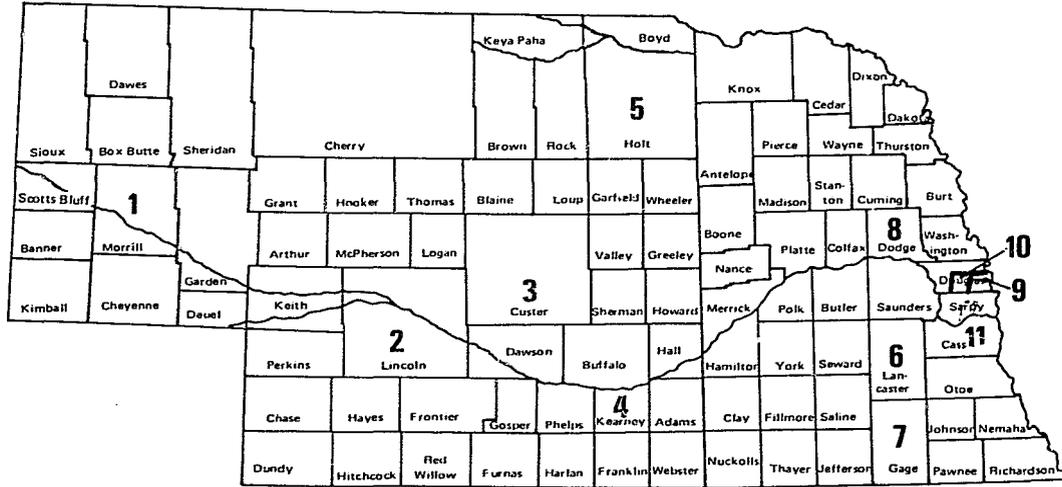
5. Legal Aid Society of Omaha, Inc.

700 Farnam Bldg.
 1613 Farnam Street
 Omaha, NE 68102
 (402) 348-1060
 (800) 642-8222

6. Inter-Tribal Legal Services

Box 682
 Winnebago, NE 68071
 (402) 878-2242

STATE OF NEBRASKA
MENTAL HEALTH CATCHMENT AREAS

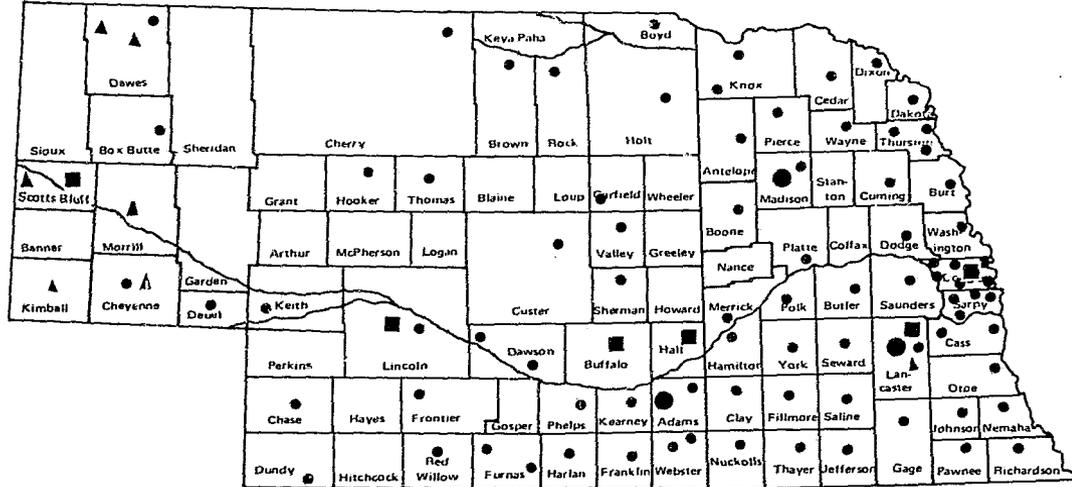


- CA 1 - Panhandle--Scottsbluff (308) 635-3171
- CA 2 - West Central--North Platte (308) 471-3211
- CA 3 - Mid Nebraska--Grand Island (308) 382-1943
- CA 4 - South Central--Kearney (308) 237-5951
- CA 5 - Norfolk (402) 371-7530
- CA 6 - Capitol--Lincoln (402) 475-9561

- CA 7 - Far Southeast--Beatrice (402) 228-3386
- CA 8 - North Omaha Metro--(402) 572-2916
- CA 9 - Mid-Omaha Metro--(402) 444-6345
- CA 10 - West Omaha Metro--(402) 444-6543
- CA 11 - South Omaha Metro--(402) 444-6405
- CA 12 - Pioneer--Seward (402) 643-3343

STATE OF NEBRASKA

STATE OPERATED OR AFFILIATED MENTAL HEALTH FACILITIES, SERVICES AND PROGRAMS*



● REGIONAL CENTER

■ COMMUNITY MENTAL HEALTH CENTER (FEDERALLY FUNDED)

● COMMUNITY CLINIC, SERVICE CENTER OF AFFILIATE FACILITY

▲ CHILDREN'S PROGRAM

*As of March, 1978

For Addresses, Hours, and Phone Numbers of Local Programs Contact:
 Nebraska Department of Public Institutions, Medical Services Division
 P.O. Box 94728, Lincoln, NE 68509 (402) 471-2851

GLOSSARY

Appeal: Applying for review of a case to a higher court.

Breach of Contract: Failure to perform any promise which is part of a contract.

Contempt of Court: Failure or refusal of a party to obey a court order, injunction, or decree; any act tending to obstruct or defeat the administration of justice.

Contract: An agreement between two or more persons that creates, changes, or destroys a legal relationship. An agreement, to do or not do something, that is legally binding.

Damages: The amount of money which may be recovered by a person who has suffered a loss or injury because of the unlawful act of another.

District Court: The District Court is the trial court in Nebraska for matters such as divorce. The District Court along with the county courts try criminal matters; which court is used depends on the severity of the crime.

Enjoin: To require or command; to require a person to perform or to refrain from doing some act.

Ex Parte Orders: Orders granted by the court for only one party, and for the benefit of that one party only; these orders can be requested without notice to the opposite party. (e.g. restraining orders, injunctions).

Felony: A serious crime, differing from a misdemeanor by carrying a more severe punishment, i.e., a jail term of more than one year.

Filing Fee: A charge assessed for having a petition registered with the court.

Indictment: A formal written statement charging a person with committing a crime.

Injunction: A writ or order issued by a court forbidding the defendant to do some acts which they are threatening or attempting to commit.

Just Cause: Fair, honest, and reasonable proof to justify the accusations made.

Misdemeanor: A crime less serious than a felony and having a lesser punishment, i.e., a jail term of less than a year, or a fine.

Order: A written command directing courses of action that the recipient must comply with.

Petition: The first written statement filed in a case by the person bringing the case to court. The petition states what the case is about and what is being asked of the court.

Probable Cause: Reasonable grounds to believe that the person being complained of committed the crime.

Reconciliation: To restore harmony, forgive prior injuries, and settle differences in a marriage or relationship.

Respondent: The person against whom a charge, complaint, or petition is brought; also called defendant.

Restitution: Making good any damages either by paying money, or substituting with an article of equivalent value.

Restraining Order: For all practical purposes, restraining orders are the same as injunctions and may be used interchangeably.

Security: Something given, deposited, or pledged, (usually money) to make certain a promise is fulfilled.

Sufficient Surety: As much insurance as is necessary to insure the paying of an amount of money or debt.

Sustain Damage: To suffer personal injury, loss of property, or loss of personal rights.

Warrant: An official document that authorizes an officer to make a search, seizure, or arrest.

RESOURCE LIST

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RAPE

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