

Montgomery County Government
Department of Health



Partners for Change: You and the Courts

A Guidebook for
Victims of
Domestic Violence

CR-Sent

MFL

113872

113872

**U.S. Department of Justice
National Institute of Justice**

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this ~~copyrighted~~ material has been granted by

Public Domain/Montgomery
County Government

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the ~~copyright~~ owner.

Domestic violence among spouses and mates has become a well recognized occurrence in our community. In 1983, law enforcement authorities in Montgomery County reported 425 incidences of spousal assaults to state authorities, an increase of 6 percent over the previous year. The Community Crisis Center logged contacts with over 800 families who expressed fear or concern about intra-family abuse.

Approximately 1,000 cases of assault among spouses and/or mates are initiated in Montgomery County Criminal Courts each year. Spousal and mate-related abuse occurs in all segments of our community.

This guidebook is published by the Montgomery County Government under the sponsorship of the Abused Persons Program of the County Health Department in cooperation with the Police Department, the State's Attorney's Office, the District Court, the Sheriff's Department, and the Commission for Women. It was written by Carolin B. Head, Contractor to Montgomery County.

The support and guidance provided by the Montgomery County Executive's Task Force on Domestic Violence and the Criminal Justice System, chaired by the Honorable Rosalyn B. Bell, now of the Maryland Court of Special Appeals, played a major role in the successful completion of this project, and as such, deserves special acknowledgement.

NCJRS

OCT 14 1988

ACQUISITIONS

Table of Contents

Introduction	3
Why domestic violence occurs	3
Importance of taking action	4
First Steps to Take When Abuse Occurs	5
Protect yourself	5
Call the police	5
Leave the scene	5
The Legal System and You:	
Partners for Justice	7
Using the Criminal Courts	8
Filing Assault and Battery Charges with the Court Commissioner	8
Contacting the State's Attorney's Office	10
How to Monitor Your Own Case	11
Getting More Information: Pre-trial Group Screening Program	12
Another Option for You: Court-Ordered Counseling	13
Going Through the Trial	13
Understanding the Spousal Privilege	14
How to Handle Cross-Examination	15
Understanding Sentencing Alternatives	17
Using the Civil Courts: the Civil Order of Protection	18
Where and When to Begin the Process	19
Purposes and Limitations of the C.O.P.	19
Petitioning the Court	20
C.O.P. Hearing	20
Possible Problems of the C.O.P.	20
Advantages of the C.O.P.	21
Alternatives to Legal Procedures: Counseling Resources	21
Your Active Partnership is Essential for Positive Change	23
Glossary of Legal Terms	24
Useful Telephone Numbers	26
Maps	27

Introduction

Domestic violence among spouses and mates is a serious problem. In Montgomery County, as in every community, domestic violence occurs so regularly and frequently that many persons—primarily women—live in continual fear. In Maryland, **it is a crime to assault any person**, regardless of whether that person is a spouse, a lover, or a roommate. All persons have a right to live free of fear, abuse, and violence. If you are being or have been beaten or abused, the legal system can help you—but only if **you take action** and follow through with court procedures. If you don't take action, the abuse will probably worsen.

This guidebook has been prepared to help you understand and effectively use the legal options available to you. Please read it all the way through and keep it in a secure place. If you should have further questions, the guidebook includes several phone numbers where you can get assistance. Remember . . . help is available when **you take action. You and the court system can be partners for positive change.**

WHY DOMESTIC VIOLENCE OCCURS

Domestic violence is an old problem. Unfortunately, in our complex and rapidly changing society, some persons believe it is acceptable to relieve their stressful feelings of anger, worry, frustration and failure by abusing their spouses or mates. Abusers often find it difficult to talk about their feelings; many abusers lack self-confidence. Also, some women have been raised to believe that their spouses or mates have the right to abuse them. Many victims blame themselves for having caused the conflict. Sometimes one or both partners grew up in a violent home; they may not know how to handle conflicts without hitting and hurting. Also, drug and/or alcohol abuse are sometimes present in domestic violence cases.

As a result of the women's movement, state laws have been changed to make it easier for abused persons, who are still primarily women, to get help from the courts to protect themselves from further violence. While the courts or legal systems by themselves cannot always keep an abuser from being violent, a combination of approaches which includes counseling programs can help you solve the problem of abuse. This

guidebook will describe the legal remedies and other resources available to you in Montgomery County. To use them, you must take **action**. **You do not have to live with violence.**

IMPORTANCE OF TAKING ACTION

Physical abuse continues because it is allowed to continue. In Maryland, abuse of any person is against the law. It is never all right to assault another human being. If you do not take action to protect yourself, it is very likely that you will be abused again.

Assault is a crime, even when it occurs between spouses or mates. Many victims are afraid to take action because they have been told:

- The abuser will be put in jail, lose a job, or be unable to support a family.
- The abuser may have threatened to kill you or call you an unfit parent or withhold child support if you take action to stop the abuse.
- No one will believe you anyway.

In most cases, these things do not happen. These are scary tactics to prevent your taking action to stop the abuse. Such corrective action is a sign of responsible adult behavior. If your past behavior concerns you, or if you fear your mate will try to make you look bad in court, discuss your concerns with the State's Attorney before the trial takes place. Nothing you may have done justifies abuse. Once you decide to take action, the court can be an effective partner for positive change.

First Steps To Take When Abuse Occurs

PROTECT YOURSELF

Very little can be said or done to make an abuser stop in the heat of a violent argument. Making insulting remarks may further anger the abuser. So will hitting back, although you should use your arms to protect your face, head and body from blows as much as possible.

CALL THE POLICE (DIAL 911)

■ Call the police and ask that a complaint report be made. You must be prepared to follow through with your complaint. Remember . . . ASSAULT IS A CRIME. The crime you are reporting is serious.

The police are trained to keep peace in the community. They will probably separate you and your mate to calm you both down. They can arrest the abuser only if they witnessed the abuse OR if your mate committed a felonious assault (that is, an assault with a deadly weapon or an assault with intent to maim or murder). In these cases, the police can arrest without having seen the abuse take place. If your abuser has threatened to kill you or to do serious bodily harm, and has the ability to do so, such a threat also constitutes an assault.

■ Relate the facts of the assault calmly and firmly to the police. Request that they make a written report. If an assault has occurred, the police should do this. Write down the number of the police report, as well as the name of the police officer responding to your call. This information will help you later in working with the State's Attorney.

■ If you need medical care, ask the police officer to transport you. You will, however, be responsible for the cost of any medical examination and treatment.

LEAVE THE SCENE

Remain calm, then leave the scene of the violent incident as soon as you can. It is important for your abuser to see that you will not tolerate violent behavior and will seek necessary help. Seek temporary shelter

with a neighbor, relative, or friend. Or call the Abused Persons Program at the Community Crisis Center (654-1881) to seek shelter. This phone number is in operation and staff members are available 24 hours a day. The Crisis Center can shelter abused persons and their children for a period of up to three weeks.

When you leave your home for temporary shelter, it's a good idea to take the following with you, if you have the time to collect them:

- birth certificate for yourself and your children
- marriage certificate
- proof of residence in County for six months (utility bills or rent receipts)
- pay stubs of your employment
- children's report cards
- driver's license or other ID
- social security cards
- photo of the abuser

If you are seriously injured, seek medical help immediately. Even if you seem to be only slightly injured, you would be smart to see a doctor as soon as it is practical for you. Be sure to tell the doctor **how** you were injured. Ask a friend, relative, or neighbor to take photos of your injuries, although some injuries do not show up until hours or days later. Photographs of your injuries and medical records may be introduced as evidence in court.

Once you are in a safe place, you may need to return home to get personal belongings left behind. If you should need to do this, call the police (911). They are required by state law to accompany you to your home while you collect some personal belongings* and/or the above listed documents, but **you must ask** for this protection. The police are also authorized to **enter** your family home to protect you while you do this, if your abuser may still be in the home or may be armed and dangerous. Although the police do not **automatically** enter the family home with an assault victim, if you have good reason to be afraid of your abuser, **ask** the police officer to come inside your home with you. **You are worth it.** Some victims have been assaulted, seriously injured or murdered when they returned to their homes without protection after a violent incident with their mates. However, if your abuser has a history of dangerous or unstable behavior,

it would not be sensible for you to enter the home, even with police protection, while he or she is there. More police officers are killed on domestic disturbance calls than when answering any other call for assistance; therefore, they are understandably reluctant to enter a building which contains a violent person, and are not required by law to enter your home with you if they decide the situation is too dangerous. Sometimes it is better to retrieve your personal belongings when the abuser is not in the home. If the abuser refuses to leave the home, you may use the Civil Order of Protection (described later in this guidebook) to help you solve this problem. Remember . . . **Spousal assault is a serious crime.** Don't take unnecessary chances with your life.

Now you are ready to seek legal help through the courts.

* "Personal belongings" in this situation are understood to mean clothes, medicines, toiletry items, personal documents, and other small, packable items for you and the children for your **temporary** stay away from the home. You should not remove TVs, stereos, furniture, silver, or large household items.

The Legal System and You: Partners for Justice

There are three things the law can do when abuse occurs between spouses or mates:

- Punish the offender
- Aid the victim
- Order any or all of the parties to get counseling.

To protect every citizen's basic rights under the law, the criminal justice system requires several lengthy steps. Your patience, determination, and cooperation will help make the system work. The legal system can be an

effective partner for you only if you take yourself and the abuse seriously enough to take **action**. Abuse is serious. **Assault is a crime**.

There are two legal steps you may take if you are assaulted:

you may file a criminal complaint of assault and battery against the abuser. This starts the **criminal** process in motion, and involves the Criminal Courts.

and/or

you may apply for a Civil Order of Protection, which protects you from the abuser. This is a **civil** process, which involves the Civil Courts.

You may wish to use only one of these two legal options, but it is possible to use **both**. In fact, you can usually start both proceedings at the same time.

USING THE CRIMINAL COURTS

Filing "Assault and Battery" Charges with the Court Commissioner

First, go to a District Court Commissioner's office and apply for a charging document. This may be done at any of the following locations:

- Germantown Police Station (840-2650)
20000 Aircraft Drive
Call the Commissioner's Office (972-2546) to determine when a Commissioner is on duty there.
- Rockville Police Station (279-1591)
Seven Locks Road between Great Falls Road (Route 189) and Montrose Road. A Commissioner (call 340-0160) is on duty 24 hours a day, 7 days a week.
- Silver Spring Police Station (565-7744)
801 Sligo Avenue, 2 blocks east of Georgia Avenue, not far from the Silver Spring METRO station. A Commissioner (call 588-5181) is on duty there every day from 8 AM to 11 PM, and usually from 11 PM to 8 AM on weekends as well.
- Wheaton-Glenmont Police Station (949-9000), on Randolph Road, next to the firehouse just East of Georgia Avenue. A Commissioner (call 949-7831) is usually on duty there, but not 24 hours a day.

Tell the commissioner: "I'd like to file a criminal complaint." You will be asked to write down the details of the crime (the abusive incident) on a form which the Commissioner will give you. Be brief, but include all important facts on the form, such as:

- Fully identify the abuser and yourself.
- State the time, day, month, and year of when the abuse took place.
- Give the exact street address, the city, county, and state where the crime took place.
- Also state whether the abuse occurred in a private home or a public place.
- What was done to you? Use accurate action words. Were you beaten, kicked, slapped, punched, choked, stabbed? Only once or repeatedly?
- Were you injured? If so, what were your injuries? Did you suffer heavy bleeding, bruises, broken bones, dizziness, cuts and scrapes, burns, severe headaches, broken or missing teeth? Do not exaggerate or minimize your injuries—be as accurate as possible.
- Why did the abuse occur? In answering this question factually, you must be able to show that the abuser intended to commit a criminal act.
- How did the accused commit the offense? Were you struck with a fist, an open hand, a foot? Were you kicked or pushed into a wall or thrown across a room? Were you struck with an object, such as a club, a pipe, a board or something else? Was a knife or gun used? If alcohol or drugs were involved, say so in your account.
- Did the abuser threaten to do further serious harm to you? If so, write down exactly what was said. Threats to do harm are considered assault under Maryland law.

At the bottom of the application, you will notice a space marked "Description." Here you must describe the abuser accurately so a warrant or summons may be served to the abuser. Give the abuser's approximate weight, height, hair and eye color, race, and type of body structure (slender, husky, etc.). If you have a spare photo of the abuser, show it to the Commissioner.

Be sure to ask the Commissioner for a copy of your written complaint; you will need this copy later. The State's Attorney will use your written complaint to prosecute your case in court. Therefore, your writing must be legible, so print if you think that is necessary. Check the legal glossary at the back of this brochure so that you understand the meaning of the terms "assault," "battery," and "aggravated assault."

If the Commissioner decides there is "probable cause"

to believe a crime was committed, he or she will:

Issue a **warrant** which will be delivered to your abuser by a police officer or a deputy sheriff. (With a warrant, the abuser will be arrested, finger-printed, photographed, and will be required to appear before a Commissioner who will set bond.)

Or

issue a **summons**, also to be delivered to your abuser by a police officer or a deputy sheriff. (A summons will order the abuser to court without bond on a certain date.)

Once the Commissioner has issued either a warrant or summons, you cannot withdraw it. It may only be disposed of by trial or by action of the State's Attorney. Be sure to ask the Commissioner for a copy of your written complaint to take with you to the State's Attorney's Office.

If, on the other hand, the Commissioner does not grant a summons or a warrant, you may contact the State's Attorney's Office to request an appointment with a member of the District Court Screening Unit who will review the facts with you to determine if the State's Attorney's Office will request the court to issue a summons or warrant.

While the above may seem involved or complicated, it really is not. It simply indicates that our court system allows several options on the part of the Commissioners, on the part of the State's Attorneys and on the part of the victims. Do not let yourself become discouraged and do not give up. But be prepared to follow through with a trial when you file a criminal complaint. **Assault is a crime.** Remember . . . you are a partner with the legal system. This partnership, if clearly understood and taken seriously by all parties, can result in positive change.

Contacting the State's Attorney's Office (SAO)

The State's Attorney for Montgomery County is an elected official responsible for prosecuting all criminal matters in the county. Approximately thirty attorneys assist in this office, which is open from 8:30 AM to 4:30 PM, Monday through Friday. One of these assistants will be assigned to your case. He or she will present evidence supporting the charges by calling witnesses and presenting documented evidence (photographs, exhibits, and other documents) when appropriate. The State is required to prove the guilt of the defendant **beyond a reasonable doubt.** The information you give to the Commissioner and/or to the State's Attorney will determine whether your case can be prosecuted.

The charging document issued by the Commissioner or the Court will read:

STATE OF MARYLAND vs. ABUSER'S NAME

This is because **assault is a crime against the state.** The assistant State's Attorney will decide whether or not your case can be prosecuted and is authorized to negotiate a plea disposition in a criminal charge. (This is commonly referred to as "plea bargaining.") If your case is strong enough to be prosecuted, you will be called as a "complaining witness" by the State's Attorney. At the trial, the State's Attorney will bring the charges on behalf of the State of Maryland against your abuser.

Hundreds of cases come through the SAO every week, so it is an extremely busy place. Several Victim Witness Coordinators are also on the SAO staff to answer your questions. (Call 251-7300.) When you call, please have available the name of the defendant (the abuser) and the number given to the case, as well as any information you may already have on the court date and location. Because of the volume of cases, the SAO has to rely on the victims themselves to call the SAO for updates and information. A successful outcome will require time and effort on your part. Remember to do these things:

- Confirm the date, time, and location of your court appearance. The case will be dismissed if you fail to appear.
- Call the SAO one or two days before your court date to make sure that your case will be heard on that date or to find out if it has been continued (postponed). You may also call the Criminal Clerk's Office for the District Court (977-3250) for this information.
- If you have photographs or other supporting documents (for example, medical and dental records, or a threatening letter or note from the abuser), tell the prosecutor (State's Attorney) that you will bring them to court.
- If anyone else saw the abuse, be sure to give their names, addresses, and phone numbers to the State's Attorney. Otherwise, the prosecutor may not be aware of these witnesses who may be able to aid the prosecution of your case.

How to Monitor Your Own Case (or . . . How Not to Get Lost In the System!)

Once a defendant has been charged with a crime in the District Court, the first trial date is normally set within four to six weeks. If you have not received a letter from the Court informing you of your court date within three weeks of your filing criminal charges, call the Criminal Clerk's Office for the District Court (977-3250) or the

SAO (251-7300) for that information. The first trial date may be continued (postponed) in order to allow additional preparation time, or additional time for the defendant to obtain a lawyer. If that happens, make sure YOU know the new trial date. Call the Clerk's Office for the District Court for this information. If the judge agrees to continue the trial, you will be required to appear on the new trial date. Most domestic violence cases clear the District Court within three months after the abusive incident occurs.

The **most important** thing for you to understand is that YOU must keep watch over your own case. Don't wait to hear from the State's Attorney or the court clerk if you have doubts or questions about your case. You must often call **them** for information, and keep calling until you get it. Remember . . . they have hundreds of cases to process, but you have only one—**yours**. Keep your questions brief, have paper and pencil ready to jot down information, and keep all your papers on the case together in a secure place. The people in these two busy offices are trained and want to help you. By being an active and cooperative partner with them, you will help your own case.

**Getting more
Information . . . the
Pre-Trial Group
Screening Program**

To help you prepare for the criminal prosecution of your case, the State's Attorney's Office offers a pre-trial group screening program designed for victims of domestic violence. The purpose of the screening program is to give you enough general information to lessen your anxiety and to strengthen you for the trial, **not** to discuss your individual case in front of others. This program will be held **every Wednesday** from 2:00-3:30 PM on the 5th floor of the Judicial Center in Rockville. While you are not required to attend this group screening program, you will find it very helpful in preparing yourself for the trial. If you wish to take advantage of this service offered by the State's Attorneys, please call 251-7300 to reserve a space at least two days before the session you plan to attend.

At this session, you will be briefed on:

- criminal court procedures concerning domestic violence/spousal assault cases.
- courtroom rules so that you will know what to do when you appear at the trial. You may walk through a courtroom and if time permits, you can practice getting up into the witness stand, using the microphone, or standing before the bench at the prosecution table, so that you will feel more relaxed in court.

The group screening session leader will also help you to distinguish between a domestic violence case which is strong enough to be prosecuted and one which might be better dealt with by non-criminal procedures. Following the session, several screeners from the SAO will be available to discuss your case with you privately, if you wish. If at that time, you decide not to continue with a criminal prosecution, you will be referred to other appropriate community resources which can help you put an end to the violence in your family.

Another Option for You: Court-Ordered Counseling for First Offenders

Montgomery County runs a successful counseling program for first-offender abusers. The participants in this program may be court-ordered, court-deferred through the pre-trial screening process, or they may volunteer to participate. A small fee is required of each participant.

So far, the program seems to have produced encouraging results. Most of the persons counseled in this program have not had to go back to court on spouse abuse charges. The program helps them learn how to handle conflict and anger without being violent. If they complete the program successfully, they avoid having a criminal record.

If this sounds like a good option to you, speak with the State's Attorney about it. He or she can refer the abuser to the program before the trial, or can ask the judge to order the abuser into counseling as an alternative to sentencing. Sometimes batterers' counseling groups are the most helpful approach to stopping the violence.

Going Through the Trial

Your case will be heard in one of the three District Courts, located at:

11 Firstfield Road in Gaithersburg,
801 Sligo Avenue in Silver Spring, or
7359 Wisconsin Avenue in Bethesda. [See maps.]

You will be notified by mail as to which court your case will be tried in. You will need to:

- Report to the court by 9:00 AM although your case may not be heard for several hours. Dress neatly and conservatively, as if you were going to an interview for a good job.
- Look for your case, which will be listed by the defendant's name on a computer printout on a bulletin board. This listing will also indicate in which courtroom your case will be heard.
- Look for the Assistant State's Attorney who will be

presenting your case. Make sure he or she knows all the relevant facts of your case, even though you may not have much time to discuss the case immediately before the trial. Tell the attorney if you have witnesses with you at court, and give him or her any documentary evidence which you may have.

For those who have never been in a courtroom, the experience can be a little unnerving. Many different kinds of cases are heard, and you may have to sit through several before your case is called. Try to prepare yourself mentally for what you will say, and how you will respond to the attorneys' questions.

Many people feel nervous about standing up before the judge and telling their stories in front of the other people sitting in the courtroom. It is perfectly normal to feel this way. However, the State's Attorney will present your case for you, and most judges try hard to make people feel at ease in this difficult situation. Your abuser will be represented by an attorney.

Understanding the Spousal Privilege

According to Maryland law, persons cannot be forced to testify against their spouses. This is called the "spousal privilege." As the complaining witness, you will be called by the State's Attorney to the witness stand. A courtroom clerk will swear you in. If you are legally married to your abuser, the judge will ask you: "Do you wish to take the spousal privilege?" (If you are separated and a divorce has not been finalized, you are still considered legally married.) The spousal privilege means that you cannot be forced to testify against your spouse; it does not mean that you can be told NOT to testify. If you agree to take the spousal privilege, this means you refuse to testify against your abuser. That will signal the end of the trial. While it may seem like an easy way out of a tough situation and while you may at the time of the trial be more forgiving of the abuser than when you initially filed charges, you should also know that taking the spousal privilege has had serious consequences for many domestic violence victims.

The fact that many abuse victims have taken the spousal privilege explains in part the criminal justice system's occasional reluctance to take them seriously. You must decide whether it is a privilege or a handicap. You should be aware of the following:

■ Sometimes an abuser will threaten further violence if the charges are not dropped by invoking the spousal privilege. Such a threat is illegal and is, in fact, an additional assault. If your abuser threatens to beat you up again or to kill you if you follow through on criminal

charges, you **must** tell this to the State's Attorney and to the judge. In fact, should you decide to take the spousal privilege, the judge will ASK you whether you were threatened with further harm if you didn't do so. The abuser must not be allowed to get away with such a threat. Tell the judge the truth!

■ There have been cases where victims of spouse abuse who filed both criminal charges and for divorce, have been told by their abusers or divorce lawyers that they would get better child support payments or a better divorce property settlement if they took the spousal privilege.

If such a suggestion has been made to you, be sure to tell both the State's Attorney and the judge about it, as it is extremely unethical. Any decision you make about taking the spousal privilege should be made freely, without coercion. If you wish to stay in an intimate relationship with the abuser, you should be aware that research on spousal assault has shown that violence almost always reoccurs, usually with greater severity, unless the victim takes action to stop it. The criminal justice system can be a good partner for you only if you consider the probable consequences of the decisions **only you** can make.

If you are not legally married to the person who assaulted you, you may be required by the State's Attorney to testify against the defendant once you get to trial. The State's Attorney has the option not to prosecute if he or she feels you will not be a reliable witness.

How to Handle Examination and Cross-Examination

Let us assume that, if you are married to the abuser, you have decided to waive the spousal privilege and to go through the trial. The State's Attorney will ask you questions while you are on the witness stand. When you contact the State's Attorney before the trial, find out what questions he or she will ask you. Your abuser's attorney also has the right to question you (cross-examination). While you can never know exactly what the defense will ask you, you can try to prepare yourself by asking your State's Attorney what questions might be expected from the defense counsel. For this reason, it is important that you not hold back any information from the prosecutor.

The defense counsel is likely to ask questions designed to make you seem unreliable and lacking in credibility. It is his/her job to shake your testimony. If you and the State's Attorney are prepared for this, the defense is less likely to succeed. In cases of assault and battery,

for example, the prosecutor should know ahead of time whether or not the parties were drinking, whether or not you MAY have provoked the abuse, and whether or not your abuser has committed previous acts of violence against you. This does not mean you should not go through with the trial if you have been less than a saint. But you must be prepared to answer tough questions from the attorney defending your abuser. For example, if you have been under such stress as to require psychiatric care and/or medication (as have many abused people), be sure to tell that to the prosecutor. If the defense counsel should try to use that against you, the prosecutor should object strenuously on your behalf.

Be prepared to see your abuser show up in court looking respectable, confident, calm and sincere. Your abuser may deny the abuse or may say that you were injured because you were drunk or took too many tranquilizers or because you ran into a door or fell down the stairs. Your abuser may claim that you were unruly or hysterical and had to be restrained through the use of force. Unfortunately, it sometimes happens that the abuser gives the court an entirely false account of the violent incident. The only way for you to combat this is to be absolutely truthful and to present a credible image yourself.

The defense attorney may try to provoke you into an angry or tearful outburst or into making a contradictory statement on the witness stand. To be an effective witness, keep these things in mind:

- Answer the defense counsel's questions as coolly, calmly and politely as possible. Take a few seconds to form your answer carefully.
- You are legally obligated to tell the truth and the whole truth, but how you tell it can influence the outcome of the case.
- Do not offer more information than the question demands.
- Do not exaggerate. Make your answer completely factual. If you do not understand the defense's question, ask the defense attorney to rephrase the question for you. This will give you a little more time to think about the answer.
- If you don't know the answer to a question, say that you don't know. **DON'T MAKE A GUESS.**
- State your answers in a positive, definite way. Try not to say "I think . . ." or "I believe . . ." as these are hesitant phrases which will make you seem less believable.

Defense attorneys sometimes interrupt the witness deliberately in order to anger or confuse the witness. If this should happen to you, ask the judge for permission to finish your answer. Stay calm.

Be sure to stop your testimony immediately when the judge interrupts you or when an attorney objects to a question. Courtesy is your essential ally in a courtroom situation. The judge should be addressed as "Your Honor," and the cross-examining attorneys should be treated with respect.

The prosecutor also has the right to cross-examine your abuser, if your abuser elects to take the stand and testify in his or her defense. Like the defense attorney, he may attempt to shake the defendant's testimony and to damage his or her credibility.

The process of cross-examination is designed to reveal the truth, but it can be stressful to many persons who take the witness stand. Adequate mental preparation and good communication with your State's Attorney will make you a less anxious and more effective witness. Just remember . . . stick to the facts and the truth! Remind yourself that you are indeed entitled to live free of violence and that your case is serious.

Understanding Sentencing Alternatives

Several sentencing alternatives are available to Montgomery County judges. Spouse abusers here are seldom sent to prison or given major fines unless they have a strong history of abuse and/or other criminal activity or unless their violence resulted in permanent and severe damage. Prison terms and fines have not proven very effective in stopping spousal assault. Other sentencing alternatives can also send a strong message that further assault will not be tolerated. By working with the State's Attorney, you can be an active partner with the legal system in working out sentencing which will be effective for your individual situation.

The following sentencing options are used most frequently in our County:

■ **Court-ordered counseling for abusers who are first-offenders.** Abusers pay a nominal fee for this program. The initial results of this new counseling program appear to be encouraging; therefore, it is to be expected that this sentencing alternative will become more common in cases where the victim wants to stay in a relationship with the abuser. If you feel this way, and you think your abuser can be helped by such counseling, and more importantly, if you think the counseling will stop the violence against you, discuss this option with the State's Attorney. If your abuser CAN learn to

deal with conflict in a non-violent way, you and possibly others will benefit. Counseling, however, is not always effective. It does not protect you from further harm. You may wish to discuss the content of the program with counselors at the Community Crisis Center. You may wish to participate voluntarily in a supportive counseling program for yourself while your spouse is attending the First-Offenders program. Call 654-1881 to ask about the above counseling programs, which are designed to complement the legal remedies available to you. Stopping the abuse often requires a variety of approaches.

■ **Drug and alcohol treatment programs.** Drug and/or alcohol abuse are often factors in spousal assault cases. If this is true in your case, you should discuss with the State's Attorney the option of having your abuser sent, as a condition of probation, to the county treatment program for drug and/or alcohol abusers. This may correct some of the problems, but the abuser may also need additional help to correct his or her violent behavior. If the offender has ONLY an alcohol problem, call Alcoholism Treatment Services (279-1255). Where drug abuse alone or where drug abuse combined with alcoholism is a major factor in the violent behavior, call the Substance Abuse Treatment and Family Therapy Services (565-7729).

■ **Restitution.** If you have suffered major expenses as a result of the abuse and have the documents to prove this, you should ask the State's Attorney to recommend **restitution**. This is possible only when the defendant has been found guilty. Your financial losses due to the abuse may include extensive medical or dental bills, property damage, or time lost from work. Restitution has not often been used in domestic violence cases, but it is an ancient legal remedy. From the point of view of many victims, it makes a great deal of sense.

■ **Probation.** The judge may place the abuser on either supervised or unsupervised probation. Ask the State's Attorney to request the judge to place conditions upon your abuser's probation, such as no further abuse. This is an important protection for you. It sends a strong message to the abuser that further violence will not be tolerated. If the abuser fails to heed this strong warning and abuses you again, it will be a violation of his or her probation.

Judges in Montgomery County frequently use Article 27, Section 641 of the Maryland Code. This is called "Probation Before Judgment" (commonly referred to as "PBJ" or "27-641" by people in the legal system). It means that if the defendant serves his or her probation

without violation, the guilty verdict will not be placed upon his or her record. Sometimes abusers abuse this provision by serving their probation without violation and then re-abuse their spouses after the probation is over. If your abuser has a history of many "PBJs" and has continued to abuse you, you should, of course, make the State's Attorney aware of that fact.

USING THE CIVIL COURTS: THE CIVIL ORDER OF PROTECTION

If you are legally married to your abuser, the second legal option open to you in seeking protection from further abuse is the Civil Order of Protection (C.O.P.), which became law on July 1, 1980. Since that time, the C.O.P., also known as the Domestic Violence Petition, has been effectively utilized by many abused spouses in Montgomery County.

Because the C.O.P. comes through the civil court system, as opposed to the criminal justice system, it offers significant emergency protection to a victim of spousal abuse without giving the abuser a criminal record. It also provides **immediate** protection, in contrast to the delays often experienced in criminal court proceedings.

Where and When to Begin the Process

To file for the Civil Order of Protection, you must go to the Civil Court Office (Call 977-3227) during office hours, Monday through Friday, 8:30 AM to 4:00 PM. You should file immediately after the abuse has occurred. If the abuse occurs on a weekend when the Civil Court Office is not open, you should seek shelter in a safe place (you may wish to call the Community Crisis Center at 654-1881) until you can get to the office on Monday morning. The Civil Court is located at each of the three District Courts. (The locations of these are described and maps are included elsewhere in this brochure.) You may use the C.O.P. separately, or you may wish to use it in addition to filing criminal charges. There is a filing fee of \$10.00 which may be waived if you cannot afford it.

Purposes and Limitations of the C.O.P.

Under the C.O.P., abuse is defined as "to cause serious bodily harm, to place someone in fear of imminent serious bodily harm or to sexually abuse a child." The C.O.P. was designed to offer emergency protection from abuse between household members and to institute a proceeding which grants a hearing before the Court. Household members are defined as those people who live as a family: "spouses, parents or minor children who reside together." It gives no protection to offspring over eighteen years of age or to couples living together who are not married.

Petitioning the Court

You may petition the court for an EX PARTE Order (without the abuser being present) to protect the petitioner (you). This order must be signed by a judge. It will be officially served upon the abuser, and it will order the abuser to do one or all of the following:

- to stop the abuse
- to vacate the family home for up to five days
- to award temporary custody of minor children to an appropriate adult.

Once the order is signed, you must take it to the Sheriff's Department at the Judicial Center in Rockville. A deputy sheriff will serve these papers to the abuser. A violation of the vacate order may result in a contempt-of-court citation and imprisonment. The order will also inform the abuser that a hearing on the case will be held before a judge **within five court days**.

The Civil Order of Protection Hearing

You must be present at this civil court hearing, with the abuser and any possible witnesses. The abuser may, but is not required to, be represented by an attorney. If your abuser is accompanied by an attorney, you are strongly advised to be represented by your own attorney. If you don't have an attorney, call the Montgomery County Bar Association Lawyer Referral Service (279-9100).

If the Court determines at the final hearing that abuse has occurred, the judge may do any or all of the following:

- Order the abuser out of the home and grant temporary possession of the family home to the petitioner for up to five days. According to Maryland law, in no event may the order and any extensions exceed a total period of fifteen days.
- Award temporary custody of any minors in the home.
- Order the abuser to refrain from abusing household members. If the abuser should violate this order, he or she will be found in contempt of court. The petitioner would report the violation to the judge, at which time the judge may issue a bench warrant for the abuser's arrest.
- Order any or all of the household members to participate in a professionally supervised counseling program.

Possible Problems with the Civil Order of Protection

Occasionally an abused spouse who uses the C.O.P. experiences a delay in getting the ex parte order served. If this happens to you, and you are afraid of your abuser, you should seek temporary shelter at the Com-

Advantages of the Civil Order of Protection

munity Crisis Center where the Abused Persons Program is located. (Call 654-1881) Such an action would also give you time to mobilize your resources and plan your next course of action.

While the scope of the C.O.P. is still limited by Maryland law, it is an important legal tool for spousal assault victims, for the following reasons:

- It sends an immediate message to the abuser that violent behavior will not be tolerated.
- The abuser may be severely and temporarily inconvenienced by the C.O.P., but will not get a criminal record.
- Because it separates the parties temporarily, the C.O.P. offers protection to the abused without disrupting normal household routines, which can be very important, especially to small children in the household.
- It encourages the abuser to take responsibility for positive changes in his or her behavior.

Alternatives to Legal Procedures: Counseling Resources

The criminal process is sometimes lengthy with discouraging delays. Sometimes victims need to "talk over" their conflicting feelings. The Abused Persons Program's Legal Advocacy Service has a limited capacity to clarify these legal procedures for you. If you are not sure about the course you should take, you may want to discuss your options with a counselor. You may also request the supportive assistance of a court companion who could be with you throughout the course of your legal involvement. Call the Abused Persons Program at the Community Crisis Center (654-1881) to request this type of assistance. You must call at least **one week**

before your trial date to assure companion service. These counselors and court companions can support you through the process or help you reach important decisions regarding other non-legal steps available to you.

Often abused women need to utilize a combination of emergency shelter for safety along with filing a criminal complaint or a C.O.P. They often find it helpful to develop a "step-by-step" plan for themselves and their children to move beyond family violence. After years of abuse, a victim sometimes may feel overwhelmed with all the steps needed to make a significant change in her life. The first step is always the recognition of the problem, reaching out for help, and committing yourself to work in partnership with community agencies and the legal system to stop abuse in your family.

You may find individual counseling and support groups very helpful in breaking the cycle of violence in your family. The Abused Persons Program works with hundreds of spousal abuse victims and their abusers every year. The program runs numerous weekly support groups for women and men which help individuals evaluate why abuse occurs and what assistance they need to make necessary change in their lives. While most abuse victims are women, all services provided by the Abused Persons Program are available to persons of either sex who have either suffered abuse by or have been abusive of their spouses or mates. You are encouraged to reach out for help in dealing with your abusive situation. Call 654-1881 for more information about services available to you through the Abused Persons Program, which is located in the Community Crisis Center in Bethesda.

Conclusion— Partners for Positive Change

Your active partnership with the legal system can break the cycle of violence in your family and in your community. Unless you take **action**, the violence is likely to get worse. Although working with the legal system sometimes involves discouraging and confusing delays, you will be more successful if you understand how the system works and what your role and responsibility is in that system. Do not be afraid to reach out for help. There are many good people in our county's legal and counseling systems who are trained and willing to assist you. Our community wants to break the cycle of domestic violence. Use the legal options described in this guidebook to make a better, violence-free life for yourself and for your family. It is **your** life, after all. If you or your abuser can benefit from counseling, take **ACTION** to get it. You do not have to live with violence. Assault is a serious crime. **Your active partnership is essential for positive change.**

Glossary

ACQUITTAL—The verdict rendered by a Judge when he/she finds a person not guilty or innocent of the crime charged.

APPEAL—The process used by a defendant to get a new trial after being convicted. If convicted in the District Court, a defendant can appeal directly to the Circuit Court for a new trial. If the defendant is acquitted, the State does not have the same right of appeal.

ASSAULT—Any willful attempt or threat to inflict injury upon another person with the ability to do so; any intentional display of force which would give the victim reason to fear or expect immediate bodily harm. An assault may be committed without actually touching, striking, or doing bodily harm to another person. If a dangerous or deadly weapon is used, this constitutes AGGRAVATED ASSAULT.

BATTERY—The unlawful application of force to the person of another. Unlike assault, battery requires physical contact of some sort (bodily injury or offensive touching). Battery always includes an assault. Hence, the two terms are commonly combined in the term "Assault and Battery."

CHARGING DOCUMENT—A warrant, summons, or information filed by the State's Attorney which charges a person with a criminal offense.

COMPLAINING WITNESS—The person who has either requested the Commissioner to file criminal charges against someone, or who is the object of a criminal charge by the police. This witness is commonly called "the victim."

CONTINUANCE—The postponement of a hearing or trial. This may be granted by a Judge when requested by the prosecution or the defense, or a Judge may voluntarily decide to continue a case.

DEFENSE ATTORNEY—The lawyer who represents the person charged with a criminal offense.

DISMISSAL—A method for ending prosecution. Either the prosecutor or the defense attorney may request dismissal when appropriate. It is similar to acquittal.

DOCKET—The list of cases scheduled to be heard in Court on each day. Even though all parties are sum-

mensed to appear in Court at 9:00 AM, there are many cases on the District Court docket each day.

DEFENDANT—The person charged with a criminal offense.

EVIDENCE—The sworn testimony and the physical items which the Judge uses to decide a verdict. Strict rules apply to the admissibility of evidence in Court. Information which a witness may believe is relevant will sometimes be kept out of evidence because, according to the rules, it is not reliable.

NOLLE PROSEQUI—(Also called "nolle pros") A method for ending prosecution. The Assistant State's Attorney makes an entry on the Court file and on the record in open Court which halts the prosecution. If the crime should reoccur, the original charges could be reinstated.

PROBATION BEFORE JUDGMENT—A method which a judge may use to keep a defendant's record clear after a finding of guilt. The Court has the discretion to place the defendant on probation without entering the guilty verdict upon the defendant's record. This is often referred to by its location in the Maryland Code—Article 27, Section 641, or simply "PBJ" or "27-641."

PRO SE—The term applied to a defendant who is appearing for trial without an attorney. For example, "Mr./Ms. Smith will appear pro se."

STATE'S ATTORNEY—The prosecutor who represents the State of Maryland and the citizens of Montgomery County. He or she presents the evidence which supports the criminal charges to the Court. The prosecutor has the authority to accept a guilty plea in a case where the criminal charges are appropriate. The prosecutor also may decide against prosecution in a case he or she feels is not provable or could be better handled in another way.

SUMMONS—A charging document by which the defendant is notified of criminal charges and ordered to appear in court on the trial date. With a summons, a defendant is not required to post bond.

RESTITUTION—Reimbursement or payment made by a defendant to a victim for actual expenses resulting from the criminal act. This may be Court-ordered after a finding of guilt, or may be part of a plea negotiation or other disposition of a case.

WARRANT—A charging document which requires the arrest of the defendant on criminal charges. The defendant is then finger-printed and required to put up money for bail as a condition of his or her release before trial.

Useful Phone Numbers

Police

Emergency	911
Germantown Station	840-2650
Rockville Station	279-1591
Silver Spring Station	565-7744
Wheaton-Glenmont Station	949-9000

Court Commissioners

Germantown Station	972-2546
Rockville Station	340-0160
Silver Spring Station	588-5181
Wheaton-Glenmont Station	949-7831

State's Attorney's Office 251-7300

Courts

Civil Court Office	977-3227
Criminal Court—Clerk's Office	977-3250

Crisis Counseling and/or Shelter

Community Crisis Center (Abused Persons Program)	654-1881
--	----------

Montgomery County Commission for Women (Short-term counseling)

. 279-8346

Legal Services

Lawyer Referral Service of Montgomery County	279-9100
Montgomery County & Prince George's County Pro Bono Project (Legal Aid)	445-3210

BETHESDA DISTRICT COURT

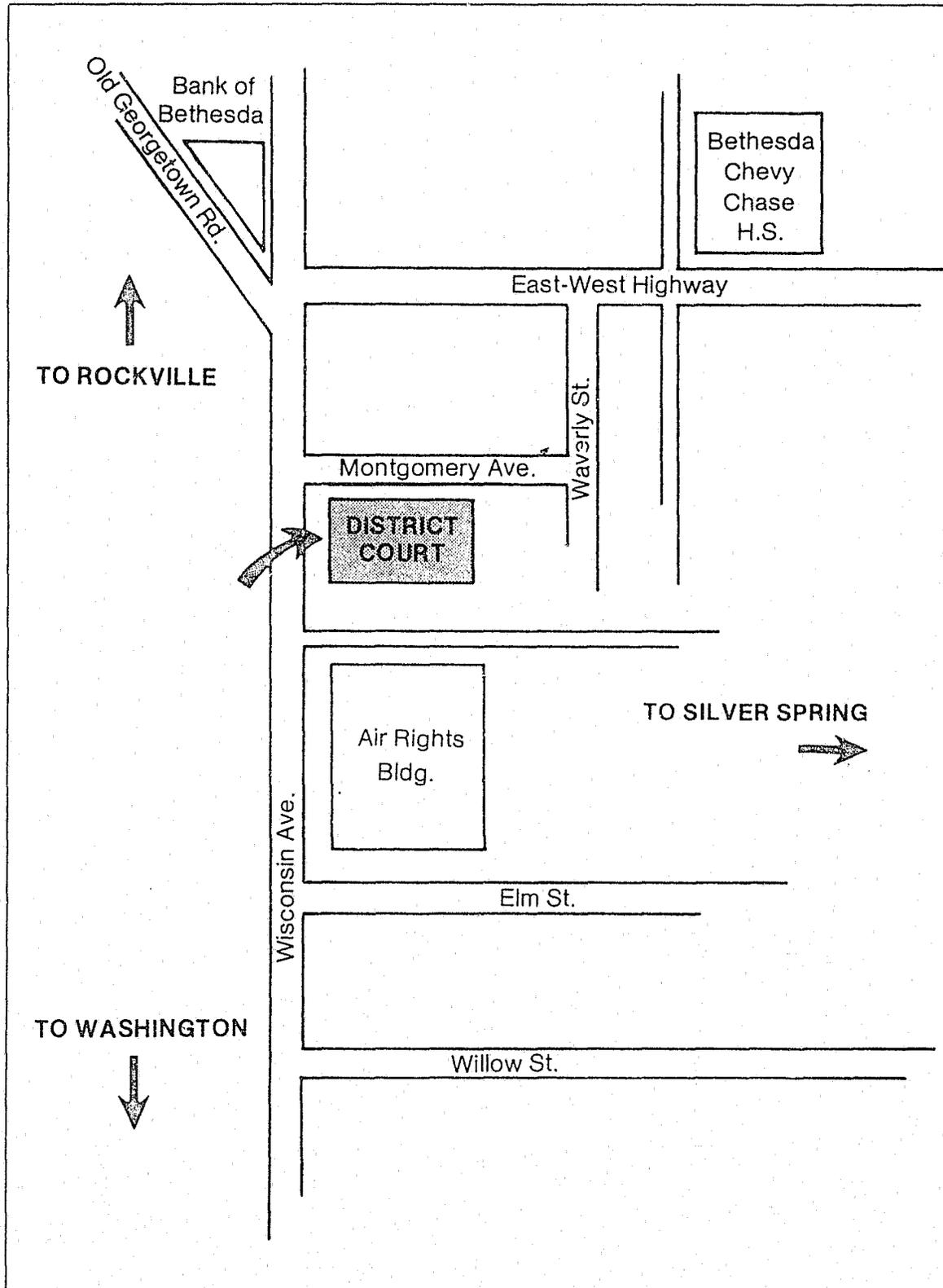
Courthouse is located in the Police Station.

7359 Wisconsin Ave.

Bethesda, MD

(Entrance on Montgomery Ave.)

Public parking.



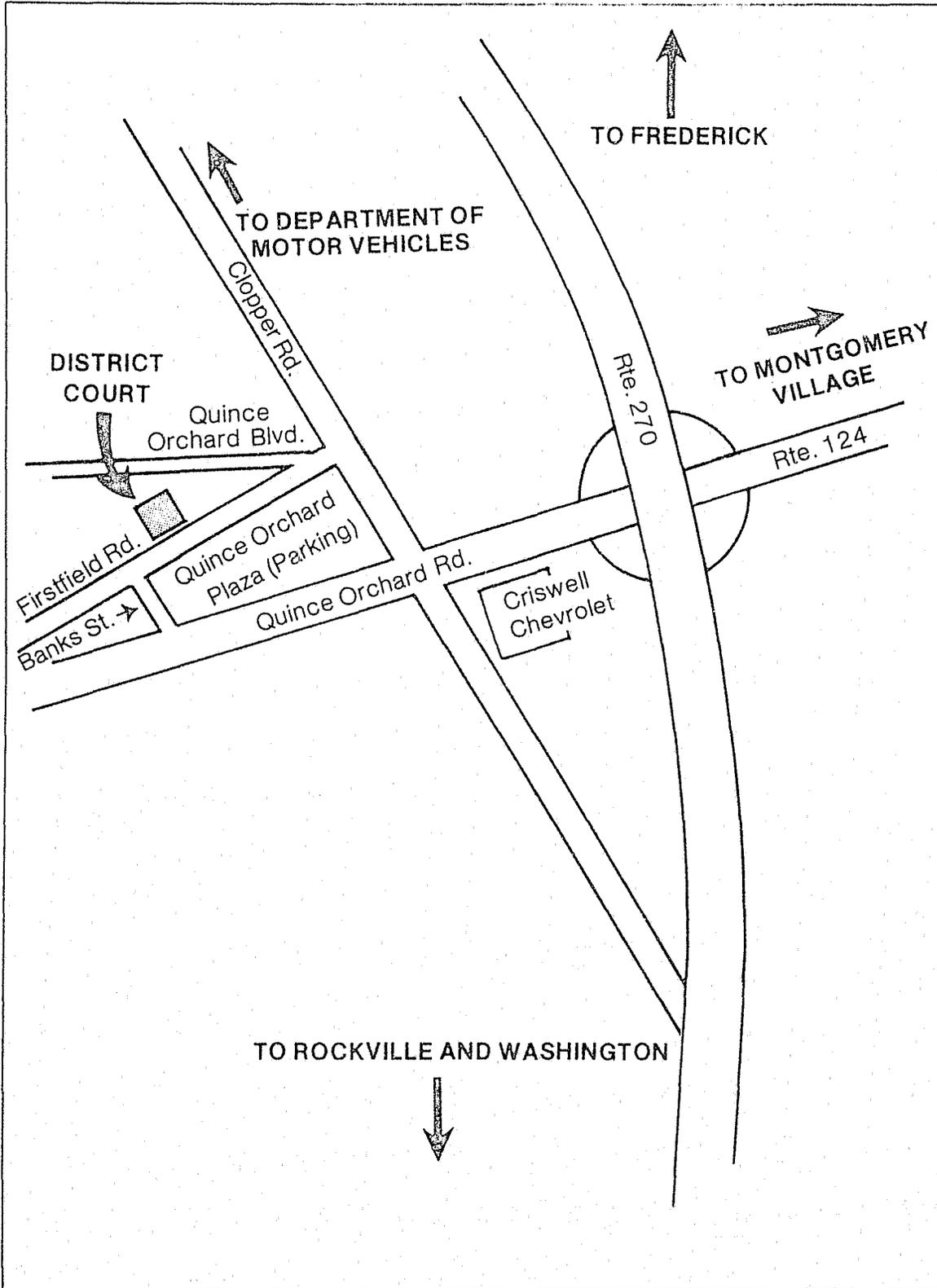
GAITHERSBURG DISTRICT COURT

Courthouse is located behind Quince Orchard Plaza.

11 Firstfield Rd.

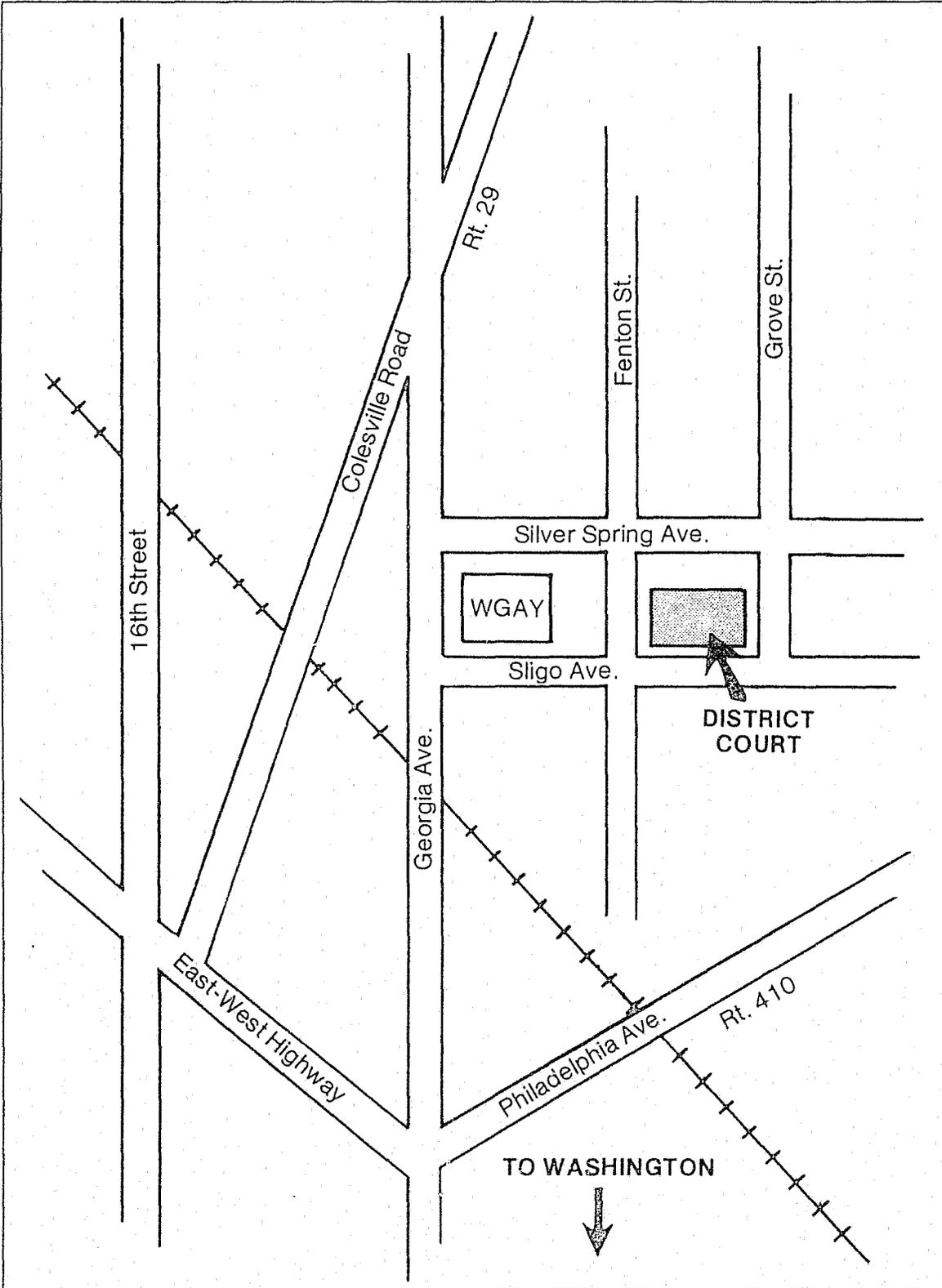
Gaithersburg, MD

Some parking is available behind the court, on Quince Orchard Blvd. and on Firstfield Rd. More parking available at shopping center.



**SILVER SPRING
DISTRICT COURT**

Courthouse located in the Silver Spring Municipal Bldg.
(Police Station)
801 Sligo Ave.
Silver Spring, MD
Parking in front of building.



Notes